

Title IV

HEALTH AND SANITATION

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HISTORY:

CHAPTER 1 (*Ord. 180, 11-18-38*) "enabled" a Health Committee consisting of the Mayor, City Marshal, three Council members and a physician, to enforce state health regulations. CHAPTERS 3 and 4 were combined with Chapter 2 in a 1977 re-write of water, sewer and garbage ordinances which became CHAPTER 2. CHAPTER 2B (*Ord. 718, 5-4-93*) promulgated rules for dumping septic tank sludge in the City lagoon. CHAPTER 6 (*Ord. 607, 11-7-78*) was a City Restaurants Code, CHAPTER 7 (which came with the 1963 Code) adopted the 1953 Public Health Service Milk Code as a City Milk Code, and CHAPTER 8 (*Ord. 504, 10-6-64*) promulgated City regulations for the labeling of meat.

Chapter 1

[Repealed by Ord. 607, 11-7-78]

Chapter 2

UTILITY SYSTEM

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4.2.1 UTILITY SYSTEM CREATED, COUNCIL TO CONTROL

The Utility System shall be under the direction of the City Council and shall consist of the Water System, the Sewer System and the Garbage Collection and Disposal System; and all wells, pipes, pumps, reservoirs, lagoons, meters, distributing and collecting systems, equipment and all other appurtenances and appliances appertaining thereto, shall be under the control, care and supervision of the Council who shall be responsible to the City for the condition thereof.

4.2.2 APPOINTMENTS TO SYSTEM

The following shall be appointed by the City Manager, subject to confirmation by the Council as provided in Chapter 12 of Title I (Administrative):

- (A) The Water/Wastewater Superintendent, who shall be in charge of the Water System and the Sewer System; and
- (B) The Sanitation Superintendent, who shall be in charge of the Garbage Collection and Disposal System. (*Ord. 770, 3-25-97, eff. 4-25-97, amended by Ord. 832, 3-11-2003*)

4.2.3 DEFINITIONS

For the purposes of this Ordinance the following definitions shall apply:

- (A) *Utility User:* The term "utility user" shall mean every person within the boundaries of the City who use the City Water or Sewer System or every commercial installation which requires a water or sewer facility, whether the same be or not connected to the City Water or Sewer System; and every owner or occupant of premises within the City who are hereby required to use the Garbage Collection and Disposal System.
- (B) *Utility Contractor:* The term "utility contractor" shall mean every person who has a residence or commercial installation outside the boundaries of the City within two hundred feet (200') of an available Utility System who desires to use the System and does so.
- (C) *Residence:* The term "residence shall mean a building or structure that is used primarily for single family household purposes.
- (D) *Living Unit:* The term "living unit" shall mean one or more rooms or spaces of a commercial installation which is occupied as a unit by one or more persons at the same time to the exclusion of others.
- (E) *Commercial Installations:* The term "commercial installations" shall mean all installations which are not residences.
- (F) *Garbage:* "Garbage" is hereby defined as and shall include all putrescible wastes, except sewage, including fruit and vegetable wastes, animal and fowl offal, the parts and bowels of any animal or fowl, carcasses or parts of carcasses of dead animals or fish, or fowls or every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, serving, dealing in or storage of meat, fowl, fish, fruits or vegetables and shall include all such substances from all public and private establishments and residences and shall not include recognized industrial by-products.
- (G) *Contiguous:* The term "contiguous" shall mean contiguous to the City or separated from it only by a public right of way or a stream, bay, lake or other body of water.
- (H) *Owner:* The term "owner" shall mean the legal owner of record or, where there is a recorded land sale contract which is in force, the purchaser thereunder. (*Sec. (F) and (G) added by Ord. 730, 7-12-94*)

4.2.4 APPLICATION FOR CONNECTION OR SERVICE

No connection or attachment with or disconnection from the Water or Sewer Systems or any portion of it, or any application for garbage service shall be made by any person unless and until an application has been filed with the City Manager and until the fees therefor as hereinafter provided in this Ordinance have been paid. (*Ord. 586, 4-26-77; amended by Ord. 832, 3-11-2003*)

4.2.5 CONNECTIONS BY THE CITY

- (A) All connections with and disconnections from the System, or any part of it shall be made only by the officer in charge of the System or his designee.
- (B) All premises, whether residential, commercial or industrial, constructed in the City shall be connected to City water and sewer. The connection shall be made at the nearest water main, lateral, or pipe, or sewer main, lateral, or pipe of sufficient size and at sufficient grade to handle the estimated needs of the premises as determined by the Water/Wastewater Superintendent.
- (C) Connections to the Water System or Sewer System shall be made either by or at the direction of the Water/Wastewater Superintendent, and shall be entirely at the expense of the property owner requesting such service.
 - (1) If the connection is made by the City, the City shall charge not less than the actual cost of establishing such connection.
 - (2) The connection may be made by a contractor in the employ of the property owner, with the approval of and under the supervision of the Water/Wastewater superintendent or his designee, *provided* that such contractor has complied with all applicable provisions of state law with respect to licensing, bonding, and insurance.
 - (3) If the connection is made by a contractor, the City shall be entitled to collect a fee for inspecting work performed, and a fee pursuant to Sec. 5.13.4(D) for permitting any temporary blockage of all or part of any City right-of-way in the course of such work. (*Ord. 770, 3-25-97, eff. 4-25-97*)

4.2.6 MATERIALS USED

- (A) All plumbing materials used in connecting to the Water System in the City shall be of copper, schedule 40 plastic or of better quality.
- (B) All sewer connections to the City of Vale System shall be of cast iron or State approved plastic. (*Ord. 586, 4-26-77, amended by Ord. 770, 3-25-97, eff. 4-25-97*)

4.2.7 USE OF WATER FROM FIRE HYDRANTS

- (A) *Permitted Use.* Water from fire hydrants is authorized to be used only for City Fire Department use. The City will not charge for water used from fire hydrants or fire sprinklers for extinguishing fires. It shall be unlawful for any person to use City water from fire hydrants or fire sprinklers for other than extinguishing fires, provided that nothing in this Section shall prevent the City, acting through either its Water Department or its Fire Department, from conducting routine maintenance, testing, and flushing of hydrants.
- (B) *Private Fire Sprinkler Taps.* The Council, upon written application, may allow, for such reasonable time as it may see fit, the installation of private fire plugs or taps, as it may deem wise, and in granting such privilege it shall be the duty of the Council to prescribe the size, time and manner and method of use of the same, and to regulate the same so it will not interfere with any public use. The Council may by resolution prescribe a fee for such connection.

