

**TITLE 7
PUBLIC WAYS AND PROPERTY**

**CHAPTER 1
PUBLIC WORKS STANDARDS**

7-1-1: ADOPTION OF PUBLIC WORKS STANDARDS:

Public Works Standards for the City of Umatilla, Oregon, may be adopted or amended by resolution of the Council. Three (3) copies of said Standards shall be available for public inspection in the office of the City Recorder. (Ord. 676, 9-1-1998)

**CHAPTER 2
STREETS, SIDEWALKS AND PUBLIC WAYS**

ARTICLE A. LOCAL IMPROVEMENTS

7-2A-1: SHORT TITLE:

This Chapter shall be known and may be referred to as the LOCAL IMPROVEMENT ORDINANCE. (Ord. 601, 5-18-93)

7-2A-2: DEFINITIONS:

As used in this Chapter, unless the context requires otherwise:

ACTUAL COST: Has the meaning given the term under ORS 310.140.

CAPITAL CONSTRUCTION PROJECT: A project for capital construction as defined under ORS 310.140.

ESTIMATED ASSESSMENT: Means, with respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the governmental unit estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the governmental unit's estimate at that time of the actual costs of the local improvement and the proposed formula for apportioning the actual costs to the property.

ESTIMATED ASSESSMENT: Shall be determined by:

- A. Excluding from estimated actual costs the estimated financing costs associated with any bonds issued to accommodate the payment of the assessment in installments; and
- B. Including in estimated actual costs the estimated financing costs associated with interim financing of the local improvement.

FINAL ASSESSMENT: Means, with respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the

local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property.

FINANCING: All costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement.

- A. The costs of financing may include the salaries, wages and benefits payable to employees of the governmental unit to the extent the same are reasonably allocable to the work or services performed by the employees in connection with the financing of a local improvement or any part thereof. However, as a condition to inclusion of any salaries, wages or benefits payable to employees of a governmental unit as financing costs of a local improvement or any part thereof, the governmental unit shall establish a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.
- B. Financing costs that are to be incurred after the levy of a final assessment may be included in the final assessment based on the governmental unit's reasonable estimate of the financing costs if the governmental unit first documents the basis for the estimate and makes the documentation available to interested persons on request.

GOVERNING BODY: The Council, commission, board or other controlling body, however designated, in which the legislative powers of a governmental unit are vested.

GOVERNMENTAL UNIT: A city, county, district as described under ORS 198.010 or 198.180, or any other municipal, quasi-municipal or public corporation with authority to undertake the acquisition, construction, reconstruction, repair, betterment or extension of a local improvement but does not include a common or union high school district, education service district, community college district, community college service district or other unit providing public elementary, secondary or post-secondary education or any combination thereof.

INSTALLMENT APPLICATION: An application filed by a property owner to have a final assessment paid in installments over a period of years.

LOCAL IMPROVEMENT: Has the meaning given the term under ORS 310.140.

LOT: A lot, block or parcel of land.

OWNER: The owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the County Assessor.

STRUCTURE: Has the meaning given the term under ORS 310.140. (Ord. 601, 5-18-93)

7-2A-3: INITIATING IMPROVEMENTS:

- A. When the City Council considers it necessary to make a local improvement and to pay for such local improvement in whole or in part by special assessment according to benefits conferred, the City Council shall by resolution declare its intention to make the local improvement and direct the City Engineer or other appropriate City employee to cause a survey and report to be made of the improvement and to file the survey and report with the City Recorder.

- B. When the owners of one-half (1/2) of the property that will benefit by a local improvement request by written petition that the City Council initiate an improvement, the City Engineer or other appropriate City employee shall determine the costs and expenses of the City in connection with preparing the report and survey and advise the City Council. If in response to a written petition the City Council considers it necessary or appropriate to make a local improvement and to pay for such improvement by special assessment, the City Council shall declare its intention to make the local improvement, and may require the petitioners to pay in advance a nonrefundable deposit to cover all or some portion of the costs and expenses of the City in connection with preparing the report and survey. The City Council shall direct the City Engineer or other appropriate City employee upon payment of the required deposit to cause a survey and report to be made of the improvement and to file the survey and report with the City Recorder. (Ord. 601, 5-18-93)

7-2A-4: CITY ENGINEER'S REPORT:

- A. Unless the City Council directs otherwise, the City Engineer's report shall contain the following:
 - 1. A plat or map showing the general nature, location and extent of the proposed improvements and the lands to be specially benefited assessed to pay all or any part of the cost thereof;
 - 2. Preliminary plans and estimates of the work to be done;
 - 3. An estimate of the probable cost of the improvements including legal, administrative and engineering costs attributable thereto;
 - 4. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the property specially benefited;
 - 5. An estimate of the unit cost of the improvement to the specially benefited properties, using the recommended method of assessment;
 - 6. A description of the location and assessed value of each parcel of land or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof as herein defined;
 - 7. A recommendation of the payment schedule and rate of interest to be charged on assessments paid in installments;

8. A statement showing outstanding assessments against property to be assessed;
 9. A statement showing whether the proposed improvements will have significant impact on present or future land uses and if so, how the improvements comply with the Comprehensive Plan; and
 10. Any other information required by the City Council.
- B. Where the proposed improvement project is intended to be carried out in cooperation with any other governmental agency, the City Engineer may rely on the design, estimates and other information of such agency or agencies.
- C. Where any of the parcels proposed to be assessed has a current assessed value after deducting unpaid property taxes, deferred property taxes and other special assessments, which is less than one hundred fifty percent (150%) of the estimated amount of the proposed assessment, then a recommendation shall be made concerning additional security to cover the risk of future nonpayment of the proposed assessment. The City Engineer shall evaluate any available relevant information concerning any parcel subject to this Section and may recommend conditioning participation by the owner of such a parcel on additional assurances, excluding the parcel from the district or not proceeding with the district. Assurances include but are not limited to cash, cash in escrow, irrevocable letters of credit and mortgage securities on other parcels where the property value exceeds prior encumbrances by two hundred percent (200%). (Ord. 601, 5-18-93)

7-2A-5: CITY COUNCIL'S ACTION ON THE REPORT:

After the City Engineer's report is filed with the City Recorder, the matter shall be referred to the City Council which may thereafter approve the report, modify the report and approve it as modified, require additional or different information for the improvement to be obtained or abandon the improvement. (Ord. 601, 5-18-93)

7-2A-6: RESOLUTION AND NOTICE OF HEARING:

- A. After the City Council has approved the report as submitted or as modified, the City Council shall declare by resolution that it intends to make the improvement and direct the City Recorder to give notice of the City Council's intent by publication, not less than ten (10) calendar days prior to the public hearing, in a newspaper of general circulation in the City and by mailing copies of the notice by regular mail not less than twenty (20) calendar days prior to the public hearing to the owner of any lots which would be property benefited by the proposed improvement. The notice shall contain the following:
1. That the report of the City Engineer or other City employee is on file in the office of the City Recorder and is subject to public examination.
 2. That the City Council will hold a public hearing on the proposed improvement on a specified date at which time objections and remonstrances to the improvement will be heard by the City Council.

3. A general description of the proposed improvement and a description of the benefited property sufficient for the average reader to determine the general location.
 4. The estimate of the total cost of the improvement, the portion to be paid by special assessment, the estimate of the unit cost of the improvement to the property benefited, and that the City Council may adopt, correct, modify or revise the assessment against each lot according to special and peculiar benefits accruing to it from the improvement.
- B. In addition to the requirements of subsection A of this Section, where the proposed improvements will have a significant impact on present or future land uses, notice shall be provided to the owners of record of property on the most recent property tax assessment roll and within one hundred feet (100') of the property which is proposed to be benefited by the improvement. The notice provided under this subsection shall in addition to the information required under subsection A of this Section, state that failure of an issue to be raised in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue. Persons entitled to notice under this Section, but not under subsection A of this Section shall not be entitled to remonstrate against formation of the local improvement district.
- C. For purposes of this Section it shall be sufficient to describe the property to be benefited and proposed to be assessed by the tax account number assigned to the property and used by the County Department of Assessment and Taxation.
- D. For purposes of mailing notice to the parcel owner under this Section, any mistake, error, omission or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings. (Ord. 601, 5-18-93)

7-2A-7: REMONSTRANCE AGAINST FORMATION OF LOCAL IMPROVEMENT DISTRICT:

- A. If written, signed objections to the establishment of a local improvement district are filed with the City Recorder no later than the end of the public hearing on the establishment of the district by the owners of lots which represent fifty percent (50%) of the property proposed to be assessed for the local improvement, the City Council shall not make the proposed improvement nor shall the City Council reinitiate formation of the district until at least six (6) months after the date of the public hearing, unless the improvement consists of a sidewalk or unless the City Council unanimously declares the improvement to be needed because of an emergency.
- B. If there is multiple ownership of a lot, each remonstrating multiple owner shall be counted as a fraction to the same extent as the owner's interest in the lot bears in relation to the other multiple owners.

- C. Any person acting as agent or attorney with power to act in signing a remonstrance shall, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner of the property. (Ord. 601, 5-18-93)

7-2A-8: CONSIDERATION OF TESTIMONY; HEARING CONTINUANCE:

The City Council shall hear and consider testimony, both oral and written, on the proposed improvement and may continue the hearing as it deems necessary. (Ord. 601, 5-18-93)

7-2A-9: CREATION OF DISTRICT:

If written remonstrances are less than the amount required to defeat the proposed improvement, the City Council may by resolution at the close of the hearing or within sixty (60) days thereafter, based on the public testimony, declare the improvement district created in accordance with the Engineer's report or abandon the improvement. (Ord. 601, 5-18-93)

7-2A-10: MODIFICATION OF PROPOSED IMPROVEMENTS:

After the public hearing, the City Council may direct a modification of the proposed local improvement by revising the scope of the improvement, by reducing or enlarging the local improvement district which it deems will be benefited by the improvement or by making such other modifications in the proceedings as it finds reasonable. In such case, a revised report shall be made, notices mailed and published, and a second hearing held, all as set forth in Sections 7-2A-4 through 7-2A-9. (Ord. 601, 5-18-93)

7-2A-11: CONSTRUCTION OF IMPROVEMENT; COSTS:

- A. Construction: The City Council may direct the City Engineer to proceed under applicable public improvement contract rules and procedures for such improvement or portions thereof as it has approved or the City itself may proceed to make said improvement or any portion thereof. If the City Council finds that the cost of the improvement would be ten percent (10%) in excess of the estimate, it may provide for holding a special hearing to consider objections to proceeding with a higher project cost.
- B. Costs: The costs and expenses of a local improvement that may be assessed against the property benefited shall include, but not be limited to, costs of construction of the improvement, engineering and administrative costs of creating the district and letting the bids, design costs, inspection costs, construction financing costs including interest, costs of acquisition of any easements or other property and attorney fees. (Ord. 601, 5-18-93)

7-2A-12: ASSESSMENT METHOD AND ALTERNATIVE METHODS OF FINANCING:

- A. The City Council, in adopting a method of assessing the cost of the improvement may:
1. Use any just and reasonable method to determine the boundaries of an improvement district consistent with the benefits derived.
 2. Use any just and reasonable method to apportion the sum to be assessed among the benefited properties.

3. Authorize payment by the City of all or part of the cost of an improvement when in the opinion of the City Council the topographical or physical conditions, unusual or excessive public travel or other character of the work warrants only partial payment or no payment of the cost by owners of benefited properties.
- B. Nothing contained in this Section shall preclude the City Council from using other means of financing improvements, including Federal and State grants-in-aid, revenue bonds, general obligation bonds, systems development charges or other legal means of finance. If other means of finance are used, the City Council may levy special assessments according to benefits derived to cover any remaining cost.
- C. Notwithstanding other provisions of this Chapter, the City Council hereby authorizes the financing of local improvements by the issuance of general obligation improvement warrants in accordance with the procedures and with the same effect as such warrants are provided by State law. The City Council may, as part of a resolution establishing a local improvement district, authorize the issuance of general obligation improvement warrants and if so authorized, such warrants shall constitute a limited general obligation of the City as consistent with State law. If warrants are authorized to be issued, the City Administrator or his/her designee shall, on behalf of the City, seek competitive bids or quotes and/or negotiate the necessary terms of such warrants. Warrants include but are not limited to refinancing warrants and other short term Municipal promissory notes. (Ord. 601, 5-18-93)

7-2A-13: ASSESSMENT ORDINANCE:

- A. When the estimated cost is determined on the basis of contract award or City Engineer's reported cost or after the work is completed and the cost has been actually determined, the City Council shall decide whether the benefited property shall bear all or a portion of the cost. The City Engineer shall prepare the proposed assessment for each lot or portion thereof within the local improvement district and file the proposed assessments in the City Recorder's office.
- B. Notice of the proposed assessment shall be mailed by regular first class mail to the owner of each lot proposed to be assessed at the address shown on the last available complete assessment roll in the office of the County Assessor. The notice shall state the amount of assessment proposed on the property and fix a date by which time written objections shall be filed with the City Recorder. The date of filing such objections shall be any time within thirty (30) days of the mailing of such notices. An objection shall be in writing, timely filed and shall state the grounds for the objection. The notice shall also specify the date of the City Council meeting at which the City Council will conduct a public hearing, consider the proposed assessments and objections thereto and if approved, adopt an ordinance levying assessments against benefited property.
- C. At the hearing the City Council shall:
 1. Consider objections and may adopt, correct, modify or revise the assessment against each lot in the district according to special and peculiar benefits accruing to it from the improvement.

2. By ordinance, declare and levy the assessment and direct the City Recorder to enter a statement thereof in the docket of City liens as provided in Section 7-2A-17 of this Chapter. (Ord. 601, 5-18-93)

7-2A-14: NOTICE OF ASSESSMENT:

- A. Within ten (10) days after the ordinance levying assessments has been passed, the City Recorder shall cause a notice of assessment to be sent to each owner of assessed property by certified mail. The City Recorder shall also cause notice of the assessment to be published twice in a newspaper of general circulation in the City. The first publication of notice shall be not later than twenty (20) days after the date the assessment ordinance was enacted.
- B. The notice of assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment and the date of the assessment ordinance, and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner either makes application to pay the assessment in installments within ten (10) days after the date of the first publication of notice or pays the assessment in full within thirty (30) days after the effective date of the assessment ordinance.
- C. Assessments shall be paid in accordance with this Section. (Ord. 601, 5-18-93)

7-2A-15: VALIDITY OF ASSESSMENTS:

No assessment made pursuant to this Chapter shall be invalid by reason of a failure to give, in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land or the name of any person having a lien upon or interest therein or by a mistake in the name of any such person or the entry of a name other than the name of such owner or other person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinbefore specified, unless it appears that reasonable notice has not been given of the hearing upon the proposed assessment or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the City council shall have power and authority to remedy and correct all such matters by suitable action and proceedings. (Ord. 601, 5-18-93)

7-2A-16: INTEREST RATES:

- A. Interest on funds expended by the City in connection with the construction or financing of a local improvement shall be charged. There is established for the purpose of computing interest the following distinct interest rate classifications:
 1. Construction Financing: Interest charged for construction financing begins the date the funds are first subject to and incur financing charges in connection with a project and ends on the day after substitute financing is secured.

