ORDINANCE NO. 2017-14

ENACTING THE CITY OF FOREST GROVE "CODE OF ORDINANCES" AS LAW OF THE CITY OF FOREST GROVE, OREGON, AND REPEALING ORDINANCE NO. 1988-04, CITY OF FOREST GROVE CODE OF 1988

The City of Forest Grove ordains as follows:

Section 1. Adoption. The provisions of a code designated as the City of Forest Grove, Oregon, "Code of Ordinances", copyrighted 2017, published by American Legal Publishing Corporation, League of Oregon Cities, containing 2017 S-1 Supplement, current through Ordinance 2017-02, dated June 26, 2017 (Exhibit A), a copy of which is placed on file in the office of the City Recorder and certified as the official copy by the recorder are hereby enacted as law of the City of Forest Grove, Oregon; and

Section 2. The provisions appearing in the "Code of Ordinances", so far as they are the same as those ordinances or prior code sections existing at the time of the effective date of this Ordinance, shall be considered as continuations thereof and not as new enactments; and

Section 3. Ordinance No. 1988-04, which enacted Forest Grove Code of 1988, is hereby repealed on the effective date of this Ordinance. The following ordinances are hereby repealed and/or amended as contained in 2017 S-1 Supplement:

1. Prior Code Section 7.605-610, General Occupancy Permit, not codified, as it is no longer valid (Repealing Ordinance **1972-959**). The City now issues Business Licenses.
2. Prior Code Section 2.700, Adoption of County Forfeiture Ordinance, not codified, as it is no longer valid (Repealing Ordinance **1987-03**).
3. New Subsection 50.52(e), Water System Development Charges, amending: …installment payments for a period not to exceed ~~five~~ ten years. As allowed per ORS (Amending Ordinance **1994-01**).
4. New Subsection 90.30, Exclusion Authority, amended: (3) Conduct in violation of ~~a City Council adopted~~ "rules of conduct" adopted by Council resolution. This is to clarify that rules of conduct must be adopted by Council resolution and enforceable under the exclusion authority. (Amending Ordinance **2016-13)**
5. New Subsection 111.071(b)(9), Liquor License Issuance, amended: The city may request up to an additional ~~60~~ 45 days to conduct investigations. As allowed per ORS. (Amending Ordinance **2010-05**)
6. New Subsection 151.28(a), Parks System Development Charges, amending: …installment payments for a period not to exceed ~~five~~ ten years. As allowed per ORS. (Amending Ordinance **1990-07**).

Section 5. This ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 11th day of December, 2017.

PASSED the second reading this 8th day of January, 2018.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 8th day of January, 2018.

Peter B. Truax, Mayor

ORDINANCE NO. 2017-14
Exhibit A

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To access, search, print, save or e-mail copies of the codified Forest Grove Code of Ordinances (updated through June, 2017), click on link, which is hosted by American Legal Publishing Corporation: http://www.amlegal.com/codes/client/forest-grove_or/

FOREST GROVE, OREGON
CODE OF ORDINANCES

Contains 2017 S-1 Supplement, current through
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CITY CHARTER

Enacted May 19, 2009, Special Election

Resolution 2009-47

PREAMBLE

We, the voters of Forest Grove, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the State, and enact this Home Rule Charter.

Section

CHAPTER I. NAME AND BOUNDARIES

SECTION 1. TITLE.

This Charter may be referred to as the 2009 City of Forest Grove Charter.

SECTION 2. NAME.

The City of Forest Grove, Washington County, Oregon continues as a municipal corporation with the name City of Forest Grove.

SECTION 3. BOUNDARIES.

The City includes all territory within its boundaries as they now exist or are legally modified. The City will maintain as a public record an accurate and current description of its boundaries.

CHAPTER II. POWERS

SECTION 4. POWERS.

The City has all powers that the constitutions, statutes and common law of the United States and State of Oregon expressly or impliedly grant or allow the City, as fully as though this Charter specifically enumerated each of those powers.

SECTION 5. CONSTRUCTION.

This Charter will be liberally construed so that the City may exercise fully all powers possible under this Charter and under United States and Oregon law.

SECTION 6. DISTRIBUTION.

The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to City voters. This Charter vests all other City powers in the Council, except as the Charter otherwise provides. The Council has legislative, administrative, and quasi-judicial authority. The Council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The Council may not delegate its authority to adopt ordinances.

CHAPTER III. COUNCIL

SECTION 7. COUNCIL.

The Council consists of a Mayor and six Councilors nominated and elected from the City at large.

SECTION 8. MAYOR.

(a) The Mayor presides over and facilitates Council meetings, preserves order, enforces Council rules, and determines the order of business under Council rules.

(b) The Mayor is a voting member of the Council and has no veto authority.

(c) The Mayor, with the consent of Council, appoints members of boards, commissions and committees established by ordinance or resolution.

(d) The Mayor must sign all records of Council decisions.

(e) The Mayor serves as the political head of the City government.

SECTION 9. COUNCIL PRESIDENT.

At its first meeting each year, the Council must elect a President from its membership. The President presides in the absence of the Mayor and acts as Mayor when the Mayor is unable to perform duties.

SECTION 10. COUNCIL RULES.

The Council must adopt by resolution rules to govern its meetings and proceedings.

SECTION 11. MEETINGS.

The Council must meet at least once a month at a time and place designated by Council rules, and may meet at other times in accordance with the Council rules.

SECTION 12. QUORUM.

A majority of the Council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by Council rules.

SECTION 13. VOTE REQUIRED.

The express approval of a majority of a quorum of the Council is necessary for any Council decision, except when this Charter requires approval by a majority of the Council.

SECTION 14. RECORD.

A record of Council meetings must be kept in a manner prescribed by the Council rules.

CHAPTER IV. LEGISLATIVE AUTHORITY

SECTION 15. ORDINANCES.

The Council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Forest Grove ordains as follows:"

SECTION 16. ORDINANCE ENACTMENT.

(a) Except as authorized by subsection (b), enactment of an ordinance requires approval by a majority of the Council at two meetings.

(b) The Council may enact an ordinance at a single meeting by unanimous approval by at least five members, provided the proposed ordinance is available to the public at least seven days before the meeting as prescribed by Council rules.

(c) Any substantive amendment to a proposed ordinance must be read aloud before the Council enacts the ordinance.

(d) After the enactment of an ordinance, the vote of each member must be entered into the Council minutes.

(e) After enactment of an ordinance and signature by the Mayor, the City Recorder must attest to the ordinance by name, title, and date of enactment.

SECTION 17. EFFECTIVE DATE.

Ordinances take effect on the 30th day after enactment, or on a later day provided in the ordinance. An ordinance may take effect as soon as enacted or other date less than 30 days after enactment if the ordinance contains an emergency clause.

CHAPTER V. ADMINISTRATIVE AUTHORITY

SECTION 18. RESOLUTIONS.

The Council will normally exercise its administrative authority by adopting resolutions. The adopting clause for all resolutions must state "The City of Forest Grove resolves as follows:"

SECTION 19. RESOLUTION ADOPTION.

(a) Adoption of a resolution or any other Council administrative decision requires approval by the Council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud before the Council adopts the resolution.

(c) After adoption of a resolution or other administrative decision, the vote of each member must be entered into the Council minutes.

(d) After adoption of a resolution and signature by the Mayor, the City Recorder must attest to the resolution by name, title, and date of adoption.

SECTION 20. EFFECTIVE DATE.

Resolutions and other administrative decisions take effect on the date of adoption, or on a later day provided in the resolution.

CHAPTER VI. QUASI-JUDICIAL AUTHORITY

SECTION 21. ORDERS.

The Council will normally exercise its quasi-judicial authority by adopting orders. The adopting clause for all orders must state "The City of Forest Grove orders as follows:"

SECTION 22. ORDER ADOPTION.

(a) Adoption of an order or any other Council quasi-judicial decision requires approval by the Council at one meeting.

(b) Any substantive amendment to an order must be read aloud before the Council adopts the order.

(c) After adoption of an order or other Council quasi-judicial decision, the vote of each member must be entered in the Council minutes.

(d) After adoption of an order and signature by the Mayor, the City Recorder must attest to the order by name, title, and date of adoption

SECTION 23. EFFECTIVE DATE.

Orders and other quasi-judicial decisions take effect on the date of final adoption, or on a later day provided in the order.

CHAPTER VII. ELECTIONS

SECTION 24. COUNCILORS.

At each general election after adoption of this Charter, three Councilors will be elected for four-year terms. The term of a Councilor in office when this Charter is adopted is the term for which the Councilor was elected.

SECTION 25. MAYOR.

At the 2010 general election and every other general election thereafter, a Mayor will be elected for a four-year term. The term of the Mayor in office when this Charter is adopted is the term for which the Mayor was elected.

SECTION 26. STATE LAW.

City elections must conform to State law, except as this Charter or ordinances provide otherwise. All elections for City offices must be nonpartisan.

SECTION 27. QUALIFICATIONS.

(a) The Mayor and each Councilor must be a qualified elector under State law, and reside within the City for at least one year immediately before election or appointment to office.

(b) No person may be a candidate at a single election for more than one City office.

(c) Neither the Mayor nor a Councilor may be employed by the City.

(d) The Council is the final judge of the election and qualifications of its members.

SECTION 28. NOMINATIONS.

The Council must adopt an ordinance prescribing the manner for a person to be nominated to run for Mayor or a Councilor position.

SECTION 29. TERMS.

The term of an officer elected at a general election begins at the first Council meeting immediately after the election is certified by county elections officials, and continues until the successor qualifies and assumes the office.

SECTION 30. OATH.

The Mayor and each Councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and State of Oregon, and the Charter, ordinances and resolutions of the City.

SECTION 31. VACANCIES.

The Mayor or a Councilor office becomes vacant:

(a) Upon the incumbent's:

(1) Death,

(2) Adjudicated incompetence, or

(3) Recall from the office.

(b) Upon declaration by the Council after the incumbent's:

(1) Failure to qualify for the office within 10 days prior to the time the term of office is to begin,

(2) Absence from the City for 30 days or from all Council meetings within a 45-day period, without Council consent,

(3) Ceasing to reside in the City,

(4) Ceasing to be a qualified elector under State law,

(5) Conviction of a public offense punishable by loss of liberty,

(6) Resignation from the office, or

(7) Violation of Section 33(i).

SECTION 32. FILLING VACANCIES.

A Mayor or Councilor vacancy will be filled by appointment by a majority of the remaining Council members. The term of office for the appointee runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a Council member from attending Council meetings or a member is absent from the City, a majority of the Council may appoint a Councilor pro tem.

CHAPTER VIII. APPOINTIVE OFFICERS

SECTION 33. CITY MANAGER.

(a) The office of City Manager is established as the administrative head of the City government. The Manager is responsible to the Mayor and Council for the proper administration of all City business. The Manager will assist the Mayor and Council in the development of City policies and carry out policies established by ordinances and resolutions.

(b) A majority of the Council may appoint and may remove the Manager. The appointment must be made without regard to political considerations and be solely on the basis of education and experience in competencies and practices of local government management.

(c) The Manager need not reside in the City at the time of employment, but must within six months become and remain a resident of the City while appointed as Manager. A majority of the Council may modify the contract to extend the time to comply.

(d) The Manager is appointed for a definite or an indefinite term, and may be removed at any time by a majority of the Council. The Council must fill the office by appointment as soon as practicable after a vacancy occurs.

(e) The Manager must:

(1) Attend all Council meetings unless excused by the Mayor or Council;

(2) Make reports and recommendations to the Mayor and Council about the needs of the City;

(3) Administer and enforce all City ordinances, resolutions, franchises, leases, contracts, permits, and other City decisions;

(4) Appoint, supervise, and remove City employees;

(5) Organize City departments and administrative structure;

(6) Prepare and administer the annual City budget;

(7) Administer City utilities and property;

(8) Encourage and support regional and intergovernmental cooperation;

(9) Promote cooperation among the Council, staff and residents in developing City policies, and building a sense of community;

(10) Perform other duties as directed by the Council; and

(11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The Manager has no authority over the Council or over the judicial functions of the Municipal Judge.

(g) The Manager and others designated by the Council may sit at Council meetings but have no vote. The Manager may take part in all Council discussions.

(h) When the Manager is temporarily disabled from acting as Manager or when the office becomes vacant, the Council must appoint a Manager pro tem as prescribed by Council rules. The Manager pro tem has the authority and duties of Manager, except that a Manager pro tem may not appoint or remove employees without Council approval.

(i) No Council member may directly or indirectly attempt to coerce the Manager or a candidate for that office in the appointment or removal of any City employee, or in administrative decisions regarding City property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the Council after a public hearing. In Council meetings, Council members may discuss or suggest anything with the Manager relating to City business.

SECTION 34. CITY ATTORNEY.

The City Attorney is appointed by the Council as the chief legal officer of the City. A majority of the Council will appoint and may remove the Attorney.

SECTION 35. MUNICIPAL COURT AND JUDGE.

(a) A majority of the Council may appoint and may remove a Municipal Judge. A Municipal Judge will hold court in the City at such place as the Council directs. The court will be known as the "Municipal Court of the City of Forest Grove".

(b) All proceedings of this Court will conform to State laws governing justices of the peace and justice courts.

(c) All areas within the City and areas outside the City as permitted by State law are within the territorial jurisdiction of the Court.

(d) The Court has jurisdiction over every offense created by City ordinance. The Court may enforce forfeitures and other penalties created by ordinances. The Court also has jurisdiction under State law unless limited by City ordinance.

(e) The Municipal Judge may:

(1) Render judgments and impose sanctions on persons and property;

(2) Order the arrest of anyone accused of an offense against the City;

(3) Commit to jail or admit to bail anyone accused of a City offense;

(4) Issue and compel obedience to subpoenas;

(5) Compel witnesses to appear and testify and jurors to serve for trials before the Court;

(6) Penalize contempt of Court;

(7) Issue processes necessary to enforce judgments and orders of the Court;

(8) Issue search warrants; and

(9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The Council may appoint and may remove Municipal Judge pro tems.

(g) The Council may transfer some or all of the functions of the Municipal Court to a State court.

CHAPTER IX. PERSONNEL

SECTION 36. PERSONNEL RULES.

The Council by resolution will adopt the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of City employees based on merit and fitness.

CHAPTER X. MISCELLANEOUS PROVISIONS

SECTION 37. CITY AUDIT.

The Council by resolution will approve contracts for annual audits of City accounts and fiscal affairs as required by State law.

SECTION 38. DEBT.

City indebtedness may not exceed debt limits imposed by State law. A Charter amendment is not required to authorize City indebtedness.

SECTION 39. ORDINANCE CONTINUATION.

All ordinances consistent with this Charter in force when it takes effect remain in effect until amended or repealed.

SECTION 40. REPEAL.

All Charter provisions adopted before this Charter takes effect are repealed.

SECTION 41. SEVERABILITY.

The terms of this Charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other term of the Charter.

SECTION 42. TIME OF EFFECT.

This Charter takes effect July 1, 2009.

TITLE III: ADMINISTRATION

Chapter

CHAPTER 30: ELECTIONS

Section

GENERAL PROVISIONS

§ 30.01 STATE LAW.

(A) Pursuant to City Charter § 26, city elections must conform to state law, except as the Charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

(B) Oregon Revised Statutes Chapters 249 and 254 govern the manner of nominating and electing candidates for city offices and are hereby adopted by reference.

(C) Oregon Revised Statutes Chapters 246 through 260 govern the conduct of city elections and are hereby adopted by reference.

(Prior Code, § 2.000) (Ord. 2009-10, passed 7-13-2009)

§ 30.02 DEFINITIONS.

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

BUSINESS DAYS. Regular work days (calendar days, excluding weekends and legal holidays of the city).

CANDIDATE. An individual whose name appears or is expected to appear on an official ballot.

CITY ELECTIONS OFFICIAL. The City Recorder is the person with whom the candidate files appropriate forms.

COMPLETED PETITION. A candidate petition containing 100% of the certified signatures necessary to obtain ballot access.

COUNTY ELECTIONS. The County division in charge of city elections.

ELECTIVE CITY OFFICE. The office of Mayor or Councilor which may be voted on only by the registered voters of the city.

ELECTOR. An individual eligible under state and city law to vote in a city election.

NONPARTISAN OFFICE. An office for which the candidate does not run under the name of any political party.

O.A.R. Oregon Administrative Rules.

O.R.S. Oregon Revised Statutes.

PROSPECTIVE PETITION. The information and filing forms, except signatures and other identification of petition signers, required to be contained in a completed petition.

REGISTERED VOTER. A resident of the state who is a U.S. citizen; 18 years of age; and is registered more than 20 calendar days before the election.

TERM OF OFFICE. The term of the last person elected to the office.

(Prior Code, § 2.005) (Ord. 2009-10, passed 7-13-2009)

CANDIDATE REGULATIONS

§ 30.15 CANDIDATE QUALIFICATIONS.

(A) Pursuant to City Charter § 27(a), the Mayor and each Councilor must be a qualified elector under state law and reside in the city for at least one year immediately before the election or appointment to office.

(B) Pursuant to City Charter § 27(b), no person may be a candidate at a single election for more than one city office.

(C) Pursuant to City Charter § 27(c), neither the Mayor nor a Councilor may be employed by the city.

(D) Pursuant to City Charter § 27(d), the Council is the final judge of the election and qualifications of its members.

(Prior Code, § 2.010) (Ord. 2009-10, passed 7-13-2009)

§ 30.16 TERMS AND OATH.

(A) Pursuant to City Charter § 24, at each general election, three Councilors will be elected for four-year terms. Pursuant to City Charter § 25, at every other general election, a Mayor will be elected for a four-year term. Pursuant to City Charter § 29, the term begins at the first Council meeting immediately after the election is certified by the County Elections, and continues until the successor qualifies and assumes the office.

(B) Pursuant to City Charter § 30, the Mayor and Councilors must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States, the state, and the City Charter, ordinances, and resolutions.

(Prior Code, § 2.015) (Ord. 2009-10, passed 7-13-2009)

§ 30.17 FILING PERIOD.

A completed nomination petition for candidacy must be filed with the City Recorder no earlier than 120 days and no later than 70 days before the election.

(Prior Code, § 2.020) (Ord. 2009-10, passed 7-13-2009)

§ 30.18 CANDIDATE FILING FORMS.

The City Recorder shall provide the candidate with the applicable filing forms as prescribed by the Secretary of State for an elective city office. The City Recorder shall date and time stamp immediately each prospective petition, completed petition, withdrawal, or other documents required to be filed.

(Prior Code, § 2.025) (Ord. 2009-10, passed 7-13-2009)

§ 30.19 FILING PROSPECTIVE PETITION.

Before circulating a nomination petition, the candidate must file a prospective petition (SEI 120), with the required proposed signature sheet (SEI 121), and the statement one or more

circulators will or will not be paid (SEL 300) (O.R.S. 249.020), with the City Recorder no earlier than 120 days and no later than 70 days before the election pursuant to § 30.17.
(Prior Code, § 2.030) (Ord. 2009-10, passed 7-13-2009)

§ 30.20 CIRCULATING PETITION.

If the prospective petition meets all legal requirements, the City Recorder shall notify the candidate within five business days after filing, certifying that the petition may be circulated among city electors and advise the candidate of the number of signatures required pursuant to § 30.21.
(Prior Code, § 2.035) (Ord. 2009-10, passed 7-13-2009)

§ 30.21 REQUIRED SIGNATURES.

(A) The prospective candidate must collect 25 signatures from active city registered voters. No elector may sign more than one petition. The circulator must certify on each signature sheet that the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet and attest that each individual is believed to be qualified to sign (O.R.S. 249.061). Failure to comply with the legal requirements and guidelines will result in the rejection of those signature sheets (O.A.R. 165-014-0270).

(B) The prospective candidate circulates the nominating petition by:

(1) Obtaining more than the required number of signatures to ensure the petition contains a sufficient number of valid signatures;

(2) Ensuring each signature sheet certification is signed and dated by the circulator;

(3) Submitting the signature sheets directly to County Elections for signature verification. The candidate must allow sufficient time to have the signatures verified by County Elections before the city's filing deadline. Failure to do so will result in the rejection of those signature sheets; and

(4) The County Elections reviews the signature sheets for sufficient circulator certification, verifies the original signatures against the voters' current registration card, and returns the certified signature sheets directly to the candidate.
(Prior Code, § 2.040) (Ord. 2009-10, passed 7-13-2009)

§ 30.22 FILING COMPLETED PETITION.

After the candidate certifies the signature sheets with County Elections, the candidate must file for candidacy by completed petition (SEI 120), along with the signature sheets with the sufficient number of signatures certified by County Elections, with the City Recorder no earlier than 120 days and no later than 70 days before the election pursuant to § 30.17.
(Prior Code, § 2.045) (Ord. 2009-10, passed 7-13-2009)

§ 30.23 DEFICIENT PETITION.

If at any time a petition is found to be deficient, the City Recorder shall return the petition to the candidate and notify the candidate within five business days after filing, certifying in writing the reason(s) the petition is insufficient. A deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the required timeline for filing pursuant to § 30.17.
(Prior Code, § 2.050) (Ord. 2009-10, passed 7-13-2009)

§ 30.24 WITHDRAWAL OF CANDIDACY.

To withdraw from candidacy or nomination, a candidate must file a withdrawal of candidacy or nomination form (SEL 150) with the City Recorder no later than 67 days before the election. The candidate must provide the reason for the withdrawal and must attest the information provided is accurate.
(Prior Code, § 2.055) (Ord. 2009-10, passed 7-13-2009)

§ 30.25 CERTIFICATION OF CANDIDATES.

The City Recorder must file with County Elections, in accordance with the time requirements of state law, a statement of the city offices to be filled and the names of the qualified candidates to be printed on the ballots for the election.
(Prior Code, § 2.060) (Ord. 2009-10, passed 7-13-2009)

§ 30.26 CERTIFICATE OF NOMINATION.

The City Recorder must certify the nominations to County Elections, in accordance with the time requirements of state law, stating the name of each candidate nominated, office for which the candidate was nominated, and term of office for each qualified candidate nominated. The City Recorder shall prepare and deliver a certificate of nomination to each qualified candidate nominated. If any individual is nominated or elected by write-in votes, the City Recorder shall deliver a write-in acceptance form to the individual (SEL 141). The individual must sign and file the write-in acceptance form with the City Recorder in accordance with the time requirements of state law. Upon receipt of the write-in acceptance form, the City Recorder shall prepare and deliver a certificate of nomination to the individual.
(Prior Code, § 2.065) (Ord. 2009-10, passed 7-13-2009)

VACANCIES IN OFFICE

§ 30.40 VACANCY IN OFFICE.

A city elective office becomes vacant as provided by City Charter § 31.
(Prior Code, § 2.070) (Ord. 2009-10, passed 7-13-2009)

§ 30.41 FILLING VACANCIES.

(A) City Charter § 32 requires the remaining Council members to fill by appointment any vacancy in an elective office.

(B) The appointee holds office until the term of office of the vacancy has expired.

(C) The applicant must be a qualified elector under state law and reside in the city for at least one year before appointment to office.
(Prior Code, § 2.075) (Ord. 2009-10, passed 7-13-2009)

§ 30.42 APPOINTMENT BY COUNCIL.

(A) The City Council shall use the following procedures in the appointment process.

(1) At the request of the City Council, the City Recorder shall provide public notice to appropriate neighborhood organizations, civic groups, a newspaper of general circulation, and other recognized groups.

(2) The Council shall set the deadline date for submitting applications after the notice is published.

(3) Applicants must file the required application with the City Recorder by the filing deadline date set by the Council.

(4) The City Recorder shall make copies of all applications received and distribute to the Council as one packet.

(5) The Council shall conduct the interviews at a meeting open to the public.

(6) Each applicant shall make an oral presentation to the Council at a meeting open to the public.

(7) An applicant who receives a majority of the votes by the current Council members will be appointed to fill the vacant seat.

(8) The applicant appointed shall formally assume the office no later than 20 business days following the appointment by the Council.

(B) The application shall include the following:

(1) Full name and residence address;

(2) A current resume; and

(3) A written statement explaining the applicant’s reason for wishing to be appointed to the office.
(Prior Code, § 2.080) (Ord. 2009-10, passed 7-13-2009)

CHAPTER 31: INITIATIVE AND REFERENDUM

Section

Petitions

Presentation and Voting

PETITIONS

§ 31.01 DEFINITIONS.

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

BUSINESS DAYS. Regular work days (calendar days excluding weekends and legal holidays of the city).

CITY ELECTIONS OFFICIAL. The City Recorder is the person with whom the candidate files appropriate forms.

CITY LEGISLATION. An ordinance or proposed ordinance, or a proposed amendment revision or repeal of the City Charter.

COMPLETED PETITION. A candidate petition containing 100% of the certified signatures necessary to obtain ballot access or the prospective initiative or referendum petition where the chief petitioners have submitted 100% of the signatures required for verification.

COUNTY ELECTIONS. The County Division in charge of city elections.

ELECTOR. An individual eligible under state and city law to vote in a city election.

INITIATIVE PETITION. An initiative petition, including complete text, cover, and signature sheet, which has received written approval to circulate from the filing officer but has not yet qualified for the ballot.

MEASURE. City legislation, or a proposition or question submitted to city electors for approval or rejection at an election.

O.A.R. Oregon Administrative Rules.

O.R.S. Oregon Revised Statutes.

PROSPECTIVE PETITION. The information and filing forms, except ballot title information, signatures, and other identification of petition signers, required to be contained in a completed petition.

REFERENDUM PETITION. A petition by electors to approve or reject legislation adopted by the governing body of the city.

REGISTERED VOTER. A resident of the state who is a U.S. citizen; 18 years of age; and is registered more than 20 calendar days before the election.

REGULAR ELECTION. A city election held at the same time as a general biennial election for electing federal, state, or county officers.

SPECIAL ELECTION. A city election held on a date other than a regular election.

(Prior Code, § 2.105) (Ord. 1993-13, passed 10-25-1993; Ord. 2009-10, passed 7-13-2009)

§ 31.02 COMPLETE PROCEDURE.

This chapter provides a complete procedure for the electors to exercise initiative and referendum powers.

(Prior Code, § 2.110) (Ord. 1993-13, passed 10-25-1993)

§ 31.03 INITIATIVE PROPOSAL.

An initiative measure shall be proposed by filing with the City Elections Official a completed petition that meets the requirements of this chapter and orders the measure to be submitted to the electors.

(Prior Code, § 2.115) (Ord. 1993-13, passed 10-25-1993)

§ 31.04 REFERENDUM PROCEDURE.

A measure shall be referred by:

(A) Filing with the city elections official a completed referendum petition that meets the requirements of this chapter; or

(B) Submission of the measure to the electors by the Council.

(Prior Code, § 2.120) (Ord. 1993-13, passed 10-25-1993)

§ 31.05 TIME FOR REFERRING MEASURE BY PETITION.

A completed referendum petition for a measure, including the required signatures, must be filed with the City Elections Official within 30 days after the Council enacts the measure.

(Prior Code, § 2.125) (Ord. 1993-13, passed 10-25-1993)

§ 31.06 TIME FOR REFERRAL BY COUNCIL.

The Council may refer a measure only at the session at which it enacts the measure. Proposed amendments to the City Charter may be proposed and submitted to the electors by the Council, with or without an initiative petition.

(Prior Code, § 2.130) (Ord. 1993-13, passed 10-25-1993)

§ 31.07 PROSPECTIVE PETITION.

(A) A prospective petition shall be in the form prescribed by the Secretary of State.

(B) Prior to its circulation, a copy of the prospective petition shall be deposited with the City Elections Official with a correct copy of the measure and a signed statement on the face of the petition stating the name and address of the person or persons, not to exceed three, under whose authority and sponsorship the petition was prepared and is to be circulated or, if the sponsor is an organization, its name and address and the name and address of each of the principal officers of the organization.

(Prior Code, § 2.135) (Ord. 1993-13, passed 10-25-1993)

§ 31.08 ELECTIONS OFFICIAL DUTIES.

When a copy of a prospective petition is deposited with the City Elections Official, the Official shall:

(A) Check the form for compliance with § 31.07;

(B) Advise the person depositing it whether it complies with § 31.07 and, if it does not, how to make it comply;

(C) Provide a sample petition form prescribed by the Secretary of State, if one has not already been obtained; and

(D) Stamp the date and time on the prospective petition, if it complies with § 31.07, and send a copy to the City Attorney for preparation of the ballot title.

(Prior Code, § 2.140) (Ord. 1993-13, passed 10-25-1993)

§ 31.09 BALLOT TITLE PREPARATION.

(A) The ballot title for a measure ordered by the Council or proposed to be ordered by petition shall be prepared and in the hands of the City Elections Official within five working days after the Council orders the submission or after a copy of the prospective petition is deposited with the Official.

(B) When the Council orders submission of a measure to the electors or when a prospective petition is deposited with the City Elections Official, the Official shall send a copy of the measure to the City Attorney, who shall prepare the ballot title and return it to the Official. If the city has no attorney or the City Attorney is unable to prepare the ballot title within the time required, the Official shall prepare the ballot title.

(Prior Code, § 2.145) (Ord. 1993-13, passed 10-25-1993)

§ 31.10 CAPTIONS AND STATEMENTS.

(A) The ballot title shall consist of:

(1) A caption not exceeding ten words which identifies the subject matter of the measure;

(2) A question not exceeding 20 words that plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(3) A concise and impartial statement, not exceeding 175 words summarizing the measure and its effect.

(B) The city is authorized to submit an explanatory statement not exceeding 500 words, which is impartial, explaining the measure and its effect.

(Prior Code, § 2.150) (Ord. 1993-13, passed 10-25-1993; Ord. 1995-13, passed 11-13-1995; Ord. 2006-16, passed 8-14-2006)

§ 31.11 BALLOT TITLE APPEALS.

An elector who is dissatisfied with the ballot title may, within five days after it is prepared and deposited with the City Elections Official, appeal to the Council by a written appeal deposited with the Official asking for a different ballot title for the measure and stating why the title is unsatisfactory. Within five business days after deposit of the appeal with the Official, the Council shall provide the appellant a hearing and either approve the title or prescribe another ballot title for the measure.

(Prior Code, § 2.155) (Ord. 1993-13, passed 10-25-1993)

§ 31.12 PETITION REQUIREMENTS.

Prior to circulation, a petition must:

(A) Be in the form prescribed by the Secretary of State (a sample of the form is available in the office of the City Elections Official);

(B) Contain the name and address of the sponsor or sponsors of the petition; and

(C) Have written in the foot margin of each signature sheet and on the cover:

(1) On an initiative petition, the caption that is part of the ballot title. The cover sheet shall contain the entire ballot title.

(2) On a referendum petition, the number and title, if any, of the measure to be referred and the date it was enacted by the Council.

(D) Be approved by the City Elections Official with the date of approval shown on the petition.

(Prior Code, § 2.160) (Ord. 1993-13, passed 10-25-1993)

§ 31.13 INITIATIVE PETITION CIRCULATION.

Prior to circulation of an initiative petition, the sponsor must certify in writing to the City Elections Official the date that circulation of the petition will begin, which date shall not be later than 30 days after approval of petition by the City Elections Official.

(Prior Code, § 2.165) (Ord. 1993-13, passed 10-25-1993)

§ 31.14 NUMBER OF SIGNATURES.

(A) The number of signatures required for an initiative petition is 15% of the electors registered in the city on the date the petition is filed.

(B) The number of signatures required for a referendum petition is 10% of the electors registered in the city on the date the petition is filed.

(Prior Code, § 2.170) (Ord. 1993-13, passed 10-25-1993; Ord. 1995-13, passed 11-13-1995)

§ 31.15 FILING OF PETITION.

(A) A completed initiative petition shall be filed with the City Elections Official within 60 days of the date certified as the beginning date for circulation of the petition.

(B) A completed initiative petition shall be filed at one time; no additional or late petitions can be accepted after this filing.

(Prior Code, § 2.175) (Ord. 1993-13, passed 10-25-1993)

§ 31.16 ATTACHMENT OF MEASURE TO SHEETS.

A signature on a petition sheet shall not be counted unless a copy of the measure to which the petition refers is attached to the sheet at the time of signing and filing.

(Prior Code, § 2.180) (Ord. 1993-13, passed 10-25-1993)

§ 31.17 SIGNATURE LIMITS.

Only the first 20 names on a page of a petition shall be considered in computing the number of valid signatures on the petition.
(Prior Code, § 2.185) (Ord. 1993-13, passed 10-25-1993)

§ 31.18 VERIFICATION OF SIGNATURES.

(A) A signature on a petition sheet shall not be counted unless the person who circulated the sheet verifies by a signed statement on its face that the individuals signed the sheet in the presence of the circulator and the circulator believes that each individual who signed is a qualified elector.

(B) After a completed petition is submitted for signature verification, no elector who signed the petition may remove the signature of the elector from the petition.
(Prior Code, § 2.190) (Ord. 1993-13, passed 10-25-1993)

§ 31.19 CERTIFICATION OF SIGNATURES.

(A) Within 15 days after a completed petition is offered for filing with the City Elections Official, the Official shall verify the number and genuineness of the signatures and the voting qualifications of the persons who signed such petition by reference to the voter registration records in the office of the County Clerk.

(B) If a sufficient number of electors signed the petition, the Official shall certify and file the petition, if the Official determines that there is an insufficient number of signatures, the petition does not qualify for placement on the ballot and the petition process is ended. Petitions shall be kept on file with the city.
(Prior Code, § 2.195) (Ord. 1993-13, passed 10-25-1993)

PRESENTATION AND VOTING

§ 31.30 PRESENTATION TO COUNCIL.

At the next regular meeting of the Council after the proposal of a completed initiative measure, the City Elections Official shall present the measure to the Council.
(Prior Code, § 2.200) (Ord. 1993-13, passed 10-25-1993)

§ 31.31 SUBMISSION TO ELECTORS.

The City Elections Official shall cause a charter or charter amendment proposed by the initiative, and any other initiative measure not adopted within 30 days after its filing, to be submitted to the electors at the time provided by § 31.32. The City Elections Official shall cause a referred measure to be submitted to the electors at the time fixed by § 31.32.

(Prior Code, § 2.205) (Ord. 1993-13, passed 10-25-1993)

§ 31.32 VOTING ON MEASURES.

(A) Except as provided by division (B) below or unless an earlier special election is approved by the Council, the time for voting on a measure shall be the next available regular election date more than 90 days after the verification and filing of a petition by the City Elections Official.

(B) The Council may call an emergency election for a measure and set the date for it, as provided by O.R.S. 221.230.

(Prior Code, § 2.210) (Ord. 1993-13, passed 10-25-1993)

§ 31.33 DESIGNATING AND NUMBERING MEASURES.

(A) Measures shall appear on a ballot by ballot title only, and initiative measures shall be distinguished from referred measures.

(B) The sequence of measures to be voted on shall be the sequence in which the respective measures are ordered to be submitted to the electors, with the first measure to be numbered "51" in numerals, and the succeeding measures to be numbered consecutively "52", "53", "54", and so on.

(Prior Code, § 2.215) (Ord. 1993-13, passed 10-25-1993)

§ 31.34 ELECTION NOTICE.

The City Elections Official shall give notice of all elections in accordance with the requirements of state law.

(Prior Code, § 2.220) (Ord. 1993-13, passed 10-25-1993)

§ 31.35 INFORMATION TO COUNTY CLERK.

When a measure is to be voted on at an election, the City Elections Official shall furnish a certified copy of the ballot title and the number of each measure to be voted on to the County Clerk in accordance with the time limits established by state law.

(Prior Code, § 2.225) (Ord. 1993-13, passed 10-25-1993)

§ 31.36 ELECTION RETURNS.

The votes on a measure shall be counted, canvassed, and returned by the County Clerk as provided by state law.

(Prior Code, § 2.230) (Ord. 1993-13, passed 10-25-1993)

§ 31.37 PROCLAMATION OF ELECTION RESULTS.

(A) Immediately after completion of the canvass of the votes on a measure, the Mayor shall issue a proclamation:

(1) Stating the vote on the measure;

(2) Declaring whether the vote shows a majority to be in favor of it; and

(3) If a majority of electors favor the measure, declaring it to be effective from the date of the vote.

(B) The proclamation shall be filed with the measure.

(Prior Code, § 2.235) (Ord. 1993-13, passed 10-25-1993)

§ 31.38 EFFECTIVE DATE OF MEASURES.

(A) A measure submitted to the electors shall take effect when approved by a majority of the electors voting on it, unless it specifies a later effective date.

(B) A measure adopted by the Council, but subject to a pending referendum for which a completed petition has been timely filed, shall have no effect unless and until it is approved by a majority of the electors voting upon it.

(Prior Code, § 2.240) (Ord. 1993-13, passed 10-25-1993)

§ 31.39 CONFLICTING MEASURES.

When conflicting measures are approved by the electors at an election, the one receiving the greater number of affirmative votes shall be paramount.

(Prior Code, § 2.245) (Ord. 1993-13, passed 10-25-1993)

§ 31.40 UNLAWFUL ACTS.

(A) No person other than a registered elector shall sign a petition.

(B) No person shall sign a petition with a name not his or her own.

(C) No person shall knowingly sign a petition more than once.

(D) No person shall knowingly circulate, file, or attempt to file with the Elections Official a petition that contains a signature signed in violation of this chapter.

(E) No person shall procure or attempt to procure a signature on a petition by fraud.

(F) No person shall knowingly make a false statement concerning a petition.

(G) No person shall make a document required or provided for by this chapter that contains a false statement.

(H) No officer shall willfully violate a provision of this chapter.

(Prior Code, § 2.250) (Ord. 1993-13, passed 10-25-1993) Penalty, see § 10.99

CHAPTER 32: CITY POLICIES

Section

LIENS

§ 32.01 RECORDING OF LIENS AND OTHER INSTRUMENTS AFFECTING REAL PROPERTY.

(A) The following shall be presented for recording in the appropriate county property records:

(1) Assessment liens;
(2) Local Improvement District (LID) liens;
(3) Development agreements;
(4) Utility and access easements;
(5) Utility billing liens;
(6) Liens for unpaid fees for city services;
(7) Waivers of remonstrance;
(8) Instruments for the reservation and maintenance of required open space areas under the city's zoning ordinance § 9.803;
(9) Assessed costs in excess of posted security for the installation of parking lots under the city's zoning ordinance § 9.828;
(10) Assessed costs in excess of posted security for the installation of landscaping under the city's zoning ordinance § 9.859(5);
(11) Deeds, easements, leases, or contracts establishing joint use of access and egress for two or more uses, structures, or parcels of land under the city's zoning ordinance § 9.830(3);
(12) Instruments establishing joint access and the provision of reciprocal easements required as a condition of issuing a building permit in the Community Commercial (CC) Zone under the city's zoning ordinance § 9.834(2);
(13) Site plans demonstrating compliance with public facility standards under the city's zoning ordinance § 9.855; and

(14) Any other instrument that affects the title to or an interest in real property that is required or permitted to be recorded by state or federal statute, rule, or regulation, or by any ordinance of the city.

(B) Any other instrument that affects or could affect the title to, or an interest in, real property may be presented for recording in the appropriate county property records.

(C) This subchapter shall apply to all instruments submitted for recordation by the city that affect the title to, or an interest in, real property, whether filed before or after the enactment of this subchapter.

(Prior Code, § 2.300) (Ord. 2000-07, passed 8-14-2000)

§ 32.02 SEARCH FEE.

A fee, in an amount fixed by Council resolution, shall be charged for each search of the city's lien docket or Bancroft Bond Docket. The fee shall be charged for each lot, tract, or parcel of real property searched or examined, and shall be paid to the City Recorder. The fee shall accompany the request to the Recorder for the search, unless the Recorder determines it is appropriate to bill for the service at the time the lien or non-lien certificate is delivered. All fees derived from the lien and bond docket searches shall be General Fund revenues of the city and shall be deposited and accounted for as such.

(Prior Code, § 2.305) (Ord. 2000-07, passed 8-14-2000)

CRIMINAL RECORDS CHECK

§ 32.15 PURPOSE.

The purpose of this subchapter is to authorize the City Police Department to access the Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) to conduct criminal and/or driver records checks on certain applicants for city employment, certain existing employees, volunteers, vendors, permit holders, liquor licenses applicants, and other certain individuals.

(Prior Code, § 2.400) (Ord. 2010-04, passed 6-14-2010)

§ 32.16 PROCEDURE.

The procedure shall be conducted in accordance with O.R.S. 181A.240 and O.A.R. 257-010-0025, which establishes procedures for access to criminal record information possessed by the State Police through Law Enforcement Data System.

(Prior Code, § 2.405) (Ord. 2010-04, passed 6-14-2010)

§ 32.17 CRIMINAL RECORDS CHECK AUTHORIZATION.

Certain applicants for city employment, certain existing employees, volunteers, vendors, permit holders, liquor license applicants, and other certain individuals subjected to a criminal records check, through notification process, will be required to authorize the city to conduct criminal and/or driver records check through LEDS. The City Manager is authorized to designate the types of individuals who are subjected to a criminal records check.
(Prior Code, § 2.410) (Ord. 2010-04, passed 6-14-2010)

§ 32.18 CRIMINAL RECORDS CHECK PERFORMED.

The Police Chief, or designee who is authorized to perform criminal records checks through LEDS, is authorized, upon receipt of signed notification from the individual, to conduct a criminal and/or driver records check through LEDS on certain applicants for city employment, certain existing employees, volunteers, vendors, permit holders, liquor licenses applicants, and other certain individuals. The City Manager is authorized to designate the types of individuals who are subjected to a criminal records check.
(Prior Code, § 2.415) (Ord. 2010-04, passed 6-14-2010)

§ 32.19 CRIMINAL RECORDS CHECK RESULTS REPORTED.

If the Chief of Police, or designee who is authorized to perform criminal records checks through LEDS, finds that a criminal record exists, the city shall, pursuant to Oregon Revised Statutes and Oregon Administrative Rules, request a written criminal history report from OSP Identification Services Section and pay the applicable fee for this service.
(Prior Code, § 2.420) (Ord. 2010-04, passed 6-14-2010)

§ 32.20 CRIMINAL RECORDS CHECK RETENTION; DESTRUCTION; DISCLOSURE; POLICY.

The City Recorder, or designee, shall administer the retention and destruction of confidential criminal and/or driver records checks in accordance with the state retention and destruction laws, pursuant to O.A.R. 166. The information contained in a criminal records check shall be kept confidential in accordance with state public records laws, pursuant to O.R.S. Chapter 192. All secondary dissemination of criminal records check information is strictly prohibited unless court ordered or otherwise provided by state law.
(Prior Code, § 2.425) (Ord. 2010-04, passed 6-14-2010)

CHAPTER 33: REGULATORY MEASURE 37 CLAIMS PROCEDURE

Section

§ 33.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Regulatory Claims Procedure Ordinance" and may also be referred to herein as "this chapter".
(Prior Code, § 2.900) (Ord. 2004-08, passed 2-1-2004)

§ 33.02 PURPOSE AND APPLICABILITY.

(A) The purpose of this chapter is to:

(1) Establish a process whereby claims under O.R.S. Chapter 197 (November 2, 2004, amendment, hereafter "Measure 37") may be properly submitted by claimants and evaluated by the city quickly, openly, thoroughly, and consistently;

(2) Enable persons with legitimate claims an adequate and fair opportunity to present such claims to the city, while preserving and protecting limited public funds;

(3) Authorize, where appropriate, limitations on the applicability of city regulations, which are shown to cause a reduction in property value; and

(4) Provide a record of decision capable of judicial review.

(B) It is not the purpose of this chapter to amend, repeal, or enforce the Comprehensive Plan, Development Code, Statewide Land Use Plan, or any other land use statute, regulation, or policy.
(Prior Code, § 2.905) (Ord. 2004-08, passed 2-1-2004)

§ 33.03 DEFINITIONS.

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

APPLICATION. The material submitted to the city by the claimant or applicant for a claim of compensation and includes a completed application form and supplemental information.

APPRAISAL. An examination of and opinion about the fair market value of real property issued by a certified general appraiser licensed by the State Appraiser Certification and Licensure Board.

CLAIMANT or ***APPLICANT.*** The property owner for which a claim is made pursuant to this chapter.

COMMUNITY DEVELOPMENT DIRECTOR or ***DIRECTOR.*** The person designated by the City Manager as Community Development Director or such other person or persons as authorized to act in that capacity.

EXEMPT REGULATION. A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law; a regulation restricting or prohibiting activities for the protection of public health and safety; a regulation to implement a requirement of federal law to the extent required; a regulation enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first; or a regulation that prohibits selling pornography or performing nude dancing.

FAIR MARKET VALUE. The price stated in terms of dollars that a willing buyer would pay for the property without any obligation to buy from a willing seller without any obligation to sell.

FAMILY MEMBER. Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one of a combination of these family members or the owner of the property.

FEDERAL REQUIREMENT. Any statute, code, or regulation adopted by the U.S. Congress or any federal agency, or state agency delegated to act in the name of a federal agency, which imposes upon the states or local governments or both an obligation to enact or enforce regulations over the use of real property.

LAND USE REGULATION. Include the city's comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances.

MEASURE 37. The amendment to O.R.S. Chapter 197, as approved by the state electorate on November 2, 2004.

NUISANCE. Any act, omission, structure, or condition on property that unreasonably interferes with a right common to members of the general public and not necessarily related to the use and enjoyment of land by any person other than the owner of property that is the situs of the nuisance. A ***HISTORICALLY AND COMMONLY RECOGNIZED NUISANCE*** shall have the meaning contained in Measure 37, and as construed by the state appellate courts. Without limiting the foregoing, the city may consider whether a use of property is declared by the city code or the city's Zoning Code to be a ***NUISANCE***.

OWNER. The present owner of the property or any interest therein.

OWNERSHIP INTEREST. A legally recognized interest in the proceeds of any sale of an interest in the property in question.

REAL PROPERTY. All lots, parcels, or tracts, or any combination thereof, that are owned by the claimant, including structures built or located on the property. ***REAL PROPERTY*** does not include public property, personal property, or easements over, above, or below public property. ***REAL PROPERTY*** does not include a franchise issued by the city to place or erect public or private utility facilities within or along public right-of-way.

REDUCTION IN FAIR MARKET VALUE. The difference in the fair market value of the property before and after application of the regulation.

RESTRICTS THE USE. A regulation that restricts the type of use of private real property, but does not include a regulation that effects either the extent of a use or a regulation that governs development or construction.

TITLE REPORT. A document prepared by a property title insurance company authorized to conduct business within the state that names all persons with legal, equitable, and security interests in the property and the date and instrument showing the time and manner in which such property interest or interests were established.

USE OF PROPERTY. Any activity that a private property owner can undertake on his or her property without creating a nuisance, without violating federal law or any local ordinance designed to the minimum extent possible to implement requirements of federal law, and without violating any city or county regulation in effect at the time the owner became owner of the property.

WAIVER OF ENFORCEMENT OF A REGULATION OR LICENSE. A license issued by the city, pursuant to this chapter, suspending city enforcement of the requirements of a city regulation as to a particular property and its owner, which is determined to restrict the owner's use of property, is not exempt from O.R.S. Chapter 197, and for which the city has elected not to pay compensation pursuant to Measure 37.

(Prior Code, § 2.910) (Ord. 2004-08, passed 2-1-2004)

§ 33.04 PRE-APPLICATION CONFERENCE.

(A) Before submitting an application for a claim pursuant to this chapter, the claimant may schedule and attend a pre-application conference with the Director to discuss the application. The pre-application conference shall follow the procedure set forth by the Director.

(B) To schedule a pre-application conference, the claimant must contact the Director. The pre-application conference is for the claimant to provide a summary of the claimant's application for a claim and for the Director to provide information to the claimant about regulations that may effect the application, including this chapter. The Director shall also identify information needed to process a claim based on the provisions of § 33.05. The Director may provide the claimant with a written summary of the pre-application conference within ten days after it is held.

(C) The Director is not authorized to settle any claim at a pre-application conference. Any omission or failure by staff to recite to a claimant all relevant applicable land use regulations will not constitute a waiver or admission by the city.

(Prior Code, § 2.915) (Ord. 2004-08, passed 2-1-2004)

§ 33.05 APPLICATION.

(A) The following is the process for filing a claim.

(1) The owner or the owner's authorized agent shall file a claim with the Director. The claim shall be filed on an application form as approved by the Director, accompanied by relevant documentation in support of the claim, as listed in this section.

(2) Within ten days following tender of an application, the Director shall review the application to determine whether it is complete and ready for filing.

(a) If the Director determines the application is not complete, the Director shall, within that ten-day period, notify the applying owner by sending via first-class mail exactly what additional information is necessary to make the application complete and ready for filing.

(b) If the Director believes there is doubt under Measure 37 as to whether the additional information can be required as a condition of acceptance of filing of the application, the Director also may notify the claimant in writing that although the Director considers the application not complete and ready for filing, the Director nevertheless will proceed to process the application if the additional information is not supplied by a date set by the Director, not to exceed 20 days after the date of the notification.

(c) The application shall be deemed complete and filed as of the date of receipt of the additional information, except that if the applying owner does not supply the additional information by the date set by the Director, then the application shall be deemed complete and filed as of the date the application was received.

(B) The application shall be signed by the property owner(s), including, without limitation, each person having an ownership interest (as defined herein) in the private real property.

(C) Unless waived by the Director as part of the pre-application conference, an application shall include the following information:

(1) A description by street address, if any, and by county assessment and taxation map and tax lot number of the property upon which the regulation is imposed;

(2) A description by street address, if any, and by the county property tax assessor's map and tax lot number of each parcel of land owned by the owner or owners that is either directly contiguous to the property described in division (C)(1) above, or is indirectly contiguous through contiguity with another parcel under the same ownership;

(3) The following information be provided for each property included pursuant to divisions (C)(1) and (C)(2) above:

(a) The date of acquisition of the property and each contiguous parcel;

(b) Information showing the extent to which the owner has treated the private real property, as to which the owner is applying for compensation, and the directly or indirectly contiguous parcels as a unified use or as a single economic unit, for example, in the purchase and financing of the land and in the owner's or owners' development of and economic planning for the land;

(c) The extent to which application of the subject regulation that is being challenged enhances the value of the property and each contiguous parcel; and

(d) The amount of any compensation previously paid by any unit of government under Measure 37 in relation to each parcel.

(4) The names and street addresses of the record owners of property on the most recent property tax assessment roll and within 300 feet of the property described in divisions (C)(1) and (C)(2) above;

(5) A title report issued within 30 days of the date of the application that ensures to the city that the claimant is the property owner of the real property. The claimant shall also submit a complete list of all other interests or encumbrances including, without limitation, leases and encroachments, of which the claimant is aware or has reason to think may exist;

(6) Identification of the regulation, including:

(a) A reference to each regulation that the claimant asserts will restrict the use of property and has the effect of reducing the value of the property. The reference shall identify by number or section the law, rule, ordinance, resolution, goal or other enforceable enactment, or a copy of the regulation for which claim is submitted;

(b) A statement whether the claim is based on adoption, first enforcement, or application of the regulation. If based on adoption of the regulation, the date of adoption of the regulation. If based on first enforcement of the regulation, the date and manner of first enforcement and any documentation establishing the date and manner of first enforcement. If based on application of the regulation, the date and manner of application and any documentation establishing the date and manner of application; and

(c) A copy of the land use regulation(s) applicable to the property when the owner became owner of the property or having interest herein.

(7) A written description addressing the approval criteria including, without limitation, the impact of the applicable city regulation(s) on the subject property and the reason(s) why under Measure 37 such regulation restricts the use of the property and impacts the value of the property. The claimant shall describe the greatest degree of development that would be permitted if the identified regulation were waived by the city;

(8) Amount of claim, including:

(a) A statement of the amount of the claim in dollars based on claimant's alleged reduction in fair market value resulting from application of the land use regulation;

(b) An appraisal of the subject property showing the reduction in the fair market value of the property as that reduction is defined under Measure 37. To the extent practicable, the opinion of compensable reduction in fair market value shall be apportioned among each regulation such that the city may separately consider the alleged impact on fair market value of each regulation. The appraisal shall be prepared and signed by a certified general appraiser, licensed by the State Appraiser Certification and Licensing Board, and shall conform with Uniform Standards for Professional Appraisal Practice. The appraisal shall address the market feasibility of the use for which compensation is sought, taking into account all relevant factors including, but not limited to, market factors, the potential impact of Measure 37 on other properties, the availability of necessary public services, probability of obtaining necessary approvals from other governmental bodies, and other constraints;

(c) An itemization of any prior payments made to the property owner relating to a claim on the property, including any contiguous parcels under substantially the same ownership;

(d) Any other relief sought by the claimant from other governments for the same property; and

(e) Copies of all appraisals, market studies, economic feasibility studies, development schemes, environmental assessments, or similar studies related to the property prepared within the two-year period prior to submittal of the claim.

(9) A waiver of any claims for regulations not identified;

(10) A statement, including analysis, as to why the regulations are not exempt from application for compensation under Measure 37, including:

(a) Adoption or enforcement of a nuisance;

(b) Imposition, to the extent required, of a regulation to implement a federal requirement;

(c) Regulation prohibiting the use of the property for the purpose of selling pornography or performing nude dancing; and/or

(d) Protection of health and safety.

(11) A copy of all enforcement actions taken by any governmental body as regards the property;

(12) A site plan and drawings related to the expected use of the property should the land use regulation be modified, removed, or not applied as a result of the claim. The site plan and drawing shall be in a format acceptable by the Director;

(13) All other documents, information, or argument to be relied upon by the claimant in support of the application;

(14) An application fee, as established by resolution and amended from time to time by the City Council. The city shall refund the application fee if it is determined that the city cannot make payment of an application fee a condition of acceptance of filing of an application under Measure 37. If the applicant refuses to submit a fee and the claim is processed by the city and it is determined that claim is not valid, the city may submit a bill for the cost to the claimant. If the bill is not paid within 30 days, the city may pursue collection efforts, including filing a lien on the property; and

(15) A sworn statement that the information submitted is true and complete to the best knowledge and belief of the claimant.

(Prior Code, § 2.920) (Ord. 2004-08, passed 2-1-2004)

§ 33.06 NOTICE OF APPLICATION FOR CLAIM.

(A) Upon receipt of a complete application, the Director shall notice the filing of the claim to be given as follows, within seven days from the date of determination of completeness.

(B) (1) Notice of the hearing under this chapter shall be made by regular first-class mail to:

(a) The applicant and to owners of record of property on the most recent property tax assessment roll within 300 feet of where such property is located;

(b) The directors of the following departments of the county:

1. Land Use;
2. Transportation; and
3. Assessment and Taxation.

(c) The director of Metro’s Growth Management Services;

(d) The director of the State Department of Land Conservation and Development;

(e) Such other persons or entities who have expressed an interest in or requested notice of possible waiver of enforcement of regulations under Measure 37; and

(f) Any local, state, or federal agency that the Director believes would be affected by a waiver of the regulation from the property.

(2) The failure of the Director to give notice as provided in this section, or the failure of any person to receive notice given under this section, shall not invalidate any action of the City Council under this chapter. The notice provisions of this section shall not restrict the giving of notice by other means, including the posting in public places, newspaper publication, or by posting on the city's web site.

(C) The notice provided by this section shall:

(1) Explain the nature of the application, including the name of the claimant and the amount of the claim;

(2) List the applicable criteria from this chapter;

(3) List the regulation(s) that is the subject of the claim;

(4) Location of the claimant's property by tax lot and by street address or other geographical reference;

(5) State the date, time, and location of the hearing;

(6) Be mailed at least 20 days before the hearing, unless the Director determines that a shorter notice period is required in order to assure that the City Council may make a written decision upon the claim and provide for adequate time for payment of any determined just compensation or license waiving enforcement of a city regulation(s) within the 180-day period required by Measure 37;

(7) Include the name of the city staff to contact and the telephone number where additional information may be obtained;

(8) State that a copy of the application, all documents, and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;

(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 (unless reduced in time pursuant to division (C)(6) above), and will be provided at a reasonable cost; and

(10) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(D) All documents or evidence relied upon by the applicant shall be submitted to the city and be made available to the public. Any staff report shall be made available at least seven days in advance of the hearing (unless reduced in time pursuant to division (C)(6) above), except that any appraisal prepared on behalf of the city, which may be submitted at the hearing.

(E) The claimant may request an extension for filing a complete application, for a continuance of the city's review of such application. A request for extension or continuance shall be deemed a waiver of the 180-day time frame for responding to the application by the amount of any requested extension or continuance.

(Prior Code, § 2.925) (Ord. 2004-08, passed 2-1-2004)

§ 33.07 REVIEW OF APPLICATION.

(A) The Director, following filing of a complete application under this chapter, and following consideration of the information included in the application and any other evidence, shall determine:

(1) The extent of waiving the enforcement of the regulation necessary to avoid the owner or owners being entitled to compensation under Measure 37; and

(2) The amount of compensation to which the owner or owners would be entitled without a waiver.

(B) If the Director determines that a waiver of enforcement of the regulation is or may be needed to avoid the owner being entitled to compensation, the Director, under the advice of the Finance Director and City Manager, shall compare the public benefits of not applying the regulation to the owner's private real property to the public burden of paying the required compensation if a waiver of enforcement of the regulation is not granted, taking into consideration the financial resources of the city for the payment of such claims.