- (C) *Fees for Maintenance of Fire Protection Component of Water System.* Notwithstanding Sec. 4.2.7(A) above, the Council may by resolution impose such charges upon utility customers generally for maintenance of the fire protection component of the water system, including but not limited to City hydrants, reservoirs, and dedicated fire protection lines, as the Council may deem necessary.
- (D) *Penalty.* Any person convicted of a violation of this Section shall be assessed a fine not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000). (*Ord. 770, 3-25-97, eff. 4-25-97*)

4.2.8 WATER WASTAGE

No person, firm, partnership or corporation shall permit any water to waste, escape or leave hydrants or cocks open for any cause, but every user of water shall use the greatest care and utmost endeavor to prevent at all times any and all waste, leakage or escape of water all to the end that water may be conserved properly and no person deprived of the use of water through the act, neglect or default of any other person. (*Ord. 586, 4-26-77*)

4.2.9 EMERGENCIES

In the event of an accident to the Water System, or any portion of it, or any other accident, conflagration or other emergency, the Water Superintendent or the City Manager may forbid and prevent any and all sprinkling and irrigation for a period not to exceed five (5) days; if it is advisable to discontinue the use of the water for a longer period, the same must be done by an order of the Council adopted at a regular or a special meeting called for that purpose. A failure to comply with the order of the Water Superintendent, the City Manager or the City Council, as the case may be, shall be deemed guilty of a misdemeanor, as hereinafter defined. (*Ord. 586, 4-26-77, amended by Ord. 832, 3-11-2003*)

4.2.10 USE AND REGULATION OF THE SEWER SYSTEM

- (A) *Use of the System Required:* No residence, commercial building or other premise within the City, the boundary line of which is situated not more than fifty feet (50') from any sewer main, lateral or extension of the Sewer System shall dispose of sewage except by and through the Sewer System.
- (B) *Regulating Use:* The Sewer System of the City of Vale is hereby declared to be an underground passage to the City sewage and disposal lagoons, for refuse, foul, noxious and feculent matter, solid and liquid, necessarily present and introduced into the System from the domestic businesses and commercial establishments within the City and is operated and maintained to preserve and protect the health and welfare of the citizens of Vale and the general public. The introduction of plain, clear or innocuous fluids into the Sewer System is a secondary use and may be prohibited as in this Ordinance provided.
- (C) If the Council has determined that any main, lateral or other sewer line is unable to efficiently and effectively transport and carry away all refuse introduced into such sewer, the Council shall, by resolution, close such main, lateral or other line of the System to the introduction or discharge therein of the return or discharge from any heating plant or reverse cycle or inverse refrigeration type or similar types of heating plants, or from any air conditioning or air cooling systems or appliances, or from any motor vehicle or wash rack or pit; which resolution shall specifically declare that thirty (30) days following the day of passage of said resolution it shall be a violation of this Section to discharge or introduce into such sewer any of the above described waste or discharge or return flow.
- (D) Within forty eight (48) hours following the passage of said resolution it shall be the duty of the City Manager to give notice to all users connected with such main, lateral or line of the City

sewer of the action of the Council, which notice shall be in writing, printed, and may be served upon such users in person or by first class mail, and which notice shall state the day after which it shall be unlawful to inject or introduce into such sewer any of such waste or discharge. (*Ord. 586, 4-26-77; amended by Ord. 832, 3-11-2003*)

4.2.11 EXCAVATIONS

No street, alley or way shall be open or excavation made until all material for the job is assembled on the ground and ready for expeditious placing and installing of the same, and all work shall be completed expeditiously and without delay, and all openings and excavations shall, where reasonably possible, be filled and covered when such excavation is made; and where the work is not completed before night, the same shall be protected each night by ample barricades and danger shall be indicated by the display of adequate red lights, properly placed and arranged and so secured so the same will remain where placed and turn and illuminate the danger during the entire night. The Water Superintendent, or in his absence the Police Chief, shall see that these regulations are rigidly enforced. In filling every opening, the earth shall be thoroughly tamped and the street, alley or way shall be in at least as good order and condition as the same was in previously. (*Ord. 586, 4-26-77*)

4.2.12 [*Repealed by Ord. 807, 1-11-2000, eff. 2-11-2000*]

4.2.13 GARBAGE COLLECTION AND DISPOSAL SYSTEM RULES AND REGULATIONS

- (A) Burning of Rubbish and Vegetative Debris: It shall be unlawful for any person to burn, dump or dispose of any garbage or rubbish, except to store the same in cans as hereinafter provided. The City Council may permit burning of vegetative debris, by majority vote of the Council members present, and subject to conditions as are imposed by the Council and the Oregon Department of Environmental Quality. The City Council may also require residents to obtain burn permits from the Fire Department before burning vegetative debris at authorized dates and times. The use of burn barrels is prohibited. The use of an incinerator for burning vegetative debris is permitted only if its design complies with the Uniform Fire Code adopted by the State of Oregon. A violation of this section shall be punishable by a fine not to exceed \$500. Citations for violations of this section may be issued by the Fire Chief as well as by employees authorized to enforce City ordinances. (*Ord. 837, 8-24-2004*)
- (B) Illegal Hauling of Garbage: Any owner of premises within the City, or who shall fail to deposit such garbage in containers in the manner herein provided or who shall haul or transport any garbage on, upon, along or across any street, alley or public way within the City, shall be guilty of a misdemeanor.
- (C) Garbage Cans: Users of City garbage collection services shall use disposal containers supplied and owned by the City. All garbage disposal containers supplied by the City shall be in standard sizes and configurations approved by the Public Works Committee. If the City is unable to provide a suitable container for a particular use, the City Manager may grant exemptions on a case by case basis. (*Ord. 835, 10-14-2003*)
- (D) Dumpsters and refuse carts purchased by the City of Vale and assigned utility customers by the Sanitation Specialist [*sic*] shall remain the property of the City of Vale. Customers will be assessed a monthly rental rate, to be set by resolution of the City Council and changed from time to time as the council shall consider necessary, which rental shall be presumed sufficient to amortize the estimated replacement cost of the dumpster or refuse cart over its useful life.

