VALE CITY CODE

CITY OF VALE, OREGON

including all ordinances through ORD. 851 (8-8-2006)

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Title I

ADMINISTRATIVE

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HISTORY:

CHAPTER 4A *(Ord. 690, 2-9-88)* established a county assessment on Municipal Court revenue that was later superceded by state law. CHAPTER 9 *(Ord. 171, 11-18-38*) governed local elections. Operation of the City Fire Dept. (CHAPTER 18) was governed by a provision of the 1912 City Charter until 1970. There never was a Chapter 19. The City Coordinator, City Clerk, and City Clerk-Coordinator position and variations thereof were renamed City Manager in 2003 *(Ord. 832, 3-11-2003)*

Chapter 1

CITY CODE

Sections

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1.1.1 TITLE

Upon adoption by the Governing Body this City Code is hereby declared to be and shall hereafter constitute the official City Code of the City of Vale. Any reference made to the number of any Section contained herein shall be understood to refer to the position of the same under its appropriate Chapter and Title heading, and to the general penalty clause relating thereto, as well as to the Section itself, when reference is made to this City Code by title in any legal document.

1.1.2 ACCEPTANCE

This City Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the City of general and permanent effect. *(1963 Code)*

1.1.3 AMENDMENTS

Any ordinance amending this City Code shall set forth the Title, Chapter and Section number of the Section or Sections to be amended, and this shall constitute a sufficient compliance with any statutory requirement pertaining to the amendments or revisions by ordinance of any part of this City Code, all such amendments or revisions by ordinance shall be prepared for insertion in its proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code within thirty-five (35) days from the date of its final passage. *(Ord. 739, 5-23-95)*

1.1.4 CONSTRUCTION OF WORDS

Whenever any word in any Section of this City Code imparting the plural number is used, in describing or referring to any matters, parties, or persons, any single matter, party, or person shall be deemed to be

included, although distributive words may not have been used.

When any subject matter, party or person is referred to in this City Code by words imparting the singular number only, or the masculine gender, several matters, parties, or persons, and females as well as males and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any Section of this City Code which contains any express provision excluding such construction or where the subject matter or content may be repugnant thereto.

1.1.5 INTERPRETATIONS

In the determination of the provisions of each Section of this Code the following rules shall be observed:

(A) *Intent to Defraud:* Whenever an intent to defraud is required in order to constitute an offense, it shall be sufficient if an intent appears to defraud any person.

(B) *Liability of Employers and Agents:* When the provisions of any Section of this City Code prohibits *[sic]* the commission of an act, not only the person actually doing the prohibited act or omitting the directed act, but also the employer and all other persons concerned with or in aiding or abetting the said person shall be guilty of the offense described and liable to the penalty set forth. *(1963 Code)*

1.1.6 CITATIONS TO CODE

Citations to this City Code may be by reference to title number, chapter number, and section number, with decimal points between each of such numbers, including citation to any ordinance which may have been adopted, or previously cited, with hyphens between such numbers. *(Ord. 739, 5-23-95)*

Chapter 2

SAVING CLAUSE

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1.2.1 REPEAL OF GENERAL ORDINANCES

All general ordinances of the City passed prior to the adoption of this City Code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following Section), from which are excluded the following ordinances which are not hereby repealed:

tax levy ordinances;
appropriation ordinances;
ordinances relating to boundaries and annexations;
franchise ordinances and other ordinances granting special rights to persons or corporations;
contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants;
salary ordinances;
ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances;
bond ordinances;
ordinances relating to elections;
ordinances relating to the transfer or acceptance of real estate by or from the City; and
all special ordinances.

1.2.2 PUBLIC UTILITY ORDINANCES

No ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this City Code or by virtue of the preceding Section, excepting as this City Code may contain provisions for such matters, in which case this City Code shall be considered as amending such ordinance or ordinances in respect of such provisions only.

1.2.3 COURT PROCEEDINGS

No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former

ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this or the preceding Section shall be construed as abating any action now pending under or by virtue of any general ordinance of the City herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any ordinance or provision thereof in force at the time of the adoption of this City Code. *(1963 Code)*

Chapter 3

DEFINITIONS

Sections

1.3.1 DEFINITIONS, GENERAL 29

1.3.1 DEFINITIONS, GENERAL

Whenever the following words or terms are used in this Code they shall have the meaning herein ascribed to them, unless the content makes such meaning repugnant thereto:

AGENT: The word *Agent* as used in this Code shall mean a person acting on behalf of another.

CITY: The word *City* as used in this Code shall mean the City of Vale.

CODE: The word *Code* unless otherwise specifically stated shall mean this City Code.

EMPLOYEES: Whenever reference is made In this Code to a City employee by title only, this shall be construed as though followed by the words *of the City of Vale.*

FEE: The word *Fee* as used in this Code shall mean a sum of money charged by the City for the carrying on of a business, profession or occupation.

KNOWINGLY: The word *Knowingly* imports only a knowledge that the facts exist which brings *[sic]* the act or omission within the provisions of this Code. It does not require any knowledge of the unlawfulness of such act or omission.

LICENSE: The word *License* as used in this Code shall mean the permission granted for the carrying on of a business, profession or occupation.

MISDEMEANOR: The word *Misdemeanor* shall mean any offense deemed a violation of the provisions of this Code which s a lesser offense than a felony as defined by State law.

NEGLIGENT: The word *Negligent*, as well as *Neglect*, *Negligence*, and *Negligently* imports a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.

NUISANCE: The word *Nuisance* shall mean anything offensive or obnoxious to the health and welfare of the inhabitants of the City; or any act or thing repugnant to, or creating a hazard to, or having a detrimental effect on the property of, another person or to the Community.

OCCUPANT: The word *Occupant* applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: The word *Offense* shall mean any act forbidden by any provision of this Code on *[sic]* the omission of any act required by the provisions of this Code.

OFFICERS: Whenever reference is made in this Code to a City officer in title only, this shall be construed as though followed by the words *of the City of Vale*.

OPERATOR: The word *Operator* as used in this Code shall mean the person who is in charge of any operation, business or profession.

OWNER: The word *Owner* applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSON: The word *Person* shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, partnership, or any other form of association or organization.

PERSONAL PROPERTY: The term *Personal Property* shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein

RETAILER: The word *Retailer* as used in this Code, unless otherwise specifically defined shall be understood to relate to the sale of goods, merchandise, articles or things in small quantities direct to the consumer.

STREET: The word *Street* shall include alleys, lanes, courts, boulevard *[sic]*, public ways, public square, public places and sidewalks.

TENANT: The word *Tenant* applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

WHOLESALER: The words *Wholesaler* and *Wholesale Dealer* as used in this Code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale.

WILFULLY: The term *Wilfully* when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire an advantage. *(1963 Code)*

Chapter 4

PENALTY

Sections

1.4.1 PENALTY **31**
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1.4.3 EXTENSION OF POLICE POWER BEYOND CITY LIMITS **31**
1.4.4 INTEREST ON UNPAID FINES **31**
1.4.5 FEE FOR DRIVER'S LICENSE SUSPENSIONS **32**

1.4.1 PENALTY

Any person convicted of any provision of this Code shall be fined not to exceed the sum of seven hundred fifty dollars ($750.00) for such offense, unless the Section of the Code violated carries its own penalty, in which event, the latter penalty shall be the maximum penalty. *(Ord. 607, 11-7-78)*

1.4.2 LIABILITIES OF OFFICERS

No provision of this City Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the governing body to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

1.4.3 EXTENSION OF POLICE POWER BEYOND CITY LIMITS

All police and penal provisions of this Code, necessary to protect property and preserve peace and order now in force and also those hereinafter enacted, applicable within the City shall apply with equal force and effect to all lands owned or controlled by the City located outside the boundaries of the City and the penalties of fine and imprisonment and the right to make arrests and serve process shall likewise apply. *(1963 Code; renumbered by Ord. 607, 11-7-78)*

1.4.4 INTEREST ON UNPAID FINES

Interest shall accrue on all fines imposed for violation of any provision of this Code at the rate of 1.5 percent per month (18% per annum) from the date the fine is due.

1.4.5 FEE FOR DRIVER'S LICENSE SUSPENSIONS

Whenever the Vale Municipal Court suspends a driver's license or submits an order, notice or a request for such a suspension to the Motor Vehicles Division, a fee of $25.00 shall be charged to the licensee. The fee shall be added to, and become a part of, any fine imposed. *(Ord. 733, 8-9-94)*

Chapter 4A

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

Chapter 4B

FORFEITURE OF PROPERTY

Sections

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1.4B.2 POLICY AND PURPOSE **34**
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1.4B.8 NONCONSENSUAL USE OF PROPERTY **37**
1.4B.9 LIMITATION ON REAL PROPERTY **37**
1.4B.10 SEVERABILITY **37**

1.4B.1 TITLE

This Article shall be known as the ”Forfeiture Ordinance” of the City and may be so pleaded and referred to as such.

1.4B.2 POLICY AND PURPOSE

(A) The Vale City Council finds that:

(1) Property that is seized from arrested persons which constitutes the proceeds or instrumentalities of a narcotics or gambling charge must generally be returned to the criminal upon disposition of the charge.

(2) These instrumentalities and proceeds are often used to further narcotics trafficking or gambling. The return of the property thus serves to encourage and perpetuate the commission of crime within the City limits of Vale.

(B) The Vale City Council therefore declares that to protect the safety and welfare of the residents of the City it is in the best interest of the City to:

(1) Deter crime through all possible legal means including the forfeiture of proceeds and instrumentalities of crime;

(2) Cripple drug trafficking and narcotics activities within the City by depriving narcotics dealers, and those persons dealing with them, of the instrumentalities and proceeds of their trade; and

(3) Otherwise deter such activity and remove the operating instrumentalities, profits and proceeds of narcotics and gambling transactions from dealers.

1.4B.3 DEFINITIONS

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

CONSPIRACY: The term as defined at ORS 161.450.

CONTROLLED SUBSTANCES: The term defined in ORS chapter 475 except that this shall not include less than one ounce of dried marijuana.

DELIVER or DELIVERY: The term defined at ORS chapter 475.

FACILITATE: The property must have some substantial connection to, or be instrumental in, the commission of the underlying illegal activity.

GAMBLING: The activities define *[sic]* in ORS 167.117.

ILLEGAL ACTIVITY: (A) Gambling or promotion of gambling; or (B) The manufacture or delivery of controlled substances; or (C) The possession of controlled substances with the intent to distribute.

MANUFACTURE: The term defined in ORS chapter 475.

MARIJUANA: The term defined in ORS chapter 475.

POSSESSION OF CONTROLLED SUBSTANCES WITH THE INTENT TO DISTRIBUTE: The phrase defined at 21 USC § 841(a)(1)(2).

PRODUCTION: The term defined in ORS chapter 475.

PROMOTION OF GAMBLING: The term defined at *[sic]* ORS 167.117(10).

1.4B.4 FORFEITURE

Any person who engages in or conspires to engage in illegal activity within the following property:

(A) All controlled substances which are intended for or have been manufactured or delivered as defined in Section 1.4B.3 above;

(B) All raw materials, products, containers, equipment, books, records, research materials (including formulas, microfilms, tapes and data), or any kind which are used, or are intended for use, to manufacture, compound, store, process or deliver any controlled substances:

(C) All conveyances, including aircraft, vehicles or vessels which are used to manufacture or deliver or in any manner to facilitate the manufacture or delivery of any controlled substance or any such conveyance which is used to transport or conceal any controlled substance;

(D) All monies, negotiable instruments, securities or other things of value furnished or exchanged or intended to be furnished or exchanged by or to any person to facilitate any illegal activity, and all proceeds and profits traceable to such furnishment, exchange or prohibited activity;

(E) All proceeds, profits and things of value, traceable to any prohibited activity;

(F) All equipment, materials or records of any sort that are used, or intended for use to facilitate any prohibited gambling activity; and

(G) All real property including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements thereon, which is used to manufacture any controlled substance or to commit or facilitate the commission of any illegal activity.

1.4B.5 SEIZURE

Any property subject to forfeiture to the City of Vale under this Article may be seized by any police officer on behalf of the City without issuance of court process when:

(A) The seizure is incident to an arrest or search under a search warrant or an inspection under an administrative search; or

(B) The property subject to seizure has been the subject of a prior judgment in favor of the City in a forfeiture proceeding under this Article; or

(C) A police officer lawfully seizes the property and has probable cause to believe that the property has been used or is intended for use in or to facilitate prohibited activity as defined in this Article.

1.4B.6 INSTITUTION OF LEGAL PROCEEDINGS

(A) In the event of a seizure under this Article, the City Attorney, acting in the name of the City, may institute a forfeiture proceeding to obtain a judgment of forfeiture against the seized property. The City Attorney may institute an in rem forfeiture proceeding if the property seized is real property.

(B) The proceeding shall be instituted promptly and in accordance with the Oregon Rules of Civil Procedure and the Oregon Rules of Evidence relating to civil action.

(C) Within sixty (60) days after the property is seized the City Attorney, on behalf of the City, shall file a complaint and initiate application for a temporary restraining order restraining the return of the seized property to the defendant or property owner. This Section shall operate as a limitation on a forfeiture action.

(D) The defendant or owner of the property may demand a trial by jury in any civil action brought under this Section.

1.4B.7 DISPOSITION OF PROPERTY

(A) Prior to obtaining any forfeiture judgment, any money, securities, or negotiable instruments that are not retained for evidentiary purposes shall be deposited with the City Manager pending the outcome of the forfeiture proceeding. *(Ord. 832, 3-11-2003)*

(B) Any other seized property shall be kept in the custody of the City. The Chief of Police shall hold the property for the City for safekeeping until forfeiture is obtained.

(C) The interest of the City in the forfeited property shall be subject to any perfected security interest in the property recorded prior to the date of seizure. The Chief of Police shall ascertain whether perfected security interest exists against the seized property and shall notify any secured parties of the forfeiture of the subject property and of the date set for sale.

(D) When a judgment of forfeiture is obtained under this Article, the property shall be disposed of as follows:

(1) At the discretion of the Chief of Police, the forfeited property may be retained for official use in law enforcement activities. When the Chief of Police determines that the property will serve no law enforcement purposes or will no longer be used for law enforcement purposes, the property shall be sold in accordance with subsection (D) 2 below. If seized property is retained for law enforcement purposes, all liens on the property shall be promptly paid.

(2) Property which is required by law to be destroyed or which is determined by the Chief of Police to be harmful to the public shall be destroyed. Any seized property which is not destroyed shall be sold at public auction by the Chief of Police. The proceeds of any sale shall be distributed as follows:

(a) To the payment of all liens, according to priority.

(b) To the payment of all expenses of the sale and of maintaining the property pending outcome of the forfeiture proceeding and sale.

(c) To the payment of all expenses reasonably incurred in the forfeiture proceeding, including attorney fees.

(d) The remaining proceeds shall be paid to the City General Fund.

1.4B.8 NONCONSENSUAL USE OF PROPERTY

No property shall be forfeited under this Article to the extent of the interest of an owner who in good faith had not consented to or was not aware of the use of the property in the illegal activity.

1.4B.9 LIMITATION ON REAL PROPERTY

The following limits the forfeiture of real property:

(A) The amount of real property forfeited shall be limited to the building actually used, or the portion of land actually used, or both, for illegal activities.

(B) There shall be no judgment of forfeiture of land or buildings until or unless there has been a criminal conviction for the illegal activity or for a lessor *[sic]* and included offense.

1.4B.10 SEVERABILITY

If any section, clause or phrase of this Article, or its application to any statute is determined by any court of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remainder of the Article or its application to any other statute, but shall continue to be in effect. *(Ord. 681, 1-6-87, eff. 2-5-87)*

Chapter 4C

MUNICIPAL COURT ASSESSMENT

Sections

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1.4C.2 ASSESSMENT **38**
1.4C.3 USE OF FUNDS **38**
1.4C.4 WAIVER OR DEFERRAL OF ASSESSMENT **39**

1.4C.1 TITLE

This article shall be known as the "Municipal Court Assessment Ordinance."

1.4C.2 ASSESSMENT

Whenever the Municipal Court imposes a sentence of a fine, a term of imprisonment, or both, including a sentence imposed and thereafter suspended, or orders a bail forfeiture, as a penalty for any offense or violation of this code, excluding parking violations, an assessment in addition to such sentence or bail forfeiture shall be collected and paid to the City. The assessment shall be in addition to, and not in lieu of, any other penalty or assessment authorized by law. The amount of the assessment shall be as follows:

(A) $6 when the fine or forfeiture is $1 to $24.99;

(B) $8 when the fine or forfeiture is $25 to $49.99;

(C) $10 when the fine or forfeiture is $50 to $99.99;

(D) $20 when the fine or forfeiture is $100 to $199.99;

(E) $35 when the fine or forfeiture is $200 or more.

