CITY OF DONALD, OREGON

CODE OF ORDINANCES

2016 S-3 Supplement contains:
Local legislation current through Ord. 168-2016, passed 9-8-2016

Published by:
AMERICAN LEGAL PUBLISHING CORPORATION
One West Fourth Street ✧ 3rd Floor ✧ Cincinnati, Ohio 45202
1-800-445-5588 ✧ www.amlegal.com

2.7.2017
gw

ORDINANCE 141-09

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF DONALD, AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the first (1st) supplement to the Code of Ordinances of the City of Donald, which supplement contains all ordinances of a general and permanent nature enacted since the original Code of Ordinances of the City of Donald; and

WHEREAS, it is necessary to provide for the usual daily operation of the City of Donald and for the immediate preservation of the public peace, health, safety and general welfare of the City of Donald that this ordinance take effect at an early date;

NOW, THEREFORE, THE CITY OF DONALD ORDAINS AS FOLLOWS;

Section 1. That the first (1st) supplement to the Code of Ordinances of the City of Donald as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Donald City Council and the City Manager is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in Donald City Hall.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of the City of Donald, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the City Council of the City of Donald on this 13th day of October 2009 by a vote of 7 ayes and 0 nays.

Approved by the Mayor on the 13th day of October 2009.

Date: October 13,2009

Todd Deaton /s/
Todd Deaton, Mayor

ATTEST:

Date: October 13,2009

Janet Lane /s/
Janet Lane, City Manager

PUBLISHER'S ACKNOWLEDGMENT

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by municipal officials, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code of Ordinances.

AMERICAN LEGAL PUBLISHING CORPORATION

Stephen G. Wolf, Esq.
President

DONALD, OREGON
TABLE OF CONTENTS

Chapter

TITLE XIII: GENERAL OFFENSES

TITLE XV: LAND USAGE

TABLE OF SPECIAL ORDINANCES

Table

PARALLEL REFERENCES

INDEX

DONALD, OREGON
CHARTER TABLE OF CONTENTS

A CHARTER

To provide for the government of the City of Donald, Marion County, Oregon.

Be it enacted by the people of the City of Donald, Marion County, Oregon:

CHAPTER I. NAME AND BOUNDARIES

SECTION 1. TITLE OF ENACTMENT.

This enactment may be referred to as the Donald Charter of 1964.

SECTION 2. NAME OF CITY.

The City of Donald, Marion County, Oregon shall continue to be a municipal corporation with the name " City of Donald".

SECTION 3. BOUNDARIES.

The city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by voters, by the council, or by any other agency with legal power to modify them. The recorder shall keep in his office at the city hall at least two copies of this charter in each of which he shall maintain an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours to the recorder.

CHAPTER II. POWERS

SECTION 4. POWERS OF THE CITY.

The city shall have all powers which the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

SECTION 5. CONSTRUCTION OF CHARTER.

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state constitution.

CHAPTER III. FORM OF GOVERNMENT

SECTION 6. WHERE POWERS VESTED.

Except as this charter provides otherwise, all powers of the city shall be vested in the council.

SECTION 7. COUNCIL.

The council shall be composed of a mayor andsix councilmen elected from the city at large.

SECTION 8. COUNCILMEN.

The council then in office at the time this charter is adopted shall continue in office, each until the end of his term of office as fixed by the provisions of the Oregon Revised Statutes. At each biennial general election after this charter takes effect, three councilmen shall be elected, each for a term of four years.

SECTION 9. MAYOR.

The Mayor in office at the time this charter is adopted shall continue in office until the end of his term of office as fixed by the provisions of the Oregon Revised Statutes. At each biennial general election after this charter takes effect, a mayor shall be elected for a term of two years.

SECTION 10. OTHER OFFICERS.

Additional officers of the city shall be a municipal judge, a recorder, and such other officers as the council deems necessary. The terms of office of the recorder, treasurer, and marshall who are in office at the time this charter is adopted shall terminate as of the date this charter takes effect. Each of the

additional officers shall be appointed and may be removed by the mayor with the consent of the council. The council may combine any two or more appointive city offices. The council may designate any appointive officer to supervise any other appointive officer except the municipal judge in the exercise of his judicial functions.

SECTION 11. SALARIES.

The compensation for the services of each city officer and employe shall be the amount fixed by the council.

SECTION 12. QUALIFICATIONS OF OFFICERS.

No person shall be eligible for an elective office of the city unless at the time of his election he is a qualified elector within the meaning of the state constitution and has resided in the city during the twelve months immediately preceding the election. The council shall be final judge of the qualifications and election of its own members, subject, however, to review by a court of competent jurisdiction.

CHAPTER IV. COUNCIL

SECTION 13. MEETINGS.

The council shall hold a regular meeting at least once each month in the city at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings. The mayor upon his own motion may, or at the request of three members of the council shall, by giving notice thereof to all members of the council then in the city, call a special meeting of the council for a time not earlier than three nor later than forty-eight hours after the notice is given. Special meetings of the council may also be held at any time by the common consent of all the members of the council.

SECTION 14. QUORUM.

A majority of members of the council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

SECTION 15. JOURNAL.

The council shall cause a journal of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken, and a record of the vote entered in the journal.

SECTION 16. PROCEEDINGS TO BE PUBLIC.

No action by the council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

SECTION 17. MAYOR'S FUNCTIONS AT COUNCIL MEETINGS.

The mayor shall be chairman of the council and preside over its deliberations. He shall have a vote on all questions before it. He shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

SECTION 18. PRESIDENT OF THE COUNCIL.

At its first meeting after this charter takes effect and thereafter at its first meeting of each odd-numbered year, the council by ballot shall elect a president from its membership. In the mayor's absence from a council meeting, the president shall preside over it. Whenever the mayor is unable to perform the functions of his office, the president shall act as mayor.

SECTION 19. VOTE REQUIRED.

Except as this charter otherwise provides, the concurrence of a majority of the members of the council present at a council meeting shall be necessary to decide any questions before the council.

CHAPTER V. POWERS AND DUTIES OF OFFICERS

SECTION 20. MAYOR.

The mayor shall appoint the committees provided by the rules of the council. He shall sign all approved records of proceedings of the council. He shall have no veto power and shall sign all ordinances passed by the council within three days after their passing. After the council approves a bond of a city officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond.

SECTION 21. MUNICIPAL JUDGE.

The municipal judge shall be the judicial officer of the city. He shall hold within the city a court known as the municipal court for the city of Donald, Marion County, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All area within the city shall be within the territorial jurisdiction of the court. The municipal judge shall exercise orginal and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances of the city. He shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city, to commit any such person to jail or admit him to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court, and to punish witnesses and others for contempt of the Court. When not governed by ordinances or this charter, all proceedings of the municipal court for the violation of a city ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice courts.

SECTION 22. RECORDER.

The recorder shall serve ex officio as clerk of the council, attend all its meetings unless excused therefrom by the council, keep an accurate record of its proceedings in a book provided for that purpose, and sign all orders on the treasury. In the recorder's absence from a council meeting, the mayor shall appoint a clerk of the council pro tem who, while acting in that capacity, shall have all the authority and duties of the recorder.

CHAPTER VI. ELECTIONS

SECTION 23. REGULAR ELECTIONS.

Regular city elections shall be held at the same times and places as biennial general state elections, in accordance with applicable state election laws.

SECTION 24. NOTICE OF REGULAR ELECTIONS.

The recorder, pursuant to directions from the council, shall give at least ten days' notice of each regular city election by posting notice thereof at a conspicuous place in the city hall and in one public place in each voting precinct of the city. The notice shall state the officers to be elected, the ballot title of each measure to be voted upon, and the time and place of the election.

SECTION 25. SPECIAL ELECTIONS.

The council shall provide the time, manner, and means for holding any special election. The recorder shall give at least ten days' notice of each special election in the manner provided by the action of the council ordering the election.

SECTION 26. REGULATION OF ELECTIONS.

Except as this charter provides otherwise and as the council provides otherwise by ordinances relating to elections, the general laws of the state shall apply to the conduct of all city elections, recounts of the returns therefrom, and contests thereof.

SECTION 27. CANVASS OF RETURNS.

In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. In each special city election the returns therefrom shall be filed with the recorder on or before noon of the day following, and not later than five days after the election, the council shall meet and canvass the returns. The results of all elections shall be made a matter of record in the journal of the proceedings of the council. The journal shall contain a statement of the total number of votes cast at each election, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he has been elected, and a reference to each measure enacted or approved. Immediately after the canvass is completed, the recorder shall make and sign a certificate of election of each person elected and deliver the certificate to him within one day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it.

SECTION 28. THE VOTES.

In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

SECTION 29. COMMENCEMENT OF TERMS OF OFFICE.

The term of office of a person elected at a regular city election shall commence the first of the year immediately following the election.

SECTION 30. OATH OF OFFICE.

Before entering upon the duties of his office, each officer shall take an oath or shall affirm that he will support the constitutions and laws of the United States and of Oregon and that he will faithfully perform the duties of his office.

SECTION 31. NOMINATIONS.

The council shall provide by ordinance the mode for nominating elective officers.

CHAPTER VII. VACANCIES IN OFFICE

SECTION 32. WHAT CREATES VACANCY.

An office shall be deemed vacant upon the incumbent's death; adjudicated incompetence; conviction of a felony, other offense pertaining to his office, or unlawful destruction of public records; resignation; recall from office; or ceasing to possess the qualifications for the office; upon the failure of the person elected or appointed to the office to qualify therefor within ten days after the time for his term of office to commence; or in the case of a mayor or councilman, upon his absence from the city for 30 days without the consent of the council or upon his absence from meetings of the council for 60 days without like consent, and upon a declaration by the council of the vacancy.

SECTION 33. FILLING OF VACANCIES.

Vacancies in elective offices in the city shall be filled by a majority of the incumbent members of the council. The appointee's term of office shall begin immediately upon his appointment and shall continue throughout the unexpired term of his predecessor. During the temporary disability of any officer or during his absence temporarily from the city for ay cause, his office may be filled pro tem in the manner provided for filling vacancies in office permanently.

CHAPTER VIII. ORDINANCES

SECTION 34. ENACTING CLAUSE.

The enacting clause of all ordinances hereafter enacted shall be, "The city of Donald ordains as follows:"

SECTION 35. MODE OF ENACTMENT.

(1) Except as this section provides to the contrary, every ordinance of the council shall, before being put upon its final passage, be read fully and distinctly in open council meeting on two different days.

(2) Except as this section provides to the contrary, an ordinance may be enacted at a single meeting of the council by unanimous vote of all council members present, upon being read first in full and then by title.

(3) Any of the readings may be by title only (a) if no council member present at the meeting requests to have the ordinance read in full or (b) if a copy of the ordinance is provided for each council member and three copies are provided for public inspection in the office of the city recorder not later than one week before the first reading of the ordinance and notice of their availability is given forthwithupon the filing, by (i) written notice posted at the city hall and two other public places in the city or (ii) advertisement in a newspaper of general circulation in the city. An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such a difference is read fully and distinctly in open council meeting as finally amended prior to being approved by the council.

(4) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and recorded in the journal.

(5) Upon the enactment of an ordinance the recorder shall sign it with the date of its passage and his name and title of office and within three days thereafter the mayor shall sign it with the date of his signature, his name and the title of his office.

SECTION 36. WHEN ORDINANCES TAKE EFFECT.

An ordinance enacted by the council shall take effect on the thirtieth day after its enactment. When the council deems it to take effect, and in case of an emergency, it may take effect immediately.

CHAPTER IX. PUBLIC IMPROVEMENTS

SECTION 37. CONDEMNATION.

Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the council describing the property and stating the uses to which it shall be devoted.

SECTION 38. IMPROVEMENTS.

The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state. Action on any proposed public improvement, except a sidewalk or except an improvement unanimously declared by the council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the property to be specially assessed therefor. For the purpose of this section "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract or according to a verified writing by the record holder of legal title to the land filed with the city recorder, the said purchaser shall be deemed the "Owner".

SECTION 39. SPECIAL ASSESSMENTS.

The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

SECTION 40. BIDS.

A contract in excess of $500.00 for a public improvement to be made by a private contractor shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the council.

SECTION 40(A).

Editor's note:

An amendment providing for water system capital construction and improvements, as proposed by Ord. 8, passed 1-18-1979, was approved by the voters but is not available for codification.

SECTION 40(B). 1981 AMENDMENT FOR SEWER CONSTRUCTION.

The City of Donald may own, acquire, construct, equip, operate and maintain, either within or without its corporate limits, in whole or in part, a sanitary sewage disposal system with all appurtenances necessary, useful or convenient for the collection, treatment and disposal of sewage.

The City Council is authorized to construct and equip a sewage collection and treatment facility, including interceptors and collector lines, pumping stations, holding ponds, lagoon-spray irrigation system, any and all other necessary appurtenances and also acquire necessary parcels of real property and easements on which to construct and operate said facilities.

The City Council is authorized to issue and sell general obligation bonds of the City in the sum of ONE HUNDRED SIXTY-FIVE THOUSAND DOLLARS ($165,000) for a term not exceeding FORTY (40) years, for the purpose of providing funds with which to pay the costs of said public improvements, including the costs of engineering and legal services. The debt limitation contained in the Charter of the City of Donald shall not apply to the bonds hereby authorized.

Editor's note:

The text of this amendment is taken from Ord. 18, passed 2-3-1981.

CHAPTER X. MISCELLANEOUS PROVISIONS

SECTION 41. DEBT LIMIT.

Except by consent of the voters, the city's voluntary floating indebtedness shall not exceed $7,500.00; nor its bonded indebtedness, $25,000.00 at any one time. For purposes of calculating the limitation, however, the legally authorized debt of the city in existence at the time this charter takes effect shall not be considered. All city officials and employes who create or officially approve any indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

SECTION 42.

In no event shall the city be liable in damages for an injury to person, a damage to property, or a death, caused by a defect or a dangerous condition in a public thoroughfare, site, or facility, unless the city has had actual notice prior to the injury, damage, or death that the defect or condition existed and has had a reasonable time thereafter in which to repair or remove it. In no case shall more than $500.00 be recovered as damages for an injury, damage, or death resulting from such a defect or dangerous place. No action shall be maintained against the city for damages growing out of such injury, damage or death unless the claimant first gives written notice to the council within 30 days after the injury, damage or death is sustained, stating specifically the time when, the place where, and the circumstances under which it was sustained, and that he will claim damages therefor of the city in an amount which he specifies. But in no event shall the action be started until 30 days have elapsed after the presentation of this notice to the council.

SECTION 43. EXISTING ORDINANCES CONTINUED.

All ordinances of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

SECTION 44. TIME OF EFFECT OF CHARTER.

This charter shall take effect immediately upon its enactment.

TITLE I: GENERAL PROVISIONS

Chapter

CHAPTER 10: GENERAL PROVISIONS

Section

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Donald shall be designated as the "Code of the City of Donald" and may be so cited.

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

CITY, MUNICIPAL CORPORATION, or ***MUNICIPALITY.*** The City of Donald, Oregon.

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

COUNTY. Marion County, Oregon, in which the city is located.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Oregon.

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

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

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

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

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

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

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

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in 1 section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 161, passed 5-13-1960; Am. Ord. 170, passed 1-1-1970; Am. Ord. 180, passed 1-1-1980; Am. Ord. 185, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (O.R.S. 192.410) (Ord. 180, passed 1-17-1980; Am. Ord. 185, passed 1-1-1985)

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

§ 10.99 GENERAL PENALTY.

(A) Violation of any ordinance of the city or failure to comply with any mandatory requirements of any ordinance of the city is hereby declared to be a violation punishable by a fine not to exceed $500.

(B) Each day or portion of a day that a violation exists or takes place shall be punishable as a separate offense.

(Ord. 1991-68, passed 5-1-1991)

TITLE III: ADMINISTRATION

Chapter

CHAPTER 30: INITIATIVES AND REFERENDUMS

Section

§ 30.01 DEFINITIONS.

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

CITY ELECTIONS OFFICER. The City Recorder for this city.

EMERGENCY ELECTION. An election held as provided by O.R.S. 221.230(2), when the Council finds that, in order to avoid extraordinary hardship to the community, it is necessary to hold an election sooner than the next available election date specified in O.R.S. 221.230(1).

MEASURE. A legislative enactment by the Council not necessary for the immediate preservation of the public peace, health, and safety; a part of such an enactment; or a proposed legislative enactment for the city.

PETITION. An initiative or referendum petition for ordering a measure to be submitted to the voters.

REFER. To subject a measure to the referendum.

REGULAR ELECTION. A city election held at the same time as a primary or general biennial election for election of state and county officers.

SPECIAL ELECTION. An election held on a date specified in O.R.S. 221.230(1) that is not a regular election.

VOTER. A legal voter of the city.

WRITE. To write, type, or print.
(Ord. 26, passed 8-25-1982)

§ 30.02 COMPLETE PROCEDURE.

This chapter provides a complete procedure for the voters to exercise initiative and referendum powers.
(Ord. 26, passed 8-25-1982)

§ 30.03 INITIATIVE PROCEDURES.

(A) *Initiative proposal.* An initiative measure shall be proposed by depositing at the office of the city elections officer a duly prepared petition ordering the measure to be submitted to the voters.

(B) *Form of petition.*

(1) An initiative petition shall not be considered duly prepared unless it is in the form prescribed by the Secretary of State. A sample of the form is available in the office of the city elections officer.

(2) Only the first 20 names appearing on a page of a petition shall be considered in computing the number of valid signatures on the petition.

(3) The caption that is part of the ballot title prepared by the City Attorney shall be printed in the foot margin of each signature sheet of the initiative petition.

(C) *Presentation to Council.* At the next regular meeting of the Council after the proposal of an initiative measure, the city elections officer shall present the measure to the Council.

(D) *Submission to voters.* The city elections officer 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 voters at the time provided by § 30.08(A) of this code.
(Ord. 26, passed 8-25-1982)

§ 30.04 REFERENDUM PROCEDURES.

(A) *Referendum procedure.* A measure shall be referred by:

(1) Deposit at the office of the city elections officer a duly prepared referendum petition for the measure; or

(2) Council submission of the measure to the voters.

(B) *Form of petition.*

(1) A referendum petition shall not be considered duly prepared unless it is in the form prescribed by the Secretary of State. A sample of the form is available at the office of the city elections officer.

(2) Only the first 20 names appearing on a page of a petition shall be considered in computing the number of valid signatures on the petition.

(3) The caption that is part of the ballot title prepared by the City Attorney shall be printed in the foot margin of each signature sheet of the referendum petition.

(C) *Time for referring measure by petition.* A referendum petition for a measure shall be considered duly prepared if the petition and the required signatures are deposited with the city elections officer within 30 days after the Council enacts the measure.

(D) *Time for referral by Council.* The Council may refer a measure only at the session at which it enacts the measure.

(E) *Submission to voters.* The city elections officer shall cause a referred measure to be submitted to the voters at the time fixed by § 30.08(A) of this code.
(Ord. 26, passed 8-25-1982)

§ 30.05 PETITIONS.

(A) *Preparation of petitions.* A petition shall not be considered duly prepared unless:

(1) Prior to its circulation, a copy is deposited with the city elections officer, with a correct copy of the measure and a signed statement on the face of the petition of the name and address of the person or persons, not to exceed 3, 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; and

(2) As circulated, the petition:

(a) Complies with the requirements of §§ 30.03(B) or 30.04(B) of this code;

(b) Contains the ballot title that is prepared initially or that is approved or prescribed on appeal, as required by this chapter, for the measure for which it is being circulated; and

(c) Contains the name and address of the sponsor of the petition.

(B) *Elections officer duties.* When a copy of a petition to be circulated is deposited with the city elections officer, the officer shall immediately:

(1) Check the form for compliance with §§ 30.03(B) or 30.04(B) of this code;

(2) Advise the person depositing it whether it complies with §§ 30.03(B) or 30.04(B), and, if it does not, how to correct it;

(3) Stamp the date and time on the petition;

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

(5) Send a copy to the City Attorney for preparation of the ballot title, unless the officer is responsible for preparing the title.
(Ord. 26, passed 8-25-1982)

§ 30.06 BALLOT TITLE.

(A) *Ballot title preparation.*

(1) The ballot title for a measure ordered by the Council or proposed to be ordered by a petition shall be prepared and in the hands of the city elections officer within 10 days after the Council orders the submission or after a copy of the petition is first deposited with the officer.

(2) When the Council submits a measure to the voters or when a petition is first deposited with the city elections officer, the officer shall send a copy of the measure to the City Attorney, who shall prepare the ballot title and return it to the officer. If the city has no attorney or the City Attorney is unable to prepare the ballot title within the time required, the officer shall prepare the ballot title.

(B) *Ballot title appeals.* A voter dissatisfied with the ballot title may, within 5 days after it is prepared and deposited with the city elections officer, appeal to the Council by a written appeal deposited with the officer, asking for a different ballot title for the measure and stating why the title prepared is

unsatisfactory. Within 10 days after deposit of the appeal with the officer, the Council shall provide the appellant a hearing and either approve the title or prescribe another ballot title. The title thus adopted shall be the ballot title for the measure.

(C) *Captions and statements.* The ballot title shall be a concise and impartial statement of the purpose of the measure. It shall consist of:

(1) A caption not exceeding 10 words by which the measure is commonly referred to;

(2) A question of not more than 20 words which 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) An abbreviated statement not exceeding 175 words which summarizes the measure.
(Ord. 26, passed 8-25-1982)

§ 30.07 SIGNATURES.

(A) *Number of signatures.*

(1) The number of signatures required for a duly prepared initiative petition shall be 15% of the number of voters registered at the election for the office of Mayor immediately preceding the deposit of the petition with the city elections officer.

(2) The number of signatures required for a duly prepared referendum petition shall be 10% of the number of voters registered at the election for the office of Mayor immediately preceding the deposit of the petition with the city elections officer.

(B) *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.

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

(D) *Certification of signatures.* Within 10 days after a duly prepared petition is deposited with the city elections officer, the officer shall verify the number and genuineness of the signatures and the voting qualifications of the persons signing the petition by reference to the registration books in the office of the County Clerk. If a sufficient number of voters signed the petition, the officer shall so certify and file the petition. If the officer determines that there is an insufficient number of signatures, the petition shall be returned to the sponsor or person offering the petition for filing.
(Ord. 26, passed 8-25-1982)

§ 30.08 ELECTION.

(A) *Voting on measures.*

(1) The time for voting on a measure shall be the first available election date more than 90 days after the verification and filing of a duly prepared petition by the city elections officer.

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

(B) *Designation and numbering of measures.* Measures shall appear on a ballot by ballot title only, and initiative measures shall be distinguished from referred measures. The sequence of measures to be voted on shall be the sequence in which the respective measures are ordered to be submitted to the voters, with the first measure to be numbered "51" in numerals, and the succeeding measures to be numbered consecutively "52," "53," "54," and so on.

(C) *Election notice.* The city elections officer shall give notice of all elections in accordance with the requirements of the City Charter.

(D) *Information to County Clerk.* When a measure is to be voted on at a regular or special election, the city elections officer shall furnish a certified copy of the ballot title and number of each measure to be voted on at the election to the County Clerk, in accordance with the time limits established by state law.

(E) *Election returns.* The votes on a measure shall be counted, canvassed, and returned as provided by state law.
(Ord. 26, passed 8-25-1982)

§ 30.09 PROCLAMATION OF RESULTS.

(A) Immediately upon the 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 voters favor the measure, declaring it to be effective from the date of the vote.

(B) The city elections officer shall give public notice of the proclamation by publishing it once in a newspaper of general circulation in the city or by posting copies of it in 5 public places in the city, including City Hall.

(C) The proclamation shall be filed with the measure.
(Ord. 26, passed 8-25-1982)

§ 30.10 EFFECT OF MEASURES.

(A) *Effective date of measures.* A measure submitted to the voters shall take effect when proclaimed by the Mayor to be passed by a majority of the voters. A measure shall have no effect while it is subject to the referendum.

(B) *Conflicting measures.* Of conflicting measures approved by the voters at an election, the measure receiving the greater number of affirmative votes shall be paramount.
(Ord. 26, passed 8-25-1982)

§ 30.11 UNLAWFUL ACTS.

(A) No person other than a registered voter 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 or deposit at the office of the city elections officer 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 person shall pay or receive a valuable consideration for procuring a signature on a petition.

(I) No officer shall willfully violate a provision of this chapter.
(Ord. 26, passed 8-25-1982) Penalty, see § 10.99

CHAPTER 31: ORDINANCE ENFORCEMENT PROCEDURES

Section

GENERAL PROVISIONS

§ 31.01 PURPOSE.

The purpose of this chapter is to provide for the welfare, safety, and health of the citizens of the city by establishing a procedure wherein the ordinances of the city can be enforced. The City Council has considered past enforcement efforts, which relied primarily upon injunctive action in the state courts. The City Council specifically finds that existing city ordinances and procedures involve substantial delay and high cost, thus deterring vigorous enforcement of ordinances. It is immediately necessary to enact this ordinance enforcement procedure in lieu of others, in order to ensure timely enforcement of city ordinances and maintain public confidence and certainty in those ordinances.
(Ord. 1987-48, passed 12-2-1987)

§ 31.02 DEFINITIONS.

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

CITY ORDINANCE. All ordinances duly enacted by the city, including but not limited to zoning, planning, nuisance abatement, health, solid waste, public works, and building ordinances.

ENFORCEMENT OFFICER. The person(s) who is appointed to serve infraction complaints pursuant to §§ 31.03 and 31.20 of this code.

INFRACTION COMPLAINT. The document(s) which, when properly served upon the alleged ordinance violator, brings the matter before the appropriate court for resolution. The elements of an ***INFRACTION COMPLAINT*** are set forth in § 31.21 of this code.

PERSON. Includes:

(1) The United States or agencies thereof, any state, public, or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate, or any other legal entity, contractor, subcontractor, or combination thereof. ***PERSON*** also includes those residing in or conducting business or activities in the city; and

(2) The owner, title holder, contract seller, or contract buyer of the land upon which the violation is occurring, is equally responsible for the violation of a city ordinance, as is the possessor of the land, user of the land, or the person who is taking the action, conduct, or omission which constitutes a violation of any city ordinance.

VIOLATOR. Any person who has admitted violation of a city ordinance or a person who has been adjudicated to have violated a city ordinance.
(Ord. 1987-48, passed 12-2-1987)

§ 31.03 ENFORCEMENT OFFICERS.

The City Council shall appoint 1 or more persons to act as enforcement officer(s) for the purposes of issuing infraction complaint(s), abstract of record, and summons. The appointment(s) shall be made a part of the City Council's records.
(Ord. 1987-48, passed 12-2-1987)

§ 31.04 JURISDICTION OF COURTS.

The Municipal Court or the Circuit Court have concurrent jurisdiction of all infraction complaints for violation of a city ordinance.
(Ord. 1987-48, passed 12-2-1987)

§ 31.05 PROSECUTOR DESIGNATED.

The City Council hereby elects to have the prosecution of infraction complaints and any other remedy provided by law to be conducted by the City Attorney.
(Ord. 1987-48, passed 12-2-1987)

INFRACTION COMPLAINTS

§ 31.20 SERVICE OF COMPLAINT.

(A) Service of the infraction complaint shall be by the enforcement officer upon the person(s) whose conduct, action(s), or omission(s) constitute the ordinance violation(s).

(B) If the alleged ordinance violator is not the owner, title holder, contract buyer, or contract seller of the property and is the person whose action, conduct, or omission is creating or causing (by act or omission) the ordinance violation, then the owner, title holder, contract buyer, and contract seller may also be served personally with an infraction complaint.

(C) If personal service cannot readily be made, substitute service can be made as provided in O.R.C.P. 7(D).
(Ord. 1987-48, passed 12-2-1987)

§ 31.21 DELIVERY OF SUMMONS, COMPLAINT, AND ABSTRACT OF RECORD.

(A) An infraction complaint issued pursuant to this chapter shall comply with the requirements of §§ 31.22, 31.23, and 31.24, respectively.

(B) The enforcement officer issuing an infraction complaint shall cause:

(1) The summons to be delivered to the person;

(2) A copy of the complaint, abstract of record, and summons to be delivered to legal counsel within 2 business days after service of the summons; and

(3) The complaint and abstract of record to be delivered to the appropriate court within 2 business days after service of the summons.
(Ord. 1987-48, passed 12-2-1987)

§ 31.22 REPEAT OR CONTINUING VIOLATIONS; REMEDIES NOT EXCLUSIVE.

(A) (1) Except as otherwise specifically provided in this chapter, an infraction complaint shall be used for violation of any city ordinance.

(2) Infraction complaints may be filed against the same person for repeated violations of the same ordinance or for a continuing violation of the same ordinance.

(3) Each 24-hour period constitutes a separate occurrence.

(B) The city may, at any time, whether before or after the issuance of 1 or more infraction complaints, institute a complaint in the Circuit Court for any other remedy provided by law, including injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, or abate the violation.

(C) In addition to any other remedy provided by law to the city, the city may seek a penalty as provided in § 10.99 of this code for each separate violation pursuant to this chapter.
(Ord. 1987-48, passed 12-2-1987)

§ 31.23 REQUIRED COMPLAINT CONTENT; MOTION TO SET ASIDE.

(A) *Complaint content.* The infraction complaint shall consist of 4 parts.

(1) The required parts are:

(a) The complaint;

(b) The abstract of record;

(c) The enforcement officer record; and

(d) The summons.

(2) Each of the parts shall contain the information required by this chapter.

(B) *Certificate.* The complaint shall contain a form or certificate in which the enforcement officer shall certify that he or she has reasonable grounds to believe, and does believe, the person served with the infraction complaint violated a city ordinance, contrary to law. A certificate conforming to this section shall be deemed equivalent to a sworn complaint.

(C) *Minimum requirements for complaint.* The infraction complaint is sufficient if it contains the following:

(1) The name of the court, the name of the city, in whose name the action is brought, and the name of the violator(s);

(2) A statement or designation of the alleged violation of city ordinance in a manner as can be readily understood by a person making a reasonable effort to do so, and the date, time, and place at which the violation of city ordinance is alleged to have occurred; and

(3) A certificate signed by the enforcement officer issuing the infraction complaint.

(D) *Motion to set aside.* The complaint shall be set aside by the court upon motion of the violator, before a plea, when the complaint does not conform to the requirements of this section. A pretrial ruling on a motion to set aside may be appealed by the city. The court may allow the city to amend the complaint or to file an amended complaint.
(Ord. 1987-48, passed 12-2-1987)

§ 31.24 SUMMONS; REQUIRED CONTENT.

A summons in an infraction complaint is sufficient if it contains the following:

(A) The name of the court, the name of the person cited, the date on which the infraction complaint was issued, the name of the complainant, and the date, time, and place at which the person cited is to appear in court;

(B) A statement or designation of the violation of city ordinance in a manner as can be readily understood by a person making a reasonable effort to do so, and the date, time, and place at which the ordinance violation is alleged to have occurred;

(C) A notice to the person cited that an infraction complaint will be filed with the court, based upon the alleged violation of city ordinance;

(D) The amount of forfeiture for a violation of the ordinance; and

(E) A written notice on the face of the summons that the city may seek any and all other legal remedies, including but not limited to injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, or abate the ordinance violation.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

COURT PROCEEDINGS

§ 31.35 VIOLATOR'S APPEARANCE; REQUEST FOR HEARING; STATEMENT.

(A) The violator shall either appear in court at the time indicated in the summons, or prior to that time may:

(1) Request a hearing;

(2) Admit violation of the city ordinance and give a statement of matters in explanation or mitigation of the violation; or

(3) Submit to the court an executed appearance, waiver of hearing, and admission of violation as set forth on the summons, together with cash, check, or money order in the amount of the forfeiture set forth on the summons. A statement in explanation or mitigation may also be submitted with the admission of violation of city ordinance.

(B) In any case in which the violator personally appears in court at the time indicated in the summons, and the violator desires to admit the violation of the city ordinance and the court accepts the admission, the court shall hear any statement in explanation or mitigation that the violator desires to make.

(C) If the violator does not appear in court at the time indicated in the summons, and has not, prior to that time, submitted an executed appearance and waiver of hearing to the court, together with cash, check, or money order in the amount of the fine set forth in the summons, or requested in writing a continuance of the time to appear in court, the court shall enter a judgment against the violator in an amount equal to the forfeiture set forth on the face of the summons, together with court costs and any special costs.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

§ 31.36 STATEMENT AS WAIVER OF HEARING; FINE FORFEITURE.

If a violator has not requested a hearing, but has submitted to the court any written statement in explanation or mitigation of the ordinance violation, the statement constitutes a waiver of hearing and consent to the entry of judgment against the violator. The court may declare a forfeiture of the fine or portion thereof on the basis of the statement and any testimony or written statement of the enforcement officer or other person, if any, which may be presented to the court.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

§ 31.37 HEARING DATE; CONTEMPT OF COURT.