- (E) The utility customer assigned a dumpster or refuse cart shall be responsible for keeping the same clean and in good repair, secure from theft and/or vandalism, and accessible to the Sanitation Dept. as needed for prompt and efficient disposal of refuse.
- (F) A dumpster or refuse cart may be retrieved by the Sanitation Dept. For cleaning or repair, as deemed necessary by the Sanitation Specialist [*sic*] or his designee. If a dumpster or refuse cart is retrieved by the Sanitation Dept. For cleaning or repair, the Sanitation Specialist will cause a replacement unit to be provided as necessary. The customer will be charged for cleaning, and for repairs (exclusive of regular wear and tear), on a time-and-materials basis by the City, and such charges will be added to the customer's regular garbage bill. (*Sec. (D) through (F) added by Ord. 758, 3-12-96, eff. 4-12-96*)
- (G) Every owner of occupied premises within they City shall pay the monthly fee fixed by the City for garbage collection services. Premises within the city containing one or more permanent structures, mobile homes or trailers are presumed to be occupied for the purpose of assessing the monthly garbage collection fee against the owner. Premises are "occupied" if used for a temporary or permanent residence, or in connection with any business, trade or hobby. Upon receipt of a written notice in advance from the owner of premises that the premises will be unoccupied for at least one month, the City shall discontinue garbage collection to those premises and shall not assess a garbage collection fee against the owner, commencing the month after the receipt of the notice. The City may impose the garbage collection fee for premises that the City Manager reasonably determines are occupied for any portion of the month. The Public Works Committee shall have the authority to resolve all disputes concerning the assessment of the garbage collection fee against individual owners. (*Ord. 829, 4-23-2002, amended by Ord. 832, 3-11-2003*)

4.2.14 RATES FOR THE UTILITY SYSTEM

- (A) *Setting of Rates:* Rates for Utility System services shall be set by the City Council upon advice of the City Manager, the Water Superintendent and the Sanitation Superintendent and may be revised at any time by resolution of the City Council without invalidating the remainder of these rules and regulations. (*Ord. 586, 4-26-77, amended by Ord. 832, 3-11-2003*)
- (B) *Fees for Turning Water Off and On.* The City water service to a customer's premises may be turned off by or at the direction of the Water Superintendent or his designee during regular working hours, or in an emergency after regular working hours, at no charge to the customer. The City shall charge a fee for restoring service, which fee shall be:
- (1) five dollars (\$5.00) to restore service during regular working hours, or
 - (2) thirty dollars (\$30.00) to restore service outside regular working hours.

Restoration of service outside regular working hours shall be only at the customer's specific request. (*Ord. 770, 3-25-97, eff. 4-25-97*)

4.2.15 DISPOSITION OF FUNDS

All funds derived from the Utility System shall be deposited in the Public Works Fund and shall be used to pay for the maintenance of the Utility System. (*Ord. 770, 3-25-97, eff. 4-25-97*)

4.2.16 PAYMENT DUE, DELINQUENT BILLS

All Utility System charges as herein provided are due and payable at the office of the City Manager in the city Hall of the City on the tenth of each and every month. If such Utility System charges are not paid by the twentieth day of the month a one and one-half percent (1.5%) per month penalty will be assessed

and added thereto. Failure to pay Utility System charges within sixty (60) days of the tenth of each month shall entitle the City to terminate utility services to the premises where the same has been used and where delinquency exists, upon notice. Written notice of termination of services shall be mailed to or posted on the premises, at the City's discretion, not less than ten days before the termination date, and shall include the amount of the delinquency and any payment terms.

Whenever utility services are terminated to any premises by reason of nonpayment of Utility System charges, services shall not be restored until and unless all delinquent charges have been paid together with a fee for restoring services pursuant to Section 4.2.14. In the event that services are restored to any premises from which services have been terminated by the authority of this Section, the occupant of such premises shall be presumed to be the person who so restored the same without authority. The City shall not be held liable for damages to any utility user by reason of stoppage or interruption of services by scarcity of water, accident to works or mains, alterations, repairs, or for shutting water off for nonpayment of Utility System charges or connection charges.

Effective 1 July 1994, a late fee of FIVE DOLLARS (\$5.00) shall be assessed against any utility account when a shut-off notice is sent, to cover the cost of production and mailing of said notice. The late fee shall be added to and become part of the outstanding balance against the account, and shall bear interest at the same rate as the outstanding balance.

Whenever it is necessary to turn delinquent utility bills over to collection agencies for collection, a fee of up to 50% of the past due balance, including interest and late charges, shall be assessed and added to the balance owing. The amount of the assessment shall be equal to the amount retained by the collection agency as its fee for collection. (*Ord. 797, 4-13-99, amended by Ord. 832, 3-11-2003*)

4.2.16A RETURNED CHECKS:

If any check tendered to the City in payment of utility system charges is returned unpaid for any reason including, but not limited to, insufficient funds, or because of a closed account, a fee of twenty dollars (\$20.00) shall be immediately due and payable to the City as an additional utility system charge subject to Sections 4.2.16 and 4.2.26 of this Chapter. The provisions of this Section shall be in addition to any other remedies provided under Oregon law. (*Ord. 752, 10-10-95*)

4.2.17 VIOLATIONS

Each day of the violation shall be considered a separate offense. (*Ord. 586, 4-26-77; amended by Ord. 607, 11-7-78*)

4.2.18 APPLICATION FOR UTILITY SERVICE

Each prospective user of the Utility System shall make a written application for utility service. The application shall be signed by the applicant and state the location of the premises for which services are requested, the address to which bills are to be sent, information adequate to determine which utility rates shall apply, and such other information as may be reasonably required by the City Manager.