(C) Based on this comparison, the Director shall prepare a written report stating the result of its comparison. If the Director has determined that a waiver of enforcement of the regulation may be needed, the report also shall make a recommendation either to:

(1) Grant a license waiving enforcement of the regulation that will avoid compensation;

(2) Grant a license to modify the regulation for the claimant on the subject site so that it does not give rise to a claim for compensation;

(3) Grant a license waiving enforcement of less than all the regulations under consideration to not avoid compensation, but to reduce the compensation to which the owner is entitled and pay the amount of reduced compensation to which the Director believes the owner is entitled;

(4) Deny a waiver of enforcement of the regulation and pay the amount of compensation to which the Director believes the owner is entitled; or

(5) Take some other appropriate action, such as acquiring the entire private real property or any portion thereof by condemnation.

(D) As part of the review, the Director may request a separate, independent appraisal be conducted by an appraiser as selected by the city. An independent appraisal shall be required when the claim equals or exceeds $30,000. Said appraisal shall not be required for claims of $10,000 or less.

(E) If a value cannot be agreed upon by the claimant and the city based on prior appraisals, a third appraisal shall be conducted by an appraiser mutually agreed upon by the claimant and city. This third appraisal shall determine the final value of the claim.
(Prior Code, § 2.930) (Ord. 2004-08, passed 2-1-2004)

§ 33.08 CITY COUNCIL HEARING.

(A) Except as otherwise provided in this section, the hearing shall be conducted by the City Council in accordance with the Council rules for conduct of administrative and quasi-judicial hearings.

(B) At the beginning of the public hearing under this chapter, the presiding officer or a member of city staff shall state:

(1) The applicable substantive criteria;

(2) The hearing will proceed in the following general order: staff report; applicant's presentation; testimony in favor of the application; testimony in opposition to the application; rebuttal; record closes; deliberation; and decision;

(3) All testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in

addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The presiding officer may reasonably limit oral presentations in length or content depending upon time constraints. Either the city or the claimant may require that the appraiser or other person relied on by the other party attend the hearing with all relevant materials and be available for questioning by the Council. If the person is not available, the Council may strike from the record any information provided by the person at any stage. Any party may submit written materials of any length while the public record is open;

(4) Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to afford the city and all parties opportunity to respond to the issue, may preclude appeal on that issue to the appropriate appellate tribunal;

(5) Any party wishing a continuance or to keep open the record must make that request while the record is still open; and

(6) The City Council and Mayor must disclose any ex parte contacts, conflicts of interest, or bias before the beginning of each hearing item and provide an opportunity for challenge. Advised parties must raise challenges to the procedures of the hearing at the hearing and raise any issue relative to ex parte contacts, conflicts of interest, or bias prior to the start of the hearing.

(C) Any request made for an opportunity to continue the hearing to present additional evidence or testimony or to make final written argument may be limited or eliminated by the City Council to assure that a written decision is made and sufficient administrative time remains thereafter to cause payment of compensation or waiving enforcement of the regulation within the required 180 days from the date of filing a claim. The Council shall have sole discretion as to whether to admit evidence, but material required to be submitted as part of the application or that the Director should have received and considered at the time of making its review and recommendation shall not be admitted unless the Council finds that extraordinary circumstances beyond the control of the offering party prevented earlier submittal. The Council may condition receipt of new information from the claimant on the claimant stipulating to an extension of time for consideration of the material and a waiver of the 180-day deadline provided for under Measure 37.

(D) The City Council shall determine whether the following criteria have been met:

(1) The application is complete;

(2) The claimant is a qualifying property owner under Measure 37 as follows:

(a) The subject property is located within the city and is subject to the chapter or regulation, which is the basis of the application for claim;

(b) The use which the claimant alleges is restricted under a city regulation and does not constitute a nuisance;

(c) The city regulation is not required as part of any federal requirement and is not an exempt regulation;

(d) The owner of the property as shown on the application was the owner of the property prior to the date the regulation was adopted, first enforced, or applied;

(e) There is substantial evidence to support the claim of reduction in the fair market value of the subject property;

(f) The amount of compensation potentially due has been based on substantial evidence;

(g) The availability of public financial resources to pay the claim in consideration of competing priorities in the public interest;

(h) The impact of waiving enforcement of the regulation(s) or otherwise permitting the use on other properties and the public interest; and

(i) Such other factors as are determined to be in the interest of the property owner and the public to consider in determining the claim.

(3) The cited regulation(s) reduce the fair market value of the property and entitle the owner to compensation or waiver of enforcement of the regulation pursuant to Measure 37.

(E) At the conclusion of the hearing, the City Council shall announce its decision orally. Such decision shall not be considered the final city decision until the City Council has adopted written findings in support of its decision. The City Council shall determine whether the applying owner may be entitled to compensation under Measure 37 unless the city grants a license waiving enforcement of the regulation and, if so, the amount of compensation that may be due and shall compare the public benefits from application of the regulation to the owner's private real property to the public burden of paying the required compensation to the owner if a license waiving enforcement of the regulation is not granted, taking into consideration the financial resources of the city for the payment of such claims. If the City Council has determined that either compensation or a waiver is or may be required, then based on this comparison:

(1) If the City Council finds that the public burden of paying the required compensation, taking into consideration the city's financial resources for the payment of such claims, is greater than the public benefit to apply the regulation to the owner's private real property, the City Council may grant a license waiving enforcement of the regulation to the extent necessary to avoid the owner or owners being entitled to compensation;

(2) If the City Council finds that the public benefit from application of the regulation to the owner's or owners' private real property is greater than the public burden of paying the required compensation, taking into consideration the city's financial resources for the payment of such claims, the City Council may deny a license waiving enforcement of the regulation and identify a specified amount of compensation to be paid;

(3) The City Council may find that the public benefit from application of the regulation to the owner's private real property is greater than the public burden of paying some of the required compensation, taking into consideration the city's financial resources for the payment of such claims, but that other of the public benefits are not sufficient to justify the public burden of paying the balance of the required compensation. If so, the City Council may grant a license waiving enforcement of the regulation to the limited extent necessary to avoid the owner being entitled to compensation as to that part of the specified regulation providing public benefit and identify a specified amount of compensation to be paid as to that part of the regulation as to which a waiver from enforcement is not granted;

(4) The City Council may take some other appropriate action, including a resolution of intent to acquire an interest in the property by condemnation;

(5) The City Council, in its discretion, may impose a condition that its decision will be effective only if the owner or owners of the private real property sign an agreement, in a form acceptable to the city, that waives any further claims in relation to application of the subject regulation to the private real property as to which a license or compensation is sought; or

(6) The City Council may take other appropriate action conditional on the city receiving a defined amount of contributions from others, such as persons who believe they would be negatively affected by an exemption, by a specified date. In the event the City Council makes

such a conditional decision, then the Finance Department shall establish an account into which it shall deposit all contributions the city has received for the payment of compensation. On the date specified for receipt of the defined amount of contributions, the Finance Department shall certify whether the defined amount of contributions has been received. If the defined amount of contributions has been certified as received, then the compensation shall be paid and the license deemed denied or granted only to the limited extent approved by the City Council, as of the payment date, if the defined amount of contributions has been certified as not received, then the license shall be deemed granted as of the certification date and all contributions received by the city shall be returned to the persons who made the contributions.

(F) If the Council finds the criteria set forth in division (D) above have been met, the Council shall adopt a written order (which may be combined with the written findings and conclusion) either directing that payment of just compensation be made to the property owner and to any other persons holding an interest in the property, in such manner as approved by the City Attorney, or issuing a license waiving enforcement of the regulation in accordance with § 33.11. The City Council may delay, withhold, or condition the entry of its written order (including placement of just compensation funds in escrow) depending upon whether and at what time Measure 37 became effective.

(G) A copy of the findings, conclusion, and order shall be mailed by first-class mail to:

(1) The claimant and to all other interested persons who both submitted written testimony or testified before the City Council; and

(2) The government agencies that were provided notice of the claim pursuant to § 33.06(B)(1)(c) through (B)(1)(e).

(Prior Code, § 2.935) (Ord. 2004-08, passed 2-1-2004)

§ 33.09 BURDEN OF PROOF.

The burden of proof of any material element shall be upon the claimant for all matters required to show that the claimant is a qualifying property owner under Measure 37 and the amount of compensation for reduced property value caused by the cited regulation or regulations. The burden shall be upon the city to establish that the regulation is exempt from the obligation to pay compensation.

(Prior Code, § 2.940) (Ord. 2004-08, passed 2-1-2004)

§ 33.10 STANDARDS FOR INTERPRETATION.

(A) Applications for claims shall be interpreted consistently with statutory laws and judicial decisions under O.R.S. Chapter 197.

(B) This chapter is not intended in any way to expand the rights or remedies available to property owners under Measure 37 or any other law. Neither shall it be construed so as to contravene the express terms of Measure 37.

(C) If the City Council has taken an action under § 33.06 and the owner nevertheless files a court action seeking compensation or additional compensation from the city in relation to the specified regulation as it affects the owner’s private real property, and if a final court

decision determines that the extent of the license provided in the City Council's final order was not sufficient to avoid the owner(s) being entitled to compensation or additional compensation, then the extent of any license granted by the city shall be deemed to be the extent of any license necessary to avoid the owner(s) being entitled to compensation or additional compensation, effective as of the date of the Council's decision.
(Prior Code, § 2.945) (Ord. 2004-08, passed 2-1-2004)

§ 33.11 LICENSE WAIVING ENFORCEMENT OF CITY REGULATION.

(A) There is hereby established a city license that waives or modifies city enforcement of one or more specified city regulations found by the Council to reduce the value of a claimant's real property. Such license shall have the following characteristics:

(1) It shall be signed by the Director on behalf of the city and issued only to a claimant pursuant to the process set forth in this chapter;

(2) It shall be personal to the owner and nontransferable. The license shall expire upon the licensee's death or, in the case of non-natural persons, its expiration or termination;

(3) It shall remain effective so long as the claimant owns the property to the same extent as at the time the claim was allowed;

(4) Such license shall be presented to the city as part of any application for development of the subject property for which a waiver of the subject regulation is sought;

(5) The city may record the license or a memorandum of the license in the deed records of the county.

(B) Issuance of a license under this section shall not cause the repeal of the regulation(s) being challenged.

(C) The City Attorney is authorized to prepare an appropriate form of license under this section.
(Prior Code, § 2.950) (Ord. 2004-08, passed 2-1-2004)

§ 33.12 PAYMENT OF CLAIM.

(A) If the Council determines that a valid claim has been presented and established under this chapter and sufficient funds are available and appropriated therefor, the Council may authorize payment to the claimant. The amount of payment shall be based on the Council's determination of the diminution in property value attributed to the city regulation.

(B) Payment shall be tendered upon claimant's recordation in the County Department of Records and Elections of a notice, covenant, or declaration in a form approved by the City Attorney that the cited regulation(s) are applicable to the property.
(Prior Code, § 2.955) (Ord. 2004-08, passed 2-1-2004)

§ 33.13 RECORD.

(A) The City Recorder shall maintain records of all monies paid and licenses issued pursuant to this chapter.

(B) The Director shall cause a copy of any license issued under this chapter to be mailed to the County Director of Assessment and Taxation with a request that such information be considered in determining the assessed value of the subject property.

(Prior Code, § 2.960) (Ord. 2004-08, passed 2-1-2004)

§ 33.14 CONDITIONS RELATED TO FUTURE COURT DECISIONS.

(A) If the City Council grants a license or limited license as a means to avoid having to compensate, or as a means to limit compensation to, an owner or owners under Measure 37, and if, based on a subsequent appellate court interpretation or invalidation of Measure 37, in the same or another case, the applying owner was not entitled to compensation in relation to the regulation from which the license waiving the regulation was granted, then the waiver or limited waiver shall be deemed to have been invalid and ineffective as of and after the date of the City Council's order granting the waiver or limited waiver. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the city being required to compensate the owner under Measure 37.

(B) The City Council may make a decision to pay compensation under this chapter conditional on the owner or owners signing an agreement, in a form acceptable to the city, that, if an appellate court subsequently interprets or invalidates Measure 37, in the same or another case, in a manner such that the owner was or owners were not entitled to compensation in relation to the subject regulation, then the owner or owners will repay the compensation received by the owner or owners to the city, with the repayment obligation being a lien against the subject private real property until paid. Whether or not the owner or owners sign such an agreement, if an appellate court subsequently interprets or invalidates Measure 37, in the same or another case, in a manner such that the owner was or owners were not entitled to compensation in relation to the subject regulation, then the owner or owners shall repay the compensation received by the owner or owners to the city, with the repayment obligation being a lien against the subject private real property until paid.

(C) Any such repayment obligation and lien shall be limited as necessary to avoid the city being required to compensate the owner under Measure 37.

(Prior Code, § 2.965) (Ord. 2004-08, passed 2-1-2004)

§ 33.15 NO RE-APPLICATION.

If a claim has been granted by the city or another jurisdiction based on one or more land use regulations on a property or an application is denied or withdrawn prior to the issuance of a final written order by the City Council, no application for the same or substantially similar compensation claim may be made by the owner or subsequent owner(s) of the subject property.

(Prior Code, § 2.970) (Ord. 2004-08, passed 2-1-2004)

§ 33.16 VALIDITY OF CITY COUNCIL ACTION.

No failure of any person or body to comply with a procedural requirement set out in this chapter shall invalidate any action of the City Council under this chapter.
(Prior Code, § 2.975) (Ord. 2004-08, passed 2-1-2004)

§ 33.17 ATTORNEY FEES ON DELAYED COMPENSATION.

If a demand made under Measure 37 and this chapter is denied or not fully paid within 180 days of the date of filing a completed demand, the owner's reasonable attorney fees and expenses necessary to collect compensation will be added as additional compensation, provided compensation is awarded to the owner. If such demand is denied, not fully paid, or other action taken under Measure 37, within 180 days of the date of filing the completed demand, and the owner commences suit or action to collect compensation, if the city is the prevailing party in such action, then the city shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable attorney's fees. In the event the city is the prevailing party and is represented by in-house counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the attorney fee rates and charges reasonably and generally accepted in the city for the type of legal services performed.
(Prior Code, § 2.980) (Ord. 2004-08, passed 2-1-2004)

§ 33.18 ADMINISTRATIVE AND ENFORCEMENT RESPONSIBILITIES.

(A) The City Manager or designee shall be responsible for the administration and enforcement of this code. In accordance with approved procedures, the City Manager may employ qualified officers, inspectors, assistants, and other employees as shall be necessary to carry out the provisions of this section.

(B) The City Manager shall designate in writing the appropriate department responsible for the administration and enforcement of any provisions of the code.

(C) The City Manager or Council may add other and additional duties and regulations to the enforcement and administration responsibilities of any department.

(D) In order to carry out the duties set forth in division (B) above, the director of any department designated for the administration and enforcement for any provisions of the code may:

(1) Adopt written policies and procedures for the enforcement of applicable code provisions and laws; and

(2) Establish enforcement priorities based on the number of personnel, public safety, and welfare factors as well as such priorities as may be established by City Council.

(E) In order to gain compliance with the provisions for which a department is given responsibility, the director (or his or her delegate) of said department may do any or all of the following:

(1) Obtain voluntary compliance;

(2) Cause appropriate action to be instituted in a court of competent jurisdiction (including the Municipal Court);

(3) Issue code violation citation(s) to the person(s) responsible for the violation; and

(4) Take such other action as the director, in the exercise of his or her discretion, deems appropriate.

(F) The director or designee may enter property (including the interior of structures) at all reasonable times whenever an inspection is deemed necessary to enforce any regulation under said department's jurisdiction as set forth in division (B) above.

(G) In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:

(1) If any structure on the property is occupied, the director shall first present proper credentials and request entry. If entry is refused, the director may attempt to obtain entry by obtaining an inspection warrant; or

(2) If the property is unoccupied, the director shall contact the property owner (or other person(s) having charge or control thereof) and request entry; if refused, the director may obtain entry through an inspection warrant.

(Prior Code, § 2.990) (Ord. 2005-20, passed 11-28-2005)

CHAPTER 34: TAXES AND FEES

Section

Cross-reference:

Sale of marijuana items tax, see §§ 112.30 et seq.

ANNUAL FEE ADJUSTMENT

§ 34.01 ADJUSTMENT OF FEES AND CHARGES.

The intent of §§ 34.01 through 34.03 is to provide the City Council with a rational process for setting fees and charges. The philosophy is to base user fees on cost-of-service so the city will be able to recover the costs associated with delivering a service to an individual or group. By recovering the cost of providing a service, the rest of the community is not subsidizing services benefitting individuals. (Prior Code, § 2.600) (Ord. 1989-04, passed 2-13-1989)

§ 34.02 LICENSES, PERMITS, FEES, AND CHARGES.

(A) Licenses, permits, fees, and charges will be adjusted by Council resolution in July each year.

(B) Licenses, permits, fees, and charges subject to §§ 34.01 through 34.03 shall be reviewed with a cost-of-service study every five years. Following completion of each cost-of-service study and its review and/or amendment by the Council, the Council shall designate by resolution the cost of all licenses, permits, fees, and charges subject to §§ 34.01 through 34.03. Subsequent adjustments prior to completion of the next required cost-of-service study shall be made in accordance with § 34.03. Unless specifically exempted, all city licenses, permits, fees, and charges are subject to § 34.03.

(Prior Code, § 2.601) (Ord. 1989-04, passed 2-13-1989)

§ 34.03 BASIS FOR ANNUAL ADJUSTMENT.

(A) Adjustments to fees and charges shall be based on the Consumer Price Index (CPI) or the percentage of the general wage adjustment for city employees. Fees and charges may be adjusted by the Portland Area Consumer Price Index for all urban consumers, as compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics.

(B) If the CPI is used for the annual adjustment, changes will be equal to the percentage change in the Portland Area CPI for all urban consumers in one 12-month period. The comparison month will be January of each year.

(C) Fees and charges may be adjusted by the fiscal year general wage adjustment. The amount will be equal to the percentage adjustment in wages for the same fiscal year of the fee increase.

(Prior Code, § 2.605) (Ord. 1989-04, passed 2-13-1989)

§ 34.04 MUNICIPAL UTILITY BILLINGS; PRIORITIZATION OF PAYMENT SUSPENSION/TERMINATION OF UTILITY SERVICE.

(A) Fees, taxes, rates, and other charges imposed or collected by the city designed to pay costs associated with delivery (either by the city or other governmental unit) of services may be made part of and included with any billing statement(s) issued by the city for its municipal water and electricity utilities.

(B) Payments received by the city as part of its municipal utility billing process shall be prioritized so charges imposed for the city's water and electricity utilities are, in that order, deemed the last to be paid.

(C) (1) In the event the city receives less than full payment of the fees, taxes, rates, and other charges listed on city utility billing statement(s), the city shall have the right but not the obligation to terminate or suspend delivery of either or both of its utility services to the affected property or structure until the city receives (or is assured of) payment in full.

(2) Notwithstanding the foregoing, prior to termination or suspension of city utility service(s) for non-payment of fees, taxes, rates, or other charges, the city shall provide the person responsible for payment with written notice of the proposed suspension or termination

which notice shall describe the manner and time in which the person may contest said suspension or termination.
(Prior Code, § 2.615) (Ord. 1989-04, passed 2-13-1989; Ord. 2013-07, passed 8-13-2013)

ADDITIONAL FEES, TAXES, AND POLICIES

§ 34.15 ADMINISTRATIVE IMPOSITION OF FEES, CHARGES.

(A) The City Manager is authorized to set and collect fees and charges for administrative services and for the use of city property when such fees and charges have not been otherwise set by a City Council resolution. The City Manager shall also have the authority to determine the amount of reimbursement to be paid for loss of, or damage to, city property.

(B) Fees for administrative purposes shall include the cost of materials, equipment, and personnel time.

(C) Fees set by the City Manager for administrative services shall not exceed $100 for each provision of service.

(D) The City Manager may adjust charges for service under this section as actual costs change, but charges for services may not be increased automatically except as provided in §§ 34.01 through 34.03.
(Prior Code, § 2.650) (Ord. 1989-04, passed 2-13-1989; Ord. 1991-09, passed 9-9-1991)

§ 34.16 ADOPTION OF EXCISE TAX.

(A) An excise tax shall be imposed upon all utility customers within the city limits. Use of the excise tax revenue shall be limited to funding the Public Safety and Support Services Programs within the city's Capital Improvements Program.

(B) The excise tax shall be reviewed on an annual basis by the Budget Committee. Upon review of the capital improvements excise tax, the Budget Committee shall make recommendations to the City Council on the amount of the excise tax. No annual increase in the excise tax can exceed 5%, and no series of annual increases added together can exceed 20% over a five-year period.

(C) The City Council shall approve the amount of the capital improvements excise tax by resolution prior to July 1 each year.

(D) The capital improvements excise tax is not covered by the annual fee adjustment.
(Prior Code, § 2.800) (Ord. 1990-05, passed 5-14-1990; Ord. 1991-09, passed 9-9-1991)

CHAPTER 35: CITY ORGANIZATIONS

Section

PUBLIC CONTRACT REVIEW BOARD

§ 35.001 CREATION OF BOARD.

The Council is designated as the City Contract Review Board. The Board shall have all the powers granted it by O.R.S. 279A.060.
(Prior Code, § 2.500) (Ord. 2000-11, passed 10-23-2000; Ord. 2005-14, passed 2-28-2005)

§ 35.002 PUBLIC CONTRACTING.

The city adopts as its public contracting rules the Attorney General's Model Public Contracting Rules (O.A.R. Chapter 137, Division 46 to 49).
(Prior Code, § 2.501) (Ord. 2000-11, passed 10-23-2000; Ord. 2005-14, passed 2-28-2005)

URBAN RENEWAL AGENCY

§ 35.015 ESTABLISHMENT AND NEED FOR AGENCY.

There exist within the city blighted areas and such areas impair economic values and property tax revenues. The Urban Renewal Agency of the city is established to carry out conservation, rehabilitation, redevelopment, and planning activities necessary to stimulate private property investment in order to reduce the presence of blight and improve property values and tax revenues within the city.
(Prior Code, § 2.10.005) (Ord. 2014-05, passed 4-28-2014)

§ 35.016 BOARD OF DIRECTORS.

The membership of the Board of Directors of the Urban Renewal Agency shall consist of the City Council members.
(Prior Code, § 2.10.006) (Ord. 2014-05, passed 4-28-2014)

§ 35.017 POWERS AND LIMITATIONS.

The Urban Renewal Agency shall have all powers, duties, privileges, and immunities granted to and vested in an urban renewal agency by the laws of the state, provided however, that any act of the governing body acting as the Urban Renewal Agency Board of Directors shall be considered an act of the Board of Directors only and not the City Council.
(Prior Code, § 2.10.007) (Ord. 2014-05, passed 4-28-2014)

§ 35.018 BYLAWS.

The Urban Renewal Agency shall adopt rules of procedure to govern the conduct of Agency business.
(Prior Code, § 2.10.008) (Ord. 2014-05, passed 4-28-2014)

§ 35.019 TERMINATION OF AGENCY.

If the City Council finds that a need for an Urban Renewal Agency no longer exists, the City Council shall provide, by ordinance, for a termination of the agency and a transfer of the Urban Renewal Agency facilities, files, and personnel, if any, to the city. The termination of the Urban Renewal Agency shall not affect any outstanding legal actions, contracts, or obligations of the Urban Renewal Agency and the city shall be substituted for the Agency in these matters. The Urban Renewal Agency shall not be terminated unless all indebtedness to which a portion of taxes is irrevocably pledged for repayment of indebtedness is satisfied.
(Prior Code, § 2.10.009) (Ord. 2014-05, passed 4-28-2014)

MUNICIPAL COURT

§ 35.030 JURISDICTION.

The Municipal Court has jurisdiction over:

(A) Traffic violations as defined by state law;

(B) Violations of state law provisions denominated as offenses punishable by other than imprisonment relating to:

(1) Minor in possession of alcohol (person under 21);

(2) Allowing minor (person under 21) to consume alcohol on property;

(3) Minor in possession of alcohol (person under 21) while operating a motor vehicle; and

(4) Provisions of state marijuana laws by a minor (person under 21) and person over 18 which are classified as violations.

(C) Violations of the provisions of this code and Chapter 10 of the City Development Code.

(Ord. 2016-13, passed 7-11-2016)

§ 35.031 AUTHORITY.

(A) The Municipal Court may adopt rules concerning procedure, conduct of hearings, and forms so as to implement the provisions of the code.

(B) The Municipal Court may order a party found in violation of the code to comply with the provisions within such time as the Municipal Court may allow. The order may require the party to do any and all of the following:

(1) Make any and all necessary repairs, modifications, and/or improvements to the building, real property, or equipment involved;

(2) Abate or remove any nuisance;

(3) Change the use of the building or real property involved;

(4) Install any equipment necessary to achieve compliance;

(5) Pay the city a civil penalty of up to $1,000 per day or greater amount as authorized elsewhere in the code; or

(6) Undertake any other action reasonably necessary to correct the violation or mitigate the effects.

(C) If any person fails to comply with any of the provisions ordered by the Municipal Court, except requiring payment of a civil penalty, the Court may authorize the city to undertake such actions as the Court may believe is reasonably necessary and/or to take other actions to correct the violation, eliminate, or mitigate the effect. The city's reasonable costs of such actions, including any unpaid civil penalties, may be made a lien against the affected real property.
(Ord. 2016-13, passed 7-11-2016)

PLANNING COMMISSION

§ 35.045 MEMBERSHIP.

The City Planning Commission shall consist of seven members to be appointed by the Council. No more than one member of the Commission shall be engaged principally in the buying, selling, or developing of real estate for profit as an individual, as a member of any partnership, or as an officer or employee of any corporation. No more than two members of the Commission shall be engaged in the same kind of business, trade, occupation, or profession. No more than two of the members shall be nonresidents of the city.
(Prior Code, § 9.005) (Ord. 1995-13, passed 11-13-1995; Ord. 2000-06, passed 8-14-2000; Ord. 2009-04, passed 3-9-2009)

§ 35.046 TERMS OF OFFICE.

The term of office shall be four years with the terms staggered. A member may be removed by the Council, after hearing, for misconduct or nonperformance of duty. Vacancies shall be filled by the Council for the unexpired term of the predecessor in the office.
(Prior Code, § 9.010) (Ord. 2009-04, passed 3-9-2009)

§ 35.047 OFFICERS.

Each year at the first regularly scheduled meeting in January, which shall be the annual meeting, the Commission shall elect a Chairperson and Vice-Chairperson who shall be voting members and shall hold office at the pleasure of the Commission.
(Prior Code, § 9.015) (Ord. 2009-04, passed 3-9-2009)

§ 35.048 SECRETARY.

The City Planning Director, or designee, shall serve as Secretary to the Commission. The Secretary shall keep an accurate record of all Commission proceedings.
(Prior Code, § 9.020) (Ord. 2009-04, passed 3-9-2009)

§ 35.049 ANNUAL REPORT.

The Commission shall, on October 1 of each year, make and file a report of its transactions with the Council.
(Prior Code, § 9.025) (Ord. 2009-04, passed 3-9-2009)

§ 35.050 EXPENSES.

Commission members shall receive no compensation, but shall be reimbursed for duly authorized expenses.
(Prior Code, § 9.030) (Ord. 2009-04, passed 3-9-2009)

§ 35.051 MEETINGS AND RULES.

A majority of the Commission shall constitute a quorum. The Commission shall meet at least once a month. The Commission may make and alter rules and regulations for its government and procedure consistent with the laws of this state and with the City Charter and ordinances.
(Prior Code, § 9.035) (Ord. 2000-06, passed 8-14-2000; Ord. 2009-04, passed 3-9-2009)

§ 35.052 CONFLICT OF INTEREST.

A member of a Planning Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or member's spouse, brother, sister, child, parent, father-in-law, or mother-in-law; any business in which the member is then serving or has served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the Commission where the action is being taken.
(Prior Code, § 9.040) (Ord. 2009-04, passed 3-9-2009)

§ 35.053 POWERS AND DUTIES.

The Planning Commission is advisory to the Council and shall, except as otherwise provided by law:

(A) Prepare and recommend to the Council and consult with other public authorities concerning community development plans for regulation of the future growth, development, and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds, and vacant lots in order to secure to the city and its inhabitants amenity, sanitation, and proper service of all public facilities;

(B) Recommend to the Council concerning: the laying out, widening, extending, and locating of streets, bikeways, sidewalks, boulevards, and parking; the relief of traffic congestion; the betterment of housing and sanitation conditions; and the establishment of zoning and building districts limiting the use of lands and the use, height, area, bulk, and construction of structures and buildings within such districts;

(C) Hold hearings and recommend to the Council the boundaries of zoning and building districts and appropriate regulations and restrictions to be enforced in the districts before the Council shall take any action thereon;

(D) Hold hearings and make final determinations pending appeal to the Council authorized or required by the ordinances and regulations of the city adopted to implement regulations and restrictions applicable to any zoning and building district;

(E) Hold hearings and make recommendations to the Council concerning the rules and regulations for subdivision and partitioning of land located within the city limits;

(F) Give consideration to all plans or plats for laying out or vacating, widening, extending, and locating streets and to plans for public buildings, and make recommendations to the Council accordingly; and

(G) The Commission may make studies, hold hearings, and prepare reports and recommendations on its own initiative or at the request of the Council. All reports and recommendations made by the Commission to the Council shall be in writing.
(Prior Code, § 9.045) (Ord. 2009-04, passed 3-9-2009)

§ 35.054 PROCEDURES FOR HEARING.

(A) The Council shall, by resolution, adopt procedures for the conduct of hearings. The procedures shall be applicable to the determination of contested cases and to all requests for permits.

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

CONTESTED CASE. A proceeding in which the legal rights, duties, or privileges of specific parties under general rules, policies, ordinances, or regulations adopted pursuant to state statute relating to zoning and building districts and regulations are determined only after a hearing at which specific parties are entitled to appear and be heard.

HEARING. A quasi-judicial hearing, authorized or required by the ordinances and regulations adopted by the city pursuant to state statute relating to zoning and building districts and regulations.

PERMIT. Authority or approval of a proposed use of land for which approval is a matter of discretion and is required pursuant to state statute relating to zoning and building districts and regulations. The term includes, but is not limited to, conditional use, special exceptions, variance, special design zone or review, and other similar permits.

(Prior Code, § 9.050) (Ord. 2009-04, passed 3-9-2009)

HISTORIC LANDMARKS BOARD

§ 35.065 PURPOSE.

Pursuant to the state's enabling legislation (O.R.S. Chapter 197) and in recognition of the public education, economical, environmental, and cultural value of the heritage and character of the city to the welfare of its citizens, the following sections create a comprehensive program to identify, designate, and protect the history, culture, archaeology, and landscape of the city.

(Prior Code, § 9.105) (Ord. 2009-04, passed 3-9-2009)

§ 35.066 MEMBERSHIP.

The Historic Landmarks Board (HLB) shall be composed of seven members who shall be appointed by the City Council. All members shall have a demonstrated positive interest, competence or knowledge of historic preservation. At least five of the members shall be residents of the city, and nonresident members shall reside within a reasonable distance of the city. When making appointments to the Board, the Council should consider the applicant's qualifications in the fields of history, architecture, architectural history, and archaeology, as well as in the arts, culture, city planning, landscape architecture, business, real estate, law, government, engineering, or construction.

(Prior Code, § 9.110) (Ord. 2009-04, passed 3-9-2009)

§ 35.067 TERMS OF OFFICE.

The term of each member of the HLB shall be four years with terms staggered. A member may be removed by the City Council, after hearing, for misconduct or nonperformance

of duty. Vacancies shall be filled by the Council for the unexpired term of the predecessor in office.
(Prior Code, § 9.115) (Ord. 2009-04, passed 3-9-2009)

§ 35.068 OFFICERS.

At the first meeting in January of each year, the members shall elect a Chair, Vice-Chair, and Secretary who shall be voting members and hold office at the pleasure of the HLB.
(Prior Code, § 9.120) (Ord. 2009-04, passed 3-9-2009)

§ 35.069 EXPENSES.

Board members shall not receive compensation nor shall incur expenses of any kind unless such expenses or expenditures have first been approved by the City Council.
(Prior Code, § 9.125) (Ord. 2009-04, passed 3-9-2009)

§ 35.070 MEETINGS AND RULES.

A majority of the members serving on the Board at any time shall constitute a quorum. The Board shall conduct at least one meeting every three months or as needed. The Board shall have the right to adopt such rules of order and procedure as they deem necessary, provided that it is consistent with the laws of this state and with the City Charter and city ordinances.
(Prior Code, § 9.130) (Ord. 2009-04, passed 3-9-2009)

§ 35.071 POWERS AND DUTIES.

The HLB is authorized to:

(A) Maintain the city's Register of Historic and Cultural Landmarks (Historic Register), by:

(1) Recommending to the City Council the designation as historic or cultural landmark properties that meet the criteria for designation. All such designated landmarks shall be included in the Historic Register; and

(2) Recommending to the City Council the removal of a landmark from the Historic Register.

(B) Regulate and protect landmarks through the review and approval or disapproval of certain proposed changes in accordance with the criteria for alterations or demolition of landmarks as contained in the Development Code;

(C) Review proposed activities by the city and other agencies that may seriously affect designated landmarks and advise the Planning Commission and City Council regarding such matters;

(D) Perform other activities relating to historic and cultural landmark preservation, including, but not limited to:

(1) Providing public education on the historic, scenic, and cultural landmarks of the city;

(2) Providing advice to the City Council and other city boards on preservation of historic and cultural landmarks;

(3) Providing technical economic information on preservation of historic and cultural landmarks;

(4) Making recommendations to the City Council for historic and cultural landmark preservation programs, such as tax incentives to preserve designated landmarks;

(5) Securing the views of the public and owners of landmarks regarding the community's cultural, historic, and scenic values;

(6) Maintaining criteria for inventory and evaluation to implement the purposes of this section;

(7) Periodically reviewing and making recommendations for updating the Historic Register; and

(8) Recommending to the City Council the acceptance of donations of funds and property, including partial interest in property such as facade easements.

(E) Adopt rules and procedures for the operation of the HLB.

(Prior Code, § 9.135) (Ord. 2009-04, passed 3-9-2009)

§ 35.072 CRITERIA FOR LANDMARK DESIGNATION.

The Historic Landmarks Board (HLB) may recommend to the City Council for designation as a historic or cultural landmark and for inclusion in the Historic Register any structure, archaeological or prehistoric site, or historic site, upon a finding by the Board that the subject property:

(A) Is associated with events that have made a significant contribution to the history of the city, the county, the state, or the nation;

(B) Is associated with the lives of persons holding a significant place in the history of the city, the county, the state, or the nation;

(C) Embodies distinguishing architectural characteristics, in exterior design, of a period, style, method of construction, craftsmanship, or in use of indigenous materials;

(D) Is representative of the work of a designer, architect, or master builder who influenced the development and appearance of the city, the state, the Pacific Northwest, or the nation; and

(E) In the case of proposed designation of a site, yields or may be likely to yield information in history, prehistory, or archaeology.

(Prior Code, § 9.150) (Ord. 2009-04, passed 3-9-2009)

§ 35.073 PROCEDURE FOR LANDMARK DESIGNATION.

(A) Designation of property as a historic or cultural landmark may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department, using forms provided by the Director.

(B) Designation of property as a historic or cultural landmark is classified as a Type IV procedure, and is subject to all of the procedures and timelines outlined in the Development Code. Designation requires public hearings before the following review bodies:

(1) Historic Landmarks Board; and

(2) City Council.

(C) If the HLB acts to reject a proposed designation, no further action shall be taken unless the applicant files an appeal of the action with the City Council.

(D) If the Council acts to approve the proposed designation, or to approve the proposal with modifications, it shall adopt an ordinance setting forth the findings of fact on which such approval is based, and order an amendment of the zoning map to label the designated property with the HL overlay zone. Immediately upon designation of the property as a landmark, the designated landmark (not the entire tax lot) shall be subject to the provisions of this subchapter.

(E) Individual historic resources listed on the National Register of Historic Places shall automatically receive landmark designation on the date the property is listed. However, a landmark that is removed from the National Register of Historic Places will retain its local landmark designation unless the designation is removed through the procedures listed in this subchapter.

(Prior Code, § 9.155) (Ord. 2009-04, passed 3-9-2009)

§ 35.074 PROCEDURE FOR REMOVAL OF A LANDMARK DESIGNATION.

(A) Removal of a designated landmark from the Register may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department.

(B) Removal of a designated landmark from the Register is classified as a Type IV procedure, and is subject to all of the notice procedures and timelines outlined in the Development Code. Removal of the HL overlay designation requires two sequential public hearings before the following review bodies:

(1) Historic Landmarks Board; and

(2) City Council.

(C) The HLB shall make its decision on the basis of the criteria contained in § 35.073 and shall make specific findings of fact as to whether the landmark has lost its historic or cultural value based on these criteria.

(D) If the Board acts to deny a request for removal of a landmark from the Register, no further action shall be taken unless the applicant files an appeal of the Board's action with the City Council.

(E) Within 60 days from the date of the recommendation by the HLB to approve a request to remove a landmark from the Register, the City Council shall conduct a public hearing to consider the request and recommendation of the HLB. Public notice shall be provided in accordance with Type IV procedures. Following the public hearing, the Council shall act to approve the removal of the landmark designation as requested, or to remove some portion of the landmark from the Register, or to deny the request. When removing a landmark designation from the Register, the ordinance shall amend the zoning map to remove the HL overlay zone from the property.

(Prior Code, § 9.160) (Ord. 2009-04, passed 3-9-2009)

§ 35.075 ANNUAL NOTIFICATION.

(A) Once each year, between January 1 and April 1, the Director shall mail notice to the owners and occupants on which each Historic Register landmark is located.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of residents shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or remind the owners and occupants of each landmark listed on the Historic Register that such landmark has been found by the city to be a significant historic or cultural landmark, and that its listing on the Historic Register subjects the property to certain review requirements.

(D) The notice shall also include, at a minimum, the following:

(1) A brief explanation of the existence and function of the city's Register of Historic and Cultural Landmarks;

(2) A statement that particular actions affecting the exterior appearance of landmarks will require prior review and action by the HLB or city staff, as provided in this subchapter;

(3) A statement that the HLB is available and willing to review on an informal basis any plans that may affect the historic or architectural integrity of the landmark; and

(4) A statement that the Community Development Department has access to resource materials and persons to provide guidance in developing plans for work that may affect the historic or architectural integrity of the landmark, and to assist in researching the history of the landmark.

(Prior Code, § 9.165) (Ord. 2009-04, passed 3-9-2009)

COMMUNITY FORESTRY COMMISSION

§ 35.090 MEMBERSHIP.

The Community Forestry Commission (CFC) shall be composed of seven members who shall be appointed by the City Council. Members shall be selected from a variety of organizations, interest groups, people with expertise in the growing, planting, and maintenance of trees, and the public at large. Three members may reside outside the corporate limits of the city.

(Prior Code, § 9.205) (Ord. 2009-04, passed 3-9-2009)

§ 35.091 TERMS OF OFFICE.

The term of each member of the CFC shall be three years with the terms staggered. A member may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. Vacancies shall be filled by the Council for the unexpired term of the predecessor in office.
(Prior Code, § 9.210) (Ord. 2009-04, passed 3-9-2009)

§ 35.092 OFFICERS.

At the first meeting in January of each year, the members shall elect a Chair, Vice-Chair and Secretary who shall be voting members and hold office at the pleasure of the CFC.
(Prior Code, § 9.215) (Ord. 2009-04, passed 3-9-2009)

§ 35.093 EXPENSES.

CFC members shall not receive compensation or shall not incur expenses of any kind unless such expenses or expenditures have first been approved by the City Council.
(Prior Code, § 9.220) (Ord. 2009-04, passed 3-9-2009)

§ 35.094 MEETINGS AND RULES.

A majority of the members serving on the CFC at any time shall constitute a quorum. The CFC shall conduct at least one meeting every three months or as needed. The CFC shall have the right to adopt such rules of order and procedure as it deems necessary, provided that it is consistent with the laws of this state and with the City Charter and city ordinances.
(Prior Code, § 9.225) (Ord. 2009-04, passed 3-9-2009)

§ 35.095 POWERS AND DUTIES.

The CFC is authorized to:

(A) Maintain the city's Significant Tree Register (Tree Register) by:

(1) Recommending to the City Council the designation of properties with significant trees that meet the criteria for designation. All such designated landmarks shall be included in the Significant Tree Register; and

(2) Recommending to the City Council the removal of a tree from the Significant Tree Register, pursuant to this section.

(B) Ensure that significant trees are protected and pruned appropriately through the review and approval or disapproval of major pruning in accordance with the criteria in the Development Code;

(C) Review proposed activities by the city and other agencies that may seriously affect register trees and advise the Director, the Planning Commission, and City Council regarding such matters;

(D) Perform other activities relating to community trees including, but not limited to:

(1) Providing public education on the history and importance of the registered trees;

(2) Providing advice to the City Council and other city boards on protection of trees in the community;

(3) Providing technical information of community tree issues;

(4) Making recommendations to the City Council for community forestry related programs;

(5) Maintaining criteria for inventory and evaluation to implement the purposes of this section;

(6) Periodically reviewing and making recommendations for updating the Significant Tree Register; and

(7) Recommending to the City Council the acceptance of grant funds and donations toward the protection and planting of trees in the community.

(E) Adopt rules and procedures for the operation of the CFC.

(Prior Code, § 9.230) (Ord. 2009-04, passed 3-9-2009)

§ 35.096 PROCEDURE FOR DESIGNATION OF REGISTER TREES.

(A) *Inventory*. An inventory shall be conducted of significant trees (including groves) which could qualify for being placed in the Register. Criteria are as follows.

(1) *Tree criteria*. An individual tree shall be considered significant if the Community Forestry Commission (CFC) finds:

(a) The tree has a distinctive size, shape, or location which warrants a significant status;

(b) The tree has a special botanical significance as a specimen in the city area;

(c) The tree possesses exceptional beauty which warrants a significant status;

(d) The tree is significant due to a functional or aesthetic relationship to a natural resource; and

(e) Along with one of the above, the tree is significant based upon its association with historic figures, properties, or the general growth and development of the city.

(2) *Grove criteria*. A tree grove shall be considered significant if the CFC finds:

(a) The grove is relatively mature and evenly aged;

(b) The grove has a purity of species composition, is of a rare or unusual nature, or is an exceptional example of a type of forest such as riparian or woodland;

(c) The grove is in a healthy growing condition;

(d) The grove has a crucial functional and/or aesthetic relationship to a natural resource; or

(e) The grove has a historic significance based upon its association with historic figures, properties, or the general growth and development of the city.

(B) *Update of tree inventory*. Provisions shall be made for periodic updates of the tree inventory and possible Register as required by changes in the number and condition of significant trees.

(C) *Preparation of potential register tree list*. The CFC shall review the inventory and other pertinent information and draw up a proposed list of significant trees and groves of trees that the CFC believes meets the criteria to be placed on the Register.

(D) *Notification*. Prior to the public hearings specified in division (E) below, each property owner of the tree or trees under consideration for Register status shall be notified by mail. The notice shall inform tree owners that they can request in writing that the tree(s) on their property not be considered for Register status. Attached to the recommendation to Council shall be a list of current property owners who have requested their tree(s) not be placed on the Register. The notice shall also include, at a minimum, the following:

(1) A brief explanation of the existence and function of the city's Register of Significant Trees;

(2) A statement that particular actions affecting the tree or grove will require prior review and action by the CFC or city staff, as provided in the Development Code;

(3) A statement that the CFC is available and willing to review on an informal basis any plans that may be prepared for work which might affect the tree or grove; and

(4) A statement that the city can provide resource materials and guidance in developing plans for work which may affect the tree or grove.

(E) *Public hearings*. The designation and updating of the register tree list is classified as a Type IV procedure and is subject to all of the procedures and timelines outlined in § 10.1.710 of the Development Code. Designation requires public hearing before the following review bodies:

(1) Community Forestry Commission; and

(2) City Council.

(Prior Code, § 9.305) (Ord. 2009-04, passed 3-9-2009)

§ 35.097 REMOVAL OF REGISTER TREE DESIGNATION.

(A) Removal of a designated tree from the Register may be proposed by a property owner or his or her authorized agent, by the CFC, or by the City Council. In proposing removal, an application shall be prepared and filed with the city, using prescribed forms. Notice of the public hearing shall be given as prescribed in §§ 10.1.610 and 10.1.620 of the Development Code for a Type III review.

(B) The CFC shall consider and act on the request. The CFC shall act to recommend approval of the request as submitted, approve the request with modifications, or delay the request.

(1) The CFC shall make its decision on the basis of the criteria contained in § 35.096 and shall make specific findings of fact as to whether the tree has lost its significant value based on these criteria.

(2) The CFC has one of two options as follows:

(a) The CFC can stay the request for removal from the Register by making specific findings of fact as to why the tree should be retained on the Register, and request review by the City Council. Council review shall meet the notice and public hearing requirements of § 10.1.715 of the Development Code for quasi-judicial hearings. The City Council can approve the request, approve with conditions, or deny the request; or

(b) The CFC can require a delay of up to one year to explore methods and options of retaining the tree on the Register in its present location, or having the tree moved at a cost to the applicant of less than $300. If at the end of one year the tree has not been moved or protective arrangements completed, the owner may remove the tree from the Register. Under an appeal of the delay requirement, the City Council has the option of denying a request for removal from the Register.
(Prior Code, § 9.310) (Ord. 2009-04, passed 3-9-2009)

§ 35.098 ANNUAL NOTIFICATION OF REGISTER TREE OWNERS.

(A) Once each year, between January 1 and April 1, the city shall mail a notice to the owners and occupants of the property on which each register tree is located.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of occupants shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or to remind the owners and occupants of the property that such tree or grove has been found by the city to be a significant tree or grove, and that its listing on the Register subjects the tree or grove to certain review requirements.
(Prior Code, § 9.315) (Ord. 2009-04, passed 3-9-2009)

POLICE DEPARTMENT

§ 35.110 VEHICLE INVENTORIES.

(A) The contents of all impounded vehicles shall be inventoried in accordance with the procedures outlined in the City Police Department Policy Manual § 510.5 and shall be made a part of this code.

(B) One copy of the City Police Department Policy Manual § 510.5, shall be kept on file in the office of the City Recorder.
(Prior Code, § 5.100) (Ord. 1995-12, passed 10-9-1995; Ord. 2009-09, passed 7-13-2009)

§ 35.111 INVENTORIES OF PERSON IN POLICE CUSTODY.

(A) Inventories of persons in police custody shall be in accordance with the procedures outlined in the City Police Department Policy Manual, Policy 903 and shall be made a part of this code.

(B) One copy of the City Police Department Policy Manual, Policy 903 shall be kept on file in the office of the City Recorder.
(Prior Code, § 5.101) (Ord. 1995-12, passed 10-9-1995; Ord. 2001-01, passed 3-27-2000; Ord. 2009-09, passed 7-13-2009)

TITLE V: PUBLIC WORKS

Chapter

CHAPTER 50: WATER

Section

GENERAL PROVISIONS

§ 50.01 WATER CONNECTION CHARGES.

(A) Each applicant for a new connection to the water system shall pay to the city a sum to cover the cost of the connection, including the meter, meter box, fittings and labor, as fixed by the Council by resolution. Title to all of the property installed by the city for the water connection and metering shall remain in the city.

(B) Each applicant for a fire service connection to the water system shall pay to the City Manager a connection fee. The amount charged for the connection shall be fixed by the Council by resolution.

(C) The connection shall not be made until the charges have been fully paid in advance.

(D) Charges in this section are not covered by the annual fee adjustment.

(Prior Code, § 3.800) (Ord. 1991-09, passed 9-9-1991; Ord. 1994-01, passed 2-14-1994)

§ 50.02 RESTRICTING SPRINKLING.

(A) The City Manager may, by giving written notice to the water consumer or by advertising for one issue in a newspaper published in the city, restrict the hours for sprinkling or discontinue sprinkling altogether for as long as the City Manager deems necessary, when there is a scarcity of water.

(B) No person shall use water contrary to the terms of notice issued in compliance with division (A) above.

(Prior Code, § 4.005) Penalty, see § 50.99

§ 50.03 WATER SYSTEM CONTROL.

The Council shall have absolute control and supervision of the municipal water system and may, from time to time, promulgate rules and regulations and employ help as it deems necessary for the management and operation of the system.

(Prior Code, § 4.010)

§ 50.04 WATER METERS.

No person shall take water from the municipal water system other than for municipal purposes or to extinguish fires except through the water meters.
(Prior Code, § 4.015) Penalty, see § 50.99

§ 50.05 METER INSTALLATION RECORD.

A record of all installations of water meters shall be maintained, including the name of the consumer, the location of the property, and the date of the installation. This record shall be filed with the City Recorder.
(Prior Code, § 4.020)

§ 50.06 SERVICE PIPES; METERS.

(A) The city shall place service pipes from the most accessible main to the point most convenient for furnishing water to the consumer. The city shall supply service pipes with meters and meter boxes, which shall be under the control and remain the property of the city.

(B) Installation of water meters shall be made by the city, and the size of the meter to be installed shall be determined by the City Engineer.

(C) All water consumers shall, at their own expense, connect with the outlet provided with an approved service pipe, including stop and waste valve of approved quality. The connecting pipe for residences shall not be less than three-quarters of an inch in diameter. The service pipes shall be placed not less than 12 inches underground and shall be kept in good repair.

(D) No person shall be allowed to connect, attach, or reconnect any pipe to the city mains or service pipes or make any alteration in any pipe or pipes so connected without authority from the Council or its authorized agent.

(E) Where water service is available from the city and one or more other agencies within the corporate limits of the city, applicants desiring water service shall connect to the city water system unless waived by the City Manager.
(Prior Code, § 4.025) Penalty, see § 50.99

§ 50.07 WATER RATES.

(A) All consumers of water shall pay for the service and water at reasonable rates fixed by the Council by resolution.

(B) Rates in this section are not covered by the annual fee adjustment.
(Prior Code, § 4.035)

§ 50.08 DELINQUENT ACCOUNTS.

(A) (1) All charges for water furnished by the city shall be due and payable within 15 days after the date of the bill. If not so paid, they shall become delinquent and service may be disconnected. Any consumer whose service has been disconnected shall not be reinstated until the full amount of the delinquent water bill has been paid.

(2) In addition, the consumer shall pay a fee to be fixed by the Council by resolution for reinstatement and service connection.

(B) All unpaid water charges shall be a lien in favor of the city upon each lot or parcel of land or other property served and shall be collected as other liens of the city are enforced.
(Prior Code, § 4.040)

§ 50.09 ABANDONMENT OF SERVICE.

(A) If charges for water furnished by the city are delinquent for a period of 12 months or if water service has been discontinued for a period of 12 months without payment of the fee required for discontinuance of service, the service shall be deemed abandoned and the water meter removed by the city.

(B) Thereafter, reconnection of water service shall be at the then-prevailing rate for water service connection.
(Prior Code, § 4.045)

§ 50.10 INSPECTION; SHUTOFF.

All buildings in which city water is used shall be subject to reasonable inspection. In case of accident, or for the purpose of making repairs or extensions to the water system, water may be cut off without notice to the consumer and the city shall not be liable for the damages on account of the water being cut off.
(Prior Code, § 4.050)

§ 50.11 WATER MAIN INSTALLATION AND CONNECTIONS.

(A) If the City Engineer determines, in order to serve additional areas beyond a given subdivision, that the size of the water main to be installed should be greater than is necessary to serve the subdivision or parcel of real property, the city shall be responsible for the additional cost. The cost shall be ascertained by computing the cost of installation of water mains required to serve the area and determining the cost of installation of the larger-size main required. The difference in cost shall be paid by the city.

(B) All water main installations shall be in accordance with prevailing city standards and specifications.

(C) Water services supplied by an agency other than the city within the city limits may be connected to the city water system at no charge for service of equal size. If a larger service is requested or required, a credit shall be allowed in an amount equal to the fee for connection of the existing service.

(D) Applicants desiring water service for property that did not participate in the financing of the water main serving such property shall pay a water main construction fee in an amount to be fixed by the Council by resolution. This fee shall be in addition to the water connection charge specified in § 50.01. This fee is not covered by the annual fee adjustment.

(E) Requests for water line connections outside the city limits are governed by special permit granted by the City Council.

(F) All extensions of water service outside the city limits shall be recommended by the City Engineer and approved by the City Council on a case-by-case basis. Said extensions of service shall be granted only when in the best interest of the city. The extension of service is a privilege and not a right, in determining whether to allow an extension of water service, the following criteria shall be considered:

(1) The City Council deems an imminent threat to public health and safety;

(2) The extent to which the extension of water service would create an adverse impact upon existing facilities or create economic burdens for future operation and maintenance of the city water system; and

(3) Water main installation and connections shall be in accordance with the prevailing city standards and specifications.

(G) The city shall charge a water main fee on the property that will be provided water service. The amount of the fee and the methods of derivation shall be in accordance with the rate schedule adopted by resolution of the City Council.

(Prior Code, § 4.055) (Ord. 2010-07, passed 8-23-2010)

WATER SUPPLY CROSS-CONNECTION CONTROL POLICY

§ 50.25 PURPOSE AND SCOPE.

The purpose of this subchapter is:

(A) To protect the public potable water supply of the city from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) or the consumer's private water system(s) such contaminants or pollutants that could backflow into the public water systems;

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the consumer's in-plant potable water system(s) and nonpotable water system(s), plumbing fixtures, and industrial piping systems; and

(C) To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

(Prior Code, § 4.100)

§ 50.26 RESPONSIBILITY.

(A) The Director of Public Works shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection.

(B) If, in the judgment of the Director of Public Works, an approved backflow prevention assembly is required at the customer's water service connection or within the customer's private water system for the safety of the water system, the Director or designee shall give written notice to the customer to install approved backflow prevention assembly(s) at specific location(s) on the customer's premises. The customer shall immediately install the approved assembly(s) at the customer's own expense.

(C) Failure, refusal, or inability on the part of the customer to install, have tested, and maintain the assembly(s) shall be grounds for discontinuing water service to the premises until the requirements have been satisfactorily met.

(Prior Code, § 4.105)

§ 50.27 DEFINITIONS.

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

APPROVED. Accepted by the Director and/or State Health Division applicable specifications stated or cited in this subchapter or as suitable for the proposed use.

AUXILIARY WATER SUPPLY. Any water supply on or available to the premises other than the water purveyor's approved public water supply will be considered an ***AUXILIARY WATER SUPPLY***. These ***AUXILIARY WATERS*** may include water from another purveyor's public potable water supply, or any natural source, such as a well, spring, river, stream, and the like, or used waters or industrial fluids. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

BACKFLOW. The reversal of the normal flow of water caused by either backpressure or backsiphonage.

BACKFLOW PREVENTER. An assembly or means designed to prevent backflow.

(1) ***AIR-GAP.*** The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing, fixture, or other device and the flood level rim of said vessel. An approved ***AIR-GAP*** shall be at least double the diameter of the supply pipe, measured vertically, above the overflow rim of the vessel; and in no case less than one inch.

(2) ***REDUCED PRESSURE PRINCIPLE ASSEMBLY.*** An assembly of two independently acting, approved check valves together with a hydraulically operating, mechanically independent differential pressure relief valve, located between the check valves and at the same time below the first check valve. The unit shall include properly located test cocks and tightly closing shut-off valves at each end of the assembly. The entire ***ASSEMBLY*** shall meet the design and performance specifications as determined by a laboratory and a field evaluation program resulting in an approval by a recognized and State Health Division-approved testing agency for backflow prevention assemblies. The ***ASSEMBLY*** shall operate to maintain the pressure in the zone between the two check valves at an acceptable level less than the pressure between the pressure on the public water supply side of the assembly. At cessation of a

normal flow, the pressure between the two check valves shall be less than the pressure on the public water supply side of the device. In case of leakage of either of the check valves, the differential relief valve shall operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere. To be approved, these assemblies must be readily accessible for in-line testing and maintenance and be installed in a location where no part of the assembly will be submerged.

(3) ***DOUBLE CHECK VALVE ASSEMBLY.*** An assembly of two independently operating, approved check valves with tightly closing shut-off valves on each end of the check valves, plus properly located test cocks for the testing of each check valve. The entire assembly shall meet design and performance specifications as determined by a laboratory and a field evaluation program resulting in an approval by a recognized and State Health Division-approved testing agency for backflow prevention assemblies. To be approved, these assemblies must be readily accessible for in-line testing and maintenance.

BACKPRESSURE. The flow of water or other liquids, mixtures, or substances, under pressure, into the distribution pipes of a potable water supply system from any source other than the intended source.

BACKSIPHONAGE. The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply system from any source other than the intended source.

CONTAMINATION. An impairment of the quality of the potable water by sewage, industrial fluids, or waste fluids, compounds, or other materials, to a degree which creates an actual or potential hazard to public health through poisoning or through the spread of disease.

CROSS-CONNECTION. Any actual or potential physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other nonpotable water, or industrial fluids of questionable safety, through which, or because of which, backflow may occur into the potable water system. This would include any temporary connections, such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivels, or change-over devices or sliding multi-port tubes.

CROSS-CONNECTION CONTROLLED. A connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

CROSS-CONNECTION CONTROL BY CONTAINMENT. The installation of an approved backflow prevention assembly at the water service connection to any customer's premises where it is not physically and economically feasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of the customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of the cross-connection.

DIRECTOR OF PUBLIC WORKS or ***DIRECTOR***. The Director is authorized and is responsible for implementation of an effective cross-connection control program and for the enforcement of the provisions of this code.

DEGREE OF HAZARD. The term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(1) ***HEALTH HAZARD.*** Any condition, device, or practice in the water system and its operation which could, in the judgment of the Director, create a danger to the health and well-being of the water consumer.