(A) If the violator requests a hearing, the court shall fix a date and time for the hearing, and advise the violator of the date.

(B) If the violator fails to appear at the time set for the hearing without having previously requested in writing a continuance, the court shall enter a judgment against the violator in the amount of the forfeiture set forth on the summons together with court costs and any special costs.

(C) No warrant of arrest can be issued for any violation of a city ordinance. Nothing in this section shall prohibit the court from issuing a warrant of arrest for any contempt of court which occurs.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

§ 31.38 HEARING; BURDEN OF PROOF; ATTORNEYS.

(A) The hearing of any infraction complaint shall be by the court without a jury.

(B) The hearing of any infraction complaint shall not commence until the expiration of 7 days from the date of the infraction complaint.

(C) The city shall have the burden of proving the violation of the ordinance by a preponderance of the evidence.

(D) The pretrial discovery rules set forth in the State Rules of Civil Procedure shall apply to infraction complaints. The city may call the violator as a witness at the hearing.

(E) Proof of negligence, malfeasance, misfeasance, nonfeasance, willful conduct, knowing conduct, intentional conduct, or any other culpable mental state is not an element of any ordinance violation.

(F) At any hearing involving an infraction complaint, an attorney shall not be provided at public expense. At any hearing involving an infraction complaint, the City Attorney may appear, but is not required to appear.
(Ord. 1987-48, passed 12-2-1987)

§ 31.39 SUBSEQUENT PROSECUTION OF ADDITIONAL VIOLATIONS.

Notwithstanding any provision of the State Rules of Civil Procedure or any other provision of this chapter, the prosecution of 1 infraction complaint shall not bar the subsequent prosecution of additional city ordinance violations occurring or committed at the same time or as part of the same act or transaction or as part of the same occurrence as other ordinance violation(s). Evidence of prior ordinance violation(s) shall be admissible in any subsequent prosecution of any ordinance violation.
(Ord. 1987-48, passed 12-2-1987)

§ 31.40 CIVIL JUDGMENT; EFFECT.

A judgment upon an infraction complaint is a civil judgment, as is any other civil judgment at law. The judgment involves only a fine, and does not incur loss by forfeiture, suspension, or revocation of any license or any other privilege or other civil penalty. A person against whom a judgment is issued does not suffer any disability or legal disadvantage, based upon that judgment, other than the enforcement by the city of the judgment.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

§ 31.41 DOCKET OF CITY LIENS; FORECLOSURE.

(A) *Lien.* The Municipal Court Judge shall enter the judgment as a lien in the docket of city liens if the defendant has an ownership interest in real property within the city. The lien shall bear interest at the rate of 9% per annum.

(B) *Foreclosure.* At any time after the lien has been so docketed, a suit to foreclose same may be brought in the Circuit Court of the state for the county, in the name of the city. These liens may be foreclosed in the same manner as any other city liens.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

§ 31.42 APPEAL FROM JUDGMENT.

An appeal from a judgment may be taken by either party as follows:

(A) From a proceeding in the Municipal Court, as provided in O.R.S. Chapter 221;

(B) From a proceeding in the Circuit Court, as provided in O.R.S. 19.005 - 19.225 and 19.250 - 19.430.
(Ord. 1987-48, passed 12-2-1987)

§ 31.43 COURT COSTS.

(A) The court, in addition to the fine, shall charge court costs to the violator where:

(1) The violator admits violation of the city ordinance and the minimum fine is imposed;

(2) The violator admits violation of the city ordinance and a fine other than the minimum fine is imposed;

(3) The violator fails to appear for the hearing or is found to have violated a city ordinance following a hearing; or

(4) The violator enters into an agreement with the city for a consent decree whereby the violator does not admit violation of the city ordinance but agrees to make necessary corrections, as set forth in the agreement, in order to bring the violator's conduct, actions, or property into compliance with city ordinances.

(B) Court costs shall be $25. Those costs cannot be waived by the city, the violator, or the court in any proceeding. If the violator fails to pay the costs, the costs shall be entered as a judgment against the violator in the same manner and with like effect as a judgment for a fine.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

§ 31.44 CONSENT DECREE.

(A) The city and the violator may enter into a consent decree. The consent decree shall provide that the violator does not admit a violation of city ordinance but will make necessary corrections, as set forth in the agreement, to bring the violator's actions, conduct, omissions, or property into conformance with appropriate city ordinances.

(B) The violator, the violator's attorney if any, and the city shall sign all consent decrees.

(C) The consent decree shall be filed with the court as a final adjudication of the proceedings and shall constitute a dismissal of the action when the violator performs as agreed. The violator or the city may seek a court order dismissing the case upon completion of the conditions of the consent decree.

(D) The violator's failure to comply with the consent decree allows the city to seek any additional remedies provided by law or this chapter.
(Ord. 1987-48, passed 12-2-1987) Penalty, see § 10.99

§ 31.45 FINES; DISTRIBUTION.

All fines collected shall be distributed to the general fund.
(Ord. 1987-48, passed 12-2-1987)

§ 31.46 SPECIAL COSTS.

(A) The city shall be entitled to recover all special costs and disbursements that are reasonable and necessary expenses incurred in the successful prosecution of an infraction complaint other than for legal services, but including the costs, expenses, and salaries of officers, employees, and witnesses, the necessary expenses of taking depositions, the expense of publication of summons or notices, postage, compensation of expert witnesses, and the expense of copying any public record, book, or document used as evidence in the trial.

(B) The special costs shall be allowed to the city in the same manner as a judgment for fines.
(Ord. 1987-48, passed 12-2-1987)

§ 31.47 PRIVATE RIGHT OF ACTION.

(A) Any person, whether acting as principal, agent, or employee, whose interest is or may be affected by any violation of a city ordinance may, in addition to the other remedies provided by law, file an infraction complaint in the following manner.

(B) (1) The private citizen shall prepare and present the infraction complaint to the appropriate enforcement officer.

(2) If the enforcement officer fails to act upon the infraction complaint within 10 days, the citizen may submit the infraction complaint to legal counsel. Legal counsel may investigate the alleged violation of a city ordinance and, after consultation with the appropriate department or division head, shall either:

(a) Have served the infraction complaint and prosecute; or

(b) Decline to serve the infraction complaint or to prosecute.

(3) Legal counsel shall notify the private citizen of the action within 10 days from the date the infraction complaint is presented to legal counsel.
(Ord. 1987-48, passed 12-2-1987)

TITLE V: PUBLIC WORKS

Chapter

CHAPTER 50: WATER

Section

Water Shortage Emergency

Administration and Enforcement

Rates and Charges

Cross-reference:

Financing Public Improvements, see Chapter 152

GENERAL PROVISIONS

§ 50.001 DEFINITIONS.

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

CUSTOMER. The owner of property which is served by the city water system. A person, corporation, association, or agency which rents or leases premises shall be considered an agent of the property owner.

DELINQUENT CHARGES. Any charge or surcharge for furnishing water that has not been paid by the twentieth day of every month.

MAINS. Distribution pipe lines that are part of the city water system.

PREMISES. The integral property or area, including improvements thereon, to which water service is or will be provided.

SERVICE CONNECTION. The pipe, valves, and other equipment by means of which the city conducts water from its mains to and through the meter, but not including piping from the meter to the premises served.

WATER USER CHARGE. Shall be based on the amount of water used by the customer as indicated by the water meter and/or the cost of providing water service to a structure and shall include a base rate and a consumption rate.
(Ord. 13, passed 3-19-1980; Am. Ord. 157-2014, passed 12-9-2014)

WATER SERVICE; CONSTRUCTION AND CONNECTIONS

§ 50.015 REGULAR SERVICE.

(A) The city shall furnish and install a service connection of a size and location as the customer requests, provided that the request is reasonable. The service will be installed from the main to a point between the curb line and the property line of the premises if the main is in the street, or to a point in a city right-of-way or easement.

(B) A continuous and uninterrupted supply of power is a precondition to receiving city water service. Use of the sewage disposal system in the absence of power will result in the sewer system backing up and creating a health hazard within the city. The customer shall, at his or her own risk and expense, furnish, install, and keep in good and safe condition equipment that may be required for receiving, controlling, applying, and utilizing water. The customer shall, in addition, at his or her own expense, furnish, install, and provide at all times at which water service is operated, electrical power. The city shall not be responsible for loss or damage caused by the improper installation of the equipment or the negligence, lack of proper care, or wrongful act of the customer in installing, maintaining, using, operating, or interfering with the equipment or supply of electrical power. The city shall not be responsible for loss or damage caused by any lack of power to the premises or any loss or damage caused by termination of water service caused by a discontinuation of city water service.

(C) The city shall not be responsible for damage to property caused by a spigot, faucet, valve, or other equipment, that is open when the water is turned on at the meter.

(D) A customer making any material change in the size, character, or extent of the equipment or operation utilizing water service, or whose change of operations results in a large increase in the use of water, shall give immediate written notice to the city of the nature of the change, and if requested, amend his or her application.

(E) The service connection, whether located on public or private property, is the property of the city; and the city reserves the right to repair, maintain, and replace it.
(Ord. 13, passed 3-19-1980; Am. Ord. 113-99, passed 9-14-1999) Penalty, see § 10.99

§ 50.016 METERS.

(A) Meters shall be furnished and owned by the city.

(B) No rent or other charges shall be paid by the city for a meter or other equipment located on the customer's premises.

(C) Meters shall be sealed by the city at the time of installation, and no seal shall be altered or broken except by one of its authorized agents.

(D) If a change in size of a meter and service is required, the installation shall be accomplished on the basis of a new installation.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99

§ 50.017 METER ERROR.

(A) A customer may request the city to test the meter serving his or her premises. The customer shall deposit an amount to cover the reasonable cost of the test. This deposit will be returned if the meter is found to register more than 2% fast.

(B) Whenever a meter fails to register accurately or cannot be read for any reason beyond the control of the reader, the charge shall be the minimum monthly rate.
(Ord. 13, passed 3-19-1980)

§ 50.018 APPLICATION.

All water service connections, installations, and alterations in the city shall be initiated by written application of each water customer. Each application shall be filed with the City Recorder and shall be

accompanied by full payment of a water installation charge and a water connection fee in the amount required by Council resolution as authorized by this chapter.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99
Cross-reference:
Rates and Charges, see §§ 50.085 et seq.

§ 50.019 SERVICE LINES; CONNECTION; MAINTENANCE.

Service lines of suitable size shall be furnished by the city upon prepayment of the water service connection and installation charges. The city shall furnish all labor and materials necessary for the connections, including tapping of mains, installation of corporation stops, meters, meter boxes, connections, and pipe or tubing that may be necessary. Size of meters, pipes, and other materials to be

used in water connections and installations shall be determined by the city. Water service connection from the main to and through the meter shall be maintained by the city from the date of installation without further cost to any specific water customer.
(Ord. 13, passed 3-19-1980)

§ 50.020 UNSAFE APPARATUS.

(A) The city may refuse to furnish water and may discontinue service to premises where an apparatus, appliance, or other equipment using water is dangerous, unsafe, or is being used in violation of laws, ordinances, or legal regulations.

(B) The city may refuse to furnish water and may discontinue service to premises which are not served by electrical power, or where electrical service is discontinued for any reason.

(C) The city does not assume liability for inspecting apparatus on the customer's property or determining the availability of electrical power. The city does reserve the right of inspection, however, if there is reason to believe that unsafe or illegal apparatus is in use or if the city has reason to believe that electrical power has been temporarily or permanently discontinued to the premises.
(Ord. 13, passed 3-19-1980; Am. Ord. 113-99, passed 9-14-1999)

§ 50.021 SERVICE DETRIMENTAL TO OTHERS.

The city may refuse to furnish water and may discontinue service to premises where excessive demand by 1 customer will result in inadequate service to others.
(Ord. 13, passed 3-19-1980)

§ 50.022 ABANDONED AND NON-REVENUE PRODUCING SERVICES.

When a service connection to a premises has been abandoned or not used for a period of 1 year or longer, the city may remove it. New service shall be placed only upon the customer's applying and paying for a new service connection.
(Ord. 13, passed 3-19-1980)

§ 50.023 POOLS AND TANKS.

When an abnormally large quantity of water is desired for filling a swimming pool, or tanks, or for other purposes, arrangements shall be made with the city prior to taking the water. Permission to take water in unusual quantities shall be given only if it can be safely delivered and if other customers will not be inconvenienced.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99

§ 50.024 WATER SOURCE DEVELOPMENT.

No water source development will be made within the city limits without prior approval from the City Council.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99

CROSS CONNECTIONS

§ 50.035 DEFINITIONS.

For the purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a word or term used in this subchapter is not contained in the following list, its definition, or other technical terms used, shall have the meanings or definitions listed in the Oregon Administrative Rules, Chapter 333, or the most recent edition of the *Manual of Cross Connection Control* published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California (USC) and the PNWS-AWWA Cross Connection Control Manual.

APPROVED BACKFLOW PREVENTION ASSEMBLY or BACKFLOW ASSEMBLY or ASSEMBLY. An assembly to counteract back pressures or prevent back siphonage. This assembly must appear on the list of approved assemblies issued by the Oregon Health Authority.

BACKFLOW. The flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the water system of the city's water.

BORESIGHT or BORESIGHT TO DAYLIGHT. Providing adequate drainage for backflow prevention assemblies installed in vaults through the use of an unobstructed drain pipe.

CITY or THE CITY. The City of Donald.

CONTAMINATION. The entry into or presence in a public water supply system of any substance which may be deleterious to health and/or quality of the water.

CROSS CONNECTION. Any physical arrangement where a public water system is connected, directly or indirectly, with any other non-drinkable water system or auxiliary system, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, or any other device which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow.

Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, or other temporary or permanent devices through which, or because of which, backflow may occur are considered to be cross connections.

CROSS CONNECTION SPECIALIST. A person who has successfully completed and maintains all requirements as established by the Oregon Health Authority to be a specialist in the State of Oregon.

DEGREE OF HAZARD. The low or high hazard classification that shall be attached to all actual or potential cross connections.

DIRECTOR. The Director of Public Works of the City of Donald, or authorized agent.

DOUBLE CHECK VALVE BACKFLOW PREVENTION ASSEMBLY or DOUBLE CHECK ASSEMBLY or DOUBLE CHECK. An assembly which consists of two independently operating check valves which are spring-loaded or weighted. The assembly comes complete with a gate valve on each side of the checks, as well as test cocks to test the checks for tightness.

HEALTH HAZARD. An actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

HIGH HAZARD. The classification assigned to an actual or potential cross connection that potentially could allow a substance that may cause illness or death to backflow into the potable water supply.

LOW HAZARD. The classification assigned to an actual or potential cross connection that potentially could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the potable water supply.

MOBILE UNITS. Units that are temporary in nature, connecting to the water system through a legally-permitted hydrant, hosebib, or other appurtenance of a permanent nature that is part of the city's water system or a permanent water service to a premises. Examples can include but are not limited to the following: water trucks, pesticide applicator vehicles, chemical mixing units or tanks, waste hauler's trucks or units, sewer cleaning equipment, carpet or steam cleaning equipment other than homeowner use, rock quarry or asphalt/concrete batch plants or any other mobile equipment or vessel that poses a threat of backflow in the city water system. Uses that are excluded from this definition are recreational vehicles at assigned sites or parked in accordance with other city policies pertaining to recreational vehicles and homeowner devices that are used by the property owner in accordance with other provisions of this, or other, city policies pertaining to provision of water service to a premise.

PLUMBING HAZARD. An internal or plumbing-type cross connection in a consumer's potable water system than may be either a pollutional or a contamination-type hazard. This includes, but is not

limited to, cross connections to toilets, sinks, lavatories, wash trays, domestic washing machines and lawn sprinkling systems. Plumbing-type cross connections can be located in many types of structures including homes, apartment houses, hotels and commercial or industrial establishments.

POINT OF USE ISOLATION. The appropriate backflow prevention within the consumer's water system at the point at which the actual or potential cross connection exists.

POLLUTIONAL HAZARD. An actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree of intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

POTABLE WATER SUPPLY. Any system of water supply intended or used for human consumption or other domestic use.

PREMISES. Any piece of property to which water is provided including all improvements, mobile structures and structures located on it.

PREMISES ISOLATION. The appropriate backflow prevention at the service connection between the public water system and the water user.

REDUCED-PRESSURE BACKFLOW PREVENTION ASSEMBLY or REDUCED-PRESSURE BACKFLOW ASSEMBLY or RP ASSEMBLY. An assembly containing two independently acting approved check valves together with a hydraulically-operated, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly shall include properly located test cocks and tightly closing shut off valves at the end of the assembly.

SYSTEM HAZARD. An actual or potential threat of severe danger to the physical properties of the public or consumer's potable water system or of a pollution or contamination which would have a detrimental effect on the quality of the potable water in the system,

THERMAL EXPANSION. Heated water that does not have the space to expand.
(Ord. 153-2013, passed 5-14-2013)

§ 50.036 PURPOSE.

The purpose of this subchapter is to protect the water supply of the city from contamination or pollution due to any existing or potential cross connections.
(Ord. 153-2013, passed 5-14-2013)

§ 50.037 CROSS CONNECTIONS REGULATED.

No cross connections shall be created, installed, used or maintained within the territory served by the city, except in accordance with this subchapter.
(Ord. 153-2013, passed 5-14-2013)

§ 50.038 BACKFLOW PREVENTION ASSEMBLY REQUIREMENTS.

(A) A cross connection specialist employed by or contracted with the city shall carry out inspections and surveys of each property and will require an assembly commensurate with the degree of hazard to be installed at the service connection.

(B) The minimum protection of an approved double check valve assembly must be installed at every service connection served by the city. If the type of premises is found on Table 48 of OAR 333-061-0070, the installation of a reduced-pressure backflow assembly will be required.

(C) The property owner is responsible for all cross connection control within the premises.

(D) The property owner is responsible for providing adequate protection against thermal expansion,

(E) Any mobile unit or apparatus which uses city water or water from any premises within the city's system shall first obtain a permit from the city and comply with all restrictions and fees.
(Ord. 153-2013, passed 5-14-2013)

§ 50.039 INSTALLATION REQUIREMENTS.

To ensure proper operation and accessibility of all backflow prevention assemblies, the following requirements shall apply to the installation of these assemblies.

(A) No part of the backflow prevention assembly shall be submerged in water or installed in a location subject to flooding. If installed in a vault or basement, adequate drainage shall be provided.

(B) Assemblies must be installed immediately downstream of the water meter, before any branch in the line. Alternate locations must be approved in writing by the city prior to installation.

(D) The assembly must be protected by the property owner from freezing and other severe weather conditions.

(E) All backflow prevention assemblies shall be of a type and model approved by the Oregon Health Authority and the city.

(F) If written permission is granted to install the backflow assembly inside of the building, the assembly must be readily accessible between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.

(G) Reduced-pressure backflow assemblies may be installed in a vault only if relief valve discharge can be drained to daylight through a "boresight" type drain. The drain shall be of adequate capacity to carry the full rated flow of the assembly and shall be screened on both ends.

(H) An approved air gap shall be located at the relief valve orifice. This air gap shall be at least twice the inside diameter of the incoming supply line as measured vertically above the top rim of the drain and in no case less than one.

(I) Any water pressure drop caused by the installation of a backflow assembly is not the responsibility of the city.

(J) All new construction must install an approved assembly at the service connection. The type of assembly shall be commensurate with the degree of hazard as determined by a certified inspector. If the use of the property has not been determined, a reduced-pressure backflow assembly must be installed.
(Ord. 153-2013, passed 5-14-2013)

§ 50.040 ACCESS TO PREMISES.

Authorized employees of the city, with proper identification, shall have access to all parts of premises and within the building to which water is supplied between the hours of 6:00 a.m. and 6:00 p.m. However, if any water user refuses access to premises or to the interior of a structure during these hours for inspection by a cross connection specialist appointed by the city, a reduced-pressure backflow assembly must be installed at the service connection to that premises.
(Ord. 153-2013, passed 5-14-2013)

§ 50.041 PLUMBING CODE.

As a condition of water service, customers shall install, maintain, and operate their piping and plumbing systems in accordance with the current version of all applicable plumbing codes, or as amended. If there is a conflict between this subchapter and the plumbing codes, the more stringent supersedes.
(Ord. 153-2013, passed 5-14-2013)

§ 50.042 ANNUAL TESTING AND REPAIRS.

All premises isolation backflow assemblies installed within the territory served by the city shall be tested immediately upon installation and at least annually thereafter by a state certified tester employed by or contracted with the city to perform required tests. All such assemblies found not functioning properly shall be promptly repaired or replaced at the expense of the property owner. If any such assembly is not promptly repaired or replaced, the city may deny or discontinue water to the premises. The city may set fees to cover the cost of this service. All point-of-use assemblies must be tested immediately after installation and at least annually thereafter by a state certified tester. It is the responsibility of the property owner to have internal assemblies tested.
(Ord. 153-2013, passed 5-14-2013)

§ 50.043 THERMAL EXPANSION.

If a closed system has been created by the installation, of a backflow prevention assembly, or other appurtenances, it is the responsibility of the property owner, the occupant, or person in control of the property to eliminate the possibility of damage from thermal expansion in accordance with all applicable plumbing codes.
(Ord. 153-2013, passed 5-14-2013)

§ 50.044 MOBILE UNITS.

Any mobile unit or apparatus, as defined in § 50.035, which uses the water from any premises within the city water system, shall first obtain a permit from the city and be inspected to assure an approved air gap or reduced-pressure backflow assembly is installed on the unit.
(Ord. 153-2013, passed 5-14-2013)

§ 50.045 TEMPORARY METERS AND HYDRANT VALVES.

Backflow protection will be required on all temporary meters and hydrant valves before any use. The type of assembly will be commensurate with the degree of hazard and will be determined on a case-by-case basis by a cross connection specialist employed by or contracted by the city.
(Ord. 153-2013, passed 5-14-2013)

§ 50.046 COSTS OF COMPLIANCE.

All costs associated with purchase, installation, inspections, testing, replacement, maintenance, parts, and repairs of the backflow assembly are the financial responsibility of the property owner.
(Ord. 153-2013, passed 5-14-2013)

§ 50.047 RECOVERY OF COSTS.

(A) Any water customer violating any of the provisions of this subchapter and who causes damage to or impairs the city's water system, including, but not limited to, allowing contamination, pollution, any other solution or used water to enter the city's water system, shall be liable to the city for any expense, loss or damage caused by such violation. The city shall collect from the violator the cost incurred by the city for any cleaning, purifying, repair or replacement work or any other expenses caused by the violation. Refusal to pay the assessed costs shall constitute a violation of this subchapter and shall result in the termination of service.

(B) All cost associated with any disconnect or reconnect fees resulting from the enforcement of this subchapter is the sole responsibility of the property owner.
(Ord. 153-2013, passed 5-14-2013)

§ 50.048 TERMINATION OF SERVICE.

Failure on the part of any customer to discontinue the use of all cross connections and to physically separate cross connections is sufficient cause for the immediate discontinuance of public water service to the premises.
(Ord. 153-2013, passed 5-14-2013)
Statutory reference:
Similar provisions, see O.A.R. 333-061-070(1)

§ 50.049 CONSTITUTIONALITY AND SAVING CLAUSE.

If any provision, section, sentence, clause or phrase of this subchapter, or the application of same to any person or set of circumstances are for any reason held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this subchapter or its application to other persons or circumstances shall not be affected thereby, it being the intent of the City Council in adopting, and the Mayor in approving this chapter that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.
(Ord. 153-2013, passed 5-14-2013)

§ 50.050 EFFECTIVE DATE.

Inasmuch as this subchapter is necessary for the immediate preservation of the public health, peace and safety of the city, an emergency is hereby declared to exist, and this subchapter shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, pursuant to the City Charter.
(Ord. 153-2013, passed 5-14-2013)

WATER SHORTAGE EMERGENCY

§ 50.055 DECLARATION OF EMERGENCY.

When the Mayor is informed that the city water supply has become, or is about to become depleted to an extent so as to cause a serious water shortage in the city, the Mayor shall have the authority to declare an emergency water shortage and to direct that the provisions of §§ 50.056 - 50.059 of this code be enforced.
(Ord. 13, passed 3-19-1980)

§ 50.056 NOTICE OF DECLARATION.

When a declaration of emergency is pronounced by the Mayor, the City Recorder shall make the declaration public in a manner reasonably calculated to provide actual notice to the public. This provision shall not be construed as requiring personal delivery or service of notice or notice by mail.
(Ord. 13, passed 3-19-1980)

§ 50.057 PROHIBITED USES DURING EMERGENCY.

When a declaration of emergency is pronounced and notice has been given in accordance with §§ 50.055 and 50.056 above, the use and withdrawal of water by any person for the following purposes shall be prohibited:

(A) Sprinkling, watering, or irrigating shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers, or any other vegetation;

(B) Washing automobiles, trucks, trailers, trailer houses, railroad cars, or any other type of mobile equipment;

(C) Washing sidewalks, driveways, filling station aprons, porches, and other surfaces;

(D) Washing the outside of dwellings; washing the inside or outside of office buildings;

(E) Washing and cleaning any business or industrial equipment and machinery;

(F) Operating any ornamental fountain or other structure making a similar use of water;

(G) Swimming and wading pools not employing a filter and recirculating system; or

(H) Permitting the escape of water through defective plumbing.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99

§ 50.058 EXEMPTION.

At the discretion of the Mayor 1 or more of the above uses may be exempted from the provisions of this subchapter. The exemption shall be made public as provided in § 50.056 of this code.
(Ord. 13, passed 3-19-1980)

§ 50.059 EXCEPTION TO MAINTAIN SANITATION.

The Mayor of the city shall have the authority to permit a reasonable use of water necessary to maintain adequate health and sanitation standards.
(Ord. 13, passed 3-19-1980)

ADMINISTRATION AND ENFORCEMENT

§ 50.070 FRAUD AND ABUSE.

The city shall have the right to refuse or to discontinue water service to a premises to protect itself against fraud or abuse.
(Ord. 13, passed 3-19-1980)

§ 50.071 NONCOMPLIANCE.

The city may discontinue water service to a customer for noncompliance with a city regulation if the customer fails to comply with the regulation within 5 days after receiving written notice of the city's

intention to discontinue service. If that noncompliance affects matters of health, safety, or other conditions that warrant the action, the city may discontinue water service immediately.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99

§ 50.072 WATER WASTE.

Where wasteful or negligent water use seriously affects the general welfare and service, the city may discontinue the service if the conditions are not corrected within 5 days after the customer is given written notice.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99

§ 50.073 TEMPORARY DISCONTINUANCE OF SERVICE.

Should a customer desire discontinuance of water service to a premises for a period of not less than 1 month, notice in writing shall be given to the Public Works Director and payment shall be made for unpaid charges, if any there be, at the office of the City Recorder. Within 24 hours after this notice and payment, the water shall be turned off and shall be turned on again upon application. There shall be a reconnection charge made for this service.
(Ord. 13, passed 3-19-1980)

§ 50.074 DAMAGE TO CITY PROPERTY.

The customer shall be liable for damage to a meter or other equipment or property owned by the city which is caused by an act of the customer, or his or her tenants or agents. The damage shall include the breaking or destruction of seals by the customer on or near a meter, and damage to a meter that may result from hot water or steam from a boiler or heater on the customer's premises. The city shall be reimbursed by the customer for this damage upon presentation of a bill.
(Ord. 13, passed 3-19-1980) Penalty, see § 10.99

RATES AND CHARGES

§ 50.085 WATER SERVICE INSTALLATION CHARGES.

(A) The water service installation charges in the city shall be set by Council resolution.

(B) All payments received by the city shall be deposited in and credited to the water fund of the city. (Ord. 13, passed 3-19-1980)

§ 50.086 WATER CONNECTION FEES.

(A) The water connection fees of the city shall be set by Council resolution.

(B) All payments for new connections received by the city shall be deposited in and credited to the water reserve account for water service as provided in § 50.087(E).
(Ord. 13, passed 3-19-1980; Am. Ord. 157-2014, passed 12-9-2014)

§ 50.087 WATER RATES AND CHARGES.

(A) The water user charge shall be adjusted annually to reflect any increase in the Consumer Price Index (Portland-Salem CPI) measured by the United States Bureau of Labor and Statistics.

(B) The rates and charges for water service established by the Council shall be reviewed each year in June. The Council shall revise or amend the rates by Council resolution at least annually, which rates and charges shall reflect the actual cost to the city to provide water service.

(C) Except for increases in water rates and charges required by an increase in the Consumer Price Index, the City Council may raise, lower or maintain water rates and charges in whole or in part. If the City Council decides to raise any part of the city's water rates and charges (except for increases to reflect increases in the CPI) it shall hold a public hearing on the resolution prior to its adoption. At least one week prior to the hearing, the City Recorder shall publish notice of such hearing in a newspaper of general circulation in the city and shall post notice of such hearing at City Hall and in two other public places. Nothing in this section shall prohibit the City Council from reviewing or amending city water rates and charges at such other times as the Council deems appropriate.

(D) A rate equal to 1.5 of the charge for water service, prescribed by division (B) above, shall be charged for any water service outside the city limits of the City of Donald.

(E) In establishing rates and charges for the provision of water service in the city, the Council may include a fee to fund a reserve account for water service to fund repairs to components of the city water system which are unscheduled or obsolete. The City Manager shall establish a fund or account within the city budget for the water reserve fund. Water reserve fund monies received by the city shall be allocated to the fund in amounts established by resolution of the City Council. Except as otherwise

provided or allowed by state law, the utility funds or accounts shall be used solely for the purposes described in this section. Water reserve funds shall be billed and collected with and as part of a customer's water bill.
(Ord. 13, passed 3-19-1980; Am. Ord. 157-2014, passed 12-9-2014)

§ 50.088 OWNER RESPONSIBILITY; RESALE PROHIBITED.

(A) The property owner of record shall be responsible for the payment of all charges or surcharges incurred when the city furnishes water service. The property owner is responsible for the cost of water services to a rental unit if the renter fails to pay the charges.

(B) No water customer shall resell or retransmit any water obtained through the city water system.
(Ord. 13, passed 3-19-1980; Am. Ord. 112-99, passed 1-7-1999) Penalty, see § 10.99

§ 50.089 BILLING; TERMINATION OF SERVICE.

(A) Water billing is mailed during the last week of each month. All water charges are due and payable on the fifteenth of the following month and any balance outstanding at that time is considered past due. Past due balances are subject to a late fee and a door hanger fee. If any bill is delinquent for a period in excess of 15 days written notice shall be provided to the customer at the address shown on the city's records advising the customer that, unless the bill is paid in full, water service will be discontinued by the city on the sixteenth of the following month, or the next business day. A customer may make application for installment payments in lieu of payment in full of all outstanding sewer charges and associated late fees chargeable by the city under the provisions of this Code. Eligibility for, and the terms and conditions of, an installment payment plan authorized by this section shall be determined by the City Manager.

(B) If water services are discontinued for delinquency of payment, they shall not be restored until the payment in full of:

(1) All delinquent billings;

(2) Any service restoration charges; and

(3) Any required fees for the commencement of service.

(C) Unpaid water charges shall become a city lien upon the property served. The provision for collection herein shall be in addition to any other rights or remedies that the city may have under the laws of the State of Oregon.

(D) Nothing in this section shall prohibit the city from summarily and immediately discontinuing water service in cases of emergency.

(E) *Refusal of service.* The city may refuse to furnish water service to any premises where any apparatus, appliance or equipment connected to the system or any other use of the system is dangerous, unsafe, or is being used in violation of law, ordinance or regulation.

(F) *Damage to city equipment.* The property owner shall be liable for any damage to the city's water system or equipment caused by the customer or his or her tenants or agents and shall reimburse the city in full upon presentation of a bill for that damage.
(Ord. 13, passed 3-19-1980; Am. Ord. 83, passed 5-5-1993; Am. Ord. 157-2014, passed 12-9-2014) Penalty, see § 10.99

CHAPTER 51: SEWERS

Section

Cross-reference:

Financing Public Improvements, see Chapter 152

GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

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

APPLICANT. The person applying for a sewer connection permit. The ***APPLICANT*** shall be the owner of the premises to be served by the sewer for which a permit is requested, or his or her designated agent authorized in writing to act on his or her behalf.

BOD or ***BIOCHEMICAL OXYGEN DEMAND.*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter.

BUILDING. Any structure used for human habitation, employment, place of business, recreation, or any other purpose, containing sanitary facilities.

BUILDING DRAIN. The part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes within or adjoining the building or structure and conveys the same to the building sewer which begins at a point 5 feet outside the established line of the building structure including any structural projection except eaves.