2. Bancroft Installment Financing: Interest charged to property owners choosing to pay the assessment in installments under the Bancroft Bonding Act procedures whose accounts are kept current.
 3. Delinquent Assessment Payment: Interest charged to property owners choosing to pay the assessment in installments under Bancroft Bonding procedures who fail to pay two (2) consecutive installment payments. This interest rate will be assessed beginning the day after the due date of the second installment payment which comes due after an installment payment is unpaid. The interest due will be computed at this delinquent rate on the entire principal balance and this rate will continue to be charged until all outstanding billings are paid in full. This interest rate is also charged to those property owners not choosing to pay in installments that have not paid the assessment as required by Section 7-2A-14 of this Chapter. For such accounts the rate begins on the thirty first day after entry of the assessment in the lien docket and is computed from the original date of entry in the lien docket.
 4. System Development Charge Financing: Interest charged to persons financing a system development charge through the Bancroft Bonding Act procedures.
- B. The City Council shall, by resolution, establish the interest rate applicable to the interest classifications identified in subsections A2, A3 and A4 of this Section. Such interest rate shall not exceed the maximum allowed by any applicable law. In the event that the rate established is found to exceed such legal maximum, then that maximum shall be used as the applicable rate until the resolution establishing rates is revised. (Ord. 601, 5-18-93)]

7-2A-17: LIEN RECORD AND FORECLOSURE PROCEEDINGS:

- A. After the assessment ordinance is adopted and becomes effective, the City Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, a description of the improvement, names of property owners and the date of the assessment ordinance. Upon entry into the lien docket the amounts shall become liens on the lots that have been assessed for improvement.
- B. Assessment liens of the City together with accrued interest shall be superior and prior to all other liens or encumbrances on property insofar as State law permits.
- C. Thirty (30) days after the effective date of the assessment ordinance, interest shall be charged at the rate set by the City Council, and the City may foreclose or enforce collection of assessment liens in any manner provided by State law.
- D. The City may enter a bid on property being offered at a foreclosure sale. The City shall have priority over all bids except those made by persons who would be entitled under State law to redeem the property. (Ord. 601, 5-18-93)

7-2A-18: ERROR IN ASSESSMENT CALCULATION:

Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder, who shall determine whether there has been an error. If there has been an error, the City Recorder shall recommend to the City Council as amendment to the assessment ordinance to correct the error. On enactment of the amendment, the City Recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by certified mail. (Ord. 601, 5-18-93)

7-2A-19: SUPPLEMENTAL ASSESSMENTS:

If an assessment is made before the total cost of the improvement is determined and if the amount of the assessment is insufficient to defray expenses of the improvements, the City Council may declare the insufficiency by resolution and prepare a proposed supplemental assessment. The City Council shall set a time for hearing objections to the supplemental assessment, direct the City Recorder to provide notice of the hearing and hold a hearing and consider objections as in the case of an initial assessment, Section 7-2A-13 of this Chapter. After the hearing the City Council shall make a just and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens as provided by Section 7-2A-17 of this Chapter. Notice of the supplemental assessment shall be mailed in accordance with Section 7-2A-14 of this Chapter and collection of the supplemental assessment shall be made in accordance with Section 7-2A-17 of this Chapter. (Ord. 601, 5-18-93)

7-2A-20: REBATES:

On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the City Council shall determine the excess and declare it by ordinance. When declared, the excess amounts must be entered in the lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid it or that person's legal representative shall be entitled to payment of the rebate credit. (Ord. 601, 5-18-93)

7-2A-21: ABANDONMENT OF PROCEEDINGS:

The City Council may abandon proceedings for improvements at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be canceled, and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative. (Ord. 601, 5-18-93)

7-2A-22: REASSESSMENT:

When an assessment, supplemental assessment or reassessment for an improvement made by the City has been set aside, annulled, declared or rendered void or its enforcement restrained by a court of this State or by a Federal Court having jurisdiction or when the City Council doubts the validity of the assessment, supplemental assessment, reassessment or any part of it, the City Council may make a reassessment in the manner provided by State law. (Ord. 601, 5-18-93)

7-2A-23: DELINQUENT ASSESSMENTS; WITHHOLDING BUILDING PERMIT:

If payments on assessments are delinquent, no building permit shall be issued for improvement of the benefited real property. (Ord. 601, 5-18-93)

7-2A-24: PARTITION:

When there has been an approved division of land or a parcel and that parcel has outstanding a special assessment remaining wholly or partially unpaid, and full payment or an installment payment is not due, then any owner, mortgagee or lien holder of any property affected by this land division may apply for an apportionment of the special assessment, provided the property for which apportionment is to be made was assessed as a unit and entered accordingly in the docket of liens and provided further that portions of the property proposed to be dedicated for public use shall not be assessed. Apportionment of the special assessment shall be done by resolution of the City Council, and that resolution shall be filed with the lien docket. Where the special assessment is being paid in installments, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with the percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment. Where apportionment would result in a parcel receiving an assessment of less than one thousand dollars (\$1,000.00), then installment payment of such assessment shall not be permitted. A fee in an amount established by City Council resolution shall be paid in advance of an application for apportionment, except in cases where property is being dedicated to the public and accepted by the City. (Ord. 601, 5-18-93)

ARTICLE B. SIDEWALK CONSTRUCTION AND REPAIR

7-2B-1: DEFINITIONS:

When used in this Article, the following words and terms shall have the meanings herein ascribed to them:

CITY: The City of Umatilla, Oregon.

OWNER: Owner includes a mortgagee in possession and means one or more persons, jointly or severally in whom is vested:

- A. All or part of the legal title to property; or
- B. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

PERSON: A natural person, firm, corporation, partnership, association, joint venture or other legal entity. Where appropriate singular usage includes the plural, and the masculine gender includes neuter and feminine.

SIDEWALK: The part of the street right of way between the curb lines or the lateral lines of a roadway and the adjacent property lines that is intended for the use of pedestrians. (Ord. 545, 1-4-1988)

7-2B-2: RESPONSIBILITIES OF PROPERTY OWNERS:

- A. **Maintenance:** It is hereby made the duty of all owners of land adjoining any street in the City to reconstruct, repair and maintain in good condition the sidewalks, curbs and/or gutters in front of, along or abutting said lands.

B. Repairs: The expense of maintaining sidewalks, curbs and/or gutters in good repair shall be borne by and apportioned among the lots and premises abutting on or along the sidewalk, curb and/or gutter which needs repair. (Ord. 545, 1-4-1988)

C. New Construction:

1. If an owner builds, constructs or erects a building on a vacant lot or expands, remodels, or alters an existing building, the owner shall be required to install sidewalks, curbs and/or gutters along the property abutting a City street or streets according to the requirements in this Chapter, the Zoning Ordinance⁴², the Public Works Standards⁴³, and other applicable standards and specifications adopted by the City Council.
2. The installation of sidewalks, curbs and/or gutters may be deferred by the City if the owner agrees to sign a non-remonstrance agreement with the City which states that the owner would not object to an LID assessment for improvements within the public right of way, including, but not limited to, construction of the street, sidewalk, curb, gutter, and drainage facilities.
3. A concrete or asphalt concrete driveway, with curb cut and approach conforming to City Public Works Standards, shall be constructed for all single-family new residences, whether site built or manufactured dwellings. (Ord. 694, 10-5-1999)

D. Liability For Sidewalk Injuries:

1. The owner of land adjoining any street shall be liable for all damages arising from defects in or for want of repairs or maintenance to the sidewalks or curbs in front of, along or abutting upon the land of such owner or owners.
2. If the City is required to pay damages for any injury to persons or property caused by the failure of a person to perform the duty which this Section imposes, the person shall compensate the City for the amount of any damages thus paid. The City may maintain an action in a court of competent jurisdiction to enforce the provisions of this Section. (Ord. 545, 1-4-1988)

7-2B-3: PERMIT REQUIREMENTS:

A. Permit Required: No person may construct, repair or alter a sidewalk or curb without first obtaining a permit from the City.

B. Conformity To Standards: Persons shall construct, repair or alter a sidewalk or curb to conform to the general standards and specifications provided in this Article and any other standards and specifications adopted by the City Council and currently on file with the City Recorder.

C. Application; Issuance Of Permits:

1. Application: Persons shall apply for a permit to construct, repair or alter a sidewalk or curb with the City.

2. Issuance: If the proposed improvement conforms to the applicable standards and specifications the City shall issue a permit after confirming conformation with the Public Works Superintendent.
3. Project Permit: When a sidewalk or curb is constructed, repaired or altered in connection with improvements or alterations such as a curb cut, driveway approach, sidewalk section or street excavation, the City shall issue one permit for the entire project. (Ord. 545, 1-4-1988)

7-2B-4: SUPERVISION:

The Public Works Superintendent may inspect any materials and construction details as in his/her judgment may be required to ensure compliance with the permit and with the applicable standards and specifications. (Ord. 545, 1-4-1988)

7-2B-5: STANDARDS AND SPECIFICATIONS:

- A. Public Works Standards⁴⁴: Persons shall construct, repair or alter a sidewalk or curb to conform to the Public Works Standards adopted by the City.
- B. Additional Requirements: Additional sidewalk requirements shall be as follows:
 1. Ten foot (10') sidewalks on Sixth Street from Umatilla River east to the River Road-Sixth Street intersection.
 2. No less than five foot (5') sidewalks in all other commercial zones.
 3. No less than four foot (4') sidewalks in all residentially zoned areas, except SR, PD, R-4 and also except M1 and M2 unless adjacent zoning is other than M1 or M2, in which case a four foot (4') sidewalk is required. (Ord. 545, 1-4-1988)

7-2B-6: BARRICADES AND LIGHTS:

A person who excavates or alters a sidewalk or parking strip and thereby creates a condition which endangers pedestrian traffic shall maintain adequate barriers and/or lights in accordance with State standards around the construction site to protect the public. (Ord. 545, 1-4-1988)

7-2B-7: SIDEWALK REPAIRS:

- A. Notice To Repair:
 1. The Public Works Superintendent should make an inspection of all sidewalks in the City at least once per year. He/she will report his/her findings to the City Council. If the Council decides a sidewalk needs repair, it shall direct the City Recorder to issue a notice and prepare a certified copy of the notice.
 2. The notice shall require the owner of the property abutting the defective sidewalk to obtain a permit and begin repairs within thirty (30) days after the date of service of the notice, and thereafter to diligently complete repairs. The notice shall also state that if the

repair is not made by the owner, within the thirty (30) days, the City may repair the sidewalk and the cost of the repair will be assessed against the property adjacent to the sidewalk.

3. The City Recorder shall cause a copy of the notice to be personally served upon the owner of the property adjacent to the defective sidewalk. If after diligent search the owner is not discovered, the City Recorder may cause a copy of the notice to be mailed to the owner at his last known address by certified mail, return receipt requested, and a copy of the notice to be posted in a conspicuous place on the property. The mailing and posting of notices shall constitute prima facie evidence against an owner denying responsibility for the cost of repairs assessed against his land.
4. The person serving the notice shall file with the City Recorder a statement stating the time, place and manner of service of notice.

B. City May Make Repairs: If the repair of the sidewalk is not started and diligently pursued within thirty (30) days after the service of notice to repair, the Public Works Superintendent may repair or complete the repair of the sidewalk. Upon completion of the repair of the sidewalk, the Public Works Superintendent will submit a report to the Council. The report shall contain an itemized statement of the cost of the repair and the proportionate share of the cost on each lot or parcel of land adjacent to the sidewalk upon which the repair has been made.

C. Assessment For Repairs By City:

1. Upon receipt of the report, the Council shall place a lien on the lot and premises of the owner. The City Recorder shall be directed to make a written notice stating the time and manner of making the repair and the cost of the repair. The City Recorder shall attach the notice to the original notice to repair, both of which are part of the record of lien for the improvement. The City Recorder shall enter both records, together with the expenses, in the City lien docket.
2. The lien shall be for the full amount of the costs and expenses, plus interest at the statutory rate on the unpaid balance from the date of entry in lien docket. No interest shall be computed if the lien is paid within thirty (30) days of entry. The City may proceed to foreclose the lien in the manner provided by law, sixty (60) days after the date of entry. (Ord. 545, 1-4-1988)

D. Liability: Nothing in this Chapter shall be deemed to impose any liability upon any member of the City Council or the City or any of its officers or employees nor to relieve the owner of any private property from the duty to maintain and repair sidewalks, curbs and gutters in accordance with this Title. (1993 Code)

7-2B-8: PROHIBITED INSTALLATIONS:

No person may install a gasoline, fuel oil or other dispensing device on the sidewalk, street right of way or other public property. (Ord. 545, 1-4-1988)

7-2B-9: PENALTIES:

A. Fines:

1. Violation of subsections 7-2B-2C, 7-2B-5A, and 7-2B-5B and Sections 7-2B-3, 7-2B-6, and 7-2B-8 of this Article is punishable as a Class C civil fine⁴⁵.

- B. Suspension Of Water Service:** The Municipal Judge may suspend water service to any real property or building owned, leased, or occupied by a person punished under subsection A of this Section until the penalty is paid or until the violation is corrected or both. If the court orders water service suspended until the violation is corrected, the suspension of water service will continue notwithstanding a change of ownership, renters, or occupiers of the real property or building unless the new owner, renter, or occupier obtains a temporary permit from the City Administrator under Section 8-1-7 of this Code. (Ord. 678, 10-6-1998)

ARTICLE C. EXCAVATIONS

7-2C-1: SHORT TITLE:

This Article shall be known and may be cited as the STREET EXCAVATION ORDINANCE of the City. (Ord. 423, 5-15-78)

7-2C-2: DEFINITIONS:

For the purpose of this Article, the following terms, phrases, words and 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 word in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

CITY ADMINISTRATOR: The City Administrator of the City, or his/her duly appointed agent, including the City Engineer and others.

EXCAVATION: Any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent opening without injury or damage to the public place.

FACILITY: Pipe, pipeline, tube, main, service trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer or any other material, structure or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any public place.