(2) ***PLUMBING HAZARD.*** A plumbing type cross-connection in a consumer's potable water system that has not been properly protected by an approved air-gap or approved backflow prevention assembly.

(3) ***POLLUTIONAL HAZARD.*** An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's water system that would constitute a nuisance, be aesthetically objectionable, or could cause damage to the system or its appurtenances, but would not be dangerous to health.

(4) ***SYSTEM HAZARD.*** An actual or potential threat of severe physical damage to the public potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

INDUSTRIAL FLUIDS SYSTEM. Any system containing a fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration that would constitute a health, system, pollutional, or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated waters; all types of process waters and used waters originating from the public potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and aikalines; circulating cooling waters connected to an open cooling tower and/or towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, irrigation canals, or systems, and the like; oils, gases, glycerine, paraffins, caustic and acid solutions, and other liquid and gaseous fluids used in industrial or other purposes or for fire fighting purposes.

POLLUTION. The presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

WATER, NONPOTABLE. Water that is not safe for human consumption or is of questionable potability.

WATER, POTABLE. Water that, according to recognized standards, is safe for human consumption.

WATER, SERVICE CONNECTION. The terminal end of a service connection from the public potable water system (i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system). If a meter is installed at the end of the service connection, then the ***SERVICE CONNECTION*** shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or any backflow prevention assembly located at the point of delivery to the customer's water system. ***SERVICE CONNECTION*** shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

WATER, USED. Any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the water purveyor.

(Prior Code, § 4.110)

§ 50.28 REQUIREMENTS.

(A) *Water system*.

(1) The water system shall be considered to be composed of two parts: the utility system and the customer system.

(2) The utility system shall consist of the source facilities and the distribution system and shall include all facilities of the water system that are under the complete control of the utility up to the point where the customer's system begins.

(3) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system:

(4) The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.

(5) The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system that are utilized in conveying utility-delivered water to points of use.

(B) *Policy.*

(1) No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state laws and regulations and this subchapter. Service of water to any premises shall be discontinued by the Director/Water Surveyor if:

(a) A backflow prevention assembly required by this subchapter is not installed, tested, and maintained;

(b) It is found that a backflow prevention assembly has been removed or by-passed; or

(c) An unprotected cross-connection exists on the premises; and

(d) Service will not be restored until such conditions are corrected.

(2) An approved backflow prevention assembly shall be installed on each domestic, fire, or irrigation service line to a customer's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist.

(a) When premises have an auxiliary water supply that is not or may not be of safe bacteriological or chemical quality and is not acceptable as an additional source by the Director, the public water system shall be protected against backflow by installing an approved backflow prevention assembly in the service line(s) appropriate to the degree of hazard.

(b) When industrial fluids or other objectionable substances are handled in a manner that creates an actual or potential hazard to the public water system, the public system shall be protected against backflow by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system that have been subject to deterioration in quality.

(c) When premises have:

1. Internal cross-connection(s) that cannot be permanently corrected or controlled;

2. Intricate plumbing and piping arrangements; or

3. Where entry to all parts of the premises is not readily accessible for inspection, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow by installing an approved backflow prevention assembly in the service line.

(3) The type of protective assembly required under division (B)(2) above shall meet all State Health Division standards in addition to the requirements of this chapter. The type of protective devices required will depend on the existing degree of hazard, as follows:

(a) On premises where there is an auxiliary water supply as stated in division (B)(2)(a) above and it is not subject to any of the following rules, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly.

(b) On premises where there is water or substance that would be objectionable, but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.

(c) On premises where there is any material dangerous to health that is handled in a manner that creates an actual or potential hazard to the public water system, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, and plating plants.

(d) On premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly at the service connection.

(e) On premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly on each service to the premises.

(4) Any backflow prevention assembly required by this chapter shall be a model and size approved by the Director and the State Health Division. The term ***APPROVED BACKFLOW PREVENTION ASSEMBLY*** shall mean an assembly that has been manufactured in full conformance with the standards established by the American Waterworks Association (A.W.W.A.) entitled:

> *A.W.W.A. C506-84 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices*, or latest revision, and have met completely the laboratory and field performance specifications of the Foundation of Cross-Connection and Hydraulic Research (F.C.C.C. & H.R.) of the University of Southern California established by specifications of backflow prevention assemblies (§ 10 of the most current issue of the *Manual of Cross-Connection Control*). The A.W.W.A. and F.C.C.C. & H.R. standards and

specifications have been adopted by the State Health Division and are hereby adopted by the city.

(5) (a) Customers or users at premises where back-flow prevention assemblies are installed shall have certified inspections and operational tests made at least once per year. The Director may require certified inspections at more frequent intervals.

(b) These inspections and tests shall be at the expense of the water user and shall be performed by the assembly manufacturer's representative, Water Department personnel, or by a certified tester approved by the State Health Division. The Director shall ensure that these tests are made in a timely manner.

(c) The customer or user shall notify the Director in advance when the tests are to be undertaken so that an official representative may witness the tests if so desired. These assemblies shall be repaired, overhauled, or replaced at the expense of the customer or user whenever such assemblies are found to be defective.

(d) Records of tests, repairs, and overhauls shall be kept and copies given to the Director.

(6) All presently installed backflow prevention assemblies that do not meet the requirements of this section but were approved at the time of installation and have been properly maintained shall, except for the inspection and maintenance requirements under division (B)(5) above, be excluded from the requirements of these rules so long as the Director is assured that they will satisfactorily protect the utility system. Whenever the existing device is moved from the present location or requires more than minimum maintenance, or when the Director finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section.

(7) The Director may specify the location and methods of installation of all backflow prevention devices.

(8) Any installation, corrective measure, disconnection, or other change to a backflow prevention device shall be at the sole expense of the owner or water customer. The cost of any change required in the city's system outside the property (i.e., between the meter and the supply line) and any charges for cut off or disconnection shall be added to the charges against the premises that necessitated the expenditures.

(9) Any person operating any mobile apparatus that uses the city water system or water from any premises within the city must provide for backflow prevention. These provisions are stated in divisions (B)(3), (B)(4), (B)(5), and (B)(7) above.
(Prior Code, § 4.115)

§ 50.29 CROSS-CONNECTION INSPECTIONS.

(A) No water shall be delivered to any structure hereafter built within the city or within areas served by city water until the structure has been inspected by the city for possible cross-connections and has been approved as being free of cross-connections.

(B) The customer's system shall be open for inspection at all reasonable times to authorized representatives of the city to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such conditions become know, the Director shall deny or immediately discontinue service to the premises by provided for a physical break in the service line until the customer has corrected the condition in

conformance with state and city laws relating to plumbing and water supplies. All inspections as stipulated in this section shall be made by and at the expense of the city.

(C) In accordance with § 50.10, authorized employees of the city shall have free access at proper hours of the day to all parts of buildings or premises for the purpose of inspecting the condition of the pipes, fixtures, and other appurtenances, and the manner in which the water is being used.

(D) If access to the premises is refused, the city shall discontinue water service to the premises.

(Prior Code, § 4.120)

§ 50.30 BACKFLOW PREVENTER TESTING PROGRAM.

(A) (1) Any backflow prevention device that may be required by the city or the state to be installed on property for the protection of the water supply shall be tested at the time of installation and anytime the device is moved or relocated, immediately after relocation or moving.

(2) The property owner must forward the results of such testing to the city's Department of Community Development within ten days of the date of installation or relocation.

(B) The property owner must order and cause to be performed a test of each backflow prevention device annually, or within 30 days after the anniversary date of the initial testing. The city may require more frequent testing in order to assure that the device is properly functioning in those installations which present a serious health hazard as determined by the city.

(C) If the city's Department of Community Development has not received the results of the test within 30 days of the anniversary date for annual testing or within ten days of the date of the device, or the date of city's discovery that the device was installed without testing as applicable, the city may order the test and add the cost of the test onto the property owner's water bill.

(D) (1) If the results of the test ordered by the city or the property owner indicate that repairs are necessary, the repairs must be made and a new test made and results of the test forwarded to the city's Department of Community Development within ten days of the date of the first test.

(2) If the city's Department of Community Development has not received evidence of the repairs and the results of the second test within ten days of the first test, the city may have the repairs made and second test made and add the cost to the property owner's water bill. This section applies to all tests and repairs until the tests show the backflow preventer device is functioning properly.

(E) The city, in accordance with §§ 50.26 and 50.28(B)(1), may discontinue the water service of any person who refused or fails to pay for testing or repair, and have the charges added to the customer's water bill.

(F) All tests required to be performed under this section must be performed by a tester certified by the state.

(Prior Code, § 4.125)

§ 50.31 LIABILITY.

This subchapter shall not be construed to hold the city responsible for any damage to persons or property by reason of inspection or testing, or the failure to inspect or test.
(Prior Code, § 4.130)

WATER SYSTEM DEVELOPMENT CHARGE

§ 50.45 PURPOSE.

The purpose of the system development charge (SDC) is to impose a portion of the cost of capital improvements for water storage, transmission, treatment, and distribution upon those customers of the city who create the need for or increase the demands on capital improvements by connection to the water system.
(Prior Code, § 3.801) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.46 SCOPE.

The SDC imposed by this subchapter is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development or based upon the ownership of property.
(Prior Code, § 3.802) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.47 DEFINITIONS.

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

CAPITAL IMPROVEMENTS. Facilities or assets used for water storage, transmission, treatment, and distribution.

IMPROVEMENT FEE. A fee defined by O.R.S. 223.299(2) for costs associated with capital improvements to be constructed after the date the fee is adopted.

REIMBURSEMENT FEE. A fee defined by O.R.S. 223.299(3) for costs associated with capital improvements constructed or under construction on the date the fee is adopted.

SYSTEM DEVELOPMENT CHARGE. A reimbursement fee, an improvement fee, or a combination thereof assessed or collected at the time of increased usage or connection to the system. ***SYSTEM DEVELOPMENT CHARGE*** includes that portion of a system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections to the water system. ***SYSTEM DEVELOPMENT CHARGE*** does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment or the costs of complying with requirements or conditions imposed by a land use decision.
(Prior Code, § 3.803) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.48 METHOD OF ESTABLISHING SYSTEM DEVELOPMENT CHARGE.

The system development charge shall be established or revised by Council resolution.
(Prior Code, § 3.804) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.49 AUTHORIZED EXPENDITURES.

(A) *Reimbursement fees*. Reimbursement fees shall be applied only to capital improvements for the city's water system, including expenditures relating to repayment of indebtedness.

(B) *Improvement fees*.

(1) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provided by new facilities. The portion of the improvements funded by improvement fees must be related to demands created by development.

(2) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to § 50.51.

(C) *Use of revenue*. Notwithstanding divisions (A) and (B) above, SDC revenue may be expended on the direct costs of complying with the provisions of this subchapter, including the costs of developing SDC methodologies and providing an annual accounting of SDC expenditures.
(Prior Code, § 3.805) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.50 EXPENDITURE RESTRICTIONS.

(A) SDC shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(B) SDC shall not be expended for costs of the operation or routine maintenance of capital improvements.
(Prior Code, § 3.806) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.51 IMPROVEMENT PLAN.

The city shall adopt a plan that:

(A) Lists the capital improvements that may be funded with improvement fee revenues;

(B) Lists the estimated cost and time of construction of each improvement; and

(C) Describes the process for modifying the plan.
(Prior Code, § 3.807) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.52 COLLECTION OF CHARGE.

(A) The system development charge is payable upon issuance of a permit to connect to the water system.

(B) If connection is made to the water system without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

(C) The City Manager or designee shall collect the applicable system development charge from the applicant prior to issuance of a permit that allows connection to the water system.

(D) The City Manager or designee shall not allow a connection to the water system until the charge has been paid in full, or until provisions for financing installment payments for certain eligible projects has been made pursuant to division (E) below.

(E) If the project is a residential or multi-family dwelling, an application may be made to the city to pay the water system development charge in installment payments for a period not to exceed ten years. Fifteen percent of the system development charge due shall be paid upon application submission. The terms of the financing arrangement shall be set by Council resolution.

(1) An applicant for installment payments must demonstrate the applicant's authority to assent to the imposition of a lien on the property and that the interest of the applicant is adequate to secure payment of the lien.

(2) From the time that the City Manager or designee has docketed a lien as provided in § 32.01 upon the described property for the amount of the system development charge, together with interest on the unpaid balance, the lien may be collected in the same manner as allowed by law for collection of assessment liens.

(3) The City Manager or designee is authorized to administer all aspects of the installment payment and financing of system development charges. This authority includes, but is not limited to:

(a) Providing final approval for projects seeking to participate in the installment payment and financing program;

(b) Providing application forms for installment payments that include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors;

(c) Documenting the amount of the system development charge, the dates on which the payments are due, the name of the owner and the description of the property; and

(d) Entering a lien for the amount of the system development charge, together with interest on the unpaid balance, in the city's lien docket as provided in § 32.01. (Prior Code, § 3.808) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.53 SEGREGATION AND USE OF REVENUE.

(A) All funds derived from the SDC shall be segregated by accounting practices from all other funds of the city. System development charges shall be used for no purpose other than those set forth in § 50.49.

(B) The City Manager shall provide the city with an annual accounting, based on the city's fiscal year, showing the total amount of SDC revenues collected for each type of facility and the projects funded from each account.
(Prior Code, § 3.809) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.54 ADMINISTRATIVE REVIEW PROCEDURE.

(A) Any customer or other interested person aggrieved by a decision made by the City Manager under this subchapter relating to the expenditure of SDC revenues, may appeal the decision or the expenditure to the City Council by filing a written request with the City Manager describing with particularity the decision of the City Manager or the expenditure from which the person appeals.

(B) An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. Appeals of any other decision must be filed within ten days of the date of the decision.

(C) (1) The City Council shall determine whether the City Manager's decision or the expenditure is in accordance with this subchapter and the provisions of O.R.S. 223.297 through 223.314, inclusive, and may affirm, modify, or overrule the decisions.

(2) If the City Council determines that there has been an improper expenditure of SDC revenues, the City Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

(D) A legal action challenging the methodology adopted by the city shall not be filed later than 60 days after the adoption of the SDC.
(Prior Code, § 3.810) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.55 PROHIBITED CONNECTION.

No person, firm, or corporation shall connect to the water system of the city unless the SDC has been paid.
(Prior Code, § 3.811) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.56 CONSTRUCTION.

The rules of statutory construction contained in O.R.S. Chapter 174 are adopted by reference and made a part of this subchapter.
(Prior Code, § 3.812) (Ord. 1994-01, passed 2-14-1994; Ord. 2012-01, passed 2-13-2012)

§ 50.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) A person who fails to install or provide for the testing of a backflow prevention device or who violates any provision of §§ 50.25 through 50.31, or who fails to comply with an order thereunder, shall severally for each violation and noncompliance be guilty of a code violation. The imposition of one penalty for a violation shall not excuse the violation or permit it to continue. In addition, each day the violation continues constitutes a separate violation.

(2) Any person who is in violation of §§ 50.25 through 50.31 shall be required to correct or remedy such violation or defect. The application of the above penalty shall not prevent the enforced removal of prohibited conditions and, in addition to other remedies, the city may file an action to enforce this remedy.

(Prior Code, § 4.135) (Ord. 1986-07, passed 6-23-1987)

CHAPTER 51: ELECTRICITY

Section

ELECTRIC UTILITY OPERATION

§ 51.01 ELECTRIC ENERGY SYSTEM CONTROL.

The Council shall establish policy, adopt rules and regulations, and set rates as it deems necessary for the management and operation of the electrical utility.

(Prior Code, § 4.200) (Ord. 1996-11, passed 10-14-1996)

§ 51.02 ELECTRIC UTILITY RULES AND REGULATIONS.

(A) *Electric meters*. The city shall own and maintain all electric meters. The city shall not pay rent or any other charge for a meter or other electric facilities located on the customer's premises. All meters, wires, and other appliances furnished by the city shall remain property of the city.

(B) *Meter installation*. All meters installed shall not be more than seven feet above the floor or ground and at a place accessible and convenient to authorized agents of the city. Meters will be sealed by the city, and no one except an authorized agent of the city may break or injure such seals. No person other than an authorized agent of the city may change the location of, alter, or interfere in any way with any meter. The expense of installing and maintaining meters will be borne by the city; provided, however, that where replacements, repairs, or adjustment of a meter are made necessary by the act, negligence, or carelessness of the owner or occupant of the premises, the expense to the city shall be recouped by a fee to be set by Council resolution. The owner or occupant shall be responsible for any unmetered energy used as a result of any act, negligence, or carelessness requiring replacement, repair, or adjustment of a meter.

(C) *System tampering*. No person or persons other than authorized agents of the city shall tap into, change, obstruct, or interfere with the city's electrical energy system. Any person, firm, corporation, or industry that obtains electrical services or damages the system by tampering with, tapping into, obstructing, or interfering with the city's electric energy system without city approval or notification shall be assessed the cost for damages to the electrical distribution system and/or estimated cost of electricity. Any violation hereof may be punishable in accordance with § 10.99.

(D) *Wire installation*. All wires upon the premises of the consumer to which the city service shall be connected shall be so installed by the consumer that the city may have convenient access to them. The wires shall be kept in proper condition by the consumer. Authorized agents of the city may, at all reasonable hours, enter the consumer's premises on business connected with the consumer's installation or services.

(E) *Installation inspection*. The wiring of a building and the installation of lamps or electric machinery shall be subject to examination by a duly authorized agent of the city at all reasonable times. No person shall connect, disconnect, or reconnect any wire with the city's electric system unless specially authorized to do so by the City Manager or Manager's designee.

(F) *Line extension policy*. The city shall have a line extension policy where line extension fees are fixed by the Council by resolution.

(G) *Street and area lighting design guidelines and construction standards*. The City Manager or designee shall establish street and area lighting design guidelines and construction standards which shall be kept on file in the office of the city's Light and Power Department.

(H) *Refusal of service or disconnection*. The City Manager or designee may refuse to furnish electric energy to any applicant or may require discontinuance of service to any consumer: where hazardous conditions exist at the applicant's or consumer's premises; where the electrical facilities including, but not limited to, electric meters, power and supply lines, electrical enclosures, such as padmount transformer enclosures, junction cabinets, and service pedestals are not accessible with proper clearance to utility personnel at all times without prior notification; or where the applicant or consumer is in violation of the National Electrical Code and/or the state's Electrical Code.

(Prior Code, § 4.205) (Ord. 1996-11, passed 10-14-1996; Ord. 2006-14, passed 8-14-2006; Ord. 2009-11, passed 9-14-2009)

§ 51.03 ELECTRICAL RATES AND REGULATIONS.

(A) *Rates*. The rates charged for electric energy shall be fixed by the Council by resolution. The Council will hold at least one public hearing before adopting a resolution changing rates for electrical energy. All the conditions, terms, rates, and charges fixed by §§ 51.02 and 51.03 shall constitute the rules, terms, rates, and charges for the use of electrical energy in the city. Rates and fees in §§ 51.02 and this section are not covered by the annual fee adjustment.

(B) *Determination of consumption*. To determine the consumption, a meter shall be installed by the city upon the consumer's premises at a point convenient for the city's service. The city will keep an accurate account on its books of the electric energy consumption. The account shall be accepted as prima facie evidence of the consumption of the consumer. Should the meter fail to register, the consumption will be estimated from the amount used in a corresponding month; should there be no corresponding month, then the consumption will be estimated upon the average of all previous months. Where it is not practical to meter service, consumption will be based on standard usage for device(s) using electrical energy.

(C) *Interruption of service*. In case the supply of energy is interrupted by reason of accident or otherwise, the city shall not be liable for damages by reason of such failure. It shall in no case be a condition precedent to the city's right to recover hereunder, to allege or to prove that no interruption in the supply of energy has occurred.

(D) *Delinquent accounts*. All charges for electric energy shall be due and payable 15 days after the date of the bill. If not so paid, they shall become delinquent and service may be disconnected. If a consumer violates city rules and regulations or fails or neglects to pay the amount due each month, within ten days after the delinquent date, service may be discontinued. Prior to shutting off service, the city shall notify the consumer in person or by mail of the intended shut-off. If the amount due is not paid before the scheduled shut-off date, the city shall not be obligated to give or provide any further notice prior to discontinuing the service and shall not be liable to the consumer upon the discontinuance for non-payment as set out in this code. Any consumer whose service has been disconnected shall not have his or her service reinstated until the full amount of the delinquent utilities have been paid or payment contract executed. In addition, the consumer shall pay a service fee to be fixed by Council resolution for failure to pay, reinstatement, and/or service connection. The City Manager or designee may refuse service until all unpaid charges for electric service have been paid.

(E) *Meter tampering*. Where no meter has been installed or electric service has been discontinued by the city for any reason, no person or persons except authorized agents of the city may reinstate said service. Costs incurred to remedy meter tampering shall be set by Council resolution as stated in § 51.02(B).

(F) *Liens*. All unpaid charges shall be a lien in favor of the city upon each lot or parcel of land or other property served and shall be collected as other liens of the city are enforced.

(G) *Advance payment*. Before electric service is furnished to any residence, store, warehouse, or commercial or industrial enterprise, the City Manager or designee may require an advance payment as follows.

(1) *Residence*. In a sum sufficient to compensate the city in the estimated amount of the first two months' charges or single largest month, whichever is less for electric services.

(2) *Store, warehouse, or commercial or industrial enterprise*. In a sum sufficient to compensate the city in the estimated amount of the first month's charges for electric services.

(3) *The advance payment will be held for one year*. If there are no delinquencies on the account, the advance payment will be refunded. If there are credit problems with the account after one year, the advance payment will be held until the customer has 12 consecutive months without a delinquency. In the event full payment is not received and service is disconnected, the advance payment will be applied to the final charge.

(Prior Code, § 4.210) (Ord. 1996-11, passed 10-14-1996)

STREETLIGHT FEE

§ 51.15 STREETLIGHT FEE ESTABLISHED.

A streetlight fee (SLF) is hereby created and imposed on consumers of the city's electric utility, the amount of which is to be set by Council resolution. The revenue from the SLF shall be used to pay direct and indirect costs associated with the operation, maintenance, installation, and replacement of street lighting owned, operated, or controlled by the city. The SLF is premised on both the direct and indirect use of or benefit from provision and use of the city's street lighting and is neither a property tax nor subject to the limitations of Article XI, § 11 of the State Constitution.

(Prior Code, § 4.300) (Ord. 2013-08, passed 8-13-2013)

§ 51.16 DEDICATED ACCOUNT.

All revenues generated by the SLF shall be placed in a dedicated account within the city's Street Fund and used only to pay the direct and indirect costs associated with the operation, maintenance, installation, and replacement of street lighting owned, operated, or controlled by the city.

(Prior Code, § 4.310) (Ord. 2013-08, passed 8-13-2013)

§ 51.17 BILLING.

The SLF shall be billed to and collected from the person identified for each metered site in the city's electric utility records as responsible for payment of electric energy charges. Streetlight fee billings will be separately identified on any utility billing statement and will be due and payable on the same schedule as that set for the electric utility. Payments on the utility billing statement shall be applied in a priority consistent with that set up in § 34.04. Failure to pay the SLF when due subjects the metered site to discontinuance of electric utility service consistent with the terms of §§ 34.04 and 51.03(D).

(Prior Code, § 4.320) (Ord. 2013-08, passed 8-13-2013)

CHAPTER 52: SEWER

Section

§ 52.01 SANITARY SEWER AND SURFACE WATER MANAGEMENT REGULATIONS, RULES, FEES, METHODOLOGY, AND CONSTRUCTION STANDARDS.

(A) The sewer system development charge includes the orders, standards, specifications, work programs, and performance criteria adopted annually by Clean Water Services (CWS), copies of which are on file in the City Recorder's Office, are governed by an intergovernmental agreement between the city and CWS. Clean Water Services rates apply in the city and are established annually by Council resolution.

(B) A sewer system development charge imposed by division (A) above is payable upon issuance of a permit to connect to the sewer system. If the project is a residential or multi-family dwelling, an application may be made to the city to pay the sewer system development charge in installment payments for a period not to exceed ten years. Fifteen percent of the system development charge due shall be paid upon application submission. The terms of the financing arrangement shall be set by Council resolution.

(1) An applicant for installment payments must demonstrate the applicant's authority to assent to the imposition of a lien on the property and that the interest of the applicant is adequate to secure payment of the lien.

(2) From time that the City Manager or designee has docketed a lien as provided in § 32.01 upon the described property for the amount of the system development

charge, together with interest on the unpaid balance, the lien may be collected in the same manner as allowed by law for collection of assessment liens.

(3) The city will remit to Clean Water Services a prorated amount of the sewer system development charge collected through the installment payment program, according to the revenue share between Clean Water Services and the city in effect at the time the developer makes application to the city to pay the system development charge in installments.

(4) The City Manager or designee is authorized to administer all aspects of the installment payment and financing of system development charges. This authority includes, but is not limited to:

(a) Providing final approval for projects seeking to participate in the installment payment and financing program;

(b) Providing application forms for installment payments that include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors;

(c) Documenting the amount of the system development charge, the dates on which the payments are due, the name of the owner and the description of the property; and

(d) Entering a lien for the amount of the system development charge, together with interest on the unpaid balance, in the city's lien docket as provided in § 32.01.

(C) A surface water management system development charge imposed by division (A) above is payable upon issuance of a permit to connect to the surface water management system. If the project is a residential or multi-family dwelling, an application may be made to the city to pay the surface water management system development charge in installment payments for a period not to exceed five years. Fifteen percent of the system development charge due shall be paid upon application submission. The terms of the financing arrangement shall be set by Council resolution.

(1) An applicant for installment payments must demonstrate the applicant's authority to assent to the imposition of a lien on the property and that the interest of the applicant is adequate to secure payment of the lien.

(2) From that time the City Manager or designee has docketed a lien as provided in § 32.01 upon the described property for the amount of the system development charge, together with interest on the unpaid balance, the lien may be collected in the same manner as allowed by law for collection of assessment liens.

(3) The city retains the surface water management system development charge.

(4) The City Manager or designee is authorized to administer all aspects of the installment payment and financing of system development charges. This authority includes, but is not limited to:

(a) Providing final approval for projects seeking to participate in the installment payment and financing program;

(b) Providing application forms for installment payments that include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors;

(c) Documenting the amount of the system development charge, the dates on which the payments are due, the name of the owner, and the description of the property; and

(d) Entering a lien for the amount of the system development charge, together with interest on the unpaid balance, in the city's lien docket as provided in § 32.01.
(Prior Code, § 3.705) (Ord. 1991-10, passed 9-23-1991; Ord. 1991-14, passed 11-25-1991; Ord. 2012-01, passed 2-13-2012)

§ 52.02 SEWER FUND.

(A) All funds and moneys received for the sewer system of the city from every source, whether from taxes levied for sewer bond requirements or sewer service charges, shall be placed in a separate fund to be known as the Sewer Fund.

(B) All sewer receipts and revenues, taxes, service charges, or otherwise shall be deposited in the Sewer Fund. Payment of operating expense and bond interest and bond retirements shall be made from the Sewer Fund.
(Prior Code, § 4.400)

§ 52.03 CONNECTION REQUIRED.

(A) Every residence, building, or place where human beings reside, assemble, or are employed within the city shall be required to connect to the city sanitary sewer system where the following conditions exist:

(1) County or State Department of Environmental Quality has determined that the existing onsite sewage disposal system has failed or is in need of repair; and

(2) Connection to city sewage line is physically available as described in O.A.R. 340-071-0160.

(B) No connection to city sanitary sewer lines shall be allowed outside the corporate limits of the city.

(C) In areas where city sanitary sewers are not available for connection, every residence, building, or place where human beings reside, assemble, or are employed within the city shall be required to have a sanitary method for disposal of sewage.

(D) If any person continues to construct, maintain, or use an outside toilet, cesspool, or septic tank for a period of 30 days after service of written notice to connect with the public sewer, the City Manager shall discontinue water service to the location until connection is made with the sewer system. Notice shall be given by certified mail. This remedy may be used in addition to any other penalty which may be imposed.

(E) It is the duty of the owner of any premises having a sewer lateral connected with the public sewer to maintain this lateral sewer the entire distance from the house to the place of connection with the public sewer.
(Prior Code, § 4.405) (Ord. 2006-15, passed 8-14-2006)

§ 52.04 INDEPENDENT CONNECTION.

Every building shall be connected independently with the sewer unless it is deemed advisable by the Council that two or more buildings or a line of tenements may be connected by the same lateral to the sewer.
(Prior Code, § 4.410)

§ 52.05 CONSTRUCTION FEE FOR PROPERTY NOT PREVIOUSLY ASSESSED.

When a property owner applies to connect to a city sanitary sewer, and when benefitting property has not been specifically assessed or otherwise paid for the sewer to which connection will be made, then a construction fee, in addition to the general connection charge, shall be paid for the special benefit the property receives. The amount shall be set by resolution by the Council. Fees in this section shall be exempt from the annual fee adjustment.
(Prior Code, § 4.415) (Ord. 1989-04, passed 2-13-1989)

§ 52.06 APPLICATION FOR SEWER PERMIT.

(A) A licensed sewer contractor employed to do the work shall file an application. The application shall include:

(1) The name of the owner or occupant of the premises to be connected;

(2) The number of buildings and the purposes for which they are or are to be occupied;

(3) The plans and specifications showing the whole course of the drain from the connection with the public sewer to its terminus within the building or premises; and

(4) All branches, traps, and fixtures to be connected to the building or premises.

(B) The plans and specifications shall be made in duplicate and presented to the City Engineer. The City Engineer shall examine the plans and specifications and may change or modify them, may designate the manner in which the connecting sewer shall be connected with the building or the place where connection with the public sewer shall be made, and may specify the material and size of the connecting sewer. The City Engineer shall approve the plans and specifications as originally prepared or as modified and changed, and shall issue the permit. A copy of the approved plans and specifications shall be attached to the permit. No person shall extend any private sewer or drain beyond the limits of the building or property for which the permit is given.

(C) Upon issuance of a sewer connection permit, provided there is an existing main or lateral available, it shall be the responsibility of the city to connect the necessary sewer services to existing mains and laterals to the property line or to sewer easement line of the property to be served. The sewer contractor shall connect and continue the sewer from this point to the structure to be served. The fee charged by the city to connect the sewer shall be fixed by Council resolution. Fees in this section are not subject to the annual fee adjustment.
(Prior Code, § 4.420) (Ord. 1989-04, passed 2-13-1989)

§ 52.07 SEWER CONTRACTOR'S BOND.

A sewer contractor shall file with the City Recorder a bond in the sum of $1,000 to be given by an approved surety company and to be approved as other bonds of the city are approved. The bond shall state that the applicant will indemnify and save harmless the city from all claims, actions, or damages of every kind and description which may accrue to or be suffered by any person by reason of any opening in any street, alley, avenue, or other public place made by the contractor or in making any connection with any public or private sewer, or for any other purpose or object whatever. The bond shall also state: that the contractor will replace and restore the street, alley, avenue, or other public place to as good a state and condition as at the time of the commencement of the work; that the contractor shall maintain the same in good order to the satisfaction of the City Manager; and that he or she will comply with §§ 52.03 through 52.18.
(Prior Code, § 4.425)

§ 52.08 SEWER PIPES.

Sewer pipes in yards shall be of the best quality vitrified pipes or concrete sewer pipes with cemented joints composed of one part of portland cement and two parts of clean sharp sand, well worked into the bells and smoothed with a bevel away from the joints. The inside of the pipe shall be carefully swabbed to prevent projection into the pipe of loose materials or of mortar, provided that where, in the judgment of the inspector, gaskets are necessary to make a first-class job, the gaskets shall be inserted. Sewer pipes shall not be laid nearer to any exterior wall of a building than two feet, shall be at least one foot below the surface of the ground at the exterior of the building, and shall be laid with as little change in direction as possible. If a change in direction is necessary, the change shall be made with suitable fittings or by deflections in the pipe not exceeding two inches per two-foot lengths of pipe. Pipe sewers shall have a fall of not less than one-quarter inch per foot, except when local conditions prevent compliance, or when a lesser fall may be approved by the City Engineer. No vitrified pipes shall be laid in bad or made ground. Instead, in such cases, sewers beneath the ground shall be of cast iron pipes.
(Prior Code, § 4.430)

§ 52.09 CLEANOUTS AND MANHOLES.

Cleanouts shall be placed at the foot of each vertical line of soil pipe, where practical, and in all changes of directions of waste pipes leading to the same. Manholes must be constructed to give access to cleanouts, where practical.
(Prior Code, § 4.435)

§ 52.10 INSPECTION AND FORFEITURE OF LICENSE.

All work done in pursuance of any sewer permit granted shall be done under the inspection and subject to the approval of the City Engineer. The grade, materials, and manner of construction of any sewer or drain shall be subject to approval by the City Engineer. Any licensed sewer contractor who refuses to modify, remove, replace, or complete any portion of the work when so instructed by the City Engineer shall, by such refusal, forfeit his or her license.

(Prior Code, § 4.440)

§ 52.11 EXCAVATIONS TO BE GUARDED.

All excavations made by any licensed sewer contractor within the limits of any street, alley, avenue, or other public place shall be protected and guarded, both night and day, by the display of proper signals and lights. The contractor shall be liable upon the contractor's bond for all accidents caused by negligence in this respect.
(Prior Code, § 4.445)

§ 52.12 DELAYED WORK.

If, in the judgment of the City Engineer, any excavation is left open an unreasonable time, the Engineer may cause the excavation to be refilled and the street restored. Costs incurred in such work shall be charged to the sewer contractor in charge of the project and must be paid before the contractor may receive any future permit from the City Engineer.
(Prior Code, § 4.450)

§ 52.13 IMPROPER WORK.

If any work is not constructed and completed in accordance with the plans and specifications as approved by the City Engineer and to the acceptance of the City Manager, or if the contractor refuses to properly construct and complete the work, notice thereof shall be given to the owner of the property for whom the work is being done, and the City Manager shall cause such work to be completed and the sewer connected in the proper manner. The full cost of work and materials necessary for the reconstruction shall be charged to and become a lien against the property. The assessment shall be entered in the docket of city liens and collected in the manner provided by the City Charter or state law for the collection of liens for state improvements.
(Prior Code, § 4.455)

§ 52.14 INSPECTION BEFORE TRENCHES ARE FILLED.

No trench shall be refilled, or any connecting sewer constructed under §§ 52.03 through 52.18 until they have been inspected and approved by the City Engineer, or until they have been made to conform to §§ 52.03 through 52.18.
(Prior Code, § 4.460)

§ 52.15 INJURY TO PUBLIC SEWERS.

No person shall injure, break, or remove any portion of any manhole, lamphole, flush tank, or any part of the public sewers of the city.

(Prior Code, § 4.465) Penalty, see § 52.99

§ 52.16 DEPOSITING RUBBISH IN PUBLIC SEWERS.

No person shall deposit any garbage, rubbish, dead animals, or any substance having a tendency to obstruct the flow of any sewer in any manhole, lamphole, flush tank, or sewer opening within the city.
(Prior Code, § 4.470) Penalty, see § 52.99

§ 52.17 DRAIN FROM CERTAIN PIPES.

No steam exhaust blow-off or drip pipe or drain in which gasoline, oil, or any like substance is permitted to drain shall connect with the sewer, house drain, soil, waste, or bent pipes, or with any rain-water conductor. Steam shall be discharged into a blow-off or condensing tank, the waste of which shall be connected with the house sewer outside of the cellar walls.
(Prior Code, § 4.475) Penalty, see § 52.99

§ 52.18 WASTE.

The sanitary sewer is for the conveyance of sewage only. No waste water from manufacturing plants, refrigerator plants, or wash racks for automobiles will be allowed to be discharged into it. Plants having oily, greasy, or acid wastes will not be allowed to be discharged into it. Restaurants may be required to install special catch basins for the retention of grease. Storm drains, basement drains, and downspouts shall not be connected with the sanitary sewer.
(Prior Code, § 4.485) Penalty, see § 52.99

§ 52.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) If any licensed sewer contractor violates the provisions of §§ 52.03 through 52.18 the Council may, in addition to any other penalty, revoke any license granted under §§ 52.03 through 52.18. Before revocation, the Council shall notify the licensed sewer contractor that the Council is considering the revocation of the license, giving the license number, and that the holder of the license may be heard in opposition to the revocation before the license is declared revoked.
(Prior Code, § 4.480)

TITLE VII: TRAFFIC CODE

Chapter

CHAPTER 70: STATE LAWS AND ADMINISTRATION

Section

GENERAL PROVISIONS

§ 70.01 APPLICABILITY OF STATE TRAFFIC LAWS.

(A) O.R.S. Chapter 153 and the State Vehicle Code, O.R.S. Chapters 801 through 826 (2013), are adopted by reference. Violation of an adopted provision of those chapters is an offense against the city.

(B) Fines for violations of the State Vehicle Code are set in accordance with O.R.S. Chapter 153.
(Prior Code, § 6.005)

§ 70.02 DEFINITIONS.

In addition to the definitions contained in the State Vehicle Code, for the purpose of this traffic code, the following terms shall mean, unless the context requires otherwise, as set out herein.

AIRCRAFT. Any vehicle capable of flight.

BOAT. Watercraft used or capable of being used as a means of transportation on the water.

BUS STOP. A space on the edge of a roadway designated by sign for use by buses loading or unloading passengers.

CITY. Forest Grove.

COMMERCIAL VEHICLE. A vehicle used for the transportation of persons for compensation or is designed or used primarily for the transportation of personal property for hire.

COSTS. The expense of removing, storing, or selling a junked vehicle.

CURBED PARKWAY. A parkway where the street edge is bounded by a curb.

ENFORCEMENT OFFICER. A person designated by the City Manager to enforce the provisions of this chapter or defined as an Enforcement Officer by O.R.S. 153.005 (2013).

FARM VEHICLE. A vehicle or trailer designed for and used primarily in agricultural operations.

FIXED LOAD. As defined in O.R.S. 801.285 (2013).

HAZARDOUS VEHICLE. A vehicle in a location or condition which an Enforcement Officer believes constitutes an immediate hazard to the public.

LOADING ZONE. A right-of-way space designated by sign for the loading or unloading of passengers or materials during specified hours of specified days.

OWNER. The person, other than a security interest holder, having the incidents of ownership in a vehicle, or where the incidents of ownership is in different persons, the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement or a lessor for a term of ten of more successive days.

PARKWAY. The portion of the right-of-way not used as either a roadway or sidewalk.

PERSON. An individual partnership, corporation, or other entity capable of owning property.

PERSON IN CHARGE OF PROPERTY. A person having possession, control, or title to property where a vehicle is located.

PERSONAL PROPERTY. Any movable or intangible thing subject to ownership and not classified as real property.

PRIVATE GARAGE. A privately-owned storage yard, garage, or other storage place selected by the city.

PUBLIC PROPERTY. Real property owned, leased, rented, or lawfully used or operated by a governmental entity.

RECREATIONAL VEHICLE. A vehicle designed for human occupancy temporarily for recreational purposes, including motor homes, campers, and camp, tent, or travel trailers.

STREET. Any public way open for vehicle use by the general public.

TRAFFIC LANE. That area of the roadway used for the movement of a single line of traffic.

TRAILER. Every vehicle without motive power designed to be drawn by another vehicle. Includes, but is not limited to, balance, semi, truck, boat, utility, and special use trailers.

VEHICLE. Every device by which persons or property may be transported upon a street, including all vehicles powered by any means other than human power.

(Prior Code, § 6.010)

ADMINISTRATION

§ 70.15 POWERS OF COUNCIL.

The City Council shall exercise the city's traffic authority delegated by this traffic code.

(Prior Code, § 6.015)

§ 70.16 DUTIES OF CITY MANAGER.

The City Manager, or designee, has authority to cause any of the following:

(A) Install, maintain, remove, and alter traffic-control devices subject to standards contained in the *Oregon Manual on Uniform Traffic-Control Devices for Streets and Highways* (2013);

(B) Establish, remove, or alter the following:

(1) Crosswalks, safety zones, and traffic lanes;

(2) Intersection channelization and areas where drivers of vehicles shall not make right, left, or U-turns, and the time when the prohibition applies;

(3) Parking areas and time limitations, including the form of permissible parking;

(4) Traffic-control signals; and

(5) Loading zones and stops for vehicles.

(C) Issue oversize or overweight vehicle permits;

(D) Temporarily block or close streets; and

(E) Designate and issue reserved parking spaces in the city parking lots to persons upon payment of required fees. However, no more than 50% of the parking spaces in the lots shall be designated reserved spaces.

(Prior Code, § 6.020)

§ 70.17 AUTHORITY OF ENFORCEMENT OFFICERS.

(A) Enforcement Officers are authorized to enforce the provisions of this traffic code.

(B) In the event of a fire or public emergency, Enforcement Officers may direct traffic as conditions require, notwithstanding the provisions of this traffic code.

(Prior Code, § 6.025)

§ 70.18 DIRECTION OF TRAFFIC.

No person other than Enforcement Officers may direct the movement of traffic, except:

(A) At the direction of an Enforcement Officer; or

(B) In an emergency and only until an Enforcement Officer arrives at the scene.

(Prior Code, § 6.030) Penalty, see § 70.99

§ 70.19 APPLICATION AND FEE.

(A) The City Manager or designee is authorized to establish construction zones in patrolled parking districts.

(B) The fee associated therefor shall be set by Council resolution.

(C) No application shall be granted unless the applicant first obtains a building permit and the construction zone is deemed necessary by the City Manager or designee to minimize traffic congestion and hazards.

(D) Any construction zones shall not include more than three metered spaces immediately adjacent to the construction site and shall be limited to when actual construction work is in progress.

(E) Upon the construction zone's establishment and posting of appropriate signage, no unauthorized person shall park therein.

(Prior Code, § 6.035) Penalty, see § 70.99

TRAFFIC-CONTROL DEVICES

§ 70.30 INSTALLATION OF TEMPORARY TRAFFIC-CONTROL DEVICES.

The City Manager or designee may install temporary traffic-control devices when deemed appropriate.

(Prior Code, § 6.040)

§ 70.31 EXISTING CONTROL DEVICES AND MARKINGS.

Parking and traffic-control devices and markings installed prior to the adoption of this code are lawfully authorized.

(Prior Code, § 6.045)

§ 70.32 OBEDIENCE TO AND ALTERNATION OF CONTROL DEVICES.

(A) No person shall disobey the instructions of a traffic-control device except as may be otherwise provided by this code.

(B) No person shall install, move, remove, obstruct, alter the position of, deface, or tamper with an official traffic-control device or marking, sign, or device regulating parking, stopping, or standing.

(Prior Code, § 6.050) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) Any person violating any provision of this traffic code for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating § 70.32 is subject to a civil penalty in an amount of not less than $100 and not more than $250.

(Prior Code, § 6.100)

CHAPTER 71: VEHICLE REGULATIONS

Section

Cross-reference:

Abandoned vehicles, see Chapter 74
Nuisances, see Chapter 91
Use of streets, see Chapter 72

§ 71.01 CROSSING PRIVATE PROPERTY.

No motor vehicle operator shall proceed from one street to another by crossing private property or premises open to the public, except in the case of a motor vehicle operator who stops to procure or provide goods or services on the property or premises.

(Prior Code, § 6.055) Penalty, see § 71.99

§ 71.02 UNLAWFUL RIDING.

(A) No person shall ride on a motor vehicle on a street, except on a portion of the vehicle designed or intended for the use by passengers. This provision does not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.

(B) No person may board or alight from a motor vehicle while the vehicle is in motion on a street.

(Prior Code, § 6.060) Penalty, see § 71.99

§ 71.03 THROWING MATERIAL FROM A MOTOR VEHICLE OR BICYCLE.

No motor vehicle operator or bicyclist may allow or suffer the deposit of solid waste or burning material onto a street, sidewalk, or other public property from a motor vehicle or bicycle in his or her control.

(Prior Code, § 6.065) Penalty, see § 71.99

§ 71.04 SPEED LIMITS IN PUBLIC PARKS.

No person shall drive a vehicle on a street in a public park of this city at a speed exceeding 15 mph unless signs erected indicate otherwise.

(Prior Code, § 6.070) Penalty, see § 71.99

§ 71.05 ROLLER SKATES, SLEDS, AND SIMILAR DEVICES.

(A) No person shall roller skate, skateboard, or ride a coaster, toy vehicle, or any similar device(s) on streets except while crossing at a crosswalk or in an area authorized for use of those devices.

(B) No person shall use streets for traveling on skis, toboggans, sleds, or similar devices except where or when authorized.

(C) No person shall roller skate, skateboard, or ride a coaster, toy vehicle, or any similar device(s) on sidewalks in the area described as:

(1) Sidewalks north of Nineteenth Avenue to Twenty-First Avenue;

(2) Sidewalks east of B Street to Cedar Street; or

(3) In any public parking lot or where otherwise posted.

(Prior Code, § 6.075) Penalty, see § 71.99

§ 71.06 DAMAGING SIDEWALKS AND CURBS.

(A) The operator of a motor vehicle shall not drive on sidewalks or curbed parkways except in crossing at a permanent or temporary driveway.

(B) No unauthorized person shall place dirt, wood, or other material in the gutter or space next to the curb for purposes of a driveway.

(C) No person shall remove curbing or move a motor vehicle or device moved by a motor vehicle onto a curb or sidewalk without first obtaining authorization from the city and posting bond, if required.

(Prior Code, § 6.080) Penalty, see § 71.99

§ 71.07 REMOVING GLASS AND DEBRIS.

All parties involved in vehicular accidents or persons causing broken glass or other debris to be on a street shall be responsible for the removal thereof from the street.

(Prior Code, § 6.085)

§ 71.08 PROHIBITED STORAGE OF VEHICLES AND PROPERTY.

(A) (1) No person shall store, or permit to be stored, any vehicle, recreational vehicle, trailer, or other personal property on a street or other public property without written authorization of the City Manager or designee.

(2) For the purpose of this section, a vehicle, recreational vehicle, or trailer is deemed ***STORED*** if it has been parked on a street or other public property for a period in excess of 72 continuous hours.

(3) Personal property is deemed ***STORED*** if it has been on a street or other public property for a period in excess of 24 continuous hours.

(B) For the purpose of this section, movement of a vehicle, recreational vehicle, or trailer on a street or other public property less than 300 feet in any 72 continuous-hour period does not avoid having the vehicle, recreational vehicle, or trailer deemed ***STORED***.

(Prior Code, § 6.090) Penalty, see § 71.99

§ 71.09 OBSTRUCTING STREETS OR PUBLIC WAYS.

Except as may otherwise be specifically provided elsewhere in the code, no person shall place, park, deposit, or leave on a street, alley, public way, sidewalk, or curb any article, thing, or material which prevents, interferes with, or obstructs the free passage of pedestrian or vehicular traffic or obstructs a driver's view of traffic or official traffic-control signs and signals.

(Prior Code, § 6.095) Penalty, see § 71.99

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) The violation of § 71.01 is a Class C traffic infraction.

(Prior Code, § 6.055)

(C) The violation of § 71.02 is a Class C traffic infraction.
(Prior Code, § 6.060)

(D) The violation of § 71.03 is a Class C traffic infraction.
(Prior Code, § 6.065)

(E) Violation of § 71.04 is a Class D traffic infraction.
(Prior Code, § 6.070)

(F) Notwithstanding §§ 71.01 through 71.04, any person violating §§ 71.01 through 71.09 is subject to a civil penalty in an amount of not less than $100 and not more than $250.
(Prior Code, § 6.100)

CHAPTER 72: USE OF STREETS

Section

PEDESTRIANS

§ 72.01 CROSSING OUTSIDE OF CROSSWALKS.

No pedestrian, when crossing a street other than within a crosswalk, shall cross in a manner that impedes traffic.
(Prior Code, § 6.105) Penalty, see § 72.99

§ 72.02 RIGHT ANGLES.

No pedestrian shall cross a street other than at right angles to the curb or by the shortest route to the opposite curb, unless within a crosswalk.
(Prior Code, § 6.110) Penalty, see § 72.99

BICYCLES

§ 72.15 OPERATING RULES.

In addition to observing other applicable code provisions and state laws pertaining to bicycles, no person shall:

(A) Leave a bicycle, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway, or building entrance; or

(B) Ride or operate a bicycle upon a sidewalk in the area described as:

(1) Sidewalks north of Nineteenth Avenue to Twenty-First Avenue;

(2) Sidewalks east of B Street to Cedar Street; or

(3) Where otherwise posted.

(Prior Code, § 6.115) Penalty, see § 72.99

§ 72.16 IMPOUNDING OF BICYCLES.

(A) No person shall leave a bicycle on private property without the consent of the owner or person in charge. Consent is implied on business property unless bicycle parking is expressly prohibited.

(B) A bicycle left on public property in excess of 72 continuous hours may be impounded by the city.

(C) In addition to any citation issued, a bicycle parked in violation of this code obstructing or impeding free flow of pedestrian or vehicular traffic or endangering the public may be immediately impounded by the city.

(D) If a bicycle is impounded, the city shall make efforts to identify and notify the owner. No impoundment fee shall be charged to the owner of a stolen bicycle that has been impounded.

(E) An impounded bicycle remaining unclaimed shall be disposed of consistent with the city's procedures for disposal of abandoned property.

(F) Except as provided in divisions (D) and (E) above, the owner of the bicycle may be charged a fee.

(Prior Code, § 6.120) Penalty, see § 72.99

PARADES AND PROCESSIONS

§ 72.30 PROHIBITED EVENT ACTIVITY.

No person shall organize or participate in an organized parade, procession, race, or similar public assembly ("event") likely to consist of 25 or more persons (which may also include animals or vehicles or any combination thereof), which is to travel or use in unison or for a common purpose any public street which use does not comport with the normal or usual traffic regulation or control thereof without first obtaining a permit from the city as provided herein. (Prior Code, § 6.130) Penalty, see § 72.99

§ 72.31 EVENT PERMIT REQUIRED.

(A) Application for an event permit shall be made to the Chief of Police or designee not less than 14 days prior to the intended date of the event unless the time is shortened for good cause shown by the applicant to the Chief.

(B) Application for events shall be on forms provided by the city and will require, at a minimum, information relating to:

(1) The names and contact information of the individual(s), entity(ies) or organization(s) applying to conduct the event, including names addresses and telephone numbers for persons acting as primary contact(s);

(2) The proposed event date;

(3) The proposed start time and end time;

(4) The proposed assembly points;

(5) The detailed description, including a map of the desired route, a traffic control plan which the Police Chief believes (in consultation with the City Engineer) addresses traffic impacts arising from the event;

(6) Information relating to the provision of sufficient equipment and/or services to protect participants and spectators, including provision for first aid or emergency medical services;

(7) The estimated number of persons, vehicles, and animals that will be participating in the event;

(8) Evidence of comprehensive general liability and automobile liability insurance as well as evidence that the insurance will include the city, its elected and appointed officials, officers, employees, agents, and volunteers as additionally named. Comprehensive general liability insurance coverage shall be in combined single limit of at least $1,000,000 with a $2,000,000 aggregate;

(9) The estimated need for public safety personnel; and

(10) Evidence that the sponsor or applicant has received approval of other local, state, or federal regulatory agencies having jurisdiction over the activities anticipated to be conducted.

(Prior Code, § 6.135)

§ 72.32 ISSUANCE OF EVENT PERMIT.

(A) The Police Chief shall issue an event permit conditioned on the applicant's written agreement to comply with the terms of the permit.

(B) The Chief may approve, approve with conditions, or deny an application for an event permit.

(C) The issuance of an event permit under this section confers upon the permit holder the right to control and regulate activities within the event venue consistent with the terms of the permit.

(D) The issuance of an event permit does not obligate the city to provide municipal services, equipment, or personnel in support thereof.

(E) The Chief may deny an event permit to an applicant for any of the following reasons:

(1) Applicant's failure to provide a traffic control plan sufficient to address the traffic impacts anticipated to result from the event;

(2) Applicant has materially failed to comply with conditions of previously issued event permits;

(3) The proposed event conflicts with an activity already scheduled;

(4) Applicant's failure to show that there will be sufficient sanitation or other equipment and/or services to protect participants, spectators, and the general public's health and safety;

(5) Applicant's failure to timely file a complete application or meet the requirements for submission of the application, including payment of any fees;

(6) The event may violate public health or safety regulations; or

(7) Applicant demonstrates an unwillingness or inability to conduct the proposed event pursuant to the terms of this section.

(Prior Code, § 6.140)

§ 72.33 APPEAL TO CITY MANAGER.

(A) Any party aggrieved by the Police Chief's decision may request an administrative hearing by submitting a written appeal to the City Manager within five business days after the Chief's decision.

(B) The City Manager or designee shall notify the applicant of the date and time of the administrative hearing within five business days of receiving written appeal, assuming the appeal is filed in time to allow notice to the applicant of said appeal in accordance with division (A) above.

(C) Following the administrative hearing, the City Manager may approve, approve with conditions, or deny the event permit. The City Manager's decision is final.

(Prior Code, § 6.145)

§ 72.34 OFFENSES AGAINST EVENT.

(A) No person shall unreasonably interfere with an event or event participant.

(B) No person shall operate a vehicle that is not part of an event between the vehicles or persons comprising an event.

(Prior Code, § 6.150) Penalty, see § 72.99

§ 72.35 FUNERAL PROCESSION.

(A) No permit is required for a funeral procession.

(B) A funeral procession shall proceed to the place of interment by the most direct route that is both legal and practical.

(C) The procession shall be accompanied by adequate escort vehicles for traffic control.

(D) All motor vehicles in the funeral procession shall be operated with their lights on.

(E) No person shall unreasonably interfere with a funeral procession.

(F) No person shall operate a vehicle that is not a part of the procession between the vehicles of a funeral procession.

(G) Each driver in the procession shall follow the vehicle ahead as closely as is practical and safe.

(Prior Code, § 6.155) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Violation of § 72.01 is a Class D traffic infraction.

(Prior Code, § 6.105)

(C) Violation of § 72.02 is a Class D traffic infraction.

(Prior Code, § 6.110)

(D) Any person violating §§ 72.15 and 72.16 is subject to a civil penalty in an amount of not less than $100 and not more than $250.

(Prior Code, § 6.125)

(E) Any violation of § 72.35 is a Class C traffic infraction.

(Prior Code, § 6.155)

(F) Notwithstanding the provisions and penalty of § 72.35, any person who violates §§ 72.30 through 72.34 is subject to a civil penalty in an amount of not less than $100 and not more than $250.

(Prior Code, § 6.160)

CHAPTER 73: PARKING REGULATIONS

Section

General Provisions

GENERAL PROVISIONS

§ 73.001 PARKING METHOD AND RESTRICTIONS.

(A) No person shall park a vehicle on a street other than parallel with the edge of the roadway, headed in the direction of traffic, and with the curbside wheels within 12 inches of the curb except where marked or signed for angle parking.

(B) Where parking spaces are designated, no person shall park a vehicle other than in the indicated direction and within a single marked space unless the vehicle's size and/or shape make compliance impossible.

(C) The operator first maneuvering a motor vehicle into a vacant parking space has priority to park in that space and other vehicle operators shall not attempt to interfere with that priority.

(D) When a vehicle operator discovers the vehicle is parked close to a building to which the Fire Department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by police officers or firefighters.

(Prior Code, § 6.200) Penalty, see § 73.999

§ 73.002 PROHIBITED STOPPING, STANDING, OR PARKING.

No person shall stop, stand, or park a vehicle:

(A) On any street in any location prohibited by state law;

(B) On a sidewalk;

(C) On a crosswalk;

(D) On a curbed parkway;

(E) Within an intersection;

(F) Within a designated bicycle lane;

(G) Within 15 feet of the driveway entrance to a fire station;

(H) Within ten feet of a fire hydrant;

(I) Blocking any portion of a public or private driveway;

(J) Within areas marked by yellow paint on the street or curb;

(K) On the roadway side of a stopped or parked vehicle at the edge or curb of a street;

(L) Where official signs or pavement markings prohibit stopping, standing, or parking; and/or

(M) In violation of a disabled parking space, as defined by the State Vehicle Code, which constitutes a violation of O.R.S. 811.615 (2013).

(Prior Code, § 6.205) Penalty, see § 73.999

§ 73.003 PROHIBITED PARKING.

No person shall park a vehicle:

(A) Upon a public street or public property for a period in excess of maximum parking time limits where so designated by official sign or other marking. Where maximum parking time limits are designated by sign, movement of a vehicle within the same block or parking lot shall not extend the time limits for parking;

(B) In any city park in violation of posted hours unless specifically authorized by the Director of Parks and Recreation;

(C) Upon a public street or public property for more than 72 consecutive hours without written authorization of the City Manager or designee;

(D) In an alley except to load or unload persons or cargo and with a time limit of 30 minutes in any two-hour period;

(E) That is designated, used, or maintained for the transportation of property and having a gross weight in excess of 8,000 pounds on a street between the hours of 9:00 p.m. and

7:00 a.m. in front of or adjacent to a residence, motel, hotel, apartment, house, or other sleeping accommodation;

(F) In a designated fire lane. The lane must be signed or marked and approved by the City Fire Marshal;

(G) The following vehicles in a residential zone within 50 feet of an intersection or within 15 feet of a driveway:

(1) Bus;

(2) Commercial vehicle;

(3) Farm vehicle;

(4) Fixed load;

(5) Recreational vehicle; or

(6) Trailer.