BUILDING SEWER. The part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to the public sewer, individual sewage disposal system, or other point of disposal.

CLEANOUT. A sealed aperture permitting access to a sewer pipe for cleaning purposes.

DWELLING UNIT. A facility designed for permanent or semi-permanent occupancy and provided with minimum kitchen, sleeping, and sanitary facilities.

FIXTURE UNITS. Fixture unit load values for drainage piping as specified in this chapter, or if not included herein, then as specified in the following: O.R.S. 447.010 - 447.140, the state plumbing regulations, and administrative rules of the Director of Commerce adopted pursuant to O.R.S. 447.020.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and the handling, storage, and sale of produce.

IMPROVED PARKING LOT. Any lot used for the purpose of parking vehicles that is hard surfaced or paved to the extent that water drains off into catch basins or onto a public right-of-way.

INDUSTRIAL USER. Includes:

(1) Any non-governmental, non-residential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under 1 of the following divisions; and

(2) Any non-governmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates a hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

INDUSTRIAL WASTES. Any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business, or from the development or recovery of any natural resources, as distinct from sanitary sewage.

MAY. The act referred to is permissive.

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

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking, and the dispensing of food, and the handling, storage, and sale of produce, that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

PUBLIC SEWER. A sewer that is owned and controlled by the city. This includes the system from the point of connection of the building drain or building sewer to the septic tank effluent pump station (STEP) to the sewage treatment process.

PUBLIC WORKS DIRECTOR. The Public Works Director of the city, or the authorized deputy, agent, or representative of the City Council.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from buildings together with those ground, surface, and storm waters as may be present.

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

SHALL. The act referred to is mandatory.

SLUG. Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24-hour concentration or flows during normal operation.

STEP SYSTEM. The septic tank effluent pump system that is owned, operated, and maintained by the city. It is usually installed on private property under an easement to the city. It is required as a condition for service to pretreat sewage and pressurize septic tank effluent for delivery to a street sewer.

STORM SEWER or *STORM DRAIN.* A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
(Ord. 36, passed 4-3-1985)

§ 51.02 USE OF PUBLIC SEWERS REQUIRED.

(A) No person shall place or deposit in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(B) No person shall discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter and a permit issued by the Department of Environmental Quality.

(C) Except as may hereinafter be provided, no person shall construct or maintain any privy vault, cesspool, or any other subsurface sewage system intended or used for the disposal of sewage.

(D) The owner of any building or dwelling unit used for human occupancy, employment, recreation, or any other purpose, situated within the city and abutting on any street, alley, or right-of-way in which

there is now located or may in the future be located a public sanitary sewer of the city, is required at his or her own expense to install a STEP system and connect to the public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

CONSTRUCTION AND CONNECTIONS; BUILDING SEWERS

§ 51.15 SEWER CONNECTION; APPLICATION; INSTALLATION; DEPOSIT AND FEE.

(A) *Connections by city crews.* All connections to sewer lines within the confines of public streets or city owned easements shall be made by city crews or contractors employed by the city.

(B) *Connection charge.* An application for sewer service where no connection previously existed, or an application for a change in service, size, or location shall be accompanied by a fee for each unit as defined in division (E) of this section.

(C) *Application for connection.* Applications for sewer connections shall be made to the City Manager with payment of the fee at the time of the application. A form shall be provided by the City Manager for this purpose.

(D) *Connections must be directly to sewer lines.* No sewer connection to premises may be installed or maintained unless the same is connected directly to the sewer line coming from the buildings on the premises. No connections may be made indirectly to cesspools or septic tanks. Parallel water and sewer lines shall be laid at least 10 feet apart horizontally. Where it is necessary for sewer and water lines to cross each other, the crossing shall be made at an angle of approximately 90 degrees and the sewer shall be located 3 feet or more below the water line. The Public Works Director may, at his or her discretion, allow minor variations of the foregoing if he or she finds that it is uneconomical or practically impossible to comply with these conditions. Before any backfilling is done in the trench for the sewer on the private property of one making a new connection to the sewer, the city's Public Works Director shall be notified. No backfilling shall take place until the Public Works Director or his or her designee shall have made an inspection. If the Public Works Director desires he or she may, at his or her discretion, require a test for leakage to be carried out under his or her direction and in his or her presence, and in that case the person installing the sewer shall make the test at no expense to the city. Upon completion of the test, any Ts or openings in the pipe shall be capped tightly and secured against back pressure. If the sewer is properly installed and the joints are tight, the Director shall give written approval of the same. If he or she does not approve it, he or she shall state the deficiencies in writing.

(E) *Sewer service connection charge.*

(1) An application for sewer service where no service previously existed, or an application for a change in service size or location, shall be accompanied by a service installation fee based upon the actual cost of labor, materials, and equipment used in making the service connection plus 25% for administrative costs.

(2) Upon application for sewer connection, the Public Works Director shall make an estimate of the costs of making the service connection and shall advise the applicant of the amount of the estimate and the applicant shall be required to deposit with the city cash in the amount of the estimate. When the deposit has been made, the Public Works Director shall order the connection. When the connection has been completed, the cost thereof shall be paid from the applicant's deposit. If the deposit is insufficient to pay the actual cost of labor, materials, and equipment used in making the service connection plus 25% for administrative overhead, the applicant shall be billed and shall pay for the difference. If the cost of the connection is less than the deposit, the excess shall be returned to the applicant.
(Ord. 107-97, passed 3-6-1997) Penalty, see § 10.99

§ 51.16 PERMIT REQUIRED.

(A) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance. Only the city may tap and install public sewers or contract with others under the supervision of its Public Works Director. Applications for permits shall be made at the City Hall. Before the permit may be issued, the applicant must pay a connection fee. The connection fee shall be set by the City Council by resolution. When the connection to be made is more than 50 feet from the street sewer, the applicant shall also pay the estimated cost of that part of the installation which is more than 50 feet from the street sewer. After the appropriate fees have been paid, the city shall install a connection from the adjacent street sewer to the applicant's property. However, in cases where the connection made is more than 50 feet from the street sewer, sewer service shall not be provided to the applicant's property until the applicant has paid the amounts, if any, which the actual cost of installation over 50 feet exceeds the estimated costs previously paid.

(B) An easement to construct, operate, and maintain the system will need to be given to the city prior to installation. It shall be the responsibility of the property owner to keep clean and maintain the building sewer from the building to the connection with the public sewer. Each permit shall be valid for 60 days from the date of issuance. Final payment for the installation shall be made 30 days from the date of billing. Nothing in §§ 51.16 - 51.18 of this code shall prohibit the City Council from authorizing improvement districts where a city hired contractor installs the public sewer where those sewers are assessed against the adjoining property.
(Ord. 36, passed 4-3-1985; Am. Ord. 61, passed 4-4-1990) Penalty, see § 10.99
Cross-reference:
Financing Public Improvements, see Chapter 152

§ 51.17 PERMIT CLASSES.

(A) There shall be 3 classes of building sewer permits:

(1) For residential;

(2) For commercial service; and

(3) For service to establishments producing industrial wastes.

(B) In any case, the applicant shall make application on a special form furnished by the city. The permit application shall be supplemented by site plan or other information considered pertinent in the judgment of the Public Works Director.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.18 FEES.

(A) All permit fees, installation charges, connection fees and user rates for the city shall be reviewed in June of each year by the City Council and set by Council resolution, which rates and charges shall reflect the actual cost to the city to provide sewer service. The City Council may raise, lower or maintain sewer rates and charges in whole or in part except that user rates for city sewer service shall be adjusted annually to reflect any increase in the Consumer Price Index (Portland-Salem CPI) measured by the United States Bureau of Labor and Statistics.

(B) All payments for new sewer connections received by the city shall be deposited and credited to the sewer reserve account for sewer service as provided in division (D) below.

(C) Except for increases in user rates required by an increase in the Consumer Price Index, the City Council may raise, lower or maintain sewer rates and charges in whole or in part. If the City Council decides to raise any part of the city's sewer rates and charges (except for increases to reflect increases in the CPI) it shall hold a public hearing on the resolution prior to its adoption. At least one week prior to the hearing, the City Recorder shall publish notice of such hearing in a newspaper of general circulation in the city and shall post notice of such hearing at City Hall and in two other public places. Nothing in this section shall prohibit the City Council from reviewing or amending city sewer rates and charges at such other times as the Council deems appropriate.

(D) In establishing rates and charges for the provision of sewer service in the city, the Council may include a fee to fund a reserve account for sewer service to fund repairs to components of the city sewer system which are unscheduled or obsolete. The City Manager shall establish a fund or account within the city budget for the sewer reserve fund. Sewer reserve fund monies received by the city shall be allocated to the fund in amounts established by resolution of the City Council. Except as otherwise

provided or allowed by state law, the utility funds or accounts shall be used solely for the purposes described in this section. Sewer reserve funds shall be billed and collected with and as part of a customer's sewer bill.
(Ord. 36, passed 4-3-1985; Am. Ord. 158-2014, passed 12-9-2014)

§ 51.19 COSTS AND EXPENSES.

All costs and expenses incident to the installation and connection of the building sewer to the public sewer shall be borne by the owner. All costs of extending the public sewers to the applicant's building drain or building sewer shall be borne by the applicant. The costs shall include engineering, construction management, excavation, installation, materials, backfill, street repair, and overhead. The applicant shall place on deposit the necessary funds as estimated by the city for that extension of the public sewer.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.20 SEPARATE BUILDING SEWER.

A separate and independent building sewer shall be provided for and from every building to a STEP system. Where required, 2 or more buildings on 1 tax lot under 1 ownership can share a single STEP system that is approved by the city and appropriately sized. Each separate and independent building shall pay the applicable connection fee and monthly charges.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.21 CONFORMANCE TO CONSTRUCTION STANDARDS AND REGULATIONS.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, and the connection to the public sewer (STEP system), shall all conform to the requirements of any city building code, the State Plumbing Code, and the administrative rules of the Department of Consumer and Business Services, and other applicable rules, regulations, and resolutions of the city, as they presently exist or may hereinafter be amended.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.22 BUILDING DRAIN ELEVATION; LIFTS.

In all buildings in which any building drain is too low to permit gravity flow to the septic tank, sanitary sewage carried by that building drain shall be lifted by an approved means and discharged to the building drain or sewer prior to the septic tank.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.23 CLEAR WATER CONNECTION PROHIBITED.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or drain which in turn is connected directly or indirectly to a public sanitary sewer.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.24 NOTICE FOR INSTALLATION.

The applicant for the STEP system construction shall notify the Public Works Director at least 2 weeks prior to the need for that sewer in order for the city to arrange for the installation.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.25 RESTORATION.

Streets, sidewalks, parkways, and other public property disturbed in the course of the STEP system installation shall be restored in a manner satisfactory to the city and at the expense of the owner.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.26 CONFORMANCE TO CITY PLANS AND SPECIFICATIONS.

The materials, excavation, and installation of the STEP system by the city or its authorized personnel shall be in accordance with the plans and specifications of the city. Individual electrical and pump needs will have to be determined for each service connection.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

USE OF PUBLIC SEWERS

§ 51.40 DISCHARGE OF CLEAR WATER.

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

(B) Storm water and all other unpolluted drainage shall be discharged to sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Public Works Director and the Department of Environmental Quality, to a storm sewer or natural outlet.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.41 PROHIBITED DISCHARGES.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any sewer defined in § 51.01 of this code:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singularly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of 2 mg/l as CN in the wastes as discharged to the public sewer;

(C) Any water or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

(D) Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited

to, ashes, cinders, sand, mud, straw, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders; or

(E) Any substance prohibited by the Department of Environmental Quality of the state. (Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.42 RESTRICTED DISCHARGES.

(A) No person shall discharge or cause to be discharged into a sewer, as described in § 51.01 hereof, the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Public Works Director or the Department of Environmental Quality, that those wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the irrigation field, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Public Works Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

(B) Substances absolutely prohibited are:

(1) Any liquid or vapor having a temperature higher than 150°F or 65°C;

(2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F or between 0°C and 65°C;

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Public Works Director;

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(5) Any ground or unground fruit peelings and cores from canneries and packing plants; cull fruits and vegetables; fruit and vegetable pits and seeds;

(6) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement over 5 p.p.m. to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director for those materials;

(7) Any waters or wastes containing phenols or other taste or odor producing substances, in concentrations exceeding limits which may be established by the Public Works Director as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies or jurisdiction for discharge to irrigation lands;

(8) Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the Public Works Director in compliance with applicable state or federal regulations;

(9) Any waters or wastes having a pH in excess of 9.5;

(10) Materials which exert or cause:

(a) Unusual concentrations of inert solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium sulfate);

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in quantities so as to constitute a significant load on the sewage treatment works; or

(d) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

(11) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such a degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the irrigation lands.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.43 RIGHT TO REJECT WASTE OR REQUIRE PRETREATMENT.

(A) If any waters or wastes are discharged, or are proposed to be discharged into the sewers, as defined in § 51.01 hereof, which waters contain the substances or possess the characteristics enumerated in § 51.42 of this code, and which, in the judgment of the Public Works Director, may have a deleterious effect upon the sewage works, processes, equipment, or lands, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and

(4) Require additional payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under § 51.62 of this code.

(B) If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the requirements of all applicable codes, ordinances, and laws.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.44 PRETREATMENT FACILITIES; OWNER RESPONSIBILITY.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.45 CONTROL MANHOLES; SAMPLING AND MEASUREMENT.

(A) When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. The manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times. The flow measurement device can be a Parshall flume, weir, venturi nozzle, magnetic flow meter, or any other type of device providing accurate and continuous flow indication. Pump timers or other indirect measurement devices will not be acceptable. The flow meter shall be suitable for indicating and totaling the flow in millions of gallons per day through the device, provided above, with an error not exceeding plus or minus 2%. The instrument shall be equipped with a set of electrical contacts arranged to momentarily close a circuit to energize a process timer and sampling device for every fixed quantity of flow. This quantity should be selected so as to ensure a minimum of 12 samples per operating day. Other control variations will be acceptable if it can be demonstrated that the sampling procedure will result in a waste sample which is proportional to the waste flow.

(B) The length of operation of the sampling device shall be dependent on the type of sampling arrangement used, but in no case shall the daily collected sample be less than 2 quarts in volume. The method of sampling used can be continuous pumping past a solenoid-operated valve, direct pumping into sample container, continuous pumping past a sampler dipper calibrated to remove a constant sample, by a proportional dipper sampler operating directly in the waste flow, or by any other approved means. All samples must be continuously refrigerated at a temperature of 39°F, plus or minus 5°. The flow measurement and sampling station shall be located and constructed in a manner acceptable to the city.

Complete plans on all phases of the proposed installation, including all equipment proposed for use, shall be submitted to the city for approval prior to construction. The person discharging the waste shall keep flow records as required by the city and shall provide qualified personnel to properly maintain and operate the facilities.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.46 SAMPLING AND ANALYSIS STANDARDS.

All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from 24-hour composites of all outfalls, whereas pH is determined from periodic grab samples.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.47 ADMISSION AND CONTROL OF INDUSTRIAL WASTES.

(A) This section shall apply to industrial wastes as previously defined, and further to wastes from industries which exhibit strengths or characteristics of BOD in excess of or equal to 200 milligrams per liter (mg/l) or suspended solids in excess of or equal to 150 mg/l based upon a composite sample of the waste. The composite sample shall mean not less than 12 individual samples taken at not less than 30-minute intervals for a period of not less than 6 hours.

(B) Review and acceptance of the city shall be obtained prior to the discharge into the public sewers of any waste having BOD greater than 200 milligrams per liter or a suspended solids content greater than 150 milligrams per liter.

(C) Where required, in the opinion of the Public Works Director, to modify or eliminate wastes that are harmful to the structures, processes, or operation of the sewage treatment works, the person shall provide at his or her expense those preliminary treatment or processing facilities as may be determined necessary to render his or her waste acceptable for admission to the public sewers.

(D) Any industry discharging wastes from a canning, freezing, or food-packing operation shall not be allowed.

(E) The volume of flow used for computing industrial waste charges shall be metered water consumption of the person as shown in the records of meter readings maintained by the city. If the person discharging industrial wastes into the public sewers procures any part, or all, of his or her water from sources other than the City Water Department, all or a part of which is discharged into the public sewers, the person shall install and maintain at his or her expense water meters of a type approved by the Public Works Director for the purposes of determining the volume of water obtained from these other sources.

(F) Industrial plants may be required to have separate collection systems; 1 system to be installed for customary sanitary sewage connected directly to the city system; a second system to be installed to collect processing wastes from shop sinks, floor drains, wash stations, plating or cleaning works, and all other industrial waste sources. This system to discharge into an exterior concrete sump of sufficient capacity to hold at least 1 day's discharge from these sources and be connected to the city system only by a valved overflow. The sump shall be readily accessible for inspection and analysis by the city, and only properly treated or neutralized wastes will be allowed to flow in to the city system. The city reserves the right to require that city approval be secured for each incident of discharge.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 51.60 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be prosecuted in accordance with the State Criminal Code.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.61 INSPECTION; RIGHT OF ACCESS; SAFETY RULES.

(A) The Public Works Director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties for the purposes of, but not limited to, installation of STEP systems and connections thereto, maintenance, inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Public Works Director or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) above, the Public Works Director or duly authorized employees of the city shall observe all applicable safety rules.

(C) The Public Works Director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties for the purposes of, but not limited to, installation of building sewers, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within that private property.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

§ 51.62 CHARGES; TERMINATION OF SERVICE; LIABILITY FOR EQUIPMENT DAMAGE.

(A) *Responsibility for payment.* The property owner of record shall be responsible for the payment of all charges or surcharges for furnishing sewer service.

(B) Delinquent bills; termination of service.

(1) Sewer billing is mailed during the last week of each month. All sewer charges are due and payable on the fifteenth of the following month and any balance outstanding is considered past due. Past due balances are subject to a late fee and a door-hanger fee. If any bill is delinquent for a period in excess of 15 days written notice shall be provided to the customer at the address shown on the city's records advising the customer that, unless the bill is paid in full, service will be discontinued by the city on the sixteenth of the following month, or the next business day. A customer may make application for installment payments in lieu of payment in full of all outstanding sewer charges and associated late fees chargeable by the city under the provisions of this code. Eligibility for, and the terms and conditions of, an installment payment plan authorized by this section shall be determined by the City Manager.

(2) If sewer services are discontinued for delinquency of payment, sewer services shall not be restored until the city has received payment in full of all delinquent billings and reconnection fees set by the City Council and any required fees for commencement of services.

(3) Unpaid sewer charges shall become a lien upon the property served. The provision for collection herein shall be in addition to any other rights or remedies that the city may have under the laws of the State of Oregon.

(4) Nothing in this section shall prohibit the city from summarily and immediately discontinuing sewer service in cases of emergency.

(D) *Refusal of service.* The city may refuse to furnish sewer service to any premises where any apparatus, appliance or equipment connected to the system or any other use of the system is dangerous, unsafe or is being used in violation of law, ordinance or regulation.

(E) *Damage to city equipment.* The property owner shall be liable for any damage to the city's sewer system or equipment caused by the customer or his or her tenants or agents and shall reimburse the city in full upon presentation of a bill for that damage.
(Ord. 36, passed 4-3-1985; Am. Ord. 84, passed 5-5-1993; Am. Ord. 158-2014, passed 12-9-2014) Penalty, see § 10.99

§ 51.63 VIOLATIONS.

(A) Any person found to be violating any provision of this chapter, except § 51.60, shall be served with written notice stating the nature of the violation with notification that the violator is given 10 days to satisfactorily correct the violation. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(B) Any person who shall continue any violation beyond the time limit provided for in division (A) of this section shall upon conviction be subject to penalties as set for in § 10.99 of this code.

(C) Persons violating any of the provisions of this chapter shall become liable to the city for any expense, including reasonable attorney's fees, loss, or damage occasioned the city by reason of that violation, and an action or suit in the name of the city may be instituted against that person for the recovery of the expense, loss, or damage; and the same may be undertaken in addition to other penalties imposed under the provisions of the chapter.
(Ord. 36, passed 4-3-1985) Penalty, see § 10.99

CHAPTER 52: GARBAGE

Section

§ 52.01 GARBAGE DISPOSAL REGULATIONS ADOPTED.

The provisions of Ord. 73, passed 11-6-1991, regarding garbage hauling and garbage cans are adopted by reference and shall be a part of this chapter as if set forth in full herein.

Cross-reference:

Franchise ordinances, see TSO III

TITLE VII: TRAFFIC CODE

Chapter

CHAPTER 70: GENERAL PROVISIONS

Section

§ 70.01 TITLE.

This title may be cited as the city's "Uniform Traffic Ordinance."
(Ord. 101, passed 6-6-1996)

§ 70.02 STATE VEHICLE CODE ADOPTED.

O.R.S. Chapter 153, and the State Vehicle Code, O.R.S. Chapters 801 - 822, are adopted by reference. Violation of an adopted provision of those chapters is an offense against this city.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 70.03 DEFINITIONS.

For the purpose of this title, in addition to the definitions contained in the State Vehicle Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUS STOP. A space on the edge of a roadway designated by sign for use by buses loading or unloading passengers.

LOADING ZONE. A space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours of specified days.

STREET. The terms ***HIGHWAY***, ***ROAD***, and ***STREET*** shall be considered synonymous, unless the context precludes that construction. ***STREET*** includes alleys.

TRAFFIC LANE. The area of the roadway used for the movement of a single line of traffic. (Ord. 101, passed 6-6-1996)

§ 70.04 POWERS OF COUNCIL.

(A) Subject to state laws, the City Council shall exercise all municipal traffic authority for the city except those powers specifically and expressly delegated by this chapter or another ordinance.

(B) The powers of the Council include, but are not limited to:

(1) Designation of through streets;

(2) Designation of 1-way streets;

(3) Designation of truck routes;

(4) Designation of parking meter zones;

(5) Designation of certain streets as bridle paths and prohibition of horses;

(6) Authorization of greater maximum weights or lengths for vehicles using city streets other than specified by state law;

(7) Initiation of proceedings to change speed zones;

(8) Revision of speed limits in parks;

(9) Temporary blocking or closing of streets;

(10) Establishment of bicycle lanes and paths and traffic controls for those facilities;

(11) Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage;

(12) Issuance of oversize or overweight vehicle permits; and

(13) Establishment, removal, or alteration of the following classes of traffic controls:

(a) Crosswalks, safety zones, and traffic lanes;

(b) Intersection channelization and areas where drivers of vehicles shall not make right, left, or U-turns, and the time when the prohibition applies;

(c) Parking areas and time limitations, including the form of permissible parking (such as parallel or diagonal);

(d) Loading zones and stops for vehicles; and

(e) Traffic-control signals.
(Ord. 101, passed 6-6-1996)

§ 70.05 IMPLEMENTATION OF REGULATIONS.

The City Manager or his or her designee shall implement the ordinances, resolutions, and motions of the Council by installing, maintaining, removing, and altering traffic-control devices. The installation shall be based on the standards contained in the State Manual on Uniform Traffic Control Devices for Streets and Highways.
(Ord. 101, passed 6-6-1996)

§ 70.06 PUBLIC DANGER; TEMPORARY TRAFFIC-CONTROL DEVICES.

Under conditions constituting a danger to the public, the Manager or his or her designee may install temporary traffic-control devices.
(Ord. 101, passed 6-6-1996)

§ 70.07 STANDARDS.

The regulations of the Manager or his or her designee shall be based on:

(A) Traffic engineering principles and traffic investigations; and

(B) Standards, limitations, and rules promulgated by the State Transportation Commission.
(Ord. 101, passed 6-6-1996)

§ 70.08 AUTHORITY OF POLICE AND FIRE OFFICERS.

In the event of a fire or other public emergency, officers of the Police and Fire Departments may direct traffic as conditions require, notwithstanding the provisions of this title.
(Ord. 101, passed 6-6-1996)

§ 70.09 EXISTING TRAFFIC-CONTROL DEVICES AND MARKINGS.

Parking and traffic-control devices and markings installed prior to the adoption of this title are lawfully authorized.
(Ord. 101, passed 6-6-1996)

§ 70.10 IMPOUNDMENT OF VEHICLES.

(A) Disposition of a vehicle towed and stored under provisions of state law for the removal of hazardous vehicles shall be in accordance with provision of state law or city ordinance on towing and impoundment.

(B) Impoundment of a vehicle does not preclude issuance of a citation for violation of a provision of this title.

(C) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.

(D) A violation of this section may subject a person to the nuisance abatement provisions of §§ 91.45 *et seq.* of this code.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) *General.* Any person who shall violate any provision of this title for which no other penalty is provided shall, upon conviction, be subject to the penalties as set forth in § 10.99 of this code.

(B) *Traffic and parking.*

(1) Violation of §§ 71.01, 71.02, 71.04, or 71.15 - 71.18 of this code is punishable by fine not to exceed $100.

(2) Violation of §§ 71.03, 71.30, 71.31, 71.60 - 71.61, 72.01 - 72.07, or 72.35 - 72.39 of this code is punishable by fine not to exceed $50.

(3) Violation of a provision identical to a state statute is punishable by fine not to exceed the penalty prescribed by state statute.
(Ord. 101, passed 6-6-1996)

(C) *Truck parking*. The fine for violation of any provision of Chapter 73 of this code shall not exceed $500, plus any expenses associated with moving the vehicle. Each day's violation of Chapter 73 shall constitute a separate offense. Failure to pay accrued charges subjects the owner or operator of the vehicle to surrender of the vehicle to the city or authorized police garage to dispose of in accordance with this code and Oregon Revised Statutes.
(Ord. 114-00, passed 2-8-2000)

CHAPTER 71: TRAFFIC REGULATIONS

Section

TRAFFIC RULES

§ 71.01 CROSSING PRIVATE PROPERTY.

No operator of a motor vehicle shall proceed from a street to an intersecting street by crossing private property or premises open to the public. This provision does not apply to the operator of a motor vehicle who stops on the property to procure or provide goods or services.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.02 UNLAWFUL RIDING.

(A) No operator of a motor vehicle shall permit a passenger to, and no passenger shall ride on a motor vehicle on a street except on a portion of the vehicle designed or intended for the use of 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 shall board or alight from a motor vehicle while the vehicle is in motion on a street.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.03 UNNECESSARY NOISE.

No person shall operate a motor vehicle in the city in a manner so as to create or cause excessive noise. The operation of compression brakes, commonly known as "Jacob" brakes, in a manner that creates unnecessary noise is prohibited.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 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 miles per hour unless signs erected indicate otherwise.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

MISUSE AND OBSTRUCTION OF STREETS AND SIDEWALKS

§ 71.15 DAMAGING SIDEWALKS AND CURBS.

(A) The operator of a motor vehicle shall not drive on a sidewalk or roadside planting strip except to cross 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 of a street with the intention of using it as a driveway.

(C) No persons shall remove a portion of a curb or move a motor vehicle or a device moved by a motor vehicle onto a curb or sidewalk without first obtaining authorization from the City Manager and posting bond if required. A person who causes damage shall be responsible for the cost of repair.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.16 GLASS AND DEBRIS; REMOVAL.

A party to a vehicle accident or a person causing broken glass or other debris to be on a street shall remove the glass or other debris from the street within 1 hour.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.17 STORAGE OF VEHICLES ON STREETS RESTRICTED.

No person shall store or permit to be stored on a street or other public property, without permission of the City Manager, a motor vehicle or personal property for a period in excess of 24 hours. Failure to move a motor vehicle or other personal property for a period of 24 hours constitutes prima facie evidence of storage of a motor vehicle. A violation of this section may subject a person to the nuisance abatement provisions of §§ 91.45 *et seq.* of this code.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.18 OBSTRUCTION OF STREETS.

No person shall park or leave on a street, including an alley, parking strip, sidewalk, or curb, a vehicle part, trailer, box ware, merchandise of any description, or any other thing that impedes traffic or obstructs the view, except as is allowed by this or other ordinances of the city. A violation of this section may subject a person to the nuisance abatement provisions of §§ 91.45 *et seq.* of this code.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.19 MOTORCYCLES AND BICYCLES; RIDING ON SIDEWALK PROHIBITED.

It shall be unlawful for any person or persons while riding upon any motorcycle or bicycle to pass upon, over, or along any sidewalk or sidewalks, other than private, within the corporate limits of the city.
(Ord. 31, passed - -) Penalty, see § 70.99

BICYCLES

§ 71.30 BICYCLE OPERATING RULES.

In addition to observing all other applicable provisions of this title and state law pertaining to bicycles:

(A) No person shall 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; and

(B) No person shall ride a bicycle on any sidewalk within the city.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.31 IMPOUNDMENT 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 private business property unless bicycle parking is expressly prohibited.

(B) A bicycle left on public property for a period in excess of 24 hours may be impounded by the Public Works Department.

(C) In addition to any citation issued, a bicycle parked in violation of this subchapter that obstructs or impedes the free flow of pedestrian or vehicular traffic or otherwise endangers the public may be immediately impounded by the Public Works Department.

(D) If the owner of a bicycle impounded under this subchapter can be readily determined, the Public Works Department shall make reasonable efforts to notify the owner.

(E) A bicycle impounded under this subchapter that remains unclaimed shall be disposed of in accordance with the city's procedures for disposal of abandoned or lost personal property.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

SKATEBOARDS AND OTHER ROLLER DEVICES

§ 71.45 DEFINITIONS.

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

OPERATING. The act of having 1 or more feet on the board of a skateboard or roller device or other portion designed by a foot to propel the skateboard.

RIDING. The act of propelling a skateboard or roller device by means other than carrying it.

SKATEBOARDS AND OTHER ROLLER DEVICES. Include roller skates, in-line skates, blades, scooters, coasters, roller skis, or any similar device.
(Ord. 123-01, passed 10-9-2001)

§ 71.46 PERMITTED AND PROHIBITED AREAS.

(A) *Permitted riding.* Riding or operating a skateboard or roller device is permitted in the following areas:

(1) *25 mph streets.* Streets where the designated speed for vehicles is 25 miles per hour or less, unless prohibited in section (B)(1);

(2) *Private property.* Private property where the owner or person in charge has consented;

(3) *Park areas.* Areas within "D" Town Park, except as designated and posted prohibiting the use of certain devices; and

(4) *Sidewalks.* On city sidewalks unless otherwise prohibited by posting.

(B) *Prohibited riding.* No person shall ride or operate a skateboard or roller device in the following areas:

(1) County roads within the city;

(2) On any street where the designated speed is greater than 25 miles per hour;

(3) On private property unless consent is given by the property owner. On private property. It is affirmative defense to a prosecution on any charge under this division that the property owner or person in charge of the property consented to that use of the property; or

(4) On any other public or private property where signs on the property indicate that the operation of a skateboard or other roller device use is prohibited.
(Ord. 123-01, passed 10-9-2001) Penalty, see § 70.99

§ 71.47 OPERATING REGULATIONS.

Where that activity is allowed, the following regulations apply to the operation of a skateboard or other roller device on a public street, sidewalk, or public property.

(A) *Yield right-of-way.* Any person operating a skateboard or other roller device shall yield the right-of-way to any vehicle, bicycle, or pedestrian, including yielding the right-of-way to any vehicle when approaching or crossing a driveway.

(B) *Standing position.* Any person operating a skateboard or other roller device shall operate the skateboard in a standing position unless operated in conformance with rules of the skate park.

(C) *Operating on right-hand side.* While on a street, a person shall ride the skateboard or other roller device as close as practicable to the right-hand curb or edge of the roadway.

(D) *Hours; equipment.* No skateboard or other roller device shall be operated on any public street or sidewalk between 30 minutes after sunset and 30 minutes before sunrise unless the skateboard, roller device, or rider is equipped with lighting equipment.

(E) *Traffic-control devices.* Any person operating a skateboard or other roller device shall obey the instruction of official traffic-control signals, signs, and other control devices applicable to vehicles.

(F) *Traffic regulations.* The operation of a skateboard or other roller device on a street shall be subject to all the provisions or laws of the state and laws of the city, including those applicable to the drivers of vehicles, except those provisions of the Motor Vehicle Code that by their very nature have no application.

(G) *Operation on sidewalks.* No person shall operate a skateboard or other roller device on a sidewalk:

(1) So as to suddenly leave a curb or other place of safety and move into the path of a vehicle or pedestrian that is so close as to constitute an immediate hazard; or

(2) Without giving an audible warning before overtaking and passing a pedestrian.

(H) *Racing.* Except as permitted in designated areas of the skate park, no person shall engage in, or cause others to engage in, a skateboard or other roller device race upon the streets, sidewalks, or any other public property.