If the prospective utility user is a person other than the owner of the premises as shown by the records of the Malheur County Clerk, the prospective utility user shall obtain the signature of the owner on a form provided by the City Manager in which the owner agrees to accept liability for delinquent bills.

Upon application for utility service, a deposit shall be paid by the prospective utility user in the amount of \$120; or, for customers not using all City services, an amount equal to two months' base rate charges.

After a period of one year, the utility user's payment record shall be reviewed. If the user has established a prompt payment record, the deposit will be refunded. In the event the user has not established a prompt payment record, the deposit will be held until such time as such prompt payment record has been established or the user no longer requires the service, in which case the deposit will be applied to the closing bill or returned to the user. (*Ord. 780, 8-26-97; amended by Ord. 797, 4-13-99; amended by Ord. 832, 3-11-2003*)

4.2.19 FAILURE TO READ WATER METERS

In the event that a water meter is not read during the billing cycle the bill shall be for the basic rate plus the prior month's consumption. The next bill after the meter is read shall contain any adjustments. A failure by the City to read a water meter does not relieve the utility user's obligation to pay for actual water used. (*Ord. 586, 4-26-77; amended by Ord. 797, 4-13-99*)

4.2.20 DELAYED PAYMENT OF BILLS

The City Manager shall be responsible to make all arrangements for delayed payment of utility system bills. (*Ord. 832, 3-11-2003*)

4.2.21 WATER SERVICE TO MULTIPLE UNIT CUSTOMERS

If one building houses two (2) or more apartments, households, or business establishments, the water may be served through one meter or it may be served through a meter for each separate apartment, household or business establishment, at the discretion of the City. Under normal circumstances, all water meters shall be installed on City property.

If a customer wants one or more meters to be installed on private property, the customer is entirely responsible for installing and maintaining the service line and customer's line from wherever it first crosses onto private property from public property, except that the City shall own, install and maintain all water meters and water gaskets. The owner of the building as shown by the records of Malheur County Clerk shall be responsible for payment of all water charges. (*Ord. 586, 4-26-77*)

4.2.22 LEAK ADJUSTMENTS

In the event a leak occurs in the customer's line an adjustment may be made pursuant to procedures adopted by resolution of the City Council, taking into account the amount of water wasted and the promptness with which the customer repaired the leak. (*Ord. 770, 3-25-97, eff. 4-25-97*)

4.2.23 DAMAGE

In addition to any other penalties provided by law, any person who damages property belonging to the City or used in connection with the City Utility System shall be charged for all costs associated with repairing such damage, including, but not limited to, labor, materials and overhead. (*Ord. 586, 4-26-77*)

4.2.24 [Repealed by Ord. 770, 3-25-97, eff. 4-25-97]

4.2.25 RIGHT OF ENTRY; OBSTRUCTING OR TAMPERING WITH METERS AND SHUT-OFF VALVES:

- (A) The water specialist or the specialist's designated representative shall have free, lawful access at reasonable hours of the day to all parts of buildings and premises for the purpose of obtaining access to water meters.
- (B) The occupants and owner of any building or premises where a water meter is located shall keep the meter free from obstructions on or around the same, and shall keep the meter conveniently accessible at all times for the purpose of reading, inspection or repairing.
- (C) It is unlawful to damage, tamper with or interfere in any way with any City water meter.

- (D) It is unlawful to turn water service on or off by means of the City shut-off valve, without advance authorization from the City. (*Ord. 731, 7-12-94*)

4.2.26 LIENS; COLLECTION

Delinquent utility charges shall draw interest at the rate of one and one-half percent (1.5%) per month (eighteen percent [18%] per annum), from due date until paid. The City may use such means of collection or enforcement of delinquent utility charges as are provided by the laws of the State of Oregon, or are authorized by the Charter and ordinances of the City, other than the imposition of a lien upon, or assessment against, the real property served by the utilities. (*Ord. 688, 10-13-87; amended by Ord. 798, 5-11-99*)

4.2.27 CROSS CONNECTION CONTROL REQUIREMENTS

- (A) No person shall install or maintain any physical interconnection between the City water supply system and any other source of water supply. (*Ord. 770, 3-25-97, eff. 4-25-97*)
- (B) Backflow prevention devices for protecting the City's water system shall be installed on all service connections to the premises where:
- (1) There is an auxiliary water supply which is, or can be, connected to the potable water piping;
 - (2) There is piping for conveying or containing liquids other than potable water, and where that piping is under pressure and is installed and operated in a manner which could cause a cross connection;
 - (3) There is intricate plumbing which makes it impractical to ascertain whether or not cross connections exist;
 - (4) There is back-siphonage potential.
- (C) Backflow prevention devices for protecting the City's water supply shall be installed at or near the points where the water service enters the premises.
- (D) The type of backflow prevention device required under Sections (A) and (B) of this provision, shall be commensurate with the degree of hazard which exists:
- (1) An approved air gap of at least twice the inside diameter, but not less than one inch, of the incoming supply line measured vertically above the top rim of the vessel, or an approved reduced pressure backflow device (RPBD) assembly shall be installed where the substance which could backflow is hazardous to health, such as but not limited to: sewage treatment plants, sewage pumping stations, chemical manufacturing plants, plating plants, hospitals, mortuaries, car washes, medical clinics;
 - (2) An approved double check valve assembly (DCVA) shall be installed where the substance which could backflow is objectionable but does not pose an unreasonable risk to health. An approved double check valve assembly shall be the minimum protection for fire sprinkler systems using piping material that is not approved for potable water use and/or which does not provide for periodic flow through during each 24 hour period.
- (E) All backflow prevention devices required under these provisions shall be of a type and model approved by the Oregon State Health Division.
- (F) The City Manager shall be responsible for the protection of the public potable water distribution system from contamination and pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the City Manager, an approved

backflow prevention assembly as described in paragraph (C) is required for the safety of the water system, the City Manager or his designated agent shall give notice in writing to the customer to install such an approved backflow prevention assembly at a specific location on the premises. The customer shall immediately install such approved assembly at the customer's own expense; and, failure, refusal or, inability on the part of the customer to install, have tested, maintain, and allow inspection of said assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