(H) Except as may be otherwise provided, a vehicle, trailer, or other personal property upon a street or other public property for the primary purpose of:

(1) Servicing or repairing the vehicle, trailer, or other personal property, except repairs necessitated by an emergency;

(2) Displaying advertising from the vehicle, trailer, or other personal property; or

(3) Selling merchandise from the vehicle, trailer, or other personal property.

(Prior Code, § 6.210) (Ord. 2006-01, passed 1-23-2006) Penalty, see § 73.999

§ 73.004 EXEMPTIONS OF PARKING, STOPPING, OR STANDING REGULATIONS.

The provisions of this chapter regulating parking, stopping, or standing of vehicles do not apply to:

(A) A vehicle of the city, county, state, or a public utility while necessarily in use for construction or repair work on a street;

(B) A vehicle while in use for the collection, transportation, or delivery of mail;

(C) A vehicle stopped, standing, or parked momentarily to pick up or discharge a passenger; and

(D) A vehicle of a disabled person compliant with O.R.S. 811.602 through 811.637 (2013).

(Prior Code, § 6.215)

§ 73.005 USE OF LOADING ZONE.

(A) No person shall stop, stand, or park a vehicle in a place designated as a loading zone when the hours applicable to that loading zone are in effect, other than for the expeditious loading or unloading of persons or materials. When the hours applicable to the loading zone are in effect, the loading and unloading shall not exceed the time limits posted.

(B) If no time limits are posted, the use of the zone shall not exceed 30 minutes.

(Prior Code, § 6.220) Penalty, see § 73.999

§ 73.006 RESTRICTED USE OF BUS AND TAXICAB STAND.

No person shall stand or stop a vehicle, other than a taxicab in a designated taxicab stand or a bus at a designated bus stop, except an operator or passenger vehicle may stop to load or unload passengers; provided, the stopping does not interfere with either a bus or taxicab waiting to enter or about to enter the stand or stop.
(Prior Code, § 6.225) Penalty, see § 73.999

§ 73.007 LIGHTS ON PARKED VEHICLE.

No lights need be displayed upon a vehicle parked consistent with this code on a street where there is sufficient light to reveal a person or object at a distance of a least 500 feet from the vehicle.
(Prior Code, § 6.230)

§ 73.008 UNATTENDED VEHICLE.

(A) No motor vehicle shall be parked unattended on a street on premises open to the public or car lot without first stopping the engine, locking the ignition, removing the ignition key from the vehicle, and effectively setting the brake.

(B) When an Enforcement Officer finds a motor vehicle parked or standing unattended with the ignition key in the vehicle, the Officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the police station.
(Prior Code, § 6.235) Penalty, see § 73.999

§ 73.009 RECREATIONAL VEHICLE STAY.

(A) No person shall be allowed to reside in a recreational vehicle, except as follows:

(1) On premises of a private residence, within a residential zone district, with consent of the resident for no more than 14 total days in a calendar year unless authorized by the City Manager or designee;

(2) On private property, within a commercial or industrial zone district, with consent of the property owner for no more than two total days in a calendar year unless authorized by the City Manager or designee; or

(3) The vehicle is located in a recreational vehicle park approved by the city through the requirements of the Zoning Code and authorized pursuant to O.A.R. Chapter 918-650.

(B) No person shall be allowed to reside in a recreational vehicle on public property without written authorization by the City Manager or designee.
(Prior Code, § 6.240) Penalty, see § 73.999

PARKING CITATIONS AND OWNER RESPONSIBILITY

§ 73.020 CITATION ON ILLEGALLY PARKED VEHICLE.

(A) When a vehicle without an operator is found parked in violation of this chapter, the Enforcement Officer shall take its license number and other information that may assist in the identification of its owner and affix a parking citation to the vehicle instructing the owner to answer the charge or pay the penalty imposed within ten days during specific hours and at a specific place.

(B) The citation shall list the penalties that may be imposed and note that if the owner fails to respond within ten days, the fine will double.

(Prior Code, § 6.300)

§ 73.021 FAILURE TO COMPLY WITH PARKING CITATION ATTACHED TO PARKED VEHICLE.

If the owner fails to respond to a parking citation affixed to a vehicle within ten days, the city may send a letter to the owner informing him or her of the violation that because the citation was disregarded for a period of ten days:

(A) The fine has doubled;

(B) The vehicle is subject to impoundment or immobilization as prescribed in § 73.055(E) if three or more unpaid parking citations exist against the vehicle; and

(C) After impoundment if the outstanding parking citations and other fees and charges are not paid, the vehicle will be disposed of in the same manner prescribed in §§ 74.10 through 74.12.

(Prior Code, § 6.305)

§ 73.022 OWNER RESPONSIBILITY.

The owner of a vehicle in violation of a parking restriction shall be responsible for the violation unless the use of the vehicle was without owner’s consent.

(Prior Code, § 6.310)

§ 73.023 REGISTERED OWNER PRESUMPTION.

In a proceeding against a vehicle owner for a parking violation, evidence the vehicle was registered to the person charged with the violation at the time of the violation constitutes a rebuttable presumption as to that person’s ownership of the vehicle.

(Prior Code, § 6.315)

RESIDENTIAL PARKING PERMIT

§ 73.035 PURPOSE.

A residential parking permit system is established so motor vehicles bearing a valid residential parking permit may be parked on city streets in excess of the time limits on specific street sections within designated areas. A permit confers no rights upon the holder, but rather is a privilege providing exemption from the time limitations and is subject to revocation at any time in the discretion of the city.
(Prior Code, § 6.405)

§ 73.036 TEMPORARY DESIGNATIONS OF ON-STREET PARKING PERMIT AREAS AND RESIDENTIAL PARKING PERMIT SYSTEM.

(A) The City Manager or designee shall make recommendations to the City Council designating suitable temporary permit areas where parking is allowed.

(B) The City Manager or designee shall implement a system assigning residential parking permits in designated area(s).

(C) A residential parking permit shall be issued upon application by the owner or operator of the vehicle residing in the designated area.

(D) A residential parking permit shall be affixed to the upper left windshield of the vehicle while the vehicle is parked in the designated area.
(Prior Code, § 6.410)

§ 73.037 ISSUANCE AND USE OF PARKING PERMIT.

(A) Following designation by the City Council of areas subject to the residential parking permit program, the City Manager or designee may issue a residential parking permit to the owner or operator of the vehicle residing in the designated area.

(B) A residential parking permit shall be issued upon application and payment of the fee to the owner or operator of a vehicle residing in the designated area. Permit is valid for one year from date of issuance.

(C) A residential parking permit must be displayed on the upper left windshield of the vehicle while the vehicle is parked in the designated area.

(D) Vehicles with a properly displayed residential parking permit may park in the designated area in excess of the posted time limits.

(E) A residential parking permit neither guarantees nor reserves a parking space.

(F) A residential parking permit does not exempt holders from other parking, abandonment, towing, or immobilization regulations and penalties.

(G) Unauthorized use of a residential parking permit subjects the holder to permit revocation.

(H) It is a violation of the residential parking permit program for any person to copy, reproduce, or sell a residential parking permit.
(Prior Code, § 6.415) Penalty, see § 73.999

§ 73.038 APPLICATION.

(A) Each application shall be on a form provided by the city and include the following information:

(1) The name of the owner or operator of the motor vehicle;
(2) Proof of residency;
(3) Vehicle make and model; and
(4) Vehicle identification number or license number.

(B) The City Manager or designee may request further information from the applicant verifying eligibility. Permit holders shall contact the city regarding change of residence or disposition of a permitted vehicle.
(Prior Code, § 6.420)

§ 73.039 TEMPORARY PERMIT.

Temporary residents of a designated area may apply for a temporary residential parking permit which expire 30 days from the issuance date.
(Prior Code, § 6.425)

§ 73.040 GUEST PARKING PERMIT.

Residents of a designated area may apply for guest parking permit upon request. A guest parking permit shall be displayed on the front dashboard of the vehicle while the vehicle is parked in a designated area.
(Prior Code, § 6.430)

IMPOUNDING VEHICLES

§ 73.055 IMPOUNDMENT OF VEHICLES.

(A) When a vehicle is placed in a manner or location which an Enforcement Officer reasonably believes constitutes an obstruction to traffic or hazard, the Officer may order the owner or operator thereof to move the vehicle. If the vehicle is unattended, the Officer may cause the vehicle to be towed and stored at the owner's expense.

(B) The towing, impoundment, and/or storage of vehicles under this section shall be done consistent with §§ 74.01 and 74.02 and the statutory provisions adopted thereby.

(C) Impoundment of a vehicle under this section does not preclude issuance of a citation for violation of any provision of this code.

(D) Stolen vehicles may be towed from public or private property and stored at the owner's expense.

(E) When an Enforcement Officer observes a parked vehicle with three or more unpaid violations outstanding against the vehicle, the Officer may impound or immobilize the vehicle. An impounded or immobilized vehicle shall not be released until all outstanding fines and charges have been paid.
(Prior Code, § 6.500)

TOWING OPERATORS

§ 73.070 DEFINITION.

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

ON-CALL TOW. A motor vehicle towing company which is authorized to provide towing services for the city's Police Department.
(Prior Code, § 6.800)

§ 73.071 CHIEF OF POLICE AUTHORIZED TO ADOPT REGULATIONS.

(A) The Chief of Police is authorized to adopt regulations governing qualifications of on-call tow applicants with the specific intent of restricting authorization to applicants having a history of lawful and responsible conduct related to towing functions. The Chief is authorized to adopt regulations governing towing equipment and accessories, insurance coverage, and the response procedure by which on-call tows are summoned to the scene. The Chief has no independent authority to fix or set rates for towing services.

(B) Any decision of the Chief of Police adverse to the applicant and relevant to qualifications for on-call tow may be appealed to the City Manager by written notice given within ten days of the ruling by the Chief of Police. The Manager shall review the decision of the Chief of Police and shall affirm, deny, or modify the decision. The determination by the Manager shall be final.
(Prior Code, § 6.805)

§ 73.072 LICENSES REQUIRED.

Each on-call tow shall obtain any applicable city and state licenses including, but not limited to, business and operator's licenses, in addition, each on-call tow shall comply with all regulations issued by the Chief of Police.
(Prior Code, § 6.810)

§ 73.073 INSPECTION OF VEHICLES.

The Chief of Police shall periodically, but not less than annually, inspect the vehicles, operator's licenses, and on-call tows for compliance with this subchapter and administrative regulations.
(Prior Code, § 6.815)

§ 73.074 ON-CALL ROTATION.

Any towing company which provides the Chief of Police with proof of compliance with this subchapter and all regulations promulgated hereunder may participate in the procedure described below for responding to Police Department requests for towing services. All such companies shall be placed on a list to be utilized by Police Department radio dispatch. The Police Department shall rotate the particular on-call tow to be utilized each week among the listed towing companies.
(Prior Code, § 6.820)

§ 73.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person violating §§ 73.001 through 73.006 is subject to a civil penalty in the amount set by Council resolution.

(2) Any person violating §§ 73.007 through 73.009 is subject to a civil penalty in an amount of not less than $100 and not more than $250.

(3) Violation of a provision identical to a state statute is subject to a fine or penalty not exceeding the fine or penalty prescribed by the relevant state statute.
(Prior Code, § 6.245)

(C) Any person or firm providing on-call tow, whether as principal, agent, employee, or otherwise, who violates or causes the violation of any provision of §§ 73.071 through 73.074 or regulations issued hereunder shall be punishable by a fine of not more than $1,000. In addition, the Chief of Police may exclude from the on-call towing schedule any towing company which has violated §§ 73.071 through 73.074 or administrative regulations hereunder until the Chief of Police has determined that further violations will not occur.
(Prior Code, § 6.825)

CHAPTER 74: ABANDONED AND DISCARDED VEHICLES

Section

Abandoned Vehicles

ABANDONED VEHICLES

§ 74.01 DEFINITIONS.

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

ABANDONED TRAILER. A trailer that has remained in the same location in excess of 24 hours and one or more of the following conditions exist:

(1) The trailer is unclaimed or damaged, disabled, or dismantled such that it is inoperable;

(2) The trailer does not display a current registration plate or trip permit, unless exempt therefrom under law; or

(3) The trailer is on a public right-of-way and no person residing at a property in the vicinity thereof claims a right of control over it.

ABANDONED VEHICLE. A vehicle that has remained in the same location in excess of 24 hours and one or more of the following conditions exist:

(1) The vehicle appears inoperative or disabled;

(2) The vehicle appears wrecked, partially dismantled, or junked; or

(3) The vehicle does not display a current registration plate or trip permit.

(Prior Code, § 6.600)

§ 74.02 ABANDONED VEHICLES AND TRAILERS PROHIBITED.

(A) No vehicle or trailer which the Enforcement Officer has reason to believe is abandoned shall be parked or left standing on the right-of-way of a city street or alley or city property for a period in excess of 24 hours.

(B) A vehicle or trailer so parked or left standing may be taken into custody by the Officer and shall be held at the expense of the owner of the vehicle or trailer. The Officer may use city personnel, equipment, and facilities for removal and storage of the vehicle or may hire other personnel, equipment, or facilities for that purpose.

(Prior Code, § 6.605) Penalty, see § 74.99

§ 74.03 VEHICLE LEFT ON PRIVATE PROPERTY.

A person who is the owner or is in lawful possession of private property, on which a vehicle has been abandoned, may have the vehicle towed from the property, providing the owner provides required notice pursuant to O.R.S. 98.830 (2013) before towing vehicle from private property.

(Prior Code, § 6.610)

§ 74.04 TOWING WITHOUT NOTICE.

(A) An Enforcement Officer may immediately take custody of and tow a vehicle without prior notice if the vehicle:

(1) Constitutes a hazard or obstruction to motor vehicle traffic;

(2) The vehicle was in possession of a person taken into custody by an Officer and no other reasonable disposition of the vehicle is available;

(3) The vehicle bears license plates not issued for the vehicle according to the records of the Department of Transportation; or

(4) The vehicle is parked in a designated fire lane and prevents access of emergency vehicles.

(B) The owner of the vehicle shall be responsible for the costs of towing and storing the vehicle.

(Prior Code, § 6.615)

§ 74.05 TOWING AND STORAGE LIENS.

(A) A person who, at the request of the Enforcement Officer, takes a vehicle or trailer into custody under provisions of §§ 74.02 through 74.04 shall have a lien on the vehicle or trailer

and its contents for reasonable towing and storage charges. If the appraised value of the vehicle or trailer is $750 or less, the vehicle or trailer shall be disposed of in the manner provided in § 74.11.

(B) If the vehicle is taken into custody under provisions of § 74.04 and held by the city, rather than by a private garage, the vehicle shall be disposed of in the manner provided in §§ 74.10 and 74.11.

(Prior Code, § 6.620)

§ 74.06 PRE-TOWING NOTICE.

(A) When a vehicle or trailer is found in violation of § 74.02, the Enforcement Officer shall affix a pre-tow notice to the vehicle or trailer at least 24 hours prior to taking the vehicle or trailer into custody, excluding holidays, Saturdays, and Sundays.

(B) The pre-tow notice shall state:

(1) The vehicle or trailer is in violation of § 74.02;

(2) The vehicle or trailer may be taken into custody and towed if it is not removed before the date set by the city;

(3) The telephone number and address of the Police Department to obtain further information;

(4) If the vehicle or trailer is taken into custody and towed by the city, it will be subject to towing and storage charges and a lien will attach to the vehicle or trailer and its contents;

(5) The vehicle or trailer and its contents may be sold to satisfy the costs of towing and storage if the charges are not paid;

(6) The owner or person having an interest in the vehicle or trailer is entitled to a pre-tow hearing; and

(7) If a pre-towing hearing is requested, the vehicle will not be towed until the Municipal Court makes a determination.

(C) This section does not apply to vehicles towed without notice pursuant to § 74.04.

(Prior Code, § 6.625)

§ 74.07 POST-TOWING NOTICE.

(A) After a vehicle or trailer has been towed pursuant to §§ 74.02 or 74.04, written notice shall be provided to registered owner(s) and any other person(s) having interest in the vehicle or trailer as shown in the records of the Department of Transportation.

(B) The notice will be mailed by certified mail within 48 hours of the tow, excluding holidays, Saturdays, and Sundays. The post-tow notice shall include the following information:

(1) The vehicle or trailer has been towed by the city pursuant to §§ 74.02 or 74.04;

(2) The location of the vehicle or trailer and address and telephone number of the facility that may be contacted for information;

(3) The vehicle or trailer is subject to towing and storage charges and any outstanding parking tickets and administrative fees;

(4) The vehicle or trailer and its contents are subject to a possessory lien for the towing and storage charges;

(5) If the vehicle is not claimed by a specified date, the vehicle or trailer and its contents may be sold by the city or the towing and storage facility where the vehicle or trailer is located, and failure to timely reclaim the vehicle or trailer constitutes a waiver of all interest in the vehicle or trailer;

(6) The vehicle or trailer and its contents may be reclaimed by presentation of satisfactory proof of ownership or right to possession and payment of all towing and storage charges;

(7) The owner, possessor, or person having an interest in the vehicle or trailer is entitled to a prompt hearing contesting the validity of the tow and/or to contest the reasonableness of the towing and storage charges. The request must be submitted in writing to the Municipal Court not more than five days from the mailing date of the notice, excluding holidays, Saturdays, and Sundays.

(C) If no vehicle identification number, registration plates, or other markings on the vehicle or trailer can identify the owner, then no notice need be mailed or provided.
(Prior Code, § 6.630)

§ 74.08 HEARINGS AND DETERMINATION.

(A) If a vehicle or trailer is proposed to be towed pursuant to § 74.02, a request for a hearing may be made in writing stating the grounds upon which the person requesting the hearing believes the proposed tow is not justified. The request must be delivered to the Municipal Court after the affixing of the pre-tow notice and prior to the towing of the vehicle or trailer. The Municipal Court shall set a time for the hearing within 72 hours of receipt of the request filed pursuant to this section, excluding holidays, Saturdays, and Sundays.

(B) In the case of a vehicle or trailer towed pursuant to §§ 74.02 or 74.04, a written request for a hearing may be made stating the grounds upon which the person requesting the hearing believes the custody and towing of the vehicle or trailer is not justified. The request must be submitted to the Municipal Court not more than five days from the mailing date of the notice, excluding holidays, Saturdays, and Sundays. Upon receipt of a request for a hearing, the Municipal Court shall set a time for the hearing within 72 hours of its receipt of the request and shall provide notice of the hearing to the person requesting the hearing as well any lessors or security interest holders.

(C) If the Municipal Court finds substantial evidence on the record that the custody and towing of the vehicle or trailer was:

(1) Invalid, the Court shall order the immediate release of the vehicle or trailer to the owner or person with right of possession. If the vehicle or trailer is released under this division (C)(1), the person to whom the vehicle or trailer is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges on the vehicle or trailer, the city shall reimburse the person of the charges. New storage costs on the vehicle will not start to accrue, however, until more than 24 hours after the time the vehicle is officially released to the owner or person under this division (C)(1); or

(2) Valid, the Court shall order the vehicle or trailer to be held in custody until the costs of the hearing, administrative fees, outstanding parking tickets, towing, and storage

costs are paid by the owner or person claiming the vehicle. If the vehicle has not yet been towed, the city shall order that the vehicle or trailer be towed if the code violation involving the vehicle or trailer has not been corrected.

(D) A person failing to appear at the hearing is not entitled to another hearing unless the person provides satisfactory reasons to the Municipal Court for the person's failure to appear.

(E) The Court is required only to provide one hearing for each proposed or actual vehicle or trailer custody and/or tow.

(F) A hearing under this section may be used to determine the reasonableness of the charge for towing and storage of the vehicle or trailer. If the vehicle or trailer is towed by city equipment and personnel, the charges shall be fixed by Council resolution. Any private company that tows and stores any vehicle or trailer pursuant to §§ 74.02 or 74.04 shall have a lien on the vehicle or trailer, in accordance with O.R.S. 87.152 (2013), for the just and reasonable charges for the tow and storage services performed. The tow company may retain possession of that vehicle or trailer until towing and storage charges have been paid.

(G) The determination of a hearings officer at a hearing under this section is final and is not subject to appeal.

(Prior Code, § 6.635)

§ 74.09 CHARGES AND RELEASE OF VEHICLE OR TRAILER.

(A) If the required towing and storage charges have been paid, the vehicle or trailer shall be immediately released to the owner(s) or person(s) entitled to lawful possession thereof upon proof a person with valid driving privileges will be operating the vehicle, proof of insurance, proof of payment of towing and storage charges, and administrative fees and outstanding parking tickets are paid to the city, if towing and storage charges and administrative fees and outstanding parking tickets have not been paid, a vehicle or trailer will not be released, except upon order of the Municipal Court.

(B) (1) A vehicle towed pursuant to §§ 74.02 and 74.04 may only be released to owner(s) or person(s) entitled to lawful possession or control of the vehicle at the time it was towed, or to a person who purchased the vehicle from the owner and who produces written proof of ownership.

(2) In all cases, adequate evidence of the right of possession of the vehicle or trailer, as determined by the Police Department, must be presented prior to issuing the release of the vehicle or trailer.

(Prior Code, § 6.640)

§ 74.10 SALE OR DISPOSAL OF VEHICLE OR TRAILER NOT RECLAIMED.

(A) If a vehicle or trailer taken into custody pursuant to §§ 74.02 or 74.04 is not reclaimed within 30 days after being taken into custody, the person or tow company who towed the vehicle or trailer shall either:

(1) Sell the vehicle or trailer and its contents at public auction in the manner provided in O.R.S. 87.192 (2013) and O.R.S. 87.196 (2013); or

(2) If the vehicle is valued at $750 or less, dispose of the vehicle or trailer and its contents to a dismantler within 15 days of the date of the notice under § 74.11.

(B) Sale or disposal of a vehicle or trailer and its contents, as provided in this section, extinguishes all prior ownership and possessor rights.

(C) The contents of any vehicle or trailer sold under this section are subject to the same conditions of sale as the vehicle or trailer in which they are found.

(Prior Code, § 6.645)

§ 74.11 SALE OR DISPOSITION OF VEHICLE OR TRAILER APPRAISED AT $750 OR LESS.

(A) If a vehicle or trailer is towed pursuant to §§ 74.02, 74.04, or 74.31 and is appraised at a value of $750 or less by a person who holds a certificate issued under O.R.S. 819.480 (2013), the person or tow company who towed the vehicle shall:

(1) Notify the registered owner and secured parties as provided in division (C) below;

(2) Photograph the vehicle or trailer;

(3) Notify the Department of Transportation that the vehicle or trailer will be disposed of; and

(4) Unless the vehicle or trailer is claimed by a person entitled to possession of it within 15 days of the date of notice under division (C) below, dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued by the Department of Transportation.

(B) The Enforcement Officer shall provide to the person or tow company who tows the vehicle or trailer, at the time of the tow (or as soon as reasonably possible thereafter), a written statement containing the name and address of the registered owner and/or name and addresses of any persons claiming interests in the vehicle or trailer as shown by records of the Department.

(C) Within 48 hours (excluding holidays, Saturdays, and Sundays) after the written statement is provided under division (B) above to the person or tow company towing a vehicle or trailer, the person must give written notice to the persons whose names are furnished in the statement stating that a person entitled to possession of the vehicle or trailer has 15 days from the mailing date of the notice to claim the vehicle or trailer, and that if the vehicle or trailer is not claimed, it will be disposed of as provided in this section.

(D) If an Enforcement Officer requesting towing of an abandoned vehicle or trailer fails to provide the person or tow company towing the vehicle or trailer with the written statement within 48 hours after the vehicle is towed, the person may dispose of the vehicle as provided in O.R.S. 819.210 (2013).

(E) Disposal of a vehicle or trailer to a dismantler as provided in this section extinguishes all prior ownership and possessor rights.

(Prior Code, § 6.650)

§ 74.12 TOWING AND STORAGE FEES.

The Council may, by resolution, rule, agreement, or contract, set uniform towing and storage charges for abandoned vehicles or trailers that have been towed.
(Prior Code, § 6.655)

DISCARDED VEHICLES

§ 74.25 DEFINITION.

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

DISCARDED VEHICLE. Includes any motor vehicle, boat, aircraft, recreational vehicle, or trailer, including major parts thereof (i.e., bodies, engines, transmissions, and the like), having one or more of the following conditions:

(1) Inoperative;
(2) Wrecked;
(3) Dismantled;
(4) Partially dismantled;
(5) Abandoned; or
(6) Junked.

(Prior Code, § 6.700)

§ 74.26 DECLARATION OF PUBLIC NUISANCE.

The storage of discarded vehicle(s) on private property is hereby deemed a public nuisance which may be abated consistent with the provisions of this subchapter.
(Prior Code, § 6.705) Penalty, see § 74.99

§ 74.27 PROHIBITED ACTION.

No person shall keep, permit, or suffer the storing of discarded vehicle(s) on private property within the city in excess of 72 hours unless the vehicle is:

(A) Completely enclosed within a building;
(B) Completely enclosed within a city permitted accessory structure pursuant to Development Code § 10.07.020; or
(C) Kept in connection with a lawfully conducted business enterprise dealing in junked vehicles.

(Prior Code, § 6.710) Penalty, see § 74.99

§ 74.28 ENTRY ON PRIVATE PROPERTY.

(A) An Enforcement Officer is authorized at all reasonable times to enter private property to:

(1) Examine a vehicle to determine whether it is discarded and in violation of § 74.27;

(2) Examine a vehicle to determine ownership; and

(3) Remove the vehicle pursuant to § 74.30.

(B) If entry onto the property by the Officer is refused or otherwise prevented, the Officer shall obtain a warrant from the Municipal Court authorizing entry onto the property.
(Prior Code, § 6.715)

§ 74.29 PRE-ABATEMENT INVESTIGATION AND NOTICE.

(A) When an Enforcement Officer has cause to believe a discarded vehicle on private property exists, the Officer shall provide written notice to both the owner of the affected property and vehicle (if different) by personal service and/or certified mail.

(B) The pre-abatement notice shall state:

(1) The vehicle(s) and property are in violation of § 74.27;

(2) The vehicle(s) must be removed from the property and either brought to a lawfully conducted business enterprise dealing in junked vehicles or kept completely enclosed within a building;

(3) The owner(s) of the property and vehicle have the ability to file a petition with the Municipal Court within ten days of the date of the notice and request a hearing to show cause why the vehicle does not qualify as a discarded vehicle; and

(4) Failure to either remove the discarded vehicle from the property or otherwise comply with the terms of § 74.27 may result in the city removing the vehicle from the property and charging the cost for said removal and disposal thereof against the property and may result also in issuance of a citation.

(C) Should the owner(s) of the property and/or vehicle wish to file a petition challenging the determination the vehicle(s) is discarded, it shall be in writing and set out the facts supporting the claim.
(Prior Code, § 6.720)

§ 74.30 HEARING BY MUNICIPAL COURT.

(A) Should a property or vehicle owner file a petition described in § 74.29(C) or pursuant to a citation issued for violation of § 74.27, the Municipal Court shall fix a time for a hearing and notify the parties as to the time and place thereof.

(B) At the hearing, and upon a finding of violation of § 74.27, the Court may:

(1) Order abatement of the vehicle(s) by the owner of the property and or vehicle(s);

(2) Authorize the city’s entry on the property and removal of the vehicle(s) or otherwise abate the nuisance;

(3) Impose civil penalties pursuant to § 74.99; and/or

(4) Take any and all such other actions as the Court deems necessary or appropriate to effect the purposes of the city's regulation of discarded vehicles.
(Prior Code, § 6.725)

§ 74.31 ABATEMENT BY THE CITY AND APPRAISAL.

(A) Upon the issuance of an order by the Municipal Court pursuant to § 74.30, the city may abate and remove the subject vehicle(s) using city employees or independent contractors.

(B) After removing the vehicle, the city shall cause it to be appraised by a person who holds a certificate issued by the Department of Transportation under O.R.S. 819.480 (2013) for the appraisal of vehicles.
(Prior Code, § 6.730)

§ 74.32 SALE OR DISPOSITION OF VEHICLE APPRAISED AT $750 OR LESS.

A vehicle(s) abated and removed by the city pursuant to § 74.31 with an appraised value of $750 or less, shall be dispose of in accordance with the provisions of § 74.11.
(Prior Code, § 6.735)

§ 74.33 PUBLIC SALE NOTICE.

(A) If the vehicle is appraised at a value over $750, the Enforcement Officer shall publish a notice of sale in a newspaper of general circulation within the city stating:

(1) The vehicle is in possession of the city;

(2) The type, make, license number, vehicle identification number (VIN), and any other information that will aid in accurately identifying the vehicle;

(3) The terms of the sale; and

(4) The date, time, and place of the sale.

(B) The notice shall be published two times with the first publication made not less than 15 days before the date of the proposed sale and with the second publication being not less than seven days prior to the proposed sale date.
(Prior Code, § 6.740)

§ 74.34 PUBLIC SALE.

(A) For vehicles appraised at a value over $750, the Enforcement Officer shall hold a sale at the time and place appointed within view of the vehicle to be sold.

(B) The vehicle shall be sold to the highest bidder; if no bids are made or are less than the city's incurred costs, the Enforcement Officer may enter a bid equal to the city's costs to purchase the vehicle for the city.

(C) At the time of payment, the Enforcement Officer shall execute a certificate of sale with the original delivered to the purchaser and a copy filed with the City Recorder.
(Prior Code, § 6.745)

§ 74.35 REDEMPTION BEFORE SALE.

(A) An impounded vehicle may be redeemed by its owner (or authorized representative thereof) by applying to the city prior to the sale and shall:

(1) Submit satisfactory evidence of ownership or interest in the vehicle to the Enforcement Officer that the claim is rightful; and

(2) Pay the city's incurred costs to date.

(B) Upon compliance with division (A) above, the Enforcement Officer shall execute a receipt and cause the vehicle to be released from impoundment.
(Prior Code, § 6.750)

§ 74.36 ASSESSMENT OF COSTS.

(A) After a vehicle is disposed of and deducting any monies received from the sale thereof, the Enforcement Officer shall send written notice to the person-in-charge of the property from which the vehicle was taken of the following:

(1) The remaining unpaid costs of abatement;

(2) A statement that if the costs are not paid in full to the city within 30 days of the mailing date of the notice, any unpaid costs will be made an assessment lien on the property; and

(3) A statement that the person-in-charge and/or owner may challenge the reasonableness or justification of the costs by filing a written petition with the Municipal Court with ten days of the mailing date of the notice, succinctly setting out the basis for the belief that the cost, is either unreasonable or otherwise unjustified.

(B) In the event the person-in-charge and/or owner files a properly and timely written petition with the Municipal Court within the time specified, the Court shall set a date and time for the hearing not less than seven days nor more than 21 days after the date shown on the notice. The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the person-in-charge, owner or city for good cause.

(C) At the hearing, the Municipal Court shall either affirm or deny and issue a written order thereon and if requested, by the person-in-charge, owner and/or city, provide a written explanation for said determination. A copy of the order and written explanation (if any) shall be provided to both petitioner(s) and the city.

(D) In the event the person-in-charge and/or owner fails to timely challenge the notice and 30 days has lapsed, any unpaid costs and charges shall be filed in the city's lien docket as an assessment lien and thereafter enforced and collected, bearing interest at the legal rate from the day of entry on the docket until fully paid.

(E) An error in the name of the person-in-charge of the property shall not affect the assessment, nor will a failure to receive notice of the proposed assessment.
(Prior Code, § 6.755)

§ 74.37 TOWING AND STORAGE FEES.

The Council may, by resolution, rule, agreement, or contract, set uniform towing and storage charges for discarded vehicles that have been towed.
(Prior Code, § 6.760)

§ 74.99 PENALTY.

(A) The violation of § 74.02 is a Class B traffic violation.
(Prior Code, § 6.605)

(B) (1) In addition to abatement, the owner of the vehicle(s) and/or the owner(s) of the property, as per §§ 74.25 through 74.37, shall be subject to a civil penalty in an amount of not less than $100 per day and not more than $250 per day for each day of the violation(s) for each vehicle, with each day being treated as separate violations.

(2) The Enforcement Officer is authorized to issue citation(s) to the owner(s) of the vehicle and/or property and have the matter heard by the Municipal Court.
(Prior Code, § 6.765)

TITLE IX: GENERAL REGULATIONS

Chapter

CHAPTER 90: STREETS AND SIDEWALKS

Section

GENERAL PROVISIONS

§ 90.01 PERMITTED USES OF THE PUBLIC WAY.

The purpose of this subchapter is to reduce congestion and unsightly clutter, to keep public rights-of-way clear for safe and convenient travel by pedestrians, and to protect the city from claims of liability based upon the placement of obstructions within the public way. Notwithstanding the applicable provisions of this subchapter pertaining to signs not adjacent to a premises, obstructions permitted by a city, county, regional, state, or federal agency are exempt from the provisions of this subchapter.
(Prior Code, § 3.900)

§ 90.02 DEFINITIONS.

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

BENCH. A privately-owned bench placed on a sidewalk, including any structure on which patrons of businesses and members of the public can sit.

LONG-TERM. A period in excess of 45 consecutive days.

MOVEABLE. Not affixed to the pavement.

OBSTRUCTION. Vending machine, table, bench, or other seating object; bike rack, flower box, trash receptacle, display of stock in trade, sign, or any other object placed by a person in the public way.

PERSON. A natural person, corporation, partnership, or other entity regardless of form.

PUBLIC WAY. Includes any public street, road, sidewalk, or public easement.

SALE. The exchange of any object of merchandise or food for any form of consideration, whether at retail or wholesale, regardless of whether a profit is made.

SIDEWALK. Any public improved path for pedestrians within a public way.

STRUCTURE. Anything constructed or erected adjacent to, on, or above a public way.

TEMPORARY. A period of less than 45 consecutive days.

TOURIST-ORIENTED BUSINESS. A facility that offer a cultural, historical, recreational, educational, entertaining or food service activity, or a unique and unusual commercial activity whose major income or visitors is derived from motorists not residing in the immediate area of the business. Bed and breakfast establishments conforming to the requirements of §§ 10.7.025 through 10.7.035 of the Development Code shall be included as ***TOURIST-ORIENTED***.

VENDING MACHINE. Any self-service box, container, storage unit, or other dispenser used for the display and/or sale of any item, such as, but not limited to, beverages, newspapers, periodicals, magazines, books, pictures, photographs, advertising circulars, and records.
(Prior Code, § 3.905) (Ord. 2011-08, passed 7-11-2011)

§ 90.03 OBSTRUCTIONS TO PUBLIC PASSAGE.

(A) No person shall place an obstruction within the public way unless otherwise permitted under this or any other city ordinance.

(B) All obstructions shall comply with the following restrictions and conditions.

(1) No obstruction shall be placed:

(a) Within three feet of any marked pedestrian crosswalk as measured from the point of intersection between a crosswalk and the sidewalk curbing closest to the intended location of said object;

(b) Within five feet of any intersecting driveway, alley, or street;

(c) In a manner reducing the clear, continuous sidewalk width to less than five feet;

(d) In a manner interfering with ingress or egress from private property or public facilities; or

(e) Such that the placement causes a hazard for pedestrian or vehicular traffic or obstructs the view of such traffic from the public way.

(2) No object or obstruction shall be attached in any way to a fire hydrant or other emergency equipment, traffic signal controller, traffic sign, light pole, utility pole, or street tree.

(3) Temporary obstructions shall be removed by the expiration date on the permit.

(4) Other than signs, no commercial advertising shall be permitted on long-term obstructions.

(5) All objects shall be maintained by the owner of the object at all times in a clean, neat, and attractive condition and in good repair. The area around said object shall be kept free of debris and litter at all times.

(6) No sign, awning, or architectural features shall be located less than eight feet in height as measured from the sidewalk surface.

(7) A tourist-oriented business may have an offsite portable sign as provided by division (B)(8)(a) below or a city sign as provided by division (B)(10) below.

(8) Temporary and portable signs within the public right-of-way shall be subject to the following provisions.

(a) Each commercially or industrially-zoned property shall be permitted one portable sign, either on the premises or in the right-of-way located directly adjacent to the property to which the sign pertains. An additional portable sign may be placed within the right-of-way in front of any other property, provided that the owner of the property where the sign is placed gives written permission for the placement of the sign. In no case shall there be more than one portable sign placed in the right-of-way in front of any property. Signs shall be professionally prepared, shall not be larger than six square feet, shall contain no moving parts, and shall not be lighted. Signs shall be removed at the close of business each day. Obstructions other than signs can be placed anywhere in the public way subject to the provisions of this code. Portable signs are typically signs known as sandwich board signs.

(b) During the time of a garage sale, one temporary sign shall be permitted per frontage in the right-of-way located directly adjacent to the property to which the sign pertains and up to two temporary signs may be placed anywhere within the public right-of-way consistent with the requirements of this subchapter. Said signs shall not exceed four square feet in area, which are allowed from 6:00 a.m. on Friday to Sunday at 6:00 p.m. and must

be removed promptly thereafter. Such signs are typically used for garage sales. No permit shall be required for such signs.

(c) Up to two temporary signs during the time of sale, lease, or rental of a lot or structure. The signs can be located anywhere in a residential, commercial, or industrial zone district within the public right-of-way with each sign not exceeding six square feet in size and 30 inches in height. Said signs are allowed from 6:00 a.m. on Friday to Sunday at 6:00 p.m. and must be removed promptly thereafter. No permit shall be required for such signs.

(9) Obstructions other than vending machines shall be located directly adjacent to the property to which the obstruction pertains.

(10) Signs allowed for tourist-oriented businesses on streets under city jurisdiction shall be subject to the following:

(a) Not more than one sign is allowed per business;

(b) Only one sign shall be allowed on a street sign pole and more than one sign can be allowed on other poles; and

(c) Said signs shall be approved, located, and erected by the Public Works Director.

(C) In addition to the provisions of divisions (A) and (B) above, non-movable obstructions shall:

(1) Be located at least ten feet as measured along the curb from any fire hydrant or other emergency equipment facility;

(2) Be located at least three feet from any traffic signal controller, traffic sign, light pole, or utility pole; and

(3) Shall not be located over a utility vault, meter cover, manhole, or access cover.

(Prior Code, § 3.910) (Ord. 2011-08, passed 7-11-2011) Penalty, see § 90.99

§ 90.04 LOCATION PERMIT.

The Public Works Director is hereby authorized to review application(s) and issue/deny permit(s) for placement of obstruction(s) in the public way upon a clear showing by an applicant of conformity with the provisions of § 90.03. Permits for permanent obstructions shall be valid for one year from the date of approval. Permits for temporary obstructions shall be valid for no more than 45 days from the date of approval. No more than two temporary permits shall be issued per property per calendar year.

(Prior Code, § 3.915)

§ 90.05 OBJECTS TO BE REMOVED UPON NOTICE.

Any object placed within a public way shall be removable. Such object shall be removed immediately upon written notice from the Public Works Director or designee to the owner requiring the object's removal for safety reasons, for purposes of construction or maintenance activities by the city or other public agency, or because the object does not comply with the provisions set forth in § 90.03.

(Prior Code, § 3.920)

§ 90.06 ENFORCEMENT.

The Public Works Director or designee shall have the authority to order or effect the removal of any object deemed to be an obstruction under this subchapter. The Public Works Director or designee shall also have the authority to order removal of any object, if its owner fails to comply with written notice of removal provided by the city or an order to enforce the provisions of this subchapter.
(Prior Code, § 3.925)

§ 90.07 RESPONSIBILITY.

Notwithstanding the provisions of §§ 151.003 and 151.004, any person locating, placing, or installing any object within the public way shall be solely responsible for any damage or injury to persons or property caused thereby.
(Prior Code, § 3.930)

§ 90.08 PERMIT FEE AND SIGN COSTS.

(A) The fee for a public way use permit described above shall be set by City Council resolution.

(B) The annual fee for a tourist-oriented street sign described above shall be set by City Council resolution.
(Prior Code, § 3.940) (Ord. 2011-08, passed 7-11-2011)

STREET TREES

§ 90.20 ENFORCEMENT AUTHORITY.

The City Manager or designee shall be charged with the enforcement of this subchapter.
(Prior Code, § 9.400) (Ord. 2009-04, passed 3-9-2009)

§ 90.21 PERMISSION TO PLANT TREES.

No trees or shrubs shall be planted in or removed from any public parking strip or other public place in the city without prior permission from the City Manager or designee.
(Prior Code, § 9.405) (Ord. 2009-04, passed 3-9-2009) Penalty, see § 90.99

§ 90.22 STREET TREE PLAN.

All trees and shrubs planted in any public parking strip or other public place in the city shall conform as to species and location to the street tree plan and regulations which may be promulgated by resolution of the Council.
(Prior Code, § 9.410) (Ord. 2009-04, passed 3-9-2009)

§ 90.23 PROHIBITED.

(A) It shall be unlawful to plant in any public parking strip, public alley, or easement the following trees: poplar; willow; cottonwood; fruit trees; nut trees; and ailanthus. Selected conifers may be planted in a public parking strip, public alley, or easement only with the written approval of the City Manager or designee.

(B) It shall be unlawful to plant willows, cottonwoods, or poplar trees anywhere in the city unless the City Manager approves the site as one where the tree roots will not interfere with a public sewer.
(Prior Code, § 9.415) (Ord. 2009-04, passed 3-9-2009) Penalty, see § 90.99

§ 90.24 REMOVAL OF TREES.

The City Manager or designee may cause to be trimmed, pruned, or removed any trees, shrubs, plants, or vegetation in any parking strip or other public place or may require any property owner to trim, prune, or remove any trees, shrubs, or vegetation in a parking strip abutting the owner's property. Failure to comply with the request after 30 days' notice by the City Manager shall be deemed a violation.
(Prior Code, § 9.420) (Ord. 2009-04, passed 3-9-2009) Penalty, see § 90.99

§ 90.25 DANGEROUS TREES A NUISANCE; SUMMARY POWERS TO REMOVE DANGEROUS TREES.

(A) Any tree or shrub growing in a parking strip, any public place, or in private property, which is endangering or may endanger the security or usefulness of any public street, sewer, utility service, or sidewalk is hereby declared to be a public nuisance. The city may remove or trim such tree, or may require the property owner to remove or trim the tree or shrub on private property, or in a parking strip abutting the owner's property.

(B) It shall be the duty of every property owner to cut off and remove all branches and limbs of trees which extend over or upon any street or sidewalk adjacent to the owner's property for a distance of at least eight feet above the street or sidewalk.

(C) Failure of the property owner to remove or trim any tree or shrub which constitutes a nuisance or exceeds the limitations specified in this code, after 30 days' notice by the Manager, shall be deemed a violation. The city may then remove or trim the tree or shrub and assess the costs against the property.
(Prior Code, § 9.425) (Ord. 2003-07, passed 4-28-2003; Ord. 2009-04, passed 3-9-2009) Penalty, see § 90.99

§ 90.26 APPEALS.

Appeals from orders made under this code may be made by filing written notice of appeal with the City Manager within ten days after the order is received. The City Manager shall notify the Council of the appeal at the next regular Council meeting, at which meeting the appellant and the City Manager may present evidence. Action taken by the Council after the hearing shall be conclusive.
(Prior Code, § 9.430) (Ord. 2009-04, passed 3-9-2009)

§ 90.27 ABUSE AND MUTILATION OF TREES.

It shall be unlawful to abuse, destroy, or mutilate any tree, shrub, or plant in a public parking strip or any other public place or to attach or place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill, or other thing to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to come in contact with any tree, or to allow any gaseous, liquid, or solid substance which is harmful to a tree to come in contact with its roots or leaves.
(Prior Code, § 9.435) (Ord. 2009-04, passed 3-9-2009) Penalty, see § 90.99

§ 90.28 PERMIT REQUIRED.

A tree permit shall be obtained prior to any modification or removal of trees subject to city tree protection requirements.
(Prior Code, § 9.440) (Ord. 2003-07, passed 4-28-2003; Ord. 2009-04, passed 3-9-2009)

PARKWAY

§ 90.40 PARKWAY.

Upon all residence streets and avenues the city shall reserve street widths as allowed by the land division ordinance for ordinary travel by the public. The remainder of the street or avenue, except that used for walks, shall be used as a parkway. The parties owning the abutting property shall have the right to enter upon and cultivate the parkway by planting grass, flowers, shrubs, or trees.
(Prior Code, § 9.605) (Ord. 2009-04, passed 3-9-2009)

§ 90.41 ABUTTING OWNERS DUTY.

It shall be the duty of the abutting property owners to keep the parkway in good condition; to trim and care for any trees and shrubs; to care for the flowers or grass; and to maintain the parkway in a sightly condition.
(Prior Code, § 9.610) (Ord. 2009-04, passed 3-9-2009)

§ 90.42 FLOWERS AND FRUITS.

All flowers or fruit grown or produced on the parkway shall belong to and be at the disposal of the property owner who plants and cares for the plants.
(Prior Code, § 9.615) (Ord. 2009-04, passed 3-9-2009)

§ 90.43 PROHIBITIONS.

(A) No person shall cut, remove, or deface any tree in the parkway without first obtaining the consent of the City Manager or designee.

(B) No person shall ride, drive, or park any vehicle, trailer, camper, or motor home upon a curbed parkway.
(Prior Code, § 9.620) (Ord. 1997-14, passed 9-8-1997, Ord. 2009-04, passed 3-9-2009; Ord. 2013-13, passed 1-13-2014) Penalty, see § 90.99

§ 90.44 ENTRY.

The city may enter at any time upon the parkway and do necessary work upon water pipes, sewers, drainage, wiring, poles, and the like, and may condemn the parkway when it deems necessary to properly conduct the business of the city.
(Prior Code, § 9.625) (Ord. 2009-04, passed 3-9-2009)

§ 90.99 PENALTY.

A person responsible for a violation of any provision(s) of this chapter shall be subject to a civil penalty in the amount of not less than $100 for the first violation, $500 for the second violation, and $1,000 for each subsequent violation occurring in a two-year period starting from the issuance of the first notice of violation. The Public Works Director or designee may cite the violator into Municipal Court for said violations.
(Prior Code, § 3.935)

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

Section

Nuisances

Noise Regulations

Abatement Procedure

Chronic Nuisance Properties

NUISANCES

§ 91.001 DEFINITIONS.

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

ENFORCEMENT OFFICER. Any person charged or designated in writing by the City Manager to enforce the provisions of this subchapter.

PERSON. A natural person, firm, partnership, association, or corporation.

PERSON IN CHARGE OF PROPERTY. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or supervision of a construction project.

PERSON RESPONSIBLE. The person responsible for abating a nuisance includes:

(1) The owner;

(2) The person in charge of property, as defined in this section; and

(3) The person who caused a nuisance, as defined in this code, to come into or continue in existence.

PUBLIC PLACE. A building, way, place, or accommodation, publicly or privately owned, open and available to the general public.

SAME TYPE OF VIOLATION. One or more offenses in violation of the same section of the subchapter.

SUBSTANCE. Any material without consideration of value.

(Prior Code, § 5.205) (Ord. 2005-20, passed 11-28-2005; Ord. 2016-13, passed 7-11-2016)

§ 91.002 NUISANCES AFFECTING PUBLIC HEALTH.

(A) No person shall cause or permit a nuisance affecting public health on property owned or controlled by the person.

(B) The following are nuisances affecting public health and may be abated as provided in §§ 91.050 through 91.054:

(1) Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations;

(2) Accumulations of debris, rubbish, manure, and other refuse that are not removed within a reasonable time and that affect the health of the city;

(3) Stagnant water that affords a breeding place for mosquitoes and other insect pests;

(4) Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial wastes, or other substances placed in or near the water in a manner that will cause harmful material to pollute the water;

(5) Decayed or unwholesome food offered for human consumption;

(6) Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition;

(7) Drainage of liquid wastes from private premises;

(8) Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor; and

(9) Mastics, oil, grease, or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system.

(Prior Code, § 5.210) Penalty, see § 91.999

§ 91.003 CREATING A HAZARD.

No person shall create a hazard by:

(A) Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside; or

(B) Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of 12 inches or more, and failing to cover or fence it with a suitable protective construction.

(Prior Code, § 5.215) Penalty, see § 91.999

§ 91.004 ATTRACTIVE NUISANCES.

(A) No owner or person in charge of property shall permit on the property:

(1) Unguarded machinery, equipment, or other devices that are attractive, dangerous, and accessible to children; or

(2) Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children.

(B) This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

(Prior Code, § 5.220) Penalty, see § 91.999

§ 91.005 SIDEWALK NUISANCES.

(A) No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

(1) Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen; or

(2) Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes, or other suitable material to assure safe travel.

(B) No owner of property, improved or unimproved, abutting on a public sidewalk shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping,

weeds, settling, covering by dirt, or other similar occurrences, the sidewalk becomes a hazard to persons using it.

(C) The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by a failure of the abutting owner to maintain the sidewalk. The abutting owner shall maintain sidewalks free from the conditions described in this section and is liable for any and all injuries to persons or property arising as a result of failure to so maintain the sidewalks.

(Prior Code, § 5.225) Penalty, see § 91.999

§ 91.006 NOXIOUS VEGETATION.

(A) No owner or person in charge of real property shall allow noxious vegetation on the property. Noxious vegetation is declared a nuisance.

(B) The owner or person in charge of real property shall abate noxious vegetation from the property. The owner and the person in charge shall be jointly and severally liable for the cost of abatement.

(C) For purposes of this section, ***NOXIOUS VEGETATION*** means:

(1) Vegetation that is, or is likely to become:

(a) A health hazard;

(b) A fire hazard; or

(c) A traffic hazard, because it impairs the view of the public thoroughfare, or otherwise makes use of the thoroughfare hazardous.

(2) Poison oak (Toxicodendron diversiloba);

(3) Poison ivy (Toxicodendron radicans);

(4) Blackberry bushes that extend into a public way, a pathway frequented by children, cross a property line, or that are used for a habitation by trespassers;

(5) Grass or weeds more than 12 inches high;

(6) Scotch broom (Cytisus scoparius), English ivy (Hedera helix), hogwood (Heracleum mantegazzianum), knotweed (Polygonum cuspidatum), and purple loosestrife (Lythrum salicaria); or

(7) All other vegetation included in the State Department of Agriculture "Oregon Department of Agriculture Noxious Weed Control Policy and Classification System".

(D) No owner or person in charge of property shall allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property. An owner or person in charge of property shall cut down or destroy noxious vegetation as often as needed to prevent it from becoming a health or fire hazard or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

(E) The city may publish, in a newspaper of general circulation in the city, a copy of division (D) above as a notice to all owners and persons in charge of property of the duty to keep his or her property free from noxious vegetation.

(F) The notice provided for in division (E) above may be used in lieu of the notice required by § 10.09.

(Prior Code, § 5.230) (Ord. 2005-20, passed 11-28-2005) Penalty, see § 91.999

§ 91.007 SCATTERING RUBBISH.

No person shall deposit, on public or private property, rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal, or vehicle traveling on a public way.
(Prior Code, § 5.235) Penalty, see § 91.999

§ 91.008 SHOPPING CARTS.

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

ABANDONED CART. Any cart that has been removed from the cart owner's premises without written consent of the owner and is located on either public or private property.

CART or ***SHOPPING CART.*** A basket that is mounted on wheels or a similar device that is provided by an owner to a customer for the purpose of transporting goods of any kind, including a basket used in a laundromat or similar business.

ENFORCEMENT OFFICER. Any officer or person designated with the authority to enforce the provisions of this chapter.

OWNER. Any person or entity that, in connection with the conduct of a business, provides carts available to the public for use at their business.

PREMISES. The entire area owned, occupied, or utilized by an owner, including any parking lot, loading area, and adjacent public rights-of-way, or any other property provided by or on behalf of an owner for customer parking or use.

(B) *Cart removal warnings, cart identification, and reporting abandoned carts*. A person that supplies shopping carts for public use at the person's business shall:

(1) Post signs in sufficient number to give notice to members of the public entering onto or leaving the business premises that unauthorized appropriation of a shopping cart is a crime under O.R.S. 164.015, and provide a toll-free or local telephone number that members of the public may use to report abandoned shopping carts;

(2) Identify the person's business on each shopping cart and post a sign on the shopping cart that:

(a) Notifies any member of the public using the shopping cart that unauthorized appropriation of a shopping cart is a crime under O.R.S. 164.015; and

(b) Provides a toll-free or local telephone number for use in reporting an abandoned shopping cart.

(3) Establish, maintain, and make available to the public, at the person's own expense, a toll-free or local telephone line for the purpose of reporting abandoned shopping carts. If the person who provides the carts has a contractor who receives the calls concerning abandoned shopping carts, that contractor shall forward each report the contractor receives concerning an abandoned shopping cart to the owner of the shopping cart and to the city's Code Enforcement Office within one business day after the contractor receives the report.

(C) *Retrieval of abandoned shopping carts*.

(1) Owner may agree with other persons to share and to pay expenses related to the toll-free or local telephone line described above. The agreement shall provide that any

person designated to operate the toll-free or local telephone line and receive reports concerning abandoned shopping carts must forward the reports in accordance with division (B)(3) above.

(2) Owner shall retrieve a shopping cart within 72 hours after receiving notification that the shopping cart has been abandoned.

(3) If the city identifies, salvages, or reclaims an abandoned shopping cart, it shall use the toll-free or local telephone line described in division (B)(2)(b) above to report the existence and location of an abandoned shopping cart to the owner of the shopping cart, if the owner is identifiable.

(D) *Custody, enforcement, and disposal of abandoned shopping carts*.

(1) The city may take custody of an abandoned shopping cart and impose a penalty of $50 on the owner of the shopping cart if the owner does not retrieve the shopping cart within 72 hours after the city makes a report under division (D)(3) below or after the owner receives a report under division (B)(3) above.

(2) The city may release a shopping cart held in the city's custody to the owner upon payment of the $50 penalty.

(3) The city may take title to a shopping cart in the city's custody and dispose of the shopping cart as the city deems appropriate, if the owner does not claim the shopping cart within 30 days.

(4) The Enforcement Officer may issue citations for the commission of a violation of this section. A violation proceeding under this section shall be processed in accordance with O.R.S. Chapter 153.

(E) *Rulemaking authority*. The City Manager or designee is authorized to promulgate any rules necessary for the implementation of this section.

(Prior Code, § 5.236) Penalty, see § 91.999

§ 91.009 FENCES.

(A) No owner or person in charge of property shall construct or maintain a barbed-wire fence or permit barbed wire to remain as part of a fence along a sidewalk or public way, except such wire may be placed above the top of other fencing not less than six feet, six inches high when such fencing is permitted.

(B) No owner or person in charge of property shall construct, maintain, or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person without written permission of the manager.

(C) A permit shall be granted only where the construction of the fence will not endanger the general public.

(D) Agricultural lands annexed to the city may retain electric fencing while used for agricultural purposes.

(Prior Code, § 5.240) Penalty, see § 91.999

§ 91.010 SURFACE WATERS, DRAINAGE.

(A) No owner or person in charge of a building or structure shall permit rainwater, ice, or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

(B) The owner or person in charge of property shall install, and maintain in a proper state of repair, adequate drainpipes or a drainage system so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk.

(Prior Code, § 5.245) Penalty, see § 91.999

§ 91.011 RADIO AND TELEVISION INTERFERENCE.

(A) No person shall operate or use an electrical, mechanical, or other device, apparatus, instrument, or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(B) This section does not apply to devices licensed, approved, and operated under the rules and regulations of the Federal Communications Commission.

(Prior Code, § 5.260) (Ord. 2010-08, passed 2-28-2011) Penalty, see § 91.999

§ 91.012 JUNK.

(A) No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.

(B) The term ***JUNK***, as used in this section, includes, without consideration of cost or value, waste or material that in the opinion of the Enforcement Officer is discarded or unused and includes, but not limited to, motor vehicles, motor vehicle parts, abandoned automobiles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, or wood.

(C) This section does not apply to junk kept in a licensed junkyard or automobile wrecking house.

(Prior Code, § 5.261) (Ord. 2010-08, passed 2-28-2011) Penalty, see § 91.999

§ 91.013 NOTICES AND ADVERTISEMENT.

No person shall enter onto any residential or commercial property for the purpose of solicitation or conduct solicitation when entrance to the property has been clearly posted by a sign or placard stating “No Solicitors” or “No Solicitation” unless such person has been expressly invited to do so by the owner.

(Prior Code, § 5.262) (Ord. 2010-08, passed 2-28-2011) Penalty, see § 91.999

§ 91.014 UNENUMERATED NUISANCES.

(A) The acts, conditions, or objects specifically enumerated and defined in §§ 132.06, 91.002 through 91.013 are declared public nuisances and may be abated by the procedures set forth in §§ 91.050 through 91.054.

(B) In addition to the nuisances specifically enumerated in this code, every other thing, substance, or act that is determined by the Council to be injurious or detrimental to the public health, safety, or welfare of the city is declared a nuisance and may be abated as provided in §§ 91.050 through 91.054.

(Prior Code, § 5.265) (Ord. 2005-20, passed 11-28-2005; Ord. 2016-13, passed 7-11-2016)

§ 91.015 OPEN BURNING.

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

AGRICULTURAL BURNING. Outdoor Burning done to remove debris from a farm, nursery, orchard, or livestock/poultry operation that is for profit.

BACKYARD BURNING. Open burning for the removal of yard debris from the property where the fire is occurring.

LAND CLEARING. The clearing of land for development or change in use, and includes the removal of large portions of stumps, brush, and tree debris.

OPEN BURNING. The same as defined by O.A.R. 340-264-0030(29) (2014).

RECREATIONAL/CEREMONIAL/COOKING FIRES. Fires used primarily for recreational events, campfires used for warming or cooking, or ceremonial purposes by a school, club, religious group, or other approved events.