(I) *Careless riding.* No person shall ride a skateboard or other roller device in a careless manner. Riding in a careless manner means the person rides a skateboard or other roller device in a manner that endangers or would be likely to endanger any person or property.
(Ord. 123-01, passed 10-9-2001) Penalty, see § 70.99

PARADES AND PROCESSIONS

§ 71.60 PERMIT REQUIRED.

No person shall organize or participate in a parade that may disrupt or interfere with traffic without obtaining a permit. A permit shall always be required of a procession of people using the public right-of-way and consisting of 100 or more persons or 10 or more vehicles.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.61 PARADE PERMIT; APPLICATION; ISSUANCE OR DENIAL.

(A) Application for a parade permit shall be made to the City Manager at least 7 days prior to the intended date of the parade, unless the time is waived by him or her.

(B) Applications shall include the following information:

(1) The name and address of the person responsible for the proposed parade;

(2) The date of the proposed parade;

(3) The desired route, including assembling points;

(4) The approximate number of persons, vehicles, and animals that will be participating in the parade; and

(5) The proposed starting and ending time.

(C) The application shall be signed by the person designated as chairperson.

(D) The City Manager shall issue a parade permit conditioned on the applicant's written agreement to comply with the terms of the permit unless the Manager finds that:

(1) The time, route, and size of the parade will unreasonably disrupt the movement of other traffic;

(2) The parade is of a size or nature that requires the diversion of so great a number of law enforcement officers to properly control the line of movement and contiguous areas that allowing the parade would deny reasonable law enforcement protection to the city;

(3) The parade will interfere with another parade for which a permit has already been issued;

(4) Information contained in the application is found to be false or a material detail is omitted; or

(5) The applicant refuses to agree to abide by or comply with all conditions of the permit.

(E) If 1 or more of the conditions listed in division (D), other than division (D)(3), exists, the Manager may impose reasonable conditions in the permit, including but not limited to:

(1) Requiring an alternate date;

(2) Requiring an alternate route; or

(3) Restricting the size of the parade.

(F) The Manager shall notify the applicant of the decision within 3 days after receipt of the application.

(G) If the Manager proposes alternatives or refuses to issue a permit, the applicant shall have the right to appeal the decision to the Council.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.62 APPEAL.

(A) An applicant may appeal the decision of the Manager by filing a written request of appeal with the Manager within 48 hours after the refusal.

(B) The Council shall schedule a hearing date, which shall not be later than 3 days following the filing of the written appeal with the Recorder, and shall notify the applicant of the date and time that he or she may appear either in person or by a representative.
(Ord. 101, passed 6-6-1996)

§ 71.63 UNLAWFUL ACTS.

(A) No person shall unreasonably interfere with a parade or parade participants.

(B) No person shall operate a vehicle that is not part of a parade between the vehicles or persons comprising a parade.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 71.64 PERMIT REVOCATION.

The Manager may revoke a parade permit if circumstances clearly show that the parade can no longer be conducted consistent with public safety.
(Ord. 101, passed 6-6-1996)

APPENDIX A: PARADE PERMIT APPLICATION

_____ Received

CITY OF DONALD
PARADE PERMIT APPLICATION

Name of group applying for parade permit _____

Name of person responsible _____

Address _____

Telephone number _____ Date of parade _____

Desired route, including assembling points _____
_____
_____
_____
_____
_____
_____
_____

Please enclose small map diagraming the route to be taken, showing starting and ending points.

Approximate number of parade participants _____

Starting time _____

Signature of person responsible for parade _____

Please have application completed and returned to Donald City Hall at least seven days prior to the intended date of the parade.
(Ord. 101, attachment, passed 6-6-1996)

CHAPTER 72: PARKING REGULATIONS

Section

Cross-reference:

Impoundment of vehicles, see § 70.10

PARKING REGULATIONS AND RESTRICTIONS

§ 72.01 PARKING METHOD.

(A) No person shall stand or park a motor vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the edge of the curb, except where the street is marked or signed for angle parking.

(B) Where parking spaces are designated on a street, no person shall stand or park a vehicle other than in the indicated direction and within a single marked space, unless the size or shape of the vehicle makes compliance impossible.

(C) The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street has priority to park in that space, and no other vehicle operator shall attempt to interfere.

(D) When the operator of a vehicle discovers that 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 law enforcement or fire officers.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.02 PROHIBITED PARKING OR STANDING.

No person shall park or stand:

(A) A vehicle in violation of state motor vehicle laws or in violation of a lawfully erected parking limitation sign or marking; or

(B) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of 30 consecutive minutes in any 2-hour period.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.03 PARKING; PROHIBITED PURPOSES.

No operator shall park and no owner shall allow a vehicle to be parked on a street for the principal purpose of:

(A) Displaying the vehicle for sale;

(B) Repairing or servicing the vehicle except repairs necessitated by an emergency. When emergency repairs are required to be made in a street, road, alley, or other public thoroughfare, emergency service shall not extend over a period of 2 hours, and shall not interfere with or impede the flow of traffic;

(C) Displaying advertising from the vehicle; or

(D) Selling merchandise from the vehicle, except when authorized.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.04 USE OF LOADING ZONE.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone where the hours applicable to that loading zone are in effect. When the hours applicable to the loading zone are in effect, the loading and unloading shall not exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed 5 minutes for loading or unloading of passengers and personal baggage and 15 minutes for loading or unloading materials.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.05 LIGHTS ON PARKED VEHICLE.

No lights need be displayed upon a vehicle that is parked in accordance with this chapter on a street where there is sufficient light to reveal a person or object at a distance of at least 500 feet from the vehicle.
(Ord. 101, passed 6-6-1996)

§ 72.06 PARKING TIME LIMITS; EXTENSION.

Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.07 EXEMPTIONS.

The provisions of this chapter that regulate the 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 owned by the United States while in use for the collection, transportation, or delivery of mail; or

(C) A vehicle of a disabled person who complies with the provisions of O.R.S. 811.610 - 811.630. (Ord. 101, passed 6-6-1996)

RECREATIONAL VEHICLE PARKING

§ 72.20 DEFINITIONS.

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

CAMPER. A structure containing a floor and that:

(1) Is designed to be mounted upon a motor vehicle and is not permanently attached to it;

(2) Is designed to provide facilities for human habitation or for camping; and

(3) Has no more than 1 axle designed to support a portion of its weight.

MOTOR HOME. A motor vehicle that:

(1) Is originally designed, reconstructed, or permanently altered to provide facilities for human habitation; or

(2) Has a camper permanently attached to it.

SELF-CONTAINED. Possessing or containing built-in or internal systems or facilities for the supply of electrical power and sanitary water, and the sanitary collection or disposal of garbage, human waste, and wastewater.

TRAVEL TRAILER. Includes a tent trailer. A trailer that:

(1) Is of a type designed to be used on the highways;

(2) Is capable of being used for human habitation;

(3) Is not more than 8 feet wide and is 6 feet or more in height from floor to ceiling. If a trailer telescopes for travel, or has expansion sides or "tip outs," for the purpose of determining the height, the size shall apply to the trailer as fully extended. For the purposes of determining the width, the size shall apply to the trailer in the usual travel position; and

(4) Except in the case of a tent trailer, has 4 permanent walls when it is in the usual travel position.
(Ord. 103, passed 9-5-1996)

§ 72.21 PARKING REGULATIONS.

(A) No person shall park or place any presently occupied camper, motor home, or travel trailer at any place within the city for a period exceeding 6 hours.

(B) If the camper, motor home, or travel trailer is self-contained the camper, motor home, or travel trailer may be parked or placed at any place within the city for a period not exceeding 72 hours, unless an RV parking permit is applied for and issued by the City Manager.

(C) At no time will the camper, motor home, or travel trailer be allowed to connect to any resident's water or sewer systems.

(D) Any other use of a camper, motor home, or travel trailer is expressly prohibited by this subchapter within the city.

(E) Use of any vehicle for sleeping quarters longer than the allowed period of 6 hours is expressly prohibited by this subchapter within the city.

(F) Use of a recreational vehicle that is self-contained is allowed for a night watchperson in the commercial or industrial zone only. A permit must be obtained from the City Manager at no cost to the owner of the property.
(Ord. 103, passed 9-5-1996) Penalty, see § 70.99

§ 72.22 PARKING PERMIT.

(A) A permit may be obtained by filing an application at the office of the City Manager, accompanied by a fee (if applicable) set by the Council by resolution. The applicant shall include the location and description of the camper, motor home, or travel trailer, the reason for the time extension, and the duration of occupancy.

(B) If the City Manager determines that the issuance of a permit will not contravene the purpose of §§ 72.20 *et seq.* or any applicable code provision, the Manager may issue a permit authorizing the

applicant to park or place and occupy the described camper, motor home, or travel trailer, and may attach conditions necessary to carry out the purpose of this subchapter.

(C) The period of occupancy granted under the permit shall not exceed 14 consecutive days, or 14 days in any 30-day period.
(Ord. 103, passed 9-5-1996) Penalty, see § 70.99

ADMINISTRATION AND ENFORCEMENT

§ 72.35 ILLEGALLY PARKED VEHICLE; CITATION.

When a vehicle without an operator is found parked in violation of a restriction imposed by this chapter or state law, the Public Works Director or City Manager finding the vehicle shall note the license number and any other information displayed on the vehicle that may identify the owner and shall attach a parking citation to the vehicle. The citation shall instruct the operator to answer to the charge or pay the penalty imposed within 5 working days, during specific hours, and at a specific place.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.36 FAILURE TO COMPLY WITH CITATION.

If the operator does not respond to a parking citation attached to the vehicle within 5 working days, the Public Works Director or City Manager shall send a letter to the owner of the vehicle informing the owner of the violation and giving notice that if the citation is disregarded for a period of 30 days:

(A) The fine will be doubled; and

(B) If the vehicle has 10 of more outstanding citations or $200 or more in unpaid fines, it may be impounded, and an impounded vehicle shall not be released until all outstanding fines and charges are paid.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.37 CANCELLATION OF PARKING CITATION.

No person shall cancel or solicit the cancellation of a parking citation in any manner, except when approved by the Municipal Judge.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.38 OWNER RESPONSIBILITY.

The owner of a vehicle that is in violation of a parking restriction shall be responsible for the offense unless the operator used the vehicle without the owner's consent.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

§ 72.39 REGISTERED OWNER; PRESUMPTION.

In a proceeding charging violation of a parking restriction against a vehicle owner, proof that the vehicle was registered to the defendant at the time of the violation constitutes a presumption that the defendant was the owner.
(Ord. 101, passed 6-6-1996) Penalty, see § 70.99

APPENDIX A: RECREATIONAL VEHICLE PARKING PERMIT

CITY OF DONALD
RECREATIONAL VEHICLE PARKING PERMIT

Name _____

Address _____

_____

_____

Recreational vehicle license plate number and state of origin _____

_____

_____

Reason for time extension _____

_____

_____

Length of stay _____

_____

From: _____ To: _____

CITY OF DONALD ORDINANCE NO. 103

Section 2. Parking Regulations

1. No person shall park or place any presently occupied camper, motor home, or travel trailer at any place within the city for a period exceeding six hours.
2. If the camper, motor home, or travel trailer is self-contained the camper, motor home, or travel trailer may be parked or placed at any place within the city for a period not exceeding 72 hours, unless an RV parking permit is applied for and issued by the City Manager.
3. At no time will the camper, motor home, or travel trailer be allowed to connect to any resident's water or sewer systems.
4. Any other use of a camper, motor home, or travel trailer is expressly prohibited by this ordinance within the city.

Section 3. Parking Permit

3. The period of occupancy granted under the permit shall not exceed 14 consecutive days, or 14 days in any 30-day period. Extensions will be granted by the City Manager.

(Ord. 103, attachment, passed 9-5-1996)

CHAPTER 73: TRUCK TRAFFIC AND PARKING

Section

§ 73.01 PURPOSE.

The purpose of this chapter is to prevent damage to the city's roads, streets, and alleys and to reduce traffic hazards by the regulation of truck parking within the city.
(Ord. 114-00, passed 2-8-2000)

§ 73.02 DEFINITIONS.

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

TRUCK. Any vehicle licensed as a motor truck; semi-truck; or any vehicle 72 inches or more in width; or any vehicle, including, but not limited to, a motor or semi-truck trailer that is designated or primarily operated for the transportation of property and the body weight or combined body and load weight of which exceeds 10,000 pounds. ***TRUCK*** shall not be applied to automobile passenger vehicles or to that form of truck commonly referred to as a "pickup."
(Ord. 114-00, passed 2-8-2000)

§ 73.03 ESTABLISHMENT OF TRUCK ROUTES AUTHORIZED.

Whenever the Council finds that any street or portion of street is incapable of bearing the maximum weight for trucks as provided in this section, the Council shall adopt a resolution providing for the establishment of truck routes on those streets or the portions thereof which meets the provisions of O.R.S. 227.400 or as amended.
(Ord. 114-00, passed 2-8-2000)

§ 73.04 PARKING RESTRICTIONS AUTHORIZED.

The Department of Public Works is authorized to designate within the city areas in which the parking of vehicles is restricted in time or is prohibited, areas that are to be restricted as a loading zone, and areas that are limited to a specific use or classification.
(Ord. 114-00, passed 2-8-2000)

§ 73.05 OVERNIGHT TRUCK PARKING; PERMIT.

(A) No person shall park any truck upon the streets of the city continuously for more than 2 hours from 12:01 a.m. to 7:00 a.m. the same day without obtaining a permit for that parking issued by the city.

(B) Upon application to the City Manager by the owner or driver of a truck for an overnight parking permit, the City Manager shall issue a permit authorizing that parking if the City Manager finds:

(1) A suitable place for parking exists on the premises such that the weight of the vehicle will not damage the public street or private property during storage or upon entering or leaving; will not impede the use of private property or public streets or rights-of-way by other persons, public utilities, other entities, or emergency vehicles; will not cause mud to be tracked thereon upon entering or leaving; will not result in the vehicle's being parked in any required yard setback under the applicable zoning for the area; and will not constitute an obstruction to visibility or an eyesore to adjoining properties; and

(2) The vehicle does not emit loud, offensive, or continuous noise or sound from any part of the vehicle, or any sound producing device on the vehicle, or from periodic or persistent idling of the vehicle.
(Ord. 114-00, passed 2-8-2000) Penalty, see § 70.99

§ 73.06 VIOLATIONS; IMPOUNDMENT.

The city shall authorize the removal and storage of a vehicle parked in violation of this chapter if the owner or operator of the vehicle fails to remove or obtain a truck parking permit after 3 consecutive days in which notice of the violation has been posted on the vehicle. Failure to pay accrued charges subject the owner or operator of the vehicle to surrender of the vehicle to the city or authorized police garage to dispose of in accordance with this code and Oregon Revised Statutes.
(Ord. 114-00, passed 2-8-2000) Penalty, see § 70.99
Cross-reference:
Impoundment of vehicles, see § 70.10

TITLE IX: GENERAL REGULATIONS

Chapter

CHAPTER 90: STREETS AND SIDEWALKS

Section

Cross-reference:

Nuisances affecting public safety, see § 91.16
Obstruction and use of public ways, see §§ 133.15 et seq.

SIDEWALK MAINTENANCE AND REPAIR

§ 90.01 DUTY OF LANDOWNERS.

It shall be the duty of all landowners in the city to comply with the following:

(A) Maintain in good repair all sidewalks now existing or hereafter constructed in front of, along, or abutting their land. An existing sidewalk shall be considered in a state of disrepair when the condition or defect would create a danger to pedestrians. These conditions shall include, but are not limited to, breakage, cracks, upheaval, irregular surfaces, vertical or horizontal dislocation at joints, degraded or deteriorated composition of concrete materials, accumulation of moss or other organic growths, and other visible hazards; and

(B) Remove any obstacle or obstruction to any sidewalk abutting or located on the owner's property and maintain and afford to the public continuous and unobstructed access to the sidewalk.
(Ord. 109-97, passed 12-4-1997) Penalty, see § 10.99

§ 90.02 PERMIT REQUIRED.

Before making any sidewalk repairs, the landowner responsible shall apply to the City Manager for a repair permit. The permit shall describe the location of the sidewalk to be repaired, a description of the property abutting that sidewalk, the name of the adjacent property owners, the type or kind of repairs to be made, and a time limit in which the repairs are to be completed, not to exceed 60 days from the date of the permit. A sidewalk permit fee may be charged subject to authorization by the City Council.
(Ord. 109-97, passed 12-4-1997) Penalty, see § 10.99

§ 90.03 NOTICE TO REPAIR.

(A) If any landowner responsible for repairing any sidewalk fails or refuses to apply for a sidewalk repair permit, then the City Manager may deliver a notice to repair to that owner.

(B) The above-named notice shall comply with the following:

(1) The notice may be sent by certified mail, with return receipt requested, to the last known address of the owner as may appear in the records of the City Recorder or the County Assessor's office. The notice shall contain the name(s) of the owner(s) of the property responsible for making any sidewalk repairs, the location of the sidewalk to be repaired, a description of the property abutting the sidewalk, the type or kind of repairs to be made, the time limit in which the repairs are to be made, a reference to this chapter, the date of the notice, and the signature of the city official giving the notice; and

(2) If any notice which is mailed is not receipted by the owner or is returned by the post office department because the owner cannot be located, then the City Manager shall post a copy of the notice for a period of not less than 10 days in a conspicuous place on the subject property. The City Manager shall record within the notice file the date the original notice was delivered or mailed, the name and address of the person to whom it was delivered or mailed, and the date and place the notice was posted, if posting is required.
(Ord. 109-97, passed 12-4-1997) Penalty, see § 10.99

§ 90.04 EXPENSE; STANDARDS; TIME LIMITS.

All sidewalk construction or repairs shall comply with the following requirements:

(A) The improvements shall be made at the expense of the landowner responsible for making the improvements;

(B) All improvements shall be made in accordance with sidewalk construction standards adopted by the Department of Public Works;

(C) No sidewalk construction or repair shall be accepted by the city until the improvements are inspected and accepted by the Department of Public Works. Sidewalks that fail to comply with city standards shall be corrected prior to acceptance; and

(D) All improvements shall be completed within the established time limit. Time limits for sidewalk improvements may be extended by the City Manager on the application of the owner, and on good cause being shown for the granting of an extension.
(Ord. 109-97, passed 12-4-1997) Penalty, see § 10.99

§ 90.05 REPAIR BY CITY; ASSESSMENT OF COSTS.

If any landowner responsible for making sidewalk repairs fails to make the repairs in the manner, and in the time established by the city, the City Council may direct the City Manager to complete the repairs, or the Council may, if it elects, let a contract for making the repairs. After the cost of making the repairs has been determined, the City Manager shall report the same to the City Council, and the Council by resolution direct the City Manager to enter the amount plus 20% for administrative, legal, and engineering expenses in the docket of the city liens, as an assessment against the subject property. The lien document shall include the date of entry, the name of the owner, and a description of the property assessed. The assessment shall thereafter be collected in the manner prescribed by O.R.S. 223.505 - 223.595, and all assessments docketed as liens shall draw interest at the rate of 9% per year from the date of the entry in the city lien docket until paid.
(Ord. 109-97, passed 12-4-1997) Penalty, see § 10.99

§ 90.06 OWNER LIABILITY.

The owners of all property responsible for repairing sidewalks as provided in this chapter shall be liable in damages to individuals injured because of any negligence of the owners in failing to keep a sidewalk in good condition, and no liability shall be imputed to or imposed upon the city, or its officers or employees, because of injuries sustained by any person by reason of defect in any sidewalk, nor because of any extension of time having been granted by the city for repairing any defects in sidewalks.
(Ord. 109-97, passed 12-4-1997)

USE AND OBSTRUCTION OF PUBLIC WAYS

§ 90.20 BASKETBALL HOOPS PROHIBITED IN PUBLIC RIGHTS-OF-WAY.

(A) *Prohibition; removal required.* No basketball hoops will be allowed in any public right-of-way within the city. This section applies not only to those that may be erected in the future, but also to those hoops currently emplaced.

(B) *Violations; remedies.* The imposition of a penalty does not relieve a person of the duty to rectify a violation.
(Ord. 93, passed 6-15-1995) Penalty, see § 10.99

UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

§ 90.30 TITLE.

This subchapter shall be known as the "Utility Facilities in Public Rights-of-Way Ordinance".
(Ord. 148-2010, passed 12-14-2010)

§ 90.31 PURPOSE AND INTENT.

The purpose and intent of this subchapter is to:

(A) Permit and manage reasonable access to the rights-of-way of the city for utility purposes and conserve the limited physical capacity of those rights-of-way held in trust by the city consistent with applicable state and federal law;

(B) Assure that the city's current and ongoing costs of granting and regulating access to and the use of the rights-of-way are fully compensated by the persons seeking such access and causing such costs;

(C) Secure fair and reasonable compensation to the city and its residents for permitting use of the rights-of-way;

(D) Assure that all utility companies, persons and other entities owning or operating facilities and/or providing services within the city register and comply with the ordinances, rules and regulations of the city;

(E) Assure that the city can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;

(F) Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the city; and

(G) Comply with applicable provisions of state and federal law.
(Ord. 148-2010, passed 12-14-2010)

§ 90.32 JURISDICTION AND MANAGEMENT OF THE PUBLIC RIGHTS-OF-WAY.

(A) The city has jurisdiction and exercises regulatory management over all rights-of-way within the city under authority of the City Charter and state law.

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

(C) The exercise of jurisdiction and regulatory management of a right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

(D) The provisions of this subchapter are subject to and will be applied consistent with applicable state and federal laws, rules and regulations, and, to the extent possible, shall be interpreted to be consistent with such laws, rules and regulations.
(Ord. 148-2010, passed 12-14-2010)

§ 90.33 REGULATORY FEES AND COMPENSATION NOT A TAX.

(A) The fees and costs provided for in this subchapter, and any compensation charged and paid for use of the rights-of-way provided for in this subchapter, are separate from, and in addition to, any and all other federal, state, local, and city charges as may be levied, imposed, or due from a utility operator, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of utility services.

(B) The city has determined that any fee or tax provided for by this subchapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees or taxes are not imposed on property or property owners.

(C) The fees and costs provided for in this subchapter are subject to applicable federal and state laws.
(Ord. 148-2010, passed 12-14-2010)

§ 90.34 DEFINITIONS.

For the purpose of this subchapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words ***SHALL*** and ***WILL*** are mandatory and ***MAY*** is permissive.

CABLE SERVICE. Defined consistent with federal laws and means the one-way transmission to subscribers of:

(1) Video programming; or

(2) Other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

CITY. The City of Donald, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

CITY COUNCIL. The elected governing body of the City of Donald, Oregon.

CITY FACILITIES. City or publicly-owned structures or equipment located within the right-of-way or public easement used for governmental purposes.

COMMUNICATIONS SERVICES. Any service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself and whether or not the transmission medium is wireline. ***COMMUNICATIONS SERVICE*** includes all forms of telephone services and voice, video, data or information transport, but does not include:

(1) Cable service;

(2) Open video system service, as defined in 47 C.F.R. 76;

(3) Private communications system services provided without using the public rights-of-way;

(4) Over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and

(5) Direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act.

LICENSE. The authorization granted by the city to a utility operator pursuant to this subchapter.

PERSON. Includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint-stock company, trust, limited liability company, association or other organization, including any natural person or any other legal entity.

PRIVATE COMMUNICATIONS SYSTEM. A system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. ***PRIVATE COMMUNICATIONS SYSTEM*** includes services provided by the State of Oregon pursuant to ORS 190.240 and 283.140.

PUBLIC UTILITY EASEMENT. The space in, upon, above, along, across, over or under an easement for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of utilities facilities. ***PUBLIC UTILITY EASEMENT*** does not include an easement solely for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of city facilities, or where the proposed use by the utility operator is inconsistent with the terms of any easement granted to the city.

RIGHT-OF-WAY. Includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other city property not generally open to the public for travel. This definition applies only to the extent of the city's right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.

STATE. The State of Oregon.

UTILITY FACILITY or FACILITY. Any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plant, equipment and other facilities, located within, under or above the rights-of-way, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.

UTILITY OPERATOR or OPERATOR. Any person who owns, places, operates or maintains a utility facility within the city.

UTILITY SERVICE.

(1) The provision of electricity, natural gas, communications services, cable services, water, sewer, and/or storm sewer to customers within the corporate boundaries of the city; and/or

(2) The transmission of any of these services through the city, by means of utility facilities permanently located within, under or above the rights-of-way, whether or not such facilities are owned by the service provider and whether or not customers within the city are served by those transmissions.

WORK. The construction, demolition, installation, replacement, repair, maintenance or relocation of any utility facility, including but not limited to any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance or relocation.
(Ord. 148-2010, passed 12-14-2010)

§ 90.35 LICENSES.

(A) *License required.*

(1) Except those utility operators with a valid franchise agreement from the city, every person shall obtain a license from the city prior to conducting any work in the rights-of-way.

(2) Every person that owns or controls utility facilities in the rights-of-way as of the effective date of this subchapter shall apply for a license from the city within 45 days of the later of:

(a) The effective date of this subchapter; or

(b) The expiration of a valid franchise from the xity, unless a new franchise is granted by the city pursuant to division (E) below.

(B) *License application.* The license application shall be on a form provided by the city, and shall be accompanied by any additional documents required by the application to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, and the facilities over which the utility service will be provided, and other information reasonably necessary to determine the applicant's ability to comply with the terms of this subchapter.

(C) *License application fee.* The application shall be accompanied by a nonrefundable application fee or deposit set by resolution of the City Council in an amount sufficient to fully recover all of the city's costs related to processing the application for the license.

(D) *Determination by city.* The city shall issue, within a reasonable period of time, a written determination granting or denying the license in whole or in part. If the license is denied, the written determination shall include the reasons for denial. The license shall be evaluated based upon the provisions of this subchapter, the continuing capacity of the rights-of-way to accommodate the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.

(E) *Franchise agreements.* If the public interest warrants, the city and utility operator may enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this subchapter, consistent with applicable state and federal law. The franchise may conflict with the terms of this subchapter with the review and approval of City Council. The franchisee shall be subject to the provisions of this subchapter to the extent such provisions are not in conflict with any such franchise.

(F) *Rights granted.*

(1) The license granted hereunder shall authorize and permit the licensee, subject to the provisions of the City Code and other applicable provisions of state or federal law, to construct, place, maintain and operate utility facilities in the rights-of-way for the term of the license.

(2) Any license granted pursuant to this subchapter shall not convey equitable or legal title in the rights-of-way, and may not be assigned or transferred except as permitted in division (K) below.

(3) Neither the issuance of the license nor any provisions contained therein shall constitute a waiver or bar to the exercise of any governmental right or power, police power or regulatory power of the city as may exist at the time the license is issued or thereafter obtained.

(G) *Term.* Subject to the termination provisions in division (M) below, the license granted pursuant to this subchapter will remain in effect for a term of five years.

(H) *License nonexclusive.* No license granted pursuant to this section shall confer any exclusive right, privilege, license or franchise to occupy or use the rights-of-way for delivery of utility services or any other purpose. The city expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the city's right to use the rights-of-way, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the rights-of-way. Nothing in the license shall be deemed to grant, convey, create, or vest in licensee a real property interest in land, including any fee, leasehold interest or easement.

(I) *Reservation of city rights.* Nothing in the license shall be construed to prevent the city from grading, paving, repairing and/or altering any rights-of-way, constructing, laying down, repairing, relocating or removing city facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any city facilities. If any of licensee's utility facilities interfere with the construction, repair, replacement, alteration or removal of any rights-of-way, public work, city utility, city improvement or city facility, except those providing utility services in competition with a licensee, licensee's facilities shall be removed or relocated as provided in § 90.37(C), (D) and (E), in a manner acceptable to the city and consistent with industry standard engineering and safety codes.

(J) *Multiple services.*

(1) A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and privilege tax requirements of this subchapter for the portion of the facilities and extent of utility services delivered over those facilities.

(2) A utility operator that provides or transmits more than one utility service over its facilities is not required to obtain a separate license or franchise for each utility service, provided that it gives notice to the city of each utility service provided or transmitted and pays the applicable privilege tax for each utility service.

(K) *Transfer or assignment.* To the extent permitted by applicable state and federal laws, the licensee shall obtain the written consent of the city prior to the transfer or assignment of the license. The license shall not be transferred or assigned unless the proposed transferee or assignee is authorized under all applicable laws to own or operate the utility system and the transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment. If a license is transferred or assigned, the transferee or assignee shall become responsible for all facilities of the licensee at the time of transfer or assignment. A transfer or assignment of a license does not extend the term of the license.

(L) *Renewal.* At least 90, but no more than 180, days prior to the expiration of a license granted pursuant to this section, a licensee seeking renewal of its license shall submit a license application to the city, including all information required in division (B) above and the application fee required in division (C) above. The city shall review the application as required by division (D) above and grant or deny the license within 90 days of submission of the application. If the city determines that the licensee is in violation of the terms of this subchapter at the time it submits its application, the city may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the city, before the city will consider the application and/or grant the license. If the city requires the licensee to cure or submit a plan to cure a violation, the city will grant or deny the license application within 90 days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

(M) *Termination.*

(1) *Revocation or termination of a license.* The City Council may terminate or revoke the license granted pursuant to this subchapter for any of the following reasons:

(a) Violation of any of the provisions of this subchapter;

(b) Violation of any provision of the license;

(c) Misrepresentation in a license application;

(d) Failure to pay taxes, compensation, fees or costs due the city after final determination of the taxes, compensation, fees or costs;

(e) Failure to restore the rights-of-way after construction as required by this subchapter or other applicable state and local laws, ordinances, rules and regulations;

(f) Failure to comply with technical, safety and engineering standards related to work in the rights-of-way; or

(g) Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance and/or operation of the utility facilities.

(2) *Standards for revocation or termination.* In determining whether termination, revocation or some other sanction is appropriate, the following factors shall be considered:

(a) The egregiousness of the misconduct;

(b) The harm that resulted;

(c) Whether the violation was intentional;

(d) The utility operator's history of compliance; and/or

(e) The utility operator's cooperation in discovering, admitting and/or curing the violation.

(3) *Notice and cure.* The city shall give the utility operator written notice of any apparent violations before terminating a license. The notice shall include a short and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time (no less than 20 and no more than 40 days) for the utility operator to demonstrate that the utility operator has remained in compliance, that the utility operator has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the utility operator is in the process of curing a violation or noncompliance, the utility operator must demonstrate that it acted promptly and continues to actively work on compliance. If the utility operator does not respond or if the City Manager or designee determines that the utility operator's response is inadequate, the City Manager or designee shall refer the matter to the City Council, which shall provide a duly noticed public hearing to determine whether the license shall be terminated or revoked.
(Ord. 148-2010, passed 12-14-2010)

§ 90.36 CONSTRUCTION AND RESTORATION.

(A) *Construction codes.* The grantee shall strictly adhere to all applicable building, zoning or other laws and codes currently or hereafter in force in grantor's jurisdiction. The grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference, as determined by the grantor, with the use of said public or private

property by any person. In the event of such interference, grantor may require the removal of grantee's lines, cables and appurtenances from the property in question following 30 day notification to the grantee.

(B) *Injury to persons or property.* A utility operator shall preserve and protect from injury or damage other utility operators' facilities in the rights-of-way, the public using the rights-of-way and any adjoining property, and take other necessary measures to protect life and property, including but not limited to buildings, walls, fences, trees or facilities that may be subject to damage from the permitted work. A utility operator shall be responsible for all injury to persons or damage to public or private property resulting from its failure to properly protect people and property and to cany out the work.

(C) *Restoration.*

(1) When a utility operator, or any person acting on its behalf, does any work in or affecting any rights-of-way, it shall, at its own expense, promptly restore such ways or property to the same or better condition as existed before the work was undertaken, in accordance with applicable federal, state and local laws, codes, ordinances, rules and regulations, unless otherwise directed by the city and as determined by the Public Works Director.

(2) If weather or other conditions beyond the utility operator's control do not permit the complete restoration required by the city, the utility operator shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the utility operator's sole expense and the utility operator shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule may be subject to approval by the city.

(3) If the utility operator fails to restore rights-of-way or property as required in this subchapter, the city shall give the utility operator written notice and provide the utility operator a reasonable period of time not less than ten days, unless an emergency or threat to public safety is deemed to exist, and not exceeding 30 days to restore the rights-of-way or property. If, after said notice, the utility operator fails to restore the rights-of-way or property as required in this subchapter, the city shall cause such restoration to be made at the expense of the utility operator.

(D) *Inspection.* Every utility operator's facilities shall be subject to the right of periodic inspection by the city to determine compliance with the provisions of this subchapter and all other applicable state and city codes, ordinances, rules and regulations. Every utility operator shall cooperate with the city in permitting the inspection of utility facilities upon request of the city. The utility operator shall perform all testing, or permit the city to perform any testing at the utility operator's expense, required by the city to determine that the installation of the utility operator's facilities and the restoration of the right-of-way comply with the terms of this subchapter and applicable state and city codes, ordinances, rules and regulations.