1.4C.3 USE OF FUNDS

The assessment shall be deposited into the general fund of the City. At any one time, the first $750.00 of the monies in the general fund resulting from the assessment shall be dedicated to Municipal Court indigent defense expense and/or City prosecution expense. The balance of any such funds may be used for the purpose of financing any Municipal Court operations and expenses, including, but not limited to, indigent defense, prosecution expense and the training, education and compensation of the Municipal Court Judge and staff.

1.4C.4 WAIVER OR DEFERRAL OF ASSESSMENT

The Municipal Court in any case may waive payment of the assessment, in whole or in part if, upon consideration, the Court finds that payment of the assessment or a portion thereof would impose upon the Defendant a total monetary obligation inconsistent with justice in the case. In making its determination under this section, the Court shall consider:

(A) The financial resources of the defendant and the burden that payment of the assessment will impose, with due regard to the other obligations of the defendant; and

(B) The extent to which such burden can be alleviated by allowing the defendant to pay the monetary obligations imposed by the Court on an installment basis or on other conditions to be fixed by the Court. *(Ord. 713, 2-23-93)*

Chapter 5

COUNCIL

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1.5.1 MEETINGS

The time of holding the regular monthly meeting of the Council shall be the second Tuesday of each month and which *[sic]* shall be held in two (2) sessions, to-wit; the first session to be held on the second Tuesday of each month and the second session to be held on the fourth Tuesday of each month. At the close of the first session the meeting shall be continued to the fourth Tuesday without further action by the Council. All regular meetings of the Council shall convene at seven o'clock (7:00) P.M.

A majority of the Council may reschedule one or both sessions of the regular meeting to a different date, upon such notice as is required for special meetings. All special meetings shall convene at the hour fixed by the call. Special meetings of the Council may be convened by the Mayor or a majority of the Council at any time by publication of notice thereof in the City's official newspaper not later than the second day prior to the date of such meeting. Personal service of such notice, no later than a day before such meeting upon all members of the Council or written waiver of notice signed by all Councilmen shall be the equivalent to publication of such notice. *(Ord. 701, 3-28-89, as amended by Ord. 753, 12-28-95)*

1.5.2 MAYOR TO PRESIDE; MANAGER'S DUTIES

Each meeting of the Council shall be presided over by the Mayor or, in the case of his absence, by a president to be elected by the members of the Council. The Manager shall attend all meetings of the Council and shall keep an accurate journal of the proceedings. In the event of the holding of a special meeting, the Manager shall receive notice thereof in the same manner as any Councilman. *(Ord. 167, 11-18-38, amended by Ord. 440, 8-17-62; amended by Ord. 832, 3-11-2003)*

1.5.3 *[Repealed by Ord. 691, 3-8-88]*

1.5.4 SPECIAL COMMITTEES

In addition to the regular standing committees, the Mayor may, from time to time, in his discretion, appoint such special committees from the members of the Council to act with any civic organization or citizens' committee. Such special committees shall have only the powers expressly conferred upon them by resolution of the Council.

1.5.5 ORDINANCES

At any regular or special meeting any Councilman may introduce any proposed ordinance for the consideration of the Council, and, upon introduction of the same, the Manager shall endorse thereon the name of the member of the council introducing such proposed ordinance and shall file the same. Any proposed ordinance so introduced shall be read in full, and thereupon the Mayor shall refer the same to a regular committee or to a special committee appointed for the purpose of examining the same, and it shall be the duty of such committee to report the ordinance, together with its recommendations, to the Council at its next regular or special meeting, *provided*, such regular or special meeting is not held within seven (7) days of the introduction and reference of such ordinance. If the next regular or special meeting is held within seven (7) days of the introduction and reference of such ordinance, it shall be the duty of the committee to report the ordinance, together with its recommendations, at the next meeting succeeding the expiration of the seven (7) day period.

No ordinance shall be passed by the Council, within seven (7) days of the day of introduction of the same and unless and until the same has been read in full before the Council and has been reported by the committee to which it has been referred, as in this Chapter provided, that after the ordinance has been reported upon, it shall then be read in full before the Council and shall be put upon its final passage; and the vote upon all ordinances shall be entered by ayes and nays in the journal of Council proceedings. *(Ord. 167, 11-18-38, amended by Ord. 440, 8-17-62; amended by Ord. 832, 3-11-2003)*

1.5.6 ORDER OF BUSINESS FOR REGULAR MEETINGS

The order of business for each regular meeting of the Council shall be as follows:

(A) Reading of the minutes of the last regular and intervening special meetings of the Council and action making such minutes permanent.

(B) Hearing of public grievances, concerns, and petitions.

(C) Unfinished business, including consideration of such ordinances as may have been vetoed by the Mayor.

(D) Auditing of accounts and allowing the bills.

(E) Introduction of ordinances, and resolutions of special nature.

(F) New business.

This order may be modified or omitted for a given regular meeting by a majority vote of the City Council after the meeting is convened. *(Ord. 691, 3-8-88)*

1.5.7 *[Repealed by Ord. 691, 3-8-88]*

1.5.8 PARLIAMENTARY PROCEDURE

All proceedings of the Council shall be conducted in accordance with the recognized rules of parliamentary procedure and in conformity with the provisions of the Charter. *(Ord. 167, 11-18 38, amended by Ord. 440, 8-17-62)*

1.5.9 COUNCIL TO COMPRISE CONTRACT REVIEW BOARD

(A) The Mayor and City Council of the City of Vale, Malheur County, Oregon, shall comprise a City of Vale Contract Review Board.

(B) The City of Vale Contract Review Board shall have jurisdiction to review all public contracts and public improvement contracts of the City of Vale, as defined in Oregon law.

(C) The Administrative Rules of the Public Contract Review Board are hereby adopted as the governing rules and guidelines and shall be used by the City of Vale Contract Review Board in so far as said rules are applicable to the City of Vale.

(D) The City of Vale Contract Review Board may, by resolution, adopt additional rules as deemed appropriate. *(Ord. 716, 4-20-93)*

Chapter 6

TREASURER

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1.6.1 OATH; BOND

The City Manager shall be Treasurer of the City of Vale. The Treasurer shall, before entering upon the duties of his or her office, take, subscribe, and file an oath that he or she will faithfully discharge the duties of his or her office; and he or she shall further, before entering upon the duties of his or her office, make and execute unto the City a bond pursuant to Section 1.16.1, conditioned that he or she will faithfully perform the duties of his or her office and will well and truthfully account to the City for all sums coming into his or her possession by virtue of his or her office. *(Ord.777, 8-12-97, eff. 9-12-97, amended by Ord. 832, 3-11-2003)*

1.6.2 DUTIES

The Treasurer shall be custodian of all the funds of the City and shall give receipts to all persons who shall turn money over to the credit of the City. The Treasurer shall keep all funds of the City in such banks or trust companies as may be designated by the Council as official depositories. It shall be the duty of the Treasurer to keep fair, clear, distinct, and separate accounts of ail funds and revenues of the City and also of all expenditures, disbursements, and investments thereof. *(Ord. 168, 11-18-38, amended by Ord. 440, 8-17-62, amended by Ord. 565, 6-25-74, eff. 7- 1 -74)*

1.6.3 FUNDS; STATEMENTS

The City revenues shall be divided and kept in not less than the following separate and distinct funds: General Fund, Street Fund, Airport Fund, Ambulance Fund, Public Works Fund, Revolving Loan Fund, Investment Fund, and Equipment Reserve Fund. The Council may, by resolution, establish such additional funds as the Council deems necessary or desirable for the efficient accounting of City business.

The Treasurer shall make a semi- annual statement to the Council showing the receipts and disbursements and the state of each particular fund at the close of business on June 30 of each year, and shall also prepare

and transmit to the Council a report on the receipts and disbursements of the City for the six months ending on the preceding December 31. *(Ord.777, 8-12-97, eff. 9-12-97)*

1.6.4 CREATION OF FUNDS

(A) The *Public Works Fund* shall consist of all monies collected from City water, sewer and garbage assessments and all sums of money derived as revenue from the City water, sewer and garbage systems and such other sums as the Council may by resolution appropriate from the General, Street, or other funds, as the same may be needed.

(B) The *Street Fund* shall be created and maintained by monies raised by special levy and shall include all sums of money derived as revenue from the City street system and such other sums as the Council may by resolution appropriate from the General, Public Works, or other funds, as the same may be needed.

(C) The *Ambulance Fund* shall include all sums of money derived as revenue from the City ambulance service and such other sums as the Council may by resolution appropriate from the General, Public Works, or other funds, as the same may be needed.

(D) The *Revolving Loan Fund* shall include all sums of money derived as revenue from application and loan fees, and interest on loans from the Revolving Loan Fund, and such other sums as the Council may by resolution appropriate from the General, Public Works, or other funds, as the same may be needed.

(E) The *Airport Fund* shall include all sums of money derived as revenue from uses or rent of the Airport, and such other sums as the Council may by resolution appropriate from the General, Public Works, or other funds, as the same may be needed.

(F) The *General Fund* shall be created and maintained and shall consist of all revenues derived by the City from whatsoever source which shall not by resolution be directed to the credit of any other regular or special fund. The General Fund shall be available for payment of any debts or general obligations of the City. *(Ord.777, 8-12-97, eff. 9-12-97)*

1.6.5 CHECKING SYSTEM

All disbursements of money by the City from any City funds shall be by written checks drawn upon appropriate checking accounts to be established with an authorized banking institution.

All checks ordered drawn by the Council shall be drawn upon a particular fund, and such checks must show upon their face the fund designated for the payment of the same. It shall be the duty of the Treasurer to enter in a book to be kept for that purpose an abstract of all checks drawn upon any funds of the City, showing the date, number, and name of the claimants, the amount claimed, the amount allowed thereon and from which fund to be paid.

All checks issued shall be signed by both the Treasurer and the Mayor of the City.

No checks shall be issued without the prior approval of the majority of the Council except for payroll checks and matters related thereto such as, but limited to, tax withholding, social security, workmen's compensation, public employee's retirement and so forth, which may be paid as they become due in authorized amounts. *(Ord. 565, 6-25-74, eff. 7-1-74)*

1.6.6 *[Repealed by Ord. 777, 8-12-97, eff. 9-12-97]*

Chapter 7

PUBLIC WORKS SUPERVISOR

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1.7.1 POSITION CREATED, APPOINTMENT

There is hereby created the position of Public Works Supervisor. The first Public Works Supervisor shall be appointed by the Mayor and confirmed by the Council. The Public Works Supervisor shall be under the authority and direction of the City Manager and will, in the future, be appointed or discharged by the City Manager. *(Ord. 832, 3-11-2003)*

1.7.2 POWERS AND DUTIES

(A) The Public Works Supervisor shall be the head of the street, water, sewer and garbage systems and have supervision over all employees in those systems. The Public Works Supervisor, with approval of the City Manager, may appoint or discharge employees of the street, water, sewer and/or garbage systems.

(B) Duties of the Public Works Supervisor shall be to see that all records are kept and such reports are made concerning the activities of the street, water, sewer and garbage systems as may be required by statutes and by the City Manager. He shall be responsible for the performance of the street, water, sewer and garbage systems and their functions and all employees of the systems shall serve subject to his orders. The Public Works Supervisor shall be in charge of building, repairing, maintaining, sweeping, and snow and ice removal of streets and alleys; installation, upkeep and repair of all water lines, sewer lines, meters, hydrants, pumps, storage tanks, pump houses, lift stations and all appurtenances thereof in the City; in charge of all garbage and solid waste collection and facilities and keep all solid waste material cleared from the City.

(C) The Public Works Supervisor shall formulate plans for present and future needs of the systems in consultation with the Street and Utility Committees of the Council and the City Manager. He shall prepare the annual budget for the systems, setting priorities for expansion and improvement and the need for additional funds for the same. He shall fulfill any other duties as designated to him by the City Manager. *(Ord. 648, 11-8-83, amended by Ord. 832, 3-11-2003)*

Chapter 8

OFFICIAL NEWSPAPER

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1.8.1 OFFICIAL NEWSPAPER DESIGNATED

The Malheur Enterprise, a weekly newspaper published in the City, be, and it is hereby designated as the Official Newspaper for the printing and publication of all notices or other instruments required or authorized to be published by the charter or ordinances of the City. *(Ord. 169, 11-18-38)*

Chapter 9

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

Chapter 10

PLANNING COMMISSION

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1.10.1 COMMISSION CREATED

There is hereby created a City Planning Commission (hereinafter referred to as the Commission) for the City.

1.10.2 MEMBERSHIP

The Commission shall consist of the Mayor, and seven (7) other members to be appointed by the Mayor, not more than two (2) of whom shall be nonresidents of the City. Commission members shall receive no compensation.

1.10.3 TERM OF OFFICE

At the first meeting of the Commission, the seven (7) appointed members shall choose their term of office by lot as follows: One (I) for one (1) year, two (2) for two (2) years, two (2) for three (3) years and two (2) for four (4) years. Immediately thereafter, the members shall notify the Mayor and Council in writing of such allotment. Their successors shall hold office for four (4) years. Any vacancy shall be filled by the Mayor for the unexpired portions of the term.

1.10.4 OFFICERS ELECTED

The Planning Commission, at its first meeting each year, shall elect a Chairperson and Vice-chairperson from its members. The Chairperson, or in the Chairperson's absence the Vice-chairperson, shall be responsible

for presiding at meetings and for executing documents authorized by the Commission. In the absence of both the Chairperson and the vice-chairperson from a meeting, the Planning Commission membership shall elect one of their number to serve as presiding officer. *(Ord. 740, 7-13-95)*

1.10.5 COMMISSION SECRETARY; RECORDS; REPORTS

The City Manager or his designee shall serve as Secretary to the Planning Commission. *(Ord. 740, 7-13-95, amended by Ord. 832, 3-11-2003)*

1.10.6 QUORUM; RULES; MEETINGS

Five (5) members of the Commission shall constitute a quorum. At least four (4) members appointed by the Mayor shall at all times constitute a part of such quorum. The Commission may make and alter rules and regulations for its government and procedure consistent with Laws of this State and with the City charter and ordinances. It shall meet of least once a month, at such times and places as may be fixed by the Commission. Special meetings may be called at any time by the President or by three (3) members by written notice served upon each member of the Commission at least three (3) hours before the time specified for the proposed meeting.

1.10.7 EMPLOYEES; EXPENSE

The Commission may employ consulting advice on Municipal problems, a secretary and such clerks as may be necessary; and pay for their services, and for such other expenses as the Commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the Commission, out of funds at the disposal of the Commission, as authorized by the Council.

1.10.8 POWERS

The Commission shall have all the powers which are now or hereafter granted to it by ordinances of this City or by general Laws of the State of Oregon. The Commission shall control the subdivision of land and may make recommendations to the Council, to public officials and to individuals regarding land use; location of thoroughfares, public buildings, parks and other public facilities; and, regarding any other matter relating to the planning and development of the City and the surrounding area. The Commission may make studies, hold hearings and prepare reports and recommendations on its own initiative or at the request of the Council.

1.10.9 RECOMMENDATIONS IN WRITING

All recommendations and suggestions made to the Council by the Commission shall be in writing.

1.10.10 EXPENDITURES AUTHORIZED

The Commission shall have no authority to make expenditures on behalf of the City or to disburse any funds provided by the City or to obligate the City for any sums of money except as herein provided and then only after the same has been included in the City budget and after the Council shall have authorized such expenditures by appropriate resolution which resolution or resolutions shall provide the administrative method by which such funds shall be drawn and expended *(Ord. 510, 12-28-65)*

Chapter 11

LIBRARY BOARD

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1.11.1 BOARD ESTABLISHED

The Library Board shall be appointed, shall be governed and shall act under the terms of this Chapter.

1.11.2 MEMBERS; TERM

There shall be five (5) members on the Library Board, which said members shall be appointed by the Mayor of the City, and such appointment shall be confirmed by the Common Council; that such members as appointed and confirmed by the Mayor and Common Council shall hold office for a period of four (4) years, except that the original appointments pursuant to this Chapter shall be made for the following terms:

- One appointee for one year;
- One appointee for two (2) years;
- One appointee for three (3) years;
- Two (2) appointees for four (4) years.

1.11.3 QUALIFICATIONS

At least three (3) of the members appointed under the provisions of this Chapter shall be residents of the City, and all shall be owners of an interest in real property within the limits of the City and shall qualify by taking an oath to perform the duties of their office according to their best ability. Said Board members shall be known officially as the "Library Board", and individually said Board members shall be known as "Library Trustees".