- (G) The water user or the owner of the premises where one or more backflow prevention devices have been installed shall have the device tested at least once per year. In those instances where the City Manager deems the hazard to be great enough he may require tests at more frequent intervals. Devices shall be tested immediately after installation and after they are moved. Reports on the tests shall be prepared by the tester and copies of the report shall be provided to the City. Tests shall be performed by certified testers in conformance with procedures established by the Foundation for Cross Connection Control and Hydraulic Research. All testers shall possess a valid certification issued by the Oregon State Health Division. Tests and inspections shall be at the expense of the water user or owner of the premises. The cost to the City of any inspection or test shall be added to the water bill of the owner of the premises or water user.
- (H) A customer's water system shall be open for inspection at all reasonable times to the water specialist and his designated representatives to determine whether cross-connections or other structural or sanitary hazards exist. When such a condition becomes known, the City Manager shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition in conformance with State law and City ordinances relating to plumbing and water supplies and the regulations adopted pursuant thereto. Failure to allow inspections as provided herein shall be grounds for discontinuing water service to the premises until such inspections are allowed.
- (I) Backflow prevention devices installed before the effective date of these provisions, which were approved at the time they were installed, but are not in conformance with Section (C), 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 meet the requirements of this ordinance. (*Ord. 707, 1-18-92; subsections (B) through (I) re-numbered by Ord. 770, 3-25-97, eff. 4-25-97, amended by Ord. 832, 3-11-2003*)

4.2.28 *[Repealed by Ord. 707, 1-28-92]*

4.2.29 *[Repealed by Ord. 707, 1-28-92]*

4.2.30 SURCHARGE ON OUT-OF-CITY CUSTOMERS; ANNEXATION AGREEMENTS

- (A) In the absence of a written agreement to the contrary, any customer receiving City utility system services outside the city limits shall be assessed a monthly surcharge of fifty percent (50%) of each month's bill, effective August 1, 1994, until such time as the owner of the real property served, and all electors residing on the real property served, enter into an agreement in a form satisfactory to the City consenting to the annexation of such real property upon such real property becoming contiguous to the City.
- (B) The surcharge established in subsection (A) of this section shall be added to, and become part of, the outstanding balance against the utility account, and shall bear interest at the same rate as the outstanding balance.

- (C) If the owner of any real property receiving City utility services, or any elector residing on such real property, fails or refuses to enter into an agreement consenting to the annexation of the real property as provided in subsection (A) of this section, all City utility services to that property shall terminate effective August 1, 1996. (*Ord. 730, 7-12-94*)

Chapter 2A

CONTRIBUTIONS TO WASTEWATER AND SEWAGE TREATMENT SYSTEM

Sections

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4.2A.1 GENERAL PROVISIONS

4.2A.1.1 PURPOSE AND POLICY:

- (A) This Chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (*40 CFR Part 403*). The objectives of this Chapter are to:
 - (1) Prevent the introduction of pollutants into the Municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) Prevent the introduction of pollutants into the Municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
 - (3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
 - (4) Provide for equitable distribution of the cost of the Municipal wastewater system.

- (B) This Chapter shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the City POTW. Except as otherwise provided herein, the

Superintendent of the City POTW shall administer, implement and enforce the provisions of this Chapter.

4.2A.1.2 DEFINITIONS:

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Chapter, shall have the meanings hereinafter designated:

ACT or THE ACT: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (*33 U.S.C. 1251 et seq.*).

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees (20°) centigrade, expressed in terms of weight and concentration (milligrams per liter (mg/l)).

BUILDING SEWER: A sewer conveying wastewater from the premises of a user to the POTW.

CATEGORICAL STANDARDS: National Categorical Pretreatment Standards or Pretreatment Standard.

CITY: The City of Vale or the City Council of Vale.

COOLING WATER: The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

DIRECT DISCHARGE: The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.

ENVIRONMENTAL PROTECTION AGENCY or EPA: The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

GRAB SAMPLE: A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

HOLDING TANK WASTE: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INDIRECT DISCHARGE: The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (*33 U.S.C. 1317*), into the POTW (including holding tank waste discharged into the system).

NATIONAL CATEGORICAL PRETREATMENT STANDARD or PRETREATMENT STANDARD: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (*33 U.S.C. 1347*) which applies to a specific category of industrial users.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD: Any regulation developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

pH: The logarithm (base ten (10)) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTION: The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

POLLUTANT: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, Municipal and agricultural waste discharged into water.

PRETREATMENT or TREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR section 403.6(d).

PUBLICLY OWNED TREATMENT WORKS (POTW): A treatment works as defined by section 212 of the Act (*33 U.S.C 1292*), which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

STATE: State of Oregon.

STORM WATER: Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUSPENDED SOLIDS: The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by laboratory filtering.

SUPERINTENDENT: For purposes of this Chapter, the term "Superintendent" shall mean the City Manager or his designee. (*Ord. 832, 3-11-2003*)

USER: Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

WASTEWATER: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

4.2A.1.3 ABBREVIATIONS:

The following abbreviations shall have the designated meanings:

BOD: Biochemical oxygen demand.

CFR: Code of Federal Regulations.

COD: Chemical oxygen demand.