(E) *Coordination of construction.* All utility operators are required to make a good faith effort to both cooperate with and coordinate their construction schedules with those of the city and other users of the rights-of-way. All construction locations, activities and schedules within the rights-of-way shall be coordinated as ordered by the Public Works Director, to minimize public inconvenience, disruption, or damages.
(Ord. 148-2010, passed 12-14-2010)

§ 90.37 LOCATION OF FACILITIES.

(A) *Location of facilities.* Unless otherwise agreed to in writing by the city, whenever any existing electric utilities, cable facilities or communications facilities are located underground within a right-of-way of the city, the utility operator with permission to occupy the same right-of-way shall locate its facilities underground at its own expense. This requirement shall not apply to facilities used for transmission of electric energy at nominal voltages in excess of 35,000 volts or to pedestals, cabinets or other above-ground equipment of any utility operator. The city reserves the right to require written approval of the location of any such above-ground equipment in the right-of-way.

(B) *Interference with the rights-of-way.* No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the rights-of-way by the city, by the general public or by other persons authorized to use or be present in or upon the rights-of-way. All use of the rights-of-way shall be consistent with city codes, ordinances, rules and regulations.

(C) *Relocation of utility facilities.*

(1) A utility operator shall, at no cost to the city, temporarily or permanently remove, relocate, change or alter the position of any utility facility within a right-of-way, including relocation of aerial facilities underground, when requested to do so in writing by the city.

(2) Nothing herein shall be deemed to preclude the utility operator from requesting reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs or agreements, provided that the utility operator shall timely comply with the requirements of this section regardless of whether or not it has requested or received such reimbursement or compensation.

(3) The city shall provide written notice of the time by which the utility operator must remove, relocate, change, alter or underground its facilities. If a utility operator fails to remove, relocate, alter or underground any utility facility as requested by the city and by the date reasonably established by the city, the utility operator shall pay all costs incurred by the city due to such failure, including but not limited to costs related to project delays, and the city may cause the utility facility to be removed, relocated, altered or undergrounded at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within 30 days.

(D) *Removal of unauthorized facilities.*

(1) Unless otherwise agreed to in writing within 30 days following written notice from the city or such other time agreed to in writing by the city, a utility operator and any other person that owns, controls, or maintains any abandoned or unauthorized utility facility within a right-of-way shall, at its own expense, remove the facility and restore the right-of-way.

(2) A utility system or facility is unauthorized under any of the following circumstances:

(a) The utility facility is outside the scope of authority granted by the city under the license, franchise or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the city has provided written authorization for abandonment in place.

(b) The facility has been abandoned and the city has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of one year. A utility operator may overcome this presumption by presenting plans for future use of the facility.

(c) The utility facility is improperly constructed or installed or is in a location not permitted by the construction permit, license, franchise or this subchapter.

(d) The utility operator is in violation of a material provision of this subchapter and fails to cure such violation within 30 days of the city sending written notice of such violation, unless the city extends such time period in writing.

(E) *Removal by city.*

(1) The city retains the right and privilege to cut or move the facilities of any utility operator or similar entity located within the rights-of-way of the city, without notice, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency. The city will use qualified personnel or contractors consistent with applicable state and federal safety laws and regulations to the extent reasonably practicable without impeding the city's response to the emergency.

(2) If the utility operator fails to remove any facility when required to do so under this subchapter, the city may remove the facility using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations, and the utility operator shall be responsible for paying the full cost of the removal and any administrative costs incurred by the city in removing the facility and obtaining reimbursement, Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within 30 days. The obligation to remove shall survive the termination of the license or franchise.

(3) The city shall not be liable to any utility operator for any damage to utility facilities, or for any consequential losses resulting directly or indirectly therefrom, by the city or its contractor in removing, relocating or altering the facilities pursuant to divisions (B), (C) or (D) above or undergrounding its facilities as required by division (A) above, or resulting from the utility operator's failure to remove, relocate, alter or underground its facilities as required by those divisions, unless such damage arises directly from the city's negligence or willful misconduct.

(F) *Engineering designs and plans.* The utility operator shall provide the city with two complete sets of engineered plans in a form acceptable to the city showing the location of all its utility facilities in the rights-of-way after initial construction if such plans materially changed during construction. The utility operator shall provide two updated complete sets of as built plans upon request of the city, but not more than once per year.
(Ord. 148-2010, passed 12-14-2010)

§ 90.38 LEASED CAPACITY.

A utility operator may lease capacity on or in its systems to others, provided that, upon request, the utility operator provides the city with the name and business address of any lessee. A utility operator is not required to provided such information if disclosure is prohibited by applicable law or a valid agreement between the utility operator and the lessee.
(Ord. 148-2010, passed 12-14-2010)

§ 90.39 MAINTENANCE.

(A) Every utility operator shall install and maintain all facilities in a manner that complies with applicable federal, state and local laws, rules, regulations and policies. The utility operator shall, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose.

(B) If, after written notice from the city of the need for repair or maintenance, a utility operator fails to repair and maintain facilities as requested by the city and by the date reasonably established by the city, the city may perform such repair or maintenance using qualified personnel or contractors at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within 30 days.
(Ord. 148-2010, passed 12-14-2010)

§ 90.40 VACATION.

If the city vacates any right-of-way, or portion thereof, that a utility operator uses, the utility operator shall, at its own expense, remove its facilities from the right-of-way unless the city reserves a

public utility easement, which the city shall make a reasonable effort to do provided that there is no expense to the city, or the utility operator obtains an easement for its facilities. If the utility operator fails to remove its facilities within 30 days after a right-of-way is vacated, or as otherwise directed or agreed to in writing by the city, the city may remove the facilities at the utility operator's sole expense. Upon receipt of an invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within 30 days.
(Ord. 148-2010, passed 12-14-2010)

§ 90.41 PRIVILEGE TAX.

(A) Every person that uses utility facilities in the city to provide utility service, whether or not the person owns the utility facilities used to provide the utility services, shall pay the privilege tax for every utility service provided using the rights-of-way in the amount determined by resolution of the City Council.

(B) Privilege tax payments required by this section shall be reduced by any franchise fee payments received by the city, but in no case will be less than zero dollars.

(C) Unless otherwise agreed to in writing by the city, the tax set forth in division (A) above shall be paid quarterly, in arrears, for each quarter during the term of the license within 30 days after the end of each calendar quarter, and shall be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable. The utility shall pay interest at the rate of 9% per year for any payment made after the due date.

(D) The calculation of the privilege tax required by this section shall be subject to all applicable limitations imposed by federal or state law.

(E) The city reserves the right to enact other fees and taxes applicable to the utility operators subject to this subchapter. Unless expressly permitted by the city in enacting such fee or tax, or required by applicable state or federal law, no utility operator may deduct, offset or otherwise reduce or avoid the obligation to pay any lawfully enacted fees or taxes based on the payment of the privilege tax or any other fees required by this subchapter.
(Ord. 148-2010, passed 12-14-2010)

§ 90.42 AUDITS.

(A) Within 30 days of a written request from the city, or as otherwise agreed to in writing by the city:

(1) Every provider of utility service shall furnish the city with information sufficient to demonstrate that the provider is in compliance with all the requirements of this subchapter and its franchise agreement, if any, including but not limited to payment of any applicable registration fee, privilege tax or franchise fee.

(2) Every utility operator shall make available for inspection by the city at reasonable times and intervals all maps, records, books, diagrams, plans and other documents, maintained by the utility operator with respect to its facilities within the rights-of-way or public utility easements. Access shall be provided within the city unless prior arrangement for access elsewhere has been made with the city.

(B) If the city's audit of the books, records and other documents or information of the utility operator or utility service provider demonstrate that the utility operator or provider has underpaid the privilege tax or franchise fee by 3% or more in any one year, the utility operator shall reimburse the city for the cost of the audit, in addition to any interest owed pursuant to § 90.41(C) or as specified in a franchise.

(C) Any underpayment, including any interest or audit cost reimbursement, shall be paid within 30 days of the city's notice to the utility service provider of such underpayment.
(Ord. 148-2010, passed 12-14-2010)

§ 90.43 INSURANCE AND INDEMNIFICATION.

(A) *Insurance.*

(1) All utility operators shall maintain in full force and effect the following liability insurance policies that protect the utility operator and the city, as well as the city's officers, agents, and employees:

(a) Comprehensive general liability insurance with limits not less than:

1. Three million dollars for bodily injury or death to each person;

2. Three million dollars for property damage resulting from any one accident; and

3. Three million dollars for all other types of liability.

(b) Motor vehicle liability insurance for owned, non-owned and hired vehicles with a limit of $1,000,000 for each person and $3,000,000 for each accident.

(c) Worker's compensation within statutory limits and employer's liability with limits of not less than $1,000,000.

(d) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than $3,000,000.

(2) The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon. The insurance shall be without prejudice to coverage otherwise existing and shall name, or the certificate of insurance shall name, as additional insureds the city and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The policy shall provide that the insurance shall not be canceled or materially altered without 30 days prior written notice first being given to the city. If the insurance is canceled or materially altered, the utility operator shall obtain a replacement policy that complies with the terms of this section and provide the city with a replacement certificate of insurance. The utility operator shall maintain continuous uninterrupted coverage, in the terms and amounts required. The utility operator may self insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.

(3) The utility operator shall maintain on file with the city a certificate of insurance, or proof of self-insurance acceptable to the city, certifying the coverage required above.

(B) *Financial assurance.* Unless otherwise agreed to in writing by the city, before a franchise granted or license issued pursuant to this subchapter is effective, and as necessary thereafter, the utility operator shall provide a performance bond or other financial security, in a form acceptable to the city, as security for the full and complete performance of the franchise or license, if applicable, and compliance with the terms of this subchapter, including any costs, expenses, damages or loss the city pays or incurs because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations or permits of the city. This obligation is in addition to the performance surety required by this subchapter and/or the Development Code.

(C) *Indemnification.*

(1) Each utility operator shall defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all liability, causes of action, claims, damages, losses, judgments and other costs and expenses, including attorney fees and costs of suit or defense (at both the trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity in any way arising out of, resulting from, during or in connection with, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failure to act, or other misconduct of the utility operator or its affiliates, officers, employees, agents, contractors, subcontractors, or lessees in the construction, operation, maintenance, repair, or removal of its facilities, and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this subchapter or by a franchise agreement, The acceptance of a license under § 90.35 shall constitute such an agreement by the applicant whether the same is expressed or not. Upon notification of any such claim the city shall notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.

(2) Every utility operator shall also indemnify the city for any damages, claims, additional costs or expenses assessed against or payable by the city arising out of or resulting, directly or indirectly, from the utility operator's failure to remove or relocate any of its facilities in the rights-of-way or easements in a timely manner, unless the utility operator's failure arises directly from the city's negligence or willful misconduct.
(Ord. 148-2010, passed 12-14-2010)

§ 90.44 COMPLIANCE.

Every utility operator shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all applicable ordinances, resolutions, rules and regulations of the city, heretofore or hereafter adopted or established during the entire term of any license granted under this subchapter.
(Ord. 148-2010, passed 12-14-2010)

§ 90.45 CONFIDENTIAL/PROPRIETARY INFORMATION.

If any person is required by this subchapter to provide books, records, maps or information to the city that the person reasonably believes to be confidential or proprietary, the city shall take reasonable steps to protect the confidential or proprietary nature of the books, records or information, to the extent permitted by Oregon Public Records Laws, provided that all documents are clearly marked as confidential by the person at the time of disclosure to the city. The city shall not be required to incur any costs to protect such document, other than the city's routine internal procedures for complying with the Oregon Public Records Law.
(Ord. 148-2010, passed 12-14-2010)

§ 90.46 PENALTIES.

(A) Any person found guilty of violating any of the provisions of this subchapter or the license shall be subject to a penalty of not less than $100 nor more than $1,000 for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

(B) Nothing in this subchapter shall be construed as limiting any judicial or other remedies the city may have at law or in equity, for enforcement of this subchapter.
(Ord. 148-2010, passed 12-14-2010)

§ 90.47 SEVERABILITY AND PREEMPTION.

(A) The provisions of this subchapter shall be interpreted to be consistent with applicable federal and state law, and shall be interpreted, to the extent possible, to cover only matters not preempted by federal or state law.

(B) If any article, section, subsection, sentence, clause, phrase, term, provision, condition or portion of this subchapter is for any reason declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or decision, the remainder of this subchapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, clause, phrase, term, provision, condition, covenant and portion of this subchapter shall be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules or regulations, the provision shall be preempted only to the extent required by law and any portion not preempted shall survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended or otherwise changed to end the preemption, such provision shall thereupon return to full force and effect and shall thereafter be binding without further action by the city.
(Ord. 148-2010, passed 12-14-2010)

§ 90.48 APPLICATION TO EXISTING AGREEMENTS.

To the extent that this subchapter is not in conflict with and can be implemented consistent with existing franchise agreements, this subchapter shall apply to all existing franchise agreements granted to utility operators by the city.
(Ord. 148-2010, passed 12-14-2010)

CHAPTER 91: NUISANCES; HEALTH AND SANITATION

Section

GENERAL PROVISIONS

§ 91.01 TITLE.

This chapter shall be known as the "Nuisance Abatement Ordinance," and may be so cited and pleaded.
(Ord. 98, passed 4-4-1996)

§ 91.02 DEFINITIONS.

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

CITY MANAGER. The City Manager or his or her designee.

INOPERABLE VEHICLE.

(1) A vehicle which:

(a) Has been left on private property for more than 30 days;

(b) Has been extensively damaged, including but not limited to a broken window or windshield, missing wheels, tires, motor, or transmission; and

(c) Is more than 3 years old, or is less than 3 years old but has a market value of $200 or less and does not have a valid current vehicle license plate.

(2) For the purposes of this section, a showing that a vehicle, if operated on a public highway of this state, would be in violation of 3 or more of the provisions of O.R.S. 815.100 - 815.325 is evidence that the vehicle is ***INOPERABLE***.

PERSON IN CHARGE OF PROPERTY. An owner, agent, occupant, lessee, contract purchaser, or other person having possession or control of property or supervision of a construction project.

PERSON RESPONSIBLE. The owner or the person in charge of the property.
(Ord. 98, passed 4-4-1996)

NUISANCES

§ 91.15 NUISANCES AFFECTING PUBLIC HEALTH.

(A) No person shall allow, cause, create, permit, or suffer a nuisance affecting public health on private or public property.

(B) The following are not exclusive but illustrative of nuisances affecting public health and may be abated as provided in this chapter:

(1) Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with Department of Environmental Quality regulations;

(2) Accumulations of debris, rubbish, manure, and other refuse that are not removed within a reasonable time;

(3) Rotting wastes (garbage) not removed at least every 7 days;

(4) Stagnant water that affords a breeding place for mosquitoes and other insect pests;

(5) 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;

(6) Decayed or unwholesome food offered for human consumption;

(7) An outside toilet, cesspool, septic tank, barn, stable, corral, pen, chicken coop, rabbit hutch, or other premises that are in a state or condition so as to cause an offensive odor or that are in unsanitary condition;

(8) Liquid wastes drained from private premises;

(9) Mastics, oil, grease, antifreeze, or petroleum products allowed to be introduced into the sewer system by a user;

(10) Animal carcasses on streets or private or public property;

(11) Animals or birds afflicted with communicable diseases; and

(12) Animals or birds maintained, kept, or housed in a manner so as to create offensive odors or noise.

(Ord. 98, passed 4-4-1996) Penalty, see § 10.99

§ 91.16 NUISANCES AFFECTING PUBLIC SAFETY.

(A) *Prohibited hazards.* No person shall allow, cause, create, permit, or suffer a nuisance affecting public safety on private property. The following are not exclusive but illustrative of nuisances affecting public safety and may be abated as provided in this chapter:

(1) Woodpiles, wood, lumber, rocks, bricks, blocks, or metal within the streets or alleys or upon the sidewalks or planting strips for a period of time longer than 24 hours after placement of that material without first obtaining a permit from the City Manager;

(2) A container with a compartment of more than 1 cubic foot capacity with a door or lid that locks or fastens automatically when closed that cannot be easily opened from the inside, maintained or left in a place accessible to children;

(3) A well, cistern, cesspool, excavation, or other hole of a depth of 4 feet or more and a top width of 12 inches or more uncovered, not fenced, or without a suitable protective construction;

(4) Unguarded machinery, equipment, or other devices appealing, dangerous, and accessible to children;

(5) Lumber, logs, wood, or piling placed or stored in a manner to be appealing, dangerous, and accessible to children; and

(6) Excavations remaining open for an unreasonable amount of time without erecting proper safeguards or barriers.

(B) *Noxious vegetation.* No person shall allow, cause, permit, or suffer noxious vegetation on property or in the right-of-way of a street, alley, or sidewalk abutting the property. Noxious vegetation must be cut down or destroyed as often as needed to prevent the creation of a health, fire, or traffic hazard, or in the case of weeds or other noxious vegetation, from maturing or from going to seed. Noxious vegetation includes:

(1) Vegetation that is or is likely to become:

(a) A health hazard;

(b) A fire hazard;

(c) A traffic hazard, because it impairs the view of a public right-of-way or otherwise makes the use of the thoroughfare hazardous; or

(d) Grass and weeds exceeding 10 inches.

(2) Poison oak;

(3) Poison ivy; and

(4) Blackberry bushes that extend into a public way, a pathway, or cross a property line.

(C) *Unauthorized dumping.*

(1) No person shall deposit, on a 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 right-of-way.

(2) No person shall deposit trash, rubbish, debris, or refuse which was generated from a residence or business into public trash receptacles located with the city.

(D) *Trees, bushes, and shrubs.*

(1) No person in charge of property shall allow or permit trees, bushes, or shrubs on property abutting a street, alley, or sidewalk to interfere with vehicular or pedestrian traffic. A person in charge of property shall keep all trees, bushes, or shrubs on the premises, including the adjoining parking strip, trimmed so that any overhanging portions are at least 8 feet above the sidewalk and at least 12 feet above the roadway.

(2) No person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to person or property on or near the property.

(E) *Fences.*

(1) No person shall allow, construct, permit, or maintain a barbed wire fence along a sidewalk or public right-of-way, except that barbed wire may be placed above the top of other fencing not less than 6 feet, 6 inches high.

(2) No person shall allow, construct, permit, maintain, or operate an electric fence along a sidewalk or public right-of-way or along the adjoining property line of another person.

(F) *Surface waters.*

(1) No person shall permit rain water, ice, or snow to fall from a building or structure onto a street or public sidewalk or to flow across the sidewalk.

(2) The person in charge of property shall install and maintain in a proper state of repair, adequate drainpipes or drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk or other property.

(G) *Snow and ice removal.* No person shall suffer, permit, or allow snow or ice which has fallen or accumulated upon a sidewalk to remain upon the sidewalk for more than 6 hours after the snow or ice has ceased to fall thereon; however, if the snow is falling or ice accumulating after the hour of 6:00 p.m., the same shall be removed by 10:00 a.m. on the next succeeding day or within 6 hours after it shall cease to fall. The owner or person in charge of the property abutting upon a sidewalk shall be responsible for removal of snow or ice that may accumulate on that sidewalk.

(H) *Hauling; sifting or leaking loads.*

(1) No person shall drive or move a vehicle on any street unless it is constructed or loaded so as to prevent its contents from dropping, sifting, leaking, or otherwise escaping.

(2) Any person driving a vehicle from which any contents have dropped, sifted, leaked, or escaped must remove the substance or material from the street within 3 hours.
(Ord. 98, passed 4-4-1996) Penalty, see § 10.99

§ 91.17 NUISANCES AFFECTING PUBLIC WELFARE.

(A) *Radio and television interference.*

(1) 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.

(2) This division does not apply to devices licensed, approved, and operated under the rules and regulations of the Federal Communication Commission.

(B) *Unreasonable noise.* No person shall allow, cause, create, or permit the continuance of unreasonable noise. The following enumerated noises are not exclusive but illustrative of unreasonable noises:

(1) The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity;

(2) The use of an engine, machine, or device which is so loaded, out of repair, or operated in a manner so as to create a loud or unreasonable grating, grinding, rattling, or other noise;

(3) The use of a mechanical device operated by compressed air, steam, or otherwise unless the noise created is muffled;

(4) The construction, including excavation, demolition, alteration, or repair of a building, vehicle, or equipment other than between the hours of 7:00 a.m. and 9:00 p.m. except with a permit issued by the City Manager; and

(5) The use or operation of an electric keyboard or piano, phonograph, loudspeaker, stereo, or sound amplifying device so loudly as to disturb persons at least 5 feet beyond the property on which the sound originates. Sound produced in conjunction with officially organized sporting events, parades, festivals, fairs, and other events issued a permit from the City Council are exempt from the noise limitations.

(C) *Accumulation of debris, junk, and materials.* No person shall allow, cause, permit, or suffer any old or scrap copper, brass, pipe, rope, wire, rags, batteries, paper, plastic, trash, rubber, debris, waste, or inoperable, junked, dismantled, wrecked, scrapped, or ruined appliances, motor vehicles, or other vehicles, or appliance, motor vehicle, or other vehicle parts, iron, steel, or other old or scrap metal or non-metal materials to accumulate on private property within the sight of the public. In the correct zone the person shall not store debris, junk, or other materials on a street, lot, or premises that is not wholly or entirely enclosed except for doors used for ingress and egress.

(D) *Posting bills and advertisements.*

(1) No person shall affix or cause to be distributed any placard, bill, advertisement, or poster upon any real or personal property, public or private, without first securing permission from the owner or person in charge of the property.

(2) Any placard, bill, advertisement, or poster found posted or otherwise affixed upon any public property contrary to the provision of this division (D) may be removed by any employee of the city. The person responsible for the illegal posting shall be liable for the cost incurred in its removal.

(3) This division (D) shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use of and location of signs and advertising.

(4) This division (D) shall not be construed to prohibit the distribution of advertising material during any parade or approved public gathering.
(Ord. 98, passed 4-4-1996) Penalty, see § 10.99

§ 91.18 NUISANCES DECLARED.

The acts, conditions, or objects specifically enumerated and defined in §§ 91.02 and 91.15 - 91.17, inclusive, are declared public nuisances and may be abated by the procedures set forth in this chapter. (Ord. 98, passed 4-4-1996) Penalty, see § 10.99

DANGEROUS AND UNSANITARY BUILDINGS

§ 91.30 DEFINITIONS.

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

DANGEROUS BUILDING.

(1) A structure that, for lack of proper repairs, or because of age and dilapidated condition or of poorly installed electrical wiring or equipment, defective chimney, gas connection, or heating apparatus, or for any other reason, is liable to cause fire, and which is situated or occupied in a manner that endangers other property or human life.

(2) A structure containing combustible or explosive materials or inflammable substances liable to cause fire or danger to the safety of the building, premises or to human life.

(3) A structure that is in a filthy or unsanitary condition liable to cause the spread of contagious or infectious disease.

(4) A structure in such weak, dilapidated or deteriorated condition that it endangers a person or property because of the probability of partial or entire collapse.

PERSON. Every natural person, firm, partnership association or corporation.

§ 91.31 NUISANCE DECLARED.

Every building found by the Council to be a dangerous building is declared to be a public nuisance and may be abated by the procedures specified in this subchapter or by a suit for abatement brought by the city.

§ 91.32 INITIAL ACTION.

When a city official determines that there is a dangerous building, the official shall report it to the Council. The Council shall, within a reasonable time, fix a time and place for a public hearing.

§ 91.33 MAILED NOTICE.

(A) The City Recorder shall notify the owner of the building and, if not the same person, the owner of the property on which the building is situated. The notice shall state:

(1) That a hearing will be held concerning the nuisance character of the property; and

(2) The time and place of the hearing.

(B) A copy of this notice shall be posted on the property.

§ 91.34 PUBLISHED AND POSTED NOTICES.

Ten days' notice of the hearing shall be published in a newspaper of general circulation in the city or by posting notices in 3 public places in the city.

§ 91.35 HEARING.

(A) At the hearing, the owner or other persons interested in the dangerous building shall have a right to be heard.

(B) The Council may inspect the building and may consider facts observed in determining if the building is dangerous.

(C) If the Council determines that the building is dangerous, the Council may by resolution:

(1) Order the building to be abated; or

(2) Order the building to be made safe and prescribe what must be done to make it safe.

§ 91.36 COUNCIL ORDERS; NOTICE.

Five days' notice of the Council's findings and any orders made by the Council shall be given to the owner of the building, the owner's agent or other person controlling it. If the orders are not obeyed and

the building not made safe within the time specified by the order (not less than 5 days), the Council may order the building demolished or made safe at the expense of the property on which it is situated. Penalty, see § 91.99

§ 91.37 ABATEMENT BY THE CITY.

(A) If the Council orders are not complied with, the Council may:

(1) Specify the work to be done;

(2) File a statement with the Recorder; and

(3) Advertise for bids for doing the work in the manner provided for advertising for bids for street improvement work.

(B) Bids shall be received, opened and the contract let.

§ 91.38 ASSESSMENT.

(A) The Council shall determine the probable cost of the work and assess the cost against the property upon which the building is situated. The assessment shall be declared by resolution, and it shall be entered in the docket of city liens and become a lien against the property.

(B) The creation of the lien and the collection and enforcement of the cost shall be performed in substantially the same manner as assessments for street improvements.

§ 91.39 SUMMARY ABATEMENT.

The procedures of this subchapter need not be followed if a building is unmistakably dangerous and imminently endangers human life or property. In this instance, the Chief of the Fire Department, the Fire Marshal or the Chief of Police may summarily demolish the building.

§ 91.40 ERRORS IN PROCEDURE.

Failure to conform to the requirements of this subchapter that does not substantially affect a legal right of a person does not invalidate a proceeding under this subchapter.

ADMINISTRATION AND ENFORCEMENT

§ 91.45 DETERMINATION OF NUISANCES.

Upon receipt of information from any source or upon the City Manager's own knowledge may conduct an appropriate investigation and may determine that a nuisance as defined in this chapter exists. (Ord. 98, passed 4-4-1996)

§ 91.46 NOTICE TO ABATE.

(A) Upon determination by the City Manager that a nuisance exists, he or she shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate the nuisance.

(B) The City Manager shall cause a copy of the notice posted to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last known address of the owner or person in charge.

(C) The notice shall contain:

(1) A description of the real property, by street address or otherwise, on which the nuisance exists;

(2) A direction to abate the nuisance within 10 days from the date of the notice;

(3) A description of the nuisance;

(4) A statement that unless the nuisance is removed the city may abate the nuisance and the costs of abatement shall be a lien against the property; and

(5) A statement that the owner or person in charge of the property may protest the abatement by giving notice to the City Manager within 10 days from the date of the notice.

(D) If the person responsible is not the owner, an additional notice shall be sent to the owner, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.

(E) Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file with the City Manager a certificate stating the date and place of the mailing and posting.

(F) An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void, and in that case the posted notice shall be sufficient.
(Ord. 98, passed 4-4-1996)

§ 91.47 ABATEMENT BY OWNER.

(A) Within 10 days after the posting and mailing of the notice as provided above, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exits.

(B) The owner or person in charge protesting that no nuisance exists shall file with the City Manager a written statement which shall specify the basis for the protest.

(C) The statement shall be referred to the City Council as a part of the Council's regular agenda at the next succeeding meeting, or the Council may call a special meeting to consider the issue. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the Council, and the Council shall thereupon determine whether or not a nuisance exists and this determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed as provided.

(D) If the Council determines that a nuisance exists, the owner or other person shall within 10 days after the determination abate the nuisance.
(Ord. 98, passed 4-4-1996) Penalty, see § 10.99

§ 91.48 ABATEMENT BY CITY.

(A) If within the time allowed the nuisance has not been abated by the owner or person in charge of the property, the City Manager may cause the nuisance to be abated.

(B) The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

(C) The City Manager shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of 20% of the expense for administrative overhead.
(Ord. 98, passed 4-4-1996)

§ 91.49 ASSESSMENT OF COSTS; LIENS.

(A) In the event a nuisance is abated by the city as provided above, the City Manager, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

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

(2) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice; and

(3) That if the owner or person in charge of the property objects to the cost of the abatement, he or she may file a notice of objection with the City Manager within 10 days from the date of the notice.

(B) Upon expiration of 10 days after the date of the notice, the Council in regular course of business shall hear and determine the objections to the costs to be assessed.

(C) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall thereupon be entered in the docket of city liens. Upon this entry being made, it shall constitute a lien upon the property from which the nuisance was removed and abated, and the lien shall be enforced in the same manner as liens for city improvements provided in state law.

(D) The lien may be enforced in any manner allowed by law, and shall bear interest at the rate of 1.5% per month. The interest shall commence to run from the date of the entry of the lien in the lien docket.

(E) An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.
(Ord. 98, passed 4-4-1996) Penalty, see § 10.99

§ 91.50 PROCEDURE NOT EXCLUSIVE; EMERGENCY ABATEMENT.

The procedure provided by this chapter is not exclusive but is in addition to any other procedures available by law to the city. An appropriate city official may proceed summarily to abate a nuisance which unmistakably exists and from which there is imminent danger to human life or property.
(Ord. 98, passed 4-4-1996) Penalty, see § 10.99

§ 91.51 VIOLATION; REMEDIES NOT EXCLUSIVE.

The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.
(Ord. 98, passed 4-4-1996) Penalty, see § 10.99

91.99 PENALTY.

A person who owns or is in possession or in charge of a dangerous building, and who allows the building to remain dangerous for as long as 10 days after receipt of the notice specified in § 91.36, may be fined not more than $__. Each day following the tenth day after receipt of notice that a violation continues shall be considered a separate offense.

CHAPTER 92: ANIMALS

Section

§ 92.01 DEFINITIONS.

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

ANIMAL. Any non-human mammal, fowl, reptile, amphibian, or fish.

AT LARGE. Off or outside the premises belonging to the owner or not in the company of a capable person. The term does not include the use of a dog under the supervision of a person to control or protect livestock or in the other related agricultural activities or the use of a dog by law enforcement personnel.

DANGEROUS ANIMAL. An animal that constitutes a physical threat to human beings or domestic animals or bites any human being or domestic animal. This does not include an animal which bites, attacks, or menaces a trespasser, person, or animal that has tormented or abused the allegedly dangerous animal.

OWNER. Any person, firm, association, or corporation that has a possessory property right in an animal or who harbors, cares for, exercises control over, or knowingly permits an animal to remain on the premises occupied by that person, firm, association, or corporation. This does not apply to a veterinarian or an operator of a commercial kennel, insofar as they may keep dogs in the course of their businesses.

PHYSICAL INJURY. Impairment of physical condition or substantial pain.

SERIOUS PHYSICAL INJURY. Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.
(Ord. 92, passed 7-20-1995)

§ 92.02 DISEASE PREVENTION.

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

(B) No owner shall permit the body of an animal to remain upon public or private property for a period of time longer than 12 hours.

(C) Any owner of an animal shall remove excrement or other solid waste deposited by that animal on public or private property. This includes removing excrement from primary enclosures and areas as often as necessary to prevent contamination, reduce disease hazards, and minimize odors.

(D) No owner shall cause or allow any stable or place where any animal is, or may be kept, to become unclean or unwholesome.
(Ord. 92, passed 7-20-1995) Penalty, see § 10.99

§ 92.03 ENUMERATED NUISANCES.

(A) *Animals at large.* It shall be unlawful for an owner to permit an animal to run at large, except domestic cats. Any such animal is declared to be in violation of this chapter.

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

(1) Causes repeated or prolonged disturbances by excessive barking or noise-making plainly audible from inside any neighboring building, vehicle, or residence;

(2) Chases vehicles;

(3) Damages or destroys property of a person other than the owner or custodian of the animal;

(4) Scatters garbage; or

(5) Molests, attacks, or interferes with persons or other domestic animals on property other than the owner's property.
(Ord. 92, passed 7-20-1995) Penalty, see § 10.99

§ 92.04 VIOLATIONS; REMEDIES.

The imposition of a penalty does not relieve a person of the duty to rectify a chapter violation.
(Ord. 92, passed 7-20-1995) Penalty, see § 10.99

CHAPTER 93: TREES

Section

§ 93.01 PURPOSE.

It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other woody plants in the city.
(Ord. 77, passed 7-8-1992)

§ 93.02 DEFINITIONS.

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

PARK TREES. Trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

PUBLIC TREES. Trees, shrubs, bushes and all other woody vegetation within public rights-of-way and public property, including park trees and street trees.