(B) *Prohibited*. It is unlawful for any person to cause, permit, suffer, or allow open burning within the city limits except as specifically allowed herein:

(1) During any open burning season as established by the state's Department of Environmental Quality (DEQ) and as may be adjusted locally. Burn seasons occur once a year between March 1 and June 15, but may be adjusted daily;

(2) Recreational, ceremonial, or cooking fires as defined in division (A) above; and

(3) Permitted burns for Fire Department training, agricultural, or land clearing operations, as approved by the Fire Department or other governmental agency.

(C) *Burn bans*. Notwithstanding the exceptions set out in division (B) above, open burning in the city may be further restricted by the county's or the state's Fire Marshal during periods of high fire danger or by the Fire Chief or designee for fire or health safety.

(D) *Location*.

(1) Open burning shall be conducted at least 25 feet from property lines, structures, and combustible vegetation.

(2) An adequate fire break area shall be maintained around the open burning area the width of which shall be at a minimum equal to the height of the open burning pile.

(3) All open burning is to be attended at all times by a competent and responsible person who shall be equipped with adequate fire protection tools and equipment at the ready, including at least a garden hose and shovel.

(4) At the conclusion of the allowed open burning time, the burned area shall be thoroughly soaked with water to ensure the fire is out.

(E) *Reimbursement for fire fighting costs*. The city's Fire Department may seek recovery of any and all costs incurred by it for responding to any improper open burning.
(Prior Code, § 5.655) (Ord. 2014-06, passed 8-11-2014) Penalty, see § 91.999

NOISE REGULATIONS

§ 91.030 PURPOSE AND INTENT.

The purpose of this subchapter is to regulate loud, unnecessary, unnatural, or unusual noise within the city limits and to provide a procedure for the prevention and prohibition of loud, unnecessary, unnatural, or unusual noises affecting public peace in order to promote a livable community and to protect the public health and welfare.
(Prior Code, § 5.250) (Ord. 2010-08, passed 2-28-2011)

§ 91.031 DEFINITIONS.

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

AMPLIFYING EQUIPMENT. Public address systems, musical instruments, and other similar devices that are electronically amplified.

CONSTRUCTION. Any activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair, or equipping of buildings, roadways, and utilities, including land clearing, grading, excavating, and filling before, during, or following such activity.

DAY TIME PERIOD. Seven a.m. until 10:00 p.m. of the same day, local time.

DOMESTIC POWER TOOLS. Any mechanically or electrically powered saw, drill, sander, grinder, lawn or garden tool, or similar device generally used out of doors in residential areas.

EMERGENCY WORK. Work made necessary to restore property to a safe condition following severe inclement weather and natural disasters, work required to restore public utilities, or work required to protect persons or property from imminent exposure to danger.

NIGHT TIME PERIOD. Ten p.m. of one day until 7:00 a.m. the following day, local time.

NOISE SENSITIVE AREA or ***NOISE SENSITIVE USE.*** For the purpose of this definition, real property zoned residential or institutional in accordance with the terms and maps of the city's Development Code.

PERSONS. A person, persons, firm, association, copartnership, joint venture, corporation, or any entity public or private in nature.

PLAINLY AUDIBLE. Unambiguously communicated sounds that disturb the comfort, repose, or health of the listener. ***PLAINLY AUDIBLE*** sounds include, but are not limited to, understandable musical rhymes, understandable spoken words, and vocal sounds other than speech that are distinguishable as raised or normal.

SOUND LEVEL. The "A" weighed sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of 20 micropascals. The unit of measurement shall be designated as dBA.

WARNING DEVICES. Electronic devices used to protect persons or property from imminent danger including, but not limited to, fire alarms, civil defense warning systems, and safety alarms required by law.

(Prior Code, § 5.251) (Ord. 2010-08, passed 2-28-2011)

§ 91.032 STANDARDS AND DEFINITIONS.

(A) *Terminology and standards*. All terminology used in this subchapter that is not defined in § 91.031 shall be in accordance with the Department of Environmental Quality (DEQ) Noise Control Regulations and Noise Emission Standards outlined by O.R.S. 467.030 and O.A.R. Code 340 Division 35.

(B) *Measurement of sound level*. While sound measurements are not required for the enforcement of this subchapter, should measurements be made, they shall be made as follows:

(1) With a calibrated sound level meter in good operating condition;

(2) A person conducting sound level measurements shall have received training in the techniques of sound measurement and the operation of sound measuring instruments prior to engaging in any enforcement activity; and

(3) Procedures and tests required by this code and not specified herein shall be placed on file with the City Recorder.

(Prior Code, § 5.252) (Ord. 2010-08, passed 2-28-2011)

§ 91.033 PROHIBITED ACTS.

(A) A person shall not knowingly continue, cause, or permit to be made or continued any excessive or unnecessary sounds that are listed in this section or § 91.034.

(B) The following acts are declared to create excessive and unnecessary sounds in violation of this code without regard to the maximum sound levels of § 91.034. This enumeration does not constitute an exclusive list.

(1) *Animals*. Owning, possessing, or harboring any bird or other animal that barks, bays, cries, howls, or makes any long, unnecessary, and continuous noise, other than for reasons of being provoked by a person trespassing or threatening to trespass.

(2) *Compressed air devices*. The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise created is effectively muffled.

(3) *Compression braking devices*. Using compression brakes, commonly referred to as "jake brakes", on any motor vehicle except to avoid imminent danger or persons or property, in compliance with O.R.S. 811.492, incorporated herein by reference.

(4) *Exhausts*. Discharging into the open air the exhaust of any steam engine, internal combustion engine, or any mechanical device operated by compressed air or steam without a muffler, or with a sound control device less effective than that provided on the original engine or mechanical device.

(5) *Horns and alarms*. Sounding a horn or signaling device on a vehicle on a street or public or private place, except as a necessary warning of danger.

(6) *Sound-producing devices or instrument*. Sound caused by playing, using, or operating any radio, television, boom box, stereo, or any sound-producing device or instrument, including, but not limited to, musical instruments/loudspeakers, stereos installed in or on a vehicle, in such a manner:

(a) That exceed(s) the maximum permissible sound levels set forth in § 91.034; or

(b) That is plainly audible from a distance of 100 feet from the source of the sound if within a park, street, or other public area.

(7) *Tampering*. The removal or rendering inoperative of any noise control device for purposes other than maintenance, repair, or replacement.

(8) *Revving engines*. Operating a motor vehicle engine above idling speed off the public right-of-way so as to create excessive or unnecessary sounds that exceed(s) the maximum permissible sound levels set forth in § 91.034.

(Prior Code, § 5.253) (Ord. 2010-08, passed 2-28-2011) Penalty, see § 91.999

§ 91.034 MAXIMUM PERMISSIBLE SOUND LEVELS.

(A) A person shall not cause or permit sound(s) to intrude onto the property of another person which exceed(s) the maximum permissible sound levels set forth below in Table I below. The sound limitations established herein, as measured at or within the property boundary of the receiving land use, are set forth in Table I and apply after any applicable adjustment, also provided for herein, are applied. When the sound limitations are exceeded, it shall constitute excessive and unnecessary sound and shall be a violation in its own right, as well as being prima facie evidence of noise.

(B) This section is violated if any of the following occur:

(1) Any continuous sound that exceeds Table I for a cumulative total of greater than five minutes in any ten-minute period;

(2) Any sound that exceeds Table I by five dBA for a cumulative total of greater than one minute, but less than five minutes in any ten-minute period; or

(3) Any sound that exceeds Table I by ten dBA at any point in time.

TABLE I: Table of Maximum Allowable Sound Levels (in dBA) in any Ten-Minute Period

	Type of Received by Use					
	Noise Sensitive		***Commercial***		***Industrial***	
Type of Source by Use	Day 7:00 a.m. to 10:00 p.m.	Night 10:00 p.m. to 7:00 a.m.	Day 7:00 a.m. to 10:00 p.m.	Night 10:00 p.m. to 7:00 a.m.	Day 7:00 a.m. to 10:00 p.m.	Night 10:00 p.m. to 7:00 a.m.
Commercial	80	70	80	70	80	70

TABLE I: Table of Maximum Allowable Sound Levels (in dBA) in any Ten-Minute Period						
	Type of Received by Use					
	Noise Sensitive		***Commercial***		***Industrial***	
Industrial	80	70	80	70	80	70
Noise Sensitive	60	50	80	70	80	70

(C) Industrial uses that were non-conforming prior to a December 2, 1982, and are now considered permitted uses under § 10.7.125E of the Development Code shall be subject to the noise standards for industrial uses in Table I above.
(Prior Code, § 5.254) (Ord. 2010-08, passed 2-28-2011)

§ 91.035 EXEMPTIONS.

The following sounds are exempted from provisions of this subchapter.

Construction activities		
Sound created by construction activities, provided equipment is maintained in good repair and equipped with sound dissipating devices in good working order.	Monday - Friday 7:00 a.m. to 10:00 p.m.	Saturday 8:00 a.m. to 7:00 p.m.
Domestic power tools and chainsaws		
Sounds created by domestic power tools, provided sound dissipation devices on tools are maintained in good repair. Sounds caused by chainsaws, when used for pruning, trimming, cutting of live trees.	Monday - Friday 7:00 a.m. to 10:00 p.m.	Saturday - Sunday 8:00 a.m. to 7:00 p.m.
Explosives		
The discharge of legal explosive devices or legal fireworks on the third of July, Fourth of July, and the Friday and Saturday during the weekend closest to the Fourth of July of each year.	Monday - Friday 7:00 a.m. to 11:00 p.m.	
The discharge of legal explosive devices or legal fireworks on January 1 of each year.	Monday - Friday 11:00 p.m. to 12:30 a.m.	
Refuse pickup		
Sounds created by refuse pickup operations in a noise sensitive area.	Monday - Friday 5:00 a.m. to	

	7:00 p.m.	
Amplifiers and loudspeakers. Sounds produced by amplifying equipment and loudspeakers at organized athletic or city-permitted activities or events.		
Emergency work or equipment. Sounds caused by the performance of emergency work, vehicles, and/or equipment.		
Events. Non-amplified sounds produced by organized athletic or city-permitted activities or events at places such as stadiums, parks, public plazas, schools, athletic fields, and other public areas.		
Warning devices. Sounds made by warning devices operating continuously for three minutes or less.		

(Prior Code, § 5.255) (Ord. 2010-08, passed 2-28-2011)

§ 91.036 NOISE VARIANCE PERMIT AND APPLICATION.

(A) *Permit*. An application for a noise variance permit for relief on the basis of undue hardship from a noise level or time limits designated in this subchapter may be submitted in writing to the City Manager or designee. The fee for such permit shall be set by Council resolution.

(B) *Conditions for granting*. A noise variance permit granted by the City Manager shall contain all conditions upon which the permit has been granted and shall specify a reasonable time the permit shall be effective. The City Manager or designee shall grant the relief based on the following conditions:

(1) That strict compliance with such rule, regulations, or order is inappropriate because of conditions beyond the control of the persons requesting the variance;

(2) Because of special circumstances which would render strict compliance unreasonable or impractical due to special physical conditions or causes; and

(3) Because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or no other alternative facility or method of compliance is yet available.

(C) *Conditions*. A noise variance permit may include conditions the City Manager or designee deems necessary to protect the public health and welfare.

(D) *Revocation or modification*. In the case of failure to comply and/or an emergency or safety hazard, the City Manager or designee may revoke or modify a noise variance permit by setting forth the reason for revocation and/or the nature of the emergency or hazard in a certified letter mailed to the holder of the variance permit. This letter shall provide the reason why the variance is revoked or modified and advise the permit holder of his or her right to an appeal pursuant to § 10.18.

(Prior Code, § 5.256) (Ord. 2010-08, passed 2-28-2011)

§ 91.037 SUBCHAPTER ADDITIONAL TO OTHER LAW.

The provisions of this subchapter are cumulative and nonexclusive and do not affect any other claim, cause of action, or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend, or modify any law, ordinance, or regulation relating to noise or sound. The

provisions of this subchapter are deemed additional to existing legislation and common law on such subject.
(Prior Code, § 5.257) (Ord. 2010-08, passed 2-28-2011)

§ 91.038 RESPONSIBILITY, AUTHORITY, AND ENFORCEMENT.

The City Manager or designee is responsible for the administration and enforcement of this subchapter under the provisions of § 33.18.
(Prior Code, § 5.258) (Ord. 2010-08, passed 2-28-2011)

ABATEMENT PROCEDURE

§ 91.050 ABATEMENT NOTICE.

(A) Except in the case where summary abatement is authorized pursuant to § 91.053, or when a different abatement procedure is specified elsewhere in this code, public nuisances identified in this subchapter shall be abated under the general abatement procedures outlined in this subchapter.

(B) Upon determination by the Enforcement Officer that a nuisance exists, the Officer shall post a notice consistent with division (D) below at the nuisance site, directing the person-in-charge and/or owner to abate the nuisance within ten days of the notice.

(C) At the time of posting, the Enforcement Officer shall send a copy of the notice by certified mail to the person-in-charge and/or owner, if different, at the address shown on the county tax records. In addition, the Officer shall prepare a declaration for the file setting out the date, time, and place of the posting as well as the date and time of the mailing of the notice by certified mail.

(D) The notice shall contain:

(1) The street address or legal description sufficient to identify the property or otherwise where the nuisance exists;

(2) A brief description of the nuisance and specific code provision being violated;

(3) A demand that the person-in-charge and/or owner comply with the terms of the code and abate the nuisance within ten days of the date of the notice;

(4) A statement that unless the nuisance is removed, the city may abate the nuisance and the cost of abatement therefor, including administrative costs, and any civil penalties imposed shall be made an assessment lien on the property; and

(5) A statement that the person-in-charge and/or owner may challenge the abatement notice by filing a written petition with the Municipal Court within ten days of the notice and request a hearing to show cause why the nuisance should not be abated.

(E) An error in the contents of the notice shall not void the notice or the ability to proceed toward abatement.

(F) The person-in-charge and/or owner may challenge the abatement notice by filing a written petition with the Municipal Court within ten days of the date of the notice briefly setting out the basis for the challenge.

(G) In the event the person-in-charge and/or owner files a properly and timely written petition with the Municipal Court within the time specified in division (F) above, the Court shall conduct a hearing pursuant to § 91.052.

(Prior Code, § 5.270) (Ord. 2016-13, passed 7-11-2016)

§ 91.051 ABATEMENT BY THE CITY.

(A) In the event the person-in-charge and/or owner fails to abate the nuisance or challenge the abatement notice with the Municipal Court within the time specified in § 91.050(F), the Enforcement Officer may commence an action to abate the nuisance by filing a complaint or citation with the Municipal Court.

(B) The complaint or citation shall include:

(1) The street address or legal description sufficient to identify the property or otherwise where the nuisance exists;

(2) A brief description of the nuisance and specific code provision being violated;

(3) A copy of both the notice to abate and declaration described in § 91.050(C); and

(4) A description of the relief being sought (i.e., order to abate, imposition of civil penalty, and the like).

(C) The Enforcement Officer shall cause a true copy of the citation or complaint be served on the person-in-charge and/or owner, if different, either by personal service or certified mail, mailed to the address shown on the county tax records or such other address which the Enforcement Officer reasonably believes under the circumstances will apprise the person-in-charge and/or owner of the existence and pendency of the city's action. In addition, the Enforcement Officer shall prepare a declaration for the file as to the method and timing of the service of the citation or complaint and file said declaration with the Municipal Court and a copy kept with the file.

(D) The Municipal Court shall set a date and time for the hearing on the citation or complaint not less than seven days nor more than 21 days after the date shown on the declaration described in § 91.051(C). The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the person-in-charge, owner, or city for good cause.

(E) At the hearing, the city will have the burden to show:

(1) The real property where the nuisance exists is within the city;

(2) The nature of the nuisance and its extent;

(3) That if the city is seeking an order to abate, that the nuisance is likely to be present at the time of the requested abatement; and

(4) If the city is seeking a civil penalty, the amount thereof is reasonable and justified by the circumstances.

(F) Upon its determination that the city has carried its burden, the Municipal Court is authorized to issue a written order:

(1) Authorizing the city to enter the property where the nuisance is located and abate said nuisance;

(2) Imposing a civil penalty on the person-in-charge or owner for the nuisance; and

(3) Such other relief that the Court reasonably believes is appropriate given the nature of the nuisance and its effects on the adjoining properties and the city.

(G) A copy of the order shall be mailed to the person-in-charge and/or owner, if different, by the Municipal Court to the address where the citation or complaint was served.

(H) Once the city obtains a Municipal Court order to abate the nuisance and/or take other actions to address the nuisance and proceeds to act thereon, the Enforcement Officer shall cause an accounting to be kept of all costs, charges, fees, and penalties associated therewith.

(I) The Enforcement Officer shall send a notice and a copy of the accounting statement by certified mail to the person-in-charge and/or owner, if different, within 30 days of the calculation described in division (H) above. In addition, the Officer shall prepare a declaration for the file as to the date and time of the mailing of the notice and accounting statement by certified mail.

(J) The notice shall contain:

(1) The street address or legal description to identify the property or otherwise where the nuisance was abated;

(2) A statement that if the costs, charges, fees, and penalties associated therewith are not paid in full to the city within 30 days of the mailing date of the notice, any unpaid costs, charges, fees, and penalties will be made an assessment lien against the property; and

(3) A statement that the person-in-charge and/or owner may challenge the reasonableness or justification of any cost, charge, or fee by filing a written petition with the Municipal Court within ten days of the mailing date of the notice, succinctly setting out the basis for the belief that the cost, charge, or fee is either unreasonable or otherwise unjustified.

(K) In the event the person-in-charge and/or owner fails to timely challenge the notice and 30 days has lapsed, any unpaid costs, charges, fees, and penalties shall be filed in the city's lien docket as an assessment lien and thereafter enforced and collected, bearing interest at the legal rate from the day of entry on the docket until fully paid.

(L) The person-in-charge and/or owner may challenge the reasonableness or justification of any cost, charge, or fee imposed as a result of the abatement by filing a written petition with the Municipal Court within ten days of the mailing date of the notice described in division (J) above and request a hearing to show cause why the cost, charge, or fee is either unreasonable or otherwise unjustified.

(Prior Code, § 5.285) (Ord. 2016-13, passed 7-11-2016)

§ 91.052 HEARING TO CHALLENGE NUISANCE DECLARATION OR ABATEMENT COSTS.

(A) (1) In the event the person-in-charge and/or owner files a properly and timely written petition with the Municipal Court within the time specified in §§ 91.050(F), 91.051(L), or 91.053(C),the Court shall set a date and time for the hearing not less than seven days nor more

than 21 days after the date shown on the declarations described in §§ 91.050(C), 91.051(I), and 91.053(B).

(2) The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the person-in-charge, owner, or city for good cause.

(B) At the hearing, the Municipal Court shall either affirm or deny and issue a written order thereon and, if requested by the person-in-charge, owner, and/or city, provide a written explanation for said determination. A copy of the order and written explanation (if any) shall be provided to both petitioner(s) and the city.

(Ord. 2016-13, passed 7-11-2016)

§ 91.053 SUMMARY ABATEMENT.

(A) If a nuisance exists on private real property which poses an imminent threat to the public health, safety, or welfare and the circumstances, taken as a whole, do not allow the city to seek authorization to enter the property from the Municipal Court or other court to abate the nuisance, the Enforcement Officer or other appropriate city official is authorized to immediately enter said property and cause the summary abatement thereof.

(B) In the event the Enforcement Officer or other city official acts pursuant to the authority under division (A) above, said person shall provide written notice, sent by certified mail, to the person-in-charge and/or owner, if different, at the address shown on the county tax records or such other address as is reasonably calculated to apprise the person-in-charge and/or owner as to the summary abatement, in expeditious manner, but in no event more than five business days after the summary abatement. In addition, the Officer shall prepare a declaration for the file setting out the date and time of the mailing of the notice by certified mail.

(C) The notice shall contain:

(1) The street address or legal description sufficient to identify the property or otherwise where the nuisance was summary abated;

(2) A description of the nuisance and specific code provision(s) declaring summary abatement thereof;

(3) The action(s) taken by the city to abate the nuisance;

(4) What further action(s) the person-in-charge and/or owner may be required to take to address the nuisance, its impacts, and/or residual effects of the abatement;

(5) To the extent known, the costs incurred by the city as a result of the summary abatement and whether the city will look to the person-in-charge and/or owner for payment of all or part thereof; and

(6) The person-in-charge and/or owner may challenge the summary abatement by filing a written petition with the Municipal Court within ten days of the date of the notice briefly setting out the basis for the challenge.

(D) In the event the person-in-charge and/or owner files a properly and timely written petition with the Municipal Court within the time specified in division (C) above, the Court shall conduct a hearing pursuant to § 91.052.

(Ord. 2016-13, passed 7-11-2016)

§ 91.054 NON-EXCLUSIVE NATURE OF ABATEMENT PROCESS.

The procedures and remedies provided by this subchapter are not exclusive but in addition to others available under state law as well as this subchapter.
(Ord. 2016-13, passed 7-11-2016)

CHRONIC NUISANCE PROPERTIES

§ 91.065 CHRONIC NUISANCE PROPERTIES.

This subchapter shall be know and may be cited as the "Chronic Nuisance Properties Ordinance" and may be referred to herein as "this subchapter". The City Council finds that:

(A) By virtue of its authority to protect the health, safety, and welfare of the community, the city has the power to abate a public nuisance by way of an injunctive decree or order and to impose a penalty upon the person responsible for creating or maintaining a public nuisance;

(B) The abatement of a single nuisance is ineffective in protecting the health, safety, and welfare of the community at large when conditions or activities related to the use of properties give rise to a series of public nuisances over time;

(C) A process and means to hold property owners accountable for adverse conditions and activities that repeatedly occur in connection with his or her property is needed to help maintain and improve the quality of life in the city; and

(D) Pursuant to the city's regulatory authority to help maintain and improve the quality of life in the city, this subchapter is enacted to establish the rights, duties, and procedures necessary to hold property owners and persons in charge of property accountable for adverse conditions and activities that repeatedly occur in connection with his or her property.
(Prior Code, § 5.900) (Ord. 1999-13, passed 10-22-1999)

§ 91.066 DEFINITIONS.

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

CHRONIC NUISANCE.

(1) Properties at or near, within 200 feet, with any combination of:

(a) Three or more of the nuisance activities listed in the definition of "nuisance activity" below which occur during any 30-day period;

(b) Four or more of the nuisance activities listed in the definition of "nuisance activity" below which occur during any 90-day period; or

(c) Six or more of the nuisance activities listed in the definition of "nuisance activity" below which occur during any 365-day period.

(2) If nuisance activity occurs near the properties, acts or conditions on the properties must have substantially contributed to bring about the nuisance activity.

NUISANCE ACTIVITY. To commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit any conduct that constitutes a crime, as

defined in O.R.S. 161.515, or a violation, as defined in O.R.S. 161.565, or any of the following provisions of this code or the Oregon Revised Statutes:

(1) O.R.S. 471.410, relating to furnishing liquor to minors;
(2) O.R.S. 471.412, relating to serving liquor to visibly intoxicated persons;
(3) O.R.S. 471.430, relating to possession of liquor by minors;
(4) O.R.S. 471.478 through 471.482, relating to the sale of liquor by minors;
(5) O.R.S. 471.405, relating to the unlicensed sale of delivery of liquor;
(6) Code § 130.04, relating to public excretion;
(7) O.R.S. 163.160 through 163.185, relating to assault;
(8) O.R.S. 163.190, relating to menacing;
(9) O.R.S. 163.195, relating to reckless endangerment;
(10) O.R.S. 166.025, relating to disorderly conduct;
(11) O.R.S. 166.155 through 166.165, relating to intimidation;
(12) O.R.S. 166.065, relating to harassment;
(13) Code § 130.01 or O.R.S. 166.630, relating to discharge of a weapon;
(14) Code §§ 91.030 through 91.038, relating to unnecessary noise;
(15) O.R.S. 163.465, relating to public indecency;
(16) O.R.S. 163.415, relating to sexual abuse;
(17) O.R.S. 167.007 through 167.017, relating to prostitution;
(18) O.R.S. 164.345 through 164.365, relating to criminal mischief;
(19) O.R.S. 164.315 through 164.335, relating to arson and related offenses;
(20) O.R.S. 163.575, relating to endangerment of the welfare of a minor;
(21) O.R.S. 164.805, relating to littering;
(22) O.R.S. 163.305 through 163.465, relating to sexual offenses;
(23) O.R.S. 167.117 or O.R.S. 167.122 through 167.127, relating to gambling offenses;
(24) O.R.S. 475.005 through 475.285 and 475.906, 475.940 through 475.980, relating to the Uniform Controlled Substances Act;
(25) O.R.S. 475B.260, relating to possession of marijuana by minors;
(26) O.R.S. 475B.270, relating to providing marijuana or allowing marijuana consumption by minors;
(27) Code § 130.06, relating to consumption of alcohol in public;
(28) O.R.S. 162.325, relating to hindering prosecution; or
(29) O.R.S. 164.095, relating to theft by receiving.

PERSON IN CHARGE. A person, a representative or employee of the person who has lawful control of properties by ownership, tenancy, official position, or other legal relationship, including, but not limited to:

(1) A person authorized to manage properties; and
(2) A person authorized to enter into a rental agreement on behalf of another person in charge of properties.

PROPERTIES. Includes any building and any real property, whether privately or publicly owned.

(Prior Code, § 5.905) (Ord. 1999-13, passed 10-22-1999)

§ 91.067 CHRONIC NUISANCE PROHIBITED.

Any person in charge of properties shall neither allow nor fail to prevent those properties from becoming a chronic nuisance.
(Prior Code, § 5.910) (Ord. 1999-13, passed 10-22-1999) Penalty, see § 91.999

§ 91.068 ABATEMENT OF CHRONIC NUISANCE.

(A) A chronic nuisance is a public nuisance and may be enjoined or abated as provided by this subchapter.

(B) An action to enjoin or abate a chronic nuisance within the city may be brought on behalf of the city by the City Attorney. The action shall be brought in any court of competent jurisdiction. The action shall be commenced and the complaint shall be served as provided in O.R.S. 105.565(1) and 105.565(2). However, no action to enjoin or abate a chronic nuisance under this subchapter may be commenced against a government or governmental subdivision or agency, including a county, city, or special district. The trial of any action to enjoin or abate a chronic nuisance shall be by the court without a jury.

(C) A pleading to enjoin or abate a chronic nuisance may include an additional or alternative count or claim that a person has violated § 91.067 and is subject to penalty provided under § 91.999.

(D) A person residing or doing business in the city may not bring an action under this subchapter on behalf of the city to enjoin or abate a chronic nuisance. However, nothing herein limits any statutory or common-law right of a person to bring an action or other proceeding on the person's behalf related to such chronic nuisance.

(E) If the existence of a chronic nuisance is established in an action under this section, the court may enjoin the use giving rise to the chronic nuisance and abate such use as a public nuisance. The court issuing any injunction or abatement order shall retain jurisdiction over the subject matter and parties of the case for all purposes connected with the subject matter in dispute.

(F) The court may enjoin or abate a chronic nuisance under such terms and conditions as it deems appropriate. An order, decree, or judgment enjoining or abating a chronic nuisance under this section shall be in writing. The court shall prepare written findings of facts and conclusions of law to support the relief granted under this section to remedy the chronic nuisance.

(G) An order enjoining or abating a chronic nuisance may direct that for up to 180 days, unless sooner released, the properties be closed and that the person in charge of the properties or his or her agent secure the properties against all use and occupancy.

(H) In determining the appropriate means to enjoin or abate a chronic nuisance, and in addition to any other factors the court deems relevant, the court shall consider the following:

(1) The nature and location of the chronic nuisance;

(2) The frequency of the conduct constituting or principally contributing to the chronic nuisance;

(3) The effect of the chronic nuisance upon the enjoyment of life, health, and properties on members of the community;

(4) The efforts of any person in charge of properties to prevent, mitigate or eliminate the chronic nuisance;

(5) The actual results of any actions taken by any person in charge of properties to prevent, mitigate, or eliminate the chronic nuisance; and

(6) The cost to the city of investigating and correcting, or attempting to correct, the chronic nuisance, including bringing an enforcement proceeding.

(Prior Code, § 5.920) (Ord. 1999-13, passed 10-22-1999)

§ 91.069 NOTICE OF POTENTIAL CHRONIC NUISANCE.

(A) When any sergeant or other officer of greater rank of the city's Police Department has reasonable grounds to believe any combination of:

(1) Two or more of the nuisance activities listed in § 91.066 have occurred at or near a properties during any 30-day period;

(2) Three or more of the nuisance activities listed in § 91.066 have occurred at or near a properties during any 90-day period;

(3) Four or more of the nuisance activities listed in § 91.066 have occurred at or near a properties during a 365-day period; and

(4) The sergeant or other officer of greater rank may give written notice to a person in charge of the properties that the properties are in danger of becoming a chronic nuisance.

(B) The notice allowed under this section shall contain information to the following effect:

(1) The street address or a legal description sufficient to identify the properties;

(2) A statement that:

(a) The properties are in danger of becoming a chronic nuisance, together with;

(b) A concise description of the nuisance activity upon which the statement is based; and

(c) A warning that failure to prevent the properties from becoming a chronic nuisance may result in the closure of the business for up to 180 days under the provisions of this subchapter.

(3) A statement that a person in charge of the properties may meet with a representative of the Police Department and discuss ways that may prevent or eliminate the nuisance activity giving rise to the threatened chronic nuisance.

(4) A statement that if a person in charge desires to meet and discuss the prevention or elimination of the nuisance activity giving rise to the threatened chronic nuisance, the person must respond to the sergeant or other officer of higher rank within ten days from the date of notice to arrange the meeting.

(5) A statement that a person in charge is not obligated to meet and discuss the prevention or elimination of the nuisance activity giving rise to the threatened chronic nuisance, but that the failure to promptly do so increase the financial penalty or length of closure imposed by a court should the properties ever become a chronic nuisance properties.

(Prior Code, § 5.925) (Ord. 1999-13, passed 10-22-1999)

§ 91.070 NOTICE OF EXISTING CHRONIC NUISANCE.

(A) After providing notice of a potential chronic nuisance under § 91.069, if the sergeant or other officer of higher rank has reasonable grounds to believe the properties have become a chronic nuisance properties, the sergeant or other officer of higher rank shall give written notice to a person in charge of the properties that the city considers the properties a chronic nuisance properties. The notice shall contain the following information:

(1) The street address or legal description sufficient to identify the premises;

(2) A statement that the premises are considered a chronic nuisance, together with a concise description of the nuisance activity upon which the statement is based;

(3) A statement that a person in charge of the properties may meet with a representative of the Police Department to devise a written plan to attempt to prevent or eliminate future nuisance activity at or near the properties;

(4) A statement that if a person in charge of the properties desires to meet with a representative of the Police Department to devise a written plan to attempt to prevent or eliminate future nuisance activity at or near the properties, the person must respond to the sergeant or other officer of higher rank within ten days from the date of the notice to arrange the meeting;

(5) A statement that the failure of a person in charge of the properties to promptly meet, discuss, and devise a plan to prevent or eliminate future nuisance activity giving rise to a chronic nuisance may be a factor that increases the penalty or length of closure imposed by a court should the properties be found to be a chronic nuisance properties;

(6) If after notification as provided in this section, but prior to a the commencement of any action by the city pursuant to this subchapter, a person in charge of the properties prepares and submits to the city a written plan that the city believes is likely to prevent or eliminate future nuisance activity at or near the properties, the city may delay commencement of an action related to the chronic nuisance for not more than 90 days.

(a) The city may elect to indefinitely postpone commencement of any action to enjoin or abate the chronic nuisance if, while the city is delaying commencement of an action related to the chronic nuisance, no new nuisance activity occurs at or near the properties. However, the decision to indefinitely postpone commencement of an action to enjoin or abate a chronic nuisance does not require the city to postpone commencement of an action to impose a penalty under this subchapter or any ordinance of the city.

(b) The city may immediately commence an action to enjoin or abate the chronic nuisance and/or to impose a penalty under this subchapter if:

1. A person in charge of the properties fails to prepare and submit a written plan that the city believes is likely to prevent or eliminate future nuisance activity at or near the properties; or

2. For any reason whatsoever, new nuisance activity occurs at or near the properties while the city is delaying commencement of an action related to the chronic nuisance properties.

(B) The opportunity to meet and negotiate under this section does not compel a person to agree to a proposal or require the making of a concession. A person in charge of properties has the burden to prepare and submit the written plan provided for in this section. (Prior Code, § 5.930) (Ord. 1999-13, passed 10-22-1999)

§ 91.071 NOTICE; MANNER OF SERVICE.

(A) Any notice required under this subchapter shall be delivered in a manner reasonably calculated, under all the circumstances, to apprize a person in charge of properties of the contents of the notice and to afford the person a reasonable opportunity to respond to the notice.

(B) Service of a notice may be made by:

(1) Delivering the notice to the person to be served; or

(2) Mailing the notice to the person to be served by first-class mail, return receipt requested, postage prepaid, addressed to a person in charge at the address of the properties believed to be a chronic nuisance properties.

(C) A copy of the notice required under § 91.070 shall be posted at the properties if ten days has elapsed from the delivery or mailing of the notice to the person in charge and the person in charge has not responded.

(D) Concurrent with the notice required under § 91.070, the sergeant or other officer of greater rank shall send a copy of the violation notice to the Police Chief. Any other documentation which the sergeant or other officer of greater rank believes supports the closure of the properties and the imposition of civil penalties may be sent as well. The Police Chief may then request the City Attorney to commence civil proceedings in a court of competent jurisdiction seeking such relief as may be deemed appropriate.

(E) Failure to comply with provisions of this section relating to the service of notice shall not affect the validity of the notice or the existence of jurisdiction over the parties or subject matter if the court determines that a person in charge of the properties:

(1) Had actual knowledge of the substance of the contents of the notice; or

(2) Deliberately avoided delivery or receipt of the notice.

(Prior Code, § 5.935) (Ord. 1999-13, passed 10-22-1999)

§ 91.072 BURDENS OF PROOF, AFFIRMATIVE DEFENSES.

(A) In any action under this section, the city shall first bear the burden of producing sufficient evidence that a reasonable fact finder could find by a preponderance of the evidence that a violation of the subchapter has occurred or that a chronic nuisance properties exists. The burden of producing evidence shall then shift to the defendant.

(B) The city has the burden of providing, by clear and convincing evidence, its entitlement to a remedy enjoining the use giving rise to a chronic nuisance properties and abating such use as a public nuisance. However, in all proceedings, the city has the burden of providing, only by a preponderance of the evidence, its entitlement to a fine for violation of this subchapter.

(C) In any action under this subchapter, it is an affirmative defense to be established by a preponderance of the evidence by a defendant that:

(1) The defendant had no knowledge of the existence of the alleged chronic nuisance and a reasonable person under similar circumstances likewise would not; and

(2) The defendant had no control of the alleged underlying nuisance activity and that a reasonable person under similar circumstances likewise would not.

(D) It is no defense under this section that the chronic nuisance is contributed to by the acts of others over whom defendant has no control, if there still would be a chronic nuisance without such contribution.
(Prior Code, § 5.940) (Ord. 1999-13, passed 10-22-1999)

§ 91.073 CLOSURE DURING PENDENCY OF ACTION; EMERGENCY CLOSURES.

The city may institute an action for a temporary restraining order or preliminary injunction pursuant to O.R.C.P. 79 if a threatened or existing nuisance under this subchapter creates an emergency that requires immediate action to protect the public health, safety, or welfare, in such instances, the notice requirements of this subchapter need not be fulfilled.
(Prior Code, § 5.945) (Ord. 1999-13, passed 10-22-1999)

§ 91.074 ENFORCEMENT OF CLOSURE ORDER; COSTS.

(A) The court may authorized the city to physically secure the properties against use or occupancy in the event that the person in charge of properties fails to do so within the time specified by the court.

(B) In the event that the city is authorized to secure the properties, all costs incurred by the city to effect a closure shall be allowed and recovered as provided under O.R.C.P. 68. As used in this section, ***COSTS*** include those reasonable and necessary expenses incurred by the city for the physical securing of the properties.
(Prior Code, § 5.950) (Ord. 1999-13, passed 10-22-1999)

§ 91.075 REMEDIES CUMULATIVE.

Any penalty or remedy imposed pursuant to this subchapter is in addition to, and not in lieu of, any other civil, criminal, or administrative penalty, sanction, or remedy otherwise authorized by law. The abatement of a nuisance under this subchapter does not prejudice the right of any person to recover damages for its past existence.
(Prior Code, § 5.955) (Ord. 1999-13, passed 10-22-1999)

§ 91.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) A person who commits, permits, assists in, or attempts a violation of any provision of §§ 91.030 through 91.038, shall be subject to a civil penalty in the amount of not less than $100 for the first violation, $500 for the second violation, and $1,000 for each subsequent violation occurring in a two-year period starting from the issuance of the first notice of violation.

(2) Each day during which any provision of §§ 91.030 through 91.038 is violated constitutes a separate offense.
(Prior Code, § 5.259)

(C) Any person violating § 91.015 is subject to a civil penalty in the amount of not less than $100 and not more than $250.
(Prior Code, § 5.660)

(D) (1) Any person who violates § 91.067 commits a non-criminal offense punishable by a fine of not less than $250 and not more than $1,000. Every combination of nuisance activities constituting a chronic nuisance property is a separately punishable offense.

(2) An action to impose a penalty for violation of § 91.067 may be brought on behalf of the city by the City Attorney. The action shall be brought in any court of competent jurisdiction.

(3) In determining the appropriate amount of any fine under this division (D), and in addition to any other factor the court deems relevant to consider, the court shall consider the following:

(a) The nature and location of the chronic nuisance;

(b) The frequency of the conduct constituting or principally contributing to the chronic nuisance;

(c) The effect of the chronic nuisance upon the enjoyment of life, health, and properties of members of the community;

(d) The efforts of any person in charge of properties to prevent, mitigate, or eliminate the chronic nuisance;

(e) The actual results of any actions taken by any person in charge of properties to prevent, mitigate, or eliminate the chronic nuisance; and

(f) The cost to the city of investigating and correcting or attempting to correct the chronic nuisance, including bringing an enforcement proceeding.
(Prior Code, § 5.915)

(E) (1) In addition to any abatement ordered, the Municipal Court may impose civil penalties on the person-in-charge and/or owner consistent with the following schedule:

(a) For first time violation of code provisions, in amounts of not less than $100 and not more than $250 per day for each violation;

(b) For second violation of the same code provision, not less than $500 per day; and

(c) $1,000 maximum for a third and subsequent violation of the same code provision within any two-year period from the date of issuance of the first violation.

(2) The person-in-charge and/or owner are jointly and severally liable for any costs, charges, fees, and penalties incurred or imposed by the city under the terms of §§ 91.001 through 91.015, and the city may seek to recover said costs, charges, fees, and penalties by an action at law in a court of competent jurisdiction.
(Prior Code, § 5.305)
(Ord. 1999-13, passed 10-22-1999; Ord. 2014-06, passed 8-11-2014; Ord. 2016-13, passed 7-11-2016)

CHAPTER 92: PARK REGULATIONS

Section

Cross-reference:

Fire protection, see Chapter 153
Nuisances, see Chapter 91
Orderly conduct, see Chapter 130

GENERAL PROVISIONS

§ 92.01 PURPOSE AND DEFINITION.

(A) (1) Parks and recreational facilities are established for the enjoyment, convenience, and safety of all citizens.

(2) Parks are maintained for the leisure time activities of the public.

(3) The city encourages the greatest possible use of its parks subject only to regulations designed to preserve the parks and recreational facilities and promote safe use of the parks by all persons.

(B) As used in this subchapter, ***DESIGNATED PARK*** shall mean any public or privately owned real property placed under the jurisdiction of the city, whether within or outside the corporate limits of the city, and designated for park and recreational purposes.
(Prior Code, § 5.405)

§ 92.02 PARK HOURS.

All city parks shall be open at sunrise and closed one hour after sunset unless otherwise specifically authorized by the Director of Parks and Recreation.
(Prior Code, § 5.410)

§ 92.03 CONDUCT; EXCLUSION.

(A) No person shall engage in disruptive, disturbing, abusive, or destructive conduct that disrupts other park users or adjacent residents.

(B) Any person engaging in criminal conduct under state law or conduct that violates this code or rules of conduct while in or upon city property is subject to the provisions of § 92.30.
(Prior Code, § 5.415) (Ord. 2016-13, passed 7-11-2016) Penalty, see § 92.99

§ 92.04 TRAFFIC REGULATION.

(A) Motor vehicles operating in the city parks shall operate at a speed not to exceed 15 mph and shall comply with all regulations posted for the purpose of controlling traffic.

(B) No motor vehicle or bicycle shall leave the paved roads or parking areas or be operated on the playing field areas or ball diamonds, except for authorized maintenance vehicles.

(C) No motor vehicle shall remain parked in the city parks for a period longer than the hours of the park being open for use without the permission of the Recreation Director or designee. Fees shall be charged as authorized by the City Council by resolution.

(D) No motor vehicle shall be washed or repaired in any city park.
(Prior Code, § 5.420) Penalty, see § 92.99

§ 92.05 BICYCLES AND SKATEBOARDS.

Bicycles and skateboards may be operated only on the paved paths in Lincoln Park and Bard Park or such other areas as are posted for their use.
(Prior Code, § 5.425) Penalty, see § 92.99

§ 92.06 INJURY TO LANDSCAPING.

No person shall cut, injure, deface, move, or disturb any tree, shrub, plant, brush, flower, or grass growing in any city park unless authorized by the Director of Parks and Recreation.
(Prior Code, § 5.430) Penalty, see § 92.99

§ 92.07 DAMAGING PARK EQUIPMENT.

No building, bench, sign, water fountain, play equipment, or other apparatus or equipment shall be damaged, defaced, marked, or written upon or removed from any city park.
(Prior Code, § 5.435) Penalty, see § 92.99

§ 92.08 USE OF PARK EQUIPMENT.

Park benches, picnic tables, and other equipment shall be used only for the purposes for which they are intended. Any equipment moved for legitimate use shall be replaced by the user in the original location.
(Prior Code, § 5.440) Penalty, see § 92.99

§ 92.09 FIREARMS AND FIREWORKS.

The use or possession of any weapon or illegal fireworks in the city is prohibited. ***WEAPON*** shall mean firearms, BB guns, air guns, slingshots, or other devices primarily designed for the purpose of or for projecting a projectile.
(Prior Code, § 5.445) Penalty, see § 92.99

§ 92.10 FIRES.

Fires shall be permitted only in those places specifically designed for such use and must be fully extinguished by the person igniting the fire prior to such person leaving the fire area.
(Prior Code, § 5.450)

§ 92.11 MODEL AIRPLANE AND AUTO OPERATION.

No person shall operate, or permit to be operated, any gasoline or fuel-powered model airplane, model auto, or motor-driven cart in any city park unless specifically authorized by the Director of Parks and Recreation.
(Prior Code, § 5.455) Penalty, see § 92.99

§ 92.12 ANIMALS PROHIBITED.

No animals shall be allowed without a leash in any public park unless specifically authorized by the Director of Parks and Recreation. Any excrement created by any animal shall be immediately removed by the owner.
(Prior Code, § 5.460) Penalty, see § 92.99

§ 92.13 DUMPING OF REFUSE.

No person shall deposit, dump, place, or leave any rubbish, garbage, or refuse of any type in any city park or recreation area; however, the foregoing prohibition shall not apply to the disposal of garbage or refuse in receptacles provided for such purposes that results from the normal use of the park for recreational or other purposes.
(Prior Code, § 5.465) Penalty, see § 92.99

§ 92.14 PLACING OF POLLUTANTS IN POOL.

No person shall wash any clothing or other material or equipment, or introduce or place any polluting substance, waste, litter, or animal in any swimming or wading pool, or fountain in a city park or recreational area.
(Prior Code, § 5.470) Penalty, see § 92.99

§ 92.15 CAMPING.

No person shall erect any tent or other portable structure in any park without authorization by the Director of Parks and Recreation.
(Prior Code, § 5.475) Penalty, see § 92.99

§ 92.16 PROHIBITED SPORTS EQUIPMENT.

No person shall throw or propel any discus, shotput, javelin, golf ball, hammer, arrow, boomerang, or other object which could cause physical harm to persons or property.
(Prior Code, § 5.480) (Ord. 1990-01, passed 2-12-1990) Penalty, see § 92.99

§ 92.17 SMOKING AND TOBACCO USE PROHIBITED.

(A) Smoking and tobacco use is prohibited within any designated parks, any city-owned or leased property, and any city-sponsored event.

(B) Prohibited products include any tobacco products, cigarettes, cigars, pipe tobacco, smokeless tobacco, chewing tobacco, marijuana, and electronic smoking devices.
(Prior Code, § 5.485) (Ord. 2014-06, passed 6-9-2014) Penalty, see § 92.99

EXCLUSION FROM CITY FACILITY OR PROPERTY

§ 92.30 EXCLUSION AUTHORITY.

(A) In addition to any other remedy or penalty provided by this code or state law, an Enforcement Officer, or any person specifically authorized by the City Manager, may exclude any individual from city parks, recreational areas, city-owned or leased properties, or city-sponsored events for a period of up to 90 days based upon a substantial objective belief by the Officer (or person authorized) that the individual has engaged in:

(1) Conduct made criminal as either a misdemeanor or felony under state law;

(2) Conduct in violation of this code; or

(3) Conduct in violation of "rules of conduct" adopted by Council resolution.

(B) An exclusion issued under the provisions of division (A) above shall take effect upon issuance of the notice of exclusion and remains for the period set out therein subject only to an appeal consistent with that described in § 92.32.

(Ord. 2016-13, passed 7-11-2016)

§ 92.31 EXCLUSION NOTICE.

The notice of exclusion shall include:

(A) The provision of state law, city code, or rule of conduct violated;

(B) The place(s) of exclusion;

(C) The start date and end date of the exclusion period;

(D) Prominently display a warning of the consequences for failure to comply with the exclusion as described in § 92.99(C); and

(E) A statement that the excluded person has the right to file a written appeal with Municipal Court within five business days of the issuance date of the exclusion notice and request an appeal hearing to have the exclusion rescinded or the exclusion period shortened.

(Ord. 2016-13, passed 7-11-2016)

§ 92.32 APPEAL OF EXCLUSION.

(A) A person receiving a notice of exclusion under § 92.31 may file a written appeal with the Municipal Court within five business days of the issuance of the notice to have the exclusion rescinded or the exclusion period shortened.

(B) The written appeal shall contain:

(1) Appellant's name;

(2) Appellant's mailing address and contact information;

(3) A concise statement of the basis on which the decision to exclude is invalid, unauthorized, or otherwise improper; and

(4) A copy of the notice of exclusion.

(C) The Municipal Court shall set a date and time for the appeal hearing not less than seven days nor more than 21 days after the receipt of a properly and timely filed appeal. The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the appellant or city for good cause.

(D) If an appeal of the exclusion is timely filed under division (A) above, the notice automatically stays the exclusion period until the Municipal Court issues a decision on the appeal.

(E) The city has the burden to show by a preponderance of evidence that the exclusion is warranted given the totality of the circumstances.

(F) The Municipal Court shall issue the Court's determination in writing and provide a copy to the city and appellant.

(Ord. 2016-13, passed 7-11-2016)

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person violating §§ 92.02 through 92.17 is subject to a civil penalty in the amount of not less than $100 and not more than $250.

(Prior Code, § 5.490)

(C) No person shall enter or remain in any public place at any time during which there is in effect a notice of exclusion issued under § 92.31. A person who knowingly violates a notice of exclusion commits the crime of criminal trespass.

(Ord. 2016-13, passed 7-11-2016)

CHAPTER 93: ANIMALS

Section

§ 93.01 ADOPTION OF ANIMAL SERVICES CODE.

(A) The city hereby incorporates the Washington County Code (WCC) Chapter 6.04, Animal Services Code, (Ord. 794, passed 1-20-2015) to regulate the keeping, licensing, and control of dogs and other animals within the city. Violation of WCC Chapter 6.04 is an offense against the city.

(B) One copy of WCC Chapter 6.04, and any amendments thereof, shall be kept on file in the Office of the City Recorder.

(Prior Code, § 5.505) (Ord. 1975-1059, passed 3-24-1975; Ord. 2016-13, passed 7-11-2016)

§ 93.02 LIMITATION ON DOG OWNERSHIP.

Except as authorized as a kennel pursuant to the city's Zoning Ordinance, no person(s) shall own, keep, possess, or harbor more than three adult dogs on any premises within the corporate limits of the city. As used in the foregoing, the term ***DOG*** means all members (male and female) of the domesticated canine (canine familiaris) three months of age or older. (Prior Code, § 5.515) (Ord. 1975-1059, passed 3-24-1975; Ord. 2005-20, passed 11-28-2005) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

CHAPTER 110: BUSINESS LICENSING

Section

GENERAL PROVISIONS

§ 110.001 SHORT TITLE.

The provisions of this subchapter create the terms of the "Forest Grove Business License Code" and is referred to herein as "Business License Code" or "BLC".
(Prior Code, § 7.000) (Ord. 2008-01, passed 3-31-2008)

§ 110.002 PURPOSE AND SCOPE.

(A) The Business License Code facilitates the collection of information about businesses in the city. Emergency responders from the Police and Fire Departments are better able to respond effectively and safely to emergency situations at city businesses when they have information about types of businesses and the contents of the structures in the city. Building Code compliance, Planning Code compliance, Fire Code compliance, and Wastewater discharge compliance are enhanced by obtaining data from business license applications about structures in which businesses are located. Business demographic information is also necessary to promote economic development. The Business License Code is designed to obtain that information. The public health, safety, and welfare are benefitted by this Business Licensing Code.

(B) The annual business license fee imposed by the Business License Code is for revenue purposes only for municipal purposes and for the privilege of doing business in the city. The fees imposed shall be in addition to, and not in lieu of, any other license or permit fee(s), charge(s) or tax(es) required under any other code section or ordinance of the city or county or any state or federal law.

(C) The annual business license required by the BLC shall not be construed to constitute a permit to engage in any activity prohibited by law nor a waiver of any regulatory or license requirement imposed by other provision(s) of city, federal, state, regional, or local law. (Prior Code, § 7.005) (Ord. 2008-01, passed 3-31-2008)

§ 110.003 DEFINITIONS.

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

BUSINESS. Except as limited below, ***BUSINESS*** means any enterprise, trade, activity, profession, occupation, private educational facility, or any kind of calling carried on for profit or livelihood within the city including businesses and rental properties that offer to rent or lease three or more residential rooms, units, or structures, and commercial building rentals containing two or more businesses. ***BUSINESS*** does not include the noncommercial on-premises sale of used household goods by a person who resides on the premises (a yard or garage sale) so long as the sales are conducted on no more than six days in any 12-month period.

CITY. The City of Forest Grove.

CITY MANAGER. The person appointed by the City Council to act as City Manager and, for purposes of this chapter, includes a person designated by the City Manager to perform his or her functions.

COMMERCIAL BUILDING RENTAL. A building, portion of a building, or a group of buildings on a parcel of land within the city containing two or more businesses. A building or portion of a building containing two businesses shall not be considered a ***COMMERCIAL BUILDING RENTAL*** if the owner of the building conducts or has a majority ownership of a business in a portion of such building.

COMMUNITY EVENT. An event which is open to the public and which is approved by the City Manager to use city street and sidewalk areas or held on private or public property with the consent of the owner or entity. Such ***EVENT*** may involve a portion or all of the Central Business District (CBD), may last up to seven consecutive days, or recur not more than once per week, must be determined by the City Manager to provide an overall community benefit, and must be sponsored by a service group or other organization, not an individual business.

DOING BUSINESS. An act or series thereof performed in the course or pursuit of a business activity on more than one occasion or day in a calendar quarter and not as a one-time or isolated activity or event. A person is presumed to be ***DOING BUSINESS*** in the city and subject to the BLC if engaged in any of the following:

(1) Advertising or otherwise professing to be doing business within the city;

(2) Delivering goods or providing services to customers within the city;

(3) Owning, leasing, or renting personal or real property within the city which is used in a trade or business;

(4) Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this chapter. Property may be personal, including intangible or real in nature; or

(5) Engaging in any activity in pursuit of gain which is not otherwise exempted in this chapter.

EMPLOYEE. A natural person who works for or on behalf of a business in exchange for compensation, not including those employees leased from another business, regardless of the number of hours per pay period or method of compensation. ***EMPLOYEE*** includes, but is not limited to, a sales agent who works primarily for or under the direction of a principal or a broker.

FULL-TIME EQUIVALENT EMPLOYEES (FTE). The number of employees of a business as calculated under § 110.007.

HOME BUSINESS. A business located and operated out of a person's home or domicile.

LICENSE or ***BUSINESS LICENSE.*** The document issued by the city granting the privilege to carry on a business within the city.

MOBILE BUSINESS. Any business without a fixed location or which is operating from a self-propelled vehicle or which can be pushed or pulled on a sidewalk, street, or highway on which food, goods, or services is prepared, processed, or from which food or other goods and then sold or dispensed to the public.

NONRESIDENT BUSINESS. A business operating in the city where the headquarters or main branch is located outside the city.

PERSON. Includes individuals and all domestic and foreign firms, corporations, associations, partnerships, and joint ventures carrying on any business in the city.

RENTAL PROPERTY. A building, portion thereof, or group of buildings within the city and which is rented, leased, let, or made available for compensation for sleeping or living purposes. The term includes all multi-dwelling unit premises having three or more dwelling units including hotels and motels, automobile or tourist courts, rooming or lodging houses, or mobile home and trailer parks. In the case of a mobile home or trailer park, the term ***DWELLING UNIT*** refers to the space, pad, or stall.

SECONDHAND DEALER. A person engaged in conducting, managing, or carrying on the business of selling goods and articles acquired by purchasing secondhand articles from others.

SOLICITATION. Any oral or written request to purchase or trade any product or thing; to request a contribution or donation of money or property for any purpose or cause; to request opinions or answers to surveys on any subjects; or, to request endorsement or support by petition any product, candidate, or cause.

SOLICITOR. A person or persons engaged in solicitation.

SPECIAL EVENT. An event specifically approved by the City Manager granting privileges for the use of street and sidewalk areas, or held on private or public property where goods or services are purchased or sold, excluding the noncommercial on-premises sale of used household goods by a person who resides on the premises (a yard or garage sale) so long as the sales are conducted on no more than six days in any 12-month period. Such ***EVENT*** must be held within a specially defined area for a period of time not exceeding three consecutive days.

TEMPORARY OR TRANSIENT BUSINESS. A person conducting or operating a business within the city for periods of less than 60 consecutive days in any calendar year. Examples of ***TEMPORARY BUSINESSES*** include, but are not limited to, Christmas tree lots, fireworks, and fruit/vegetable/plant stands not part of a farmers' market.

TEMPORARY OR TRANSIENT LICENSE. A business license issued for a term of up to 60 days.

TRANSFER. To transfer the title of ownership or name of business. It shall not mean a change in business location.

(Prior Code, § 7.010) (Ord. 2008-01, passed 3-31-2008)

§ 110.004 LICENSE REQUIRED.

(A) Except as may otherwise be provided in divisions (F) and (G) below, any person doing business, including a home business or a temporary business, within the city shall first obtain a license and pay the required annual fee.

(B) Nonresident businesses must obtain a city business license and pay the required fees.

(C) Solicitor(s) must obtain a city business license and pay the required fees, except as may otherwise be provided in divisions (F) and (G) below. Additionally, solicitors must comply with §§ 111.015 through 111.018.

(D) Temporary businesses and special events are subject to the provisions of §§ 110.025 through 110.030 and required to obtain a temporary business license and pay the fee specified by Council resolution.

(E) No person shall conduct business within the city as an employee, agent, or representative of a business without first having obtained a valid city business license regardless of the locale of the principal office(s) of that business.

(F) The following businesses and activities need not obtain a business license but instead will be issued, at no cost, an "exemption certificate" that shall record the location, purpose, and contact information of the business or activity if one is applied for:

(1) Churches and governmental agencies, including publicly funded schools;

(2) Civic leagues or civic organizations operating exclusively for promotion of social welfare which may from time to time conduct business like activities on a temporary basis, the earnings of which are devoted exclusively to social welfare, religious, and/or fraternal purposes;

(3) Independent contractors, such as medical care providers, beauticians, and the like, working in a building where the owner has obtained a business license under one business name covering those located in the building engaged in like profession under the business name indicated on the license;

(4) Community events where a special event and other applicable permits have been granted by the city;

(5) Any business or occupation specifically exempt from the payment of a business license fee under the state or federal law or constitution;

(6) Any business specifically exempted by Council; or

(7) Producers of farm products raised in the state and sold by them or their immediate families.

(G) The following businesses and activities neither need to obtain a business license nor an exemption certificate:

(1) A service business operated by a person under the age of 18, such as lawn mowing, newspaper delivery, lemonade stand, and the like;

(2) Solicitations for contributions or donations which are exclusively devoted to charitable, social welfare, religious, educational, political, or fraternal purposes;

(3) Owner-occupied residential dwellings where two or fewer units or rooms are rented or leased for sleeping or living purposes;

(4) Utilities currently franchised by and paying a franchise fee to the city;

(5) A household or garage sale conducted consistent with the terms of the Business License Code;

(6) A contractor with a business license from Metro; and

(7) Any activity specifically exempt from licensing under the state law or constitution or federal law or constitution.