1.11.4 VACANCY

Any vacancy shall be immediately reported to the Common Council and shall be filled by appointment by the Mayor with the approval of the Common Council. Said appointment shall be for the unexpired term of the position being filled. It is, however, provided that all appointments to the Library Board may be terminated at the pleasure of the Mayor and the Common Council. No compensation shall be paid or allowed any member of the Library Board. *(Ord. 531, 10-8-68)*

1.11.5 LIBRARY BUDGET

The Librarian and the City Manager of the City shall, on or before the first day of February of each year, prepare a budget for the operation of the Vale Public Library, which shall hereafter be known as the "Emma Humphrey Memorial Library", and that such budget shall be prepared for submission to the Budget Committee of the City. Said proposed budget shall be submitted by the Librarian to the Library Board for review and recommendations prior to submission to the City Manager and the Budget Committee. *(Ord. 832, 3-11-2003)*

1.11.6 FINES AND PENALTIES

Any and all fines and penalties received by the Emma Humphrey Memorial Library in pursuance of the rules and regulations to be adopted by the Library Board shall be collected by the Librarian and delivered to the City Manager at reasonable intervals and said moneys shall be deposited in the General Fund of the City. *(Ord. 531, 10-8-68, amended by Ord. 566, 6-25-74, eff. 7-1-74, amended by Ord. 832, 3-11-2003)*

1.11.7 RULES AND REGULATIONS

The Emma Humphrey Memorial Library and its operation shall be subject to such reasonable rules and regulations as the Library Board may feel necessary to adopt and publish in order to retain the use of said library for the greatest benefit of the greatest number. The Library Board, by its rules and regulations, may exclude from the use of such library any and all persons who shall wilfully violate such rules and regulations. Such rules and regulations shall be in conformity with the Charter of the City. The Board may extend privileges and use of such library to nonresidents upon such terms and conditions as the Board may prescribe; provided, however, that all rules and regulations for the use and operation of the library shall be subject to review and/or revision by the Council.

1.11.8 REPORT

On or before January 15 each year the Library Board shall make an annual report to the Common Council stating the condition of their trust and generally reporting on the operation of the Emma Humphrey Memorial Library and its use by the public during the previous year.

1.11.9 DONATIONS

All persons desirous of making donations of money, personal property, or real estate for the benefit of such library, shall have the right to vest the title thereto in the Vale Library Board created under this Chapter to be held and controlled by such Board when accepted, according to the terms of the deed of the gift, devise or bequest, and as to such property the said Board shall be held and considered to be special trustees. Donations in the form of money shall be deposited in an account to be known as the Emma Humphrey Memorial Library Fund.

1.11.10 PERSONNEL

The City Manager shall appoint library supervisory personnel only after consideration of the recommendations of the Library Board, particularly with respect to the position of Librarian. *(Ord. 832, 3-11-2003)*

1.11.11 BOARD, ADVISORY CAPACITY

The Library Board shall act in an advisory capacity for both the Council and the City Manager and the Board's opinions and recommendations with respect to future development, expansion of library service and library policy, shall be given careful consideration. *(Ord. 832, 3-11-2003)*

1.11.12 PENALTY

Whoever wilfully or maliciously writes upon, injures, defaces, tears or destroys a book, plate, picture, engraving, map, magazine, pamphlet, manuscript, or statue belonging to the library or *[sic]* Vale, or whoever fails and neglects to return any book or other pieces of material belonging to the library after receiving thirty (30) days notice and request for its return shall be punished by fine of not more than twenty five dollars ($25.00) or by imprisonment not exceeding thirty (30) days. *(Ord. 531, 10-8-68)*

Chapter 12

CITY MANAGER

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1.12.1 CREATION OF OFFICE

The office of City Manager is hereby created. *(Ord. 832, 3-11-2003)*

1.12.2 APPOINTMENT OF CITY MANAGER

The City Manager shall be appointed by the Mayor and confirmed by majority vote of the City Council for an indefinite term. The City Manager shall be chosen by the Mayor and confirmed by the Council solely on the basis of executive and administrative qualifications with special reference to actual experience in or knowledge of accepted practice in respect to the duties of his office hereinafter set forth. At the time of the City Manager's appointment the City Manager need not be a resident of the City or the State, but during the tenure of office the City Manger shall reside within the City or the Urban Growth Area. *(Ord. 832, 3-11-2003, amended by Ord. 845, 1-10-2006)*

1.12.3 REMOVAL OF CITY MANAGER

The City Council may remove the City Manager at any time by a majority vote of its members and the Mayor may suspend him subject to confirmation by Council. *(Ord. 552, 3-23-71, eff. 4-1-71 amended by Ord. 832, 3-11-2003)*

1.12.4 POWERS AND DUTIES OF CITY MANAGER

The City Manager shall be the chief administrative officer of the City. The City Manager shall be responsible to the City Council for the proper administration of the affairs of the City. To that end, he shall have power and shall be required to:

(A) Hire employees, subject to review by the City Council as set forth herein. The City Manager shall advise all job applicants that their hiring is subject to review by the City Council. Upon selection of one applicant, the City Manager shall advise the City Council at its next public meeting of the applicant's qualifications. Unless the City Manager's applicant is disapproved by the City Council, the City Manager shall hire the applicant. If the City Manager's applicant is disapproved by a majority vote of the City Council members present, the City Manager shall select another applicant tor submission to the City Council.

(B) Discipline, suspend and discharge employees, subject to any restrictions imposed by law and the terms of any employee contracts.

(C) Prepare the budget annually and submit it to the Council together with a message describing the important features and be responsible for its administration after adoption.

(D) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.

(E) Keep the Council advised of the financial condition and the future needs of the City, and make such recommendations as he may deem desirable, and prepare and submit monthly financial reports.

(F) Recommend to the governing body a standard schedule of pay for each appointive office and position in the City service, including minimum, intermediate and maximum rates.

(G) Recommend to the governing body (from time to time) adoption of such measures as he may deem necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services.

(H) Recommend consolidation of offices or positions, departments or units under his jurisdiction, with the approval of the City Council. The City Manager may be the head of one or more departments.

(I) Attend all meetings of the City Council unless excused therefrom and take part in the discussion of all matters coming before the Council. He shall be entitled to notice of all regular meetings of the Council.

(J) Investigate the affairs of the City or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government of the City, and in regard to service maintained by the public utilities in the City, and see that all franchises, permits and privileges are faithfully observed.

(K) Perform such other duties as may be required by the Mayor and Council, not inconsistent with the City Charter, law or ordinance. *(Ord. 832, 3-11-2003)*

1.12.5 LIMITATIONS ON POWERS OF CITY MANAGER

The City Manager shall not authorize the purchase of any item of equipment or any requisition of supplies in excess of one thousand dollars ($1,000.00) without the prior approval of the City Council. The City Manager shall not authorize or incur any expense in excess of the line item amount in the budget approved by the City Council, without prior approval of the City Council. In case of emergency, the City Manager may spend in excess of one thousand dollars ($1,000.00) or in excess of the line item amount in the budget after obtaining approval of the expenditure from a majority of the Council, either in person or by telephone, without calling a meeting of the Council. *(Ord. 695, 9-14-88, amended by Ord. 721, 10-26-93, amended by Ord. 832, 3-11-2003)*

1.12.6 EMERGENCIES

(A) The City Manager shall have the duties and authority of the controller of the City Emergency Operations Center and will direct all other City operations prescribed by the countywide Emergency Management Plan adopted by the City of Vale and other government entities within Malheur County.

(B) In case of accident, disaster or other circumstances creating a public emergency, the City Manager may by direction of the Mayor, award contracts and make purchases for the purpose of meeting such emergency; but he shall file promptly with the Council a certificate showing such emergency, and the necessity of such action, together with an itemized account of all expenditures. *(Ord. 751, 10-10-95, amended by Ord. 832, 3-11-2003)*

1.12.7 COMPENSATION

The City Manager shall receive such compensation as the Council shall fix from time to time by ordinance or resolution. *(Ord. 552, 3-23-71, eff. 4-1-71, amended by Ord. 832, 3-11-2003)*

Chapter 13

PERSONNEL SYSTEM

Sections

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1.13.4 ADMINISTRATION OF THE RULES **56**

1.13.1 TITLE

The title of the Ordinance shall be ”The Personnel Ordinance of the City of Vale”.

1.13.2 PURPOSE

This Ordinance is adopted to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service and to retain the best and most competent persons available; to assure that appointments and promotions of employees will be based on merit and fitness; and to provide a reasonable degree of job security for qualified employees.

1.13.3 ADOPTION AND AMENDMENT OF RULES

Personnel rules shall be adopted and amended by resolution of the Common Council. The rules shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and procedures for employee hiring and advancement, training and career development. job classification, salary administration, retirement fringe benefits, discipline, discharge and other related activities. All appointments and promotions shall be made in accordance with the personnel rules without regard to sex, race, color, age, religion or political affiliation; and, furthermore, shall be based on merit and fitness.

1.13.4 ADMINISTRATION OF THE RULES

The City Manager shall be responsible for:

(A) Administering all the provisions of this Ordinance and of the personnel rules not specifically reserved to the Common Council.

(B) Preparing or causing to be prepared and recommending to the Common Council personnel rules and revisions and amendments to such rules. *(Ord. 564, 3-26-74, eff. 7-1-74, amended by Ord. 832, 3-11-2003)*

Chapter 14

CHIEF OF POLICE

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1.14.4 LOST, ABANDONED OR STOLEN PROPERTY **59**
1.14.5 ORDINANCE ENFORCEMENT AUTHORITY **59**

1.14.1 APPOINTMENT

The Chief of Police shall be appointed by the Mayor and confirmed by the City Council. The appointee shall serve in that capacity until a replacement is named by the appointing authority. The City Manager may suspend the Chief of Police with pay until the next Council meeting if he deems it necessary. *(Ord. 832, 3-11-2003)*

1.14.2 CHIEF OF POLICE

The Chief of Police shall be the head of the Police Department and shall have suspension over all employees in that Department. The Chief of Police, with the approval of the City Manager may appoint or discharge employees of the Police Department as required. *(Ord. 832, 3-11-2003)*

1.14.3 POWERS AND DUTIES

The Chief of Police shall keep such records and make such reports concerning the activities of the Department as may be required by Statute or by the City Manager. He shall be responsible for the performance of the Police Department and its functions and all persons who are members of the Police Department shall serve subject to his orders.

It shall be the duty of the Chief of Police to see to the enforcement of all provisions of this Code, of all applicable Statutes and to preserve order and prevent infractions of the law and arrest violators thereof. He shall have the authority to call upon any citizen or bystander to assist him in the execution of his duty. He shall serve all processes issued to him and enforce all orders and judgments of the court. He shall formulate plans to meet both present and future needs of the Department, in consultation with the Law Enforcement Committee of the Council.

He shall prepare the annual budget for the Police Department, setting priorities for expansion and improvements and the need for additional funds for the same. He shall fulfill any other duties designated to him by the City Manager. *(Ord. 832, 3-11-2003)*

1.14.4 LOST, ABANDONED OR STOLEN PROPERTY

The Chief of Police shall have the custody of all lost, abandoned or stolen property recovered within the City. *(Ord. 592, 10-11-77)*

1.14.5 ORDINANCE ENFORCEMENT AUTHORITY

Any City ordinance which does not carry a criminal penalty and grants enforcement authority to the police department or the police chief, may instead be enforced by the City Manager, the Public Works Director, and any employees designated by them to perform ordinance enforcement, including the City ordinance enforcement officer. In addition, any City ordinance, whether or not it carries a criminal penalty, may be enforced by the Malheur County Sheriff's department pursuant to a contract between the City and Malheur County. *(Ord. 827, 2-12-2002, amended by Ord. 832, 3-11-2003, amended by Ord. 841, 2-22-2005)*

Chapter 15

PARK AND RECREATION DEPARTMENT

Sections

1.15.1 APPOINTMENT **60**
1.15.2 DUTIES OF PARK ATTENDANT *[sic]* **60**

1.15.1 APPOINTMENT

The City Manager shall appoint and discharge all employees of the Park and Recreation Department as required for the development and maintenance of City parks and the efficient use of recreation facilities. *(Ord. 832, 3-11-2003)*

1.15.2 DUTIES OF PARK ATTENDANT *[sic]*

It shall be the duty of the head Park Attendant, so designated by the City Manager, to keep such records and make such reports as required by Statute and by the City Manager. He shall be responsible for the upkeep of the Park and its functions and all persons who are employees of the Park and Recreation Department shall serve subject to his orders. *(Ord. 594, 10-11-77, amended by Ord. 832, 3-11-2003)*

Chapter 16

BONDING OF CITY OFFICIALS

Sections

1.16.1 BONDING OF CITY OFFICIALS 61

1.16.1 BONDING OF CITY OFFICIALS

The Mayor, President of the Council, and City Manager shall each, upon entering into the duties of his or her office, make and execute unto the City a bond in the sum of twenty five thousand dollars ($25,000.00), conditioned that he or she will faithfully perform the duties of his or her office and will well and truthfully account to the City for all sums of money coming into his or her possession by virtue of his or her office. Such bond shall be executed by a bonding company licensed to transact business in the State of Oregon. *(Ord. 699, 3-14-89, amended by Ord. 832, 3-11-2003)*

Chapter 17

SWIMMING POOL COMMITTEE

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1.17.6 DUTIES **63**

1.17.1 COMMITTEE CREATED

There is hereby created a Swimming Pool Committee for the City of Vale.

1.17.2 MEMBERSHIP

The Committee shall consist of the Mayor, the City Manager and the Pool Supervisor, all serving as non-voting members, and seven voting members to be appointed by the Mayor, not more than two of whom may be nonresidents of the City. *(Ord. 832, 3-11-2003)*

1.17.3 TERM OF MEMBERSHIP

At the first meeting of the Committee following the effective date of this ordinance, the seven appointed members shall choose their terms of office by lot as follows: two for one year, two for two years and three for three years. Immediately thereafter the members shall notify the Mayor and the City Council in writing of such allotments. Their successors shall hold office for three years. Any vacancy shall be filled by the Mayor for the unexpired portion of the term.

1.17.4 COMMITTEE OFFICERS

The Committee shall annually elect a Chairperson and a Secretary, who shall be members appointed by the Mayor. The Chairperson shall preside over all meetings. The Secretary shall record the minutes of each meeting, and file the minutes in the City offices.

1.17.5 MEETINGS; QUORUM; ABSENCES

The Committee shall meet at least six times per year at times and places designated by the Chairperson. Four voting members of the Committee shall constitute a quorum. If any member of the Committee shall be absent from three consecutive meetings without excuse, the Chairperson shall certify that fact to the Mayor who shall declare the position vacant and proceed to fill the vacancy.

1.17.6 DUTIES

The duties of the Committee shall be to advise the City Council and the City Manager concerning swimming pool management, personnel, maintenance, improvements, expenditures, fees, rules and any other matters directly affecting the operation of the Vale Swimming Pool. *(Ord. 717, 5-4-93, amended by Ord. 832, 3-11-2003)*

Chapter 18

FIRE & AMBULANCE DEPARTMENT

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1.18.2 POWERS AND DUTIES **64**

1.18.1 DEPARTMENT CREATED

A volunteer department to provide fire prevention, fire suppression and ambulance services is hereby created. The Common Council shall promptly approve, by resolution, a constitution and by-laws governing the operation of the department, which may be amended from time to time by a majority of the Council present.

1.18.2 POWERS AND DUTIES

With the approval of the Council, the department shall have the authority to enter into cooperative and intergovernmental agreements with other jurisdictions and entities to share in the provision of fire prevention, fire suppression and ambulance services. Any such agreements entered into prior to the date of enactment of this Ordinance are hereby approved and ratified. *(Ord. 778, 8-12-97, eff. 9-12-97)*

Chapter 19

[EMPTY]

Chapter 20

REVOLVING LOAN FUND

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1.20.8 FEES **68**
1.20.9 ASSUMPTION OF RLF LOANS **68**

1.20.1 CONTINUATION AUTHORIZED

The Vale Revolving Loan Fund (Fund) is hereby authorized to continue in operation. References herein to "RLF loans" refer to loans from the Revolving Loan Fund.

1.20.2 PURPOSE

The purpose of the Revolving Loan Fund is to make economic-development loans to local businesses which result in the creation of additional private-sector employment in the City of Vale or Vale School District, and for such other legal purposes as are approved by the City Council.

1.20.3 LOAN COMMITTEE

There is hereby continued in operation a Loan Committee (formerly the RLF Committee) of five (5) members, appointed by the Mayor with confirmation by the City Council.

(A) *TERMS AND QUALIFICATIONS:* Members of the Loan Committee shall serve staggered three (3) year terms. Members of the RLF Committee as of the date of enactment of this Ordinance shall be considered members of the Loan Committee until expiration of their terms in office. Not less than three (3) members of the Loan Committee shall be residents of the City. Appointments to the Loan Committee shall be made with a view to maximizing the technical expertise of the Committee, specifically with respect to experience in lending, business operation, and accounting, and minimizing conflicts of interest.

(B) *VACANCIES:* Any vacancy shall be immediately reported to the Council and shall be filled by appointment of the Mayor with confirmation by the Council. Such appointment shall be for the unexpired term of the position being filled.

(C) *OFFICERS:* The Loan Committee shall at its first meeting each calendar year elect from among its members a Chairman and Secretary, who shall hold office at the pleasure of the Loan Committee.

(D) *MEETINGS AND QUORUM:* The Loan Committee shall meet not less than once every two (2) months, at such times and places as may be fixed by the Committee. Special meetings may be called by the Chairman or by any three (3) members, by written notice served upon each member of the Committee not less than twenty-four (24) hours in advance of the time specified for such special meeting. A majority of the members of the Committee shall constitute a quorum for the transaction of business.