STREET TREES. Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or public rights-of-way within the city.
(Ord. 77, passed 7-8-1992; Am. Ord. 159-2015, passed 4-14-2015)

§ 93.03 PLANNING COMMISSION; DUTIES AS TREE BOARD.

(A) The City Planning Commission shall serve as the designated city authority for all tree related matters within the city, and will serve in lieu of a designated Tree Board as recognized by the State Department of Forestry and the National Arbor Day Foundation.

(B) It shall be the responsibility of the Commission to study, investigate, counsel, and develop or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. This plan will be presented annually to the City Council and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the city.

(C) The Commission, when requested by the City Council, shall consider, investigate, make finding, report, and recommend upon any special matter or question coming within the scope of its work. (Ord. 77, passed 7-8-1992)

§ 93.04 STREET TREE PLANTING.

(A) *Tree species to be planted.* The City Planning Commission will develop and maintain a list of desirable trees for planting along streets in 3 size classes based on mature height: small (under 30 feet), medium (30 - 50 feet), and large (over 50 feet). Lists of trees not suitable for planting will also be created by the Planning Commission.

(B) *Spacing.* The spacing of street trees will be in accordance with the 3 species size classes listed in division (A) of this section, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect or urban forester.

(C) *Distance from curb and sidewalk.* The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the 3 species size classes listed in division (A) of this section, and no trees may be planted in tree lawn widths less than the following: small trees, 3 feet; medium trees, 5 feet; and large trees, 8 feet.

(D) *Distance from street corners and fire hydrants.* No street tree shall be planted within 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted within 10 feet of any fire hydrant.

(E) *Utilities.* No street trees other than those species listed as small trees in division (A) of this section may be planted under or within 10 feet of any overhead utility wire.
(Ord. 77, passed 7-8-1992; Am. Ord. 81, passed 12-2-1992; Am. Ord. 159-2015, passed 4-14-2015) Penalty, see § 10.99

§ 93.05 PUBLIC TREE MAINTENANCE CARE.

(A) *Tree Maintenance*. It shall be the responsibility of the property owner adjacent to any street tree to maintain the tree according to the tree maintenance standards detailed in the Municipal Code. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to insure public safety and to preserve or enhance the symmetry and beauty of the public grounds. Any tree, plant or shrub, or part thereof, which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, streets, sidewalks or other public improvements or is affected with any injurious fungus, insect or other pest, may be removed or ordered to be removed by order of the City Planning Commission. Street trees maybe planted by adjacent property owners provided that the selection and location of the trees are in accordance with § 93.04.

(B) *Standards*. All street and public trees must be pruned to National Arborist Association Pruning Standards.

(C) *Pruning; corner clearance*. Every owner of any tree over hanging any street or rights-of-way within the city shall prune the branches so that the branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 12 feet above the street surface of 8 feet above the sidewalk surface. The owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic-control device or sign or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of the conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and City Planning Commission prior to any trimming by the utility company.
(Ord. 77, passed 7-8-1992; Am. Ord. 159-2015, passed 4-14-2015; Am. Ord. 167-2016, passed 6-14-2016) Penalty, see § 10.99

§ 93.06 TOPPING PROHIBITED; EXCEPTIONS.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown to a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the City Planning Commission.
(Ord. 77, passed 7-8-1992) Penalty, see § 10.99

§ 93.07 TREE REMOVAL ON PRIVATE PROPERTY.

The city shall have the right to cause the removal of any dead or diseased trees or trees or parts of trees and shrubs within the city which damage or threaten to damage public improvements, constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. Such threats and conditions are deemed to constitute a public nuisance. Where a public nuisance under this Section is determined to exist, the City Planning Commission shall direct the City Manager to abate the nuisance in accordance with the administration and enforcement proceedings set forth in §§ 91.46 through 91.51.
(Ord. 77, passed 7-8-1992; Am. Ord. 159-2015, passed 4-14-2015; Am. Ord. 167-2016, passed 6-14-2016) Penalty, see § 10.99

§ 93.08 INTERFERENCE WITH PLANNING COMMISSION UNLAWFUL.

It shall be unlawful for any person to obstruct or interfere with the City Planning Commission, or in connection with any of the requirements of this chapter.
(Ord. 77, passed 7-8-1992; Am. Ord. 159-2015, passed 4-14-2015) Penalty, see § 10.99

§ 93.09 DISTURBING STREET OR PARK TREE; PERMIT REQUIRED.

No person shall plant, prune, remove, fertilize, or excavate within 10 feet of a street or park tree without first obtaining a city permit.
(Ord. 77, passed 7-8-1992; Am. Ord. 159-2015, passed 4-14-2015) Penalty, see § 10.99

§ 93.10 TREE PRUNING; LICENSE AND BOND REQUIRED.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street, park, or private trees within the city without first applying for and procuring a business license. No license shall be required of any public service company including electric utilities and their agents and contractors or city employees doing that work in the pursuit of their public service endeavors. Before any business license shall be issued, each applicant shall first file evidence of possession of liability and property damage insurance indemnifying the city or any person injured or damaged resulting from the pursuit of the endeavors as herein described in accordance with business license requirements.
(Ord. 77, passed 7-8-1992; Am. Ord, 159-2015, passed 4-14-2015) Penalty, see § 10.99

§ 93.11 REVIEW BY CITY COUNCIL.

The City Council shall have the right to review the conduct, acts, and decisions of the City Planning Commission. Any person may appeal from any ruling or order of the City Planning Commission to the City Council who may hear the matter and make final decisions.
(Ord. 77, passed 7-8-1992)

§ 93.12 VIOLATIONS; TREE REPAIR OR REPLACEMENT.

If the violation of any provision of this chapter results in injury, mutilation, or death of a street or park tree, the cost of repair or replacement shall be borne by the party in violation. The replacement value of street or park trees shall be determined in accordance with the method prescribed by the Council of Tree and Landscape Appraisers, and as revised.
(Ord. 77, passed 7-8-1992; Am. Ord. 159-2015, passed 4-14-2015) Penalty, see § 10.99

CHAPTER 94: ABANDONED VEHICLES

Section

§ 94.01 GROUNDS TO TOW VEHICLE.

A vehicle may be towed and held at the expense of the owner or person entitled to possession thereof from:

(A) Any public right-of-way, public park, or other public place, when:

(1) The vehicle is parked in violation of a temporary or permanent parking restriction;

(2) The vehicle is parked unlawfully or in a manner that may be hazardous to traffic;

(3) The vehicle is parked on city owned or operated property without express city permission;

(4) The vehicle was used in committing a traffic or parking violation for which an unserved warrant or parking citation is on file with the clerk of any court;

(5) The vehicle has been reported stolen;

(6) The vehicle or its contents are to be used as evidence in traffic or criminal prosecutions;

(7) The vehicle is in possession of a person taken into custody by a law enforcement agency;

(8) The vehicle is parked in a space that is marked as reserved for disabled persons, unless the vehicle conspicuously displays appropriate decals, insignia, or registration plates as required by state statutes; or

(9) A police officer reasonably believes that the vehicle's operator is driving without liability insurance.

(B) Private property, if:

(1) The vehicle is parked or stopped without the permission of the person in control of that property; or

(2) The vehicle is parked or stopped in violation of this title or in violation of state law. (Ord. 96, passed 1-5-1996) Penalty, see § 10.99

§ 94.02 TOWING WITHOUT PRIOR NOTICE.

Any authorized officer may, without prior notice, order a vehicle towed, when:

(A) The vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic;

(B) The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or at any time and place the vehicle is interfering or reasonably likely to interfere with the intended use of such a space, zone, or traffic lane;

(C) The vehicle poses an immediate danger to the public safety;

(D) The vehicle is illegally parked within 10 feet of a fire hydrant;

(E) A police officer reasonably believes that the vehicle is stolen;

(F) A police officer reasonably believes that the vehicle or its contents constitute evidence of any offense, if towing is reasonably necessary to obtain or preserve the evidence;

(G) The vehicle was in possession of a person taken into custody by a law enforcement officer and no other reasonable disposition of the vehicle is available;

(H) The vehicle is in the possession of a person arrested for any felony traffic offense, as defined by Oregon Revised Statutes; or

(I) A police officer reasonably believes that the vehicle's operator is driving uninsured.
(Ord. 96, passed 1-5-1996) Penalty, see § 10.99

§ 94.03 TOWING REQUIRING PRIOR NOTICE.

(A) Except as provided in § 94.02, vehicles may be towed only after notice has been provided as required in this chapter.

(B) Vehicles subject to tow under this section may not be towed prior to a hearing, if one has been requested, pursuant to § 94.09 of this code.
(Ord. 96, passed 1-5-1996)

§ 94.04 TOWING UPON COURT ORDER.

Vehicles that have been used in the commission of a traffic or parking violation, for which an unserved warrant or citation is on file with the clerk of any court, may be towed upon order of the court.
(Ord. 96, passed 1-5-1996) Penalty, see § 10.99

§ 94.05 NOTICE OF TOWING.

(A) When notice is required before towing a vehicle, notice shall be provided by:

(1) Affixing a tow warning to the vehicle at least 10 days prior to the tow; and

(2) Mailing a notice to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle within 48 hours, Saturdays, Sundays, and holidays excluded, after the tow warning is affixed to the vehicle.

(B) The tow warning and the mailed notice will state:

(1) The vehicle is parked in violation of city code or state law;

(2) The city intends to tow and remove the vehicle if the violation is not corrected; and

(3) A hearing is available to contest the validity of the intended tow, and shall state the method of requesting a hearing, including the date by which a hearing may be requested.

(C) If a timely request for hearing is received pursuant to § 94.09 herein, the vehicle will not be towed until the tow hearings officer makes a determination.
(Ord. 96, passed 1-5-1996)

§ 94.06 NOTICE AFTER TOWING; EXCEPTIONS.

(A) After a vehicle has been towed pursuant to this chapter, notice will be provided to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle. Notice will be mailed to that person within 48 hours after the tow of the vehicle, Saturdays, Sundays, and holidays excluded, and will state:

(1) That the vehicle has been towed;

(2) The location of the vehicle and that it may be reclaimed only upon evidence that the claimant is the owner or person entitled to possession;

(3) The address and telephone number of the person or facility that may be contacted for information on the charges that must be paid before the vehicle will be released and the procedures for obtaining the release of the vehicle;

(4) That the vehicle and its contents are subject to a lien for the towing and storage charges; that if the vehicle is not claimed within 30 days after the mailing date of the notice, the vehicle and its contents will be subject to sale by the city or the towing and storage facility where the vehicle is located; and that failure to reclaim the vehicle within that time will constitute a waiver of all interest in the vehicle; and

(5) Unless notice of the availability of a hearing to contest the tow has been provided prior to towing as prescribed in § 94.05(A), the notice will state that a hearing may be requested to contest the validity of the tow and will set forth the time in which a hearing must be requested and the method of requesting a hearing.

(B) If a vehicle has been reclaimed prior to the mailing of the notice, no notice need be mailed or provided, but the person or persons reclaiming the vehicle must be provided with written notice of the opportunity for a hearing to contest the tow as provided in § 94.09 of this code.

(C) In those circumstances in which it can reasonably be anticipated that mailing of notice may hinder or prevent the apprehension of a suspect in an ongoing criminal investigation, the mailing of the notice may be delayed until a time as will not prejudice that investigation or apprehension.
(Ord. 96, passed 1-5-1996)

§ 94.07 UNIDENTIFIABLE VEHICLE OWNERSHIP.

No notice need be mailed when:

(A) A vehicle does not display license plates or other identifying markings by which the registration or ownership of the vehicle can be determined; or

(B) When the identity of the owner of the vehicle is not available from the appropriate motor vehicle licensing and registration authority and when the identity and address of the owner and other persons with an interest in the vehicle cannot otherwise be reasonably determined.
(Ord. 96, passed 1-5-1996)

§ 94.08 NOTICE OF OPPORTUNITY TO CONTEST TOW.

Written notice of the opportunity to contest the validity of the tow of a vehicle, together with a statement of the time in which a hearing may be requested and the method of requesting a hearing, must be given to each person who seeks to redeem a vehicle which has been towed pursuant to this chapter. This information will be made available by the tow company or other facility holding the vehicle.
(Ord. 96, passed 1-5-1996)

§ 94.09 REQUEST FOR HEARING.

(A) After a vehicle has been towed pursuant to § 94.02 of this code, and prior to towing pursuant to § 94.03 of this code, the owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle are, upon timely application filed with the tow hearings officer, entitled to request a hearing to contest the validity of the tow or intended tow of the vehicle.

(1) In the case of a vehicle towed pursuant to § 94.02, the application must be filed with and received by the tow hearings officer not later than 10 days after the vehicle was towed.

(2) In the case of a vehicle proposed to be towed pursuant to § 94.03, the application must be filed with and received by the tow hearings officer not later than 10 days after the affixing of the tow warning to the vehicle.

(B) The tow hearings officer may, for good cause shown, grant a request for hearing filed after the foregoing time requirements have expired. If the mailing of the towed vehicle notice was delayed, the tow hearings officer will grant a request for hearing received and filed within 10 days of the mailing date of the notice or 10 days of the date of the vehicle was reclaimed, whichever occurs first.

(C) The request for hearing must be in writing and will state the grounds upon which the person requesting the hearing believes the tow or proposed tow invalid or for any other reason unjustified. The request for hearing will also contain other information, relating to the purposes of this chapter, as the tow hearings officer may require.

(D) The tow hearings officer will set and conduct an administrative hearing on the matter within 14 days of receipt of the proper request filed pursuant to this section. In all cases where a vehicle has been towed and not yet released, however, the tow hearings officer will set and conduct the hearing within 72 hours, not including Saturdays, Sundays, or holidays, on receipt of the request.
(Ord. 96, passed 1-5-1996)

§ 94.10 HEARING PROCEDURE.

(A) The hearing shall afford a reasonable opportunity for the person(s) requesting it to demonstrate by the statements of witnesses and other evidence, that the tow and storage of the vehicle was or would be invalid or for any other reason not justified.

(B) The tow hearings officer will make necessary rules and regulations regarding the conduct of these hearings, consistent with this section.
(Ord. 96, passed 1-5-1996)

§ 94.11 FINDINGS AND ACTION.

(A) *When tow found invalid.* If the tow hearings officer finds the tow or storage was or would be invalid or not justified, the tow hearings officer will order the vehicle:

(1) Be immediately released if already towed. The owner(s) or any other person(s) who have an interest in the vehicle are not liable for the tow or storage charges and any money paid for tow or storage charges will be returned, as appropriate; or

(2) Not be towed if the vehicle is about to be towed.

(B) *When tow found valid.*

(1) If the tow hearings officer finds the towing and storage were or would be valid, the tow hearings officer will order the vehicle, if still held, to be held until all tow and storage charges are paid. If the vehicle is about to be towed, pursuant to § 94.03, the tow hearings officer will order the vehicle to be towed and impounded if the violation involving that vehicle has not been completely corrected.

Department of State Police

Chapter 257

Division 50
NON-PREFERENCE TOWING

257-050-0050
Definitions

(1) "Abandoned Auto" or "Abandoned Vehicle" – A vehicle, as defined in ORS 819.110, that has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.

(2) "Another United States court" – The definition contained in ORS 163A.005(1).

(3) "Area Commander" or "Station Commander" – The local commanding officer of an area established by the Oregon State Police.

(4) "Business Records" – Those records maintained by a qualified tow business that relate to the non-preference tows and which include, but are not limited to, tow bills, letters of appointment, and inspection sheets.

(5) "Certified" or "Certification" – The successful completion by an employee of a tow business of a written test administered by a nationally recognized towing affiliated body/organization relating to the level of towing the employee operates.

(6) "Convicted" – An adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

(7) "Denial" – Action taken by the Department in refusing to issue a letter of appointment to a tow business.

(8) "Department" – The Department of State Police, also referred to as "Oregon State Police," and its employees.

(9) "Driver" – Any individual or employee associated with a qualified tow business or tow business and who operates a tow vehicle, regardless of whether the individual is listed in an application for a letter of appointment.

(10) "Employee" – Any person in the service of a tow business under contract of hire, express or implied, oral or written, where the business has the power or right to control and direct the employee in the material details of how the work for the business is to be performed.

(11) "Fencing" – Permanent fencing meeting zoning requirements, with a minimum height of six (6) feet.

(12) "Hazardous Vehicle" – A vehicle, as defined in ORS 819.120, that is disabled, abandoned, parked, or left standing unattended on a road or highway right of way and that is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway given that term in OAR 734-020-0147.

(13) "Hearings Officer" – A person appointed by an agency or entity contracted by the Department of State Police to conduct contested case hearings.

(14) "Highway" – Every public way, road, street, thoroughfare and place including bridges, viaducts and other structures within the boundaries of the state open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right (ORS 801.305).

(15) "Inspector" – A commissioned officer or other appointed representative of the Oregon State Police who has been designated by the Department to examine tow trucks and qualified tow businesses.

(16) "Letter of Appointment" – A letter issued by the Department that authorizes a tow business to tow abandoned or disabled vehicles on a non-preference rotational basis for the Oregon State Police.

(2) The city shall be responsible in all cases in which a hearing has been requested and held, and the tow and storage found to be valid, for those storage charges that have accrued from the date the hearing was requested through the first available hearing date.
(Ord. 96, passed 1-5-1996)

§ 94.12 HEARING ADMINISTRATION.

(A) The decision of the tow hearings officer is final.

(B) Any person who has a hearing scheduled pursuant to this section and fails to appear at the hearing without good cause shown, as determined by the tow hearings officer, will not be entitled to have that hearing rescheduled.

(C) The owner(s) and any other person(s) who have an interest in the vehicle are only entitled to 1 hearing for each tow of that vehicle.

(D) Owners of vehicles towed by court order are not entitled to a hearing pursuant to this chapter.
(Ord. 96, passed 1-5-1996)

§ 94.13 TOWING AND STORAGE CHARGES; RELEASE OF VEHICLE.

(A) *Charges and release of vehicle.*

(1) Any private company that tows and stores any vehicle pursuant to this chapter shall have a lien on the vehicle, in accordance with O.R.S. 87.152, for the just and reasonable charges for the tow and storage services performed. The company may retain possession of that vehicle, consistent with this chapter, until towing and storage charges have been paid. Provided, however, the city shall pay all storage charges that accrue as a result of the hearings process.

(2) If the required towing and storage charges have been paid, the vehicle must be immediately released to the person(s) entitled to lawful possession. However, if a vehicle is towed pursuant to this chapter for the operator's failure to have liability insurance, the person reclaiming the vehicle shall also provide proof of liability insurance before the vehicle can be released. If towing and storage charges have not been paid, a vehicle will not be released, except upon order of the tow hearings officer.

(3) A vehicle towed pursuant to this chapter may only be released to the owner, or to the person who was lawfully in 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. In all cases, adequate evidence of the right to possession of the vehicle must be presented prior to release of the vehicle.

(B) *When tow found invalid.*

(1) The accrued towing and storage charges assessed under this chapter will be waived by the hearings officer if the tow is found to be invalid or for any other reason not justified, after a hearing has been held.

(2) A person's inability to pay the towing and storage charges, in and of itself, is not a sufficient basis for the waiving of these charges.

(3) If the charges are owed to a private company, the city will pay them if, after a hearing, the tow is found to be invalid or for any other reason not justified and the charges have not previously been paid.

(C) *When tow found valid.* If the hearings officer finds the towing and storage were valid, the person entitled to possession of the vehicle will be responsible for all towing and storage charges except as provided for in § 94.11(B)(2) of this code.
(Ord. 96, passed 1-5-1996)

§ 94.14 STORAGE CHARGES AFTER HEARING COMPLETION.

After the tow hearings officer makes a public determination on a vehicle tow hearing, the vehicle must be picked up by the person entitled to possession within 24 hours to avoid other storage charges. If the vehicle is not claimed within this time period, it will not be released until the additionally accrued storage charges, if any, are paid.
(Ord. 96, passed 1-5-1996)

§ 94.15 UNCLAIMED VEHICLES; DISPOSITION.

(A) *When a vehicle may be sold.* Any vehicle that is not reclaimed within 30 days of the date notice is sent under § 94.06 (notice after towing) may be sold. A vehicle is not reclaimed, as meant herein, until the owner or other person entitled to possession of the vehicle has fully paid all required fees and charges and provided other documentation as is required under this chapter.

(B) *Sale of vehicles.*

(1) As often as necessary, the City Recorder will be provided with a list of all unclaimed vehicles which have been towed and stored by or for the city which have been in storage 30 days or longer.

(2) The City Recorder will, as soon as convenient, sell those vehicles at public auction to the highest bidder for cash. Notice of this auction shall be published once in a newspaper of general circulation in the city at least 10 days before the date of the sale, giving the time and place of the sale and generally describing the vehicles to be sold.

(3) When vehicles are sold as set forth herein, a certificate of sale will be issued by the city to the purchaser.

(4) The proceeds of the sale will be first applied to payment of the cost of the sale and expense incurred in the preservation and custody of the vehicles, and the balance, if any, will be credited to the general fund of the city.
(Ord. 96, passed 1-5-1996)

CHAPTER 95: PARKS AND RECREATION

Section

Cross-reference:

Offenses Concerning Alcoholic Beverages, see §§ 131.35 et seq.
Skateboards and Other Roller Devices, see §§ 71.45 et seq.

§ 95.01 HOURS OF PARK OPERATION.

(A) City parks shall be open and available for public use from 7:00 a.m. until dusk every day, 365 days per year, unless closed by the city.

(B) It shall be unlawful for a person or persons other than city staff, city agents, or emergency personnel to be in the city park at any time from dusk until 7:00 a.m.
(Ord. 123-01, passed 10-9-2001) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

Cross-reference:

Offenses Concerning Alcoholic Beverages, see §§ 131.35 et seq.

§ 110.01 PURPOSE.

This chapter is enacted, except as otherwise specified, to provide revenue for municipal purpose and to provide for the health, safety, and welfare of the citizens of the city through regulation of businesses, occupations, and trade.
(Ord. 97, passed 3-7-1996)

§ 110.02 EXEMPTIONS.

(A) Nothing in this chapter shall be construed to apply to any person transacting and carrying on business within the city which is exempt from taxation or regulation by the city by virtue of the Constitution of the United States or the state.

(B) No person whose income is based solely on a wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the city, and it is the intention that all license fees will be borne by the employer.

(C) Any business paying a franchise tax or fee under any city ordinance or resolution now existing is exempt from the requirements of this chapter.

(D) Wholesalers making deliveries or taking orders from duly licensed retail outlets within the city are exempt from the requirements of this chapter.

(E) Any person 16 years or younger who operates a business on a part-time basis, which business has an annual gross income of less than $1,500, is exempt from this chapter.
(Ord. 97, passed 3-7-1996)

§ 110.03 DEFINITIONS.

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

APPLICANT. Agent or owner of the named business.

AUCTION. The sale, or offer to sell, by public outcry or to the highest bidder.

BUSINESS. Any profession, trade, occupation, shop, and every type of calling wherein a charge is made for goods, materials, or services.

LICENSE. The permission granted for the carrying on of a business, profession, or occupation within the city limits.

LICENSEE. The business as specified and named by the applicant.

NON-PROFIT ORGANIZATION. A bona fide organization with tax exempt status.

PEDDLER. A person or persons, traveling from place to place selling and delivering at the same time.

PERSON. All public and private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the city.

REVOCATION. In reference to any business license, withdrawal of approval to operate a business.

SOLICITOR. One who travels from place to place, not carrying his or her goods with him or her, but taking orders for future deliveries.

SUSPENSION. In reference to a business license, an official order to suspend business operations pending correction or ceasing of certain conditions or practices.

TRANSIENT MERCHANT. One who occupies a temporary fixed location, sells and delivers from stock on hand, and does business in much the same manner as a permanent business.
(Ord. 97, passed 3-7-1996)

§ 110.04 LICENSE REQUIRED.

(A) A license fee is hereby imposed on any business not licensed by other ordinances of the city, and it shall be unlawful for any person to engage in any such business within the city without first having obtained a license for the current year as provided under this chapter.

(B) The agent, or agents, of a non-resident proprietor engaged in any business for which a license is required by this chapter shall be liable for any failure to comply with the provisions of this chapter, or for any penalty assessed under this chapter, to the extent, and with like effect, as if the agent or agents were themselves the proprietors or owners of the business.

(C) A person engaged in business in more than 1 location, or in more than 1 business licensed under this chapter, shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter.

(D) A person representing himself or herself, or exhibiting any sign or advertisement that he or she is engaged in a business within the city on which a license fee is levied by this chapter, shall be deemed to be actually engaged in the business and shall be liable for the payment of the license fee and subject to the penalties for failure to comply with the requirements of this chapter.

(E) The city may require proof of bonding, insurance, or state registration. An applicant shall possess any county or state license required or shall be awaiting final approval by the county or state, if city approval is a prerequisite, before a city license will be issued.

(F) The City Council reserves the right to waive or reduce the fee for non-profit organizations having tax exempt status.
(Ord. 97, passed 3-7-1996) Penalty, see § 10.99

§ 110.05 APPLICATION.

(A) Application for a new business license, or for renewal of an existing business license, shall be made to the City Manager upon forms furnished by the city.

(B) Each application shall state:

(1) The name of the proposed business;

(2) A description of the trade, shop, business, profession, occupation, or calling to be carried on;

(3) The name and address of the applicant;

(4) The address at which the business will be conducted, or the address of its city office;

(5) The amount of the license fee tendered with application;

(6) The signature of the applicant or agent making the application;

(7) The date of application;

(8) Evidence of satisfaction of state registration, bonding, or insurance, including registration number and expiration date;

(9) The year for which application is made; and

(10) Hazardous material on premises identified.

(C) The City Manager may require the applicant to supply any additional information necessary to determine under § 110.07 of this code the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.
(Ord. 97, passed 3-7-1996) Penalty, see § 10.99

§ 110.06 LICENSE FEES.

All business license fees shall be determined by resolution of the City Council.
(Ord. 97, passed 3-7-1996)

§ 110.07 APPROVAL, DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

(A) *Approval of application.*

(1) The City Council shall issue a decision on an application for a new business license within 30 days of the submission of a complete application and the required fee upon a finding that the applicant has met all requirements of federal, state, and county law and this chapter.

(2) The City Manager shall issue a license renewal upon finding that the applicant has met all requirements of federal, state, and county law and this chapter.

(3) If an application for a new license is approved, the City Manager shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which the City Council deems necessary to protect the public health, safety, or welfare which are required by federal, state, or county law, or this chapter.

(B) *Denial, revocation, or suspension of license.* The City Council may deny, suspend, or revoke a business license upon finding that:

(1) The license fails to meet the requirements of, or is doing business in violation of federal, state, or county law or requirements of this chapter;

(2) The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license;

(3) The applicant's past or present violation of law or ordinance presents a reasonable doubt of his or her ability to perform the licensed activity without endangering property or the public health or safety;

(4) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity; or

(5) The licensed activity or device would endanger property or the public health or safety.

(C) *Notice.* The City Manager shall provide written notice to the applicant or licensee of a denial, suspension, or revocation. The notice shall state the reason of the action taken and shall inform the applicant of the right to appeal under § 110.08 of this code. The notice shall be given at least 15 days before the revocation becomes effective. If the violation ends within the 15 days, the City Manager may discontinue the revocation proceedings.

(D) *Reapplication.* A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.

(E) *Disqualification.* A person whose application for any business license has been denied, or whose license has been revoked for a total of 2 times within 1 year, or who has a total of 4 denials or revocations, shall be disqualified from applying for a license for a period of 2 years from the date of the revocation or denial.

(F) *Summary suspension.* Upon determining that a licensed activity or device presents an immediate danger to person or property, the City Manager may summarily suspend the license for the activity or device. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. The notice shall state the reason for the suspension and inform the licensee

of the provisions for appeal under § 110.08 of this code. Within 10 days of a summary suspension the City Council shall review the pertinent facts which resulted in the suspension and shall determine whether those facts deem it necessary to continue the suspension in order to protect the health, safety, and welfare of the citizens of the city, or to otherwise ensure that the requirements of this chapter are complied with. The City Council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under § 110.08 of this code. (Ord. 97, passed 3-7-1996) Penalty, see § 10.99

§ 110.08 APPEAL.

In the event an applicant for a license under this chapter is denied the license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Manager within 15 days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regards to the appeal at its next regular meeting immediately following the filing of the notice of appeal. The decision of the City Council on the appeal shall be final and conclusive. (Ord. 97, passed 3-7-1996)

§ 110.09 DISCLAIMERS AND EXCEPTIONS.

(A) The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the city to the person engaged therein in the event the business shall be unlawful, illegal, or prohibited by state or federal laws, or ordinances of the city.

(B) Nothing herein contained shall be taken or construed to vest any right in any license as a contract obligation on the part of the city. Business license fees, as set by Council resolution, may be increased or decreased, and additional fees may be levied, increased, or decreased, at any time by the City Council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.

(C) None of the fees, bonds, or insurance requirements provided for in this chapter or the rules adopted under this chapter shall be required if the applicant is a municipality. (Ord. 97, passed 3-7-1996)

§ 110.10 GENERAL LICENSE REQUIREMENTS.

In addition to any other requirement of this chapter, each licensee shall:

(A) Conform to all federal, state, and local laws and regulations, the provisions of this chapter, and any rules adopted hereunder;

(B) Notify the city within 10 days of any change in material information contained in the application, related materials, or license; and

(C) Display a business license upon request to any person with whom he or she is dealing as part of the licensed activity or to an officer or employee of the city.
(Ord. 97, passed 3-7-1996) Penalty, see § 10.99

CHAPTER 111: SIDEWALK RETAIL SALES

Section

§ 111.01 PERMIT REQUIRED.

No person shall conduct a business offering sidewalk retail sales as defined in § 111.02 without first obtaining a permit from the city. It is unlawful for any person to provide sidewalk retail service on any sidewalk within the city except as provided by this code.
(Ord. 163-2015, passed 1-12-2015)

§ 111.02 DEFINITIONS.

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

COMMERCIAL ZONE. Property which is zoned Commercial "C" pursuant to this code, or any other zone which may be created as a successor zone to such existing commercial zones.

SIDEWALK. That portion of the street, intended for use by pedestrians, which is between the curb lines or the lateral lines of a roadway and adjacent properties.

SIDEWALK RETAIL SERVICE. The sale of goods or services, including the sale of prepared or unprepared food, from a business to patrons passing, standing or seated on or next to any sidewalk.
(Ord. 163-2015, passed 1-12-2015)

§ 111.03 PERMIT FEE.

The permit fee for sidewalk retail sales shall be set by Council Resolution.
(Ord. 163-2015, passed 1-12-2015)

§ 111.04 PERMIT APPLICATION.

Application for a retail or sidewalk retail sales permit shall be made on a form to be provided by the city. Such application shall include, but not be limited to, the following information:

(A) Name and address of the applicant;

(B) The expiration date of applicant's city business license;

(C) A drawing showing the location and dimensions of the applicant's business in relation to the sidewalk area proposed to be used; including any proposed established paths of ingress/egress; the location of doorways; the width of sidewalk (distance from curb to building face); the location of trees and the location of any bus shelters, sidewalk benches, trash receptacles, or other improvement or sidewalk obstruction in the vicinity of the area to be used for sidewalk retail sales.

(D) A drawing showing the area requested for use as a sidewalk retail or restaurant with any nonpermanent items included and drawn to scale. Examples include tables, stands, racks, or chairs. Also include the location and size of any features used to delineate the area. This may be done in the same drawing required under division (C) of this section;

(E) Commencement date and hours of operation during which sidewalk retail sales will be offered.

(F) If the applicant is not the property owner, a letter signed by the property owner consenting to the provision of sidewalk retail sales adjacent to the fronting property on which the business is located.

(G) Other information as required by the City Manager to confirm ADA accessibility shall be maintained along with conformance with the standards of this section.
(Ord. 163-2015, passed 1-12-2015)

§ 111.05 LOCATION, RULES AND REVIEW.

(A) The area served by sidewalk retail sales shall not occupy more than 50% of the total sidewalk area and width and shall preserve at least 36 inches of pathway for pedestrians at all times; including any proposed paths of ingress/egress to a public right of way. The retail sales area shall not interfere with the Americans with Disabilities Act standards for clearance.

(B) Sidewalk retail sales shall be limited to the sidewalk area directly fronting upon the associated business.
(Ord. 163-2015, passed 1-12-2015)

§ 111.06 LIABILITY AND INSURANCE.

(A) Before a sidewalk retail sales permit shall be issued, the permittee shall sign an agreement releasing, indemnifying and holding the city harmless from and against all claims arising out of the permitted area, in a form provided by the city.