(Prior Code, § 7.015) (Ord. 2008-01, passed 3-31-2008)

§ 110.005 TERM.

(A) A business license shall have a term of one year.

(B) A business license shall be effective as of the date of issuance and expire on the last day of the same month 12 months therefrom to be renewed annually thereafter not later than the last business day of that month.

(C) An amended application or re-application for a business shall be made (and be exempt from payment of additional fees), prior to the effective date of any of the events listed below:

(1) A change in ownership of the business; or

(2) A change of business location.

(D) The business license is deemed expired:

(1) At the point in time the type of business listed on the business license ceases as a going concern; or

(2) As specified in division (B) above.

(E) A new application must be made and fees paid when:

(1) A business license has expired; or

(2) A material change in the type of business conducted occurs.

(Prior Code, § 7.020) (Ord. 2008-01, passed 3-31-2008)

§ 110.006 FEES, GENERALLY.

(A) There is imposed upon all persons doing business in the city the requirement to pay a fee established by Council and obtain a business license for the privilege of doing business in the city.

(B) Each branch of a business shall obtain a separate business license, except for warehouses used in connection with a licensed business.

(C) The fee shall be due and payable on the application date of the business license. A fee shall be deemed delinquent 30 days after it is due. License fees are not refundable.

(Prior Code, § 7.025) (Ord. 2008-01, passed 3-31-2008)

§ 110.007 FEES, CALCULATION.

(A) The annual fee for a business license shall be set by Council resolution and be the combination of both a base amount and a charge for each full-time employee or full-time equivalent (FTE) employee, or blended into one fee, tiered by the number of FTEs.

(B) To determine the number of FTEs, the following apply.

(1) Employees normally working 32 or more hours per week throughout the year shall be considered full-time and shall count as one FTE.

(2) Employees working less than 32 hours per week or who are temporary or seasonal employees shall be counted as one-half of an FTE.

(3) The annual business license fee shall be based upon the number of employees employed at the time of application for or renewal of a business license.

(4) For purposes of determining the number of full-time equivalent employees when renewing an existing business license, the count shall be based on the average of FTE employees during the previous 12-month period.

(Prior Code, § 7.030) (Ord. 2008-01, passed 3-31-2008)

§ 110.008 APPLICATION PROCEDURE.

(A) A person seeking a city business license or renewal shall submit an application for same on a form provided by the city. Application shall be made at least 30 days prior to the date the license is requested to be effective. The application shall contain information as the City Manager deems appropriate to determine the ownership, location, management, function, operations, contact information, and other factors deemed appropriate by the city. A license may be denied if the applicant fails to supply required information or submits false or misleading information.

(B) On the basis of the application, the City Manager shall compute the fee consistent with the schedule of fees established by Council resolution.

(C) If more than one business takes place at the same location and is operated under the same ownership, or majority ownership, but operates under more than one business name, one application may be filed provided each business is clearly identified and all relevant information is included in the unified application.

(D) If a change of business ownership occurs, an amended application or re-application shall be made and be exempt from payment of additional fees.

(E) A currently licensed business that physically relocates shall file an amended business license application, at no charge, to register the change of address.

(F) No such application shall be accepted by the city unless all information contained therein is complete and verifiable.

(Prior Code, § 7.035) (Ord. 2008-01, passed 3-31-2008)

§ 110.009 LICENSE ISSUANCE OR DENIAL.

(A) The City Manager shall issue or renew a business license upon approval of the application and receipt of all required fees and charges.

(B) The City Manager may deny issuance or renewal of a business license if the applicant fails to supply required information, pay required fees and charges, or submits false or misleading information.
(Prior Code, § 7.040) (Ord. 2008-01, passed 3-31-2008)

§ 110.010 NOTICE.

In the event any person has failed to obtain a business license and is doing business in the city, the city's Code Enforcement Officer may:

(A) If the license required has an effective period in excess of one day, send notice to such person at the person's place of business or residence notifying the person that a license must be secured within five calendar days. If, after the five-day period, the person has failed to secure the license, the failure constitutes a violation of the BLC; or

(B) If the license required has an effective period of one day, notify the city's Police Department and the Police Department shall then notify such person that a license is required immediately. If the notified person refuses to secure a license and attempts to conduct such business, such conduct is a violation of the BLC.
(Prior Code, § 7.045) (Ord. 2008-01, passed 3-31-2008)

§ 110.011 LIMITATIONS.

No license required under this chapter shall:

(A) Be assignable or transferable;

(B) Authorize a person other than the one named therein to operate the licensed business or activity; or

(C) Authorize any other business or activity than set out in the license.
(Prior Code, § 7.050) (Ord. 2008-01, passed 3-31-2008)

§ 110.012 REVOCATION OF LICENSE.

(A) In the event information supplied in the license application is found to be false or misleading, the City Manager may revoke the license issued.

(B) If the City Manager determines that grounds for revocation exist, the City Manager shall cause the licensee to be noticed in writing of the revocation, stating the reasons therefor and informing the licensee of the appeal provisions of § 110.013. Notice shall be mailed by first-class mail, return receipt requested.

(C) The City Manager may discontinue the revocation proceeding if the basis for revocation is corrected.
(Prior Code, § 7.055) (Ord. 2008-01, passed 3-31-2008)

§ 110.013 APPEAL.

(A) An applicant whose application to the city for a license has been revoked may, within ten business days after notice of the revocation is received by them, appeal said action to the City Council.

(B) The appeal shall be in writing and received by the City Recorder's office not later than the twelfth business day after the notice is shown to have been received and set out the following:

(1) The name and address of the appellant;

(2) The nature of the determination being appealed;

(3) The reason the determination is incorrect; and

(4) What the correct determination of the appeal should be.

(C) Failure to have the appeal in the City Recorder's office timely is a jurisdictional bar to the appeal.

(D) If a notice of revocation is timely appealed, the revocation does not take effect until final determination of the appeal. The Council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate.
(Prior Code, § 7.060) (Ord. 2008-01, passed 3-31-2008)

§ 110.014 POSTING OF LICENSE.

(A) The license shall be posted in a conspicuous place upon the business premises, available for inspection by the public, city enforcement officers, employees, and prospective employees of the business.

(B) The license for a mobile business shall be posted in a conspicuous place upon the vehicle or carried on the person doing business and be available for inspection by the public, city enforcement officers, employees, and prospective employees of the business.

(C) The license for a solicitor shall be carried on the person doing business and be available for inspection by the public, city enforcement officers, employees, and prospective employees of the business.
(Prior Code, § 7.065) (Ord. 2008-01, passed 3-31-2008)

SPECIAL EVENTS, TEMPORARY AND MOBILE BUSINESSES

§ 110.025 LICENSE REQUIRED.

(A) No person shall hold a special event or operate a temporary or mobile business, as those terms are defined in § 110.003, without first obtaining a temporary business license and paying the required fee.

(B) Applications for a temporary business license shall be on a form provided by the city. Incomplete applications, or applications submitted without the required fee, are subject to denial

(C) Issuance of a temporary business license is not to be construed to mean a permit. The fees prescribed herein are for revenue purposes and are not regulatory permit fees.

(D) The operator of a special event, temporary or mobile business must provide written permission from the property owner, leasing agent, or manager of a site at which the business will operate.
(Prior Code, § 7.105) (Ord. 2008-01, passed 3-31-2008) Penalty, see § 110.999

§ 110.026 FEES.

The fee for a temporary business license shall be set by Council resolution and is not refundable.
(Prior Code, § 7.110) (Ord. 2008-01, passed 3-31-2008)

§ 110.027 LICENSE DISPLAYED.

(A) The operator of a special event, temporary or mobile business shall post the temporary business license in a conspicuous place at the business and keep it posted during the entire period covered by the license. The temporary business license shall be available for inspection by the public, city enforcement officers, employees, and prospective employees of the business.

(B) A special event, temporary or mobile business shall obtain any other required licenses, approvals, or permits from the appropriate agency including the city's Police and Fire Departments and/or the County Department of Health and Human Services.
(Prior Code, § 7.115) (Ord. 2008-01, passed 3-31-2008)

§ 110.028 LICENSE AND FEE EXEMPTIONS.

The exemptions described in § 110.004(F) and (G) apply to special events, temporary or mobile businesses.
(Prior Code, § 7.120) (Ord. 2008-01, passed 3-31-2008)

§ 110.029 DENIAL, REVOCATION, OR SUSPENSION OF TEMPORARY LICENSE.

If the information supplied in the application or renewal is false, contains a material misrepresentation or omission as to the current condition of the business, the temporary business permit may be denied, revoked, or suspended until such time as the applicant provides accurate information.
(Prior Code, § 7.125) (Ord. 2008-01, passed 3-31-2008)

§ 110.030 APPLICATION FOR A TEMPORARY LICENSE FOR A MOBILE BUSINESS, TEMPORARY BUSINESS, OR SPECIAL EVENT.

(A) An application for a temporary business license shall require payment of the license fee for each location of the business.

(B) When a mobile business, temporary business or special event conducts business at any location for more than two hours at one time, the license application shall include the following information:

(1) Tax assessor's map and tax lot numbers for the sites proposed;

(2) Names and locations of adjacent streets;

(3) Addresses and location of any permanent structures on the site;

(4) Locations of all driveways on the sites and on adjacent properties;

(5) Location of all drive aisles and fire lanes on the sites;

(6) Diagram of on-site parking lot and parking space configuration (i.e., right-angle vs. angled, single-loaded vs. double-loaded);

(7) Proposed location of the business vehicle on the sites;

(8) Dimensions from proposed temporary structure or vehicle location to all structures, drive aisles, and driveways;

(9) Location of any temporary electrical hookups;

(10) Location of any furniture, trash receptacles, and the like, to be placed in the immediate vicinity of the vehicle or business operation;

(11) Documentation demonstrating compliance with minimum parking requirements; and

(12) Documentation showing the consent of the property owner.

(Prior Code, § 7.130) (Ord. 2008-01, passed 3-31-2008)

SECONDHAND DEALERS, DEALERS IN ANTIQUES, GUNS, COINS, AND SCRAP

§ 110.045 PURPOSE AND SCOPE.

This subchapter is designed:

(A) To provide for regulation of certain business activities the Council believes present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. Despite the best efforts of legitimate dealers to prevent it, this risk is present because of the large volume of goods processed in such businesses: and

(B) To reduce criminal activity by providing more timely police awareness of business transactions involving materials which may have been obtained through illegal means.

(Prior Code, § 7.205) (Ord. 2008-01, passed 3-31-2008)

§ 110.046 DEFINITIONS.

As used in this subchapter, the singular includes the plural, and the following words and phrases, unless the context requires otherwise, shall have the following meanings.

ANTIQUE. An item of property possessed or valued because of its character, craft, style, rarity, and association with an earlier period of time that is purchased for more than $50 by an antique dealer. ***ANTIQUE*** does not include vehicles and/or vehicle components.

ANTIQUE DEALER. A person engaged in, conducting, managing, or carrying on the business of selling antiques acquired by purchasing antiques from any person not representing a bona fide business, who appears with the article at the dealer's place of business, or by acquiring such items by purchasing from another bona fide, legitimate, and reputable business.

ARTICLE. An antique, secondhand or precious metal and gem, as defined by this section.

CHIEF OF POLICE. The City Chief of Police or the Chief of Police's designee.

DEALER. A person operating as an antique dealer, precious metal and gem dealer, or secondhand dealer or any of them.

DEALER'S PERMIT. A permit issued to an antique dealer, precious metal and gem dealer, or secondhand dealer pursuant to this subchapter.

PERSON. Any real person, partnership, association, or corporation.

PRECIOUS METAL AND GEM. Any metal or gem that is valued for its character, rarity, beauty, or quality, including gold, silver, platinum, diamonds, rubies, emeralds, sapphires, and pearls, and any other gems, whether as a separate item or in combination as a piece of jewelry, but excluding the following items:

(1) Gold bullion bars (0.995 fine or better);

(2) Silver bullion bars (0.995 fine or better); and

(3) Coins, whether actual currency or commemorative, from all countries.

PRECIOUS METAL AND GEM DEALER. A person engaged in, conducting, managing, or carrying on the business of selling precious metals and gems acquired by purchasing precious metals and gems from any person not representing a bona fide business, who appears with such article at the dealer's place of business, or by acquiring such items by purchasing from another bona fide, legitimate, and reputable business.

PURCHASE. Transfer of an article from a person or business, including persons not representing a bona fide business, to any dealer regulated by this subchapter, for any valuable consideration. ***PURCHASE*** does not include consignment of property for sale.

SECONDHAND ARTICLES. Includes the following used personal property:

(1) Video and audio electronic and/or digital devices and their accessories, including recording devices, such as televisions, radios, stereos, speakers, amplifiers, cameras, camcorders, projectors, DVD players, VCRs, and the like;

(2) Personal computers;

(3) Communication devices such as telephones, walkie-talkies, cell phones, and the like;

(4) Various household items and appliances such as microwave ovens, sewing machines, silverware, dishes, air conditioners, home accessories, and the like;

(5) Various personal items such as clothing, jewelry, watches, and the like;

(6) Guns and equipment;

(7) Various maintenance and landscaping items and equipment such as tools and the like; and

(8) Office equipment, including typewriters, calculators, copy machines, fax machines, and the like.

SECONDHAND DEALER. A person engaged in, conducting, managing, or carrying on the business of selling goods and articles acquired by purchasing secondhand articles from any person not representing a bona fide business, who appears with such article at the dealer's place of business, or by acquiring items by purchasing from another bona fide, legitimate, and reputable business.
(Prior Code, § 7.210) (Ord. 2008-01, passed 3-31-2008)

§ 110.047 DEALER'S PERMIT REQUIRED.

No person shall engage in business as a dealer in the city without first obtaining a permit from the city and paying a dealer's permit fee set by Council resolution. This dealer's permit is separate and apart from the requirement to obtain a business license as required by the terms of § 110.004.
(Prior Code, § 7.215) (Ord. 2008-01, passed 3-31-2008) Penalty, see § 110.999

§ 110.048 DEALER'S PERMIT APPLICATION.

Application for a dealer's permit under § 110.047 shall be made on a form provided by the city.
(Prior Code, § 7.220) (Ord. 2008-01, passed 3-31-2008)

§ 110.049 APPLICATION REVIEW.

Applications for a dealer's permit shall be reviewed by the Chief of Police or designee who shall review and then approve or deny issuance of a dealer's permit consistent with the provisions of § 110.050.
(Prior Code, § 7.225) (Ord. 2008-01, passed 3-31-2008)

§ 110.050 CRITERIA FOR GRANT OR DENIAL.

Approval or denial of the application shall be based on the following criteria.

(A) No dealer's permit shall be issued unless the applicant is operating from a fixed location in the city.

(B) An applicant for a dealer's permit shall complete and submit an application (including required personal history forms) that sets forth the following information:

(1) The name, address, telephone number, birth date, and principal occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;

(2) The name, address, and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;

(3) The web address of any and all web pages used to acquire or offer for sale articles on behalf of the dealer, and any and all internet auction account names used to acquire or offer for sale articles on behalf of the dealer; and

(4) Written proof that all principals are at least 18 years of age.

(C) Each principal's business occupation or employment for the three years immediately preceding the date of application.

(D) The business license and permit history of the applicant in operating a business identical to or similar to those regulated by these provisions.

(E) A brief summary of the applicant's business history in any jurisdiction including:

(1) The business license or permit history of the applicant; and

(2) Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefor and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation.

(F) Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

(1) If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;

(2) If a corporation or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate bylaws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than 5% of the outstanding shares) and the number of shares held by each;

(3) If the applicant does not own the business premises, a true and complete copy of the executed lease, and the legal description of the premises to be permitted, must be attached to the application; and

(4) All arrests or convictions of each principal.

(G) Upon request, principals and employees shall submit to the City Police Department the following information:

(1) Fingerprints;

(2) Passport size photographs; and

(3) A copy of the signature initials to be used by persons on article transaction report forms. Principals and employees must submit new photos if requested to do so by the City Police Department.

(H) Any other information that the Chief of Police may reasonably feel is necessary to accomplish the goals of these provisions.

(Prior Code, § 7.230) (Ord. 2008-01, passed 3-31-2008)

§ 110.051 ISSUANCE OR DENIAL.

The City Manager shall issue a dealer's permit if the Chief of Police is assured that the dealer applicant and employees of the dealer have satisfied the conditions set out in § 110.050. If the Chief of Police determines that the dealer's application should be denied, the Chief shall notify the applicant in writing. The notice shall state the reason for denial and inform the applicant of the review and appeal provisions in § 110.013.
(Prior Code, § 7.235) (Ord. 2008-01, passed 3-31-2008)

§ 110.052 REVIEW OF DENIAL.

An applicant for a dealer's permit whose application is denied may have the decision reviewed by the City Manager by filing a written request with the City Manager within ten days of the notice of denial from the Chief of Police. The City Manager shall send a written notice of the decision to the applicant. A decision of the City Manager which upholds a denial may be appealed to the Council as provided by § 110.013.
(Prior Code, § 7.240) (Ord. 2008-01, passed 3-31-2008)

§ 110.053 TEMPORARY PERMIT.

Upon receipt of an application for a permit required under § 110.047, the Chief of Police may issue a temporary permit for operation of an antique, secondhand, or precious metal and gem dealer business, not to exceed a period of 30 days.
(Prior Code, § 7.245) (Ord. 2008-01, passed 3-31-2008)

§ 110.054 REVOCATION AND SUSPENSION.

(A) Along with the other regulatory enforcement authority granted in these provisions, the Chief of Police may revoke or suspend any permit issued to a dealer:

(1) For any cause that would be grounds for denial of a permit;

(2) Upon a finding any violation of the provisions of this code relating to dealers;

(3) Upon a finding of a violation of federal, state, or other local law being committed connected with the operation of the dealer's business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were occurring;

(4) A lawful inspection has been refused; or

(5) If any statement contained in the application for the permit is false.

(B) The Chief, upon revocation or suspension of any permit issued pursuant to these provisions, shall give the dealer written notice of the revocation or suspension.

(1) Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.

(2) Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.

(C) Revocation will be effective and final ten days after the giving of notice unless the revocation is appealed.

(D) Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days.

(Prior Code, § 7.250) (Ord. 2008-01, passed 3-31-2008)

§ 110.055 DEALER REGISTER.

(A) Dealers shall keep a book register of all articles purchased by the dealer. The register shall contain a full, true, and complete description of the subject article, including any engraved identifying number, mark, or symbol.

(B) The register shall show the hour and the day the article was received and the amount paid. In addition, the register shall include the name, address, and signature of the person from whom the purchase is made. The name and address shall be verified by obtaining two pieces of identification at the time of purchase.

(C) The register information on a purchase shall be retained by the dealer for a period of not less than one year. Upon request, the Chief of Police shall be allowed to review the register and any articles in possession of the dealer and subject to §§ 110.045 through 110.056. Inspection of register and articles shall be during regular business hours.

(D) Each article identified in the dealer's register shall be identified in the register with a number, letter, or symbol. The article itself, while in possession of the dealer, shall be identified by placing that number, letter, or symbol on the article.

(Prior Code, § 7.255) (Ord. 2008-01, passed 3-31-2008)

§ 110.056 DEALER REPORT AND HOLDING OF ARTICLE.

(A) All dealers shall, at the time of purchase of an article, complete the form provided by the Chief of Police. Completed forms must be returned to the Chief of Police not later than the next business day following the purchase. Placing the completed form in the mail not later than the next business day following the purchase shall be considered timely return. Postmark of the mailing of the completed form shall be verification of the timeliness of the return.

(B) Each article, subject to this subchapter, shall not be sold or otherwise disposed of for a period of 15 days from date of purchase. Notwithstanding this requirement, the Chief of Police may authorize, in cases in which it is shown that extreme financial hardship will result from holding an article for the 15-day period, sale or transfer of such article before the expiration of this period. Any authorization to sell an article prior to the expiration of 15 days shall be in writing.

(C) If the Chief of Police, upon reasonable belief that an article is the subject of a theft, notifies the dealer in writing not to dispose of any specifically described article, the article shall be retained in substantially the same form and shall not be sold, exchanged, dismantled, or otherwise disposed of for a period of time, not to exceed 30 days, as determined by the Chief of Police.

(Prior Code, § 7.260) (Ord. 2008-01, passed 3-31-2008)

LIQUOR LICENSE ISSUANCE

§ 110.070 PURPOSE.

The purpose of this section is to implement guidelines that allow the city an opportunity to review and make written recommendation on liquor license applications before licenses are issued by the Oregon Liquor Control Commission (OLCC). A new liquor license or annual renewal liquor license application shall be processed in accordance with §§ 110.071 and 110.072. Special event winery and/or grower permits and temporary sales liquor licenses shall be processed in accordance with § 110.073.
(Prior Code, § 7.800) (Ord. 2010-05, passed 6-14-2010)

§ 110.071 LIQUOR LICENSE ISSUANCE; RENEWAL; FEES.

(A) Any person or business requesting City Council recommendation for a liquor license must submit a signed criminal records check form provided by the city, in accordance with § 32.17, along with the applicable OLCC liquor license application.

(B) The city's criminal records check form shall contain:

(1) The type of license applied for and a description of the nature of the business for which the application is made;

(2) The name or trade name of the business, address of the business, and business telephone number;

(3) The full name of the applicant or licensee, mailing address, date of birth, physical description, driver license number and state issued, applicant's or licensee's signature, and date signed;

(4) The applicant or licensee must list the name(s) of any person who is an employee, volunteer, or agent of the holder of the liquor license and/or who manage the business or event;

(5) The applicant or licensee must verify, if applicable, that he or she have obtained a valid city business license or temporary business license in accordance with § 110.004;

(6) Any other information the City Manager deems necessary for making recommendation;

(7) The applicant or licensee shall pay, prior to processing the liquor license application, an application fee set in the maximum amount allowed by state law and as specified by Council resolution. The city's application processing fee shall be nonrefundable;

(8) Pursuant to O.R.S. 471.166 and O.A.R. 845-005-0304, the OLCC allows the city 45 days from the date a new liquor license application is date stamped by the city to make written recommendation to OLCC. The city may request up to an additional 45 days to conduct further investigation if considering an unfavorable recommendation;

(9) Pursuant to O.R.S. 471.166 and O.A.R. 845-005-0304, the OLCC allows the city 60 days from the date the OLCC notifies the city that an application for renewal of a liquor license is due to make written recommendation to OLCC. The city may request up to an

additional 45 days to conduct further investigation if considering an unfavorable recommendation; and

(10) The applicant or licensee shall be responsible to submit the city-endorsed liquor license application and receipt issued by the city to the OLCC.

(Prior Code, § 7.805) (Ord. 2010-05, passed 6-14-2010)

§ 110.072 LIQUOR LICENSE ISSUANCE; NOTICE; RECOMMENDATION; HEARING.

(A) The OLCC requires that an applicant or licensee give notice to the city when an application is made for issuance of a liquor license.

(B) The city's liquor license issuance and recommendation shall be as follows.

(1) The City Manager or designee shall provide the applicable city form(s) and shall maintain a record of liquor license applications in accordance with state laws.

(2) The City Manager or designee shall accept liquor license applications only when the conditions of §§ 110.071 through 110.073 have been met.

(3) The City Manager or designee shall cause the liquor license application to be reviewed by the Chief of Police or designee and/or any other department manager, for the purpose of obtaining information necessary to make a recommendation.

(4) Pursuant to § 32.18, the Chief of Police or designee who is authorized to perform a criminal records check through LEDS, is authorized, upon receipt of a signed criminal records check form, to conduct a criminal and/or driver records check on the applicant or licensee requesting a liquor license in the city, including persons who are an employee, volunteer, or agent of the holder of the liquor license.

(5) The Chief of Police or designee shall review the suitability of the liquor license application, including criminal and/or driver records, and make recommendation to the City Council based on the findings.

(6) If the Chief of Police or designee finds no bases for an unfavorable recommendation, the matter shall be scheduled as a consent agenda item before the City Council.

(7) If the Chief of Police or designee finds there are valid grounds to make an unfavorable recommendation, based on substantial evidence relevant to the license refusal bases as prescribed by state liquor laws (O.R.S. Chapter 471), the matter shall be scheduled as a public hearing before the City Council and notice to the applicant or licensee shall be given by registered mail, postmarked no later than seven business days prior to the public hearing at which the matter will be considered.

(8) The public hearing notice shall state the time and place of the hearing and reason(s) for making an unfavorable recommendation.

(9) Any person wishing to present testimony at the public hearing shall be given an opportunity to do so before the closing of the hearing.

(10) After due consideration of pertinent information and testimony, the City Council shall make its recommendation.

(11) In case of an adverse recommendation, based on substantial evidence relevant to the license refusal basis as prescribed by state liquor laws (O.R.S. Chapter 471), findings shall be produced and forwarded to the OLCC along with the City Council recommendation.

(Prior Code, § 7.810) (Ord. 2010-05, passed 6-14-2010)

§ 110.073 DELEGATION OF AUTHORITY; ISSUANCE; RULES; SPECIAL EVENT PERMIT AND TEMPORARY LIQUOR LICENSE.

(A) In order to expedite service to applicants or licensees seeking written recommendation for a special event winery and/or grower permit or temporary sales liquor license, the City Council delegates to the City Manager or designee its authority to review special event winery and/or grower permits and temporary sales liquor license applications and make recommendation to OLCC.

(B) The city's special event winery and/or grower permit and temporary sales liquor license rules, fees, and recommendation shall be as follows.

(1) The applicant or licensee shall pay prior to processing a special event winery and/or grower permit or temporary sales liquor license application, an application fee, set in the maximum amount allowed by state law, and as specified by Council resolution. The city's application processing fee shall be nonrefundable.

(2) The applicant or licensee must verify, if applicable, that he or she has obtained a valid city temporary business license for an event held in the city. Special events are subject to the provisions of §§ 110.025 through 110.030, business license required.

(3) In case of an adverse recommendation, the City Manager or designee shall comply with the guidelines prescribed in §§ 110.071 and 110.072.

(4) The City Manager or designee may refuse to accept any liquor license application if the applicant or licensee has not allowed at least seven days before the event date to obtain recommendation from the city and/or the liquor license application was not submitted in the form prescribed in § 110.071.

(5) In case of refusal to accept a liquor license permit or application, the City Manager or designee shall prepare a written letter addressed to the OLCC stating the reason(s) for refusal or non-acceptance of the liquor license permit or application.

(Prior Code, § 7.815) (Ord. 2010-05, passed 6-14-2010)

§ 110.999 PENALTY.

(A) It is unlawful for any person to make any false or misleading statement to the city for the purpose of determining the amount of any license fee to be paid to the city, or to fail or refuse to comply with any of the provisions of this chapter.

(B) All persons doing business within the city for which a business license is required by this chapter shall make all records showing the number of employees or persons engaged in the business available to the city at its request for purposes of auditing and verifying license fees charged based upon employee counts. Such records shall be held to the extent permitted in confidence consistent with state law.

(C) A business license fee due from any person and not paid in full when due is delinquent, and the city may avail itself of any and all remedies available to it to collect the fee from that person.

(D) A person required by this chapter who fails to timely secure a license under this chapter before becoming delinquent is in violation of this code. The city shall collect, in addition to the appropriate license fee and other fines assessed, an additional penalty of 10% of the fee for each calendar month or fraction thereof the license is delinquent, up to a maximum total of fines and penalties of $1,000.

(E) In the event any provision of this chapter is violated by an entity, the officer(s) or person(s) in charge shall be personally liable for the penalties imposed by this section.
(Prior Code, § 7.070) (Ord. 2008-01, passed 3-31-2008)

CHAPTER 111: SOLICITORS AND SERVICE PROVIDERS

Section

SECURITY SERVICES

§ 111.001 DEFINITIONS.

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

CHIEF OF POLICE. The Chief of Police or the Chief's designee.

LICENSE. The business license required by § 111.002.

SECURITY SERVICES.

(1) Engaging in or performing any of the following activities, or contracting with another for the performance of such activities:

(a) Patrol service;

(b) Armed courier service;

(c) Guard service;

(d) Crowd control; and

(e) Investigation service.

(2) ***SECURITY SERVICES*** does not include the following:

(a) Proprietary security wherein persons are employed by one employer to perform such services for that employer only, but does not include crowd control services.

(b) Unarmed investigation of a criminal or civil matter for an attorney or insurance company as an employee of that company and not as a contractor.

(c) Armored car services solely restricted to institutions governed by the Federal Deposit Insurance Corporation (FDIC or FSLIC).

(Prior Code, § 7.305) (Ord. 2008-01, passed 3-31-2008)

§ 111.002 LICENSE REQUIRED.

No person, whether proprietor or employee, shall engage in the business of security services within the city without first obtaining a city business license according to §§ 110.004 through 110.007.

(Prior Code, § 7.310) (Ord. 2008-01, passed 3-31-2008) Penalty, see § 111.999

§ 111.003 LICENSE APPLICATION.

In addition to the requirements of § 110.008, an applicant for a license or license renewal must demonstrate compliance with the state's Department of Public Safety Standards and Training.

(Prior Code, § 7.315) (Ord. 2008-01, passed 3-31-2008)

SOLICITORS

§ 111.015 DEFINITIONS.

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

OWNER. Any person having the right of possession of residential or commercial property including, but not limited to, the owner, renter, tenant, or authorized agent of such person.

PERSON. Every natural person, firm, partnership, association, or corporation.

POSTED. The placing of a clearly readable sign or placard in English stating "No Solicitors" or "No Solicitation" readily visible to any person attempting to enter the property from the nearest street or public way or conspicuously placed near the primary entrance to the residence or commercial establishment.

SOLICITATION. Any oral or written request to purchase or trade any product or thing; to request a contribution or donation of money or property for any purpose or cause; to request opinions or answers to surveys on any subjects; or to request endorsement or support by petition any product, candidate, or cause.

SOLICITOR. A person or persons engaged in solicitation.

(Prior Code, § 7.405) (Ord. 2008-01, passed 3-31-2008)

§ 111.016 POSTED.

No person shall enter onto any residential or commercial property for the purpose of solicitation or conduct solicitation when entrance to the property has been clearly posted by a sign or placard stating "No Solicitors" or "No Solicitation" unless such person has been expressly invited to do so by the owner.

(Prior Code, § 7.410) (Ord. 2008-01, passed 3-31-2008) Penalty, see § 111.999

§ 111.017 HOURS.

Uninvited solicitation shall not take place before the hour of 9:00 a.m. or after the hour of 8:00 p.m. when local time is Daylight Saving Time or after 7:00 p.m. when local time is Standard Time.

(Prior Code, § 7.415) (Ord. 2008-01, passed 3-31-2008) Penalty, see § 111.999

§ 111.018 REMOVAL OF SIGNS.

No person shall remove, deface, destroy, or otherwise interfere with the posted signs unless authorized to do so by the owner.

(Prior Code, § 7.420) (Ord. 2008-01, passed 3-31-2008) Penalty, see § 111.999

TREE SURGERY

§ 111.030 DEFINITIONS.

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

TREE SURGERY. The work of cutting, trimming, pruning, or removing trees; filling cavities in trees; or treating trees or shrubs in any manner to retard or repair decay and to prolong the life of the treated trees or shrubs. ***TREE SURGERY*** does not include work performed by city employees or its agents while performing work for the city.

(Prior Code, § 7.505) (Ord. 2008-01, passed 3-31-2008)

§ 111.031 NOTIFICATION REQUIRED.

No person shall engage in tree surgery when there is a possibility of interference with or obstruction of utility lines, except after notifying and obtaining authorization from the city's Light and Power Department.

(Prior Code, § 7.510) (Ord. 2008-01, passed 3-31-2008) Penalty, see § 111.999

BUSINESS RECYCLING

§ 111.060 BUSINESS RECYCLING REQUIREMENT.

(A) All businesses required to have a city business license, as specified in § 110.025, shall recycle as follows:

(1) Businesses shall source separate from the waste stream all paper, cardboard, glass/plastic bottles or jars, and aluminum/tin cans;

(2) Businesses and business recycling service customers shall provide recycling containers for internal maintenance or work areas where recyclable materials may be collected, stored, or both; and

(3) Businesses and business recycling service customers shall post accurate signs where recyclable materials are collected, stored, or both that identify the materials that the business must source separate and that provide recycling instructions.

(B) (1) This section does not apply to a business operated from a residence. A ***RESIDENCE*** is the place where a person lives.

(2) A business may seek an exemption from the requirements in division (A) above, if:

(a) The business provides access to the city or designated agent for a site visit; and

(b) The city or designated agent determines during the site visit that the business cannot comply with the business recycling requirement because of space or economic restrictions or other extenuating circumstances.

(C) To assist businesses in compliance with this section, the city or designated agent shall:

(1) Notify businesses of the business recycling requirement at the time application is made for a business license;

(2) Provide businesses with education and technical assistance to assist with meeting the requirements of this section; and

(3) The city's business license procedures shall include provisions requiring that the business shall certify that they have complied with the requirements of this section upon signing the business license application and the business shall also certify upon renewal of the business license that they have complied with the requirements of this section.

(D) A business that does not comply with the business recycling requirement may receive a written notice of noncompliance. The notice shall describe:

(1) The violation;

(2) How the business or business recycling service customer can cure the violation within the time specified in the notice; and

(3) An offer of assistance with compliance.

(E) A business or business recycling service customer that does not cure the violation within the time specified in the notice of noncompliance may receive a written citation. The citation shall provide:

(1) An additional opportunity to cure the violation within the time specified on the citation; and

(2) Notification to the business or business recycling service customer that it may be subject to a fine under the provisions of § 10.99.

(F) A business or business recycling service customer that does not cure the violation within the time specified in the notice of noncompliance may be subject to a fine. The general penalty of violation is punishable under the provisions of § 10.99.

(Prior Code, § 7.700) (Ord. 2009-06, passed 5-26-2009)

PLASTIC BAGS PROHIBITED

§ 111.075 PURPOSE.

The purpose of this subchapter is to prohibit use of single-use plastic carryout bags at retail establishments, any city facilities, city managed concessions, city sponsored events, and/or city permitted events, and allows retailers to charge up to $0.05 for a paper bag.

(Ord. 2016-12, passed 6-13-2016)

§ 111.076 PLASTIC BAG USE; DEFINITIONS.

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

ASTM STANDARD. The American Society for Testing and Materials (ASTM) International D-6400.

CARRYOUT BAG. Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods, or food, from the retail establishment. ***CARRYOUT BAG*** does not include:

(1) Bags used by consumers inside retail establishments to:

(a) Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;

(b) Contain or wrap frozen foods, meat, or fish, whether packaged or not;

(c) Contain or wrap flowers, potted plants, or other items where dampness may be a problem;

(d) Contain unwrapped prepared foods or bakery goods; or

(e) Pharmacy prescription bags.

(2) Laundry dry cleaning bags or bags sold in packages containing multiple bags intended to be used for home food storage, garbage waste, pet waste, or yard waste; and

(3) Product bags.

CITY SPONSORED EVENT. Any event organized or sponsored by the city or any department of the city.

CUSTOMER. Any person obtaining goods from a retail establishment or from a vendor.

FOOD PROVIDER. Any person in the city that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

GROCERY STORE. Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared, or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.

PHARMACY. A retail use where the profession of pharmacy by a pharmacist licensed by the state's Board of Pharmacy is practiced and where prescription medications are offered for sale.

PRODUCT OR PRODUCE BAG. Any bag without handles provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale within the retail establishment. A ***PRODUCT OR PRODUCE BAG*** is not a carryout bag.

RECYCLABLE PAPER BAG. A paper bag that meets all of the following requirements:

(1) Is 100% recyclable and contains a minimum of 40% post-consumer recycled content; and

(2) Is capable of composting consistent with the timeline and specifications of the ASTM Standard D6400, as defined in this section.

RETAIL ESTABLISHMENT. Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.

REUSABLE BAG. A bag made of cloth or other material with handles that is specifically designed and manufactured for long-term multiple reuses and meets all of the following requirements:

(1) If cloth, is machine washable;

(2) If plastic, has a minimum plastic thickness of 4.0 mils; and

(3) Does not contain lead, cadmium, or any other heavy metal in toxic amounts as defined by applicable state and federal standards and regulations for packaging or reusable bags.

SINGLE-USE PLASTIC CARRYOUT BAG. Any plastic carryout bag made predominately of plastic, either petroleum or biologically based, and made available by a retail establishment to a customer at the point of sale. It includes compostable and biodegradable bags but does not include reusable bags, recyclable paper bags, or product or produce bags.

UNDUE HARDSHIP. Circumstances or situations unique to the particular retail establishment such that there are no reasonable alternatives to single-use plastic carryout bags or a recyclable paper bag pass-through cannot be collected.

VENDOR. Any retail establishment, shop, restaurant, sales outlet, or other commercial establishment located within or doing business within the geographical limits of the city that provides perishable or nonperishable goods for sale to the public.
(Ord. 2016-12, passed 6-13-2016)

§ 111.077 PLASTIC BAG USE; REGULATIONS.

Except as exempted in § 111.079:

(A) No retail establishment shall provide or make available to a customer a single-use plastic carryout bag; and

(B) No person shall distribute or provide a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.
(Ord. 2016-12, passed 6-13-2016) Penalty, see § 111.999

§ 111.078 PLASTIC BAG USE; COST PASS-THROUGH.

When a retail establishment makes a recyclable paper bag available to a customer at the point of sale pursuant to § 111.079(B), the retail establishment may charge the customer a reasonable pass-through cost of up to $0.05 per recyclable paper bag provided to the customer and:

(A) May reimburse the customer up to $0.05 per customer-furnished reusable carryout bag; and

(B) Except for the exemption in § 111.079(B), indicate on the customer's transaction receipts the total amount of any recyclable paper bag pass-through charge.
(Ord. 2016-12, passed 6-13-2016)

§ 111.079 PLASTIC BAG USE; EXEMPTIONS.

Notwithstanding §§ 111.077 and 111.078:

(A) Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise;

(B) A retail establishment shall provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses a voucher issued under the Women, Infants, and Children Program established in the state's Health Authority under O.R.S. 413.500 (2013);

(C) Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass-through charge required in § 111.078(B); and

(D) The City Manager or the designee may exempt a retail establishment from the requirement set forth in §§ 111.077 and 111.078 for a period of not more than one year upon the retail establishment showing, in writing, that this subchapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the City Manager's or designee's decision shall be final.

(Ord. 2016-12, passed 6-13-2016)

§ 111.080 PROMOTION OF REUSABLE BAGS.

Retail establishments and vendors are strongly encouraged to educate their staff to promote reusable bags and to post signs encouraging customers to use reusable bags.

(Ord. 2016-12, passed 6-13-2016)

§ 111.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any retail establishment or vendor violating of §§ 111.075 through 111.080 is subject to:

(a) Upon the first violation, the Enforcement Officer shall issue a warning notice to the retail establishment or vendor that a violation has occurred;

(b) Upon subsequent violations, the following penalties shall apply:

1. One hundred dollars for the first violation after the written warning in a calendar year;

2. Two hundred dollars for the second violation in the same calendar year; and

3. Five hundred dollars for any subsequent violation within the same calendar year.

(c) No more than one penalty shall be imposed upon any single location of retail establishment or vendor within a seven-day period.

(2) Upon making determination that a violation of §§ 111.075 through 111.080 or regulations has occurred, the Enforcement Officer will send a written notice of the violation by mail to the retail establishment or vendor specifying the violation and the applicable penalty as set forth in division (B)(1) above.

(3) Any retail establishment or vendor receiving a notice of violation must pay to the city the stated penalty or appeal the finding of a violation in accordance with the procedures set forth in § 10.18.

(Ord. 2016-12, passed 6-13-2016)

CHAPTER 112: MARIJUANA

Section

§ 112.01 [RESERVED].

ACTIVITIES

§ 112.15 STATEMENT OF PURPOSE.

The purpose of this subchapter is to promote the public health, safety, and general welfare by establishing standards in the city for the operation of marijuana-related activities as allowed by state law.
(Ord. 2015-03, passed 4-27-2015; Ord. 2016-08, passed 3-28-2016)

§ 112.16 DEFINITIONS.

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

MARIJUANA-RELATED ACTIVITIES. An activity involved with the growing, processing, wholesaling, or selling of marijuana, cannabinoid product, cannabinoid concentrate, or cannabinoid extract regulated by the state's Health Authority or the state's Liquor Control Commission.
(Ord. 2015-03, passed 4-27-2015; Ord. 2016-08, passed 3-28-2016)

§ 112.17 REQUIREMENTS.

(A) A marijuana related-activity must comply with all applicable requirements of state law.

(B) A marijuana-related activity must obtain a city business license pursuant to §§ 110.001 through 110.014 prior to opening.

(C) A medical marijuana dispensary or marijuana retailer may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

(D) All products and paraphernalia sold to the public or members of a club or organization must be enclosed in an opaque bag or container upon exiting a dispensary or retail facility.

(E) A marijuana-related activity must provide secure disposal or render impotent marijuana remnants or by-products, including any item with marijuana residue.

(Ord. 2015-03, passed 4-27-2015; Ord. 2016-08, passed 3-28-2016) Penalty, see § 112.99

SALE OF MARIJUANA ITEMS

§ 112.30 DEFINITIONS.

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

MARIJUANA ITEM. The meaning given that term in O.R.S. 475B.015(16).

MARIJUANA RETAILER. A person who holds a license under O.R.S. 475B.110 and sells marijuana items to a consumer in this state.

RETAIL SALE PRICE. The price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

(Ord. 2016-15, passed 7-11-2016)

§ 112.31 TAX IMPOSED.

As authorized by O.R.S. 475B.345, the city hereby imposes a tax of 3% on the retail sale price of all marijuana items sold by a marijuana retailer in the city.

(Ord. 2016-15, passed 7-11-2016)

§ 112.32 COLLECTION.

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

(Ord. 2016-15, passed 7-11-2016)

§ 112.33 INTEREST AND PENALTY.

(A) Interest shall be added to the overall tax amount due at the same rate established under O.R.S. 305.220 for each month, or fraction of a month, from the time the return was originally required to be filed by the marijuana retailer to the time of payment.

(B) If a marijuana retailer fails to file a return or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under O.R.S. 314.400.

(C) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the city or designee.

(D) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the city or its designee is authorized to enforce the owed amount in accordance with O.R.S. 475B.700 to 475B.755 and any applicable rules or regulations adopted pursuant to this subchapter.

(E) The above penalties are in addition to the general penalty provided for in § 10.99.
(Ord. 2017-02, passed 6-26-2017)

§ 112.34 DUTY TO KEEP RECEIPTS, INVOICES AND OTHER RECORDS.

(A) A marijuana retailer shall keep receipts, invoices and other pertinent records related to retail sales of marijuana items as required by rules or regulations adopted pursuant to this subchapter. Each record shall be preserved for five years from the time to which the record relates. During the retention period and at any time prior to the destruction of records, the city may give written notice to the marijuana retailer not to destroy records described in the notice without written permission of the city.

(B) The city or its authorized representative or designee, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of marijuana items and any other investigations as the city deems necessary to carry out the provisions of this subchapter.
(Ord. 2017-02, passed 6-26-2017)

§ 112.35 RULES AND REGULATIONS.

The City Manager or the Manager’s designee may establish rules and regulations necessary to implement the provisions of this subchapter. For the purposes of this section, the Manager’s designee may include the Oregon Department of Revenue pursuant to an agreement entered into under O.R.S. 305.620.
(Ord. 2017-02, passed 6-26-2017)

§ 112.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Notwithstanding the provisions of § 110.999, a person who commits, permits, assists in, or attempts a violation of any provision of §§ 112.15 through 112.17 is subject to a civil penalty in the amount of not less than $100 for the first violation, $500 for the second violation, and $1,000 for each subsequent violation within a two-year period starting from the issuance of the first notice of violation.

(2) Each day during which any provision of §§ 112.15 through 112.17 is violated constitutes a separate offense.

(Ord. 2015-03, passed 4-27-2015)

TITLE XIII: GENERAL OFFENSES

Chapter

CHAPTER 130: ORDERLY CONDUCT

Section

§ 130.01 DISCHARGE OF WEAPONS.

(A) Except at firing ranges approved by the Chief of Police, or at military funerals by an honor guard, or at memorial services where blanks are discharged, or the discharge of blanks or black powder (without a projectile) at any other event approved by the Chief of Police, no person other than a peace officer or dog control officer shall fire or discharge a gun, including a spring or air actuated pellet gun, air gun, or BB gun, or other weapon which propels a projectile by use of gunpowder or other explosive, jet, or rocket propulsion.

(B) The provisions of this section shall not be construed to prohibit the firing or discharge of any weapon in self-defense as defined in O.R.S. 161.195 through 161.275.

(Prior Code, § 5.005) (Ord. 1997-15, passed 8-11-1997) Penalty, see § 10.99

§ 130.02 POLICE AND FIRE DEPARTMENT COMMUNICATIONS.

No person shall operate any generator or electromagnetic wave, or cause a disturbance of such magnitude as to interfere with the proper functioning of any Police or Fire Department radio communication system.
(Prior Code, § 5.015) Penalty, see § 10.99

§ 130.03 VIOLATING PRIVACY OF ANOTHER.

No person, other than a city official performing a lawful duty, shall enter on land or into a building used in whole or in part as a dwelling that is not the person's own without permission of the owner or person entitled to possession and while so trespassing look through or attempt to look through a window, door, or transom of the dwelling, or that part of the building used as a dwelling, with the intent to violate the privacy of another person.
(Prior Code, § 5.025) Penalty, see § 10.99

§ 130.04 PUBLIC EXCRETION.

No person shall, while in or in view of a public place, perform an act of urination or defecation, except in toilets provided for that purpose.
(Prior Code, § 5.030) Penalty, see § 10.99

§ 130.05 SOCIAL GAMING.

(A) Except as provided in division (B) below, social games, as defined in O.R.S. 167.117, and card rooms are prohibited in the city.

(B) Private businesses, private clubs, places of public accommodation, private homes, and charitable, fraternal, and religious organizations may engage in social games where no house income is realized from the games.
(Prior Code, § 5.035) (Ord. 1997-14, passed 9-8-1997)

§ 130.06 CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY, PUBLIC RIGHTS-OF-WAY, AND PUBLIC PREMISES.

(A) No person may consume any alcoholic beverage or possess an open container of any alcoholic beverage on any public property, any public rights-of-way, or upon any premises open to the public unless licensed or permitted for that purpose by the State Liquor Control Commission.

(B) An officer may take into possession any property that is apparently being used in violation of division (A) above, as authorized by O.R.S. 471.610.

(C) The general penalty of violation of division (A) above is punishable under the provisions of § 10.99.
(Prior Code, § 5.040) (Ord. 2008-04, passed 10-27-2008) Penalty, see § 10.99

§ 130.07 DESTRUCTION OF OFFICIAL NOTICES AND SIGNS.

No person shall willfully deface or tear down any official notice or bulletin or any official sign or signal posted or placed in conformity with the law.
(Prior Code, § 5.045) Penalty, see § 10.99

§ 130.08 INJURY TO OR REMOVAL OF CITY PROPERTY.

(A) No person shall willfully or negligently cut, remove, deface, or in any manner injure or damage real or personal property of the city within or without the corporate limits.

(B) No person shall willfully or negligently cut, destroy, remove, or injure any plant, flower, shrub, tree, or bush growing upon any property owned or controlled by the city within or without the corporate limits.
(Prior Code, § 5.050) Penalty, see § 10.99

§ 130.09 OPEN CELLAR DOORS OR GRATES.

No person shall permit any cellar door or grate located in or upon a sidewalk or public way to remain open except when such entrance is being used, and when being used, such entrance shall be opened only with proper safeguards to protect against pedestrians using the sidewalk or way.
(Prior Code, § 5.065) Penalty, see § 10.99

§ 130.10 DISTURBANCE OF THE PEACE.

No person shall unlawfully fight in a public place or challenge another person in a public place to fight.
(Prior Code, § 5.075) Penalty, see § 10.99

§ 130.11 INHALATION OF POISONOUS SUBSTANCE.

No person shall willfully ingest, inhale, or breathe the fumes of a poisonous substance with intent to become intoxicated.
(Prior Code, § 5.080) Penalty, see § 10.99

§ 130.12 CHILDREN CONFINED IN VEHICLES.

(A) No person who has control or custody of a child under eight years of age shall lock, confine, or leave the child unattended, or permit the child to be locked, confined, or left unattended in a vehicle for longer than 15 consecutive minutes.

(B) It is the duty of a peace officer who finds a child confined in violation of this section to remove the child, using force as is reasonably necessary to enter the vehicle and remove the child.
(Prior Code, § 5.085) Penalty, see § 10.99

§ 130.13 CROSSING POLICE LINES.

No person shall cross a clearly marked police line unless authorized to do so by a law enforcement officer.
(Prior Code, § 5.095) Penalty, see § 10.99

CHAPTER 131: CURFEW

Section

§ 131.01 ADOPTION OF COUNTY CURFEW LAW.

The county curfew ordinance, Ord. 388, enacted and made effective on January 15, 1991, is by this reference incorporated into this code and made a part hereof as the curfew ordinance of the city, except as hereinafter specifically amended, modified, or deleted, and shall be known and pled as the "city curfew ordinance". (Note: A copy of the county ordinance is located in the City Recorder's office.)
(Prior Code, § 5.096) (Ord. 1997-14, passed 9-8-1997)

§ 131.02 AMENDMENTS TO CURFEW ORDINANCE.

County Ord. 388 is amended and changed in the following particulars.

(A) References to "Board of County Commissioners" and "County" are amended to read "City Council of Forest Grove" and "City".

(B) The penalty of imprisonment not to exceed six months in § 9.08.110(B) is hereby deleted. (Note: A copy of the county ordinance is located in the City Recorder's Office.)
(Prior Code, § 5.097) (Ord. 1997-14, passed 9-8-1997)

CHAPTER 132: GRAFFITI

Section

§ 132.01 PURPOSE AND INTENT.

It is the purpose and intent of this chapter is to provide a procedure for the prevention, prohibition, and removal of graffiti on public and private property in order to promote a safe and livable community and to protect the public health and safety.
(Prior Code, § 5.150) (Ord. 2008-03, passed 5-27-2008)

§ 132.02 DEFINITIONS.

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

ABATE. To remove graffiti from the public view.

AEROSOL PAINT CONTAINER. Any aerosol container adapted or made for spraying paint.

ETCHING DEVICE. A glasscutter, awl, or any device capable of scratching or etching the surface of any structure or personal property.

FELT TIP MARKER. An indelible marker or similar implement with a tip which, at its broadest width, is greater than one-fourth inch.

GRAFFITI. Any inscription, word, figure, or design that is marked etched, scratched, drawn, or painted on any surface with paint, ink, chalk, dye, or other similar substance, regardless of content, which is visible from premises open to the public, such as public rights-of-way or other publicly-owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without authorization from the owner, occupant, or responsible party.

GRAFFITI IMPLEMENT. An aerosol paint container, a felt tip marker, an etching device, or a graffiti stick.

GRAFFITI NUISANCE PROPERTY. A property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten days after the property owner of record or occupant has been issued written notification.

GRAFFITI STICK. A device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth of an inch wide.

MANAGER. The City Manager or the manager’s designee who is responsible for the administration of the graffiti nuisance abatement program under this chapter.

OCCUPANT. Any person, tenant, sub-lessee, successor, or assignee that has control over property.

OWNER. Any person, agent, firm, or corporation having a legal or equitable interest in a property and includes, but not limited to, a mortgagor in possession, an occupant, or a person, agent, firm, or corporation that owns or exercises control over items of property, such as utility poles, drop boxes, postal collection boxes, and other types of containers.

PERMIT. To knowingly allow, suffer, and acquiesce by a failure, refusal, or neglect to abate.

PREMISES OPEN TO THE PUBLIC. All public spaces, including, but not limited to streets, alleys, sidewalks, parks, rights-of-way, and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.

PROPERTY. Any real or personal property, including, but not limited to, items affixed or appurtenant to real property or premises, house, building, fence, or structure, and items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.

RESPONSIBLE PARTY. An owner, an entity, or person acting as an agent for an owner by agreement that has authority over the property or is responsible for the property's maintenance or management. There may be more than one ***PARTY*** responsible for a particular property.

UNAUTHORIZED. Without consent of the owner, occupant, or responsible party.
(Prior Code, § 5.155) (Ord. 2008-03, passed 5-27-2008)

§ 132.03 GRAFFITI PROHIBITED.

It is unlawful and a violation of this chapter for any person to place, or put by any means, any drawing, inscription, figure, symbol, mark, or any type of graffiti on any public or private property without the consent of the owner, occupant, or responsible party of the premises, or upon natural surfaces such as rocks, trees, or any surface whatsoever. It is unlawful and a violation of this chapter for any person to solicit or command another person to apply graffiti or aid or abet another person in applying graffiti.
(Prior Code, § 5.160) (Ord. 2008-03, passed 5-27-2008) Penalty, see § 132.99

§ 132.04 POSSESSION OF GRAFFITI IMPLEMENT PROHIBITED.

No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.
(Prior Code, § 5.165) (Ord. 2008-03, passed 5-27-2008) Penalty, see § 132.99

§ 132.05 COMMUNITY SERVICE.

In lieu of a fine under this chapter, the court may order the violator to perform community service. The court will make a reasonable effort to require the violator to perform

community service that includes removal of graffiti and is expected to have a rehabilitative effect on the violator.
(Prior Code, § 5.175) (Ord. 2008-03, passed 5-27-2008)

§ 132.06 GRAFFITI REMOVAL; NOTICE AND PROCEDURES.

(A) The person-in-charge and/or owner of property shall remove graffiti from such property within ten days of the graffiti's appearance.

(B) Upon determination by the Enforcement Officer that graffiti nuisance exists on property, the Officer shall cause to be mailed a graffiti nuisance property warning notice to the person-in-charge and/or owner, if different, at the address shown on the county tax records.

(C) The notice shall contain:

(1) A statement that the property has been identified as a potential graffiti nuisance property;

(2) A statement that the person may request a hardship or extension of time in which to remove the graffiti by filing a written request with the Police Chief within ten days of the date of the warning notice. For the purpose of this division (C), ***HARDSHIP*** includes, but is not limited to, serious illness or disability, inclement weather, or other circumstances that prevent removal of the graffiti within ten days; and

(3) A statement that unless either the graffiti is removed or a hardship requested within the time specified in the notice, the property may be declared a nuisance and subject to abatement by the city and civil penalties imposed.

(D) If the graffiti is not removed within the time specified in the notice and/or a hardship no longer applies, the property shall be declared a nuisance and abated pursuant to § 91.050.
(Prior Code, § 5.180) (Ord. 2008-03, passed 5-27-2008; Ord. 2016-13, passed 7-11-2016)

§ 132.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) A violation of § 132.03 is a violation punishable by a civil penalty of up to $500. Each wall or object upon which graffiti is placed constitutes a separate violation. Each day on which a violation occurs or continues is a separate violation.

(2) A violation of § 132.03 is a violation punishable by a civil penalty of up to $1,000 if graffiti is placed on public property. Each wall or object upon which graffiti is placed constitutes a separate violation. Each day on which a violation occurs or continues is a separate violation.
(Prior Code, § 5.160)

(C) (1) Unlawful possession of a graffiti implement is a violation of § 132.04 punishable by a civil penalty up to $500. Each day or occurrence on which a violation occurs is a separate violation.

(2) In addition to issuing a citation, a graffiti implement used or possessed in violation of § 132.04 may be immediately seized and impounded by the manager or manager's

designee. The court, upon disposition of the issued citation, will determine whether the instrument will be returned to the defendant or deemed contraband subject to destruction under state law.
(Prior Code, § 5.165)

(D) Failure to remove graffiti as required by § 132.06 is a violation punishable by a civil penalty of up to $500. Each day the graffiti remains after the notice is sent constitutes a separate offense.
(Prior Code, § 5.180)
(Ord. 2008-03, passed 5-27-2008; Ord. 2016-13, passed 7-11-2016)

TITLE XV: LAND USAGE

Chapter

CHAPTER 150: BUILDING CODES

Section

Officials and Adopted Codes

Dangerous Building Code

OFFICIALS AND ADOPTED CODES

§ 150.001 BUILDING OFFICIAL.

There is hereby established a Code Enforcement Agency for the city which shall be under the administrative and operational authority of the Building Official. The Building Official shall enforce the provisions of all of the building and structural codes of the city and shall have the power to render written and oral interpretations of these codes and to adopt and enforce administrative procedures in order to clarify the application of their provisions. Such

interpretations, rules, and regulations shall be in conformance with the intent and purposes of the codes.
(Prior Code, § 8.001) (Ord. 1997-02, passed 3-24-1997)

§ 150.002 BOARD OF APPEALS.

(A) *General*. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of building codes as adopted by the city (as set forth in this chapter), there shall be and is hereby created a Building Code Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The Building Official shall be an ex-officio member of and shall act as Secretary to said Board, but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the City Council and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

(B) *Limiting authority*. The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of the building codes nor shall the Board be empowered to waive requirements of the building codes.
(Prior Code, § 8.600)

§ 150.003 ADOPTION OF BUILDING CODE.

The city adopts the following codes and documents by reference for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and structures within the city; providing for the issuance of permits and collection of fees; and providing penalties for violation of such codes.

(A) The 2017 Edition, “State of Oregon Structural Specialty Code”.

(B) The Current Code of the Uniform Building Code Appendix Chapter 33 as published by the International Conference of Building Officials.

(C) The 2017 Edition, “State of Oregon Mechanical Specialty Code”.