EPA: Environmental Protection Agency.

l: Liter.

mg: Milligrams.

mg/l: Milligrams per liter.

NPDES: National Pollutant Discharge Elimination System.

POTW: Publicly-owned treatment works.

SIC: Standard industrial classification.

SWDA: Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.

U.S.C.: United States Code.

TSS: Total suspended solids.

4.2A.2 REGULATIONS

(A) *General Discharge Prohibitions:*

- (1) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or other national, State or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
 - (a) Any liquids, solids or gases which, by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the user is a fire hazard or a hazard to the system.
 - (b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch ($\frac{1}{2}$ ") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
 - (c) Any wastewater having a pH less than five (5.0), unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.
 - (d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.
 - (e) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
 - (f) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines

or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

- (g) Any substance which will cause the POTW to violate its NPDES and/or State disposal system permit or the receiving water quality standards.
 - (h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
 - (i) Any wastewater having a temperature which will inhibit biological activity in the POIW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty degrees (40°) centigrade (one hundred four degrees (140°) Fahrenheit), unless the POTW treatment plant is designed to accommodate such temperature.
 - (j) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
 - (k) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (2) When the Superintendent determines that a user(s) is contributing to the POTW any of the above-enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall: (1) advise the user(s) of the impact of the contribution on the POTW; and (2) develop effluent limitation(s) for such user to correct the interference with the POTW.
- (B) *State Requirements:* State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Chapter.
- (C) *City's Right of Revision:* The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objections presented in Section 4.2A.1.1 of this Chapter.
- (D) *Excessive Discharge:* No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards or in any other pollutant-specific limitation developed by the City or State.
- (E) *Accidental Discharges:*
- (1) *Responsibility for Prevention:* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.
 - (2) *Written Notice:* Within five (5) days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Chapter or other applicable law.

- (3) *Notice to Employees:* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

4.2A.3 FEES

- (A) Purpose: It is the purpose of this Chapter to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's schedule of charges and fees.
- (B) Charges and Fees:
- (1) The City may adopt charges and fees which may include:
- (a) Fees for monitoring, inspections and surveillance procedures;
 - (b) Fees for permit applications;
 - (c) Fees for filing appeals;
 - (d) Other fees as the City may deem necessary to carry out the requirements contained herein.
- (2) These fees relate solely to the matters covered by this Chapter and are separate from all other fees chargeable by the City.

4.2A.4 ADMINISTRATION

- (A) *Wastewater Dischargers:* It shall be unlawful to discharge without a City permit to any natural outlet within the City, or in any area under the jurisdiction of said City, and/or to the POTW any wastewater except as authorized by the Superintendent in accordance with the provisions of this Chapter.
- (B) *Wastewater Contribution Permits:*
- (1) *General Permits:* All users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW.
- (2) *Permit Application:* Users required to obtain a wastewater contribution permit shall complete and file with the City an application in the form prescribed by the City, and accompanied by a fee of \$ _____. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
- (a) Name, address and location (if different from the address);
 - (b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
 - (c) Wastewater constituents and characteristics including, but not limited to, those mentioned in Section 4.2A.2 of this Chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(9) of the Act and contained in 40 CFR, part 136, as amended;
 - (d) Time and duration of contribution;
 - (e) Average daily and three (3) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
 - (g) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;
 - (h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or Federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
 - (i) Each product produced by type, amount, process or processes and rate of production;
 - (j) Type and amount of raw materials processed (average and maximum per day);
 - (k) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
 - (l) Any other information as may be deemed by the City to be necessary to evaluate the permit application. The City will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a wastewater contribution permit subject to terms and conditions provided herein.
- (3) *Permit Conditions:* Wastewater discharge permits shall be expressly subject to all provisions of this Chapter and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:
- (a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
 - (b) Limits on the average and maximum wastewater constituents and characteristics;
 - (c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
 - (d) Requirements for installation and maintenance of inspection and sampling facilities;
 - (e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
 - (f) Compliance schedules;
 - (g) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;
 - (h) Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
 - (i) Other conditions as deemed appropriate by the City to insure compliance with this Chapter.
- (4) *Permit Duration:* Permits shall be issued for a specified time period. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in Section 4.2A.2 are modified or other

just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (5) *Permit Transfer:* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.
- (C) *Monitoring Facilities:*
- (1) The City shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
 - (2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
 - (3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable location construction standards and specifications.
- (D) *Inspection and Sampling:* The City may inspect the facilities of any user to ascertain whether the purpose of this Chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The City shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations.
- (E) *Pretreatment:* Users shall provide necessary wastewater treatment as required to comply with this Chapter and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater 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. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

4.2A.5 ENFORCEMENT

- (A) *Harmful Contributions:*
- (1) The City may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment,

causes interference to the POTW or causes the City to violate any condition of its NPDES permit.

- (2) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen (15) days of the date of occurrence.
- (B) *Revocation of Permit:* Any user who violates the following conditions of this Chapter, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of this Section:
- (1) Failure of the user to factually report the wastewater constituents and characteristics of his discharge;
 - (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
 - (4) Violation of conditions of the permit.
- (C) *Notification of Violation:* Whenever the City finds that any user has violated or is violating this Chapter, wastewater contribution permit, or any prohibition, limitation of requirements contained herein, the City may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user.
- (D) *Show Cause Hearing:*
- (1) The City may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
 - (2) The City Council may itself conduct the hearing or take the evidence, or may designate any of its members or any officer or employee of the (*assigned department*) to:
 - (a) Issue in the name of the City Council, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (b) Take the evidence;
 - (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

- (3) At any hearing held pursuant to this Chapter, testimony taken must be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
 - (4) After the City Council has reviewed the evidence, it may issue order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- (E) *Legal Action:* If any person discharges sewage, industrial wastes or other wastes into the City's wastewater disposal system contrary to the provisions of this Chapter, Federal or State pretreatment requirements, or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court of this County.