PERSON: Any individual, firm, partnership, association, corporation, company or organizations of any kind.

PUBLIC PLACE: Any public street, street right of way, place, alley, sidewalk, park, square, plaza or any other public property owned or controlled by the City.

SUBSTRUCTURE: Any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, or any other structure located below the surface of any public place.

VITAL STRUCTURES: Those elements of the fire and safety protection system of the City, and those elements of public and private utility systems, which are vital to the health and safety of the City. (Ord. 423, 5-15-78)

7-2C-3: PERMIT REQUIREMENTS:

- A. Excavation Permit: No person shall make an excavation or fill an excavation in a public place without first obtaining a permit from the City Administrator except as otherwise provided in this Article. No permit to make an excavation or fill an excavation in a public place shall be issued except as provided in this Article.
- B. Applications: Applications for such permits shall be made to the Public Works Superintendent and shall describe the location of the intended excavation, the size thereof, the purpose therefore, the person doing the actual work and the person for whom the work is being done, and shall contain an agreement the applicant will comply with all ordinances and laws relating to the work to be done. (Ord. 423, 5-15-78; 1993 Code)
- C. Fees: The application for an excavation permit shall be accompanied by an application fee as may be set by resolution⁴⁶. (Ord. 423, 5-15-78; and. Ord. 518, 10-21-85)
- D. Surety Bond and Insurance: Before an excavation permit, as herein provided is issued, the applicant shall:
 - 1. Deposit with the City Administrator a corporate surety bond written in the amount of one thousand dollars (\$1,000.00) or the estimated cost of backfilling the excavation and resurfacing the street, whichever sum is the greater. Said corporate surety bond shall be in the form of a performance bond insuring the applicant's performance of all the terms and conditions for an excavation permit as set forth in this Article, and specifically including provisions of Section 7-2C-8 of this Article.
 - 2. Deposit with the City Administrator a certificate of comprehensive public liability insurance covering the work to be done by the applicant under the excavation permit, if issued. The amount of coverage of said policy shall not be less than five hundred thousand dollars (\$500,000.00) for any one occurrence, one hundred thousand dollars (\$100,000.00) for any one person and fifty thousand dollars (\$50,000.00) property damages. This policy shall protect and save harmless the City, its officers and employees against any and all claims, demands, judgments or otherwise arising from the excavation and other work covered by the excavation permit. The policy shall further provide that the applicant and his/her insurance company shall defend and pay all costs of defending the City, its officers and employees, in any suit or action or other proceeding which may be filed against them, or any of them, as a result of permittee's work and activities under the excavation permit.

- E. Municipal Departments: The requirements for permits, bonds, insurance, deposits and fees shall not apply to street excavations made by Municipal departments, but the City Administrator shall see that utilities, protection of adjoining property, care of materials, making of excavations and backfilling of same, are met as provided in this Article. (Ord. 423, 5-15-78; 1993 Code)

7-2C-4: PENALTY FOR EXCAVATING NEWLY SURFACED STREETS:

In order to conserve new paving and resurfacing of streets, pavement cuts are prohibited therein except for emergency repairs or upon payment of a penalty charge. The maximum period of time for which such penalty shall apply to such a street shall be five (5) years. The penalty shall be five (5) times the cost of restoring the pavement surface during the first year, four (4) times the restoration cost during the second year, three (3) times the restoration cost during the third year, two (2) times the restoration costs during the fourth year and equal to the restoration costs during the fifth year. This penalty fee shall be computed in addition to normal resurfacing charge, and shall be computed from the date at which the City accepted the newly paved surface. In order to avoid the necessity of these penalties, the City shall inform City franchised utilities by mail before new paving or resurfacing is performed. Affected property owners shall be notified by publication in a newspaper of general circulation. Failure of any person to receive notice shall not exempt such person from imposition of the penalty fee. Application for a waiver of this Section may be submitted to the City Administrator for installation of service lines designed to serve a single lot or parcel of land. (Ord. 423, 5-15-78)

7-2C-5: EXCAVATION PROTECTION REQUIREMENTS:

A. Routing and Protection of Traffic:

1. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public. The City Council may permit the closing of streets and alleys to all traffic for specific period of time if the permittee can demonstrate necessity.
2. The permittee shall maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than three hundred feet (300'). If an excavation is made across a public street, alley or sidewalk, at least one safe crossing shall be maintained when possible for vehicles and pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half (1/2) of the sidewalk width shall be maintained along such a sidewalk line.
3. It shall be the duty of every person making an excavation in or upon any public place to place and maintain such barriers and warning devices necessary for safety of the general public. Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers

shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting materials may be used to supplement, but not replace, light sources.

4. The permit for a street excavation may require that the permittee give notification to various public agencies and to the general public. In such case, such permit shall not be valid until such notice is given.

B. Protection of Adjoining Property:

1. The permittee shall at all times, at his/her own expense, preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protection measures, the permittee shall obtain a license from the owner of such private property for such purpose and if the permittee cannot obtain a license from such owner, the City Administrator may authorize the permittee to enter the private premises at reasonable hours solely for the purpose of making the property safe.
2. The permittee shall, at the permittee's expense, shore upon and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage resulting from his/her failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this Article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. Access to driveways shall be kept open insofar as possible during the performance of work by the permittee.
3. When it is found desirable by the City Administrator, the permittee shall be instructed to send notice by mail of work to be performed to abutting property owners. This shall be done in order to minimize inconvenience to such property owners in their normal usage of the public streets.

C. Protection of Watercourses:

1. The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot (1') in width from the face of such curb at the gutter line. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and all times maintained.
2. The permittee shall make provisions to take care of all surplus water, muck, silt, slicking or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from his/her failure to so provide. (Ord. 423, 5-15-78; 1993 Code)

7-2C-6: EXCAVATION PROCEDURES:

A. Care of Excavated Material:

1. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians, or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the permittee shall haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.
2. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, two (2) boards or bins shall be required by the City Administrator to prevent the spreading of dirt into traffic lanes.

B. Noise, Dust and Debris: Each permittee shall conduct excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris, and between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. shall not use, except in case of an emergency as herein otherwise provided, any tool, appliance, or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

C. Breaking Through Pavement:

1. Heavy duty pavement breakers may be prohibited by the City when the use may endanger existing substructures or other property.
2. Cutting of pavement surfaces ahead of excavations shall be done in such a manner as to confine pavement damage to the limits of the trench. Pavement wearing surface cuts shall be made with a sharp edge tool which will result in a smooth edge along the side of the excavation.
3. Sections of sidewalks shall be removed to the nearest score line or saw cut edge.
4. Unstable pavement shall be removed over cave-outs and over-breakers and the subgrade shall be treated as the main trench.
5. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.
6. Cutouts outside of the trench lines must be normal or parallel to the trench line.
7. Boring or other methods to prevent cutting of new pavement may be required by the City Administrator.

8. The permittee shall not be required to repair damage existing prior to excavation unless his/her cut results in small floating sections that may be unstable, in which case the permittee shall remove and refill the area.

D. Depth of Structures: No person shall, without written permission of the City Administrator, install substructures, except manholes, vaults, valve casings, culverts and catch basins at a distance less than:

1. Streets: Thirty inches (30") below the established street or alley grade.
2. Parkways:
 - a. The minimum depth of any substructure shall be twenty four inches (24") below established street or alley grade when said substructure parallels the parkway.
 - b. The minimum depth of any substructure shall be twenty four inches (24") below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.
3. Other Public Places: The minimum depth of any substructure in any other public place shall be twenty four inches (24") below the surface; provided, however, that the City Administrator may permit a lesser depth in special cases.

Nothing in this subsection shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the grade in said substructure interferes with the maintenance of, or travel on, a public street.

E. Trenches in Pipe Laying: The maximum length of open trench permissible at any time shall be no more than two hundred feet (200'), and no greater length shall be open for pavement removal, excavation, construction, backfilling, patching and all other operations.

F. Clearance for Vital Structures: The excavation work shall not interfere with access to vital structures.

G. Relocation and Protection of City-Owned Utilities:

1. The permittee shall not interfere with any existing City- owned utility without written consent of the City Administrator. If it becomes necessary to relocate an existing City-owned utility, this shall be done by the City. No utility owned by the City shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee.
2. The permittee shall support and protect by timbers or otherwise all substructures, which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any substructures should be damaged, and for this purpose, pipe coating or other encasement or devices are to be considered as part of a substructure, they shall be repaired by the owner and the expense of such repairs shall be charged to the permittee, and the

permittee's bond shall be liable therefore. The permittee and his/her surety shall be liable for any damage done to any public property by reason of breaking of any water pipes, sewers or other City owned utility, and the permittee's bond shall be liable therefore.

3. When it is found desirable by the City Administrator, other utilities will be notified by the permittee of his/her intention to make an excavation. This will be done in order that these utilities may make arrangements to perform any work planned for that same area at time the excavation is made. The City shall not be made a party to any action because of this subsection.

H. Abandonment of Structures: Whenever the use of a substructure is abandoned, except the abandonment of a service line designed to serve a single property owner, the person owning, using, controlling, or having an interest therein, shall within thirty (30) days after such abandonment file with the City Administrator a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way, or subsequently becomes in the way, of an installation of the City or any other public body, the owner shall remove such abandoned substructure or pay the cost of its removal during the course of excavation for construction of the facility by the City or any other public body. (Ord. 423, 5-15-78)

7-2C-7: BACKFILLING:

The Public Works Superintendent may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his/her opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests shall show that the backfill material meets the minimum requirements as prescribed by this Article. All expenses of such tests shall be borne by the permittee. (Ord. 423, 5-15-78; 1993 Code)

7-2C-8: PROMPT CLEANUP AND RESTORATION:

After an excavation is commenced, the permittee shall prosecute with diligence and speed all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary.

- A. Cleanup: As the excavation work progresses, all streets shall be kept thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be complete. From time to time, as may be ordered by the Public Works Superintendent and in any event immediately after completion of said work, the permittee shall, at permittee's expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty four (24) hours after having been notified to do so by the Public Works Superintendent said work may be done by the City and the cost thereof charged to the permittee.

B. Restoration of Surface:

1. Permanent resurfacing of excavations shall be made by the permittee or his contractor approved by the City. Such resurfacing shall be at the expense of the permittee.
2. The permittee shall maintain temporary paving after all backfilling is completed, and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, except that if it is impractical to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, than the permittee shall maintain barriers and light where required herein.
3. The permittee shall guarantee in writing to the City that the bond required in subsection 7-2C-3D of this Article shall continue in force for one year after completion of the resurfacing. The bond shall cover the replacement or repair of the surfacing if defects in the surfacing appear during that time.

C. Acceptance of Restoration: Acceptance or approval of any excavation work by the Public Works Superintendent shall not prevent the City from asserting a claim against the permittee and his/her surety under the surety bond required hereunder for incomplete or defective work if discovered within twelve (12) months from the completion of the excavation work. The presence of City officials during the performance of excavation work shall not relieve the permittee of his/her responsibilities hereunder. (Ord. 423, 5-15-78; 1993 Code)

7-2C-9: EMERGENCY EXCAVATIONS:

- A. Urgent Work: When traffic conditions, the safety or convenience of the traveling public, or the public interest require that the excavation is granted, that a crew of men and adequate facilities be employed by the permittee twenty four (24) hours a day to the end that such excavation work may be completed as soon as possible.
- B. Emergency Action: Nothing in this Article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in a conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the City Administrator for such a permit on the first working day after such work is commenced. (Ord. 423, 5-15-78)

7-2C-10: PRESERVATION OF MONUMENTS:

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the City, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the City to so do. Permission to remove or disturb such monument, reference points, or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of this monument by the City. (Ord. 423, 5-15-78)

7-2C-11: INSPECTIONS:

The City Administrator shall have such inspections made as are reasonably necessary in the enforcement of this Article. The permittee shall notify the City, prior to backfilling an excavation so that proper inspection may be made. (Ord. 423, 5-15-78)

7-2C-12: MAINTENANCE OF SUBSTRUCTURE RECORDS:

Every person owning, using, controlling or having an interest in substructures under the surface of any public place used for the purpose of supplying or conveying gas, electricity, communication impulse, water, steam, ammonia or oil in the City, shall file with the City Recorder, within one hundred twenty (120) days after adoption of this Chapter, a map or set of maps each drawn to a scale of not less than one inch to two hundred feet (1" = 200') showing in detail the location, size, description and date of installation, if known, of all substructures, except service lines designed to serve a single property owner, beneath the surface of the public place belonging to, used by, or under the control of such person having any interest, and shall file with the City Recorder within fifteen (15) days after the first day of January of each and every year a corrected map or set of maps each drawn to said scale including all installations made during the previous year to and including the last day of such year; provided, however, that a public utility owner may at its option provide corrected atlas sheets at more frequent intervals. (Ord. 423, 5-15-78)

7-2C-13: LIABILITY OF CITY:

This Article shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or by the approval of any excavation work. (Ord. 423, 5-15-78)

7-2C-14: PENALTIES:

- A. Any person violating any of the provisions of this Article shall, upon conviction, be punished by the imposition of a Class A civil fine⁴⁹.
- B. In addition to any other remedies, the City shall place a lien against any properties which derive a benefit from the use for which the excavation was permitted, in those cases for which the City is not reimbursed for the required resurfacing and repairs. (Ord. 423, 5-15-78; 1993 Code)

ARTICLE D. PARKWAY BEAUTIFICATION

7-2D-1: RATIFICATION:

The Parkway Beautification Project Agreement entered into on October 18, 1983, by and between the State and the City Administrator is hereby ratified and approved and shall be known as the 1983 UMATILLA PARKWAY BEAUTIFICATION PROJECT. (Ord. 497, 5-7-84)

7-2D-2: DEFINITIONS:

When used in this Article, the following words and terms shall have the meanings herein ascribed to them:

CITY: The City of Umatilla, Oregon.

LANDOWNER: Includes a lessor, sublessor and a mortgagee in possession, and means one or more persons, joint or severally, in whom is vested:

- A. All or part of the legal title to the property; or
- B. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

PARKWAY: That part of the street right of way between the curb lines or the lateral lines of a roadway and the adjacent property line.