(D) The 2017 Edition, “State of Oregon Plumbing Specialty Code”.

(E) The 2017 Edition, “State of Oregon One- and Two-Family Dwelling Specialty Code”.

(F) One copy of each of the above shall be on file in the office of the City Recorder. Where any of the above codes or amendments is officially updated with modifications, deletions, or revisions that are made mandatory for local administration by the state, those modifications shall automatically become the legal code of the city on the effective date adopted by the state.
(Prior Code, § 8.005)

§ 150.004 ADOPTION OF UNIFORM HOUSING CODE.

In order to establish rules and regulations relating to the conservation and rehabilitation of housing, the city adopts the housing code known as the "Uniform Housing Code, 1991 Edition", as published by the International Conference of Building Officials, except portions as are deleted, modified, or amended by this code. One copy of the Uniform Housing Code, 1991 Edition, as amended, shall be kept on file in the office of the City Recorder.
(Prior Code, § 8.500) (Ord. 1990-15, passed 12-10-1990; Ord. 1993-05, passed 4-12-1993)

§ 150.005 AMENDMENTS.

The Uniform Housing Code, 1991 Edition, is amended as follows:

(A) Section 1609 is deleted; and

(B) Section 1610. If the County Assessor and the County Tax Collector assess property and collect taxes for the city, a certified copy of the assessment shall be filed with the County Auditor on or before July 15. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year.
(Prior Code, § 8.505) (Ord. 1990-15, passed 12-10-1990; Ord. 1991-09, passed 9-9-1991; Ord. 1993-05, passed 4-12-1993)

§ 150.006 ADOPTION OF RAINWATER HARVESTING SYSTEMS.

The requirements of Ord. 2007-19 are adopted by the city as an alternate method of rainwater usage in commercial building applications. The Rainwater Harvesting Systems, Ord. 2007-19, is by this reference incorporated into this code and made a part hereof as the rainwater harvesting systems ordinance of the city.
(Prior Code, § 8.700)

DANGEROUS BUILDING CODE

§ 150.020 PURPOSE.

(A) This subchapter shall be titled "Dangerous Building Code (DBC)" and shall be to provide a method (cumulative with and in addition to any other remedies available to the city by law) whereby buildings or structures which, from any cause, endanger the life, limb, health, morals, property, safety, or welfare of the general public or the building's occupants may be required to be repaired, vacated, or demolished.

(B) This section does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms hereof.
(Prior Code, § 8.010)

§ 150.021 SCOPE.

This subchapter shall apply to all dangerous buildings, as herein defined to be, now in existence or which may hereafter become dangerous buildings in the city.
(Prior Code, § 8.015)

§ 150.022 DEFINITIONS.

For the purpose of this chapter, certain terms, phrases, words, and their derivatives shall be construed as specified in either this subchapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used.

BUILDING CODE. The Uniform Building Code adopted by the city.

CITY. The City of Forest Grove.

DANGEROUS BUILDING. Any building or structure which has any or all of the conditions or defects hereinafter described, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or the building or structure's occupants are endangered:

(1) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(2) Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(3) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose, or location;

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location;

(5) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(6) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Building Code for such buildings;

(7) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(8) Whenever the building or structure, or any portion thereof, because of:

(a) Dilapidation, deterioration, or decay;

(b) Faulty construction;

(c) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;

(d) The deterioration, decay, or inadequacy of its foundation; or

(e) Any other cause, is likely to partially or completely collapse.

(9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(10) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base;

(11) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

(12) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become:

(a) An attractive nuisance to children;

(b) A harbor for vagrants, criminals, or immoral persons; or

(c) As to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

(13) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or of any law or ordinance of this state or jurisdiction relating to the condition, location, or structure of buildings;

(14) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than 50%, or in any supporting part, member, or portion less than 66% of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location;

(15) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the Health Officer to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease;

(16) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard;

(17) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence; and/or

(18) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

DIRECTOR. The Community Development Director or such other person as may be delegated authority under this subchapter.

MUNICIPAL COURT. The Municipal Court of the city.

(Prior Code, § 8.020)

§ 150.023 ALTERNATIONS, ADDITIONS, AND REPAIRS.

All buildings or structures required to be repaired under the provisions of this subchapter shall be subject to the provisions of § 3403 of the State Structural Specialty Code as it currently exists or may hereafter be amended.

(Prior Code, § 8.025)

§ 150.024 ADMINISTRATION.

The Community Development Director (hereinafter Director) is hereby authorized to enforce the provisions of this subchapter. The Director may delegate any authority provided in this subchapter. The Director shall have the power to render interpretations of this subchapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformity with the intent and purpose hereof.

(Prior Code, § 8.030)

§ 150.025 INSPECTIONS.

The Director and other officials, such as the Building Official, the Fire Marshal, and the County Health Department officials, are authorized to make such inspections and take such other actions as may be required to enforce the provisions of this subchapter including, but not limited to, the issuance of stop work or similar abatement orders.

(Prior Code, § 8.035)

§ 150.026 RIGHT OF ENTRY.

(A) When necessary to make an inspection to enforce the requirements imposed by the terms of this subchapter, or when the Director has reasonable cause to believe there exists in a building or upon a premises a condition which is contrary to or in violation of this subchapter making the building or premises unsafe, dangerous, or hazardous, the Director may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this subchapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested.

(B) If such building or premises be unoccupied, the Director shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the building

or premises and request entry. If entry is refused, the Director shall have recourse to the remedies provided by law to secure entry.
(Prior Code, § 8.040)

§ 150.027 DANGEROUS BUILDINGS DECLARED TO BE PUBLIC NUISANCES; ABATEMENT.

All buildings or portions thereof determined after inspection by the Director to be dangerous, as defined in this subchapter, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this subchapter.
(Prior Code, § 8.045)

§ 150.028 VIOLATIONS.

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy, or maintain any building or structure or cause or permit the same to be done in violation of this subchapter.
(Prior Code, § 8.050) Penalty, see § 150.999

§ 150.029 INSPECTIONS OF WORK.

All buildings or structures within the scope of this subchapter and all construction or work for which a permit is required shall be subject to inspection by the Director consistent with and in the manner provided by this chapter and §§ 108 and 1701 of the State Structural Specialty Code and other relevant provisions of municipal, county, or state law.
(Prior Code, § 8.055)

§ 150.030 COMMENCEMENT OF PROCEEDINGS.

When the Director has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the Director shall commence proceedings to cause the repair, vacation, or demolition thereof.
(Prior Code, § 8.060)

§ 150.031 NOTICE AND ORDER.

(A) To commence proceedings under this subchapter, the Director shall issue a notice and order directed to the record owner of the building.

(B) The notice and order shall contain:

(1) The street address and a description sufficient for identification of the premises upon which the building is located;

(2) A statement that the Director has found the building dangerous with a brief factual description of the conditions found to render the building dangerous;

(3) A statement of the action(s) required to be taken by the Director may include:

(a) If the building must be repaired, the notice and order shall require all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Director shall determine reasonable under all of the circumstances;

(b) If the building must be vacated, the order shall require that the building or structure be vacated within a time certain from the date of the order as determined by the Director to be reasonable; or

(c) If the building or structure is to be demolished, the order shall require that the building be vacated within such time as the Director determines reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 30 days of the date of the order; and that the demolition be completed within 30 days thereafter.

(4) A statement advising that if any required repair or demolition work, without vacation also being required, is not commenced within the time specified, the Director:

(a) Will order the building vacated and posted to prevent further occupancy until the work is completed;

(b) May proceed to cause the work to be done and charge the costs thereof against the property or its owner; and

(c) May issue a citation and impose fines pursuant to § 150.999 for failure to conduct the repair or demolition.

(5) Statements advising:

(a) That any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Director to the Municipal Court, provided the appeal is made in writing as provided in this subchapter and filed with the Director within 14 days from the date of service of such notice and order; and

(b) That failure to appeal will constitute a waiver of all rights to a hearing and judicial review of the matter.

(Prior Code, § 8.065)

§ 150.032 SERVICE OF NOTICE AND ORDER.

(A) The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property with a copy thereof being served on each of the following, if known to the Director or disclosed from official public records:

(1) The holder of any mortgage or deed of trust or other lien or encumbrance of record;

(2) The owner or holder of any lease of record; and

(3) The holder of any other estate or legal interest of record in or to the building or the land on which it is located.

(B) The failure of the Director to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.
(Prior Code, § 8.070)

§ 150.033 METHOD OF SERVICE.

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, to each such person at his or her address as it appears in the county tax records or as otherwise known to the Director. If no address of such person appears or is known to the Director, then a copy of the notice and order shall be mailed (addressed to such person) at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
(Prior Code, § 8.075)

§ 150.034 PROOF OF SERVICE.

Proof of service of the notice and order shall be certified too at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Director.
(Prior Code, § 8.080)

§ 150.035 REPAIR, VACATION, AND DEMOLITION.

(A) Any building declared a dangerous building under this subchapter shall be made to comply with one of the following:

(1) The building shall be repaired in accordance with the current Building Code or other current code applicable to the type of substandard conditions requiring repair; or

(2) The building shall be demolished consistent with division (D) below.

(B) If the building does not constitute an immediate danger to the life, limb, property, or safety of the public it may be vacated, secured, and maintained against entry.

(C) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property, or safety of the public or the building's occupants, it shall be ordered vacated, secured, and maintained against entry.

(D) If a building or structure is found to be or becomes dangerous such that the life, property, or safety of the public is thereby jeopardized and if, in the opinion of the Director, the building or structure under current circumstances is not likely to be repaired such that it will be habitable within 120 days, it may be ordered demolished, with the cost thereof to be borne by the owners. In the event the Director determines that a building is to be demolished, the Director

shall make a written order which includes the circumstances supporting demolition. The order shall be served on all persons entitled to notice provided under § 150.032 and is subject to a 21-day appeal consistent with the provisions of § 150.038.
(Prior Code, § 8.085)

§ 150.036 NOTICE TO VACATE; POSTING.

Every notice to vacate shall, in addition to being served, be posted at or upon each exit of the building and shall be in substantially the following form.

DO NOT ENTER
UNSAFE TO OCCUPY
It is unlawful to occupy this building or to remove or deface this notice.

_____
Community Development Director
City of Forest Grove, Oregon

(Prior Code, § 8.090)

§ 150.037 COMPLIANCE WITH NOTICE TO VACATE.

(A) Whenever such notice is posted, the Director shall include a notification thereof in the notice and order issued under § 150.031 reciting the emergency and specifying the conditions which necessitate the posting.

(B) No person shall remain in or enter any building which has been so posted except that entry may be made to repair, demolish, or remove such building under permit.

(C) No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and all lawful requirements have been met.
(Prior Code, § 8.095) Penalty, see § 150.999

§ 150.038 APPEAL.

(A) Any person entitled to notice under § 150.031 may appeal from any notice and order or any action of the Director under this subchapter by filing with the Municipal Court a written appeal containing:

(1) A heading in the words: “Before the Municipal Court of the City of Forest Grove, Oregon”;

(2) A listing of the names of all appellants participating in the appeal along with a brief statement setting forth the legal interest of each appellant in the building or the land involved in the notice and order;

(3) A brief statement concerning the basis for the appeal together with any material fact(s) claimed to support those contentions and why the protested order or action should be reversed, modified, or otherwise set aside;

(4) The signatures of all parties named as appellants and their official mailing addresses; and

(5) The verification by declaration under penalty of perjury of at least one appellant as to the truth of the matters stated in the appeal.

(B) The appeal shall be filed within 21 days of the date of service of the Director's order or action; provided, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property, or safety of the public or adjacent property and is ordered vacated and is posted in accordance with §§ 150.036 and 150.037, such appeal shall be filed within ten days from the date of the service of the notice and order of the Director.
(Prior Code, § 8.100)

§ 150.039 SCHEDULING APPEAL FOR HEARING.

As soon as practicable after receiving the written appeal, the Municipal Court shall fix a date, time, and place for the hearing of the appeal. Such date shall not be less than ten nor more than 60 days from the date the appeal was filed with the Director. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the Court either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.
(Prior Code, § 8.105)

§ 150.040 EFFECT OF FAILURE TO APPEAL.

Failure of any person to file an appeal in accordance with the provisions of § 150.038 shall constitute a waiver of the right to a hearing and judicial review of the notice and order or any portion thereof.
(Prior Code, § 8.110)

§ 150.041 SCOPE OF APPEAL HEARING; STAY OF ORDER.

(A) Only those matters or issues specifically raised by the appellant shall be considered in the appeal.

(B) Except for vacation orders made pursuant to § 150.035, enforcement of any notice and order of the Director issued under this subchapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.
(Prior Code, § 8.115)

§ 150.042 FORM OF NOTICE OF HEARING TO APPELLANT.

The notice of hearing to the appellant(s) shall be substantially in the following form.

"You are hereby notified that a hearing will be held before the Forest Grove Municipal Court on the _____ day of _____ , 20 _____ at the hour _____ upon the notice and order served upon you for alleged violation(s) of Forest Grove Dangerous Buildings Code. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present relevant evidence and will be given full opportunity to examine witnesses."

(Prior Code, § 8.120)

§ 150.043 RECORD.

A record of the hearing shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the Court.

(Prior Code, § 8.125)

§ 150.044 CONDUCT OF HEARINGS.

(A) Hearings need not be conducted according to the technical rules relating to evidence and witnesses. Oral evidence shall be taken on oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in the state.

(B) Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in the state. Irrelevant and unduly repetitious evidence shall be excluded.

(Prior Code, § 8.130)

§ 150.045 RIGHTS OF PARTIES AT HEARINGS.

The city and the appellant(s) shall be able to:

(A) Call and examine witnesses on matters relevant to the issues of the hearing;

(B) Introduce documentary and physical evidence;

(C) Cross-examine opposing witnesses;

(D) Rebut evidence; and

(E) Be represented by anyone lawfully permitted to do so.

(Prior Code, § 8.135)

§ 150.046 JUDICIAL NOTICE.

In reaching a decision, judicial notice may be taken (either before or after submission of the case for decision) of any fact which would be judicially noticeable by state courts. Parties present at the hearing shall be informed of the matters to be noticed which is to be noted in the record. Parties present at the hearing shall be given a reasonable opportunity to refute the noticed matters by evidence or by written or oral presentation of authority.
(Prior Code, § 8.140)

§ 150.047 INSPECTION OF THE PREMISES.

The Court may inspect any building involved in an appeal during the course of the hearing; provided that: notice of such inspection shall be given the parties before the inspection is made; the parties are given an opportunity to be present during the inspection; and the judge shall state for the record after said inspection the material facts observed and the conclusions drawn therefrom.
(Prior Code, § 8.145)

§ 150.048 FORM OF DECISION; JUDICIAL REVIEW.

(A) With appeals heard by the Municipal Court, the Court shall, within a reasonable time not to exceed 90 days from the date the hearing is closed, prepare a written decision which shall contain findings of fact, a determination of the issues presented and the requirements, if any, to be complied with. The effective date of the decision shall be as stated therein. A copy of the decision shall be delivered to the city and appellant by regular mail, postage prepaid.

(B) Judicial review of the Court's decision shall be by way of writ of review as provided for in O.R.S. 34.010 through O.R.S. 34.100.
(Prior Code, § 8.150)

§ 150.049 ENFORCEMENT OF ORDERS.

After any order of the Director or Municipal Court made pursuant to this subchapter has become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. If the person to whom such order is directed fails, neglects, or refuses to comply with any such order, the Director may take any and all necessary actions deemed by him or her, in consultation with the City Manager and City Attorney, to be appropriate including the issuance of a citation or the filing of supplementary enforcement or compliance action(s) in a court of competent jurisdiction. In addition, the Municipal Court may use contempt of court proceedings to enforce such orders.
(Prior Code, § 8.155)

§ 150.050 FAILURE TO COMMENCE WORK.

Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this subchapter becomes effective:

(A) The Director shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

> DANGEROUS BUILDING
> DO NOT OCCUPY
> It is unlawful to occupy this building or to remove or deface this notice.
> Community Development Director
> City of Forest Grove, Oregon

(B) No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the Director have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code; and

(C) The Director may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble, and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner provided for the collection of assessment liens. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

(Prior Code, § 8.160)

§ 150.051 INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED.

No person shall obstruct, impede, or interfere with any officer, employee, contractor, or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated, or demolished under the provisions of this subchapter, or with any person to whom such building has been lawfully sold pursuant to the provisions of this subchapter, whenever such officer, employee, contractor, or authorized representative of the city, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this subchapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this subchapter.

(Prior Code, § 8.165) Penalty, see § 150.999

MOVING BUILDINGS

§ 150.065 MOVING PERMIT.

(A) No person shall move any building, structure, or exceedingly heavy objects over, along, or across any public street without first obtaining a permit from the City Manager.

(B) The applicant for a permit shall file with the City Manager a bond with one or more qualified sureties to be approved by the Manager under the following conditions:

(1) The obligor will repair all damage done to any public street, public property, or private property caused either directly or indirectly by the moving of a building, structure, or other exceedingly heavy object over, across, or along any public street; and

(2) The obligor will hold the city harmless from all claims, demands, suits, or actions by any person for damages done to them or to their property by the negligent or careless moving of a building, structure, or other exceedingly heavy object over, across, or along the public streets.

(C) The bond shall be in the sum of $5,000. The sureties shall qualify in the same manner and form provided for sureties for bail upon arrest to qualify by the general laws of the state.

(Prior Code, § 8.200) Penalty, see § 150.999

§ 150.066 OBSTRUCTING INTERSECTIONS.

No person shall permit any building, structure, or exceedingly heavy object to remain upon any street crossing or at the intersection of any street between dusk and dawn.

(Prior Code, § 8.205) Penalty, see § 150.999

§ 150.067 CLEARANCE UNDER WIRES.

No building, structure, or exceedingly heavy object shall be moved under any electric, telephone, or telegraph wires, where there is not ample clearance, without having present an authorized employee of the owner of the wires to move or disconnect any wires as necessary to provide clearance.

(Prior Code, § 8.210) Penalty, see § 150.999

§ 150.068 WARNING LIGHTS.

Any building, structure, or exceedingly heavy object which is permitted to remain on the streets or in any public place between dusk and dawn shall be protected by red lanterns in sufficient number to warn the public of the obstruction.

(Prior Code, § 8.215)

SWIMMING POOLS

§ 150.080 COMPLIANCE.

No person shall construct, maintain, install, or enlarge any swimming pool in the city except in compliance with provisions of this code.
(Prior Code, § 8.400) Penalty, see § 150.999

§ 150.081 DEFINITION.

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

SWIMMING POOL. A receptacle, including all appurtenant equipment, for water having a depth at any point of more than 18 inches, intended for the immersion or partial immersion of persons. This definition includes any hot tub meeting the above criteria.
(Prior Code, § 8.405)

§ 150.082 PERMIT REQUIRED.

(A) No person shall construct, install, enlarge, or alter any private residential swimming pool within the city unless a permit is obtained from the Building Inspector.

(B) The permit fee shall be as provided in the Building Code of the city.
(Prior Code, § 8.410) Penalty, see § 150.999

§ 150.083 ENCLOSURE OF SWIMMING POOL.

(A) Every outdoor swimming pool shall be completely surrounded by a fence or wall which shall be set back from the pool five feet and be not less than four feet in height. If the fence is constructed less than five feet from the pool, the fence shall be six feet in height. The fence or wall shall not have openings, holes, or gaps larger than four inches in any dimension except for doors and gates. If a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. A dwelling house or accessory building may be used as part of the enclosure.

(B) All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. This requirement applies to all new swimming pools, other than indoor pools, and applies to all existing pools which have a minimum depth of 18 inches of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant, or licensee, upon which is situated a swimming pool having a minimum depth of 18 inches shall fail to provide and maintain the fence or walls as provided in this code.

(C) The Building Inspector may approve modifications to the height, nature, or location of the fence, wall, gates, or latches, provided the protection as sought under this code is not reduced. The Building Inspector may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than

the protection afforded by the wall, fence, gate, and latch described in this code. The Building Department shall allow 30 days' notice within which to comply with the requirements of this section. Notice to comply with the provisions of this code shall be in writing and given by certified mail.

(D) In the case of existing pools or structures, the Building Inspector may grant a variance from the provisions of this code as to the height of the fence or setback requirements; however, the protective devices and safeguards installed must comply with the safety precautions intended to be provided by this code.

(E) Hot tubs may use a secured cover instead of a fence.

(Prior Code, § 8.415)

HOUSE NUMBERING

§ 150.095 DEFINITION.

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

STREET. Any public thoroughfare, either part of the original city or platted and so designated in a subdivision, or conveyed to the public or to the city for use as a public thoroughfare.

(Prior Code, § 9.505) (Ord. 2009-04, passed 3-9-2009)

§ 150.096 STREET NAMES.

(A) The names of the streets and thoroughfares of the city shall be known on and after January 1, 1950, as those set out and described upon the map designated as the street name map of the city and made a part of this code by reference. The map shall be kept in the City Engineer's office.

(B) The street in the Sills Addition to the city, officially platted and designated as Camino Real, is renamed Camino Drive and shall be officially named and designated and for all purposes known as Camino Drive.

(Prior Code, § 9.510) (Ord. 2009-04, passed 3-9-2009)

§ 150.097 STREET NUMBERS.

The numbers for buildings and structures abutting upon the streets of the city shall be assigned, designated, and used on and after January 1, 1950, in the manner indicated and described upon the street name map, according to the following system:

(A) On Pacific Avenue, and all avenues and thoroughfares parallel with Pacific Avenue, the numbers east of Main Street shall commence with 1900 and increase in an easterly direction with even numbers on the south side of the street and odd numbers on the north side;

(B) On Pacific Avenue, and all avenues and thoroughfares parallel with Pacific Avenue, the numbers west of Main Street shall commence with 1900 and decrease in a westerly direction with even numbers on the south side of the street and odd number on the north side;

(C) On Main Street, and all streets and thoroughfares parallel with Main Street, the numbers north of Pacific Avenue shall commence with the number 2000 and increase in a northerly direction with even numbers on the west side of the street and odd numbers on the east side;

(D) On Main Street, and all streets and thoroughfares parallel with Main Street, the numbers south of Pacific Avenue shall commence with the number 1900 and decrease in a southerly direction with even numbers on the west side of the street and odd numbers on the east side;

(E) Wherever practicable, building and structure numbers shall be assigned at a frequency of each 20 feet; and

(F) The plan of numbering is to be applied and extended throughout the present corporate limits of the city and into contiguous territory as may from time to time be annexed to the city.

(Prior Code, § 9.515) (Ord. 2009-04, passed 3-9-2009)

§ 150.098 HOUSE NUMBERS; LOCATION AND TYPE.

House numbers shall be affixed in a conspicuous location which is clearly visible from the fronting street. Numbers shall be of contrasting color to the surface upon which they are affixed. They may be painted or metallic, plastic, wooden, or ceramic fixtures, or other material that will not rust or corrode. For structures that are given street addresses subsequent to the effective date of this subchapter, numbers shall be at least four inches high.

(Prior Code, § 9.520) (Ord. 1997-14, passed 9-8-1997; Ord. 2009-04, passed 3-9-2009)

§ 150.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) A person responsible for failure to repair or demolish a dangerous building, as determined through the process established by this code, may be subject to the imposition of a civil penalty in an amount of not less than $100 per day for the violation. The penalty shall be established either through the issuance of a citation pursuant to § 150.049 or by the Municipal Court.

(Prior Code, § 8.170) (Prior Code, § 8.420)

CHAPTER 151: PUBLIC IMPROVEMENTS

Section

SIDEWALKS

§ 151.001 SIDEWALK CONSTRUCTION REQUIRED.

(A) The owner of any property not having sidewalks shall agree to install and pay for sidewalks to be constructed in accordance with the specifications contained in § 151.002 as a condition to the issuance of a building permit for a new structure, to expand the square footage of the main structure by at least 10%, or to expand the number of bedrooms when the permit valuation is more than $10,000, except as provided in division (B) below. The structure for which the permit is issued shall not be occupied until the sidewalks have been constructed.

(B) (1) The construction of sidewalks required in division (A) above may be deferred upon execution by the property owner of a binding agreement in favor of the city requiring future sidewalk construction by, and at the expense of, the property owner and the owner's successors in interest.

(2) The agreement shall be in a form satisfactory to the City Manager or designee.

(3) This division (B) is applicable only when one or more of the following conditions is found to exist by the City Engineer:

(a) Construction of sidewalks is not feasible due to limiting physical conditions;

(b) All property within 300 feet on each side of the side lot lines of the property for which the building permit is issued is fully developed and none of the fully developed properties have sidewalks; or

(c) The property is located on twenty-fourth Avenue between Quince and Yew Streets or Yew Street north of the Burlington Northern Railroad tracks (Forest Grove Industrial Park).

(Prior Code, § 3.105) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.002 SPECIFICATIONS.

(A) All sidewalks shall be constructed, reconstructed, repaired, or maintained in accordance with reasonable specifications established by the City Engineer and approved by the City Manager. The specifications shall be kept on file in the office of the City Engineer, and copies shall be available for inspection by contractors and property owners desiring to construct sidewalks.

(B) The City Engineer, with the approval of the City Manager, is authorized to establish standards with regard to sidewalk grades, locations and widths, materials, and construction. Any contractor or property owner aggrieved by these standards may appeal to the Council by filing a written protest with the City Recorder.

(Prior Code, § 3.110) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.003 DUTY TO REPAIR AND CLEAR SIDEWALKS.

It is the duty of an owner of land adjoining a street to maintain in good repair and remove obstructions from the adjacent sidewalk.

(Prior Code, § 3.115) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.004 LIABILITY FOR SIDEWALK INJURIES.

(A) The owner of real property responsible for maintaining the adjacent sidewalk shall be liable to any person injured because of the negligence of the owner in failing to maintain the sidewalk in good condition.

(B) If the city is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty § 151.003 imposes, the person shall compensate the city for the amount of the damages paid. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this subchapter.

(Prior Code, § 3.120) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.005 REPAIR OF SIDEWALKS BY ADJACENT PROPERTY OWNERS.

Whenever the City Manager or designee determines that a sidewalk is defective, notice of the nature of the defect and the location of the defective sidewalk shall be given to the adjacent property owner, together with a demand that the defect be repaired at the expense of the owner within 30 days of the date of the notice.
(Prior Code, § 3.125) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.006 DELIVERY OF NOTICE.

Whenever the City Manager or designee determines that a sidewalk is defective, notice of the nature of the defect and the location of the defective sidewalk shall be given to the adjacent property owner, together with a demand that the defect be repaired at the expense of the owner within 30 days of the date of the notice.
(Prior Code, § 3.130) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.007 REPAIR PERIOD; EXTENSION OF TIME.

The owner of the property adjacent to the defective sidewalk shall cause the necessary repairs to be made in accordance with the standards and specifications of the city for sidewalk construction within 30 days from the date of personal service or the date of mailing of the notice to repair. The time within which the repairs are to be made may be extended by the City Manager or designee, for good cause shown, but the extension shall not exceed 30 days. Applications for time extensions shall be submitted in writing.
(Prior Code, § 3.135) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.008 COSTS OF REPAIRS.

All costs of repair of defective sidewalks shall be paid by the adjacent property owner.
(Prior Code, § 3.140) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.009 REPAIR BY CITY.

If the required repairs to the sidewalk have not been completed within the time allowed, the city may make the necessary repairs and charge the cost, including reasonable engineering and inspection costs, to the adjacent property owner. The repair may be made either by the city or by a private contractor chosen by the city.

(Prior Code, § 3.145) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.010 NOTICE OF REPAIR ASSESSMENT.

After costs of repairs made by the city have been calculated, the property owner shall be notified in the manner provided by § 151.006.
(Prior Code, § 3.150) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

§ 151.011 UNPAID COSTS AS LIEN.

If the adjacent property owner fails to pay the costs of repair of the defective sidewalk within 30 days of the date of the notice declaring the cost of the repair, the cost shall be entered by the City Recorder in the docket of city liens and shall be collectible in the same manner as liens for public improvements.
(Prior Code, § 3.155) (Ord. 1973-1007, passed - -; Ord. 1974-1043, passed - -; Ord. 1976-27, passed - -; Ord. 2013-04, passed 5-13-2013)

PARKS SYSTEMS DEVELOPMENT CHARGE

§ 151.025 PURPOSE.

A system development charge is enacted to recover a fair share of the cost for the acquisition and construction of parks facilities.
(Prior Code, § 3.500) (Ord. 1990-07, passed 9-23-2007; Ord. 2012-01, passed 2-13-2012)

§ 151.026 DEFINITIONS.

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

BUILDING PERMIT. Any permit issued by the Building Department for the installation or construction of a residential structure (such as multiple-family, manufactured dwelling units, and the like) under the city or state Building Code, except where such construction does not have the effect of increasing the number of dwelling units occupying the premises.

PARKING ACQUISITION AND DEVELOPMENT. Purchase or lease of property for park purposes and all design and construction associated with the development or improvement of any park, including any equipment and development labor.
(Prior Code, § 3.505) (Ord. 1990-07, passed 9-23-2007; Ord. 2012-01, passed 2-13-2012)

§ 151.027 CHARGE IMPOSED.

A system development charge for park acquisition and development is hereby imposed upon all new dwelling units developed within the city. Such charge shall be established by the City Council under separate resolution. This fee is not covered by the annual fee adjustment. (Prior Code, § 3.510) (Ord. 1990-07, passed 9-23-2007; Ord. 2012-01, passed 2-13-2012)

§ 151.028 COLLECTION.

(A) A system development charge for park acquisition and development shall be paid prior to receiving a building permit or manufactured dwelling setup fee. If the project is a residential or multi-family dwelling, an application may be made to the city to pay the parks system development charge in installment payments for a period not to exceed ten years. Fifteen percent of the system development charge due shall be paid upon application submission. The terms of the financing arrangement shall be set by Council resolution.

(B) An applicant for installment payments must demonstrate the applicant's authority to assent to the imposition of a lien on the property and that the interest of the applicant is adequate to secure payment of the lien.

(C) From that time the City Manager or designee has docketed a lien as provided in § 32.01 upon the described property for the amount of the system development charge, together with interest on the unpaid balance, the lien may be collected in the same manner as allowed by law for collection of assessment liens.

(D) The City Manager or designee is authorized to administer all aspects of the installment payment and financing of system development charges. This authority includes, but is not limited to:

(1) Providing final approval for projects seeking to participate in the installment payment and financing program;

(2) Providing application forms for installment payments that include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors;

(3) Documenting the amount of the system development charge, the dates on which the payments are due, the name of the owner, and the description of the property; and

(4) Entering a lien for the amount of the system development charge, together with interest on the unpaid balance, in the city's lien docket as provided in § 32.01.

(Prior Code, § 3.515) (Ord. 1990-07, passed 9-23-2007; Ord. 2012-01, passed 2-13-2012)

§ 151.029 REDUCED CHARGES.

(A) A developer may apply for a reduction of the system development charge by dedicating land or facilities to the city.

(B) City acceptance of the land or facilities in lieu of all or part of the assessed charge is based on the following criteria:

(1) The land offered can be used for park purposes in a manner consistent with the park and recreation element of the city's Comprehensive Plan and any park or recreation

plan or program adopted pursuant thereto, or can be sold by the city to obtain funds for such purposes;

(2) The land is adequate in size, location, and topography for the facilities necessary to satisfy the needs of the new residents;

(3) The land will at all times be available and accessible to the general public in accordance with existing ordinances and regulations dealing with the use of public facilities;

(4) The city's Parks and Recreation Commission approves the location and construction of all improvements on the land; and

(5) The amount of fee reduction is based on the city's Comprehensive Plan park standards considering amount of land and cost of facilities dedicated to the city, number of dwellings or population served, and the like. Meeting neighborhood park standards for the proposed residential population may reduce fees up to one-half. Meeting neighborhood and community park standards may eliminate park system development charges.

(C) In the event land is dedicated in lieu of the systems developments charge, an equal portion of the value of the land dedicated shall be apportioned to each of the lots created. As the building permits are issued and the systems charge collected for each lot, the value of the dedicated land apportioned to each lot shall be credited, without interest, to the person dedicating the land, or his or her heirs, or his or her assigns, until the total value is credited or five years have elapsed from the date building permits are made available from the city. In the event the total amount has not been credited within five years or before the development is completed, the residual balance shall be liquidated to the city.

(Prior Code, § 3.520) (Ord. 1990-07, passed 9-23-2007; Ord. 2012-01, passed 2-13-2012)

§ 151.030 SEGREGATION OF REVENUES.

All funds derived from the system development charge for park acquisition and development shall be kept in the Park Acquisition and Development Capital Fund. This Fund shall be segregated from other funds of the city and shall be used for no other purpose than the acquisition, design, construction, or improvement of park facilities as defined in § 151.026.

(Prior Code, § 3.525) (Ord. 1990-07, passed 9-23-2007; Ord. 2008-02, passed 5-12-2008; Ord. 2012-01, passed 2-13-2012)

§ 151.031 SCOPE.

The system development charge for park acquisition and development provided for in this subchapter is separate from and in addition to any and all applicable taxes, assessments, charges, or fees otherwise provided by law.

(Prior Code, § 3.530) (Ord. 1990-07, passed 9-23-2007; Ord. 2012-01, passed 2-13-2012)

EXCAVATION AND DEPOSIT PERMITS

§ 151.045 DEFINITIONS.

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

PIPELINE. All types of underground installations, including cables and conduit.

STREET. Any public street, public sidewalk, or public place.

(Prior Code, § 3.205)

§ 151.046 DEPOSIT ON STREETS.

(A) No person shall deposit any article or material on any street without first securing a permit from the City Manager or designee and paying the required fee. The permit may be denied if the Manager or designee determines that the article or material will seriously impede traffic or unduly obstruct the view of motor vehicle drivers.

(B) No permit is required if the article or material is being delivered, does not obstruct traffic or the vision of motor vehicle drivers, and does not remain on the street for more than three hours.

(C) A holder of a permit to deposit any article or material on the street shall provide adequate safeguards, railing, lights, and markers to warn persons passing by.

(D) No deposit permit shall be effective for longer than 72 hours.

(Prior Code, § 3.210) (Ord. 2013-13, passed 1-13-2014) Penalty, see § 10.99

§ 151.047 STREET EXCAVATION.

(A) No person shall make or cause any excavation to be made on a street without first securing a permit from the City Manager and paying the required fee. An excavation permit is effective only for the project designated on the permit.

(B) An applicant for an excavation permit shall comply with applicable provisions of §§ 151.049 and 151.050 when not in conflict with general specifications established by the State Highway Division.

(Prior Code, § 3.215) Penalty, see § 10.99

§ 151.048 FEES.

The fees for a permit to deposit any article or material on the street or for an excavation permit shall be fixed by Council resolution, and may be amended in the same manner.

(Prior Code, § 3.220)

§ 151.049 QUALIFICATIONS OF APPLICANT FOR PERMIT.

(A) An applicant shall require all of its contractors engaged in the construction, installation, maintenance, or repair of pipelines involving public rights-of-way, to carry a public

liability and property damage policy written by a company authorized to do business in the state in the amounts of $100,000/$300,000 public liability and $100,000 property damage, naming the city and its officers as additional parties insured. The applicant shall furnish a certificate of such insurance to the city.

(B) Before commencing work on underground construction and to guarantee the faithful performance of the permit, the applicant shall furnish the city with cash, a certified check, or a surety bond in the amount of the construction improvement, but not less than $5,000. The surety bond shall be issued by a company licensed to do business in the state and otherwise acceptable in all respects to the city. The surety bond furnished shall remain in force for a period of one year after the underground construction covered by the permit has been completely installed.

(C) Notification by the permit holder that the construction is complete shall commence the running of the one-year period for the surety bond. Public utilities as defined by O.R.S. 757.005 are exempt from the requirements of this section.

(Prior Code, § 3.225)

§ 151.050 PERMIT HOLDER'S DUTIES.

(A) No work which interferes with the public travel of a street shall commence until a plan for satisfactorily handling the traffic at the places concerned has been approved by the Chief of Police and City Engineer.

(B) The contractor shall open only a reasonable amount of trench in advance of pipe laying, testing, and backfilling. Crossings of main streets and highways shall be kept open for traffic and private roads closed only for a time sufficient for excavation, pipe laying, and backfillings with ample equipment and force.

(C) (1) All operations shall be conducted with the least possible interference to the traveling public and other users of the street. Barricades, fences, signs, lights, signals, and flagpersons shall be provided where considered necessary and when ordered by the City Engineer to ensure the safety of the public or those working on the project.

(2) Advance warning signs of design and wording satisfactory to the Engineer shall be provided at strategic locations designated by the Engineer. Barricades and obstructions shall be protected at night by signal lights, which shall be kept burning from sunset to sunrise. The applicant is solely responsible for the adequacy and costs of protective barricades, signs, lights, and other devices.

(D) (1) The applicant shall be responsible for all damage to bridges, culverts, retaining walls, pavements, surfacing, road beds, and other street structures and facilities and underground installations caused by or resulting from the operations of the applicant or the applicant's contractors, subcontractors, agents, or employees, or caused by the presence of the line or other facility within the street right-of-way.

(2) The applicant shall take such precautions and shall provide the protection necessary to avoid damage to other street structures and underground facilities, including the dirtying of surfaces as well as more serious damage. The Engineer shall determine whether the damage shall be corrected by repair, replacement or other treatment, or by compensatory payment. The amount of any compensatory damage shall be the amount the Engineer determines to be adequate and reasonable.

(E) The applicant shall be responsible for all damage to or interference with existing utilities such as telephone lines, power lines, gas mains, and any and all other facilities which may now or later come within the street right-of-way in proximity to the applicant's lines or installations. The applicant shall indemnify and hold harmless the city and its officers and agents against any loss, injury, or damage which the utilities may suffer by reason of the applicant's operations or by reason of the presence of the pipelines or installations in the street right-of-way.

(F) Materials excavated in connection with the construction or maintenance of pipelines or underground facilities within the street right-of-way and not required for backfilling purposes shall be removed from the street right-of-way and disposed of in a manner satisfactory to the Engineer. All areas occupied by the pipeline operations within the street right-of-way shall be cleaned up and made free from litter and debris, if existing rock or gravel shoulders or surfacing become fouled with earth or other extraneous material by reason of the construction or maintenance of a pipeline or facility covered by the permit, the fouled rock and gravel shall be removed and replaced with clean, new rock or gravel of a kind, quality, and size comparable in all respects with the original rock or gravel.

(G) Excavation and fill requirements, including materials specifications, shall be those approved by the City Engineer and on file in the office of the City Engineer.

(H) All hydrants, valve boxes, and other facilities which appear at ground surface or extend above ground surface shall be placed at grades and locations which will avoid the creation of hazards to the traveling public and which will cause the least inconvenience to the maintenance of the street and street right-of-way.

(I) The applicant shall have all temporary structures, rubbish, and waste materials from an excavation operation removed at the expense of the applicant.

(Prior Code, § 3.230)

CURB CUT AND DRIVEWAY PERMITS

§ 151.065 PERMIT REQUIRED.

No person shall construct or install any driveway across any sidewalk, parking strip, curb, or in or upon any part of a street without first obtaining a permit from the City Engineer.

(Prior Code, § 3.305) Penalty, see § 10.99

§ 151.066 APPLICATION REQUIREMENTS.

(A) An application for a driveway permit shall be made in writing to the City Engineer.

(B) The application shall contain the following information:

(1) The location of the proposed driveway;

(2) A description of the property to be served;

(3) The kind or nature of business, if any, conducted upon the premises;

(4) The kind of material proposed to be used in the construction of the driveway;

(5) The width of the proposed driveway; and

(6) Any other information required by the City Engineer.

(Prior Code, § 3.310)

§ 151.067 SIDEWALK.

The sidewalk across any driveway shall conform to specifications set forth by the City Engineer.

(Prior Code, § 3.315)

§ 151.068 DISCONTINUANCE OF DRIVEWAY USE.

When a property has a driveway that is discontinued or abandoned or the use of the property changes, the curbline shall be made to conform to applicable driveway provisions of the city within 60 days after discontinuance of the driveway use.

(Prior Code, § 3.320)

PUBLIC IMPROVEMENT PROCEDURES

§ 151.080 INITIATION OF PROCEEDINGS AND CITY ENGINEER'S REPORT.

(A) If the Council deems it necessary, upon its own motion or upon the petition of the owners of one-half of the property to benefit specially from the improvement, to make any street, water, sewer, sidewalk, drain, or other public improvement to be paid for in whole or in part by special assessment according to benefits, then the Council shall, by motion, direct the City Engineer to make a survey and written report for the project and keep it on file in the office of the Engineer.

(B) Unless the Council directs otherwise, the report shall contain the following:

(1) A map or plat showing the general nature, location, and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost;

(2) Preliminary plans, specifications, and estimates of the work to be done. However, where the proposed project is to be carried out in cooperation with any other governmental agency, the Engineer may adopt the plans and specifications and estimates of the agency;

(3) An estimate of the probable cost of the improvement, including any legal, administrative, and engineering costs attributable to it;

(4) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted; and

(5) The description and assessed value of each lot, parcel of land, or portion thereof, to be specially benefitted by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.
(Prior Code, § 3.405)

§ 151.081 COUNCIL'S ACTION ON CITY ENGINEER'S REPORT.

After the City Engineer's report is filed, the Council may by motion approve the report, modify the report and approve it, require the Engineer to supply additional or different information for the improvement, or it may abandon the improvement.
(Prior Code, § 3.410)

§ 151.082 RESOLUTION DECLARING INTENTION.

If the Council approves the Engineer's report as submitted or modified, the Council shall, by resolution, declare its intention to make the improvement, provide the manner and method of carrying out the improvement, and direct the City Recorder to give notice of the improvement by one publication not less than 20 days prior to the public hearing in a newspaper of general circulation in the city, and by mailing copies of the notice by registered or certified mail to the owners expected to be assessed for the costs of the improvement.
(Prior Code, § 3.415)

§ 151.083 CONTENTS OF NOTICE.

The notice described in § 151.082 shall contain the following:

(A) The report of the City Engineer is on file in the office of the City Engineer and is subject to public examination;

(B) The Council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than 20 days following the first publication of notice, at which objections and remonstrances to the improvement, unless it is a sidewalk or emergency improvement, will be heard by the Council; and that if by 5:00 p.m. of the workday preceding the hearing date there is presented to the City Recorder valid written remonstrances of the owners of two-thirds of the land to be specially assessed for the improvement, then the improvement will be suspended for at least 12 months; and

(C) A description of the property to be specially benefitted by the improvement, the owners of such property and the Engineer's estimate of the unit cost of the improvement to the property to be specially benefitted, and the total cost of the improvement to be paid for by special assessments to benefitted properties.
(Prior Code, § 3.420)

§ 151.084 MANNER OF DOING WORK.

The Council may provide in the improvement resolution that the construction work may be done in whole or in part by the city, by contract, by another governmental agency, or by a combination thereof.
(Prior Code, § 3.425)

§ 151.085 HEARING.

At the time of the public hearing on the proposed improvement, if the written remonstrances represent less than the amount of property required to suspend the proposed improvement, then, on the basis of the hearing or written remonstrances and oral objections, if any, the Council may, by resolution at the time of the hearing or within 60 days thereafter, order the improvement to be carried out in accordance with the resolution or the Council may, on its own motion, abandon the improvement.
(Prior Code, § 3.430)

§ 151.086 CALL FOR BIDS.

The Council may direct the City Recorder to advertise for bids for construction of all or part of the improvement project. However, no contract shall be let until after the public hearing has been held to hear remonstrances and oral objections to the proposed improvement. If part of the improvement work is to be done under contract bids, the Council shall proceed in accordance with city and state law for public contracting. If the Council finds, upon opening bids for the work of the improvement, that the lowest responsible bid is substantially in excess of the Engineer's estimate, it may provide for holding a special hearing of objections to proceeding with the improvement on the basis of the bid and may direct the City Recorder to publish one notice thereof in a newspaper of general circulation in the city.
(Prior Code, § 3.435)

§ 151.087 ASSESSMENT ORDINANCE.

(A) If the Council determines the public improvement shall be made, when the estimated cost is determined on the basis of the contract award or city departmental cost or after the work is done and the cost has been actually determined, the Council shall decide whether the benefitted property shall bear all or a portion of the cost. The City Recorder or other person designated by the Council shall prepare the proposed assessment for each lot within the assessment district and file the assessments in the appropriate city office.

(B) Notice of the proposed assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed. The notice shall state the amount of assessment proposed on the property and fix a date by which time objections shall be filed with the City Recorder. An objection shall state the grounds for the objection.

(C) At the hearing, the Council shall:

(1) Consider objections and may adopt, correct, modify, or revise the assessment against each lot in the district according to special and peculiar benefits accruing to it from the improvement; and

(2) By ordinance, spread the assessment.

(Prior Code, § 3.440)

§ 151.088 ASSESSMENT METHOD AND ALTERNATIVE METHODS OF FINANCING.

(A) The Council, in adopting a method of assessing the cost of the improvement, may:

(1) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived;

(2) Use any method of apportioning the same to be assessed as is just and reasonable between the properties determined to be specially benefitted; or

(3) Authorize payment by the city of all or part of the cost of an improvement when, in the opinion of the Council, the topographical or physical conditions, unusual or excessive public travel, or other character of the work warrants only partial payment or no payment of the cost by owners of benefitted properties.

(B) Nothing contained in this section shall preclude the Council from using other means of financing improvements, including federal or state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. If other means of finance are used, the Council may levy special assessments according to benefits derived to cover any remaining cost.

(Prior Code, § 3.445)

§ 151.089 NOTICE OF ASSESSMENT.

(A) Within ten days after the ordinance levying assessments has been passed, the City Recorder shall send a notice of assessment to each owner of assessed property by registered or certified mail and publish notice of the assessment once in a newspaper of general circulation in the city. The publication of notice shall be not later than ten days after the date of the assessment ordinance.

(B) The notice of assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment and the date of the assessment ordinance, and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner either makes application to pay the assessment in installments within ten days after the date of the publication of notice or pays the assessment in full within 30 days after the date of the assessment ordinance.

(Prior Code, § 3.450)

§ 151.090 LIEN RECORD AND FORECLOSURE PROCEEDINGS.

(A) After the assessment ordinance is adopted, the City Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, parcel of land, or portion of land, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket, the amounts shall become liens and charges on the lots, parcels of land, or portions of land that have been assessed for improvement.

(B) Assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as state law permits.

(C) Beginning 30 days after the date of the assessment ordinance, interest shall be charged at the rate set by Council on all amounts not paid. After 30 days from the date of the assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state.

(D) The city may enter a bid on property being offered at a foreclosure sale. The city bid shall be prior to all bids except those made by persons who would be entitled under state law to redeem the property.

(Prior Code, § 3.455)

§ 151.091 ERROR IN ASSESSMENT CALCULATION.

(A) Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder, who shall determine whether there has been an error.

(B) If there has been an error, the City Recorder shall recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the City Recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by registered or certified mail.

(Prior Code, § 3.460)

§ 151.092 SUPPLEMENTAL ASSESSMENT.

(A) If an assessment is made before the total cost of the improvement is ascertained, and if the amount of the assessment is insufficient to defray expenses of the improvement, the Council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The Council shall set a time for hearing objections to the supplemental assessment and direct the City Recorder to publish one notice of the hearing in a newspaper of general circulation in the city.

(B) After the hearing, the Council shall make a just and equitable supplemental assessment by ordinance, which shall be entered in the docket of city liens as provided by § 151.090.

(C) Notice of the supplemental assessment shall be published and mailed, and collection of the assessment shall be made, in accordance with §§ 151.090 and 151.091.

(Prior Code, § 3.465)

§ 151.093 REBATES.

(A) On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the Council shall determine the excess and declare it by ordinance. When declared, the excess amounts shall be entered in the lien docket as a credit on the appropriate assessment.

(B) If an assessment has been paid, the person who paid it or that person's legal representative shall be entitled to payment of the rebate credit.

(Prior Code, § 3.470)

§ 151.094 ABANDONMENT OF PROCEEDINGS.

(A) The Council may abandon proceedings for improvements made under this ordinance at any time prior to the final completion of the improvements.

(B) If liens have been placed on property under this procedure, they shall be canceled, and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative.

(Prior Code, § 3.475)

§ 151.095 REMEDIES.

Subject to curative provisions of § 151.096 and rights of the city to reassess as provided in § 151.097, proceedings for writs of review and other appropriate equitable or legal relief may be filed as provided by state law.

(Prior Code, § 3.480)

§ 151.096 CURATIVE PROVISIONS.

(A) An improvement assessment shall not be rendered invalid by reason of:

(1) Failure of the Engineer's report to contain all information required by § 151.080;

(2) Failure to have all the required information in the improvement resolution, assessment ordinance, lien docket, or notices required to be published and mailed;

(3) Failure to list the name of or mail notice to an owner of property as required by this subchapter; or

(4) Any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining.

(B) The Council shall have authority to remedy and correct all matters by suitable action and proceedings.

(Prior Code, § 3.485)

§ 151.097 REASSESSMENT.

When an assessment, supplemental assessment, or reassessment for an improvement made by the city has been set aside, annulled, declared, or rendered void, or its enforcement restrained by a court of this state or by a federal court having jurisdiction, or when the Council doubts the validity of the assessment, supplemental assessment, reassessment, or any part of it, the Council may make a reassessment in the manner provided by state law.
(Prior Code, § 3.490)

§ 151.098 APPORTIONMENT OF LIENS.

(A) When a portion of a single tract or parcel of real property is partitioned or divided in accordance with applicable land use laws, or when the ownership of a portion of a single tract of real property less than the entire tract is transferred or a portion is conveyed by a long-term lease that is at least ten years in duration, a lien against the real property in favor of the city shall be apportioned upon compliance with the terms of this section.

(B) Applications for the apportionment of liens shall be made to the City Recorder describing the tract to be segregated. The application must be completed by the owner, mortgagee, lienholder, or tenant having an interest in the parcel. When the deed, mortgage, or other instrument evidencing the applicant's ownership or other interest in the parcel has not been recorded by the County Clerk of the county in which the parcel is situated, the city shall not apportion the special assessment unless the applicant files a true copy of that deed, mortgage, or instrument with the city.

(C) The City Recorder shall compute the apportionment whenever the special assessment remains wholly or partially unpaid and full payment or an installment payment is not due. The apportionment shall be calculated on the same basis as it was originally computed. The apportionment shall not be made unless each part of the original tract of land, after the apportionment, has a true cash value, as determined from a certificate of the County Assessor or appraisal of a qualified appraiser, of 120% or more of the amount of the lien as applied to each tract apportioned. The valuation must be determined within one year prior to the date of the application.

(D) When a special assessment is being paid in installments and a request to apportion is authorized, the remaining installments not yet due shall be prorated among the smaller parcels so that each parcel shall be charged with that percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment.

(E) Apportionment of a special assessment under this section shall be done in accordance with a resolution of the Council. The resolution shall describe each parcel of real property affected by the apportionment, the amount of the assessment levied against each parcel, the owner of each parcel, and such additional information as is required to keep a permanent and complete record of the assessments and payments.

(F) An application shall not be processed until the applicant pays a fee to defray the costs of evaluating the application. The amount of the fee shall be set by Council resolution.
(Prior Code, § 3.495)

REIMBURSEMENT DISTRICTS

§ 151.110 PURPOSE.

The purpose of this subchapter is to provide the process and means by which a person who is required to make certain public improvements to serve his or her property may recover a portion of the cost of such improvements when the improvements benefit, within a specified time period, other properties.
(Prior Code, § 3.10.005) (Ord. 2011-02, passed 1-24-2011)

§ 151.111 DEFINITIONS.

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

APPLICANT. A person who is required or chooses to finance some or all of the cost of a street, water or sanitary sewer, or storm water improvement, which improvement is also available to serve or benefit property other than that of the applicant, and who in turn applies to the city for reimbursement of the expense of the improvement.

CITY. The City of Forest Grove.

CITY ENGINEER or ***ENGINEER.*** The person holding the position of Director of Public Works or such other officer, employee, or agent designated by the Council or City Manager to perform the duties set out for the City Engineer in this chapter.

PERSON. A natural person, firm, partnership, corporation, association, or any other legal entity, be it public or private and/or any agent, employee, or representative thereof.

PUBLIC IMPROVEMENT. All capital facilities (including plant facilities) associated with water, sanitary sewer, storm water, street (including bicycle lanes), and/or sidewalk facilities or the undergrounding of public utilities.

REIMBURSEMENT AGREEMENT. The agreement between an applicant and the city (as authorized by the City Council and executed by the City Manager) providing for the installation of and payment for public improvements within a Reimbursement District.

REIMBURSEMENT DISTRICT. The area determined by the City Council to derive a benefit from the construction of public improvements financed in whole or in part by an applicant.

REIMBURSEMENT FEE. The fee established by resolution of the City Council and required to be paid by persons within a Reimbursement District once they utilize the public improvement.

STREET IMPROVEMENT, WATER IMPROVEMENT, SEWER IMPROVEMENT, and ***STORM WATER IMPROVEMENT.*** Respectively:

(1) A street or street improvement, including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic-control devices, street trees, lights and signs, and public rights-of-way;

(2) A water facility or water line improvement, including, but not limited to, extending a water line to property (other than property owned by the applicant) so that water service can be provided for such other property without further extension of the line;

(3) A sanitary sewer, sewer line, or other facility improvement, including, but not limited to, extending a sewer line to property (other than property owned by the applicant) so

that sewer service can be provided for such other property without further extension of the line; and

(4) A storm water improvement, including, but not limited to, extending a storm water line to property (other than property owned by the applicant) so that stormwater disposal for such other property can be provided without further extension of the line; conforming with standards and specifications set by the city.

UTILIZE. To use or benefit from a public improvement, to apply for a building or other permit which will allow for the use or increase in the use of a public improvement or to connect to a public improvement.

(Prior Code, § 3.10.010) (Ord. 2011-02, passed 1-24-2011)

§ 151.112 APPLICATION FOR A REIMBURSEMENT DISTRICT.

(A) Any applicant who finances some or all of the cost of a public improvement available to provide service or benefit to property other than property owned by that person may, by written application filed with the City Engineer, request the city establish a Reimbursement District. The improvement(s) must be in a size greater than that which would otherwise ordinarily be required and must be available to provide service to property other than that owned by the applicant. Examples include (but are not limited to):

(1) Full street improvements instead of half street improvements;

(2) Off-site sidewalks;

(3) Connection of street sections for continuity;

(4) Extension of water lines; and

(5) Extension of sewer lines.

(B) All applications shall include the following:

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

(2) A map showing the properties to be included in a proposed Reimbursement District;

(3) The zoning for the properties;

(4) The front or square footage of said properties (or similar data appropriate for calculating the apportionment of the cost of the improvement among the properties); and

(5) A listing of the property(ies) owned by applicant. All applications shall be accompanied by a fee in an amount sufficient to cover the cost of administrative review and notice required by this chapter as established by City Council resolution.

(C) In the event an application is submitted after the construction of the public improvement, the application shall also include information as to when the city accepted the public improvement as well as the actual cost of the improvements, evidenced by receipts, invoices, or other similar documents. Until receipt of said information, the affected application will be deemed incomplete.

(D) In the event an application is submitted prior to the construction of the improvements, the application shall be accompanied by an estimate of the cost of the improvements as evidenced by bids, projections, or similar data. The application shall also include the estimated date of completion of the public improvement(s). Until the receipt of said information, the affected application will be deemed incomplete.

(E) An application may be submitted at any time prior to the installation of the public improvement, but in no event later than 180 days after acceptance of the improvement for which reimbursement is sought, unless the City Engineer, in his or her sole discretion, waives this requirement.
(Prior Code, § 3.10.015) (Ord. 2011-02, passed 1-24-2011)

§ 151.113 CITY ENGINEER'S REPORT.

The City Engineer shall review the application and other material submitted therewith and prepare a written report for the Council which will address, to the extent relevant, the following factors:

(A) Whether the public improvement for which reimbursement is sought has capacity sufficient to allow use thereof by property other than property owned by the applicant;

(B) The area proposed to be included in the Reimbursement District;

(C) The actual or estimated cost of the improvements within the area of the proposed Reimbursement District and the portion thereof for which the applicant should be reimbursed;

(D) A methodology for allocating the cost among the parcels within the proposed district and, where appropriate, defining a "unit" for applying the reimbursement fee to property which may be partitioned, subdivided, or otherwise modified at some future date. The methodology should include consideration of the cost of the improvement(s), prior contributions by property owners, the value of the unused capacity, rate-making principles associated with the financing of public improvements, and such other factors as deemed relevant by the City Engineer;

(E) The amount to be charged by the city for administering the agreement, to be fixed by City Council and included in the resolution approving and forming the Reimbursement District. The fee is due and payable to the city at the time the reimbursement agreement is signed;

(F) The period of time that the right to reimbursement exists if that period is less than ten years; and

(G) Whether the street, water, and sewer improvements will meet or have met city standards.
(Prior Code, § 3.10.020) (Ord. 2011-02, passed 1-24-2011)

§ 151.114 AMOUNT TO BE REIMBURSED.

(A) The potential amount of the reimbursement is limited to the following:

(1) The costs of construction;

(2) Engineering (including surveying and inspection) costs in an amount not to exceed 15% of the construction costs;

(3) Off-site right-of-way purchase costs, limited to the reasonable market value of land or easements purchased by the applicant from third parties to complete off-site improvements;

(4) Financing costs associated with the improvement to the extent the financing costs are not attributable to the applicant's property or project; and

(5) Legal and other expenses incurred by the applicant to the extent said expenses relate to the preparation and filing of the application, the preparation of the report required by § 151.113, and the hearing process set out in §§ 151.115 and 151.116.