(E) *POWERS AND DUTIES:*

(1) The Loan Committee shall review all applications for financing from the Vale Revolving Loan Fund, and recommend to the City Council approval or denial of each application submitted, pursuant to the standards set forth in this Chapter.

(2) The Loan Committee shall in each case state the reasons for its recommendation, and may at its discretion recommend in any instance loan amounts, terms, conditions, security, et al., which are different from or in addition to those applied for.

(3) The Loan Committee may from time to time recommend changes in the standards for RLF loans, setting forth in each case the reasons therefor.

(4) The Loan Committee may make studies, hold hearings, and prepare reports and recommendations on its own initiative or at the request of the City Council.

(5) All recommendations and suggestions made to the Council by the Loan Committee shall be in writing.

(F) *COMPENSATION:* No compensation shall be paid or allowed any member of the Loan Committee.

(G) *EXPENDITURES AUTHORIZED:* The Loan Committee shall have no authority to make expenditures on behalf of the City or to disburse any funds provided by the City or to obligate the City for any sums of money except as herein provided, and then only after the Council shall have authorized such expenditures by appropriate resolution. *(Ord. 851, 8-8-2006)*

1.20.4 STANDARDS FOR RLF LOANS

The City Council shall adopt by resolution standards for RLF loan applications and approvals. Such standards shall be binding upon the Loan Committee in evaluating and recommending approval of loans by the City Council.

1.20.5 GRANTING OF LOANS

The City Council has the exclusive authority to grant loans from the Revolving Loan Fund.

1.20.6 COUNCIL TO ACT BY RESOLUTION

Granting of a loan from the Revolving Loan Fund shall be by resolution of the Council, which resolution shall specify the amount, term, interest rate, purpose, and conditions of the loan, and findings. The resolution shall include direction to the City Manager and City Attorney to draw up the necessary instruments and

execute same on behalf of the City, and to disburse funds as required. No RLF loan shall be granted except following review of the application therefor by the Loan Committee; however, the City Council is not bound to accept the Loan Committee's recommendations. *(Ord. 832, 3-11-2003)*

1.20.7 APPLICATION FOR RLF LOANS

Applications for RLF loans shall be made according to procedures adopted by the City Council by resolution.

1.20.8 FEES

The City Council shall adopt by resolution a schedule of fees for RLF loans, including an application fee to be paid by loan applicants, whether or not a loan application is approved, and a loan fee, to be paid by successful applicants on or before the date of disbursement of loan proceeds. Loan fees may be based upon a percentage of the amount loaned.

1.20.9 ASSUMPTION OF RLF LOANS

RLF loans are not assumable. If real or personal property which is security for an RLF loan is sold, the RLF loan must be paid off. The new owner of any such property shall have the ability to apply for a new loan from the Revolving Loan Fund.

Title II

PUBLIC WAYS AND PROPERTY

Chapters

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2 SIDEWALKS, CURBS AND GUTTERS **74**

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5 STREETS AND SIDEWALKS, MISCELLANEOUS PROVISIONS **100**

6 TREE PLANTING, SIDEWALKS AND STREET RIGHT OF WAY; CITY ARBOR COMMITTEE **101**

HISTORY:

The original CHAPTER 1 *(Ord. 216, last amended by Ord. 440, 8-17-62)* promulgated regulations for Valley View Cemetery. The original CHAPTER 4 (part of the original 1963 Code) regulated trees and shrubbery.

Chapter 1

RIGHTS-OF-WAY

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2.1.1 DEFINITIONS

For the purpose of this Title, the following shall mean:

CITY: The City of Vale, Oregon.

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

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

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

2.1.2 JURISDICTION

The City of Vale 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.

2.1.3 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.

2.1.4 CITY PERMISSION REQUIRED

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.

2.1.5 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.

2.1.6 SEVERABILITY

Invalidity of a section or part of a section of this Chapter shall not affect the validity of the remaining sections or parts of sections. *(Ord. 766, 2-25-97)*

Chapter 2

SIDEWALKS, CURBS AND GUTTERS

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2.2.1 AUTHORITY OF STREET COMMITTEE

The power to construct, maintain, improve or repair in whole or in part any sidewalk, curb or gutter in the City is hereby delegated to the Street Committee, and the Committee is vested with the authority to compel the property owner to do the work or to do the same on behalf of the City at the expense of the property owner as hereafter provided.

2.2.2 PROPERTY OWNER TO MAINTAIN SIDEWALKS

Any person owning real property within the Corporate Limits of the City, shall upon thirty (30) days written notice from the Street Committee, proceed at his own expense to construct, maintain, improve or repair any sidewalk, curb, or gutter that abuts upon his real property, such improvement to be made in accordance with the instructions of *[sic]* any under the supervision of the Street Committee and in accordance with the provisions of this Chapter.

2.2.3 CONSTRUCTION BY CITY

In the event that any property owner so notified shall fail or neglect to so improve or construct the sidewalk, curb or gutter after the notice, or shall fail or neglect to comply with the instructions of the Street Committee and the provisions of this Chapter, the Street Committee may order the construction or Improvements done or redone at the expense of the City, and the actual cost of the labor and material used in the connection shall be a lien upon any lots abutting upon the sidewalk, gutter, or curb so constructed or improved.

2.2.4 LIEN AGAINST PROPERTY

When any sidewalk, curb or gutter has been constructed, reconstructed or improved by the City under the provisions of Section 2.2.3 of this Chapter the amount expended by the City shall be entered by the Manager in his judgement *[sic]* docket against the person owning the property abutting upon the sidewalk, curb or gutter, and a copy of the entry served forthwith upon the owner as hereafter provided.

At any time thereafter an execution may issue at the instance of the Street Committee to enforce and collect such judgement *[sic]*, which execution shall be served and executed as in cases of judgments recovered against real property in the circuit courts of the State; and any such real property against which any judgment shall have been entered may be sold at public sale after giving thirty (30) days' published notice in the official newspaper. Such sale to be made by the Marshal under the direction of the Street Committee.

The Manager shall be allowed the sum of two dollars and fifty cents ($2.50) for entering up any lien and judgment as herein provided for, which the sum shall be taxed as costs against any property to which any lien as herein provided for would attach, and shall be counted as part of the lien for repairs and improvements and be paid by the party against whom the lien is entered. *(Ord. 832, 3-11-2003)*

2.2.5 REDEMPTION OF PROPERTY

Any property sold as herein provided shall pass and convey all the right, title, and interest of the person owning the same, subject to redemption as follows: the owner of property wishing to redeem the same after it been sold shall pay the full costs of improvements and repairs, and, in addition thereto, shall pay ten per cent (10%) per annum interest on the whole amount of such repairs and improvements, and ten per cent (10%) penalty thereon, *provided* that such redemption shall be made within one (1) year from the date of the sale of the property; if there is no redemption of property sold hereunder within one (1) year from the date of sale, the Manager shall certify all the proceedings of any and all sales where the property remains unredeemed to the circuit court of the State, for Malheur County, when the sale of such real property shall be confirmed as though the same had been made in the circuit court in the first instance, and at any time thereafter, on demand of any person holding any certificate of sale hereunder shall be entitled to a deed for any real property so purchased at any sale herein authorized; such deed to be executed by the Marshal under the same conditions and formalities as sheriff's deed concerning real property sold on execution. *(Ord. 832, 3-11-2003)*

2.2.6 NOTICES

All notices as herein provided for shall be served by the Marshal by delivering to the owner of property abutting upon any street or alley, to be improved, a copy of the notice ordering such repairs or improvements, as issued by the Street Committee or Manager, and the Marshal shall return the original notice to the Manager, with the date of service endorsed thereon; all copies of such notices to be prepared and certified to by the Manager to the effect that they are true copies of the original notice. *(Ord 215, 6-19-47; amended by Ord 440, 8-17-62; amended by Ord. 832, 3-11-2003)*

2.2.7 SIDEWALK SPECIFICATIONS

All sidewalks hereafter constructed in the City shall conform to the following specifications:

(A) *Curb.* The curb shall be sixteen inches (16") deep, six inches (6") wide at the top and batter out at the rate of one inch (1") in one foot (1'), and shall be leveled or rounded on the upper and outer edge. *(Ord. 188, 11-13-38)*

(B) *Foundation.* The space over which the walk is to be laid shall be excavated to a depth of six inches (6") below the proper subgrade and such space filled with gravel and thoroughly compacted by rolling or tamping. The finished subgrade shall be parallel with the surface of the finished walk. The area below the rolled or tamped gravel may be any firm and compact soil or material so as to furnish a satisfactory foundation for such sidewalk and gravel base. When the sidewalk does not cover the entire width from property line to curb, the area not covered by the sidewalk shall be filled or excavated to the top of the curb. *(Ord 236; 4-5-51)*

(C) *Gravel and/or Sand.* The rock for making the concrete shall be good, clean river gravel and sand, with boulders not larger than two inches (2") largest diameter, or satisfactory hard broken stone no larger than the boulders, and not smaller than one-half inch ($\frac{1}{2}$") in diameter, and either and all thereof shall be satisfactory to the Engineer. The same shall be thoroughly screened if deemed necessary by the Engineer, who may also, in his judgment, require the same to be washed.

(D) *Cement.* All cement shall be artificial Portland cement, of recognized merit and established quality, free from lumps and deterioration or account of exposure, or otherwise, and at least equal to the standard specifications for Portland cement adopted by the American society for testing materials, and must be approved by the Engineer, who shall have access to it for the purpose of testing it for a reasonable time before it is used.

(E) *Sand.* All sand must be clean, sharp sand, free from clay, loam, earth, dirt, or other extraneous matter, and washed when required by the Engineer. *(Ord. 188; 11-13-38)*

(F) *Concrete.* Upon the foundation and base being prepared as herein before specified, the concrete shall be laid to a depth of four inches (4") and shall be made as follows: *(Ord. 236; 4-5-51)* The cement, sand and gravel or sand and stone and diatomaceous earth will be thoroughly dry mixed and then made into a mortar with the least possible quantity of water so there shall be no free water in the mass or running from it. Such mixing must occupy at least one and one-half (1.5) minutes in actual mixing time. The concrete shall be composed of one (1) part of Portland cement, two (2) parts of sand and three (3) parts of gravel or stone, by volume, and not less than three per cent (3%) by weight of diatomaceous earth. The upper surface shall be on grade with sufficient slope to drain from property line to curb. Only enough concrete shall be mixed that may be placed within forty-five (45) minutes, and no concrete shall be placed after forty-five (45) minutes from the time of mixing, and no retempering shall be permitted.

(G) *Wearing Surface.* The wearing surface shall be thoroughly tamped until all coarse parts are worked in and until at least one-half inch ($\frac{1}{2}$") of mortar appears on the surface. It shall be cut into slabs so as to form a square, and of the same length as the width of the walk on all walks six feet (6') wide and less, and on all walks eight feet (8') and over the same shall be cut into slabs by first dividing the walk lengthwise in the center and transversely so that each slab shall be equal in size to one-half ($\frac{1}{2}$) the width of the full walk, or such other size or shape as the Engineer may direct, and shall be protected from the action of the elements and persons and animals until thoroughly set.

(H) *Upper and Outer Surface of Curb.* The upper and outer surface of the curb shall be treated in the same manner as the wearing surface of the sidewalk, and the material used in all of the curb shall be the same as prescribed for the sidewalk. The boards for forms shall be planed or surfaced on the side coming into contact with the concrete.

(I) *Corner at Intersecting Streets.* At the intersecting streets the corner will be a quadrant, with a three foot (3') radius, or such other radius as may be designated by the Engineer. The upper and outer edge must be protected by a wrought-iron angle iron, one-fourth of an inch ($\frac{1}{4}$") thick, with one and one-half inch (1.5") legs, bent to the proper radius and firmly fastened to the concrete

by five (5) anchor irons three-eights of an inch (3/8") thick, with a lug on the end projecting into the concrete at least six inches (6"), and imbedded therein at the time of the laying. The upper and outer face of the angle iron shall conform to the place of the finished curb. Where there are catch basins the corner block must be so made as to connect with the iron grating and permit the unmolested flow of water into the basin. Movable cement covers of the proper size must also be made over catch basins, with rings to raise them.

(J) *Curbs and Gutters.* The Council may by ordinance require the construction of sidewalks without the construction of curbs, or curbs without the construction of sidewalks, or both, in its discretion, and may require gutters to be constructed at the time and as a part of the curbs, or not, as it may determine. Where gutters are required to be constructed they shall be constructed at the same time the curb is constructed, and as a part thereof, and shall be constructed as though the gutter is a part of the same work as the curb. The specifications for materials and manner of performance of the work of construction of sidewalks and curbs shall govern and apply to gutters, and all other requirements of this Chapter, as to the construction and supervision thereof, shall apply to gutters. The gutters shall be constructed under the direct supervision of the Engineer and subject to his approval, and shall be as nearly uniform as possible throughout the City, and at least eight inches (8") wide, with the outer or side next to the roadway conforming to the grade of such roadway where the two (2) unite. The grades shall be and are as established by the Engineer.

(K) *Name of Streets.* At the intersection of cross streets the names of the streets shall be impressed in letters or figures at least three inches (3") in height in the wearing surface of the sidewalk, and the name of the contractor doing the work, and the year when done, shall be also impressed therein, for fifty feet (50') of walk and curb as constructed, in letters and figures one inch (1") in height.

(L) *Inspection.* Whenever any cement or artificial stone sidewalk or curb is constructed upon any street under a permit, as provided for in this Chapter or the Charter, the Engineer, before issuing a certificate to the effect that the work and material conform to the requirements of the specifications set forth in this Chapter, is authorized to make any test or examinations that he may deem necessary, and in so doing he may break the artificial stone or cement work to an extent not exceeding two (2) lineal feet of curb, and nine square feet (9 sq.ft.) of sidewalk, doing as little damage as may be, and the same shall be made good and repaired by the contractor at his, the contractor's own expense. *(Ord. 188; 11-13-38)*

(M) *Cross Forms; Expansion Joints.* At each division cross forms shall be put in the full width of the walk at right angles to the side forms. Cross forms shall be spaced from ends and from each other so that they will cut the walk transversely into slabs, as hereinbefore specified.

A metal. parting strip one-half inch ($\frac{1}{2}$") thick shall take the place of the cross forms, at least one (1) every fifty (50) linear feet of walk. The parting strip shall be removed before the wearing surface is laid, and the opening thus made shall be filled with sand, and after laying the wearing surface the portion immediately above such sand filled space shall be marked or lined through the wearing surface. Similar parting strips shall be used and joints made where any new walk abuts a curb, crosswalk or another artificial stone walk.

All forms must be thoroughly wet before placing any material against them.

Provided, however, the Council may, by resolution, provided *[sic]* for monolithic construction, in which event the above provisions will not apply and in which event the sidewalk, curb and gutter or the sidewalk and curb or the curb and gutter, as the case may be, shall be constructed as a unit, and in such event a metal parting strip every twenty-five (25) linear feet of walk shall take the place of the cross forms. *(Ord. 424; 8-9-55)*

(N) *Forms.* When wooden forms are used they shall be free from warp, not less than two inches (2")

thick, clean and free from all mortar.

Forms shall be well staked to the line and grade set by the Engineer, the upper edges conforming with the line of the walk when finished, and shall have sufficient rise from the curb side to the property line for proper drainage, but not over two inches (2") in ten feet (10'). *(Ord. 188; 11-13-38)*

(O) *Sidewalks, Width of.* On all streets approximately sixty feet (60') wide, other than those herein specifically mentioned, the sidewalks shall be five feet (5') wide, laid one foot (1') from the property line, and the outer edge of curb shall be eleven feet (11') from the property line.