PERSON: A natural person, firm, corporation, partnership, association, joint venture or other legal entity. Where appropriate, single usage includes the plural, and the masculine gender includes neuter and feminine. (Ord. 497, 5-7-84; 1993 Code)

7-2D-3: DUTY TO MAINTAIN PARKWAY:

Landowners shall furnish all necessary water, fertilizer and insecticides necessary to maintain any tree in a healthy condition which is planted in the parkway adjacent to the landowner. (Ord. 497, 5-7-84)

7-2D-4: PLANTING OF TREES:

The City will furnish all necessary labor and equipment for the planting of trees in the 1983 Umatilla Parkway Beautification Project. (Ord. 497, 5-7-84)

7-2D-5: REMOVAL OR TRIMMING OF TREES:

No person may remove or trim any tree which is planted in a parkway without first obtaining written permission of the City. (Ord. 497, 5-7-84)

7-2D-6: PENALTIES:

Violation of Sections 7-2D-3 and 7-2D-5 of this Article is punishable by the imposition of a Class B civil fine50. (Ord. 497, 5-7-84; 1993 Code)

ARTICLE E. ADDRESSING AND STREET NAMING

7-2E-1: PURPOSE:

To establish and enforce a permanent, systematic and Citywide address and street naming system that is necessary for the protection of health, safety, and welfare of the residents of the City. A systematic addressing plan will facilitate the location by emergency services and others of dwellings, businesses, and other buildings of interest and importance by a site address and identifiable street name. Naming or renaming private lanes or public roads not currently in the

City's maintenance system shall not mean that the City accepts or will maintain these roads or lanes. (Ord. 693, 10-5-1999)

7-2E-2: EXCEPTIONS:

This Article does not pertain to areas outside the urban growth boundary or other areas deemed necessary and appropriate by the City Council. (Ord. 693, 10-5-1999)

7-2E-3: BASE LINES:

The east-west base line shall be the Columbia River. The center line of the Umatilla River extended to the south along the west line of section 17 T5N, R28E, shall be the north-south base line for naming streets running north and south and numbering structures on east-west streets. (Ord. 693, 10-5-1999)

7-2E-4: PREFIXES:

- A. All streets running in an easterly and westerly direction that cross the base line shall bear the prefix "West" and may be designated by the letter "W" if west of the base line or "East" and may be designated by the letter "E" if east of the base line.
- B. An "East" or "West" designation need not be used to identify streets that do not cross the base line.
- C. Streets running in a northerly and southerly direction shall bear no prefix. (Ord. 693, 10-5-1999)

7-2E-5: SUFFIXES:

- A. All streets running in a northerly and southerly direction shall be designated "Street".
- B. All streets running in a northerly and southerly direction and lying between two (2) consecutively named streets shall be designated "Place".
- C. All streets running in an easterly and westerly direction shall be designated "Avenue".
- D. All streets running in an easterly and westerly direction and lying between two (2) consecutively numbered streets shall be designated "Court" and shall take the lesser number of said two (2) numbered streets. (Ord. 693, 10-5-1999)

7-2E-6: STREET NAMING:

The City Administrator shall approve all street names proposed on subdivision plats or requested by property owners, based on the standards set forth in this Article. At the City Administrator's discretion, a street naming proposal may be referred to the City Council for decision. Any affected party may appeal the City Administrator's decision to the City Council.

- A. Existing street names shall be retained, modified as to directional reference, and extended when appropriate to the urban growth boundary area.

- B. When a street crosses jurisdiction lines, the existing street name shall be maintained unless the City and neighboring jurisdiction agree to a change in name.
- C. Streets shall have the same name throughout their entire length except that:
 - 1. A separate name for a street segment may be applied if there is a major direction change and at least three (3) buildings require an address on that segment.
 - 2. The street is interrupted or separated by a major barrier such as a major highway or topographical feature, where street connection is unlikely and confusion would be minimized by different names.
- D. The proposed street name shall be limited by a maximum of fifteen (15) letters and shall not duplicate or sound similar to a street name within the City.
- E. Street names shall utilize and maintain historical references when possible.
- F. Private lanes with three (3) or more buildings may be named in accordance with provisions of this Article. The cost and maintenance of a street sign shall be the responsibility of the property owners abutting the private lane. (Ord. 693, 10-5-1999)

7-2E-7: CHANGES TO STREET NAMES:

A change to a street name may be initiated by the City or other public agency or by an abutting property owner. The City Administrator may approve a change to a street name if requested by all property owners abutting the street and if the proposed name complies with standards of Section 7-2E-6 of this Article and other provisions of this Code. Abutting property owners shall pay any costs relating to the name change, including the cost of a new street sign. (Ord. 693, 10-5-1999)

7-2E-8: NOTIFICATION:

Notification of naming or renaming of streets shall be sent to the following, and any other agencies or jurisdictions as necessary:

- A. Public Works Department.
- B. Assessor's office.
- C. Post office.
- D. County Clerk's office.
- E. Utility companies including, but not limited to, telephone, electrical service provider, gas company, sewer and water districts, and television cable company.
- F. Affected Fire Department or district.

- G. Local school district.
- H. County Surveyor.
- I. Police agency.
- J. 911 dispatch.
- K. Building Department.
- L. Hospital(s).
- M. Ambulance services. (Ord. 693, 10-5-1999)

7-2E-9: ADDRESS SYSTEM:

The City Administrator shall assign addresses to all new lots, buildings, and structures within the City in accordance with standards of this Article. Address numbers shall be displayed on a building or structure in a manner, form, and size that is clearly visible from the public street.

- A. Consistent With Current System: All addresses assigned within the City shall be numbered consistent with the current numbering system and generally based upon a grid established by the base lines and following the established block pattern in the older part of City, with the number "1" beginning at the base line and extending east-west from the base line.
- B. Numbers Assigned: A number shall be assigned for each lot, building, or structure, with one number for each ten feet (10') of frontage.
- C. Consecutive: All numbers shall run consecutively.
- D. Blocks: A new "100" shall begin with each block or approximately every two hundred feet (200'). Ease of locating a lot or building shall guide establishing a new address, rather than strict adherence to an arbitrary grid pattern.
- E. Even, Odd Numbers: Lots or buildings on the south and west side of each street shall bear even numbers and on the north and east side shall bear odd numbers.
- F. Annexed Properties: Annexed properties shall change addresses to become consistent to the City's addressing system.
- G. Exception: Lots and structures within the "McNary Area" shall be addressed within the system established for the area. (Ord. 693, 10-5-1999)

7-2E-10: ADDRESS CHANGES:

The City or other agency or a property owner may request a change of address number. The City Administrator may grant the request if it is consistent with the standards of this Article. The City

Administrator may refer any request for change of address number to the City Council for decision and any decision of the City Administrator may be appealed to the City Council. (Ord. 693, 10-5-1999)

7-2E-11: PENALTY:

Any person violating any section of this Article shall, upon conviction, be punished by the imposition of a Class C civil fine⁵¹. (Ord. 693, 10-5-1999)

ARTICLE F. PUBLIC RIGHTS OF WAY

7-2F-1: DEFINITIONS:

As used in this Chapter, unless the context requires otherwise:

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

WITHIN CITY: Territory over which the City now has or acquires jurisdiction for the exercise of its powers. (Ord. 649, 3-4-1997)

7-2F-2: JURISDICTION:

The City has jurisdiction and exercises regulatory control over all public rights of way within the City under the authority of the City Charter and State law. (Ord. 649, 3-4-1997)

7-2F-3: SCOPE OF REGULATORY CONTROL:

The City has jurisdiction and exercises regulatory control over each public right of way whether the City has a fee, easement or other legal interest in the right of way. The City has jurisdiction and regulatory control over each right of way whether the legal interest in the right of way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means. (Ord. 649, 3-4-1997)

7-2F-4: CITY PERMISSION REQUIREMENT:

No person may occupy or encroach on a public right of way without the permission of the City. The City grants permission to use rights of way by franchises, licenses and permits. (Ord. 649, 3-4-1997)

7-2F-5: OBLIGATIONS OF THE CITY:

The exercise of jurisdiction and regulatory control over a public right of way by the City is not official acceptance of the right of way, and does not obligate the City to maintain or repair any part of the right of way. (Ord. 649, 3-4-1997)

7-2F-6: LICENSE FOR USE OF UNUSED PUBLIC RIGHTS OF WAY IN RESIDENTIAL AREAS:

The City Administrator is authorized to permit use of portions of dedicated, but currently unused, public rights of way in residential areas as extensions of contiguous yards, subject to the following prerequisites and conditions:

- A. A written permit shall be issued setting out conditions established by the City Administrator to which the adjacent property owner and any tenant must agree in writing to abide by. A permit shall be binding on and shall inure to the benefit of the successors in interest of the parties.
- B. If fences are to be used to enclose the area as a portion of a fenced yard, such fence shall comply with existing ordinances governing fences. A fence shall be placed no closer than seven feet (7') from a road surface where there is no curb and sidewalk, but a fence may be placed adjacent to a sidewalk.
- C. By acceptance of the permit, the adjacent property owner and tenant acknowledge that the public right of way remains public into perpetuity, until vacated. Should the public property portions of any yard area be required for public usage at a future time, the permittee shall immediately remove any improvements or enhancements upon notification by the City Administrator.
- D. The permittee shall guarantee the City access to utilities, meters and other services. Any interference by the permittee with such access by the City or its agents are grounds for nullifying the permit and the City Administrator may require the permittee to remove any improvements or enhancements. (Ord. 649, 3-4-1997)

CHAPTER 3 CEMETERY

7-3-1: APPLICABILITY:

- A. The rules and regulations hereinafter set forth apply to all Umatilla cemeteries except as to areas specifically exempted from certain rules or covered by special rules.
- B. No further interments of bodies of deceased persons shall be permitted in the cemetery in block 38 of the original town, located on Sixth Street, except for persons already having lots in this cemetery. (Ord. 260, 5-7-56)

7-3-2: PERMITS REQUIRED:

- A. Permits Required; Application: A permit must be secured from the City Recorder prior to the interment of any deceased person, the removal of any body from the cemetery or the transfer of any body from one part of the cemetery to another. Written application for permit shall be made by the owner of the lot to be used and applicant shall state the full name of deceased, place of nativity, age, date and place of decease, date of interment, name of undertaker, outside size of coffin or box, cause of death, lot and grave used. In case of interment of a deceased owner of a lot, the application shall be signed by some person known to be of his/her family or household, or by his/her physician.

- B. Issuance of Permit: No permit shall be issued unless all moneys due the City have been paid. The permit must be filed with the Recorder at least twelve (12) hours before the time of the funeral and notice of the funeral must be given at the same time.
- C. Disinterments: In case of disinterments, the written consent of the owner or owners of the lot or surviving wife, husband, children (if of age), or parents of the deceased must be secured, but if consent of any such person cannot be obtained, the consent of the County Court shall be sufficient. (Ord. 260, 5-7-56; 1993 Code)

7-3-3: PRICES:

The City Council shall, by resolution⁵², establish the schedule of prices to be charged for lots, graves, openings and other services and privileges. (Ord. 260, 5-7-56)

7-3-4: GENERAL SUPERVISION:

A. Superintendent:

1. The City Public Works Superintendent shall have full charge and general supervision over the cemetery, its operation and upkeep and other duties as prescribed by the City Council.
2. All graves must be opened and closed under the direction of the Superintendent. No grave shall be opened for interment, removal or transfer of a body until the proper permits have been presented to the Superintendent.

B. Records Kept:

1. The City Recorder shall receive all moneys due the City from the sale of lots, services furnished and from all other services and shall issue proper receipts for the same.
2. The Recorder shall issue in the name of the City, all permits required; shall keep competent records of all matters pertaining to lots, graves or other plots of ground; a record of all burial permits issued, showing the full name of the deceased, the place of nativity (if known), date and place of decease, age (if known), date of interment, cause of death, the number and date of permit, name of undertaker, lot or grave in which buried and the outside size of coffin or box. (Ord. 260, 5-7-56; 1993 Code)

7-3-5: CONVEYANCE OF LOTS:

Every conveyance of a lot in the cemetery shall be by deed, executed by the Mayor and the City Recorder but such a deed shall only have the effect of giving the perpetual use of a lot for burial purposes, subject to the laws of the State of Oregon, and the Charter and ordinances of the City. No grave, lot or plot which has been deeded can be sold, transferred, assigned, or exchanged for other graves except with the written consent of the City Recorder. Lots in the improved portion of the cemetery can be exchanged for other lots in the unimproved portion of the cemetery, provided the applicant shall submit with his/her petition such documentary evidence as shall be deemed sufficient to show ownership of his/her lots and shall submit a quit claim deed conveying his/her lots to the City and shall submit payment for the lots secured. (Ord. 260, 5-7-56; 1993 Code)

7-3-6: PERPETUAL CARE:

- A. Subject to availability of water, the perpetual care and maintenance of all graves shall consist of keeping them sown in grass which shall be kept watered and trimmed and all avenues surrounding them shall be kept free of obstructions.
- B. All monuments and markers shall be kept in proper positions and no one shall be permitted to make any alterations to monuments or markers or surface of soil, without first obtaining permission from the City Recorder. (Ord. 260, 5-7-56; 1993 Code)

7-3-7: OWNERSHIP RESTRICTIONS:

- A. The owner of a grave in the improved portion of the cemetery will be allowed to remove the body from said grave, and re-inter it in any other grave in said improved portion which he/she owns and will be allowed the price paid for such relinquished grave, provided it is not more than the price of grave selected and upon submitting a quit claim deed therefore, and upon payment of ten percent (10%) handling charge. The owner of the lot may, with the consent of the City Recorder, allow the burial of a friend, or other person in his/her grave, but to allow such burial for a compensation is strictly forbidden.
- B. The price of all graves includes perpetual care of same and is payable in advance before any interment is permitted. Subdivisions of graves or lots by owners is not allowed. Planting of trees, shrubbery or flowers will not be permitted by lot owners. Graves or plots may be purchased on the installment plan at the rate of at least five dollars (\$5.00) per payment, but must be paid in full before interment is made. (Ord. 260, 5-7-56)

7-3-8: PROHIBITED ORNAMENTATION:

No parcel of ground shall be surrounded by any fence, railing, coping, hedge, slab, stone or marker excepted as permitted herein under Section 7-3-9 of this Chapter, covering monuments. The Superintendent shall have entire charge of planting of trees and shrubs in accordance with the general plan or ornamentation of the ground and the removal of the same. No tree or shrub shall be planted on any grave or lot. (Ord. 260, 5-7-56)

7-3-9: MONUMENTS:

- A. Upright monuments may be permitted in the City's cemeteries upon approval of the City Administrator's office subject to review of the location and footing design to assure minimum grounds maintenance around said upright monument. Each grave shall be entitled to one marker and double markers shall be permitted on two (2) or more graves adjacent and parallel to each other. (Ord. 490, 4-7-83)
- B. Markers shall be placed level with the ground surface at the head of the grave farthest from the foot. Markers shall be of good grade concrete no less than three inches (3") thick and shall be firmly imbedded in the soil. Temporary markers supplied by funeral home and approved by City will be permitted.