(B) Permits shall only be issued upon proof that the applicant possesses a certificate of insurance for public liability, food products liability (if applicable), and property damage insurance in such amounts as may be set by the city from time-to-time. The city shall be named as additional insured. Such insurance shall not terminate or be cancelled without 30 days' advance written notice to the city.
(Ord. 163-2015, passed 1-12-2015)

§ 111.07 FORM AND CONDITIONS OF PERMIT.

The permit shall be in a form designated by the City Manager. In addition to naming the permittee and other information deemed appropriate by the City Manager, the permit shall contain the following conditions:

(A) Each permit issued shall terminate December 31st of the year in which it is issued. Permits are renewable without changes annually by submitting a letter requesting permit renewal together with proof of current, valid insurance required in this section. Should an applicant wish to make material changes to an existing permit at any time during the year, a new application must be filed with all required attachments and fees.

(B) The permit issued shall be personal to the permittee only and is not transferable.

(C) The permit may be temporarily suspended by the City Manager if sidewalk retail sales could interfere with public works operations, community events, parades, or other events.

(D) The permit shall be specifically limited to the area shown on the permittee's application.

(E) The permittee shall ensure that its use of the sidewalk in no way interferes with sidewalk users or limits their free and unobstructed passage, including compliance with state and federal accommodation of disability laws.

(F) The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition; and at such times that the permittee is not utilizing the sidewalk as authorized, that all tables, chairs and other service materials and furniture shall be removed therefrom. If throw-away utensils, cups or plates are used, or if other trash will be generated by the use, trash containers shall be provided on site for use by the patrons.

(G) The permit shall not be issued unless the parties are in compliance with all laws regarding health, food vending and liquor and have obtained all necessary permits.
(Ord. 163-2015, passed 1-12-2015)

§ 111.08 DENIAL, REVOCATION OR SUSPENSION OF PERMIT.

(A) The City Manager or City Council may deny, revoke or suspend the permit for any sidewalk retail sales when:

(1) The permittee or operator of the facility has violated the provisions of this chapter; or

(2) Any necessary health permit has been suspended, revoked or cancelled; or

(3) The permittee does not have insurance as is required in this code.

(B) Upon denial or revocation, the City Manager shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason therefor. Revocation or suspension of a permit may be appealed to the City Council by filing a written notice of appeal with the City Manager.
(Ord. 163-2015, passed 1-12-2015)

§ 111.09 APPEAL.

If appealed, the City Manager shall place the appeal on the Council calendar for the next Council meeting and shall notify the appellant of the date the matter will be considered. At the hearing upon appeal, the Council shall consider the grounds for the denial or revocation and afford the appellant an opportunity to present evidence on his or her own behalf. The Council shall hear and determine the appeal, and the decision of the Council shall be final.
(Ord. 163-2015, passed 1-12-2015)

CHAPTER 112: MARIJUANA SALES

Section

§ 112.01 DEFINITIONS.

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

MARIJUANA ITEM. Has the meaning given that term in O.R.S. 475B.015(16).

MARIJUANA RETAILER. An OLCC-licensed retailer and/or person who 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. 168-2016, passed 9-8-2016)

§ 112.02 TAX IMPOSED.

As described in O.R.S. 475B.345 the city hereby imposes a tax of 3% on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.
(Ord. 168-2016, passed 9-8-2016)

§ 112.03 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. 168-2016, passed 9-8-2016)

TITLE XIII: GENERAL OFFENSES

Chapter

CHAPTER 130: GENERAL PROVISIONS

Section

§ 130.01 STATE CRIMINAL CODE ADOPTED.

Violation of any provision of O.R.S. Chapter 161, 162, 163, 164, 165, 166, or 167, as now enacted or hereafter amended, shall constitute an offense against the city.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

§ 130.02 SOLICITING OR CONFEDERATING TO COMMIT OFFENSE.

No person shall solicit, aid, abet, employ, or engage another, or confederate with another to violate a provision of this title.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

§ 130.03 ATTEMPT TO COMMIT OFFENSE.

A person who shall attempt to commit any of the offenses mentioned in this title or any ordinance of the city, but who for any reason is prevented from consummating that act, shall be deemed guilty of an offense.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

§ 130.04 CONTINUING VIOLATIONS.

Whenever in this title, or any ordinance of the city, an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do an act is declared to be unlawful or an offense, each day a violation continues shall constitute a separate offense.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER AND MORALS

Section

CURFEW, TRUANCY, AND THE LIKE

§ 131.01 CURFEW FOR MINORS; PURPOSE.

The purpose of this subchapter is to:

(A) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city;

(B) Promote the safety and well-being of the city's youngest citizens, persons under the age of 17 whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities and to being victimized by older perpetrators of crime; and

(C) Foster and strengthen parental responsibility for children.
(Ord. 122-01, passed 10-9-2001)

§ 131.02 DEFINITIONS.

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

CURFEW HOURS. As to minors under 15 years of age the ***HOURS OF CURFEW*** shall be between 10:00 p.m. and 6:00 a.m. the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the city, the curfew shall be between 11:00 p.m. and 6:00 a.m. the following morning. As to minors 15 years of age or older, the ***HOURS OF CURFEW*** shall be between 12:00 a.m. (midnight) and 6:00 a.m. the following morning.

EMERGENCY. Unforeseen circumstances or the status or condition resulting therefrom requiring immediate action to safeguard life, limb, or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

ESTABLISHMENT. Any privately owned place of business within the city operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment. With respect to an ***ESTABLISHMENT***, the term ***OPERATOR*** shall mean any person in any firm, association, partnership (and the members or partners thereof), or any corporation (and the officers thereof) conducting or managing that ***ESTABLISHMENT***.

MINOR. Any person under 17 years of age who has not been emancipated by court order.

OFFICER. A police or other law enforcement officer charged with the duty of enforcing the laws of the state or the ordinances of the city.

PARENT. Includes:

(1) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent if custody is shared under a court order or agreement);

(2) A person who is the biological or adoptive parent with whom a minor regularly resides;

(3) A person judicially appointed as a legal guardian of the minor; or

(4) A person 18 years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in divisions (1), (2), or (3) of this definition for the person to assume the care or physical custody of the child or as indicated by any other circumstances).

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access, including, but not limited to, streets, highways, roads, sidewalks, alleys, avenues, parks, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.

REGULAR SCHOOL HOURS. The hours of the full-time school which the minor would attend in the school district in which the minor resides on any day for which school is in session; or if the school in the school district of residence is unknown, ***REGULAR SCHOOL HOURS*** are the school hours of the North Marion School District on any day for which school is in session.

REMAIN. The following actions:

(1) To linger or stay at or upon a place; or

(2) To fail to leave a place when requested to do so by an officer or by the owner, operator, or other person in control of that place.

TEMPORARY CARE FACILITY. A non-locked, non-restrictive shelter at which minors may wait under visual supervision to be retrieved by a parent. Minors waiting in facilities of this type shall not be handcuffed or secured by handcuffs or otherwise to any stationary object.
(Ord. 122-01, passed 10-9-2001)

§ 131.03 CURFEW; EXCEPTIONS.

It shall be unlawful for a minor during curfew hours to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the city, unless:

(A) The minor is accompanied by a parent as defined in this subchapter;

(B) The minor is engaged in a lawful pursuit or activity which requires the presence of the minor in these public places during the hours specified in this subchapter;

(C) The minor is involved in an emergency;

(D) The minor is engaged in an employment activity or is going to or returning home from that activity without detour or stop;

(E) The minor is on the sidewalk directly abutting a place where he or she resides with a parent;

(F) The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, or the minor is going to or returning from such an activity without detour or stop;

(G) The minor is on an errand at the direction of a parent and the minor has in his or her possession a writing by the parents containing the following information: the name, signature, address, and telephone number of the parent authorizing the errand; the telephone number where the parent may be reached during the errand; the name of the minor; and a brief description of the errand, the minor's destination, and the houses the minor is authorized to be engaged in the errand;

(H) The minor is involved in interstate travel through or beginning or terminating in the city; or

(I) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.
(Ord. 122-01, passed 10-9-2001) Penalty, see § 131.99

§ 131.04 CURFEW; UNLAWFUL ACTS.

(A) No parent shall allow a minor to be in or upon any street, highway, park, alley, or other public place between the hours specified in § 131.02 above except as otherwise provided in § 131.03.

(B) It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow, or encourage a violation of § 131.03 above.

(C) It shall be unlawful for the operator of any establishment or for any person who is an employee thereof to knowingly permit, allow, or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this division that the operator or employee of an establishment promptly notify the Police Department that a minor was present at the establishment after curfew hours and refused to leave.

(D) It shall be unlawful for any person, including any minor, to give a false name, address, or telephone number to any officer investigating the possible violation of § 131.03 of this code.
(Ord. 122-01, passed 10-9-2001) Penalty, see § 131.99

§ 131.05 TRUANCY REDUCTION.

It shall be unlawful for a minor who is at least 7 years of age and under 18 years of age and who has not completed the twelfth grade to be upon any street, highway, parks, alley, or other public property during regular school hours except while attending school as required by O.R.S. 339.010 - 339.065, unless that minor is:

(A) Absent from school with the school's permission, but not including students who have been suspended or expelled;

(B) Engaged in a lawful pursuit or activity that requires the minor's presence somewhere other than school during regular school hours which is authorized by the parent or other person having legal care and custody of that minor;

(C) Lawfully emancipated pursuant to O.R.S. 419B.550 - 419.558; or

(D) Exempt from compulsory school attendance pursuant to O.R.S. 339.030.
(Ord. 122-01, passed 10-9-2001) Penalty, see § 131.99

§ 131.06 ENFORCEMENT.

(A) Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle, or establishment within the city during curfew hours is a violation of this subchapter. If the investigation reveals that the presence of the minor is in violation of this subchapter, then:

(1) If the minor has not previously been issued a warning for any such violation, then the officer shall issue a verbal warning to the minor and a written warning mailed to the parent; or

(2) If the minor has previously been issued a warning for any such violation, then the officer shall charge the minor with a violation of this subchapter and shall issue a summons requiring the minor to appear in the Municipal Court.

(B) As soon as practicable after conducting this investigation and issuing warnings or citations the officer shall release the minor to his or her parents or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so that his or her parents may retrieve the minor. If a minor refuses to give an officer his or her name and address, refuses to give the name and address of his or her parents, or if no parent can be located prior to the end of the applicable curfew hours, or if located no parent appears to accept custody of the minor, the minor may be taken into custody as provided in O.R.S. 419C.080, 419C.085, and 419C.088.
(Ord. 122-01, passed 10-9-2001) Penalty, see § 131.99

OFFENSES CONCERNING MINORS

§ 131.20 CHILDREN CONFINED IN UNATTENDED VEHICLES.

(A) No person who has under his or her control or guidance a child under 10 years of age may at any time leave, lock, confine, or permit the child to be left, locked, or confined unattended in any vehicle on the streets, alleys, or public ways for a period of time longer than 15 consecutive minutes.

(B) It shall be lawful and the duty of a police officer or other peace officer, finding a child or children confined in violation of the terms of this section, to enter the vehicle and remove the child, using such force as is necessary to effect an entrance to the vehicle or place where the child may be confined in order to remove the child.
(Ord. 122-01, passed 10-9-2001) Penalty, see § 131.99

§ 131.21 ENDANGERING WELFARE OF A MINOR.

(A) No person shall:

(1) Knowingly sell, or cause to be sold, tobacco in any form to a person under 18 years of age; or

(2) Employ a person under 18 years of age in or about a cardroom, poolroom, billiard parlor, or dance hall.

(B) No person shall solicit, aid, abet, or cause a person under 18 years of age to:

(1) Violate a federal or state law, or violate a city or county ordinance; or

(2) Run away or conceal himself or herself from a person or institution having lawful custody of the minor.

(C) No person operating or assisting in the operation of a public cardroom, poolroom, billiard parlor, or public place of amusement shall employ or permit a person under the age of 18 years to engage therein in any game of cards, pool, billiards, dice, darts, pinball, games of like character, or games of chance, either for amusement or otherwise. This division shall not apply to the playing of billiards or pool in a recreational facility.

(D) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

RECREATIONAL FACILITY. An area, enclosure, or room in which facilities are offered to the public to play billiards or pool for amusement only, and:

(a) Which is clean, adequately lighted and ventilated; and

(b) In which no alcoholic liquor is sold or consumed.

(Ord. 311, passed 4-17-1975) Penalty, see § 131.99

§ 131.22 MINORS PROHIBITED IN CERTAIN PLACES.

No person under 18 years of age shall enter, visit, or loiter in or about a public cardroom, pool hall, billiard parlor, or dance hall, except a recreational facility.

(Ord. 311, passed 4-17-1975) Penalty, see § 131.99

OFFENSES CONCERNING ALCOHOLIC BEVERAGES

§ 131.35 DEFINITIONS.

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

ALCOHOLIC LIQUOR. Alcohol beverages containing more than 0.5% of alcohol by volume and every liquid or solid, patented or not, containing alcohol and consumed by a human being.

LIQUOR CONTROL ACT. The state law designated by O.R.S. 471.027.

MINOR. A person under the age of 21.

SELL. To solicit or receive an order; keep or expose for sale; deliver for value or in any way other than purely gratuitously, peddle, keep with intent to sell; traffic in; or procure or allow to be procured for any consideration promised or obtained directly or indirectly, or under any pretext or by any means.

(Ord. 123-01, passed 10-9-2001)

§ 131.36 INTOXICATED PERSONS IN PUBLIC; ACTION.

(A) A person who is intoxicated in a public place may be taken or sent to the person's home or to a treatment facility by the police. However, if the intoxicated person is incapacitated, the person's health appears to be in immediate danger, or the police have reasonable cause to believe the person is dangerous

to himself or herself or to any other person, the person shall be taken by the police to an appropriate treatment facility. A person shall be considered incapacitated when unable to make a rational decision to the offer of assistance.

(B) The director of the treatment facility shall determine whether a person shall be admitted as a patient, referred to another treatment facility, or denied referral or admission. If the person is incapacitated or the person's health appears to be in immediate danger, or if the director has reasonable cause to believe the person is dangerous to himself or herself or to any other person, the person must be admitted.

(C) In the absence of a treatment facility or if refused entry into a treatment facility, an intoxicated person who would otherwise be taken by police to a treatment facility may be taken to the city jail and held until the person is no longer intoxicated or incapacitated.

(D) A person shall be discharged within 48 hours unless the person has applied for voluntary admission to the treatment facility.

(E) An intoxicated person taken into custody by the police for a violation of a city ordinance or code provision shall immediately be taken to an available treatment facility, if any, when the condition or intoxication requires emergency medical treatment.

(F) The records of a patient at a treatment facility shall be confidential and shall not be disclosed without the consent of the patient. A patient's request that no disclosures be made of the patient's admission to a treatment facility shall be honored unless the patient is incapacitated or disclosure of admission is otherwise required by law.

(G) No peace officer, treatment facility and staff, physician, or judge shall be held criminally or civilly liable for actions pursuant to this section if the act was in good faith, on probable cause, and without malice.
(Ord. 123-01, passed 10-9-2001) Penalty, see § 131.99

§ 131.37 POSSESSION OR CONSUMPTION; PREMISES LIQUOR LICENSE REQUIRED.

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

PREMISES OPEN TO THE PUBLIC. Premises which are open to the general public, whether privately or publicly owned, irrespective of whether or not the premises are actually open at the time.

PUBLIC PLACE. Places defined as public by O.R.S. 161.015(10).

(B) No person shall drink or be in possession of an open container or alcoholic beverages in a public place or premises open to the public unless the place or premises has been licensed by the State Liquor Control Commission to sell intoxicating liquor for consumption or on premises for which a permit has been issued by the city.
(Ord. 123-01, passed 10-9-2001) Penalty, see § 131.99

§ 131.38 MINOR IN POSSESSION.

No person under the age of 21 years shall possess or attempt to purchase or acquire alcoholic liquor, except when a minor is in a private residence accompanied by and with permission of a parent or legal guardian.
(Ord. 123-01, passed 10-9-2001) Penalty, see § 131.99

§ 131.39 DELIVERY OF LIQUOR TO A MINOR OR INTOXICATED PERSON.

(A) No person shall sell alcoholic liquor to any person under the age of 21 years or to a person who is visibly intoxicated.

(B) No person other than his or her parent or guardian shall give or otherwise make available any alcoholic liquor to any person under the age of 21 years.

(C) No person shall give or otherwise make available any alcoholic liquor to a person visibly intoxicated.
(Ord. 311, passed 4-17-1975) Penalty, see § 131.99

§ 131.40 PUBLIC INTOXICATION; DISTURBANCE; CONSUMPTION.

(A) No person shall create, while in a state of intoxication, any disturbance of the public or any public or private business or place.

(B) No person shall drink or consume intoxicating liquor in a public place or in a motor vehicle in a public place. Nothing in this division shall be deemed to prohibit drinking of any intoxicating liquor in any establishment wherein the same is sold for on-premises consumption under the laws of the state.
(Ord. 311, passed 4-17-1975) Penalty, see § 131.99

OFFENSES AGAINST PUBLIC ORDER AND DECENCY

§ 131.55 BEGGING.

No person shall physically accost another in a public place for the purpose of soliciting alms.
(Ord. 311, passed 4-17-1975) Penalty, see § 131.99

§ 131.56 PUBLIC INDECENCY.

(A) No person shall expectorate upon a public sidewalk or street, or on or in a public building, except in receptacles provided for that purpose.

(B) No person shall, while in or upon or in view of a public place, urinate or defecate, except in toilets provided for that purpose.
(Ord. 311, passed 4-17-1975) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) *General.* Violation of any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as provided in § 10.99 of this code.

(B) *Tobacco possession by minors.*

(1) Upon a finding of guilty of § 131.20 by the Municipal Judge, either by trial or a guilty plea, a $25 minimum fine shall be imposed. A second finding of guilty for the same offense shall result in a $50 minimum fine being imposed. A third finding of guilty for this offense and subsequent offenses shall result in a $100 minimum fine.

(2) The fine of $25 for the first offense may be waived by the court upon proof of completion, by minor, of a smoking cessation program.
(Ord. 122-01, passed 10-9-2001)

CHAPTER 132: OFFENSES AGAINST PROPERTY

Section

§ 132.01 DEFACEMENT OF POSTED NOTICE.

No person shall willfully deface or tear down any notice, bulletin, or sign before its date of expiration.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

§ 132.02 POSTING BILLS.

No person shall in any manner affix a placard, bill, or poster upon personal or real property, private or public, without first obtaining permission of the owner or proper public authority.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

Weapons; Firearms; Fireworks

Obstruction and Use of Public Ways

Cross-reference:

Nuisances affecting public safety, see § 91.16
Use and Obstruction of Public Ways, see §§ 90.20 et seq.

WEAPONS; FIREARMS; FIREWORKS

§ 133.01 DISCHARGE OF WEAPONS RESTRICTED.

Except at firing ranges, no person other than a peace officer shall fire or discharge a gun, including spring or air-actuated pellet guns, air guns, or other weapons which propel a projectile by use of gunpowder or other explosive, jet, or rocket propulsion.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

§ 133.02 FIREWORKS LAWS ADOPTED.

The following sections of the State Fireworks Law, O.R.S. 480.110 to 480.165, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and shall be a part of this chapter as if set forth in full herein.
(Ord. 311, passed 4-17-1975)

OBSTRUCTION AND USE OF PUBLIC WAYS

§ 133.15 OBSTRUCTION OF BUILDING ENTRANCES.

No person shall obstruct any entrance to a building or loiter about or near an entrance, stairway, or hall leading to a building.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

§ 133.16 OBSTRUCTION OF SIDEWALKS.

No person shall willfully remain standing, lying, or sitting down upon any of the sidewalks of the city in a manner so as to obstruct the free passage of foot traffic or foot travelers on any portion of the same, or willfully remain standing, lying, or sitting thereon in that manner after being requested to move on by any police officer of the city.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

§ 133.17 BOARDING AND EXITING TRAINS.

No person other than a railroad employee or his or her assistants shall get on or off of any moving railroad car or train at any place within the corporate limits of this town, except at the regular depot platform of the railroad company, or in any manner interfere with railroad cars or trains within the corporate limits of this town.
(Ord. 311, passed 4-17-1975) Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

CHAPTER 150: GENERAL PROVISIONS

Section

Development Plans and Regulations

DEVELOPMENT PLANS AND REGULATIONS

§ 150.01 COMPREHENSIVE PLAN ADOPTED.

(A) The city does hereby adopt the City Comprehensive Plan, July 1978, as the long range land use plan, and which shall be a part of this code as if set forth in full herein.

(B) The Comprehensive Plan shall be kept on file in the office of the City Recorder and available for public review.
(Ord. 1-78-79, passed 7-19-1978; Am. Ord. 50, passed 2-3-1988; Am. Ord. 133-05, passed 9-13-2005; Am. Ord. 138-08, passed 4-8-2008; Am. Ord. 139-09, passed 6-9-2009)

§ 150.02 DEVELOPMENT ORDINANCE ADOPTED.

The City Council does hereby adopt the City Development Ordinance attached to Ord. 102 as Exhibit B by reference, and that ordinance shall be a part of this code as if set forth in full herein.
(Ord. 102, passed 7-11-1996; Am. Ord. 106-97-1, passed 3-6-1997; Am. Ord. 124-01, passed 12-11-2001; Am. Ord. 130-04, passed 6-8-2004; Am. Ord. 139-09, passed 6-9-2009)

§ 150.03 PLANNING COMMISSION.

(A) *Composition.* There is a City Planning Commission for the City of Donald. The Commission consists of seven members appointed and serving at the pleasure of the Donald City Council. The

chairperson and vice-chair shall be elected by the members of the Planning Commission at the first meeting of the calendar year. Their term shall start upon election and shall continue for a one-year term and until such time as their successors are elected. If the office of the chairperson becomes vacant, the vice-chair shall succeed as chairperson for the remainder of the year, the membership shall elect a successor vice-chairperson to serve the unexpired term of the vice-chair.

(B) *Qualification of members.* No fewer than five members of the Planning Commission shall be residents of the City of Donald. In order to serve on the Planning Commission, non-residents must own property within the urban growth boundary or operate a business within the city limits. Commissioners shall be of legal voting age. No more than one Commissioner may engage principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or be officers or employees of any corporation, that engages principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or be officers or employees of any corporation, that engages principally in the buying, selling, or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

(C) *Term of members.* Members of the Planning Commission shall hold office for a term of three years. Those members in office on the effective date of this section shall remain in office for the remainder of their terms. After each three-year term members of the Planning Commission may reapply to serve one or more additional terms on the Planning Commission. Vacancies occurring during a member term shall be filled by the City Council for the unexpired portion of that term. When a vacancy occurs, the city shall give public notice of the vacancy inviting letter of interest from qualified candidates.

(D) *Quorum.* Four members of the Planning Commission shall constitute a quorum. No action shall be taken in the absence of the quorum except to adjourn the meeting and continue public hearings which are suspended by reason of the absence of a quorum. For the purpose of forming a quorum, Commissioners who have recused themselves or who are disqualified from participation in any matter, shall be counted as present despite their inability to vote. A majority vote of the Commission members present shall be sufficient for taking any action authorized by the Planning Commission.

(E) *Rules of procedure.* The Planning Commission shall meet at the request of the city and in conformity with state and local laws as required to render land use decisions, and additionally may meet from time to time to decide Commission business. Except for the provisions of division (D) above, the Planning Commission is authorized to adopt rules of procedure for the conduct of its meetings and hearings, provided such rules do not conflict with state law, city charter and ordinances and the Comprehensive Plan. A copy of such rules shall be filed with the City Recorder and be made available for inspection to those appearing before the Planning Commission prior to a scheduled meeting.

(F) *Right of parties to present evidence at hearings.* At public hearings before the Planning Commission, all interested persons and organizations shall be allowed an opportunity to be heard and to present and rebut evidence consistent with the requirements of state and local law. The Planning Commission may set consistent, reasonable, time limits for oral presentations. Parties are encouraged to submit evidence in writing at or prior to Planning Commission hearings.
(Ord. 151-2013, passed 5-14-2013)

CHAPTER 151: BUILDING REGULATIONS; CONSTRUCTION

Section

Design and Construction Standards

Adoption of Codes

Cross-reference:
Dangerous and Unsanitary Buildings, see §§ 91.30 et seq.

DESIGN AND CONSTRUCTION STANDARDS

§ 151.01 DESIGN AND CONSTRUCTION STANDARDS ADOPTED.

The Design and Construction Standards for Public Works Construction in the city, as titled and attached to Ord. 115-00, is adopted by reference and shall be a part of this code as if set forth in full herein.
(Ord. 115-00, passed 5-9-2000)

§ 151.02 COPY ON CONSTRUCTION SITE.

All planned unit developments, subdivisions, and multi-family developments, as defined in the City Development Code, shall be required to maintain a current copy of the City Department of Public Works, Design and Construction Standards on site during construction.
(Ord. 115-00, passed 5-9-2000) Penalty, see § 10.99

§ 151.03 AMENDMENT.

As prescribed fees may require future revision, the provisions of this subchapter may be varied by passage of a resolution by the City Council.
(Ord. 115-00, passed 5-9-2000)

ADOPTION OF CODES

§ 151.15 ADOPTION OF UNIFORM CODES.

(A) *Adoption.* There are hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property those certain codes as follows save and except those portions as are hereinafter modified or amended, and the same are hereby adopted and incorporated as fully as if set out at length herein; and from the date on which this section shall take effect the provisions thereof shall be controlling within the corporate limits of the city.

(B) *Uniform Fire Code.* There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain code known as the Uniform Fire Code recommended by the Western Fire Chiefs Association and the International Conference of Building Officials with state amendments as if set out at length herein and the provisions thereof shall be controlling within the corporate limits of the city.

(C) *Abatement of dangerous buildings.* There is hereby adopted by the city for the purpose of prescribing regulations governing dangerous buildings that certain code known as the 1994 edition of the Uniform Code for the Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials as now enacted or hereinafter amended.

(D) *Excavation and grading.* This city adopts by reference Chapter 33 of the Uniform Building Code adopted by the International Conference of Building Officials (1994 edition) and as amended.

(E) *Specialty codes.* The city adopts the following state specialty codes:

(1) State One and Two Family Dwelling Specialty Code;

(2) State Manufactured Home Installation Specialty Code;

(3) State Manufactured Home Park Construction Specialty Code;

(4) State Mechanical Specialty Code;

(5) State Plumbing Specialty Code; and

(6) State Recreational Vehicle Park Construction Specialty Code.
(Ord. 116-00, passed 9-12-2000)

§ 151.16 DEFINITIONS.

For the purpose of § 151.15, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPEALS. Whenever the designated enforcement officer shall disapprove an application or refuse to grant a permit applied for or when it is claimed that the provisions of any of the codes described in § 151.15 above do not apply or that the true intent and meaning of those codes have been misconstrued or wrongly interpreted, the applicant may appeal from the decision to the City Council.

(1) The ***BOARD OF APPEALS*** referred to in the Uniform Fire Code shall be the Board of Appeals designated by the Aurora Fire District.

(2) The ***BOARD OF APPEALS*** referred to in the Uniform Code for the Abatement of Dangerous Buildings shall be those persons as have been designated by the Aurora Fire District.

CORPORATION COUNSEL. As used in any of the above codes prescribing regulations to govern conditions hazardous to life and property, it shall be held to mean the City Attorney for this city.

FIRE DEPARTMENTS. As used in any of the above codes prescribing regulations to govern conditions hazardous to life and property, it shall be held to mean the Aurora Fire District. The Structural Specialty Code and Mechanical Specialty Code shall each be enforced by those persons designated by the city. The Uniform Code for the Abatement of Dangerous Buildings shall be enforceable by both the city and the Aurora Fire District.

JURISDICTION. As used in any of the above codes prescribing regulations to govern conditions hazardous to life and property, it should be held to mean this city.
(Ord. 116-00, passed 9-12-2000)

CHAPTER 152: FINANCING PUBLIC IMPROVEMENTS

Section

System Development Charges

Reimbursement Districts

SYSTEM DEVELOPMENT CHARGES

§ 152.01 PURPOSE.

The purpose of the system development charge is to impose a portion of the cost of capital improvements for water, wastewater, drainage, streets, flood control, and parks and recreation upon those developments that create the need for or increase the demands on capital improvements.
(Ord. 108-97, passed 8-14-1997)

§ 152.02 SCOPE.

The system development charge 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.
(Ord. 108-97, passed 8-14-1997)

§ 152.03 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:

(1) Water supply, treatment, and distribution;

(2) Wastewater collection, transmission, treatment, and disposal;

(3) Drainage and flood control;

(4) Transportation; or

(5) Parks and recreation.

DEVELOPMENT. A building or mining operation making a physical change in the use or appearance of a structure or land, dividing land into 2 or more parcels (including partitions and subdivision), and creating or termination of a right of access.

IMPROVEMENT FEE. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to this subchapter.

LAND AREA. The area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way, or easement subject to a servitude for a public street or scenic or preservation purpose.

OWNER. The owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

PARCEL OF LAND. A lot, parcel, block, or other tract of land that is occupied or may be occupied by a structure, or structures, or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinance.

QUALIFIED PUBLIC IMPROVEMENT. A capital improvement that is:

(1) Required as a condition of development approval;

(2) Identified in the improvement plan adopted pursuant to this subchapter; and

(3) Not located on or contiguous to a parcel of land that is the subject of the residential development approval.

REIMBURSEMENT FEE. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to § 152.04 of this code.

SYSTEM DEVELOPMENT CHARGE. A reimbursement fee, an improvement fee, or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. ***SYSTEM DEVELOPMENT CHARGE*** includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. ***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 cost of complying with requirements or conditions imposed by a land use decision.
(Ord. 108-97, passed 8-14-1997)

§ 152.04 SYSTEM DEVELOPMENT CHARGE ESTABLISHED.

(A) System development charges shall be established and may be revised by resolution of the Council.

(B) Unless otherwise exempted by the provisions of the subchapter, or other local or state law, a system development charge is imposed upon all persons who develop parcels of land that connect to or which will otherwise use or create a need for the sewer facilities, storm sewers, water facilities, streets, or parks and open spaces of the city.
(Ord. 108-97, passed 8-14-1997) Penalty, see § 152.99

§ 152.05 METHODOLOGY.

(A) The methodology used to establish the reimbursement fee shall consider the cost of then existing facilities, prior contributions by then existing users, the value of unused capacity, rate making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then existing facilities.

(B) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

(C) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the Council.
(Ord. 108-97, passed 8-14-1997)

§ 152.06 AUTHORIZED EXPENDITURES.

(A) *Reimbursement fees.* Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(B) *Improvement fees.*

(1) Improvement fees shall be spent only on improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

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

(C) *Costs of compliance.* Notwithstanding divisions (A) and (B) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this subchapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.
(Ord. 108-97, passed 8-14-1997)

§ 152.07 EXPENDITURE RESTRICTIONS.

(A) System development charges 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) System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.
(Ord. 108-97, passed 8-14-1997)

§ 152.08 IMPROVEMENT PLAN.

The Council shall adopt a plan by resolution 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.
(Ord. 108-97, passed 8-14-1997)

§ 152.09 COLLECTION OF CHARGE.

(A) The system development charge is payable upon issuance of:

(1) A building permit;

(2) A permit to connect to the water system;

(3) A permit to connect to the sewer system; or

(4) A development permit, not requiring the issuance of a building permit.

(B) If development is commenced or connection is made to the water or sewer systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required. If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

(C) The City Manager, or his or her designee, shall collect the applicable system development charge when a permit that allows the building or development of a parcel is issued, or when a connection to the water or sewer system of the city is made.

(D) The City Manager, or his or her designee, shall not issue the permit or allow the connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to § 152.11, or unless an exemption is granted pursuant to § 152.12.
(Ord. 108-97, passed 8-14-1997) Penalty, see § 152.99

§ 152.10 DELINQUENT CHARGES; HEARINGS.

(A) When, for any reason, the system development charge has not been paid, the City Manager shall report to the Council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, and the name of the person responsible for the payment of the fee.

(B) The City Council shall schedule a public hearing on the matter and direct that notice of the hearing be given to each owner or person responsible for payment of the fee, with a copy of the City Manager's report concerning the unpaid charge. Notice of the hearing shall be given either personally, or by certified mail, return receipt requested, or by both personal and mailed notice, and by posting notice on the parcel at least 10 days before the date set for the hearing.

(C) At the hearing, the Council may accept, reject, or modify the determination of the City Manager as set forth in the report.

(D) The City Manager shall report to the Council 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 parcel.
(Ord. 108-97, passed 8-14-1997)

§ 152.11 INSTALLMENT PAYMENT.

(A) When a system development charge of $25 or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment in at least 10 semi-annual installments, to include interest on the unpaid balance, in accordance with O.R.S. 223.208.