On all streets under approximately sixty feet (60') wide and not narrower than approximately forty feet (40'), other than the ones hereinafter specifically mentioned, the sidewalks shall be five feet (5') wide, one foot (1') from the property line, and the curb shall be ten feet (10') from the property line; on all other streets, except as heretofore and hereinafter mentioned the sidewalk shall be five feet (5') wide and the outside of curb shall be eleven feet (11') from the property lines; provided, that

- the sidewalk on Main street, from C street to the passenger depot grounds on right of way of the branch lines of the Union Pacific Railroad Company, shall be ten feet (10') wide, laid from the property line to the curb line;
- on Court street from Washington street to B street, the sidewalks shall be ten feet (10') wide, laid from the property line to the curb;
- on Bryant street, from Washington street to B street, the sidewalks shall be eight feet (8') wide, laid from property line to curb;
- on Holland street the sidewalks shall be six feet (6') wide from A street to the south side of F street and laid one foot (1') from property line with the outside of curb eleven feet (11') from property line;
- on West street, from Harrison street south to city limits, the sidewalks shall be five feet (5') wide, laid one foot (1') from the property line, and the outside of the curb eleven feet (11') from the property line;
- on A street for its entire length from its easterly to its westerly limits, the sidewalks shall be laid from the property line to the curb and the curb shall be ten feet (10') from the property line;
- on Washington street for its entire length from easterly to its westerly limits, the sidewalks shall be laid from the property line to the curb and the curb shall be ten feet (10') from the property line;
- on B street, from Longfellow street to Bryant street, the sidewalks shall be ten feet (10') wide, laid from the property line to curb and on B street from Bryant street to West Main street, the sidewalks shall be six feet (6') wide, laid one foot (1') from property line; and the outside of the curb shall be eleven feet (11') from the property line;
- on West Main street, from A street to the south boundary of the City, the sidewalks shall be six feet (6') wide, laid one foot (1') from the property line, and the outside of the curb twelve feet (12') from the property line;
- providing further, that on the east side of Cottage street from B street to G street, the south side of E street to Bryant street, the west side of Holland street from B street to E street, and on the north side of E street from Cottage street to Holland street the sidewalks shall be seven feet (7') in width and shall abut the curb or may be installed as a unit with the curb. *(Ord. 236; 4-5-51, amended by Ord. 802, 6-8-99)*

2.2.8 CROSSWALKS

Crosswalks shall be of the same materials, and in the same proportions, and laid in the same manner as sidewalks, except that the concrete shall be laid not less than ten inches (10") deep, and the wearing surface shall be not less than two inches (2") deep, and the base of the crosswalks connecting all six foot (6') wide walks shall be six feet (6') wide and rounded to the top so that the top will be four feet (4') wide on the level, and all crosswalks connecting sidewalks narrower than six feet (6'), the base shall be five feet (5') wide and rounded to the top so that the top of the crosswalks will be three feet (3') wide on the level; and for all other crosswalks, the base shall be six feet (6') wide and rounded to the top so that the top will be four feet (4') wide on the level.

2.2.9 PERMIT

No person shall commence to lay or construct any sidewalk without first obtaining a permit therefor from the Engineer; the application for the permit shall be written or printed, shall state the distance the same is to be laid, and shall describe the lot and block, or fraction of a lot or block or tract, where the same is proposed to be laid; the permit shall be issued in writing, without charge, and shall specify the name of the owner of the lot or block, the name of the contractor, if any, the description of the property along which the same is to be laid, the date, the time of commencement, and the time of the completion thereof, and be signed by the Engineer.

All side and crosswalks shall be constructed solely according to the specifications contained in this Chapter, and the permit thereof shall so state.

2.2.10 GRADE

No sidewalk or curb shall be constructed until the grade therefor shall have been furnished by the Engineer, and every walk and curb constructed must be constructed on such grade. The grade established by the Engineer must be uniform throughout the City.

2.2.11 DRAINS

All drains and waterways under cement or concrete walks must be of cement tile or hard-burned clay tile, of uniform size and shape, free from cracks and imperfections, and not less than six inches (6") in diameter, and larger if required by the Engineer, and shall be located and laid as he may prescribe, but in any event must possess sufficient capacity to carry all irrigation, waste, and other water. The Engineer is authorized to require such other drains as he may think necessary.

2.2.12 FILLS

When any fill is required the top thereof must extend at least six inches (6") on either side beyond the walk, and the sides or banks of the fill must be left with a slope or angle of repose of at least one foot (1') to two feet (2'), and, in addition, the fill must conform to the requirements of the Engineer.

2.2.13 PROTECTION

When completed the wall and curb must be covered with sand or other suitable material after the cement has set, and wet frequently, for at least three (3) days, and protected from travel during that period. The forms shall not be removed until this period has elapsed, and not then unless the walk is thoroughly hard, and upon removal, earth must be filled in and banked along the edges of the walk.

2.2.14 RECONSTRUCTING OR REPAIRING WOODEN WALKS

No wooden sidewalk shall be built or constructed within the City. No wooden walk shall be repaired except by permission of the Council, granted in regular session, and when same is not granted shall not be repaired but shall be replaced by an artificial stone walk.

2.2.15 ENGINEER; AUTHORITY OF

The Engineer shall have full supervision over the construction and repair of all sidewalks and curbs, and a violation of his rules and requirements, when not contrary to this Chapter and the law, shall be deemed and held to be a violation of this Chapter and punished accordingly, as herein provided for in this Code. *(Ord. 188, 11-13-38)*

2.2.16 DUTIES OF ENGINEER

The City's Public Works Supervisor is empowered to perform any of the functions and discharge any of the duties required of and placed on the Engineer. In the absence of the Public Works Supervisor, the Engineer's duties and functions may be delegated to another City official by the City Manager or, alternatively, by the Council. *(Ord. 749, 9-12-95, amended by Ord. 832, 3-11-2003)*

Chapter 3

CITY PARKS

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2.3.1 PARK REGULATIONS

(A) The following are prohibited within all City parks, without advance authorization from the City Manager:

(1) Automobiles, or other motor vehicles;

(2) Livestock:

(3) Tents;

(4) Camping;

(5) Metal detecting.

(B) The following are prohibited within all City parks:

(1) Firearms;

(2) Trapping squirrels;

(3) Defacing park property;

(4) Littering;

(5) Possession of alcoholic beverages without a permit issued pursuant to Section 5.13.5 of this code. *(Ord. 832, 3-11-2003)*

2.3.2 SIGN

A sign, in both English and Spanish, shall be posted at Wadleigh Park stating the prohibitions of this chapter together with the prohibitions of Section 6.2.5 of this code relating to dogs in City parks.

2.3.3 PENALTIES

Any person violating any provision of this chapter shall be subject, upon conviction, to a fine of not more than $750 per occurrence. *(Ord. 746, 8-8-95, renumbered by Ord. 779, 8-26-97, eff. 9-26-97)*

Chapter 4

LOCAL IMPROVEMENT DISTRICTS

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2.4.1 SHORT TITLE

This Ordinance shall be known as the "Local Improvement District" ordinance of the City of Vale, Oregon.

2.4.2 DEFINITIONS

As used in this Ordinance unless the context requires otherwise:

(A) *"Actual Cost"* means all direct or indirect costs incurred by the City in order to deliver goods or services or to undertake a capital construction project. The "actual cost" of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property or property owner, whether stated as a minimum fixed or valuable amount. "Actual cost" includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

(B) *"Assessment for Local Improvement"* means any fee, charge or assessment that does not exceed the actual cost incurred by the City for design, construction and financing of a local improvement.

(C) *"Bonded Indebtedness"* means any formally executed written agreement representing a promise by the City to pay to another a specified sum of money, at a specified date or dates at least one (1) year in the future.

(D) *"Capital Construction"* means the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, which is expected to have a useful life of more than one (1) year, and includes, but is not limited to:

(1) Acquisition of land, or a legal interest in land, in conjunction with the capital construction of a structure.

(2) Acquisition, installation of machinery or equipment, furnishings or materials, which will become an integral part of a structure.

(3) Activities related to the capital construction, such as planning, design, acquisition of interim or permanent financing, research, land use and environmental impact studies; acquisition of permits or licenses or other services connected with the construction.

(4) Acquisition of existing structures, or legal interests in structures, in conjunction with the capital construction.

(E) *"Capital Improvements"* means land, structures, facilities, as that term is defined in Oregon Laws (ORS: 288.805), machinery, equipment or furnishings having a useful life longer than one (1) year.

(F) *"City"* means the City of Vale, Oregon.

(G) *"Council"* means the Vale City Council.

(H) *"Estimated Assessment."*

(1) *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 City estimates will be levied against the property following completion of the local improvements. The estimate shall be based on the City'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.

(2) 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.

(I) *"Exempt Bonded Indebtedness"* means:

(1) Bonded indebtedness authorized by a specific provision of the Oregon Constitution.

(2) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements, that was issued as a general obligation of the City on or before November 6, 1990.

(3) Bonded Indebtedness incurred or to be incurred for capital construction or capital improvements, that was issued as a general obligation of the City after November 6, 1990, with the approval of the electors of the City.

(J) *"Exempt Bonded Indebtedness"* includes bonded indebtedness issued to refund or refinance any bonded indebtedness described in the above definition of "Exempt Bonded Indebtedness".

(K) *"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.

(L) *"Financing."*

(1) "Financing" means all costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement.

(2) The costs of financing may include the salaries, wages and benefits payable to employees of the City to the extent the same are reasonably allocable to thework 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 the City as financing costs of a local improvement or any part thereof, the City 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.

(3) Financing costs that are to be incurred after the levy of a final assessment may be included in the final assessment based on the City's reasonable estimate of the financing costs if the City first documents the basis for the estimate and makes the documentation available to interested persons on request.

(M) *"Local improvement"* is a capital construction project or part thereof undertaken by the City pursuant to the procedure to be followed in making local assessments for benefits from a local improvement upon the lots which have been benefitted by all or part of the improvement:

(1) which provides a special benefit only to specific properties or rectifies a problem caused by specific properties; and

(2) the costs of which are assessed against those properties in a single assessment upon the completion of the project; and

(3) for which the payment of the assessment plus appropriate interest may be spread over a period of at least ten (10) years by the property owner.

(4) The total of all assessments far a local improvement shall not exceed the actual cost incurred by the City in designing, constructing and financing the project.

(5) For purposes of this section, the status of capital construction project as a local improvement is not affected by the accrual of a general benefit to property other than the property receiving the specific benefit.

(N) *"Lot"* means lot, block or parcel of land.

(O) *"Manager"* means the City Manager of the City of Vale.

(P) *"Owner"* means 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 Malheur County Assessor.

(Q) *"Property Benefitted"* means all property specifically benefitted by the improvement, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the total cost of the improvement between the properties determined to be specially benefitted.

(R) *"Recorder"* means the recorder, clerk or other person or officer of the City of Vale serving as clerk of the City or performing the clerical work of the City, or other official or employee as the governing body of the City shall designate to act as recorder. Unless otherwise designated by the City Council, the City Manager shall act as Recorder for the purpose of this ordinance.

(S) *"Single Assessment"* means the complete assessment process, including preassessment, assessment or reassessment, for any authorized local improvement which provides the procedure to be followed in making local assessments for benefits from a local improvement upon lots which have been benefitted by all or part of the improvement.

(T) *"Special Benefit Only to Specific Properties"* shall have the same meaning as "special and peculiar benefit" as that term is used in Oregon Law (See ORS 223.389).

(U) *"Structure"* means any temporary or permanent building or improvement to real property of any kind, which is constructed on or attached to real property, whether above, on or beneath the surface.

(V) *"Treasurer"* means the City elected or appointed official, however designated, charged by law with the responsibility for acting as custodian of and investment officer for the public moneys of the City. Unless otherwise designated by the City Council, the City Manager shall act as Treasurer for the purpose of this ordinance.

(W) *"True Cash Value."* In determining the "true cash value" of taxable property for the purpose of calculating the. total amount of indebtedness which may be incurred by the State or local governments under the Oregon Constitution or laws of the State of Oregon, the "real market value," as defined in Section 11 b (2)(a), Article XI of the Oregon Constitution, may be used if and to the extent that the "real market value" does not exceed the "true cash value."

(X) In levying, collecting and enforcing assessments for local improvement, the following shall apply:

(1) Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by giving the boundaries thereof by metes and bounds, or by

reference to the book and page of any public record of the county where the description may be found, or by designation of tax lot number referring to a record kept by the assessor of descriptions of real properties of the county, which record shall constitute a public record, or in any other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section, or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any description of real property.

(2) If the owner of any land is unknown, the land may be assessed to "unknown owner," or "unknown owners". If the property is correctly described, no final assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of a name other than that of the true owner. Where the name of the true owner, or the owner of record, of any parcel of real property is given, the final assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey, employing such description a court of equity would hold it to be good and sufficient.

(3) Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment relating or leading to a final assessment for a local improvement foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing final assessments for special benefits to the property. *(Ord. 832, 3-11-2003)*

2.4.3 PLANS AND SPECIFICATIONS

Whenever the Council shall determine to proceed to make a local improvement to be paid for in whole or in part by the property benefitted, the Council shall, by motion, direct the City Manager to have a report prepared containing the following information:

(A) A description of the local improvement proposed.

(B) Preliminary plans and outline specifications for such local improvement.

(C) A description of the boundaries of the proposed local improvement district

(D) A just and reasonable method for apportioning the actual costs of the local improvement to the properties benefitted.

(E) A list of the properties benefitted by such local improvement, including the name of the owner of each property benefitted, and the address of such owner; the assessed valuation of each property, adjusted in accordance with Oregon law; and a statement of the amount of outstanding assessments against any property proposed to be assessed by the improvement.

(F) The estimated actual cost of the local improvement.

(G) The estimated proportionate actual cost of the local improvement to be assessed to each benefitted property.

(H) The estimated portion of the actual cost of the improvement to be borne by any City funds, if any.

(I) This report shall be filed in the office of the Recorder when completed. *(Ord. 832, 3-11-2003)*

2.4.4 ASSESSING

The Council shall consider the following in assessing costs of the local improvement:

(A) The use of any just and reasonable method of determining the extent of the district boundaries consistent with the benefits derived, the Oregon Constitution and Oregon Laws.

(B) The use of any method of apportioning the actual cost or estimated actual cost to be assessed is just and reasonable among the properties determined to be specially benefitted and consistent with the Oregon Constitution and Oregon Laws.

(C) Payment by the City of all or any part of the actual cost or estimated actual cost of any improvement when, in the opinion of the Council, on account of topographical or physical conditions, unusual or excessive use by the general public, or other character of the local improvement, or when the Council otherwise believes it to be just and reasonable.

(D) Other available means of financing the estimated actual cost of the local improvement, including federal or state grants-in-aid, sewer service or other types of services or charges, revenue bonds, general obligation bonds, or other legal means of finance. In the event any of such other means of finance are used, the Council may, subject to the constraints of the Oregon Constitution and Oregon Laws, in its discretion, levy assessments for Local Improvement Districts hereunder according to benefits to cover any part of the costs, subject to the constraints of the Oregon Constitution and Oregon Laws, of the local improvement not covered by such means.

2.4.5 RESOLUTION

(A) After the City Manager's report has been filed with the Recorder, and after the Council has examined such report and found the same to be satisfactory, and the estimated cost and apportionment thereof to be reasonable and just, and after having found the boundaries of such improvement district to be properly determined, the Council may, by resolution, propose to make such an improvement, and to create a local improvement district. *(Ord. 832, 3-11-2003)*

(B) The resolution shall state:

(1) The boundaries of such local improvement district.

(2) The proposed method of apportioning the estimated actual cost (estimated assessment) of the local improvement among the property owners.

(3) The portion of the estimated actual cost, if any, which the City shall pay.

(4) That such portion of the estimated actual costs (estimated assessment) which are assessed to the property owners shall be a charge and lien upon properties benefitted.

(5) The time and place for a public hearing.

(6) Direct the Recorder to provide a notice of said hearing as required by Oregon law which shall state that the Council shall hear and consider objections or remonstrances to the proposed improvement by any parties aggrieved thereby. The notice shall state that the Council, by resolution, has proposed to create the local improvement district and include the following:

"Unless those persons representing at least 66 2/3 percent of the proposed estimated assessment within said local improvement district file with the City Recorder a written objection and remonstrance against such proposed local improvement district prior to the public hearing or present their written or oral objections at the public hearing, the Council shall be deemed to have acquired jurisdiction to order the formation of the local improvement district to conform in all particulars to the plans and specifications previously adopted. Any such objection or remonstrance shall state the objections and grounds for such objection or remonstrance."

2.4.6 NOTICES

(A) *Form of Notice.* The Recorder shall also notify the owner of each lot proposed to be assessed by registered or certified mail, or by personal delivery of the amount of the estimated assessment proposed for that property, the date by which time objections shall be filed with the Recorder, and that any such objection shall state the grounds for the objection.

(B) *Delivery of Notice.* Whenever a notice is required to be sent to the owner of a lot affected by a proposed assessment such notice shall be addressed to the owner or his agent. If the address of the owner or his agent is unknown to the Recorder, the Recorder shall mail the notice addressed to the owner or his agent at the city where such property is located. Any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the City of Vale.

2.4.7 PREVENTION BY REMONSTRANCES

If those persons representing 66 percent or more of the proposed assessment within the local improvement district file with the Recorder a written objection or remonstrance against the proposed improvement such remonstrance shall be a bar to any further proceeding in the making of such improvement for a period of six months.

2.4.8 ORDINANCE CREATING LOCAL IMPROVEMENT DISTRICT

(A) *Public Hearing.* After the public hearing, if the local improvement district has not been objected to by those persons representing at least 66 2/3 percent of the proposed assessment, the Council may provide for the creation of the local improvement district by ordinance. This ordinance shall describe the improvement(s) to be made and the boundary of the local improvement district. The Ordinance shall also provide that the estimated assessments against the properties benefitted shall be charges and liens against the property. The City may enforce collection of such assessments as provided by Oregon law.

(B) *Adoption Process.* In creating the local improvement by ordinance, the Council shall consider the objections or remonstrances made and the reasons stated for them. The Council may adopt, correct, modify or revise the proposed assessments or estimated assessments and shall determine the amount of assessment or estimated assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement and shall by ordinance spread the assessments. The estimated assessment lien shall continue until the time the estimated assessments become a final assessment.