- C. The City does not have for sale, or offer for sale, monuments, markers or stones and performs no work in the placing of them, but the Superintendent shall have general supervision over persons performing such work.
- D. Foundations shall be of concrete made of one part cement, two (2) parts sand and four (4) parts gravel, not less than six inches (6") deep and with horizontal dimensions of twenty two inches (22") wide and twelve inches (12") greater than the length of the monument. Top of concrete foundation shall at no point be less than two inches (2") below surface of sod.
- E. Monument firms will be held responsible for damage caused during their work, to structures, grounds, trees, flowers and shrubbery and for the conduct of their workers and suspension of labor in the vicinity of funerals. (Ord. 446, 4-2-79)

7-3-10: FUNERALS:

Funerals shall, unless special permission be granted by the City Recorder, take place between the hours of nine o'clock (9:00) A.M. and four o'clock (4:00) P.M. at the cemetery, Monday through Friday, except on holidays. (Ord. 260, 5-7-56)

7-3-11: CONDUCT OF PERSONS WITHIN CEMETERIES:

- A. Motor Vehicles: Automobiles or other vehicles shall not be driven faster than fifteen (15) miles per hour, shall not turn around on roads or avenues and shall not be driven upon grass or lawns within the cemeteries.
- B. Visitors: Visitors will be admitted to the cemetery during daylight hours and must enter by the gates. Persons in violation hereof will be deemed a trespasser.
- C. Employee Authority: The Superintendent and assistants are instructed to prevent the entrance of all improper persons and to remove from the grounds all who violate these rules, commit trespass or depredation, picnic parties, persons who pick flowers or plants, break or injure any tree or shrub, persons with firearms or dogs, persons who injure, write upon or deface any wall, monument or stone or use boisterous and profane language or who use conduct tending to disturb the quiet and good order of the cemetery, except that firearms shall be permitted in case of military ceremonies.
- D. Gratuities Prohibited: No gratuities of any nature whatsoever shall be accepted for any purpose by any employee in the cemetery in connection with his/her services. (Ord. 260, 5-7-56; 1993 Code)

**CHAPTER 4
WATER AND SEWER REGULATIONS**

ARTICLE A. WATER USE AND SERVICE

7-4A-1: DEFINITIONS:

For the purposes of this Article, the following words and terms shall have the meanings herein ascribed to them:

AGENT: A tenant or other person on the premises of another.

AIR GAP SEPARATION: The physical vertical separation between the free flowing discharge end or a potable water supply pipe line and the open or non-pressure receiving vessel.

APPROVAL or APPROVED: Approved in writing.

AUXILIARY WATER SUPPLY: Any supply of water used to augment the supply obtained from the public water system which serves the premises in question.

BACKFLOW: The flow in the direction opposite to the normal flow.

CITY: The City of Umatilla, Oregon.

CROSS-CONNECTION: Any link or channel between the piping which carries drinking water and the piping or fixtures which carry water or other substances.

DISTRIBUTION SYSTEM: The network of pipes and other facilities which are used to distribute water from the source, treatment, transmission, or storage facilities to the water user.

DOUBLE CHECK VALVE ASSEMBLY: An assembly of two (2) independently acting check valves with shut-off valves on each side of the check valves and test cocks for checking the water tightness of each check valve.

EMERGENCY: A condition resulting from an unusual calamity such as a flood, storm, earthquake, drought, civil disorder, volcanic eruption, an accidental spill of hazardous material, or other occurrence which disrupts water service at a public water system or endangers the quality of water produced by a public water system.

ORGANIZATION: Includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity, including any receiver, special master, trustee, assignee, or other similar representative thereof.

OWNER: Includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested:

- A. All or part of the legal title to the property; or
- B. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

PERSON: Includes an individual or organization, except the City.

POTABLE WATER: Water which has sufficiently low concentrations of microbiological, inorganic chemical, organic chemical, radiological or physical substances so that individuals drinking such water at normal levels of consumption will not be exposed to disease organisms or other substances which may produce harmful physiological effect.

REDUCED PRESSED PRINCIPLE BACKFLOW PREVENTION DEVICE (R.P.DEVICE): A device for preventing backflow which has two (2) check valves, a differential relief valve located between two (2) check valves, two (2) shut-off valves, one on the upstream side and the other on the downstream side of the check valves, and four (4) test cocks for checking the water tightness of the check valves and the operation of the relief valve.

SERVICE CONNECTION: The piping connection by means of which water is conveyed from a distribution main of a public water system to a customer's premises.

SUPERINTENDENT: City Public Works Superintendent, and includes authorized personnel and employees of the City Public Works Department.

TENANT: Includes an organization or adult person or adult persons entitled under an oral or written rental agreement, including a leasehold interest, to occupy real property or a building, including a dwelling unit, to the exclusion of others.

WATER METER OR METER: Includes the corporation cock, meter, meter box and lid.

WATER USER: Includes any person who has made application with the City for water services or, if no application has been made, any person whose premises receive City water or are served by the City water works system. In cases of multiple users who receive their water through a single meter, the owner of the premises is the water user and shall be the person to make application for water services.

WATER WORKS SYSTEM: Includes City water wells, pumping equipment, distribution lines, fire hydrants, meters and all other appurtenances. (Ord. 517, 10-21-1985; amd. Ord. 582, 7-1-1991; Ord. 669, 4-7-1998)

7-4A-2: ADMINISTRATION:

A. **Public Works Superintendent:** The Superintendent shall have charge of the maintenance and operation of the water supply, pumping equipment, distribution system, fire hydrants, meters and all other appurtenances of the water works system, under the supervision and direction of the City Administrator. The Superintendent shall oversee all extensions and alterations of the water works system which are authorized by the City Council. The Superintendent shall also be responsible for the reading of all water meters and shall report to the City Finance Officer on all money due the City for all deposit fees and charges made for water service and connections.

- B. City Finance Officer: The Finance Officer shall be responsible for the collection of water bills, deposits and fees. All revenues therefrom shall be accounted for in the manner required by Ordinance 436, section 4, "Protection and Disposition of Funds", as set forth in subsection C of this Section and shall be deposited regularly in a separate fund designated Reserve Fund Account, which fund shall be separate from all other funds and deposits of the City. (Ord. 517, 10-21-1985)
- C. Protection And Disposition Of Funds: The City Finance Director shall be the custodian of all funds of the City and all funds shall be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The Finance Director shall execute a fidelity bond in an amount not less than fifty thousand dollars (\$50,000.00) with a surety company approved by the Farmers Home Administration and the United States of America shall be named as co-obligee in such bond and the amount thereof shall not be reduced without the prior written consent of Farmers Home Administration. The City Finance Director is hereby directed to establish the following accounts into which the current funds of the City, bond proceeds, the revenues from the facility and other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the bond hereby authorized remains unpaid:
1. Construction Account: The proceeds of the bond hereby authorized shall be deposited in the construction account which shall be established as a "supervised bank account" as required by the government. Amounts in the supervised bank account exceeding forty thousand dollars (\$40,000.00) shall be secured by the depository bank in advance in accordance with the U.S. Treasury Department Circular No. 176. Withdrawal from the construction bank account shall be made only on checks signed by the Finance Director of the City as authorized by the City Council from time to time, countersigned by the Mayor and only for the purposes for which said bond was signed as specified in the estimate of costs. The City's share of any liquidated damages and other moneys paid by defaulting contractors of their sureties will be deposited in the construction account to assure completion of the project. When the construction of the facility has been completed or all construction costs have been paid for in full, any balance remaining in the construction account shall be used immediately to pay outstanding installments on the bond in inverse order without premiums, except that any balance in an amount insufficient to pay a whole installment will be transferred to the reserve account. The construction account shall then be closed.
 2. Revenue Fund Account: As soon as the facility becomes revenue producing, the gross revenues shall be set aside into a separate account to be designated the revenue fund account, and moneys so deposited therein shall be expended and used only in the manner and order as follows:
 - a. Operation And Maintenance Account (Bookkeeping Account): There shall be set aside and deposited a sufficient portion of the income and revenue in the revenue account to pay the reasonable and necessary current expenses of operating and maintaining the facility.
 - b. Debt Service Account (Bookkeeping Account): After the transfer required in subsection C2a of this Section, there shall be transferred each year prior to December 1 from the revenue fund account, before any other expenditures or transfer therefrom

and deposited in the debt service account for payment of the annual installment of the note, a sum equal to the annual installment becoming due on December 1.

- (1) If the City for any reason shall fail to make such deposit, then an amount equal to the deficiency shall be set apart and deposited in the debt service account out of the gross revenues, which amount shall be in addition to the regular deposit required.
 - (2) Whenever there shall accumulate in the debt service account amounts in excess of the requirements during the next twelve (12) months for paying principal and interest on outstanding installments and in the operation and maintenance account and the reserve account, hereinafter established, amounts in excess of the requirements thereof, such excess may be used by the City to make prepayments on the loan.
- c. Reserve Account (Bookkeeping Account): Out of the balance of income and revenue in the revenue fund account remaining after the transfers required in subsections C2a and C2b of this Section have been made, there shall be set aside and deposited in the reserve account the sum of five hundred thirty dollars (\$530.00) each month until there is accumulated in that fund the sum of sixty three thousand sixty dollars (\$63,060.00), after which no further deposits need be made into said account except to replace withdrawals. The reserve account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the facility which may be caused by any unforeseen catastrophe, for making extensions or improvements to the facility and when necessary for the purpose of making payments of principal and interest on the bonds hereby authorized in the event the amount of the debt service account is insufficient to meet such payments. Whenever disbursements are made from said account, said monthly deposits shall be resumed until there is again accumulated the amount of sixty three thousand sixty dollars (\$63,060.00), at which time deposits may be again discontinued. (Ord. 436, 11-6-1978)

7-4A-3: SERVICE CONNECTIONS:

- A. Single-Family Residences And Multiple Dwellings: All single-family residences shall have one service connection and a water meter. All multiple dwelling units, including apartments and motels, shall have a separate service connection and water meter for each unit. If requested by the owner and approved by the City Council, the owner of a multiple dwelling containing five (5) or more units may have only one water meter.
- B. Commercial: All commercial water users shall have a water meter for each user; provided, that if any owner of any building divides or separates his/her other building so as to provide a separate place for a business, each business place will have a separate water meter. The owner of a structure in which water is provided through a single water meter shall be liable for all water supplied to the building. If a use is changed in a commercial structure, a water meter shall be required on the new use. If requested by the owner and approved by the City Council, the owner of a commercial building containing two (2) or more separate water users or business places may have only one water meter.

- C. Requests For Exceptions: Exceptions provided by subsections A and B of this Section, shall only be made by resolution of the City Council stating the reason therefore. The person requesting the exception shall pay for all expenses in connection with the City Council's review of the request, including, but not limited to, City attorney fees, staff time, engineering fees, any materials and other related costs, whether or not the request is granted. The expenses of review may be added to the person's water billing and collected in the same manner as water rates and charges. (Ord. 517, 10-21-1985)

7-4A-4: APPLICATION FOR SERVICE:

- A. Connection To Water Main: Before connecting to any water main or altering a service connection, application for permission must be made in writing by the owner of the premises to be served, or the owner's authorized representative, to the City. The application shall be in such form as shall be from time to time prescribed by the City. By submitting an application, the owner agrees to be bound by the terms of this Article and amendments and all reasonable rules and regulations as shall be promulgated by the City in implementation of this Article. (Ord. 582, 7-1-1991)
- B. Opening Water Account: Applications for water service shall be made at City Hall by or on behalf of the person requesting water and water service. Persons receiving water and water services are deemed bound by the terms of this Article and amendments and all reasonable rules and regulations as shall be promulgated by the City in implementation of this Article. (Ord. 517, 10-21-1985)
- C. Implied Consent; Discontinue Service Without Notice: Any water user shall be deemed to have consented and agreed to the terms and provisions of this Article and to have acknowledged the right of the City to discontinue water service without notice in the event of failure to make timely payment of all rates and charges or to otherwise comply with the provisions of this Article or regulations to implement this Article. (Ord. 582, 7-1-1991)
- D. Eligibility For Water Service: The City may refuse to provide water service to real property unless the owner, the owner's agent, or the owner's tenant has made formal application for water service from the City. A tenant applying for water service may be required by the City to provide proof of his or her tenancy. The City shall refuse to provide water service to real property when any tenant applying for water service has a previous unpaid bill for water service with the City unless the City and the tenant agree to a written plan for repayment of unpaid water bills. The City may disconnect water service to real property if the owner, the owner's agent, or the owner's tenant has not made formal application for water service from the City.
- E. When Owner Is Responsible: When water service is provided to a multi-family dwelling, an apartment or a building occupied by more than one tenant, and such multi-family dwelling, apartment, or building does not have a separate water meter for each unit, the owner shall be responsible for payment and the property is subject to a lien. (Ord. 669, 4-7-1998)

7-4A-5: WATER USER SERVICE LINES:

- A. Installation: The service line from the property line shall be installed and properly maintained by the water user. All service pipes and all water pipes in all premises shall be installed in accordance with the Plumbing Code of the State of Oregon and the City.
- B. Connection To Water Meter Or Upon Premises: Before any attachment or connection is made between the water meter and the water user's service line, permission shall be obtained from the Superintendent, and the work shall be performed at the expense of the water user. All connections or attachments to the water meter or upon the premises shall be in accordance with the Plumbing Code of the State of Oregon and the City.
- C. Ground Wire Attachments: The water user shall be liable for any damage to City property caused by electrical ground wire attachment to any plumbing.
- D. Leaking Plumbing: Water may not be furnished where there are defective or leaking faucets, water closets or other fixtures, or where there are water closets or urinals without self-closing valves, or tanks without self-acting float valves, and the water supply may be shut off. (Ord. 517, 10-21-1985)

7-4A-6: SERVICE PIPES AND EXTENSIONS OF WATER MAINS:

- A. Installation: Service pipes of all sizes between the water main and the water meter shall be of the type and material specified by the Superintendent. Service pipes from the water meters to the property line and within the premises shall be of a grade of material approved by the Superintendent. Service pipes between the water main and water meter shall be installed and maintained by the City, except where the meter is located at a distance from the water main further than the street property line, in which event special arrangements shall be made as to the cost of the extra length of line.
- B. Extension: Extension to the water mains of the water system may be made by any one of the following methods, in addition to the procedures provided in this Article or other ordinances of the City, as specified by an engineer of the City's choice.
 - 1. By the person requesting the water main paying the entire cost. The water main shall be conveyed or transferred to the City with the necessary easements, and shall meet the following requirements:
 - a. Specified by the City Engineer, the size, grade, and location of such main shall provide for anticipated future development of the property in the adjacent area, and for the connections which such development may generate.
 - b. Where the main passes through private property, a twenty foot (20') easement and right of way shall be granted to the City for the maintenance, operation, and repairing of such main and for all water line purposed necessary or reasonably incident to the uses and purposes thereof, including any connections to the water system of the City, but not limited thereto.
 - c. A special connection charge (in addition to the service connection fee) may be charged to those connecting to the water main or line who did not share in the cost of its installation and used to reimburse the person or persons who paid for its