4.2A.6 PENALTY; COSTS

- (A) *Civil Penalties:* Any user who is found to have violated an order of the City Council, or who willfully or negligently failed to comply with any provision of this Chapter, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Chapter or the orders, rules, regulations and permits issued hereunder.
- (B) *Falsifying Information:* Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Chapter, or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter, shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both. (*Ord. 659, 3-12-85*)

Chapter 2B

*[Repealed by Ord. 776, 8-12-97, eff.
9-12-97]*

Chapter 3

[Repealed by Ord. 586, 4-26-77]

Chapter 4

[Repealed by Ord. 586, 4-26-77]

Chapter 5

NUISANCES

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4.5.1 DEFINITIONS

(A) *Person.* A natural person, firm, partnership, association or corporation.

- (B) *Person in Charge of Property.* An agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.
- (C) *Person Responsible.* The person responsible for abating a nuisance shall include:
- (1) The owner.
 - (2) The person in charge of property, as defined in subsection (B).
 - (3) The person who caused to come into or continue in existence a nuisance as defined in this Ordinance or another ordinance of this City.
- (D) *Public Place.* A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

ANIMALS

4.5.2 DANGEROUS ANIMALS

No owner or person in charge of an animal shall permit an animal which is dangerous to the public health or safety to be exposed in public. If the animal is exposed in public it may be taken into custody by the City and disposed of in accordance with the procedures provided by ordinance for the disposition of personal property or for the impoundment of dogs; except that before the animal is released by the City, the Municipal Judge must find that proper precautions will be taken to insure the public health and safety.

4.5.3 REMOVAL OF CARCASSES

No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

NUISANCES AFFECTING PUBLIC HEALTH

4.5.4 NUISANCES AFFECTING PUBLIC HEALTH

No person shall cause or permit on property owned or controlled by him a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this Ordinance:

- (A) *Privies.* An open vault or privy constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.
- (B) *Debris.* Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the City.
- (C) *Stagnant Water.* Stagnant water which affords a breeding place for mosquitoes and other insect pests.
- (D) *Water Pollution.* Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
- (E) *Food.* Decayed or unwholesome food which is offered for human consumption.
- (F) *Odor.* Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

- (G) *Surface Drainage.* Drainage of liquid wastes from private premises.
- (H) *Cesspools.* Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.
- (I) *Slaughterhouses, Etc.* A slaughterhouse, tannery or pigsty.

NUISANCES AFFECTING PUBLIC SAFETY

4.5.5 ABANDONED ICEBOXES.

No person shall leave in a place accessible to children an abandoned or discarded icebox, refrigerator or similar container without first removing the door.

4.5.6 ATTRACTIVE NUISANCES:

- (A) No owner or person in charge of property shall permit thereon:
 - (1) Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.
 - (2) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
 - (3) An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.
- (B) This Section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

4.5.7 SNOW AND ICE

No owner or person in charge of property abutting on a public sidewalk shall permit:

- (A) Snow to remain on the sidewalk for a period longer than the first two (2) hours of daylight after the snow has fallen.
- (B) Ice to cover or remain on the sidewalk for more than two (2) hours or *[sic]* daylight after the ice has formed without removing the ice or covering it with sand, ashes or other suitable material to assure safe travel.

4.5.8 NOXIOUS VEGETATION

No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or, in the case of weeds or other noxious vegetation, from maturing or from going to seed. (*Ord. 584, 4-12-77*)

- (A) A person desiring to comply with this Section by having the City mow the weeds or other noxious vegetation that may constitute a violation of this Section shall pay to the City Manager within thirty (30) days from the date of the mowing, the cost based on a schedule of charges to be established by the Council by resolution, from time to time.

- (B) If the City, through the abatement procedure, mows the weeds or other noxious vegetation, the cost of the mowing as established by the Council, shall be added to the cost of the abatement procedure.
- (C) If payment is not made either through (A) or (B), the City shall collect a late penalty of two dollars fifty cents (\$2.50), in addition to other charges set forth, and shall place a lien on the property that shall accumulate interest at the rate of ten percent (10%) per annum. (*Ord. 604, 9-26-78, amended by Ord. 832, 3-11-2003*)

4.5.9 SCATTERING RUBBISH

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal or vehicle traveling upon a public way.

4.5.10 TREES

- (A) No owner or person in charge of property that abuts upon any street or public sidewalk shall permit trees or bushes on his property to interfere with street or sidewalk traffic.
- (B) No owner or person in charge of property shall allow to stand any dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

4.5.11 SURFACE WATERS; DRAINAGE

- (A) No owner or person in charge of any building or structure shall allow or permit rain water, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.
- (B) The owner or person in charge of property shall install and maintain in a proper state of repair adequate drain pipes or a drainage system so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk.

NUISANCES AFFECTING THE PUBLIC PEACE

4.5.12 RADIO AND TELEVISION INTERFERENCE

- (A) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.
- (B) This Section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

4.5.13 NOTICES AND ADVERTISEMENTS

- (A) No person shall affix or cause to be affixed a placard, bill, advertisement or poster upon real or personal property, public or private, without first securing permission from the owner or person in control of the property. This Section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the City regulating the use of and the location of signs and advertising.

- (B) No person shall scatter, distribute or cause to be scattered or distributed on public or private property any placards, advertisements or other similar material.
- (C) This Section does not prohibit the distribution of advertising matter during a parade or approved public gathering. (*Ord. 584, 4-12-77*)

4.5.14 [Repealed by Ord. 607, 11-7-78]

4.5.15 BUILDINGS AND OTHER STRUCTURES:

No person shall keep or maintain or allow to be kept or maintained upon his property a building or other structure which is in a state of disrepair that would be injurious or detrimental to the public health, safety or welfare of the City. (*Ord. 584, 4-12-77*)

JUNK

4.5.16 DEFINITION

JUNK: The term "junk" shall include all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or parts thereof, old iron, or other metal, glass, paper, old lumber, old wood, or other waste or discarded material.