(C) *Plans.* The Ordinance shall also direct the City Manager to have detailed plans and specifications of the local improvement prepared and that, when appropriate, the City invite bids for construction of the local improvement. All bidders shall be required to submit a certified check or bid bond in an amount equal to five (5%) percent of their bid, and the contractor to whom the award is made shall submit a performance bond in the amount of his bid at the time the contract is awarded. All bonds shall be with bonding companies doing business in Oregon and given under Oregon law. Bonds shall incorporate the term of the plans and specifications and must be approved by the City Attorney as to form. *(Ord. 832, 3-11-2003)*

2.4.9 GENERAL POLICY/BIDS

(A) *General Policy.* It shall be the general policy of the City of Vale to call for bids for making local improvements and to award the bid to the lowest responsible bidder. However, this general policy shall not prohibit the Council from providing that the City construct the local improvements rather than private contractors.

(B) *Separate Bids.* In the event that more than one local improvement district shall be advertised for bids at the same time all local improvement districts shall be bid separately.

(C) *Low Bid.* The Council shall have the authority to accept the lowest responsive aggregate bid which is in the best interest of the City for all of the local improvement districts bid at the same time, and allocate the proper amount of the total cost to each district separately.

(D) *Council Discretion.* The Council may reject any and all bids submitted. The Council shall not be required to accept any bid for any individual district even though the same may comply with the requirements hereof when the aggregate bid fails to meet the requirements of other local improvement districts then bid.

2.4.10 ASSESSMENT ORDINANCE PROCEDURES

(A) *Initial Assessments.* If the City Council determines that the local improvement district shall be created the City Council shall provide for the assessment or estimated assessment of the benefitted properties, and for the apportionment of the assessment or estimated assessment to the individual lots within the local improvement district by ordinance by one of the following methods:

(1) Actual cost of the local improvement, or

(2) The estimated actual cost of the local improvement.

(B) *Notice.* The Recorder shall prepare the assessment or estimated assessment to the respective lots within the assessment district and file it with the appropriate City office. Notice of such assessment or estimated assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed, which notice shall state the amounts of assessment or estimated assessment proposed on that property and shall fix a date by which time objections and the grounds for objections shall be filed with the Recorder. Any objection shall state the grounds thereof. The City Council shall consider such objections and may adopt, correct, modify or revise the proposed assessments and shall determine the amount of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments.

(C) *Actual Cost.* In determining the assessments or estimated assessments for the local improvement the Council shall use the actual cost which means all direct or indirect costs incurred by City in order to deliver goods or services or to undertake a capital construction project. The "actual cost" of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property or property owner, whether stated as a minimum fixed or variable amount. "Actual cost" includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

(D) *Lien.* The assessment ordinance shall provide that the assessments or estimated assessments against the benefitted properties shall be a lien against the assessed properties and that the City may enforce collection of such assessments as provided by Oregon law.

(E) *Estimated Cost.* If the initial assessment has been made on the basis of estimated actual cost, and upon the completion of work the cost is found to be greater or less than the estimated cost, the City Council shall make an assessment for the correct actual costs. Proposed assessments upon the respective lots within the assessment district for the proportionate share of the change shall be made; and notices shall be sent; opportunity for objection shall be given; such objections shall be considered; and determination of the assessment against each particular lot, block or parcel of land shall be made as in the case of the estimated assessment; and the assessment spread by ordinance.

2.4.11 LIEN RECORDING; PAYMENTS OVER TIME OR BY CASH

(A) If the City has proceeded to cause any local improvement to be constructed or made within the corporate limits of the City, and has determined the final assessment for the local improvement against the property benefitted thereby or liable therefore, according to applicable law, the City shall cause notice of the final assessment to be published. The notice shall identify the local improvement for which the assessment is to be made, each lot to be assessed and the final assessment for each lot. In addition, the notice shall state that the owner of any property to be assessed shall have the right to make application to the City for payment of the final assessment in installments as provided in this Ordinance. A copy of the notice shall be mailed or personally delivered to the owner of each lot to be assessed.

(B) The owner of any property to be so assessed, at any time within ten (10) days after notice of final or estimated assessment is first published, may file with the recorder a written application to pay:

(1) The whole of the final or estimated assessment in installments; or

(2) If part of the final or estimated assessment has been paid, the unpaid balance of the final assessment in installments.

(C) At the option of the City, an installment application may be filed not more than ten (10) days after the notice of the final assessment is first published.

(D) The installment application shall state that the applicant does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to cause the local improvement for which the final assessment is levied an in the apportionment of the actual costs of the local improvement.

(E) The application shall provide that the applicant agrees to pay the final or estimated assessment over a period of not less than ten (10) years nor more than thirty (30) years and according to such terms as the City may provide. The City may provide that the owner of the assessed property may elect to have the final assessment payable over a period of less than ten (10) years and according to such terms as the City may provide.

(F) The application shall also provide that the applicant acknowledges and agrees to pay interest at the rate provided by the City on all unpaid assessments, together with an amount, determined by the City, sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing the bonds authorized under Oregon Law (ORS 223.235), including but not limited to legal, printing and consultant's fees.

(G) The application shall also contain a statement, by lots or blocks, or other convenient description, of the property of the applicant assessed for the improvement.

(H) In connection with the final assessments for any local improvement, the City may establish a procedure by which an owner of any property to be assessed may irrevocably elect in writing to have the final or estimated assessment levied for a number of years less than ten (10), which shall be determined by the City. The written election shall:

(1) Be signed by the owner or a duly authorized representative of the owner;

(2) Contain a description of the assessed property and the local improvement for which the assessment is made; and

(3) Contain a statement by the owner acknowledging that the improvement is a local improvement as described in this Ordinance, that payment of the final assessment against the properties benefitted by the local improvement plus interest may be spread over at least ten (10) years and that, notwithstanding any provision of law, the owner consents to make payments over a period of less than ten (10) years and to have the assessment levied on the benefitted property accordingly.

(I) The election of this section shall be recorded in the bond lien docket for the local improvement to which the assessment relates. From and after the time at which the written election is so recorded, it shall be valid and binding upon all subsequent owners of the property or any part thereof.

(J) When a bond lien docket is made up, as provided in Oregon Law (ORS 223.230), as to the final assessments for any local improvement, the City shall by ordinance or resolution authorize the issue of its bonds pursuant to the applicable provisions of Oregon Law (ORS Chapter 288).

(K) The bonds authorized to be issued under this section shall be issued in an amount equal to the unpaid balance of all final assessments for the related local improvements including the amounts necessary to fund any debt service reserve and to pay any other financing costs associated with the bonds.

(L) *Bonds.*

(1) If the question of the issuance of the specific bonds has been approved by the electors of the City and the bonds are issued as general obligation. bonds, the Cityshall each year assess, levy and collect a tax on all taxable property within its boundaries. The amount of the tax shall be sufficient to pay all principal of and interest on the bonds that are due and payable in that year and to replenish any debt service reserves required for the bonds. In computing the amount of taxes to impose, the City shall deduct from the total amount otherwise required the amount of final installment payments which are pledged to the payment of the bonds and which are due and payable in that year, and shall add to this net amount the amount of reasonably anticipated delinquencies in the payments of the installments or the taxes.

(2) The taxes shall be levied in each year and returned to the county officer whose duty it is to extend the tax roll within the time and in the manner provided in Oregon Law (ORS 310.060).

(3) The taxes shall become payable at the same time and be collected by the same officer who collects county taxes and shall be turned over to the City according to law.

(4) The county officer whose duty it is to extend the county levy shall extend the levy of the City in the same manner as City taxes are extended. Property shall be subject to sale for nonpayment of the taxes levied by the City in like manner and with like effect as in the case of county and state taxes.

(M) If the question of the issuance of the specific bonds has not been approved by the electors of the City and the bonds are issued as limited tax obligation bonds, the City may, subject only to the limitations of Section 11 b (1), Article XI of the Oregon Constitution, calculate, assess,

levy and collect a tax on all taxable property within its boundaries in the manner provided in this Ordinance. The amount of such tax shall be sufficient to pay all principal of and interest on such bonds which is due and payable in that year and to replenish any debt service reserves required for such bonds, provided that if such bonds are issued as limited tax obligation bonds the amount of such tax shall not exceed the amount permitted under Section 11 b (1), Article XI of the Oregon Constitution.

(N) Security for Bonds.

(1) All bonds issued pursuant to this section, including general obligation bonds, shall be secured by and be payable from the installments of final assessment with respect to which the bonds were issued.

(2) In the ordinance or resolution authorizing the issuance of the bonds, the City may:

(a) Provide that installments of final assessments levied with respect to two (2) or more local improvements shall secure a single issue of bonds.

(b) Reserve the right to pledge, as security for any bonds thereafter issued pursuant to this section, any installments of final assessments previously pledged as security for other bonds issued pursuant to this section.

(3) All bonds shall be secured by a lien on the installments of final assessments with respect to which they were issued. The lien shall be valid, binding and fully perfected from the date of issuance of the bonds. The installments of final assessments shall be immediately subject to the lien without the physical delivery thereof, the filing of any notice or any further act. The lien shall be valid, binding and fully perfected against all persons having claims of any kind against the City or the property assessed whether in tort, contract or otherwise, and irrespective of whether such persons have notice of the lien.

(O) As additional security for any bonds issued under this section, including general obligation bonds, the City may pledge or mortgage, or grant security interests in, its revenues, assets and properties, and otherwise secure and enter into covenants with respect to the bonds, as provided in Oregon Law.

(P) *Authority of City to Borrow.*

(1) The City shall have the power, at any time and from time to time after the undertaking of a local improvement has been authorized, to borrow money and issue and sell notes for the purpose of providing interim financing for the actual costs of the local improvement.

(2) Notes authorized under this subsection may be issued in a single series for the purpose of providing interim financing for two (2) or more local improvements.

(3) Notes authorized under this subsection shall mature not later than one (1) year after the date upon which the City expects to issue bonds for the purpose of providing permanent financing with respect to installment payments of the final assessments for the local improvements.

(4) Any notes authorized under this subsection may be refunded from time to time by the issuance of additional notes or out of the proceeds of bonds issued pursuant to this section. The notes may be made payable from the proceeds of any bonds to be issued under this section to provide permanent financing or from any other sources from which the bonds are payable.

(5) The City may pledge the payment of bonds authorized to be issued under this section with respect to the local improvements for which the notes provide interim financing.

(Q) The City may create, within the Bancroft Bond Redemption Fund maintained by the City as required by Oregon Law (ORS 223.285), separate accounts for separate issues of bonds or notes issued as provided in Oregon Law (ORS 223.235), and may pledge any amounts deposited in the separate accounts to specific issues of bonds or notes without pledging the amounts to any other issues of such bonds or notes.

(R) The installments due and payable under an assessment contract shall be due and payable periodically as the City shall determine but shall not be due and payable over a term in excess of thirty (30) years. Each installment is due and payable with interest as described under subsection T of this section.

(S) The installments and interest are payable to the treasurer by the property owner whose application to pay the cost of the local improvement by installments has been filed as provided in Oregon Law (ORS 223.210).

(T) The amount of each installment (percentage of the total final assessment) shall be determined by the City and shall be as appears by the bond lien docket described in Oregon Law (ORS 223.230). Each installment shall be due and payable with the accrued and unpaid interest on the unpaid balance of the final assessment amount at the rate per annum determined by the City under Oregon Law (ORS 223.215).

(U) The first payment shall be due and payable on the date that the City shall determine, and subsequent payments shall be due and payable on subsequent periodic dates thereafter as shall have been determined by the City.

(V) If the owner neglects or refuses to pay installments under Oregon Law (ORS 223.265) as they become due and payable for a period of one (1) year, then the City may, by reason of the neglect or refusal to pay the installments, and while the neglect and refusal to pay continues, pass a resolution:

(1) Giving the name of the owner then in default in the payment of the sums due;

(2) Stating the sums due either principal or interest and any unpaid late payment penalties or charges;

(3) Containing a description of the property upon which the sums are owing;

(4) Declaring the whole sum, both principal and interest, due and payable at once.

(W) The City may then proceed at once to collect all unpaid installments and to enforce collection thereof, with all unpaid late payment penalties and charges added thereto, in the same manner in which delinquent property taxes are collected under applicable law or, in the case of a City, in the same manner as street and sewer assessments are collected pursuant to the terms of the City Charter.

2.4.12 PARKING AND OTHER SPECIAL CITY IMPROVEMENTS

The City may finance parking facilities by any one or any combination of the following methods:

(A) General obligation bonds within the legal debt limitations, or revenue bonds payable primarily or solely out of revenue from parking facilities in such amounts, at such rate of interest, and upon such conditions as may be prescribed by the legislative authority of the City.

(B) Special or benefit assessments equal to the actual costs of the parking facilities, or a portion thereof, such assessment to be levied against property benefitted in proportion to the benefit derived, the amount of such assessment to be determined in accordance with special assessment practices for local improvements as now or hereafter prescribed by the ordinances or charter provisions of the City.

(C) Parking fees, special charges or other revenue derived from the use of off-street parking facilities by motorists, lessees, concessionaires, commercial enterprises or others.

(D) General fund appropriations.

(E) State or federal grants or local aids.

(F) Parking meter revenue.

(G) General property taxes, or gift, bequest, devise, grant or otherwise.

(H) A reasonable annual fee on the privilege of occupying real property within the City or a district of the City to carry on a business, occupation, profession or trade. In levying the fee, the City shall take into consideration the unmet off-street parking requirements of such business. The proceeds of the fee, less refunds and costs of collection, shall be used solely for the proposes of ORS 223.805 to 223.845. The fee is in addition to, and not in lieu of, any other tax, assessment or fee required by state or local law or ordinance.

2.4.13 ERRORS IN ASSESSMENT CALCULATIONS

Claimed errors in the calculation of final assessments shall be called to the attention of the City Manager prior to any payment on account. The City Coordinator shall check the calculation and report his findings to the Council. If an error has been made the Council shall amend the final assessment ordinance to correct the error. Upon the enactment of such an amendment by the Council, the Recorder shall make the necessary correction in the lien docket and shall send by registered or certified mail to the owner a corrected notice of the assessment. *(Ord. 832, 3-11-2003)*

2.4.14 AUTHORITY OF CITY TO MAKE REASSESSMENT

Whenever all or part of any assessment for improvements was or is declared void or set aside for any reason of its enforcement refused by any court by reason of jurisdictional or other defects in procedure, whether directly or by virtue of any court decision or when the Council is in doubt as to the validity of all or part of any such assessment by reason of such defects in procedure, the Council may by ordinance make a new assessment or reassessment with respect to all or part of the original assessment upon the lots which have been benefitted by all or part of the improvement to the extent of their respective and proportionate shares of the full value of such benefit.

2.4.15 BASIS FOR, AMOUNT AND METHOD OF REASSESSMENT

The reassessment shall be based upon the special and peculiar benefit of the improvement to the respective lots at the time of the original making of the improvement. The amount of the reassessment shall not be limited to the amount of the original assessment but the property embraced in the reassessment shall be limited to property embraced in the original assessment. However, property on which the original assessment was paid in full shall not be included it the reassessment. Interest from the date of delinquency of the original assessment may be added by the Council to the reassessment in cases where the property was included in the original assessment, but such interest shall not apply to any portion of the reassessment that exceeds the amount of the original assessment. The reassessment shall be made in an equitable manner as nearly as may be in accordance with the law in force at the time the improvement was made, but the Council may adopt a different plan of apportioning benefits or exclude portions of the district when in its judgement it is essential to secure an equitable assessment. Credit shall be allowed on the new assessment for all payments made on the original assessment.

2.4.16 EFFECT OF REASSESSMENT; EXCEPTIONS

The reassessment when made shall become a charge upon the property upon which it is laid notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of the charter or law connected with or relating to the improvement and original assessment or any previous reassessment, and although the proceedings of the Council or the acts of any officer, contractor or other person connected with the improvement or assessment may have been irregular or defective, whether such irregularity or defect was jurisdictional or otherwise. The reassessment shall not be made in case of any improvement wherein a remonstrance sufficient in law to defeat it has been duly filed prior to the making of the improvement.

2.4.17 COUNCIL RESOLUTION TO REASSESS

The proceedings required by the charter or other law for making of the original assessment are not required with reference to the making of a reassessment. The reassessment shall be initiated by adoption of a resolution designating the improvement as to which a reassessment is contemplated, describing the boundaries of the district that the Council contemplates for the reassessment and directing the Recorder or other person to prepare a proposed reassessment upon the property included within the district. After passage of such resolution, the Recorder or other person shall prepare the proposed reassessment and file it in the office of the Recorder.