(B) The City Manager shall provide application forms for installment payments which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

(C) An applicant for installment payment shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

(D) The City Manager shall report to the Council 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 parcel.

(E) The City Manager shall docket the lien in the lien docket. From that time, the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by resolution of the Council. The lien shall be enforceable in the manner provided in O.R.S. Chapter 223.
(Ord. 108-97, passed 8-14-1997)

§ 152.12 EXEMPTIONS, REDUCTIONS, AND WAIVERS.

(A) Structures and uses established and existing on or before July 1, 1991, are exempt from system development charges imposed by this subchapter, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this division shall pay the water or sewer charges pursuant to the terms of this subchapter upon the receipt of a permit to connect to the water or sewer system.

(B) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

(C) An alteration, addition, replacement, or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from all portions of the system development charge.
(Ord. 108-97, passed 8-14-1997; Am. Ord. 134-06, passed 3-14-2006)

§ 152.13 CREDITS.

(A) A system development charge shall be imposed when a change of use of a parcel or structure occurs, but credit shall be given for the computed system development charge to the extent that prior structures existed and services were established on or before July 1, 1991. The credit so computed shall not exceed the calculated system development charge. No refund shall be made on account of this credit.

(B) A credit shall be given for the costs of a qualified public improvement which is located partially on and partially off the parcel that is the subject of the development approval. The credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the property. The credit provided for by this division shall be only for the improvement fee charges for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.

(C) Credit shall not be transferable from 1 development to another, except in compliance with standards adopted by the City Council.

(D) Credit shall not be transferable from 1 type of capital improvement to another.
(Ord. 108-97, passed 8-14-1997)

§ 152.14 DISPOSITION OF REVENUE.

(A) All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. The portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in § 152.06.

(B) The City Manager shall provide the City Council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account.
(Ord. 108-97, passed 8-14-1997)

§ 152.15 APPEALS PROCEDURE.

(A) A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision of the expenditure to the City Council by filing a written request with the City Manager describing with particularity the decision and the expenditure from which the person appeals. An appeal of an expenditure must be filed within 2 years of the date of the alleged improper expenditure.

(B) Appeals of any other decision required or permitted to be made by the City Manager under this subchapter must be filed within 10 days of the date of the decision.

(C) After providing notice to the appellant, the 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. 223.297-233.314 and may affirm, modify, or overrule the decision. If the Council determines that there has been an improper expenditure of system development charge revenues, the Council shall direct that sum equal to the misspent amount shall be deposited within 1 year to the credit of the account or fund from which it was spent.
(Ord. 108-97, passed 8-14-1997)

§ 152.16 PROHIBITED CONNECTION.

(A) No person may connect to the water or sewer systems of the city, unless the appropriate system development charge has been paid, or the installment payment method has been applied for and approved.

(B) Any person found to be violating any provision of this subchapter shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction. The offender shall, within the period of time stated in the notice, permanently cease all violations. Any person violating any of the provisions of this subchapter shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of that violation. (Ord. 108-97, passed 8-14-1997) Penalty, see § 152.99

REIMBURSEMENT DISTRICTS

§ 152.30 DEFINITIONS.

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

DEVELOPER. A person who is required or chooses to finance some or all of the cost of a street, water, or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the city for reimbursement for the expense of the improvement.

DEVELOPMENT PERMIT. Any final land use decision, limited land use decision, expedited land division decision, partition, subdivision, or driveway permit.

PUBLIC IMPROVEMENT. Any construction, reconstruction, or upgrading of water, storm water, sewer, or street improvements.

PUBLIC WORKS DIRECTOR. The Public Works Director of the city.

REIMBURSEMENT AGREEMENT. The agreement between the developer and the city which is authorized by the City Council and executed by the City Manager, providing for the installation of and payment for reimbursement district public improvements.

REIMBURSEMENT DISTRICT. The area which is determined by the City Council to derive a benefit from the construction of public improvements, financed in whole or in part by the developer.

REIMBURSEMENT FEE. The fee required to be paid by a resolution of the City Council and the reimbursement agreement. The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the developer for financing the construction of the improvement within the reimbursement district.
(Ord. 121-01, passed 4-10-2001)

§ 152.31 APPLICATION TO ESTABLISH REIMBURSEMENT DISTRICT.

(A) A person who is required to or chooses to finance some or all of the cost of a public improvement which will be available to provide service to property other than property owned by the person may by written application filed with the Public Works Director request that the city establish a reimbursement district. The public improvement must be of a size greater than that which would otherwise ordinarily be required in connection with an application for a building permit or development permit or must be available to provide service to property other than property owned by the developer, so that the public will benefit by making the improvement.

(B) The application shall be accompanied by an application fee, in the amount of $1,000, which the City Council has determined reasonable to cover the cost of the preparation of the Public Works Director's report and notice pursuant to this subchapter.

(C) The application shall include the following:

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

(2) A map showing the boundaries of the proposed reimbursement district, the tax account number of each property, and its size and boundaries;

(3) A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage and square footage of the properties, or similar data necessary for calculating the apportionment of the cost; the property or properties owned by the developer; and the names and mailing addresses of owners of other properties to be included in the proposed reimbursement district; and

(4) The actual or estimated cost of the public improvements.

(D) The application may be submitted to the city prior to the installation of the public improvement but not later than 180 days after completion and acceptance of the public improvements by the city.
(Ord. 121-01, passed 4-10-2001) Penalty, see § 152.99

§ 152.32 PUBLIC WORKS DIRECTOR'S REPORT.

(A) The Public Works Director shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Public Works Director may require the submission of other relevant information from the developer in order to assist in the evaluation.

(B) The Public Works Director shall prepare a written report for the City Council that considers and makes a recommendation concerning each of the following factors:

(1) Whether the developer will finance or has financed some or all of the cost of the public improvement, thereby making service available to the property, other than that owned by the developer;

(2) The boundary and size of the reimbursement district;

(3) The actual or estimated cost of the public improvement serving the area of the proposed reimbursement district and the portion of the cost for which the developer should be reimbursed for each public improvement;

(4) A methodology for spreading the cost among the properties within the reimbursement district and, where appropriate, defining a "unit" for applying the reimbursement fee to property which may, with city approval, be partitioned, subdivided, altered, or modified at some future date;

(5) The amount to be charged by the city for an administration fee for the reimbursement agreement. The administration fee shall be fixed by the City Council to reasonably reimburse the city for the cost of administering the reimbursement district and will be included in the resolution approving and forming the reimbursement district. The administration fee is due and payable to the city at the time the agreement is signed;

(6) Whether the public improvements will or have met city standards; and

(7) Whether it is fair and in the public interest to create a reimbursement district.
(Ord. 121-01, passed 4-10-2001)

§ 152.33 AMOUNT TO BE REIMBURSED.

(A) A reimbursement fee shall be computed by the city for all properties within the reimbursement district, excluding property owned by or dedicated to the city or the state, which have the opportunity to use the public improvements, including the property of the developer, for formation of a reimbursement district. The fee shall be calculated separately for each public improvement. The developer for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for its own property.

(B) The cost to be reimbursed to the developer shall be limited to the cost of construction engineering, construction, and off-site dedication of right-of-way. Construction engineering shall include surveying and inspection costs and shall not exceed 7.5% of eligible public improvement construction cost. Costs to be reimbursed for right-of-way shall be limited to the reasonable market value of land or easements purchased by the developer from a third party in order to complete off-site improvements.

(C) No reimbursement shall be allowed for the cost of design engineering, financing costs, permit or fees required for construction permits, land or easements dedicated by the developer, the portion of costs which are eligible for system development charge credits, or any costs which cannot be clearly documented.

(D) Reimbursement for legal expenses shall be allowed only to the extent that those expenses are reasonable and relate to the preparation and filing of an application for reimbursement.

(E) Reimbursement for the amount of the application fee required by § 152.31 of this code.
(Ord. 121-01, passed 4-10-2001)

§ 152.34 PUBLIC HEARING.

(A) Within 45 days after the Public Works Director has completed the report required in § 152.32, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

(B) Not less than 10 days prior to any public hearing held pursuant to this subchapter, the developer and all owners of the property within the proposed district shall be notified of the public hearing and the purpose thereof. This notification shall be accomplished by either regular and certified mail or by personal service. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the developer or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same.

(C) If a reimbursement district is formed prior to construction of the improvement(s), a second public hearing, subject to the same notice requirements, shall be held after the improvement has been accepted by the city. At that time, the City Council at its discretion may modify the resolution to reflect the actual cost of the improvement(s).
(Ord. 121-01, passed 4-10-2001)

§ 152.35 COUNCIL ACTION; RESOLUTION; AGREEMENT CONTENT.

(A) After the public hearing held pursuant to § 152.34(A), the City Council shall approve, reject, or modify the recommendation contained in the Public Works Director's report. The City Council's decision shall be contained in a resolution. If a reimbursement district is established, the resolution shall include the Public Works Director's report as approved or modified, and specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving any city permits applicable to development of the parcel as provided for in § 152.39 of this code.

(B) The resolution shall establish an interest rate to be applied to the reimbursement fee as a return on the investment of the developer. The interest rate shall be fixed and computed against the reimbursement fee as simple interest and will not compound.

(C) The resolution shall instruct the City Administrator to enter into an agreement with the developer pertaining to the reimbursement district improvements. If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the city. The agreement shall contain at least the following provisions:

(1) The public improvement(s) shall meet applicable city standards;

(2) The total amount of potential reimbursement to the developer shall be specified;

(3) The total amount of potential reimbursement shall not exceed the actual cost of the public improvement(s);

(4) The developer shall guarantee the public improvement(s) for a period of 12 months after the date of installation;

(5) A clause in a form acceptable to the City Attorney stating that the developer shall defend, indemnify, and hold harmless the city from any and all losses, claims, damages, judgments, or other costs or expenses arising as a result of or related to the city's establishment of the reimbursement district, including any city costs, expenses, and attorney fees related to collection of the reimbursement fee should the City Council decide to pursue collection of an unpaid reimbursement fee under § 152.39(H);

(6) A clause in a form acceptable to the City Attorney stating that the developer agrees that the city cannot be held liable for any of the developer's alleged damages, including all costs and attorney fees, under the agreement or as a result of any aspect of the formation of the reimbursement district, or the reimbursement district process, and that the developer waives, and is stopped from bringing, any claim, of any kind, including a claim in inverse condemnation, because the developer has benefitted by the city's approval of its development and the required improvements; and

(7) Other provisions the city determines necessary and proper to carry out the provisions of this subchapter.

(D) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.
(Ord. 121-01, passed 4-10-2001)

§ 152.36 NOTICE OF ADOPTION OF RESOLUTION.

The city shall notify all property owners within the district and the developer of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted, and a short explanation specifying the amount of the reimbursement fee and that the property owner is legally obligated to pay the fee pursuant to this subchapter.
(Ord. 121-01, passed 4-10-2001)

§ 152.37 RECORDING OF 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 Clerk so as to provide notice to potential purchasers of property within the district. This recording shall not create a lien. Failure to make the recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.
(Ord. 121-01, passed 4-10-2001)

§ 152.38 CONTESTING DISTRICT.

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following the adoption of a resolution establishing a reimbursement district, and any such legal action shall be exclusively by writ of review pursuant to O.R.S. 34.010 - 34.102.
(Ord. 121-01, passed 4-10-2001)

§ 152.39 OBLIGATION TO PAY REIMBURSEMENT FEE.

(A) The applicant for a permit related to property within any reimbursement district shall pay the city, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, if, within 10 years after the date of the passage of the resolution forming the reimbursement 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;

(2) Building permits(s) for any addition(s), modification(s), repair(s), or alteration(s) of a building, which exceed 25% of the value of the building within any 12-month period. The value of the

building shall be the amount shown on the most current records of the County Department of Assessment and Taxation for the building's real market value. This division shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;

(3) A development permit, as that term is defined by this subchapter; or

(4) A city permit issued for connection to a public improvement.

(B) The city's determination of who shall pay the reimbursement fee and when the reimbursement fee is due is final.

(C) In no instance shall the city, or any officer or employee of the city, be liable for payment of any reimbursement fee, or portion thereof, as a result of the city's determination as to who should pay the reimbursement fee. Only those payments which the city has received from or on behalf of those properties within a reimbursement district shall be payable to the developer. The city's general fund or other revenue sources shall not be liable for or subject to payment for outstanding and unpaid reimbursement fees imposed upon private property.

(D) Nothing in this subchapter is intended to modify or limit the authority of the city to provide or require access management.

(E) Nothing in this subchapter is intended to modify or limit the authority of the city to enforce development conditions which have already been imposed against specific properties.

(F) Nothing in this subchapter is intended to modify or limit the authority of the city, in the future, to impose development conditions against specific properties as they develop.

(G) 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 that payment was for a different type of improvement. No permit shall be issued for any of the activities listed in division (A) of this section unless the reimbursement fee, together with the amount of accrued interest, has been paid in full. Where approval is given as specified in division (A), but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

(H) The date of reimbursement under this subchapter shall extend 10 years from the date of the formation of a reimbursement district formation by City Council resolution.

(I) The reimbursement fee is immediately due and payable to the city by property owners upon use of a public improvement as provided by this subchapter in division (A) of this section. If connection is made or construction commenced without required city permits, then the reimbursement fee is immediately due and payable upon the earliest date that any such permit was required.

(J) Whenever the full reimbursement fee has not been paid and collected for any reason after it is due, the City Administrator shall report to the City Council the amount of the uncollected reimbursement, the legal description of the property on which the reimbursement is due, the date upon which the reimbursement was due, and the property owner's name or names. The City Council shall then, by motion, set a public hearing date and direct the City Administrator to give notice of that hearing to each of the identified property owners, together with a copy of the City Administrator's report concerning the unpaid reimbursement fee. The notice may be either by certified mail or personal service. At the public hearing, the City Council may accept, reject, or modify the City Administrator's report. If the City Council determines that the reimbursement fee is due but has not been paid for whatever reason, the City Council may, at its sole discretion, act, by resolution, to take any action it deems appropriate, including all legal or equitable means necessary to collect the unpaid amount. After the City Council has made the determination that the reimbursement fee is due but has not been paid, the developer shall have a private cause of action against the person legally responsible for paying the reimbursement fee.
(Ord. 121-01, passed 4-10-2001) Penalty, see § 152.99

§ 152.40 PUBLIC IMPROVEMENTS OWNED BY CITY.

Public improvements installed pursuant to reimbursement district agreements shall become and remain the sole property of the city.
(Ord. 121-01, passed 4-10-2001)

§ 152.41 MULTIPLE PUBLIC IMPROVEMENTS.

More than 1 public improvement may be the subject of a reimbursement district.
(Ord. 121-01, passed 4-10-2001)

§ 152.42 COLLECTION AND PAYMENT; OTHER FEES AND CHARGES.

(A) The developer shall receive all reimbursements collected by the city for reimbursement district public improvements. The reimbursements shall be delivered to the developer for as long as the reimbursement district agreement is in effect. The payments shall be made by the city within 90 days of receipt of the reimbursements.

(B) The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing liens or charges collected by the city.
(Ord. 121-01, passed 4-10-2001)

§ 152.43 FEES NOT A TAX.

The City Council finds that the fees imposed by this subchapter are not taxes subject to the property tax limitations of Art. XI, § 11(b) of the State Constitution.
(Ord. 121-01, passed 4-10-2001)

§ 152.99 PENALTY.

(A) Any person who shall violate any provision of this chapter for which no other penalty is prescribed shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.

(B) Any person who shall continue any violation of §§ 152.01 *et seq.* of this code beyond the time limit provided for in § 152.16, upon conviction thereof before the Municipal Judge, shall be fined in an amount to exceeding $200 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
(Ord. 108-97, passed 8-14-1997)

CHAPTER 153: REAL PROPERTY

Section

§ 153.01 PURPOSE.

This chapter is intended to implement the provisions added to O.R.S. Chapter 197 by Ballot Measure 37 (November 2, 2004). These provisions establish a prompt, open, thorough, and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city's decision capable of circuit court review.
(Ord. 132-05, passed 1-11-2005)

§ 153.02 DEFINITIONS.

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

CITY. The City of Donald, Oregon.

CITY MANAGER. The City Manager of the City of Donald, or his or her designee.

CLAIM. A claim filed under Ballot Measure 37.

EXEMPT LAND USE REGULATION. A land use regulation that:

(1) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;

(2) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

(3) Is required in order to comply with federal law;

(4) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or

(5) Was enacted or substantially identical to a regulation in effect 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.

FAMILY MEMBER. Includes 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 or combination of these family members or the owner of the property.

LAND USE REGULATION. Includes:

(1) Any statute regulating the use of land or any interest therein;

(2) Administrative rules and goals of the Land Conservation and Development Commission;

(3) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

(4) Metropolitan service district regional framework plans, functional plans, and planning goals and objectives; and

(5) Statutes and administrative rules regulating farming and forest practices.

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

VALID CLAIM. A claim submitted by the owner of real property that is subject to a land use regulation adopted or enforced by the city that restricts the use of the private real property in a manner that reduces the fair market value of the real property.
(Ord. 132-05, passed 1-11-2005)

§ 153.03 CLAIM FILING PROCEDURES.

(A) Claims may only be made in conjunction with a fully completed application for land use approval, meeting all the requirements of the city for the requested approval together with the information required by this section. Compensation or waiver shall only apply to land use regulations, or portions of regulations, for which waiver or compensation is required by Ballot Measure 37, and all other regulations and application requirements shall remain in full force and effect.

(B) Claims under this chapter must be authorized in writing by the current owner(s) of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the City Manager's office or another city office so designated by the City Manager.

(C) A claim shall include:

(1) The name(s), address(es), and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;

(2) The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership of the property by the claimant, and the date the property was acquired;

(3) The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;

(4) The amount of the claim, based on the alleged reduction in value of the real property certified by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon. The appraisal report shall separately set forth the fair market value of the property with the challenged regulations in place and the fair market value of the property without the challenged regulations; and

(5) Copies of any leases or Covenants, Conditions and Restrictions (CCR's) applicable to the real property, if any, which imposes restrictions on the use of the property. A complete list of all compensation claims, development, or permit applications previously filed with any regulatory body relating to the property, and any enforcement actions taken by any governmental body.

(D) The City Manager or the City Council may accept an application containing less than all of the information required by this section if, in his or her sole discretion, the application as submitted contains sufficient information to process the claim.

(E) Upon receipt and acceptance of a claim application, the city shall send notice to all interested parties described in division (C) above together with the public notice described in this section.
(Ord. 132-05, passed 1-11-2005; Am. Ord. 135-06, passed 5-9-2006)

§ 153.04 CITY MANAGER INVESTIGATION AND RECOMMENDATION.

(A) The City Manager shall conduct a review within 15 days of application to determine the completeness of the application, and shall record the date that a completed application is received. If the City Manager determines that the application is not complete, the City Manager shall advise the owner in writing of any material necessary to complete the application. The owner shall submit the material needed for completeness within 30 days of the written notice that additional material is necessary in order for the city to evaluate the application. The 180-day period prescribed by Ballot Measure 37 to evaluate claims shall be deemed to commence on the date that the City Manager receives a complete application.

(B) Following an investigation of a claim, the City Manager shall forward a recommendation to the City Council that the claim be:

(1) Denied;

(2) Declared valid and waive or modify the land use regulation, or compensate the claimant upon completion of an appraisal; or

(3) Evaluated with the expectation of the city acquiring the property by condemnation.

(C) The City Council may deny the claim against the city after reviewing the City Manager's recommendation. If the City Council does not deny the claim against the city after reviewing the City Manager's recommendation, the City Council shall hold a public hearing on the claim against the city as described in § 153.05.
(Ord. 132-05, passed 1-11-2005)

§ 153.05 CITY COUNCIL PUBLIC HEARING.

For all claims not denied by Council, the City Council shall conduct a public hearing before taking final action on a recommendation from the City Manager. Notice of the public hearing shall be provided to the claimant, to owners and occupants of property within 300 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the subject property.
(Ord. 132-05, passed 1-11-2005)

§ 153.06 CITY COUNCIL ACTION ON CLAIM.

(A) Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was deemed filed, the City Council shall:

(1) Determine that the claim does not meet the requirements of Ballot Measure 37 and this chapter, and deny the claim; or

(2) Adopt a resolution with findings therein that supports a determination that the claim is valid and either direct that the claimant be compensated in an amount set forth in the resolution for the reduction in value of the property, or remove, modify, or direct that the challenged land use regulation not be applied to the property.

(B) The City Council's decision to waive or modify a land use regulation or to compensate the owner shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulations with respect to the subject property.
(Ord. 132-05, passed 1-11-2005)

§ 153.07 PROCESSING FEE.

Processing fees will be set by resolution of the Council.
(Ord. 132-05, passed 1-11-2005)

§ 153.08 PRIVATE CAUSE OF ACTION.

If the city approves a claim under this chapter and elects to waive or modify a land use regulation, which waiver or modification results in a reduction in the fair market value of neighboring property, the neighbor(s) shall have a cause of action in state circuit court to recover from the claimant the amount of the reduction, and shall also be entitled to attorney's fees from the party requesting the waiver or modification of the land use regulation.
(Ord. 132-05, passed 1-11-2005)

TABLE OF SPECIAL ORDINANCES

Table

TABLE I: ADOPTION AND VACATION OF STREETS

Ord. No.	*Date Passed*	*Description*
6-1978-1979	8-16-1978	Establishes Oak Street extension between Butteville Road and the westerly extension of Williams Avenue
104, Amended	10-3-1996	Vacation of the northerly 83.84 feet of Ernst Street NE, North Marion Junior Estates
127-02	9-11-2002	Vacation of the northerly 90.0 feet of Ernst Street NE, North Marion Junior Estates

TABLE II: INTERGOVERNMENTAL AGREEMENTS

Ord. No.	*Date Passed*	*Description*
78	6-3-1992	Ratifies recreation of Mid-Willamette Valley Council of Governments (MWVCOG)
91	6-15-1995	Ratifies creation of North Marion County Communications (NORCOM)
94	8-3-1995	Ratifies amendment of the NORCOM intergovernmental agreement
95	8-3-1995	Ratifies intergovernmental agreement with the State Department of Human Resources, Health Division
142-2010	4-13-2010	Ratifies intergovernmental agreement with the Mid-Willamette Valley Council

TABLE III: FRANCHISES

Ord. No.	*Date Passed*	*Description*
24	4-21-1982	Grants telephone franchise to Telephone Utilities, Inc., for 10 years; repealed by Ord. 74
27	11-21-1983	Grants petroleum pipeline franchise to Southern Pacific Pipe Lines, Inc., for 20 years
30	10-20-1983	Grants gas utility franchise to Northwest Natural Gas Company, for 20 years
35	1-2-1985	Grants cable television franchise to Canby Telephone Association, for 15 years
70	6-5-1991	Grants electric franchise to Portland General Electric Company, for 20 years
72	9-11-1991	Accepts transfer of cable franchise from Canby Telephone Association to North Willamette Telecom, Inc.
73	11-6-1991	Grants garbage hauling franchise to Phillips Garbage Service, for 10 years
74	4-1-1992	Grants telephone and other communications franchise to Telephone Utilities of Oregon, Inc., dba PTI Communications, for 10 years
105	11-26-1996	Accepts transfer of garbage hauling franchise from Phillips Garbage Service to North Marion Recycling & Disposal, L.L.C.

Ord. No.	*Date Passed*	*Description*
110-98	3-5-1998	Grants telephone and telecommunications franchise to North Willamette Telecom, Inc., dba DirectLink of Oregon, for 10 years
120-01	2-9-2001	Grants cable television franchise to Direct Link of Oregon, Inc., for 10 years
125-02	1-8-2002	Amends garbage hauling franchise under Ords. 73 and 105, to extend the franchise for a rolling term
129-02	12-10-2002	Grants telephone and telecommunications franchise to CenturyTel of Oregon, Inc., dba CenturyTel, for 5 years
131-04	8-17-2004	Grants natural gas franchise to Northwest Natural Gas Company, for 12 years
145-2010	5-11-2010	Grants telecommunications franchise to CenturyTel of Oregon, Inc. dba CenturyLink
147-2010	12-14-2010	Extending cable television franchise granted in Ordinance 120-01
149-2010	12-14-2010	Extending PGE (Portland General Electric Company) electric light and power franchise

TABLE IV: ZONING MAP AMENDMENTS

Ord. No.	*Date Passed*	*Description*
44	3-4-1987	Rezones certain property located approximately 130 feet west of the southwest corner of Donald Road and Butteville Road, from commercial to industrial
49	12-2-1987	Rezones a 2-acre parcel at 20775 Butteville Road, from low density residential to medium density residential
50	2-3-1988	Zoning map amendment as set forth in Addendum D; also amends Comprehensive Plan and adopts zoning code
1989-59	2-7-1990	Rezones certain property to R-7 single-family residential; also amends land use code
64	9-5-1990	Rezones a 1/2-acre parcel at 21036 - 21046 Butteville Road and 21037 - 21047 Crisell Street, from medium density residential to industrial
65	9-5-1990	Rezones a 0.3-acre parcel at 21038 and 21048 Crisell Street, from medium density residential to industrial
66	10-3-1990	Rezones a 3.4-acre parcel at 20955 Ernst Street, from low density residential to industrial and medium density residential
75	5-6-1992	Rezones a 0.40-acre parcel at 20945 Butteville Road NE and 20944 Ernst Street NE, from low density residential to commercial

Ord. No.	*Date Passed*	*Description*
76	5-6-1992	Rezones a 0.29-acre parcel at 20915 and 20955 Ernst Street, from low density residential to industrial
90	4-6-1995	Rezones a 2.6-acre parcel at 10778 Cone Street NE, from low density residential to commercial
126-02	6-11-2002	Rezones a parcel at 11105 Main Street NE, from single-family residential (R-7) to single-family residential (R-5); approves a single-family subdivision on the property
128-02	9-11-2002	Rezones a parcel at 20924 Ernst Street, from single-family residential (R-5) to commercial, for use as a parking lot
130-04	6-8-2004	Rezones all single family residential (R-5) property to single family residential (R-7)
146-2010	5-11-2010	Rezones Feller Homestead property from single family residential (R-7) and urban transition/farm to employment industrial (EI)
154-2013	11-12-2013	Updating zoning map to geographic information systems (GIS) format

PARALLEL REFERENCES

References to Oregon Revised Statutes
References to Ordinances

REFERENCES TO OREGON REVISED STATUTES

O.R.S. Reference	*2004 Code*
19.005—19.225	31.42
19.250—19.430	31.42
34.010—34.102	152.38
87.152	94.13
Chapter 153	70.02
Chapter 161	130.01
161.015(10)	131.37
162	130.01
163	130.01
164	130.01
165	130.01
166	130.01
167	130.01
190.240	90.34
Chapter 197	153.01
Chapter 221	31.42
221.230	30.08
221.230(1)	30.01
221.230(2)	30.01
Chapter 223	152.11
223.208	152.11
223.297—233.314	152.15
223.309	152.03, 152.13
223.505—223.595	90.05
227.400	73.03
283.140	90.34
339.010—339.065	131.05
339.030	131.05
419C.080	131.06
419C.085	131.06
419C.088	131.06
419B.550—419.558	131.05
447.010—447.140	51.01
447.020	51.01
471.027	131.35
475B.015(16)	112.01
475B.345	112.02

O.R.S. Reference	*2004 Code*
480.110—480.165	133.02
Chapters 801—822	70.02
811.610—811.630	72.07
815.100—815.325	91.02

REFERENCES TO ORDINANCES

Series 1 Ordinances

Ord. No.	*Date Passed*	*2004 Code*
31	- -	71.19
311	4-17-1975	130.01—130.04, 131.21, 131.22, 131.39, 131.40, 131.55, 131.56, 132.01, 132.02, 133.01, 133.02, 133.15—133.17

Series 2 Ordinances

Ord. No.	*Date Passed*	*2004 Code*
1-78-79	7-19-1978	150.01
6-1978-1979	8-16-1978	T.S.O. I
8	1-18-1979	Charter Section 40(A)
13	3-19-1980	50.001, 50.015—50.024, 50.055—50.059, 50.070—50.074, 50.085—50.089
18	2-3-1981	Charter Section 40(B)
24	4-21-1982	T.S.O. III
26	8-25-1982	30.01—30.11
30	10-20-1983	T.S.O. III
27	11-21-1983	T.S.O. III
35	1-2-1985	T.S.O. III
36	4-3-1985	51.01, 51.02, 51.16—51.26, 51.40—51.47, 51.60—51.63
44	3-4-1987	T.S.O. IV
49	12-2-1987	T.S.O. IV
1987-48	12-2-1987	31.01—31.05, 31.20—31.24, 31.35—31.47
50	2-3-1988	T.S.O. IV
50	2-3-1988	150.01
1989-59	2-7-1990	T.S.O. IV
61	4-4-1990	51.16
64	9-5-1990	T.S.O. IV
65	9-5-1990	T.S.O. IV
66	10-3-1990	T.S.O. IV

Ord. No.	*Date Passed*	*2004 Code*
1991-68	5-1-1991	10.99
70	6-5-1991	T.S.O. III
72	9-11-1991	T.S.O. III
73	11-6-1991	T.S.O. III
74	4-1-1992	T.S.O. III
75	5-6-1992	T.S.O. IV
76	5-6-1992	T.S.O. IV
78	6-3-1992	T.S.O. II
77	7-8-1992	93.01—93.12
81	12-2-1992	93.04
83	5-5-1993	50.089
84	5-5-1993	51.62
90	4-6-1995	T.S.O. IV
91	6-15-1995	T.S.O. II
93	6-15-1995	90.20
92	7-20-1995	92.01—92.04
94	8-3-1995	T.S.O. II
95	8-3-1995	T.S.O. II
96	1-5-1996	94.01—94.15
97	3-7-1996	110.01—110.10
98	4-4-1996	91.01, 91.02, 91.15—91.18, 91.45—91.51
101	6-6-1996	70.01—70.10, 70.99, 71.01—71.04, 71.15—71.18, 71.30, 71.31, 71.60—71.64, 72.01—72.07, 72.35—72.39
101, attachment	6-6-1996	71.64
102	7-11-1996	150.02
103	9-5-1996	72.20—72.22
103, attachment	9-5-1996	72.39
104, Amended	10-3-1996	T.S.O. I
105	11-26-1996	T.S.O. III
106-97-1	3-6-1997	150.02
107-97	3-6-1997	51.15
108-97	8-14-1997	152.01—152.16, 152.99
109-97	12-4-1997	90.01—90.06
110-98	3-5-1998	T.S.O. III
112-99	1-7-1999	50.088
113-99	9-14-1999	50.015, 50.020

Ord. No.	*Date Passed*	*2004 Code*
114-00	2-8-2000	70.99, 73.01—73.06
115-00	5-9-2000	151.01—151.03
116-00	9-12-2000	151.15, 151.16
120-01	2-9-2001	T.S.O. III
121-01	4-10-2001	152.30—152.43
122-01	10-9-2001	131.01—131.06, 131.20, 131.99
123-01	10-9-2001	71.45—71.47, 95.01, 131.35—131.38
124-01	12-11-2001	150.02
125-02	1-8-2002	T.S.O. III
126-02	6-11-2002	T.S.O. IV
127-02	9-11-2002	T.S.O. I
128-02	9-11-2002	T.S.O. IV
129-02	12-10-2002	T.S.O. III
130-04	6-8-2004	T.S.O. IV
130-04	6-8-2004	150.02
131-04	8-17-2004	T.S.O. III
132-05	1-11-2005	153.01—153.08
133-05	9-13-2005	150.01
134-06	3-14-2006	152.12
135-06	5-9-2006	153.03
138-08	4-8-2008	150.01
139-09	6-9-2009	150.01, 150.02
141-09	10-13-2009	Adopting Ordinance
142-2010	4-13-2010	T.S.O. II
145-2010	5-11-2010	T.S.O. III
146-2010	5-11-2010	T.S.O. IV
147-2010	12-14-2010	T.S.O. III
148-2010	12-14-2010	90.30 - 90.48
149-2010	12-14-2010	T.S.O. III
151-2013	5-14-2013	150.03
153-2013	5-14-2013	50.035 - 50.050
154-2013	11-12-2013	T.S.O. IV
157-2014	12-9-2014	50.001, 50.086, 50.087, 50.089
158-2014	12-9-2014	51.18, 51.62
159-2015	4-14-2015	93.02, 93.04, 93.05, 93.07, 93.08, 93.09, 93.10, 93.12
163-2015	1-12-2015	111.01 - 111.09
166-2016	3-8-2016	152.03, 152.09, 152.12, 152.13
167-2016	6-14-2016	93.05, 93.07
168-2016	9-8-2016	112.01 - 112.03

INDEX

INDEX