- installation. The special connection charge shall be equal to the proportionate share of the total cost of the water main extension which reflects the benefits to each property which may be connected to the line or main, based on the square footage of the properties.
2. By petitioning the City Council to extend the City water main in a manner to be financed as described hereafter. When considering such extension to the City water system, the City Council shall have before it a report from the City Engineer of:
 - a. The total cost of installing the main of a design and capacity sufficient to serve the needs of the anticipated future development of the property and adjacent area and for the connections which such development may generate.
 - b. The proportionate share of such total cost which shall reflect the benefits to each property which may be connected to the line or main, such proportionate costs to be determined in the same manner as for a local improvement, as provided by the local improvement ordinance.
- C. **Financed From Water Fund:** At such time as the City Council determines that a water main shall be installed by the manner herein described, and when appropriations therefore have been budgeted, all costs for such water main shall be financed from the Water Fund. A special connection charge (in addition to the service connection fee) equal to the proportional benefits, as above described, shall be paid into the Water Fund, together with an annual interest charge of not less than twelve percent (12%) per annum or The U.S. National Bank prime rate plus two percent (2%), whichever is greater, beginning on the date on which construction of such main was completed, by each property owner requesting to be connected to the water system. (Ord. 517, 10-21-85; 1993 Code)

7-4A-7: WATER METERS:

- A. **Installation, Care and Custody of Water Meters:** Water meters will be furnished and installed by the City, and the expense of installation will be included in the service connection fee. The water user will have custody of the water meter, but the water meter will remain the property of the City. There is hereby created the relationship of bailor and bailee between the City and the water user in regard to the care and custody of the water meter.
- B. **Repairs:** The water user shall be liable for any adjustments, repairs or replacement of a water meter or other equipment or property owned by the City which is caused by an act of the water user or tenants, agents, employees, contractors, licensees, permittees or family members of the water user, including the breaking or destruction of seals and locks on or near a water meter. If a water meter is damaged from hot water from the water user's line, the water user shall be required to pay for the cost of repairs of the water meter and for the loss of revenue occasioned by the damage, and shall immediately make the necessary corrections in the water user's water lines to prevent further damage to the water meter.
- C. **Malfunctioning Water Meters:** In case of damage to a meter, its stoppage or imperfect operation, the water user shall give immediate notice to the City. If any water meter

malfunctions or fails to register not due to the fault of the water user, the water user will be charged the basic rate for the time period that the meter malfunctioned.

- D. Inspection and Testing: The Superintendent may inspect and test water meters at any time. If a water user requests inspection and testing of a water meter, a testing fee shall be paid in advance. If the water meter is found to be inaccurate according to the standards of the American Waterworks Association, a water meter will be substituted, the water bill for the preceding billing period shall be adjusted as set out in subsection C of this Section and the water meter accuracy test fee refunded.
- E. Accessibility to Water Meters: The water user shall keep the water meter and appurtenant area free from obstruction or debris in, on or around the same and accessible at all times, for the purpose of turning-on and turning-off water, and reading, inspecting or repairing the water meter.
- F. Keeping Water Meters from Freezing: The water user shall take all necessary precautions to keep the water meter from freezing. If the water user fails to keep the water meter from freezing, the water user shall be charged with the cost of repairing any damage which may result from such failure.
- G. Keeping Water Meter Areas Safe: The water user shall keep the water meter box and appurtenant area in a safe condition and shall be responsible for any repair to the water meter and appurtenances or property damage or personal injury to third persons. In addition, the water user shall hold the City harmless and indemnify it against any claims by third persons. The City hereby creates a right of action in third persons injured as a result of a water user's failure to properly maintain the water meter box and/or appurtenant area.
- H. Use of Water Meters: All water furnished by the City to any property with a water meter must pass through the water meter. (Ord. 517, 10-21-85)

7-4A-8: CROSS-CONNECTION CONTROL REQUIREMENT:

- A. Identifying Cross-Connections: The cross-connection control inspector shall identify and evaluate the premises where potential cross-connections exist.
- B. Discontinue Service: Where the Superintendent has reasonable cause to believe that an existing or potential cross-connection is located on the water user's premises, the Superintendent shall deny or discontinue service to those premises until an appropriate backflow prevention device is installed or until the cause of the hazard is eliminated.
- C. Water User to Notify Superintendent: Whenever a water user obtain water from the water works system treats the water in any way or adds any chemical or substance to the water, the water user shall immediately notify the Superintendent.
- D. Installation of Backflow Prevention Devices:

1. Backflow prevention devices for protecting the water works system shall be installed on the service connection to premises as required by State law and regulations.
 2. All backflow devices shall be installed in accordance with the Oregon Health Division standards.
- E. Type of Backflow Prevention Device: The type of backflow prevention device required under subsection D of this Section, shall be commensurate with the degree of hazard which exists.
- F. All backflow prevention devices required under this Section shall be of a type and model approved by the Superintendent or the Oregon Health Division. The City shall maintain a list of backflow prevention devices approved for use in Oregon.
- G. Testing and Inspection of Backflow Prevention Devices:
1. The water user, where one or more reduced pressure device, double check valve assembly, or pressure vacuum breaker have been installed, shall have the device tested at least once per year. Backflow prevention devices found not to be functioning properly shall be promptly repaired by the water user or the City may deny or discontinue service as provided in subsection B of this Section. Devices shall be tested immediately after installation and after they are moved. Reports on the tests shall be prepared by the Superintendent and copies of the report shall be provided to the water user.
 2. Backflow prevention devices installed before the effective date of this Article which were approved at the time they were installed but are not on the current list of approved devices maintained by the Oregon Health Division, shall be permitted to remain in service provided they are properly maintained, are commensurate with the degree of hazard, are tested at least annually, and perform satisfactorily. When devices of this type are moved, or require more than minimum maintenance, they shall be replaced by devices which are on the Oregon Health Division list of approved devices. (Ord. 517, 10-21-1985; amd. 1993 Code)

7-4A-9: WATER RATES AND CHARGES:

- A. Set By Resolution; Services Listed: Water rates, charges, deposits and water services shall be set by resolution of the City Council and be reviewed at least once annually⁵⁴.
- B. Adjustment Of Rates: Water rates shall not be decreased during any period that bonds issued pursuant to Charter amendments enacted by the people of the City at a special election dated February 24, 1976, and issued December 1, 1978, to Farmers Home Administration are outstanding.
- C. Existing Contracts: Water rates adopted by resolution of the City Council shall not modify any existing contract the City has with any person for water rates.

- D. Damages To City Property: Wherever this Article provides for liability for any damage or repairs to City property by any water user, the amount of damages or repairs may be added to the water user's bill and collected in the same manner as water rates and charges. (Ord. 517, 10-21-1985; amd. 1993 Code)

7-4A-10: COLLECTION OF WATER RATES AND CHARGES:

- A. Application Fee; Water And Sewer Deposit: Any person for whom an account is opened shall pay a nonrefundable application processing fee to cover administrative costs of opening an account. Each application for use of sewer service, water, or both, shall be accompanied by a refundable deposit which will be held by the City and applied against any unpaid service charges for garbage, sewer or water charges due from the applicant. The application fee and deposits shall be collected from all applicants within three (3) days after requesting service from the City. The three (3) day period for payment of the application fee and deposits may be extended at the request of the applicant because of extenuating circumstances, which will be reviewed by the City Administrator. When an account is closed, the amount of any sewer and water deposits plus interest shall be returned to the applicant, less any amounts due for garbage, sewer or water service. If an applicant has paid the monthly statements for garbage, sewer and water service in a timely manner for thirty six (36) consecutive months without delinquency charge, the deposit plus interest will be credited against the applicant's current bill. (Ord. 559, 8-8-1989)
- B. Billing Procedures:
1. Water And Sewer Bills Combined: All bills for water shall be prepared each month at the same time bills for sewage services are prepared and shall be collected as a combined bill for water and sewage service. (Ord. 515, 10-21-1985)
 2. Billing To The Premises: All water service charges shall be mailed to the premises where water service is furnished unless the water user requests, in writing, that the bill be submitted to another address. (Ord. 582, 7-1-1991)
 3. Due Date:
 - a. All water bills for each month shall be due and payable on the twentieth day of each month.
 - b. If the last day for making payment falls due on a day when City Hall is closed before the end of or for all of the normal workday or on any legal holiday, Saturday or Sunday, the payment may be made until the close of business hours on the next day that City Hall is open for business.
 4. Place Of Payment: All water bills shall be paid at City Hall.
- C. Appeals: Any person wishing to challenge a water billing may appeal to the City Administrator before the water service is suspended. Service will not be suspended during the pendency of an appeal if the water user pays the amount of any water billing not in dispute and the delinquent fee, if the amount not in dispute is twenty (20) days past due. (Ord. 517, 10-21-1985)

D. Delinquencies:

1. Fee: All bills unpaid after the twentieth day of each month shall be considered delinquent and a delinquency fee shall be assessed.
 2. Notice Of Delinquency; Suspension Of Water Service: After the twentieth day of each month, notification shall be given as provided in subsection B2 of this Section, that the water bill and delinquency fee must be paid within five (5) days or water service to the property will be suspended. If the water user is not the owner of the real property receiving water service, a copy of the delinquency notice shall also be sent by first class mail to the owner or owner's agent that is on file with the City when the delinquency notice is sent to the water user. In the case of residential housing where water service charges are sent to the landlord instead of the tenant and the five (5) day delinquency period has expired without payment, notice that water service will be shut off within one business day shall be attached to the door of each tenant. If the water service is turned off, the water bill, delinquency fee, and the expense of reconnecting the service shall be paid in full before water service is restored. (Ord. 669, 4-7-1998)
 3. Duty to Disconnect Water Service: It shall be the duty of the Finance Officer to notify the Superintendent of any water user whose bill is outstanding after the deadline in subsection D2 of this Section, and the Superintendent shall proceed immediately to disconnect the water service, unless the City Administrator has postponed the suspension of water services.
 4. Water Charged To Other Premises Of User: All charges for furnishing water within the City and also to premises outside the City, shall be chargeable to the water user of said water at the premises or any former premises where water service was supplied. Where the water user has a delinquent bill for one premises, that delinquency shall be charged against the water user for water obtained at any other premises or source served by the City.
- E. Low Income Rate: For relief of those residents who are experiencing a financial hardship, an application for the low income rate may be made to the City. The City Administrator and Water/Sewer Committee will evaluate requests and make recommendations to the City Council.
- F. Leaky Plumbing: No water charges will be adjusted for any water registered by meter that may leak or waste through the plumbing or fixtures of the water user.
- G. Outside City Water Rates: The City may furnish water to places outside the City limits if it does not affect the City's supply, and the City Council may set the rates therefore by resolution.
- H. Exemption: A turn-off and turn-on fee will not be charged the water user if one of the purposes for turning off the water was installation of a shut-off valve between the water

meter and the premises. This is a one-time exemption that runs with the property and shall only be allowed once.

- I. Delay Of Termination Of Water Service: Any person faced with immediate discontinuance of water service, who is unable to pay by reason of an emergency situation in which:
 1. The discontinuance would cause severe hardship to persons other than the individual unable to pay;
 2. The emergency is a situation that will be resolved in a period of less than thirty (30) days from the delinquency billing date; and
 3. The emergency is one which will be unlikely to recur;
may request the City Administrator to postpone the cut-off date. The City Administrator may postpone the discontinuance of services for a period not to exceed thirty (30) days from the delinquency billing date. Any person for whom termination of service has been delayed shall be required to pay the applicable fees in subsection D1 and D2 of this Section. (Ord. 517, 10-21-1985)

- J. Deposits:
 1. Interest: The Director is authorized to invest deposits held by the City in interest-bearing accounts. The City shall pay interest at the lowest rate earned on the City's investments during the calendar year, less one percent (1%) for administrative expenses, to the applicant making the deposit. The interest will be credited to the customer's account on January 1 succeeding each deposit and on January 1 thereafter. Interest on sewer and water deposits shall begin on January 1, 1989, or the date of the deposit, whichever is later. (Ord. 611, 11-2-1993, eff. 1-1-1994)
 2. Unclaimed Deposits: Deposits received as security for the payment of water and sewer which remain unclaimed for a period of two (2) years after an account is closed may be transferred to the Water Fund Account. (Ord. 517, 10-21-1985)

- K. Lien for Unpaid Water Bill: When any bill remains unpaid after it becomes delinquent, the amount due (including interest and penalty) shall be recorded in the lien docket of the City and shall constitute a lien on the real property to which water service was provided. At any time after sixty (60) days from the time the lien is entered in the City's lien docket, in addition to any method provided by ordinance or charter, the lien may be foreclosed in the manner provided in Oregon Revised Statutes.

- L. Transfer Of A Claim: A tenant's bill may be transferred to the property owner, or to a subsequent tenant, if a delinquency notice was provided by first class mail to the tenant and to the property owner or the owner's agent within thirty (30) days from the date the bill was due⁵⁵. (Ord. 669, 4-7-1998)

7-4A-11: DISCONTINUANCE OF SERVICE BY WATER USER:

- A. Request For Discontinuance: Any water user desiring to discontinue the water service may make application therefore at city hall not less than two (2) days before the date on which the service is desired to be discontinued. Upon payment of the turn off fee and the sewer and water bill to date, water service will cease after the effective date of discontinuance for the period during which the service is to be shut off. Water services shall not be returned to the premises until the turn on fee is paid.
- B. Liability For Repairs: Any repairs or adjustments made necessary to the water meter for lack of use by water service being discontinued shall be charged and collected from the water user and may be added to the water bill and collected in the same manner as water rates and charges. (Ord. 582, 7-1-1991)

7-4A-12: RESPONSIBILITY FOR SERVICE:

- A. Non-liability: The city shall not be liable for high or low pressure connections, chemical, bacteriological or physical conditions, interruptions, or shortage or insufficiency of supply or any loss or damage occasioned thereby. The use of water upon the premises of the water user shall be at the risk of the water user and the responsibility of the city shall cease at the point of delivery of water. The point of delivery shall be at the water user's side of the water meter, or in case of privately owned water lines, the point of delivery shall be at the end of the city's service line. (Ord. 517, 10-21-1985)
- B. Water Curtailment:
 - 1. Waste Prohibited: It is unlawful to allow waste of city water by knowingly or negligently causing, authorizing or permitting such water to escape from its intended beneficial use into any river, creek, natural watercourse, depression, lake, reservoir, storm sewer, street, highway, road or ditch. For the purpose of this subsection, "waste" means the use of water in excess of the reasonable volume necessary to meet the beneficial use; and "beneficial use" means the reasonable efficient use of water.
 - 2. Authority: When the public works superintendent determines that a critical water supply shortage threatens the ability of the city to deliver essential water to its customers, the administrator may activate emergency measures in compliance with the water curtailment plan, adopted by the city on March 1, 2005, and on file with the city recorder.
 - 3. Restrictions Authorized: Upon declaration of a stage three critical water supply shortage by the public works superintendent:
 - a. No watering or irrigating of lawns, grass or turf shall occur unless it is:
 - (1) New lawn, grass or turf that has been seeded or sodded after March 1 of the calendar year in which the restrictions are imposed, and in such cases it may be watered as necessary until established;
 - (2) Athletic fields frequently used for organized play;
 - (3) Golf course tees and greens; and
 - (4) Park and recreation areas of a particular significance and value to the community as approved by the city manager.