2.4.18 PUBLICATION OF NOTICE OF REASSESSMENT; CONTENTS

After the proposed reassessment is filed in the Recorder's office, the Recorder shall give notice thereof by not less than four (4) successive publications in a newspaper published in the City and, if there is no newspaper published in the City, in a newspaper to be designated by the Council. The notice shall show that the proposed reassessment is on file in the office of the Recorder, giving the date of the passage of the resolution authorizing it, the boundaries of the district or a statement of the property affected by the proposed reassessment, and specifying the time and place where the Council will hear and consider objections to the proposed reassessment by any parties aggrieved thereby.

2.4.19 PERSONAL NOTICE TO EACH OWNER; RIGHT TO FILE OBJECTIONS

The Recorder shall, within five (5) days after the date of first publication of the notice, mail or personally deliver to the owner of each lot affected by the proposed reassessment, or to the agent of such owner, a notice of the proposed reassessment, stating the matters set out in the printed notice and also the amount proposed to be charged against the lot. If the address of the owner or of the owner's agent is unknown to the Recorder, he shall mail the notice addressed to the owner or owner's agent at the city where such property is located. Any mistake, error, omission or failure with respect to such mailing shall not be jurisdictional or invalidate the reassessment proceedings. The owners of any property included in the description of the printed notice, or any person having an interest in that property, may, within ten (10) days from the day of last insertion of the printed notice, file in writing with the Recorder objections against the proposed reassessment.

2.4.20 HEARINGS ON OBJECTIONS; REVISION OF REASSESSMENT

At the time and place appointed in the notice the Council shall hear and determine all objections filed under Section 19 of this Ordinance *[Sec. 2.4.19]*. The Council may adjourn the hearing from time to time, and correct, modify or revise the proposed reassessment or set it aside and order the making of a new proposed

reassessment. However, if the proposed reassessment is corrected or revised so as to increase the amount proposed to be charged against any property, such reassessment shall not be made until after a new notice has been given as stated in Section 19 of this Ordinance *[Sec. 2.4.19]* to the owners of property against which the amount of assessment is proposed to be thus increased. The publication of the notice may be for not less than two (2) successive insertions in a newspaper as provided in Section 18 of this Ordinance *[Sec. 2.4.18]*, and the time when action may be taken thereon may be not less than five (5) days after the date of last insertion. If the proposed reassessment is set aside and a new apportionment ordered, notice shall be given of the new apportionment in the manner stated in Sections 18 and 19 of this Ordinance *[Sec. 2.4.18 and 2.4.19]* and action taken thereon as provided in Section 19 *[Sec. 2.4.19]* and this section.

2.4.21 REASSESSMENT ORDINANCE

When the Council has determined what in its judgment is a fair, just and reasonable reassessment, it shall pass an ordinance setting out and making the reassessment. The reassessment so made shall be deemed to be regular, correct, valid and just, except as it may be modified under Sections 22 and 23 of this Ordinance *[Sec. 2.4.22 and 2.4.23]*.

2.4.22 LIEN DOCKET ENTRY; CREDITING PRIOR PAYMENTS

When the reassessment is duly made it shall be entered in the City lien docket. All provisions for bonding and paying by installments shall be applicable, and such City liens shall be enforced and collected in the manner provided for collection of liens for an original improvement. All sums paid upon the former assessment or any previous reassessment shall be credited to the property on account of which it was paid and as of the date of payment.

2.4.23 RIGHT OF PURCHASER AT SALE UNDER PRIOR ASSESSMENT

In cases where a sale was made under the original assessment or any previous reassessment, with reference to such improvement, and the property was not redeemed from the sale, the purchaser at the sale is subrogated to the rights of the City with reference to the property upon such reassessment if the purchaser waives all penalties and interest, except such interest as may be provided for on the reassessment, and delivers up for cancellation any certificate or other evidence of the sale. If a deed was issued at the sale, the grantee therein, his heirs, executors, administrators, successors or assigns, shall execute a deed of resale and quitclaim of all right, title and interest in the property under such sale to the owner of the property and deliver the deed to the Recorder, so that the owner's title may be cleared of the sale.

The Recorder shall act as escrow holder of such certificate or other evidence of sale and of such deed pending completion of reassessment. If the reassessment is not completed, he shall return the certificate or other evidence of sale and the deed to the person delivering it to him. If the reassessment is completed, the certificate or other evidence of sale shall be canceled and placed on file in the office of the Recorder and the deed shall be delivered to the owner of the property specified therein. If any such purchaser, his heirs, executors, administrators, successors or assigns fails to comply with this section, he is not entitled to subrogation. In any event, the amount of subrogation shall not exceed the amount which has been paid to the City on such sale, together with interest at the rate established under this Ordinance from the date of sale until the date of payment. This amount is to be paid by the City to the purchaser, his heirs, executors, administrators, successors or assigns if and when the City collects the amount of the reassessment against the property.

2.4.24 REVIEW OF REASSESSMENT

Notwithstanding any of the provisions of Sections 15 through 25 of this Ordinance *[Sec. 2.4.15 through 2.4.25]*, owners of any property against which a reassessment for local improvements has been imposed may seek a review thereof under the provisions of Oregon law.

2.4.25 ADDITIONAL REASSESSMENT PROCEDURE; TIME LIMITATION

No proceedings for making a reassessment shall be instituted after twenty (20) years from the date when the first assessment was entered on the lien docket.

2.4.26 MUNICIPAL BONDS ACCEPTED AS PAYMENT FOR ASSESSMENT LIENS

General obligation bonds or interest coupons attached, or both, of the City are authorized for payment of all or any part of Local Improvement District liens, interest or penalties of or payable to the City.

2.4.27 ASSESSMENT OF PUBLIC PROPERTY BENEFITTED BY IMPROVEMENTS

(A) Whenever all or any part of the cost of public improvements is to be assessed to the property benefitted thereby, benefitted property owned by the City, County, School Districts, State and any political subdivision thereof shall be assessed in the same as private property and the amount of the assessment shall be paid by the City, School Districts, County or State, as the case may be, provided that the costs of the improvements are, in any given case, of the type that may be bonded under this Ordinance.

(B) In the case of property owned by the State, the amount of the assessment shall be certified by the City Treasurer and filed with the Executive Department as a claim for reference to the Legislative Assembly in the manner provided by Oregon law unless funds for the payment of the assessment have been otherwise provided by law.

2.4.28 PUBLIC ROADS INCLUDED IN SIDEWALK IMPROVEMENT DISTRICT; ASSESSMENT ON PROPERTY BENEFITTED

The City, in addition to powers granted by law or charter, may include in any sidewalk improvement district within the City all county roads or state highways or any part thereof which are located within the improvement district. It may cause to be built on the county roads or state highways or portions thereof within the improvement district, sidewalks for pedestrian travel, and may assess the cost thereof upon the property benefitted thereby, in the manner provided by the Oregon Constitution, Oregon Laws, City Charter and/or this Ordinance.

2.4.29 ABANDONMENT OF PROCEEDINGS

The Council shall have full power and authority to abandon and rescind proceedings for improvements undertaken hereunder at any time prior to the final consummation of such proceedings. If liens have been assessed upon any property under this procedure, they shall be canceled, and any payments made thereon shall be refunded to the payor, his assigns, or legal representatives.

2.4.30 CURATIVE PROVISION

No improvement assessment shall be invalid by reason of a failure to give, in any report, on the proposed assessment, in the assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot or other parcel of land, or part thereof, or the name of any 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 hereinabove specified, unless it appears 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 actions and proceedings.

2.4.31 SPECIAL PROVISIONS FOR SANITARY AND STORM SEWERS

When the Council finds that it is necessary for the public health, welfare and safety and the individual property owner(s) have failed to meet routine obligations of owners that a sanitary or storm sewer, or both, be constructed in an area within the City of Vale, the City shall, to the extent allowed by the Oregon Constitution and Oregon Laws, proceed to form an improvement district and construct the improvements as provided in this Ordinance whether or not such an improvement district has previously been rejected at any time by remonstrances. Property owners shall have no right of remonstrance. Those parts of this Ordinance which are in conflict with this section shall not apply.

2.4.32 APPORTIONMENT OF LOCAL IMPROVEMENT DISTRICT ASSESSMENTS

The City shall apportion a Local Improvement District assessment imposed upon a single tract or parcel of real property among all the parcels formed from a subsequent partition or other division of that tract or parcel provided that the following conditions are met:

(A) That the subsequent partition or division is in accordance with ORS 92.101 to ORS 92.160 and is consistent with all applicable comprehensive plans as acknowledged by the Land Conservation and Development Commission.

(B) That the proportionate distribution of Local Improvement District assessment authorized may be made whenever the Local Improvement District assessment remains wholly or partially unpaid, and full payment or installment payment is not due.

(C) That the City has been requested to make such Local Improvement District assessment by an owner, mortgagee, or lien holder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the Local Improvement District assessment was originally levied.

(1) The City shall not apportion the Local Improvement District assessment unless the applicant files a true copy of the deed, mortgage or instrument evidencing the applicants ownership or other interest in the parcel, or

(2) The applicant supplies the City with the recording data necessary for the City to find such deed, mortgage or other instrument evidencing the applicant's ownership or other interest in the parcel in the Malheur County Deed Records.

(D) Any and all Local Improvement District assessments made by the City pursuant to this Ordinance shall be in the form of an ordinance of the City of Vale and shall contain the following information at a minimum:

(1) The description of each parcel of real property affected by the apportionment.

(2) The amount of the assessment levied against each parcel.

(3) The owner of each parcel.

(4) Such additional information as the City may require to keep a permanent and complete record of the assessments and the payments thereon.

(E) A copy of the ordinance allowing a Local Improvement District assessment shall be filed with the City Recorder who shall make any necessary changes or entries in the City's lien docket.

(F) When the Local Improvement District assessment is being paid in installments if the Local Improvement District assessment is apportioned among smaller parcels of real property under this provision, 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.

(G) The City shall require each applicant to pay a deposit as established by the City before beginning the Local Improvement District assessment apportionment process and the City shall require all applicants to reimburse the City for the actual costs as defined in this Ordinance incurred by the City in apportioning Local Improvement District assessments under this provision.

(H) The City's Public Works Director shall establish regulations for the equitable apportionment of Local Improvement District assessments pursuant to this Ordinance.

2.4.33 SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof. This Ordinance is intended to be as broad as allowed under Oregon Law and construction of the Ordinance or any portion should be made in favor of the policy of upholding local improvement districts. *(Ord. 760, 6-11-96, eff. 7-11-96, codified by Ord. 779, 8-26-97, eff. 9-26-97)*

Chapter 5

STREETS AND SIDEWALKS, MISCELLANEOUS PROVISIONS

Sections

2.5.1 VEHICLES FOR PHYSICALLY DISABLED PERSONS 100
2.5.2 FEE FOR VACATION OF STREETS, ALLEYS AND PUBLIC PLACES . . 100

2.5.1 VEHICLES FOR PHYSICALLY DISABLED PERSONS

Physically disabled persons who use motorized wheel chairs, golf carts or similar motorized vehicles are hereby authorized to drive the same upon the sidewalks and streets within the City, excluding State or County roads or highways. *(Ord. 618, 3-11-80)*

2.5.2 FEE FOR VACATION OF STREETS, ALLEYS AND PUBLIC PLACES

(A) Whenever a petition is filed for the vacation of a public street, alley or other public place pursuant to the provisions of ORS 271.080 et seq., such petitioner shall pay a fee of three hundred dollars ($300.00) to the City at the time of filing said petition, which fee shall not be refundable irrespective of the final determination of the City Council regarding such petition.

(B) The City shall pay all costs of advertising from said fee, but the petitioner shall be responsible for all other costs and expenses incurred in such vacation procedure.

(C) The petitioner shall prepare all documents necessary for said vacation proceedings, including, but not limited to, the proposed ordinance vacating the public street, alley or other public place. *(Ord. 651, 2-14-84)*

Chapter 6

TREE PLANTING, SIDEWALKS AND STREET RIGHT OF WAY; CITY ARBOR COMMITTEE

Sections

2.6.1 DEFINITIONS **101**
2.6.2 PERMITS REQUIRED TO PLANT TREES; TREES PLANTED BY CITY **102**
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2.6.6 CITY ARBOR COMMITTEE **103**
2.6.7 PENALTY **104**

2.6.1 DEFINITIONS

APPLICABLE AREA: 'A' Street within the City limits; Main Street from Harrison Street to Wadleigh Park.

APPLICATION: A document containing the applicant's name and address as well as the date and description including the size, growth rate and species of trees or shrubs proposed to be planted.

APPROVED PLANTING AREA: A thirty-six inch (36') square area recessed in the sidewalk from which the existing clay and soil has been removed to a depth of three feet (3') and replaced with a good quality top soil.

QUALIFIED TREE: A species of tree which is a small leaf, slow-growing or dwarf variety, capable of withstanding extreme temperature variations and infestation.

RESPONSIBLE PARTY: The tenant or owner occupying the closest building, or in the event the closest building is vacant, the owner of record, as recorded in the Malheur County Assessor's records.

SITE PLAN: A detailed sketch, drawn to scale, identifying the property lines, sidewalk, curb and street rights of way, store fronts, and existing trees and shrubs. The sketch shall also clearly identify any public facilities such as fire hydrants, signal devices, overhead utility lines, and underground water, sewage or utility lines. Additionally, the sketch should indicate the locations for proposed trees or shrubs. The sketch may show only those property lines which abut upon a public right of way and need not project the property in its entirety.

SPECIES: Raywood Ash, Bradford Pear, and Nonbearing Ornamental Plum.

2.6.2 PERMITS REQUIRED TO PLANT TREES; TREES PLANTED BY CITY

(A) No trees, shrubs, bushes, or other woody vegetation shall hereafter be planted within City sidewalks or street rights of way in applicable areas without first securing a permit therefore from the City Manager. A permit may be requested by submitting an application with a site plan to the City Manager. Such permit shall be issued if the requested planting is of a qualified tree(s) and such planting conforms to the guidelines set forth in this Chapter and the City Tree Plan. However, preference shall be given to suggested species and the City Manager and/or the City Arbor Committee may make more specific recommendations for species to be planted in certain areas of the City.

(B) Any person wishing to plant a tree, shrub, bush or other woody vegetation within a City sidewalk or street right of way in a applicable area which is not a qualified tree or does not conform to the requirements of this ordinance and the City Tree Plan may request a variance from said regulations from the Planning Commission, pursuant to section 8.10.1 through 8.10.5 of this code. Decisions of the Planning Commission may be appealed to the City Council pursuant to section 8.12.2 of this code.

(C) An applicant may appeal an adverse decision of the City Manager by filing a written request for appeal within ten (10) working days after the application and/or site plan has been refused or modified. The City Council shall schedule a hearing date which shall be no more than thirty (30) days after said written appeal has been filed. The City Manager shall notify the applicant of the time, date and location of the hearing no less than ten (10) days prior to the hearing date. The applicant may appear in person or through a representative. The City Council shall notify the applicant of the decision in writing no more than ten (10) days after the hearing. Said writing shall state the decision and the basis upon which the decision was made.

(D) The City shall have the right to plant, prune, maintain and remove trees, bushes, shrubs, or other woody vegetation within the sidewalks or street rights of way in applicable areas as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of the City. *(Ord. 832, 3-11-2003)*

2.6.3 LOCATION AND TYPE OF TREES

(A) The City Council shall adopt a City Tree Plan specifying locations where trees may be planted within the sidewalk or street rights of way in the applicable area.

(B) No person shall plant or maintain a tree within a sidewalk or street right of way in the applicable area which does not comply in all respects with this Chapter and with the City Tree Plan.

(C) The City Council may, from time to time, amend or replace the City Tree Plan as it deems necessary.

(D) No tree within a sidewalk or street right of way within the applicable area shall be planted any closer than thirty-six feet (36') from a street intersection or twenty feet (20') from an alley entrance as measured from the point of the nearest intersecting curbs or curb lines. No trees shall be planted closer than ten feet (10') from any fire hydrants.

(E) No tree within a sidewalk or street right of way may be planted over any underground water line, sewer line, power transmission line or other utility.

(F) All trees planted in the sidewalk or street right of way shall be planted in approved planting areas, and in locations specified in the City Tree Plan. Trees shall be planted in such a manner as to leave at least five feet (5') of unobstructed pedestrian walkway.

(G) Trees, shrubs, bushes or other woody vegetation in aboveground containers at curbside are prohibited. Containers against building fronts will be considered acceptable when planted with small floral and/or shrubs, and maintained in a responsible manner. The City shall retain the right to remove such vegetation should it become apparent that said vegetation is not being properly maintained.

2.6.4 TREE MAINTENANCE

(A) The responsible party shall provide the labor, equipment and pay all necessary expenses to plant or maintain the trees within the sidewalk or street right of way. Maintenance of the trees includes but is not limited to: consistent irrigation; routine pruning; treatment for infestation and disease; clean up and removal of dead leaves and branches; and removal and replacement of dead trees. When it is necessary to remove a dead tree, the responsible party shall replace the tree within one year from the date of removal. The City shall be responsible for removal and replacement of trees originally placed within a sidewalk or street right of way by the City.