4.5.17 KEEPING OF JUNK; NUISANCE

It is hereby determined and declared that the keeping of any junk out of doors on any street, lot or premises within the City, or in a building that is not wholly or entirely enclosed except for doors used for ingress or egress, is a nuisance and is unlawful.

4.5.18 UNLAWFUL ACT

It shall be unlawful for any person, or the agent or employee of any person to keep any junk out of doors on any street, or on any lot or premises within the City, or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.

4.5.19 MOTOR VEHICLES

It shall be unlawful to disassemble, construct, reconstruct, repair and/or service motor vehicles of any kind in or upon any street, road, alley, or public thoroughfare in the City or in the yard of any resident, except for emergency service, provided that said emergency service shall not extend over a period of seventy two (72) hours, except when required to be made in a street, road, alley or public thoroughfare, in which case said emergency service shall not extend over a period of two (2) hours and does not interfere with or impede the flow of traffic.

4.5.20 EXCEPTIONS

The provisions of this Chapter shall not apply to junk yards, automobile wrecking yards, or machine shop yards, which are duly licensed. (*Ord. 530, 9-24-68; renumbered by Ord. 607, 11-7-78*)

UNENUMERATED NUISANCES

4.5.21 DECLARATION OF NUISANCE

- (A) The acts, conditions or objects specifically enumerated and defined in Sections 4.5.2 through 4.5.15 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 4.5.17 through 4.5.22 of this Ordinance.
- (B) In addition to the nuisances specifically enumerated within this Ordinance, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City is declared to be a nuisance and may be abated as provided in this Ordinance.

ABATEMENT PROCEDURE

4.5.22 NOTICE

- (A) Upon determination by the Council that a nuisance exists, the Council shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.
- (B) At the time of posting, the City Manager shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible at his last known address. (*Ord. 832, 3-11-2003*)
- (C) The notice to abate shall contain:
 - (1) A description of the real property, by street address or otherwise, on which the nuisance exists.
 - (2) A direction to abate the nuisance within ten (10) days from the date of the notice or as the Council may direct.
 - (3) A description of the nuisance.
 - (4) A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of abatement charged to the person responsible. (*Ord. 584,4-12-77*)
 - (5) A statement that failure to abate a nuisance may warrant imposition of a fine. (*Ord. 584,4-12-77; amended by Ord. 613, 5-22-79*)
 - (6) A statement that the person responsible may protest the order to abate by giving notice to the City Manager within ten (10) days from the date of the notice. (*Ord. 832, 3-11-2003*)
- (D) Upon completion of the posting and mailing, the persons posting the mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.
- (E) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

4.5.23 ABATEMENT BY THE PERSON RESPONSIBLE

- (A) Within ten (10) days after the posting and mailing of such notice, as provided in Section 4.5.17, the person responsible shall remove the nuisance or show that no nuisance exists.
- (B) A person responsible, protesting that no nuisance exists, shall file with the City Manager a written statement which shall specify the basis for so protesting. (*Ord. 832, 3-11-2003*)

- (C) The statement shall be referred to the City Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council; and the Council shall determine whether or not a nuisance in fact exists; and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed as provided.
- (D) If the Council determines that a nuisance does in fact exist, the person responsible shall, within ten (10) days after the Council determination or within the time set by the Council, abate the nuisance.

4.5.24 JOINT RESPONSIBILITY

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the City in abating the nuisance.

4.5.25 ABATEMENT BY THE CITY

- (A) If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.
- (B) The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.
- (C) The City Manager shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge of ten dollars (\$10.00) or ten percent (10%) of those expenses (whichever is the greater) for administrative overhead. (*Ord. 832, 3-11-2003*)

4.5.26 ASSESSMENT OF COSTS

- (A) The City Manager, by registered or certified mail, postage prepaid, shall forward to the person responsible a notice stating:
 - (1) The total cost of abatement, including the administrative overhead.
 - (2) That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice, such lien to be deemed levied upon the date of notice.
 - (3) That if the person responsible objects to the cost of the abatement as indicated, he may file a notice of objection with the City Manager not more than ten (10) days from the date of the notice. (*Ord. 832, 3-11-2003*)
- (B) Upon the expiration of ten (10) days after the date of the notice the Council, in the regular course of business, shall hear and determine the objections to the costs assessed.
- (C) If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs, as stated or as determined by the Council, shall be made by resolution and shall thereupon be entered in the docket of City liens; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated, as of the date of said notice.
- (D) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of eight percent (8%) per annum. The interest shall commence to run from date of the entry of the lien in the lien docket.

- (E) An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property. (*Ord. 832, 3-11-2003*)

GENERAL

4.5.27 SUMMARY ABATEMENT

The procedure provided by this Ordinance is not exclusive, but is in addition to procedures provided by other ordinances; and the Health Officer, the Chief of the Fire Department, the Fire Marshal or the Chief of Police may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

4.5.28 PENALTIES

A person violating a provision of this Ordinance or an order issued under authority of this Ordinance, shall upon conviction, be punished by a fine not to exceed seven hundred fifty dollars (\$750.00).

4.5.29 SEPARATE VIOLATIONS

- (A) Each day's violation of a provision of this Ordinance constitutes a separate offense. (*Ord. 584, 4-12-77*)
- (B) The abatement of a nuisance is not a penalty for violating this Ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within ten (10) days of the date of notice to abate, or if a written protest has been filed, then abatement within ten (10) days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine under Section 4.5.28 of this Ordinance. (*Ord. 584, 4-12-77; amended by Ord. 613, 5-22-79*)

4.5.30 SEVERABILITY

The sections and subsections of this Ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections. (*Ord. 584, 4-12-77*)

Chapter 6

*[Repealed by Ord. 776, 8-12-97, eff.
9-12-97]*

Chapter 7

*[Repealed by Ord. 776, 8-12-97, eff.
9-12-97]*

Chapter 8

*[Repealed by Ord. 776, 8-12-97, eff.
9-12-97]*