- b. No use of city supplied water shall be allowed to clean, fill or maintain levels in decorative fountains.
 - c. No use of city supplied water shall be allowed to fill swimming pools or other pools with a capacity in excess of one hundred (100) gallons; provided, however, that water may be added to swimming pools to replace volume lost due to evaporation and normal loss due to usage.
 - d. No use of city supplied water shall be allowed to wash sidewalks, walkways, streets, driveways, parking lots or other hard surfaced areas except where necessary for public health or safety.
 - e. No use of city supplied water shall be allowed to wash vehicles.
4. Withholding Service: In the event that a citation is issued during the period of activated emergency measures for a violation of subsection B1 or B3 of this section, and the public works superintendent determines that a second violation has occurred after the date of the citation and during the same emergency curtailment period, the public works superintendent may:
- a. Install a flow restrictor on the street side of the water meter; or
 - b. Terminate water service. (Ord. 736, 4-5-2005)
- C. Interruptions In Service: Water may at any time be shut off from the mains for repairs or other necessary purposes. When this is done, the superintendent will try to give timely notice to water users affected thereby and will, so far as practicable, attempt to prevent inconvenience and damage arising from the shutting off of water. But, failure to give notice shall not render the city responsible or liable for damages or any inconvenience, injury or loss which may result therefrom. (Ord. 517, 10-21-1985)

7-4A-13: RESPONSIBILITY FOR WATER USER EQUIPMENT:

The water user shall, at his or her own risk and expense, furnish, install and keep in good and safe condition all equipment that may be required for receiving, controlling, applying and utilizing water, and the city shall not be responsible for any loss or damage caused by improper installation of such equipment, or the negligence, want of proper care or wrongful act of the customer or any of his tenants, agents, employees, contractors, licensees or permittees in installing, maintaining, using, operating or interfering with such equipment. Further, the city shall not be liable for damage to property caused by spigots, faucets, valves, hot water heaters or other equipment that are open when water is turned on or off at the meter or curb stop, either when the water is turned on originally or when turned on after a temporary shutdown. (Ord. 517, 10-21-1985)

7-4A-14: UNLAWFUL ACTS:

- A. Prohibitions: It shall be unlawful for any person not authorized by the city to do, commit or assist in committing any of the following things or acts:
- 1. To open or close any fire hydrant, valve or other apparatus connected with the waterworks system of the city or lift or remove the cover of any gate, meter, valve, shutoff or other apparatus thereof.

2. To interfere with, destroy, deface, impair, injure or force open any gate, or door, or in any way whatsoever destroy, injure or deface any part of any pump house, reservoir, standpipe, tank, building or buildings, or appurtenances, fences, trees, shrubs, or fixtures or property appertaining to the waterworks system.
3. To go in, upon, descend or ascend the stairway or steps of any water storage tank, reservoir, or standpipe of the waterworks system.
4. To place any telephone, electric light pole or any obstruction directly opposite a fire hydrant portal within five feet (5'), otherwise the minimum distance is three feet (3').
5. To resort to any fraudulent device or arrangement for the purpose of procuring water for himself or others from private connections on premises contrary to the city regulations or ordinances.
6. To interfere with or injure any reservoir, tank, fountain, hydrant, pipe, cock, valve, or other apparatus pertaining to the waterworks system, or to turn on or off the water in any street hydrant or other public water fixture or to hitch or tie any animal thereto.
7. To make or permit to be made any connection with the main or service pipe of the waterworks system, or to turn on or use the water of said system without first obtaining a permit therefore.
8. To cover over or conceal from view any water valve box, service or meter box.
9. To remove any water meter that has been placed by the city, or to in any manner change, interfere with or tamper with any water meter.
10. To turn on the water supply to any building or to any supply pipe where the supply has been turned off by the city.
11. To install, maintain or use any water siphon or injector type pump operation for drainage purposes which uses the water supply from the city's distribution system.

B. Water User Prohibitions: It shall be unlawful for any water user to do, commit or assist in committing any of the following:

1. To allow any obstruction or debris to accumulate on or near any water meter box.
2. To allow any debris to accumulate in any water meter box more than six inches (6") below the water meter, except during the months of November, December, January and February.
3. To pay any water bill upon which payment, or upon the envelope or outside cover of which, are any delineations, epithets, terms, or language of an indecent, lewd, lascivious or obscene character are printed or written or otherwise impressed or apparent.

4. To receive or use water through the water user's service line after water service has been turned off by the superintendent and before water service is restored by the superintendent. (Ord. 517, 10-21-1985; amd. 1993 Code)
5. To receive or use water from the city water system while there is a violation of subsection 7-2B-2C, 7-2B-5A or B; section 7-2B-3, 7-2B-6 or 7-2B-8 of this title; title 8, chapter 1 or title 10 of this code occurring on or in connection with the real property, development or building owned, rented or occupied by the water user. (Ord. 678, 10-6-1998)

7-4A-15: INSPECTIONS:

- A. Reasonable Access: The superintendent or authorized agent shall have free access at all reasonable hours to inspect any premises supplied with water. No person shall refuse access to any premises for such purposes.
- B. Admission Refused: If admission is refused or delayed, or if inspection is in any way hindered, in the opinion of the superintendent, water may be turned off to the premises after giving twenty four (24) hours oral notice to any occupant of the premises fourteen (14) years of age or older, or three (3) days' written notice by mail to the water user. (Ord. 517, 10-21-1985)

7-4A-16: PENALTIES:

Any person violating subsections 7-4A-4A, 7-4A-5B, 7-4A-14A and B of this article shall, upon conviction, be punished by the imposition of a class A civil fine¹. (Ord. 517, 10-21-1985; amd. 1993 Code)

7-4A-17: ADDITIONAL REMEDIES:

- A. Money Judgment: In addition to the penalties provided in section 7-4A-16 of this article, the city may sue in a court of competent jurisdiction to obtain a judgment for any fee due under this article and enforce collection of the judgment as allowed by law.
- B. Injunction: The city may seek an injunction to prohibit a person engaged in any activity regulated by this article without first complying with it.
- C. Attorney Fees And Costs: In any civil action authorized by this section, if the city prevails, it shall be entitled to recover its reasonable attorney fees to be set by the court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal. (Ord. 517, 10-21-1985)
- D. Suspension Of Water Service: In addition to the penalties provided in section 7-4A-16 of this article, the municipal judge may suspend water service to any real property or building owned, rented, or occupied by a person punished under section 7-4A-16 of this article until the penalty is paid or until the violation is corrected or both. If the court orders water service suspended until the violation is corrected, the suspension of water service will continue notwithstanding a change of ownership, renters, or occupiers of the real property or building

unless the new owner, renter, or occupier obtains a temporary permit from the city administrator under section 8-1-7 of this code. (Ord. 678, 10-6-1998)

ARTICLE B. SEWER USE AND SERVICE

7-4B-1: DEFINITIONS:

For purposes of this Article, the following mean:

AGENT: Includes a tenant or other person on the premises of another.

APPLICANT: The person making application for a permit for a sewer connection, who shall be the owner of the premises to be served by the sewer for which a permit is requested, or his authorized agent appointed in writing to do so.

APPROVAL or APPROVED: Approved in writing.

"BOD" (denoting biochemical oxygen demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20o) Celsius, 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: Part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (5') (1.5 meters) outside the inner face of the building walls.

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

CITY: The City of Umatilla, Oregon.

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

ORGANIZATION: Includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity, including any receiver, special master, trustee, assignee, or other similar representative thereof.

OWNER: Includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested:

A. All or part of the legal title to the property; or

B. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

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

p.p.m.: Parts per million.

PERSON: Includes an individual or organization, except the City.

PROPERLY SHREDED GARBAGE: The wastes from the preparation, cooking and dispensing of food 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 one-half inch (1/2") (1.27 cm) in any dimension.

SEWAGE: A combination of water-carried waste from residences, hotels, motels, rooming houses, business buildings, institutions and industrial establishments together with such ground surface and storm waters which may be present.

SEWER: A pipe or conduit carrying sewage.

SEWER USER OR SEWERAGE USER: Includes any person who has made application with the City for sewerage service or, if no application has been made, any person whose premises receive City sewerage service. In cases of multiple sewerage users who receive City water through a single water meter, the owner of the premises is the sewerage user and shall be the person to make application for sewerage service.

SEWERAGE SYSTEM: All facilities for collecting, pumping, treating and disposing of sewage.

SUPERVISOR: Public Works Superintendent, and authorized City staff members.

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

TENANT: Includes an organization or adult person or adult persons entitled under an oral or written rental agreement, including a leasehold interest, to occupy real property or a building, including a dwelling unit, to the exclusion of others.

UNIT: Ten thousand (10,000) gallons of water as determined by water meter readings. (Ord. 534, 12-1-1986; amd. Ord. 583, 7-1-1991; Ord. 670, 4-7-1998)

7-4B-2: STATE LAWS ADOPTED:

There is adopted and incorporated by reference Oregon Revised Statutes 447.010 through 447.160, the State Plumbing Code, and the applicable administrative rules of the State Board of Health promulgated pursuant thereto, unless otherwise provided for by ordinances of the City. (Ord. 534, 12-1-1986)

7-4B-3: ADMINISTRATION:

- A. Public Works Superintendent: The Superintendent shall have charge of the maintenance, testing, inspection and operation of the sewer system, under the supervision and direction of the City Administrator. The Superintendent shall oversee all extensions and alterations of the sewer system which are authorized by the City Council. The Superintendent shall also be responsible for the inspection of all sewer connections and shall report to the City Finance Officer on all money due the City for all charges made for such connections.
- B. City Finance Officer: The Finance Officer shall be responsible for the collection of sewer bills, deposits and fees. All revenues therefrom shall be accounted for in the manner required by ordinance and shall be deposited regularly in a separate fund designated Special Sewer Fund, which fund shall be separate from all other funds and deposits of the City. (Ord. 534, 12-1-1986)

7-4B-4: SERVICE CONNECTIONS:

- A. Permissive Connections: Wherever there is now, or may hereafter be, constructed in this City a public sewer for the purposes of carrying off sewage within the City, the owner or owners of the property abutting on any street or alley in which a sewer is constructed and, in the opinion of the Superintendent, is accessible thereto, may connect the houses or buildings on the property to the sewer at the expense of the owner(s). (Ord. 583, 7-1-1991)
- B. Inspection Fee: An inspection fee will be charged for each connection which is inspected. These will be paid at the time permits are acquired. (Ord. 534, 12-1-1986)

7-4B-5: APPLICATION FOR SERVICE:

- A. Sewer Connection Permit: If application is approved and the fees paid as provided, the City shall issue a sewer connection permit specifying the location where the connection is to be made. (Ord. 534, 12-1-1986)
- B. Connection To Sewer: Before connecting to any sewer or altering a service connection, application for permission must be made in writing by the owner of the premises to be served, or the owner's authorized representative, to the City. The application shall be in such form as shall be from time to time prescribed by the City. By submitting an application, the owner agrees to be bound by terms of this Article and amendments and all reasonable rules and regulations as shall be promulgated by the City in implementation of this Article. (Ord. 583, 7-1-1991)
- C. Opening Sewerage Service Account: Applications for sewerage service shall be made at City Hall by or on behalf of the person requesting sewerage service. A tenant applying for sewer service may be required by the City to provide proof of his or her tenancy. The City shall refuse to provide water and sewer service to real property when any tenant applying for sewer service has a previous unpaid bill for water or sewer service with the City unless the

City and the tenant agree to a written plan for repayment of unpaid water or sewer bills. Persons receiving sewerage service are deemed bound by the terms of this Article and amendments and all reasonable rules and regulations as shall be promulgated by the City in implementation of this Article.

- D. Implied Consent; Discontinue Service Without Notice: Any sewerage user shall be deemed to have consented and agreed to the terms and provisions of this Article and to have acknowledged the right of the City to discontinue water and sewer service without notice in the event of failure to make timely payments of all rates and charges and to otherwise comply with the provisions of this Article or regulations to implement this Article. (Ord. 670, 4-7-1998)

7-4B-6: SERVICE INSTALLATION:

- A. Expense: All cost and expenses incident to the installation, connection, inspection, maintenance and repair of the building sewer line shall be the responsibility of the owner, the user or both. The owner or user shall reimburse the City for any work performed by the City or its contractor on a building sewer line as a result of an owner's or user's failure to properly install, connect, inspect, maintain or repair the building sewer line. In the event of loss or damage to the City's property, arising from neglect, carelessness or misuse by the owner or user of a building sewer line, the cost of necessary repairs or replacements shall be paid by the owner or user.
- B. Responsibility For The Building Sewer Line: The owner or user, or both, at their sole risk and expense, shall furnish, install, inspect and keep in good and safe condition the building sewer line from the point of its connection with the public sewer line. The owner or user or both shall hold the City harmless from and indemnify it for any and all liabilities, actions or claims for injury, loss or damage to persons or property arising from or related to the building sewer line. (Ord. 577, 8-6-1990)
- C. Separate Connections: A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear of the building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- D. Old Building Sewers: Old building sewers may be used in connection with new buildings only when they are found, on examination and tests by the Superintendent, to meet all requirements of this Article.
- E. Installation Requirements: The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the City or of the State.