(B) Regardless of amount or category, costs reimbursable or eligible for traffic impact fee credits or systems development charge credits which cannot be clearly documented or which are attributable to the applicant's property or project are not reimbursable.

(C) By submitting an application that seeks reimbursement of legal expenses, the applicant thereby waives any attorney/client or attorney work product privilege that may exist in attorney billing statements or records in support thereof.

(D) A reimbursement fee shall be determined for all properties which fall within the proposed Reimbursement District, including applicant's; however, the applicant shall not be reimbursed for that portion of the fee representing the benefit to the applicant's property.

(E) The applicant shall not be reimbursed for the portion of the reimbursement fee computed for property owned by the city or other governmental body.

(Prior Code, § 3.10.025) (Ord. 2011-02, passed 1-24-2011)

§ 151.115 PUBLIC HEARING.

(A) Within a reasonable time after the City Engineer has completed the report required in § 151.113, the City Council shall hold an informational public hearing in which persons impacted by the creation of the Reimbursement District shall be given the opportunity to comment thereon.

(B) Notice of the hearing shall be given not less than ten nor more than 30 days prior to the public hearing date. Notice shall be given to the applicant and all owners of property within the proposed District with notification by certified mail, return receipt requested, or by personal service. Notice shall be deemed complete as of the date notice is mailed or served. Failure to receive actual notice of the hearing shall not invalidate or otherwise affect any action of the city relative to the creation of the Reimbursement District and/or the costs associated therewith.

(C) Formation of a District does not result in an assessment or lien against property. As a result, the hearing is informational only and the District is not subject to termination as a result of remonstrances to the formation thereof. The City Council has the sole discretion, after the public hearing, to decide whether the District is to be formed or not. If a District is to be formed, a resolution approving and forming the Reimbursement District shall be adopted.

(D) If a Reimbursement District is formed prior to construction of the improvement(s), a second public hearing shall be held after the improvement has been accepted by the city when the Council may modify the resolution to reflect the cost of the improvement(s).

(Prior Code, § 3.10.030) (Ord. 2011-02, passed 1-24-2011)

§ 151.116 CITY COUNCIL ACTION.

At the conclusion of the hearing, the City Council shall approve, reject, or modify the recommendations contained in the City Engineer's report and manifest its action in a resolution. If a Reimbursement District is established, the resolution shall include a copy of the City

Engineer's report as approved or modified and specify that payment of the appropriate fee as determined by the Council for each parcel is a precondition to receipt of any city permit necessary for development of that parcel. If a Reimbursement District is established, it shall be deemed formed as of the date the Council adopts the resolution referred to in § 151.115.
(Prior Code, § 3.10.035) (Ord. 2011-02, passed 1-24-2011)

§ 151.117 REIMBURSEMENT AGREEMENT.

(A) If the Council approves the City Engineer's Report and thereafter creates a District, the City Manager shall cause the creation of an agreement between the applicant and city containing (at a minimum) provisions relating to the following:

(1) The public improvement(s) will or do meet all applicable city standards;

(2) The amount of the potential reimbursement the applicant can expect along with a caveat that the total amount of any reimbursement will not exceed the actual cost of the public improvement(s);

(3) The annual fee adjustment, if any;

(4) The applicant will guarantee the quality of the public improvement(s) for a period of not less than 12 months after the date of their installation;

(5) The applicant will defend, indemnify, and hold the city harmless from any and all losses, claims, damage, judgments, or other costs or expense arising as a result of or related to the city's establishment of the District; and

(6) The applicant acknowledges the city is not obligated to collect the reimbursement fee from affected property owners.

(B) The city may include other provisions as the City Council determines necessary to ensure compliance with this subchapter.
(Prior Code, § 3.10.040) (Ord. 2011-02, passed 1-24-2011)

§ 151.118 ANNUAL FEE ADJUSTMENT.

The City Council may, in its discretion, grant an annual adjustment to the amounts established as the reimbursement fee at the time of the hearing on the Engineer's report. In the event such an adjustment is deemed appropriate, it shall be applicable to the fee beginning on the first anniversary of the date of the Council's approval of the application, be fixed and computed against the reimbursement fee as simple interest, and remain the same for each year the District exists.
(Prior Code, § 3.10.045) (Ord. 2011-02, passed 1-24-2011)

§ 151.119 NOTICE OF ADOPTION OF RESOLUTION.

The city shall notify all property owners within the District and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, date it was adopted and short explanation of when the property owner is obligated to pay the reimbursement fee and the amount thereof.

(Prior Code, § 3.10.050) (Ord. 2011-02, passed 1-24-2011)

§ 151.120 RECORDING THE RESOLUTION.

The City Recorder shall cause notice of the formation and nature of the Reimbursement District to be filed in the office of the County Recorder in order to provide notice to potential purchasers of property within the District of its existence. Failure to make such recording shall affect neither the legality of the resolution nor the obligation to pay any fee.
(Prior Code, § 3.10.055) (Ord. 2011-02, passed 1-24-2011)

§ 151.121 CONTESTING THE REIMBURSEMENT DISTRICT.

Any legal action intended to contest the formation of the Reimbursement District or fee must be filed, within 60 days of the Council's hearing on the application consistent with the terms of O.R.S. 34.010 through 34.100 (writ of review).
(Prior Code, § 3.10.060) (Ord. 2011-02, passed 1-24-2011)

§ 151.122 OBLIGATION TO PAY REIMBURSEMENT DISTRICT.

(A) A person applying for a permit related to property within a Reimbursement District shall pay to the city, in addition to all other applicable fees and charges, the reimbursement fee established by the City Council under the terms of this subchapter if, within the time specified in the resolution establishing the District, the person applies for and receives approval from the city for any of the following activities:

(1) A building permit for a new building or a permit for an addition, modification, repair, or alteration to an existing building exceeding 25% of the value thereof within any 12-month period (not due to damage or destruction of the building by fire or natural disaster). ***VALUE*** as used above means the amount shown on the County's Department of Assessment and Taxation for the building's real market value;

(2) Any alteration, modification, or change in the use of real property, which increases the number of parking spaces required under the city code in effect at the time of permit application; or

(3) Connection to or use of a water, sanitary sewer, storm water, or street improvement, if the District is based on that improvement.

(B) The obligation to pay the reimbursement fee arises and accrues as of the time property within the District utilizes the affected public improvement regardless of whether a person applies for and/or receives a permit connected with that utilization.

(C) The City Council's determination of which properties shall be liable for payment of the fee is final. Neither the city nor any officer or employee of the city shall be liable for payment of any reimbursement fee or portion thereof as a result of this determination.

(D) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is

taken or provided directly onto such street at any time. Nothing in this subchapter is intended to modify or limit the authority of the city to provide or require access management.

(E) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement.

(F) The right to reimbursement shall not extend beyond ten years from the District's formation date, subject to renewal at the option of the Council for one additional ten-year period.
(Prior Code, § 3.10.065) (Ord. 2011-02, passed 1-24-2011)

§ 151.123 PUBLIC IMPROVEMENTS BECOME PROPERTY OF THE CITY.

Public improvements installed pursuant to Reimbursement District agreements shall become and remain the sole property of the city. More than one public improvement may be the subject of a Reimbursement District.
(Prior Code, § 3.10.070) (Ord. 2011-02, passed 1-24-2011)

§ 151.124 COLLECTION AND PAYMENT; OTHER FEES AND CHARGES.

(A) Applicants shall receive all reimbursement monies collected by the city for the public improvements they install. Such reimbursement shall be delivered to the developer for as long as the Reimbursement District agreement is in effect. Such payments shall be made by the city within 90 days of receipt of the reimbursements monies.

(B) The reimbursement fee is not intended to replace or limit any other existing fees or charges collected by the city.
(Prior Code, § 3.10.075) (Ord. 2011-02, passed 1-24-2011)

CHAPTER 152: MANUFACTURED DWELLING PARK CLOSURES

Section

§ 152.01 PURPOSE AND INTENT.

The purpose of these provisions is to restrict activities for the protection of public health and safety. The provisions are intended to mitigate the adverse impacts of manufactured dwelling closures on park residents by ensuring: that the closure is preceded by adequate notice; that the social and economic impacts of the involuntary relocation of tenants associated with the closure are adequately defined; and that relocation and other assistance is provided to park residents. (Prior Code, § 5.310)

§ 152.02 DEFINITIONS.

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

CLOSURE OF A MANUFACTURED DWELLING PARK. To stop or cease leasing spaces in a manufactured dwelling park, to terminate manufactured dwelling space rental agreements for all or a portion of the park spaces, or to otherwise engage in activity to effect termination of rental agreements or leases or to evict tenants. Termination of tenancy under O.R.S. 90.645, or actions required by the exercise of eminent domain or by order of state or local agencies shall not constitute ***CLOSURE OF A MANUFACTURED DWELLING PARK***.

COMPARABLE MANUFACTURED DWELLING PARK SPACE. Any space, lot, or parcel of land within 25 miles of the park that is:

(1) Decent, safe, and sanitary;

(2) Adequate in size to accommodate the manufactured dwelling;

(3) Within the financial means of the displaced tenant;

(4) Functionally equivalent;

(5) In an area not subject to unreasonable adverse environmental conditions; and

(6) In a location generally not less desirable than the location of the displaced tenant's space with respect to public utilities, facilities, services, and the displaced tenant's place of employment.

MANUFACTURED DWELLING. A residential trailer, mobile home, or a manufactured home as those terms are defined in O.R.S. 446.003.

MANUFACTURED DWELLING PARK. A place where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a fee.

OWNER. A mortgagee in possession and means one or more persons, jointly or severally, in whom is vested all or part of the legal title to a manufactured dwelling park; or all or part of the beneficial ownership and a right to present use and enjoyment of the manufactured dwelling park. ***OWNER*** includes an authorized representative of the owner.

RELOCATION COSTS.

(1) Includes actual reasonable expenses in moving the tenant's manufactured dwelling and possessions to a comparable replacement space. Such expenses include:

(a) Removal and reinstallation of skirting;
(b) Disconnecting utilities;
(c) Disconnecting and removing awning(s) and deck(s) from the manufactured dwelling;
(d) Trip permit and public inspection fees;
(e) Transportation costs;
(f) Set up charges;
(g) Utility connection expenses and fees;
(h) Unit improvements to meet destination facility space standards;
(i) Costs for packing and unpacking manufactured dwelling or residential vehicle contents as necessary for unit relocation for elderly and disabled persons, as defined in O.A.R. 813-005-0005 and 813-060-0010, respectively;
(j) Temporary housing and meals for the tenant and permanent occupants during unit relocation and set up; and
(k) Landlord expenses to secure the relocation space acceptable to the tenant from the time of tenant acceptance until the date the relocated manufactured dwelling or residential vehicle is approved for occupancy.

(2) Notwithstanding the above, ***RELOCATION COSTS*** shall not include and shall be offset by relocation assistance received, including, but not limited to, financial incentives to move into a new park from a person or entity other than the owner.

TENANT. A person who owns and occupies a manufactured dwelling in a manufactured dwelling park. For the purpose of this chapter, a ***TENANT*** does not include a tenant who has accepted an earlier termination date or contracted with the landlord as provided in O.R.S. 90.630(6).

(Prior Code, § 5.315) (Ord. 2007-22, passed 12-10-2007)

§ 152.03 MANUFACTURING DWELLING PARK CLOSURE PERMIT.

(A) *Permit required*. No person may close a manufactured dwelling park unless a manufactured dwelling park closure permit has been obtained. Provided, however, that nothing in this section is intended to limit a person's ability to apply for and obtain a plan amendment, zone change, or other land use decision pursuant to the city's Comprehensive Plan or Zoning Ordinance; sell, convey, or transfer a manufactured dwelling park; or provide notification under O.R.S. 90.630(5).

(B) *Scope of permit requirement, construction*. These provisions shall apply to all closures commenced by provision of statutory closure notice on or after June 29, 2007, the effective date of this chapter. These provisions shall be construed as not to conflict with state law, and shall be applied in a manner such that the provisions and state law operate concurrently.

(C) *Application filing*. Applications for closure permits shall be filed and approved by the city at least 180 days before the termination of tenant leases and include the following, and any additional relevant information as may be necessarily required by this chapter and the City Manager or City Manager's designee:

(1) A detailed narrative description of, and timetable for, the proposed closure;

(2) A report on the impact of the closure of the manufactured dwelling park on its residents pursuant to § 152.04;

(3) The relocation plan pursuant to § 152.05;

(4) Notice pursuant to § 152.06; and

(5) The application filing fee in an amount established by the City Council.

(D) *Application processing*. Upon receipt of a complete application, the City Manager or designee shall review the application and forward a recommendation in the permit to City Council for final action. The permit shall require a public hearing in accordance with Council rules for conduct of administrative and quasi-judicial hearings.

(Prior Code, § 5.320) (Ord. 2007-22, passed 12-10-2007) Penalty, see § 152.99

§ 152.04 CLOSURE IMPACT REPORT.

(A) Any person filing an application for a closure permit shall file a closure impact report on the impact of the closure change of use, or cessation of use, upon the residents of the manufactured dwelling park.

(B) At a minimum, the closure impact report shall include the following, as well as any other information deemed necessary and appropriate by the City Manager or designee:

(1) A detailed description of the manufactured dwelling spaces within the manufactured dwelling park including, but not limited to:

(a) The total number of manufactured dwelling spaces in the park and the number of spaces occupied;

(b) The length of time each space has been occupied by the present resident(s) thereof;

(c) The age, size, and type of manufactured dwelling occupying each space;

(d) The monthly rent currently charged for each space, including any utilities or other costs paid by the present resident(s) thereof;

(e) Name and mailing address of the primary resident(s) and owner if different than occupant of each manufactured dwelling within the manufactured dwelling park; and

(f) List of all units under mortgages and the percentage of the mortgage amount owed.

(2) A list of all comparable manufactured dwelling parks spaces within the city and at least three parks that are within up to 25 miles of the city. This list shall include the age of the manufactured dwelling park and the manufactured dwellings therein, a schedule of rents for each park listed, a listing of the vacancies in the parks, and the criteria of the management of each park for acceptance of new tenants and used manufactured dwellings.

(3) A detailed analysis of the economic impact of the relocation on the tenants including comparisons of current rents paid and rents to be paid at comparable manufactured dwelling parks within the relocation area, the estimated costs of moving a manufactured dwelling and personal property, and any direct or indirect costs associated with a relocation to another manufactured dwelling park.

(4) A list of the names, addresses, and telephone numbers of one or more housing specialists, with an explanation of the services the specialists will perform at the

applicant's expense for the residents to be displaced. These services shall include, but not be limited to, assistance in locating a suitable replacement manufactured dwelling park, coordination of moving the manufactured dwelling and personal property, and any other tasks necessary to facilitate the relocation to another comparable manufactured dwelling park. (Prior Code, § 5.325) (Ord. 2007-22, passed 12-10-2007)

§ 152.05 RELOCATION PLAN.

(A) A relocation plan for tenants of the manufactured dwelling park shall be submitted for review and approval as part of the application for a closure permit. The relocation plan shall provide, at a minimum, for the following.

(1) The relocation plan shall provide for the owner to pay all reasonable relocation costs to a comparable manufactured dwelling park space within 25 miles to any tenant who relocates from the park after city approval of the closure permit. When any tenant has given notice of their intent to move prior to city approval of the use permit, eligibility to receive moving expenses shall be forfeited.

(2) The relocation plan shall identify those manufactured dwellings that cannot be relocated to a comparable manufactured dwelling park space within 25 miles. The owner shall be required to offer to purchase any manufactured dwelling that cannot be relocated in conformance with this chapter. The offer to purchase the manufactured dwelling will be made at the real market value of the home as reported on the most recent property tax assessment roll.

(3) In order to facilitate a proposed closure, the tenants and owner(s) may agree to mutually satisfactory conditions. To be valid, however, such an agreement shall be in writing, shall include a provision stating that the tenant is aware of the provisions of this chapter, shall include a copy of this chapter as an attachment, shall include a provision in at least 12-point type which clearly informs the tenants that they have the right to seek the advice of an attorney of their choice prior to signing the agreement with regard to their rights under such agreement, and shall be drafted in the form and content otherwise required by applicable state law.

(B) Should the owner provide evidence demonstrating to the city that two-thirds of the tenants have executed such agreements, and that the balance of tenants have been offered comparable agreement terms, the provisions of this chapter shall not apply to the closure involving all tenants. Such evidence may include an agreement with or a sale to a tenant association or tenant nonprofit corporation representing two-thirds or more of the tenants. (Prior Code, § 5.330)

§ 152.06 REQUIRED NOTIFICATIONS.

(A) In the event the owner intends to sell the manufactured dwelling park, the owner shall notify, in writing, the tenants and the city within ten days of receipt of any written offer received by the owner or agent of the owner to purchase the park which the owner intends to consider or any listing agreement entered into by the owner to effect the sale of the manufactured dwelling park.

(B) The notice shall contain the name, address, and phone number of the owner and the owner's representative, if any, who is authorized to negotiate the sale of the manufactured dwelling park.

(C) Within 90 days of the delivery by or on behalf of the owner of the notice required herein, a tenant may notify the owner by certified mail or personal service at the address disclosed in the notice that the tenant or a tenant-supported nonprofit organization is interested in purchasing the manufactured dwelling park.

(D) Upon delivery of the notice required herein, the owner shall negotiate in good faith with the tenant or organization and provide the tenant or organization an opportunity to purchase the facility as the owner would any bona fide third party potential purchaser.

(E) This section does not apply to those sales and transfers described in O.R.S. 90.820(4) or to any offeror listing agreement made before this section was adopted.
(Prior Code, § 5.335)

§ 152.07 REQUIRED FINDINGS.

In approving a permit for a manufactured dwelling park closure, the City Council shall find that the proposed closure meets the following requirements in addition to the other requirements of this chapter:

(A) The tenants of the manufactured dwelling park have been adequately notified of the proposed closure, including information pertaining to the anticipated timing of the proposed closure;

(B) The age, type, size, and style of manufactured dwelling to be displaced as a result of the closure will be able to be relocated into other comparable manufactured dwelling parks within a 25-mile radius of the city, or that the owner has agreed to purchase any manufactured dwelling that cannot be relocated at its in-place value as provided for in this chapter;

(C) Any manufactured dwelling tenants displaced as a result of the closure shall be compensated by the owner for all reasonable relocation costs, excluding the value of tax credits owing the tenant under state law; and

(D) If the owner files a tentative plat or plan for a land division to be created from the closure of a rental manufactured dwelling park, the owner provides tenants such offers and other information required by law.
(Prior Code, § 5.340) (Ord. 2007-22, passed 12-10-2007)

§ 152.08 CONDITIONS OF APPROVAL.

The City Council may impose any necessary and appropriate conditions of approval to satisfy and implement the intent, purpose, and content of this chapter. In addition, any other necessary and appropriate conditions of approval to protect the health, safety, and welfare of the residents of the city may be imposed. The Council shall not deny, but may approve or conditionally approve, the permit involving the closure of the park or cessation of the use of the land as a manufactured dwelling park, provided the applicant has properly complied with the requirements of this chapter and there is no evidence that the applicant or prior owners have

attempted to evict or otherwise cause the removal of residents for the purpose of avoiding the requirements of this chapter.
(Prior Code, § 5.345)

§ 152.09 OWNER RELIEF.

(A) The owner of a manufactured dwelling park may apply for relief from the requirements of this chapter. Compliance with the terms of this chapter shall not be a precondition to such application. Upon receipt of an owners application for relief setting forth facts demonstrating how application of the chapter is unduly oppressive under the circumstances then and there existing, together with an application filing fee in an amount established by City Council, the City Manager shall make a recommendation to the City Council, and based upon the record of a public hearing in accordance with Council rules for conduct of administrative and quasi-judicial hearings, the City Council shall determine the extent to which application of this chapter, or portions thereof, is unduly oppressive.

(B) In making that determination, the Council shall consider the amount and percentage of value loss, the extent of remaining uses, past, present, and future, the seriousness of the public problem caused by the owner's acts of closure, the degree to which these provisions mitigate the problem and the feasibility of less oppressive solutions. The Council shall consider other factors as may be relevant or necessary to achieve a lawful application of these provisions. The Council shall make written findings, supported by substantial evidence, of the extent to which application of these provisions are unduly oppressive, and articulate those requirements or payments that the owner need not bear to avoid such oppression. As to these requirements or payments, the owner shall be relieved. As to the remaining owner obligations, the Council shall, considering the record of the proceedings, the unmitigated impacts upon the tenants, and the intent and purpose of this chapter, declare the manner in which such obligations shall appear in the relocation plan or other conditions of the manufactured dwelling park closure permit.

(C) Appeal of Council action under this section shall be by writ of review or other appropriate procedure.
(Prior Code, § 5.350)

§ 152.10 ENFORCEMENT.

(A) *Private right of action*. Except with respect to relief granted by the City Council under the provisions of §§ 152.05(A)(3) or 152.09 any tenant of a manufactured dwelling park, or any owner of a manufactured dwelling in a park subject to closure shall have a right of action in a court of competent jurisdiction for such equitable and legal remedies as the court may grant, and shall be entitled to recover reasonable attorney fees, expenses, costs, and other disbursements reasonably incurred.

(B) *Cumulative remedies*. The foregoing is in addition to any other remedies that may exist at law or in equity.
(Prior Code, § 5.355)

§ 152.11 RULE MAKING AUTHORITY.

The City Manager or designee is authorized to promulgate any rules necessary for the implementation of this chapter.
(Prior Code, § 5.360)

§ 152.99 PENALTY.

Any person who closes a manufactured dwelling park without a permit, who fails to comply with the requirements of this chapter or the conditions of the permit, or who willfully makes an untrue or misleading statement of material fact or willfully omits to provide required information in the process of application or whose actions, through the raising of rent or otherwise, objectively manifests an intent or effort to avoid the requirements to this chapter, shall be guilty of a violation. Notwithstanding any other provision of this code, the penalty for any such violation shall be $1,000. Each day of noncompliance shall constitute a separate violation.
(Prior Code, § 5.355)

CHAPTER 153: FIRE PROTECTION

Section

§ 153.01 ADOPTION OF THE UNIFORM FIRE CODE.

(A) The International Fire Code, 2014 Edition, as published and copyrighted by International Fire Code Council, as amended and adopted by the State Fire Marshal's Office, and known as the State Fire Code, 2014 Edition, is hereby adopted by the city for the purpose of prescribing regulations consistent with nationally recognized good practice for the safeguarding of life and property from the hazards of fire and explosion arising from the storage, handling, or use of hazardous substances, materials, or devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises, except such portions as are specifically deleted, modified, or amended.

(B) The State Fire Code may also be known as “the fire code”, “I.F.C.”, “O.F.C”, or the “State of Oregon Fire Code”.

(C) One copy of the State Fire Code, 2014 Edition, shall be on file with the City Recorder from the date on which this code shall take effect within the city limits.

(Prior Code, § 5.605) (Ord. 1996-06, passed 8-12-1996; Ord. 2004-06, passed 9-27-2004; Ord. 2014-12, passed 1-12-2015)

§ 153.02 ESTABLISHMENT AND DUTIES OF THE BUREAU OF FIRE PREVENTION.

(A) The State Fire Code, 2014 Edition, shall be enforced by the Bureau of Fire Prevention of the city Fire Department, which shall be operated under the supervision of the Chief of the Fire Department.

(B) The Fire Marshal shall be the Chief of the Bureau of Fire Prevention and shall be designated by the Fire Chief.

(Prior Code, § 5.610) (Ord. 2004-06, passed 9-27-2004; Ord. 2014-12, passed 1-12-2015)

§ 153.03 DEFINITIONS.

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

BUILDING CODE. The Structural Specialty Code and Mechanical Specialty Code, as amended or replaced.

CHIEF OF THE BUREAU OF FIRE PREVENTION. The Fire Marshal of the city.

CORPORATION COUNSEL. The City Attorney of the city.

JURISDICTION. The City of Forest Grove.

(Prior Code, § 5.615)

§ 153.04 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVE-GROUND TANKS IS TO BE PROHIBITED.

The limits referred to in § 5704.2.9.6.1 of the State Fire Code, 2014 Edition, in which storage of flammable or combustible liquids in outside above-ground tanks is prohibited, are established as follows: in all zones or areas except those zoned for and used as industrial use.

(Prior Code, § 5.620) (Ord. 1999-09, passed 8-9-1999; Ord. 2004-06, passed 9-27-2004; Ord. 2014-12, passed 1-12-2015)

§ 153.05 ESTABLISHMENT OF LIMITS IN WHICH BULK STORAGE OF LIQUEFIED PETROLEUM GASES IS TO BE RESTRICTED.

The limits referred to in § 6104.2 of the State Fire Code in which bulk storage of liquefied petroleum gas is restricted are established as follows: in all zones or areas except those zoned for and used as industrial use.
(Prior Code, § 5.625) (Ord. 1999-09, passed 8-9-1999; Ord. 2004-06, passed 9-27-2004; Ord. 2014-12, passed 1-12-2015)

§ 153.06 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS TO BE PROHIBITED.

The storage of explosives and blasting agents with the exception of gunpowder and legally permitted fireworks is prohibited in the entire city.
(Prior Code, § 5.630) (Ord. 1999-09, passed 8-9-1999)

§ 153.07 AMENDMENTS TO THE UNIFORM FIRE CODE.

Appendix C of the State Fire Code is amended its entirety and shall read as follows:

(A) SECTION C101 GENERAL. C101.1 Scope. Fire hydrants shall be provided in accordance with this appendix for the protection of buildings, or portions of buildings, hereafter constructed.

(B) SECTION C102 LOCATION.

(1) C102.1 Fire hydrant locations. Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets. Fire hydrant spacing on streets or roadways shall be measured from intersections whenever possible.

(2) C102.2 Water system. The location of fire hydrants on both public and private property shall be approved by the Chief and the City Engineer. A detailed plan of the water system shall be submitted for issuance of the building permit. Water mains shall not be less than 8 inches in size unless approved by the Chief and City Engineer. Water mains and hydrants shall be sized to provide a minimum of 2000 gallons per minute at a residual pressure of 20 p.s.i.

(C) SECTION C103 NUMBER OF FIRE HYDRANTS. C103.1 Fire hydrants available. The minimum number of fire hydrants available to a building shall not be less than that listed in Table C105.1. The number of fire hydrants available to a complex or subdivision shall not be less than that determined by spacing requirements listed in Table C105.1 when applied to fire apparatus access roads and perimeter public streets from which fire operations could be conducted.

(D) SECTION C104 CONSIDERATION OF EXISTING FIRE HYDRANTS.

(1) C104.1 Existing fire hydrants. Existing fire hydrants on public streets are allowed to be considered as available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads.

(2) C105.1 Hydrant spacing. The average spacing between fire hydrants shall not exceed that listed in Table C105.1. Exception: The Fire Chief is authorized to accept a deficiency of up to 10 percent where existing fire hydrants provide all or a portion of the required fire hydrant service. Regardless of the average spacing, fire hydrants shall be located

such that all points on streets and access roads adjacent to a building are within the distances listed in Table C105.1

(3) C105.2 Hydrant requirements. All new fire hydrants shall be equipped with a 4 inch Storz connection, and hydrant locations shall be marked with blue reflective pavement markers at street centerline.

(E) TABLE C105.1 NUMBER AND DISTRIBUTION OF FIRE HYDRANTS

Fire-Flow Requirement (Gpm)[e]	***Minimum Number of Hydrants***	***Average Spacing Between Hydrants[abc] (Feet)***	***Maximum Distance from Any Point on Street or Road Frontage to a Hydrant[d]***
1,750 or less	1	400	250
2,000-2,250	2	400	225
2,500	3	400	225
3,000	3	400	225
3,500-4,000	4	350	210
4,500-5,000	5	300	180
5,500	6	300	180
6,000	6	250	150
6,500-7,000	7	250	150
7,500 or more	8 or more	200	120

For SI: 1 foot= 304.8 mm, I gallon per minute = 3.785 L/m.
a. Reduce by 100 feet for dead-end streets or roads.
b. Where streets are provided with median dividers which can be crossed by fire fighters pulling hose lines, or where arterial streets are provided with four or more traffic lanes and have a traffic count of more than 30,000 vehicles per day, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis up to a fire-flow requirement of 7,000 gallons per minute and 400 feet for higher fire-flow requirements.
c. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, fire hydrants shall be provided at spacing not to exceed 1,000 feet to provide for transportation hazards.
d. Reduce by 50 feet for dead-end streets or roads.
e. One hydrant for each 1,000 gallons per minute or fraction thereof.

(Prior Code, § 5.635) (Ord. 1999-09, passed 8-9-1999; Ord. 2004-06, passed 9-27-2004; Ord. 2014-12, passed 1-12-2015)

§ 153.08 BOARD OF APPEALS.

(A) *General*. In order to hear and decide appeals of orders, decisions, or determinations made by the Fire Marshal, relative to the application and interpretation of Fire Codes as adopted by the city (as set forth in §§ 153.01 through 153.07), there shall be and is hereby created a Fire Code Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and fire safety concerns, and who are not employees of the jurisdiction. The Fire Marshal shall be an ex-officio member of and shall act as Secretary to said Board, but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the City Council and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Chief.

(B) *Limiting of authority*. The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of the Fire Codes nor shall the Board be empowered to waive requirements of the Fire Codes.

(Prior Code, § 5.640) (Ord. 1999-09, passed 8-9-1999; Ord. 2004-06, passed 9-27-2004)

CHAPTER 154: COMPREHENSIVE PLANS

Section

§ 154.01 CHAPTERS ADOPTED.

(A) The following portions of the city's Comprehensive Plan, being necessary for the effective implementation of the Plan, and accurate interpretation of the goals and policies, bearing the date January 2014, and by reference incorporated herein, are hereby adopted:

(1) Chapter 1 - Background;
(2) Chapter 2 - Citizen Involvement;
(3) Chapter 3 - Land Use;
(4) Chapter 4 - Housing;
(5) Chapter 5 - Economy;
(6) Chapter 6 - Community Sustainability;
(7) Chapter 7 - Public Facilities and Community Services;
(8) Chapter 8 - Transportation;
(9) Chapter 9 - Schools and Education; and
(10) Chapter 10 - Natural Resources and Natural Hazards.

(B) The complete text of the Comprehensive Plan, as amended, and the Comprehensive Plan Map are on file in the office of the City Recorder.

(Prior Code, § 9.700) (Ord. 1980-14, passed 9-8-1980; Ord. 2009-04, passed 3-9-2009; Ord. 2014-01, passed 1-27-2014)

§ 154.02 EROSION CONTROL PLAN.

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

EROSION CONTROL PLAN. A plan containing a list of best management practices to be applied during construction to control and limit soil erosion.

LAND DEVELOPMENT. Refers to any human-induced change to improved or unimproved real estate including, but not limited to, construction, installation, or expansion of a building or other structure, land division, drilling, site alteration such as that due to land surface mining, dredging, grading, construction of earthen berms, paving, improvements for use as parking or storage, excavation, or clearing.

PUBLIC WORKS PROJECT. Any land development conducted or financed by a local, state, or federal governmental body.

(Prior Code, § 9.805)

(B) *Erosion Control Plan*.

(1) The following divisions shall apply to any new land development within the city, except those developments with application dates prior to January 1, 1990. The application date shall be the date on which a complete application for development approval is received by the city in accordance with the regulations of the city.

(2) For land development, no preliminary plat, site plan, permit, or public works project shall be approved by the city unless the conditions of the plat permit or plan approval includes an Erosion Control Plan containing methods and/or interim facilities to be constructed or used concurrently with land development and to be operated during construction to control the discharge of sediment in the stormwater runoff.

(3) The Erosion Control Plan shall utilize:

(a) Protection techniques to control soil erosion and sediment transport to less than one ton per acre per year as calculated using the soil conservation service universal soil loss equation or other equivalent methods. The Erosion Control Plan shall include temporary sedimentation basins when, because of steep slopes or other sites specific considerations, other on-site sediment control methods will not likely keep the sediment transport to less than one ton per acre per year. The city may establish additional requirements for meeting an equivalent degree of control. Any sediment basins constructed shall be sized using one and one-half feet minimum sediment storage depths plus two feet storage depth above for a settlement zone. The storage capacity of the basin shall be sized to store all of the sediment that is likely to be transported and collected during construction while the erosion potential exists. When the erosion potential has been removed, the sediment basin, or other sediment facilities, can be removed and the site restored as per the final site plan. All sediment basins shall be constructed with an emergency overflow to prevent erosion or failure of the containment dike; or

(b) A soil erosion matrix derived from and consistent with the universal soil loss equation approved by the city.

(Prior Code, § 9.810)

(Ord. 2009-04, passed 3-9-2009)

§ 154.03 DEVELOPMENT CODE AMENDMENTS.

The amendments to the city's Development Code, copies of which are on file with the City Recorder, are adopted and incorporated as fully as if set out at length. The Code is divided into nine articles, with each article containing related information.

(A) Article 1 - Introduction and Procedures;
(B) Article 2 - Land Use Reviews;
(C) Article 3 - Zoning Districts;
(D) Article 4 - Overlay Districts;
(E) Article 5 - Special Provisions;
(F) Article 6 - Land Divisions;
(G) Article 7 - Miscellaneous Provisions;
(H) Article 8 - General Development Standards; and
(I) Article 12 - Use Categories and Definitions.

Note: Articles 9-11 are held for future articles.

(Ord. 2009-01, passed 3-9-2009)

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Prior Code Section	***2017 Code Section***
4.010	50.03
4.015	50.04
4.020	50.05
4.025	50.06
4.035	50.07
4.040	50.08
4.045	50.09
4.050	50.10
4.055	50.11
4.100	50.25
4.105	50.26
4.110	50.27
4.115	50.28
4.120	50.29
4.125	50.30
4.130	50.31
4.135	50.99
4.200	51.01
4.205	51.02
4.210	51.03
4.300	51.15
4.310	51.16
4.320	51.17
4.400	52.02
4.405	52.03
4.410	52.04
4.415	52.05
4.420	52.06
4.425	52.07
4.430	52.08
4.435	52.09
4.440	52.10
4.445	52.11
4.450	52.12
4.455	52.13
4.460	52.14
4.465	52.15

Prior Code Section	***2017 Code Section***
4.470	52.16
4.475	52.17
4.480	52.99
4.485	52.18
5.005	130.01
5.015	130.02
5.025	130.03
5.030	130.04
5.035	130.05
5.040	130.06
5.045	130.07
5.050	130.08
5.065	130.09
5.075	130.10
5.080	130.11
5.085	130.12
5.095	130.13
5.096	131.01
5.097	131.02
5.100	35.110
5.101	35.111
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5.155	132.02
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5.165	132.04, 132.99
5.175	132.05
5.180	132.06, 132.99
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5.210	91.002
5.215	91.003
5.220	91.004
5.225	91.005
5.230	91.006
5.235	91.007
5.236	91.008
5.240	91.009
5.245	91.010

Prior Code Section	***2017 Code Section***
5.250	91.030
5.251	91.031
5.252	91.032
5.253	91.033
5.254	91.034
5.255	91.035
5.256	91.036
5.257	91.037
5.258	91.038
5.259	91.999
5.260	91.011
5.261	91.012
5.262	91.013
5.265	91.014
5.270	91.050
5.285	91.051
5.305	91.999
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5.315	152.02
5.320	152.03
5.325	152.04
5.330	152.05
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5.340	152.07
5.345	152.08
5.350	152.09
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5.360	152.11
5.405	92.01
5.410	92.02
5.415	92.03
5.420	92.04
5.425	92.05
5.430	92.06
5.435	92.07
5.440	92.08
5.445	92.09

Prior Code Section	***2017 Code Section***
5.450	92.10
5.455	92.11
5.460	92.12
5.465	92.13
5.470	92.14
5.475	92.15
5.480	92.16
5.485	92.17
5.490	92.99
5.505	93.01
5.515	93.02
5.605	153.01
5.610	153.02
5.615	153.03
5.620	153.04
5.625	153.05
5.630	153.06
5.635	153.07
5.640	153.08
5.655	91.015
5.660	91.999
5.900	91.065
5.905	91.066
5.910	91.067
5.915	91.999
5.920	91.068
5.925	91.069
5.930	91.070
5.935	91.071
5.940	91.072
5.945	91.073
5.950	91.074
5.955	91.075
5.960	91.076
6.005	70.01
6.010	70.02
6.015	70.15

Prior Code Section	***2017 Code Section***
6.020	70.16
6.025	70.17
6.030	70.18
6.035	70.19
6.040	70.30
6.045	70.31
6.050	70.32
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6.060	71.02, 71.99
6.065	71.03, 71.99
6.070	71.04, 71.99
6.075	71.05
6.080	71.06
6.085	71.07
6.090	71.08
6.095	71.09
6.100	70.99, 71.99
6.105	72.01, 72.99
6.110	72.02, 72.99
6.115	72.15
6.120	72.16
6.125	72.99
6.130	72.30
6.135	72.31
6.140	72.32
6.145	72.33
6.150	72.34
6.155	72.35, 72.99
6.160	72.99
6.200	73.001
6.205	73.002
6.210	73.003
6.215	73.004
6.220	73.005
6.225	73.006
6.230	73.007
6.235	73.008

Prior Code Section	***2017 Code Section***
6.240	73.009
6.245	73.999
6.300	73.020
6.305	73.021
6.310	73.022
6.315	73.023
6.405	73.035
6.410	73.036
6.415	73.037
6.420	73.038
6.425	73.039
6.430	73.040
6.500	73.055
6.600	74.01
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6.610	74.03
6.615	74.04
6.620	74.05
6.625	74.06
6.630	74.07
6.635	74.08
6.640	74.09
6.645	74.10
6.650	74.11
6.655	74.12
6.700	74.25
6.705	74.26
6.710	74.27
6.715	74.28
6.720	74.29
6.725	74.30
6.730	74.31
6.735	74.32
6.740	74.33
6.745	74.34
6.750	74.35
6.755	74.36

Prior Code Section	***2017 Code Section***
6.760	74.37
6.765	74.99
6.800	73.070
6.805	73.071
6.810	73.072
6.815	73.073
6.820	73.074
6.825	73.999
7.000	110.001
7.005	110.002
7.010	110.003
7.015	110.004
7.020	110.005
7.025	110.006
7.030	110.007
7.035	110.008
7.040	110.009
7.045	110.010
7.050	110.011
7.055	110.012
7.060	110.013
7.065	110.014
7.070	110.999
7.105	110.025
7.110	110.026
7.115	110.027
7.120	110.028
7.125	110.029
7.130	110.030
7.205	110.045
7.210	110.046
7.215	110.047
7.220	110.048
7.225	110.049
7.230	110.050
7.235	110.051
7.240	110.052

Prior Code Section	***2017 Code Section***
7.245	110.053
7.250	110.054
7.255	110.055
7.260	110.056
7.305	111.001
7.310	111.002
7.315	111.003
7.405	111.015
7.410	111.016
7.415	111.017
7.420	111.018
7.505	111.030
7.510	111.031
7.700	111.060
7.800	110.070
7.805	110.071
7.810	110.072
7.815	110.073
8.001	150.001
8.005	150.003
8.010	150.020
8.015	150.021
8.020	150.022
8.025	150.023
8.030	150.024
8.035	150.025
8.040	150.026
8.045	150.027
8.050	150.028
8.055	150.029
8.060	150.030
8.065	150.031
8.070	150.032
8.075	150.033
8.080	150.034
8.085	150.035
8.090	150.036

Prior Code Section	***2017 Code Section***
8.095	150.037
8.100	150.038
8.105	150.039
8.110	150.040
8.115	150.041
8.120	150.042
8.125	150.043
8.130	150.044
8.135	150.045
8.140	150.046
8.145	150.047
8.150	150.048
8.155	150.049
8.160	150.050
8.165	150.051
8.170	150.999
8.200	150.065
8.205	150.066
8.210	150.067
8.215	150.068
8.400	150.080
8.405	150.081
8.410	150.082
8.415	150.083
8.420	150.999
8.500	150.004
8.505	150.005
8.600	150.002
8.700	150.006
9.005	35.045
9.010	35.046
9.015	35.047
9.020	35.048
9.025	35.049
9.030	35.050
9.035	35.051
9.040	35.052

Prior Code Section	***2017 Code Section***
9.045	35.053
9.050	35.054
9.105	35.065
9.110	35.066
9.115	35.067
9.120	35.068
9.125	35.069
9.130	35.070
9.135	35.071
9.150	35.072
9.155	35.073
9.160	35.074
9.165	35.075
9.205	35.090
9.210	35.091
9.215	35.092
9.220	35.093
9.225	35.094
9.230	35.095
9.305	35.096
9.310	35.097
9.315	35.098
9.400	90.20
9.405	90.21
9.410	90.22
9.415	90.23
9.420	90.24
9.425	90.25
9.430	90.26
9.435	90.27
9.440	90.28
9.505	150.095
9.510	150.096
9.515	150.097
9.520	150.098
9.605	90.40
9.610	90.41

Prior Code Section	*2017 Code Section*
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9.620	90.43
9.625	90.44
9.700	154.01
9.805	154.02
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Ord. No.	*Date Passed*	*Code Section*
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1976-27	- -	151.001 – 151.011
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1980-14	9-8-1980	154.01
1986-07	6-23-1987	50.99
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1991-14	11-25-1991	52.01
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1994-01	2-14-1994	50.01, 50.45 – 50.56
1995-12	10-9-1995	35.110, 35.111
1995-13	11-13-1995	10.02, 31.10, 31.14, 35.045
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1996-11	10-14-1996	51.01 – 51.03
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1997-15	8-11-1997	130.01
1997-14	9-8-1997	90.43, 130.05, 131.01, 131.02, 150.098

Ord. No.	***Date Passed***	***Code Section***
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2000-07	8-14-2000	32.01, 32.02
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2004-06	9-27-2004	153.01, 153.02, 153.04, 153.05, 153.07, 153.08
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2009-09	7-13-2009	35.110, 35.111
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Ord. No.	***Date Passed***	***Code Section***
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2017-02	6-26-2017	112.33 - 112.35

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FOREST GROVE OREGON

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CITY RECORDER USE ONLY:	
AGENDA ITEM #:	6.
MEETING DATE:	DECEMBER 11, 2017
FINAL ACTION:	FIRST READING

2nd Reading 1/8/18
ORD 2017-14

CITY COUNCIL STAFF REPORT — FIRST READING:

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Anna Ruggles, CMC, City Recorder; Paul Downey, Administrative Services Director, and City Attorney Ashley Driscoll*

MEETING DATE: *December 11, 2017*

SUBJECT TITLE: *Public Hearing and First Reading of Ordinance Enacting the City of Forest Grove "Code Of Ordinances"*

ACTION REQUESTED:										
	X	Ordinance		Order		Resolution	X	Motion		Informational

X all that apply

ISSUE STATEMENT:
Staff is proposing the adoption of the Forest Grove "Code of Ordinances", copyrighted 2017, published by American Legal Publishing Corporation, League of Oregon Cities, containing 2017 S-1 Supplement. The Code consists of all regulatory, penalty, and administrative ordinances of the City of a general and permanent character. The "Code of Ordinances" will replace the City Code enacted in 1988. In addition, ordinances enacted during the process were forwarded for inclusion in the new "Code of Ordinances", which includes current ordinances through Ordinance 2017-02, dated June 26, 2017.

BACKGROUND:
In July 2016, the City entered into an agreement with the American Legal Publishing Corporation (Publisher) to provide Codification Services to the City under the League of Oregon Cities (LOC). Staff met in work session with Council on September 25, 2017, to review the "preliminary" manuscript and proposed ministerial amendments resulting from the legal review and recodification of the Code. The purpose of the comprehensive legal review was to provide the City the opportunity to review its enacted ordinances for conformity and existing State statutes as well as removing old provisions, which were no longer necessary or which might be improper or unlawful. The changes made were non-substantive and no changes were made to the current fine structure. The following supplemental changes were proposed by the City and reviewed by City Attorney, and will be repealed and/or amended as noted:

- Prior Code Section 7.605-610, General Occupancy Permit, not codified, as it is no longer valid (Repealing Ordinance **1972-959**). The City now issues Business Licenses.

- Prior Code Section 2.700, Adoption of County Forfeiture Ordinance, not codified, as it no longer valid (Repealing Ordinance **1987-03**).
- New Subsection 50.52(e), Water System Development Charges, amending: ...installment payments for a period not to exceed ~~five~~ ten years. Allowed under ORS (Amending Ordinance **1994-01**).
- New Subsection 90.30, Exclusion Authority, amended: (3) Conduct in violation of ~~a City Council adopted~~ "rules of conduct" adopted by Council resolution. This is to clarify that rules of conduct must be adopted by Council resolution and enforceable under the exclusion authority. (Amending Ordinance **2016-13)**
- New Subsection 111.071(b)(9), Liquor License Issuance, amended: The city may request up to an additional ~~60~~ 45 days to conduct investigations. Allowed under ORS. (Amending Ordinance **2010-05**)
- New Subsection 151.28(a), Parks System Development Charges, amending: ...installment payments for a period not to exceed ~~five~~ ten years. Allowed under ORS. (Amending Ordinance **1990-07**).

The "Code of Ordinances" includes reformatting of the current Code for easy access and searching as well as merging the City Charter into the Code as one City document. Titles were designed with odd numbers to accommodate maximum expansion during future supplementation. Once the "Code of Ordinances" is enacted, the Code will be available on-line (webhosting through Publisher) as a comprehensive, searchable and easy-to-use Forest Grove Code of local law. Making the Code available online is part of the Council and staff's continued commitment to support technology improvements and enhance communication with the public.

FISCAL IMPACT: The City will submit future supplements every six months to the Publisher under signed agreement at a cost of $150 for each six months and an additional $500 per year for online hosting (fee is waived the first year). Staff has delayed ordering new citation books pending the recodification. Staff will update form letters, notices, signage, etc., in accordance with the new code sections. Staff anticipates printing costs to be minimal.

STAFF RECOMMENDATION: Staff recommends the Council adopt the attached ordinance enacting the Forest Grove "Code of Ordinances", copyrighted 2017, published by American Legal Publishing Corporation, League of Oregon Cities, containing 2017 S-1 Supplement, current through Ordinance 2017-02, dated June 26, 2017, attached as Exhibit A.

ATTACHMENT(s)/LINK(s):

1. New Code of Ordinances: http://library.amlegal.com/nxt/gateway.dll/Oregon/forestgrove_or/forestgroveoregoncodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:forestgrove_or
2. Existing City Code: http://www.forestgrove-or.gov/sites/default/files/fileattachments/planning/page/701/a_code.master.update.2014.pdf
3. Ordinance and Exhibit A

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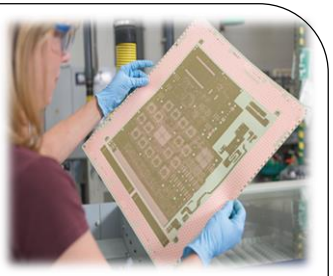

ORDINANCE ENACTING UPDATED CITY CODE

Anna Ruggles, City Recorder

Paul Downey, Administrative Services Director

Jesse VanderZanden, City Manager

December 11, 2017

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Codification Background

- In July 2016, the City entered into an agreement with the American Legal Publishing Corporation (Publisher) to provide Codification Services to the City under the League of Oregon Cities (LOC)
- Staff met in work session with Council on September 25, 2017, to review the preliminary manuscript and proposed ministerial amendments resulting from the legal review and recodification of the Code

FOREST GROVE OREGON

Reasons for Updating City Code

- Code has not had a legal review unless a specific ordinance code provision was added or amended since 1988
- Laws or ordinance have changed invalidating some of the code provisions
- How codes are formatted have changed considerably for readability, searchability, and uniformity of style
- Code is becoming a "Library of Laws" – compilation of regulatory, penalty and administrative ordinances of the City of a general and permanent character

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Comprehensive Legal Review

- The purpose of the comprehensive legal review was to provide the City the opportunity to review its enacted ordinances for conformity and existing State statutes as well as removing old provisions, which were no longer necessary or which might be improper or unlawful
- The changes made were non-substantive and no changes were made to the current fine structure.

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2017 S-1 Supplement Changes

The following supplemental changes were proposed by the City and reviewed by City Attorney:

- Removed code on General Occupancy Permits as the City now issues business licenses under a separate code chapter
- Removed Adoption of County Forfeiture Ordinance as it is no longer valid
- Amended Exclusion Authority provision to clarify that rules of conduct must be adopted by Council Resolution to be enforceable under the exclusion authority
- Amended Liquor License Issuance to request up to additional 45 days instead 60 days as allowed under ORS
- Amended Parks and Water SDC financing to allow installment payments of up to 10 years instead of 5 years consistent with Sewer SDC, which currently allows 10 years, and as required by State statute.
- Current through Ordinance No. 2017-02 were codified.

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New City Code

- The "Code of Ordinances" includes reformatting of the current Code for easy access and searching as well as merging the City Charter into the Code as one City document
- Titles were designed with odd numbers to accommodate maximum expansion during future supplementation
- Once the "Code of Ordinances" is enacted, the Code will be available on-line (webhosting through Publisher) as a comprehensive, searchable and easy-to-use Forest Grove Code of local law

FOREST GROVE OREGON

City Code Online Access

- Making the Code available online is part of the Council and staff's continued commitment to support technology improvements and enhance transparent communication with the public.

- New Forest Grove Code of Ordinances:

http://library.amlegal.com/nxt/gateway.dll/Oregon/forestgrove_or/forestgroveoregoncodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:forestgrove_or

- Existing City Code:

http://www.forestgrove-or.gov/sites/default/files/fileattachments/planning/page/701/a_code.master.update.2014.pdf

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Staff Recommendation

- Staff recommends City Council consider adopting the proposed Ordinance enacting the Forest Grove "Code of Ordinances" as law of the City, and repeal the Forest Grove Code of 1988.
- If enacted, the City will submit supplements every six months to the Publisher under signed agreement.
- If enacted, staff will order new citation books and update all administrative forms, signage and correspondence, etc.

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QUESTIONS?

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NOTICE OF PUBLIC HEARING

PROPOSED ORDINANCE REENACTING CITY MUNICIPAL CODE (CODE OF ORDINANCES) FOR THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, December 11, 2017, 7:00 p.m**. or thereafter, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider adopting an ordinance enacting the City of Forest Grove "Code of Ordinances", published by American Legal Publishing Corporation, League of Oregon Cities. The City Code consists of all regulatory, penalty, and administrative ordinances of the City of a general and permanent character. The "Code of Ordinances" will replace the City Code enacted in 1988. The proposed ordinance, if enacted by the City Council, would take effect 30 days immediately after enactment unless City Council declares an emergency.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the staff report, proposed ordinance, new City Code of Ordinances and existing City Code are available for inspection before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing or sent to the attention of the City Recorder's Office, P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116, prior to the hearing. For further information, please call Anna Ruggles, City Recorder, at 503.992.3235.

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

To be published: Wednesday, December 6, 2017

Date: December 11, 2017 **Agenda Item:** 6.

Subject: PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2017-14 ENACTING CITY OF FOREST GROVE CODE OF ORDINANCES AS LAW OF THE CITY OF FOREST GROVE AND REPEALING ORDINANCE NO. 1988-04, FOREST GROVE CITY CODE OF 1988

CITY COUNCIL MEETING
Request to Testify at Public Hearing

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Please sign-in below to testify.

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First & Last Name:	*Address:*	*City, State & Zip Code:*
Dale		

OPPONENTS: *(Please print legibly)*

First & Last Name:	*Address:*	*City, State & Zip Code:*

OTHERS: *(Please print legibly)*

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COMMUNITY NEWSPAPERS
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E-mail: legals@commnewspapers.com

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Washington, SS
I, Charlotte Allsop, being the first duly sworn, depose and say that I am the Accounting Manager of the ***Forest Grove News-Times***, a newspaper of general circulation, published at Forest Grove, in the aforesaid county and state, as defined by ORS 193.010 and 193.020, that

City of Forest Grove
Notice of Public Hearing
FGNT19058

a copy of which is hereto attached, was published in the entire issue of said newspaper for
1
week in the following issue:
December 6, 2017

Charlotte Allsop

Charlotte Allsop, Accounting Manager

Subscribed and sworn to before me this December 6, 2017.

Jerrin L Sipe

NOTARY PUBLIC FOR OREGON

Acct #298024
PO #: 20165070
Attn: Anna Ruggles
City of Forest Grove
PO Box 326
Forest Grove, OR 97116
Size: 2 x 4.819"
Amount Due: $92.04*
*Please remit to the above address.

OFFICIAL STAMP
JERRIN L. SIPE
NOTARY PUBLIC - OREGON
COMMISSION NO. 941161
MY COMMISSION EXPIRES JULY 28, 2019

NOTICE OF PUBLIC HEARING
PROPOSED ORDINANCE REENACTING
CITY MUNICIPAL CODE (CODE OF ORDINANCES)
FOR THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, December 11, 2017, 7:00 p.m.** or thereafter, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider adopting an ordinance enacting the City of Forest Grove "Code of Ordinances", published by American Legal Publishing Corporation, League of Oregon Cities. The City Code consists of all regulatory, penalty, and administrative ordinances of the City of a general and permanent character. The "Code of Ordinances" will replace the City Code enacted in 1988. The proposed ordinance, if enacted by the City Council, would take effect 30 days immediately after enactment unless City Council declares an emergency.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the staff report, proposed ordinance, new City Code of Ordinances and existing City Code are available for inspection before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing or sent to the attention of the City Recorder's Office, P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116, prior to the hearing. For further information, please call Anna Ruggles, City Recorder, at 503.992.3235.

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

Publish 12/06/2017. FGNT19058

FIRST READING: 12/11/17

ORDINANCE NO. 2017-14

ENACTING THE CITY OF FOREST GROVE "CODE OF ORDINANCES" AS LAW OF THE CITY OF FOREST GROVE, OREGON, AND REPEALING ORDINANCE NO. 1988-04, CITY OF FOREST GROVE CODE OF 1988

The City of Forest Grove ordains as follows:

Section 1. Adoption. The provisions of a code designated as the City of Forest Grove, Oregon, "Code of Ordinances", copyrighted 2017, published by American Legal Publishing Corporation, League of Oregon Cities, containing 2017 S-1 Supplement, current through Ordinance 2017-02, dated June 26, 2017 (Exhibit A), a copy of which is placed on file in the office of the City Recorder and certified as the official copy by the recorder are hereby enacted as law of the City of Forest Grove, Oregon; and

Section 2. The provisions appearing in the "Code of Ordinances", so far as they are the same as those ordinances or prior code sections existing at the time of the effective date of this Ordinance, shall be considered as continuations thereof and not as new enactments; and

Section 3. Ordinance No. 1988-04, which enacted Forest Grove Code of 1988, is hereby repealed on the effective date of this Ordinance. The following ordinances are hereby repealed and/or amended as contained in 2017 S-1 Supplement:

1. Prior Code Section 7.605-610, General Occupancy Permit, not codified, as it is no longer valid (Repealing Ordinance **1972-959**). The City now issues Business Licenses.
2. Prior Code Section 2.700, Adoption of County Forfeiture Ordinance, not codified, as it no longer valid (Repealing Ordinance **1987-03**).
3. New Subsection 50.52(e), Water System Development Charges, amending: ...installment payments for a period not to exceed ~~five~~ ten years. Allowed under ORS (Amending Ordinance **1994-01**).
4. New Subsection 90.30, Exclusion Authority, amended: (3) Conduct in violation of ~~a City Council adopted~~ "rules of conduct" adopted by Council resolution. This is to clarify that rules of conduct must be adopted by Council resolution and enforceable under the exclusion authority. (Amending Ordinance **2016-13)**
5. New Subsection 111.071(b)(9), Liquor License Issuance, amended: The city may request up to an additional ~~60~~ 45 days to conduct investigations. Allowed under ORS. (Amending Ordinance **2010-05**)
6. New Subsection 151.28(a), Parks System Development Charges, amending: ...installment payments for a period not to exceed ~~five~~ ten years. Allowed under ORS. (Amending Ordinance **1990-07**).

Section 5. This ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 11th day of December, 2017.

PASSED the second reading this 8th day of January, 2018.

_____

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 8th day of January, 2018.

_____

Peter B. Truax, Mayor

6

1/8/18
ord 2017-14
Adopted

SECOND READING:

ORDINANCE NO. 2017-14

ENACTING THE CITY OF FOREST GROVE "CODE OF ORDINANCES" AS LAW OF THE CITY OF FOREST GROVE, OREGON, AND REPEALING ORDINANCE NO. 1988-04, CITY OF FOREST GROVE CODE OF 1988

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PASSED the second reading this 8th day of January, 2018.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 8th day of January, 2018.

Peter B. Truax, Mayor

ORDINANCE NO. 2017-14
Exhibit A

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To access, search, print, save or e-mail copies of the codified Forest Grove Code of Ordinances (updated through June, 2017), click on link, which is hosted by American Legal Publishing Corporation: http://www.amlegal.com/codes/client/forest-grove_or/

Date: January 8, 2018 **Agenda Item:** 6.

Subject: CONTINUE PUBLIC HEARING: SECOND READING OF ORDINANCE NO. 2017-14 ENACTING CITY OF FOREST GROVE CODE OF ORDINANCES AS LAW OF THE CITY OF FOREST GROVE AND REPEALING ORDINANCE NO. 1988-04, FOREST GROVE CITY CODE OF 1988

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