- F. Elevation: Wherever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.
- G. Connection To Public Sewer: The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the City or of the State. All such connections shall be made gas-tight and watertight.
- H. Inspection Of Connection: The City shall be given reasonable notice to allow inspection of a sewer connection before completion, and while the connections are still uncovered. The manner of connection shall be subject to the approval of the Superintendent or other City official designated to inspect the work.
- I. Safety: All excavation for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner and to a condition satisfactory to the City.
- J. Manholes: When required, in the opinion of the Superintendent, the owner shall install, at the owner's expense, a suitable control manhole in the appropriate location, complete with observation, sampling and measurement devices. The manhole shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. (Ord. 534, 12-1-1986)

7-4B-7: PRETREATMENT:

- A. Settling: All waste containing soil, dirt and/or sand shall be settled a minimum of two (2) hours in an acceptable basin before discharge into a sewer.
- B. Required Pretreatment: When required, in the opinion of the Superintendent, to modify or eliminate wastes that are harmful to the structures, processes or operation of the sewage treatment works, the user shall provide such preliminary treatment or processing facilities as may be determined necessary to render his waste acceptable for admission to public sewers.
- C. Pretreatment Facilities: Any facilities required to pre-treat waste water to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review and shall be acceptable to the City before construction of the facility. (Ord. 534, 12-1-1986)

7-4B-8: SEWER RATES AND CHARGES:

- A. Set By Resolution; Services Listed: Sewer rates, charges, deposits, fees and sewer services shall be set by resolution of the City Council and be reviewed at least once annually⁵⁷.

- B. Adjustment Of Rates: Sewer rates shall not be decreased during any period that sewer bonds issued are outstanding.
- C. Existing Contracts: Sewer rates adopted by resolution of the City Council shall not modify any existing written long term contract the City has with any person(s) for sewer rates.
- D. Damages To City Property: Wherever this Article provides for liability for any damage or repairs to City property by any sewer user, the amount of damages or repairs may be added to the sewer user's bill and collected in the same manner as sewer rates and charges. (Ord. 534, 12-1-1986)

7-4B-9: COLLECTION OF SEWER RATES AND CHARGES:

- A. Application Fee; Water And Sewer Deposit: Any person for whom an account is opened shall pay a nonrefundable application processing fee to cover administrative costs of opening an account. Each application for use of sewer service, water or both, shall be accompanied by a refundable deposit which will be held by the City and applied against any unpaid service charges for garbage, sewer or water charges due from the applicant. The application fee and deposits shall be collected from all applicants within three (3) days after requesting service from the City. The three (3) day period for payment of the application fee and deposits may be extended by a request of the applicant because of extenuating circumstances, which will be reviewed by the City Administrator. When an account is closed, the amount of any sewer and water deposits plus interest shall be returned to the applicant, less any amounts due for garbage, sewer or water service. If an applicant has paid the monthly statements for garbage, sewer and water service in a timely manner for thirty six (36) consecutive months without delinquency charge, the deposit plus interest will be credited against the applicant's current bill. (Ord. 560)
- B. Billing Procedures:
 - 1. Water And Sewer Bills Combined: All bills for water shall be prepared each month at the same time bills for sewage services are prepared and shall be collected as a combined bill for water and sewage service. (Ord. 534, 12-1-1986)
 - 2. Billing to The Premises: All sewerage service charges shall be mailed to the premises where sewerage service is furnished unless the sewerage user requests, in writing, that the bill be submitted to another address. (Ord. 583, 7-1-1991)
 - 3. Due Date:
 - a. All sewer bills for each month shall be due and payable on the twentieth day of each month.
 - b. If the last day for making payment falls on a day when City Hall is closed before the end of, or for all of, the normal workday or on any legal holiday, Saturday or Sunday, the payment may be made until the close of business hours on the next day that City Hall is open for business. (Ord. 560)

4. Place Of Payment: All water and sewer bills shall be paid at City Hall. (Ord. 670, 4-7-1998)

C. Appeals: Any person wishing to challenge a sewer billing may appeal to the City Administrator before the water service is suspended. Service will not be suspended during the pendency of an appeal if the sewer user pays the amount of any sewer billing not in dispute and the delinquency fee, if the amount not in dispute is twenty (20) days past due.

D. Delinquencies:

1. Fee: All bills unpaid after the twentieth day of each month shall be considered delinquent and a delinquency fee shall be assessed. (Ord. 560)
2. Notice Of Delinquency; Suspension Of Water Service: After the twentieth day of each month, notification shall be given as provided in subsection B2 of this Section, that the sewer bill and delinquency fee must be paid within five (5) days or water service to the property will be suspended. If the sewer user is not the owner of the real property receiving sewer service, a copy of the delinquency notice shall also be sent by first class mail to the owner or owner's agent that is on file with the City when the delinquency notice is sent to the sewer user. If the water service is turned off, the sewer bill, delinquency fee, and the expense of reconnecting the service, shall be paid in full before the water service is restored. (Ord. 670, 4-7-1998)
3. Duty To Disconnect Water Services: It shall be the duty of the Finance Officer to notify the Superintendent of any sewer user whose bill is outstanding after the deadline in subsection D2 of this Section, and the Superintendent shall proceed immediately to disconnect the water service, unless the City Administrator has postponed the suspension of water services.
4. Sewer Services Charged To Other Premises Of User: All charges for furnishing sewer services within the City and also to premises outside the City, shall be chargeable to the sewer user of said sewer services at the premises or any former premises where sewer service was supplied. Where the sewer user has a delinquent bill for one premises, that delinquency shall be charged against the sewer user for sewer services obtained at any other premises or source served by the City. (Ord. 560)
5. Recovering Delinquent Charges Where Sewerage User Does Not Receive City Water: Under Oregon Revised Statutes 454.225, if a sewer charge is delinquent and the user is not receiving water services from the City, the Finance Director may certify and present the charges to the Umatilla County Tax Assessor after July 15 and on or before the following July 15 and be by the assessor assessed against the premises serviced on the next assessment and tax roll prepared after July 15. Once the service charges are certified and presented to the assessor, the payment for the service charges will be made to the tax collector pursuant to Oregon Revised Statutes 311.370. (Ord. 645, 7-2-1996)

- E. Low Income Rate: For relief of those residents who are experiencing a financial hardship, an application for the low income rate may be made to the City. The City Administrator and Water/Sewer Committee will evaluate requests and make recommendations to the City Council.
- F. Outside City Sewer Rates: The City may furnish sewer service to places outside the City limits and the City Council may set the rates therefore by resolution.
- G. Delay Of Termination Of Sewer Service: Any person faced with immediate discontinuance of water service, who is unable to pay by reason of an emergency situation in which:
 - 1. The discontinuance would cause severe hardship to persons other than the individual unable to pay;
 - 2. The emergency is a situation that will be resolved in a period of less than thirty (30) days from the delinquency billing date; and
 - 3. The emergency is one which will be unlikely to recur; may request the City Administrator to postpone the cut-off date. The City Administrator may postpone the discontinuance of services for a period not to exceed thirty (30) days from the delinquency billing date. Any person for whom termination of service has been delayed shall be required to pay the applicable fees in subsection D1 and D2 of this Section.
- H. Indecent Matters: The City may reject payment for any sewer bill upon which or upon the envelope or outside cover of which are any delineations, epithets, terms or language of an indecent, lewd, lascivious or obscene character are printed or written to otherwise impressed or apparent. (Ord. 560)
- I. Deposits:
 - 1. Interest: The Director is authorized to invest deposits held by the City in interest-bearing accounts. The City shall pay interest at the lowest rate earned on the City's investments during the calendar year, less one percent (1%) for administrative expenses, to the applicant making the deposit. The interest will be credited to the customer's account on January 1 succeeding each deposit and on January 1 thereafter. Interest on sewer and water deposits shall begin on January 1, 1989, or the date of the deposit, whichever is later. (Ord. 611, 11-2-1993, eff. 1-1-1994)
 - 2. Unclaimed Deposits: Deposits received as security for the payment of water and sewer which remain unclaimed for a period of one year after an account is closed shall be transferred to the Special Sewer Fund account unless subject to the Uniform Disposition of Unclaimed Property Act, Oregon Revised Statutes 98.302 et seq. (Or Laws 1957, c. 670). (Ord. 534, 12-1-1986)

- J. Transfer of a Claim: A tenant's bill may be transferred to the property owner or to a subsequent tenant if a delinquency notice was provided by first class mail to the tenant and to the property owner or the owner's agent within thirty (30) days from the date the bill was due.
- K. Lien For Unpaid Sewer Bill: When any bill remains unpaid after it becomes delinquent, the amount due (including interest and penalty) shall be recorded in the lien docket of the City and shall constitute a lien on the real property to which sewer service was provided. At any time after sixty (60) days from the time the lien is entered in the City's lien docket, in addition to any method provided by ordinance or charter, the lien may be foreclosed in the manner provided in Oregon Revised Statutes. (Ord. 670, 4-7-1998)

7-4B-10: DISCONTINUANCE OF SERVICE BY SEWERAGE USER:

Any sewerage user desiring to discontinue sewerage service and who is also receiving water service may make application therefore at City Hall not less than two (2) days before the date on which the service is desired to be discontinued. Upon payment of the water turn-off fee and the sewer and water bill to date, sewerage service will cease after the effective date of discontinuance for the period during which the service is shut off. Sewerage services shall not be returned to the premises until the turn-on fee for water service is paid. (Ord. 583, 7-1-1991)

7-4B-11: UNLAWFUL ACTS:

- A. Prohibited Discharges: No person shall discharge or cause to be discharged any of the following waters or waste into any public sewer:
1. Petroleum, coal tar, vegetable or mineral oils, and products and their derivatives and wastes.
 2. Any water and waste which may contain more than one hundred (100) milligrams per liter of fat, oil or grease.
 3. Antimony, arsenic, barium, beryllium, bismuth, boron, cadmium, chromium (hexa), chromium (tri), cobalt, copper, iron, lead, manganese, mercury, molybdenum, nickel, rhenium, selenium, silver, strontium, tellurium, uranyl, tin and zinc.
 4. Explosive or inflammable liquids and gases.
 5. Any garbage that has not been properly shredded.
 6. Any waters or wastes having a pH lower than five and five-tenths (5.5) or higher than nine (9.0) or having other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works, or any explosive, acid or alkalies or corrosive liquids, gases or substances of sufficient strength to damage sewer, manholes, pumping stations or treatment plant units.
 7. Paints or waste products from paint manufacturers.

8. Substances which will form deposits or obstructions in sewers or which, when mixed with sewage, will precipitate material and thus form deposits in sewers.
 9. Ashes, cinders, sand, earth, mud, straw, shavings, feathers, glass, rags, tar, plastics, hair, coal, rubbish or metals of any kind, whole blood, entrails, paper dishes and cups and milk containers.
 10. Any liquid or vapor having a temperature above one hundred forty degrees Fahrenheit (140°F).
 11. Ground or unground fruit peelings and cores from canneries or packing plants.
 12. Cull fruits and vegetables.
 13. Fruit and vegetable pits and seeds such as those from peaches, apricots, cherries, prunes, pumpkins and squash.
 14. Paunch, stable and barn manure.
 15. Cull walnuts and filberts.
 16. Offal from slaughterhouses.
 17. Dead animals.
 18. Sulphite or sulphate liquor and "white" water from pulp and paper mills.
 19. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in receiving waters of the sewage treatment plant.
 20. Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
 21. Any noxious or malodorous gas or substance capable of creating a public nuisance.
- B. Temporary Or Permanent Drainage: Neither temporary nor permanent drainage of storm water or other runoffs into the sanitary sewer system shall be permitted. Drainage from roofs, storm sewer or storm drains shall not be permitted into the sanitary sewer system and no such connection shall be permitted.
- C. Harmful Contributions: No person shall discharge or cause to be discharged, any substances, materials, waters or wastes, if it appears likely to the authorized local and/or State and/or Federal agencies, that such waste can harm either sewer, sewage treatment process, or

equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance, or will violate standards established by the authorized local, State and/or Federal agencies.

- D. Protection From Damage: No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Municipal sewer system. (Ord. 534, 12-1-1986; amd. 1993 Code)

7-4B-12: INDUSTRIAL COST RECOVERY:

At such time as "industrial waste" as defined under section 35.905-8 of the Construction Grant Regulations 40 CFR part 35, are discharged to the facilities constructed under EPA Grant No. C410400, the City shall develop and adopt an industrial cost recovery system acceptable to the U.S. Environmental Protection Agency. This cost recovery system shall comply with the requirement of PL92-500 and all regulations and guidelines pertaining thereto. In the interim, the City shall submit an annual certification affirming the nonexistence of industrial discharges to this facility and shall maintain such records and documents as necessary to substantiate the certification. (Res. 3-77, 7-19-1976)

7-4B-13: INSPECTION; SAMPLES AND TESTS:

- A. Reasonable Access: Duly authorized employees of the City, bearing proper credentials and identification, shall have the authority to inspect or cause to be inspected, all buildings and premises except the interior of dwellings, as often as may be necessary, for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Article.
- B. Admission Refused: If admission is refused or delayed, or if inspection is in any way hindered, in the opinion of the Superintendent, water may be turned off to the premises after giving twenty four (24) hours' oral notice to any occupant of the premises fourteen (14) years of age or older, or three (3) days' written notice by mail to the water user.
- C. Examination: All measurements, tests, and analysis of the characteristics of the waters and waste to which reference is made in this Article shall be determined in accordance with the latest edition of Standards and 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 such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effective constituents upon the sewage works and to determine the existence of hazards to life, limb or property. (The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from a 24-hour composite of all outfalls, whereas pHs are determined from periodic grab samples.) (Ord. 534, 12-1-1986)

7-4B-14: PENALTIES:

Any person violating subsection 7-4B-4A, B, or 7-4B-6C, E, G, H, or I, or subsection 7-4B-7B or any of Section 7-4B-10 of this Article shall, upon conviction, be punished by the imposition of a Class A civil fine⁵⁹. In the case of a continuing violation, every day's continuance of the violation is a separate violation. (Ord. 534, 12-1-1986; amd. 1993 Code)

7-4B-15: ADDITIONAL REMEDIES:

- A. Money Judgment: In addition to the penalties provided in Section 7-4B-14 of this Article, the City may sue in a court of competent jurisdiction to obtain a judgment for any fee due under this Article and enforce collection of the judgment as allowed by law.
- B. Injunction: The City may seek an injunction to prohibit a person engaged in any activity regulated by this Article which does not comply with this Article.
- C. Attorney Fees And Costs: In a civil action authorized by this Section, if the City prevails, it shall be entitled to recover its reasonable attorney fees to be set by the court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal. (Ord. 534, 12-1-1986)