(B) Every responsible party of any tree within a sidewalk or street right of way shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection or traffic control device, and so that there shall be clear space of eight feet (8') above the surface of the street or sidewalk. Said owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub in such street rights of way when it interferes with the proper spread of light along the street from a street light, or when it interferes with visibility of an traffic control device or sign. Failure of the responsible party to comply with an order of the City Manager to maintain or remove any tree shall after thirty (30) days' written notice be deemed a violation of this Chapter, and the City may then remove or trim such tree or shrub at an assessed cost against the property.

(C) The City shall have the right to cause the removal or remedial treatment, if appropriate, of dead or diseased trees within the street right of way in applicable areas when such trees constitute a hazard to the public or harbor insects or disease which constitute a potential threat to other trees within the City. The City Manager will notify the responsible party of such trees in writing and will order such removal or remedial treatment. Failure of the responsible party to comply with an order of the City Manager after thirty (30) days' written notice shall be deemed a violation of this Chapter, and the City may then remove, trim or cause remedial treatment of such trees or shrubs at an assessed cost against the property.

(D) It shall be unlawful for any person to prevent, delay or interfere with the City or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees within a sidewalk or street right of way. *(Ord. 832, 3-11-2003)*

2.6.5 ABUSE OR MUTILATION OF TREES

It shall be a violation of this Chapter to abuse, destroy or mutilate any tree, shrub, bush or other woody vegetation with the sidewalk or street right of way in the applicable area.

2.6.6 CITY ARBOR COMMITTEE

(A) There is hereby created and established a City Arbor Committee for the City of Vale which shall consist of five (5) members, citizens and residents or business owners of this City, who shall be appointed by the Mayor with the approval of the Council.

(B) The term of the five (5) persons to be appointed by the Mayor shall be three (3) years except that the term of two (2) of the members appointed to the first board shall be for only one (1) year

and the term of two (2) members of the first board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, that member's successor shall be appointed for the unexpired portion of the term. Members of the board shall serve without compensation.

(C) It shall be the responsibility of the City Arbor Committee to study, investigate, counsel and develop and/or update annually a recommendation to the City Council for the care, preservation, pruning, planting, replanting, removal or other public areas.

(D) The Committee shall make periodic recommendations to the City Council concerning the adoption, amendment and implementation of the City Tree Plan.

(E) The Committee, when requested by the City Council, shall consider, investigate, make findings, report and make recommendations upon any special matters or questions coming within the scope of its work.

(F) The City Arbor Committee shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

2.6.7 PENALTY

Any person violating any provision of this Chapter shall be, upon conviction or plea of guilty, subject to a fine not to exceed five hundred dollars ($500.00). *(Ord. 726, 4-26-94)*

Title III

BUILDING AND FIRE REGULATIONS

Chapters

1 VALE RESIDENTIAL MAINTENANCE CODE **108**

2 WATER USE CURTAILMENT **115**

3 NUMBERING OF BUILDINGS **117**

4 SIGN CODE **119**

5 ***[Repealed by Ord. 776, 8-12-97, eff. 9-12-97]*** **120**

6 FIRE LIMITS **121**

7 FIRE PREVENTION CODE **122**

8 EXPLOSIVES **123**

9 UTILITIES, ZONING PERMITS **124**

10 FLOOD DAMAGE PREVENTION **126**

HISTORY:

CHAPTER 1 *(Ord. 502, 6-18-64)* adopted the state Uniform Building Code, it was repealed by ordinance 776, eff. 9-12-97; a new Chapter 1, the Vale Residential Maintenance Code, was adopted by ordinance 796, eff. 4-9-99; CHAPTER 2 *(Ord. 607, 11-7-78)*, adopted the Uniform Plumbing Code; a new Chapter 2, the Vale Water Use Curtailment, was adopted by ordinance 795, eff. 2-9-99. CHAPTER 5 *(Ord. 607, 11-7-78)*, adopted the Uniform Electrical Code. The "Fire Limits" (CHAPTER 6) results from an old trade-off that allowed downtown buildings to be built to the property line provided they were built of fireproof materials; only the legal description of the area affected survives in the Code.

Chapter 1

VALE RESIDENTIAL MAINTENANCE CODE

Sections

3.1.1 TITLE: 108
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3.1.6 DWELLING UNIT REGULATIONS AND STANDARDS: 111
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3.1.11 STANDARDS FOR REPAIR, VACATION OR DEMOLITION: 114

3.1.1 TITLE:

This Chapter shall be known as the Vale Residential Maintenance Code, which may be cited as such, and will be referred to herein as "this Code".

3.1.2 PURPOSE:

The purpose of this Code is to provide minimum requirements for the protection of life, limb, health, property, safety, and welfare of the general public and the owners and occupants of residential buildings.

3.1.3 DEFINITIONS:

For the purpose of this Code, certain abbreviations, terms, phrases, words, and their derivatives shall be construed as specified in this Code. Words used in the singular include the plural and plural the singular. Words used in the masculine gender include the feminine, and the feminine the masculine.

APARTMENT: Apartment shall mean a dwelling unit as defined in this Code.

APARTMENT HOUSE: Apartment house is any building, or portion thereof which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other in dwelling units.

APPROVED: Approved as to materials and types of construction, refers to approval by the Building Inspector as the result of investigation and tests conducted by him, or by reason of accepted principles or tests by national authorities, technical or scientific organizations.

BOARDING HOUSE: Boarding house is a lodging house in which meals are provided.

BUILDING: Building is any building or structure, or portion thereof which is used, or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes or any combination thereof.

BUILDING, EXISTING: Existing building is a building erected prior to the adoption of this Code, or one for which a legal building permit has been issued.

BUILDING INSPECTOR: Building Inspector shall mean the Public Works Supervisor or such other person designated by the City Manager to be charged with the administration and enforcement of this Code, or his regularly authorized representatives.

CELLAR: Cellar means that portion of a building, the ceiling of which is entirely below grade or less than four feet six inches (4'6") above grade.

DWELLING: Dwelling is any building or any portion thereof, which is not an apartment house, a lodging house, or a hotel as defined in this Code, which may contain not more than two (2) dwelling units or guest rooms, used, intended or designed to be used, or occupied for living purposes.

DWELLING UNIT: Dwelling unit is one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

EXIT: An exit, as referred to in this Code, shall be a way of departure from the interior of a building. It may comprise vertical and horizontal means of travel such as doorways, stairways, escalators, ramps, corridors, passageways and fire escapes, including all elements necessary for the purpose of emergency escape from the building or structures. An exit begins at any doorway or other point of access to an exit from which occupants may proceed to a public way.

EXTERMINATION: The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

GUEST: Guest is any person hiring and occupying a room for living or sleeping purposes, exclusive of any member of a family occupying a dwelling unit.

GUEST ROOM: Guest room is any room or rooms used, or intended to be used by a guest for sleeping purposes.

HABITABLE ROOM: Habitable room means a room occupied by one or more persons for living, eating or sleeping purposes. It does not include toilets, laundries, serving and storage pantries, corridors, cellars, and spaces that are not used frequently or during extended periods.

HOTEL: Hotel is any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home, or other institution in which human beings are housed and detained under legal restraint.

INFESTATION: The presence, within or contiguous to a dwelling unit, rooming house, rooming unit, or premises, of insects, rodents, vermin or other pests.

KITCHEN: Kitchen shall mean a room used or designed to be used for the preparation of food.

LODGING HOUSE: Lodging house is any building or portion thereof, containing not more than five (5) guest rooms, which are used by not more than five (5) guests where rent is paid in money, goods, labor or otherwise.

NUISANCE: The following shall be defined as nuisances:

(A) Any public nuisance known at common law or in equity jurisprudence.

(B) Any attractive nuisance which may prove detrimental to children whether in a building, or the premises of a building, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris, or vegetation which may prove a hazard for inquisitive minors.

(C) Whatever is dangerous to human life or is detrimental to health.

(D) Any condition dangerous to health, safety or morals as defined in ordinances of the City.

OWNER: Owner as herein used shall include the owner or owners of the freehold of the premises or any lesser estate therein, a mortgagee or vendee in possession, an assignee for rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

PASSAGEWAY: Means of egress connecting a required exit with a public way.

PERSON: Person is a natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

ROOMING HOUSE: See "lodging house".

SERVICE ROOM: Service room shall mean any room used for storage, bath or utility purposes, and not included in the definition of habitable rooms.

STREET: Street is any thoroughfare or public space not less than sixteen feet (16') in width which has been dedicated or deeded to the public for public use.

STRUCTURE: Structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBSTANDARD BUILDING: Any dwelling or dwelling unit in which there exists any conditions less than required by this Code to a degree that endangers the life, limb, health, property, safety or welfare of the public or the occupants. *(Ord. 832, 3-11-2003)*

3.1.4 APPLICATION, ALTERATION:

(A) *Application.* The provisions of this Code shall apply to all buildings or portions thereof, used, or designed or intended to be used, for human habitation. Such occupancies In existing buildings may be continued, except such structures as are found to be substandard as defined in this Code.

Where any building or portion thereof, is used or intended to be used as a combination apartment house-hotel, the provisions of this Code shall apply to the separate portions as if they were separate buildings.

(B) *Alteration.* Existing buildings which are altered or enlarged shall be made to conform to this Code insofar as the new work is concerned and in accordance with applicable ordinances of the City.

3.1.5 BUILDING INSPECTOR, INSPECTION OF PREMISES:

(A) *Authority.* The Building Inspector is hereby authorized and directed to administer and enforce all of the provisions of this Code.

(B) *Inspections.* The Building Inspector charged with the enforcement of this Code may make inspections of properties and premises within the corporate limits of the City to determine whether there is compliance with the provisions of this Code. It shall be the duty of such person to make such inspections upon the receipt of complaints or specific or general information indicating the existence of violations or noncompliance with these Code provisions. In the event that any authorized officer or employee charged with the enforcement of this Code shall be denied access to any property or premises for the purpose of making an inspection provided for in this Chapter, then, except as otherwise provided for in this Chapter, such officer or employee shall not inspect such premises unless and until he shall have obtained a search warrant for the inspection of such premises from the municipal court or other court authorized to issue warrants in such cases.

(C) *Search Warrants.* No search warrant shall be issued under the terms of this Chapter for the inspection of any property or premises within the corporate limits of the City unless and until there shall have been filed with the court an affidavit showing probable cause for such inspection, by stating the purpose and extent of the proposed inspection, the ordinance or ordinances which form the basis for such inspection, whether it is a routine or periodic inspection or an inspection instituted by complaint or other specific or general information concerning the property or premises or the area in which it is situated. The search warrant issued by the court shall specify the purpose and extent of the inspection which is proposed to be made and the specific property or premises covered by such warrant.

(D) *Emergency.* When property or premises exhibit outward manifestations of hazardous and dangerous conditions or when there is other reliable information from which it appears reasonably probable that immediate action is required to protect the safety of persons or property, than an emergency shall be deemed to exist and officers or employees of the City shall have the right to make inspection of the property and premises without the consent of the owner, occupant or other persons in charge of such property or premises and without a search warrant.

(E) *Penalty.* It shall be unlawful for any person to hinder, delay or otherwise obstruct the inspection of property or premises when such inspection is authorized by a warrant or emergency as provided in the terms of this Chapter; and upon conviction of violation of any of the terms of this Chapter such person shall be subject to a fine not to exceed $500. *(Ord. 851, 8-8-2006)*

3.1.6 DWELLING UNIT REGULATIONS AND STANDARDS:

(A) *Sanitation and Health:*

1. Every dwelling unit shall contain, within a room which affords privacy to a person within said room, a water closet and a lavatory in good working condition. Every dwelling unit shall contain within a room which affords privacy to a person within said room, a bathtub or shower in good working condition. Every dwelling unit shall contain a kitchen sink.

2. Where private water closets, lavatories and baths are not provided for guest rooms, there shall be provided on each floor for each sex at least one water closet and lavatory and one bath accessible from a public hallway. Additional water closets, lavatories, and baths shall be provided on each floor for each sex at the rate of one for every additional ten (10) guests, or fractional number thereof, In excess of ten (10). Urinals may be substituted for one-half ($\frac{1}{2}$) of the required water closets for male guests. Such facilities shall be clearly marked for “MEN” or “WOMEN”.

3. All plumbing fixtures shall be connected to a sanitary sewer or an approved private sewage disposal system. All required plumbing fixtures shall be connected to the municipal water supply or a potable private system and shall contain required backflow devices.

4. No room used for the preparation of food shall house a water closet and no room housing a water closet shall open directly into a room used for the preparation of food unless there is a door.

(B) *Structural Requirements:*

1. Buildings or structures may be of construction which conformed with all applicable laws at the time of their construction and have been adequately maintained. Roofs, floors, walls, foundations and all other structural components of buildings shall be capable of resisting any and all forces to which they are subjected or may be anticipated due to natural causes.

2. Every building shall be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness.

3. Buildings or structures having elements in contact with the ground which are deteriorated due to corrosion, decay or insect damage shall have such elements removed or replaced with materials which will resist such corrosion, decay or insect damage.

(C) *Heating.* Every dwelling unit and guest room shall be provided with heating facilities. Such facilities shall be installed and maintained in a safe condition. No unvented heater shall be permitted.

(D) *Electrical Equipment.* All electrical equipment, wiring, or appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment and materials shall be of an approved type which complied with applicable laws at the time of installation.

Every habitable room shall contain at least two (2) supplied electrical convenience outlets or one such convenience outlet and one electric light fixture when electrical power is available.

(E) *Exits.* Every dwelling unit or guest room shall have safe, approved unobstructed means of exit with access directly to the outside at ground level or to a public corridor. All buildings or portions thereof shall be provided with exits maintained in a safe and usable condition.

3.1.7 RESPONSIBILITIES OF OWNERS AND OCCUPANTS:

(A) *Public Areas.* Every owner of an apartment house, lodging house or hotel shall be responsible for maintaining in a sanitary condition the shared or public areas of the building and premises thereof.

(B) *Sanitation.* Every occupant of a dwelling unit shall keep in a sanitary condition that part of the dwelling unit and premises thereof which he occupies and controls. Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof. The owner of every lodging house, hotel or dormitory shall be responsible for the sanitary mainten(Ord. 832, 3-11-2003)ance of all walls, floors, ceilings, and for the maintenance of a sanitary condition in every other part thereof; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is under his control.

(C) *Rubbish and Garbage.* Every occupant of a dwelling unit shall dispose of all his rubbish, garbage and any other organic waste which might provide food for rodents, in a clean and sanitary manner

by placing it in approved disposal facilities or containers. It shall be the responsibility of the owner to supply or cause to be supplied garbage-rubbish disposal facilities or containers for all apartment houses, lodging houses and hotels.

(D) *Extermination.* Every occupant of a building containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. Notwithstanding the foregoing provisions of this Section, whenever infestation is caused by a failure of the owner to maintain a building in a ratproof or reasonable insectproof condition, extermination shall be the responsibility of the owner or operator.

(E) *Maintenance of Buildings and Premises.* Every owner of a building, either occupied or vacant, shall be responsible for maintaining the building in good repair and free of refuse, debris, and rubbish. *(Ord. 851, 8-8-2006)*

3.1.8 ENFORCEMENT:

(A) *Notice to Owner.* The Building Inspector shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this Chapter, the Building Inspector' shall give to the owner of such building or structure written notice stating the defects thereof.

(1) This notice may require the owner or person in charge of the building or premises, within thirty (30) days, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the Building Inspector. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the Building Inspector.

(2) Proper service of such notice shall be by personal service upon the owner of record, if he shall be found within the City limits. If he is not found within the City limits, such service may be made upon said owner by registered mail; provided, that if such notice is by registered mail, the designated period within which said owner or person in charge is required to comply with the order of the Building Inspector shall begin as of the date he receives such notice.

(B) *Right to Demolish.* In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the City Council may order the owner of the building prosecuted as a violator of the provisions of this Code and may order the Building Inspector to proceed with the work specified in such notice. A statement of the cost of such work-shall be transmitted to the City Council, who shall cause the same to be paid and levied as a special assessment against the property.

(C) *Costs.* Costs incurred under subsection (B) shall be paid out of the City Treasury. Such costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located, and shall be collected in the manner provided for special assessments.

3.1.9 PROCEDURE UPON DETERMINATION OF SUBSTANDARD BUILDING:

(A) *General.* Whenever the Building Inspector determines by inspection that any existing building or portion thereof is substandard, he shall order the building or portion thereof vacated and shall institute proceedings to effect the repair or rehabilitation of the building or portion thereof. If

such repair or rehabilitation is impractical, he shall then order such building or portion thereof removed or demolished. The owner or other person affected shall then have the right to appeal to the City Council.

(B) *Notice to Owner.* The Building Inspector shall give notice to the owner or other responsible person in accordance with the procedure specified in Section 3.1.8(A) of this Chapter.

(C) *Appeals.* Any person who feels that an injustice has been done him by any order or ruling of the Building Inspector may appeal therefrom to the City Council by filing a written notice of his appeal with the Building Inspector within ten (10) days after receipt of the order or ruling to which he makes exception. The decisions of the Council shall be limited to the interpretation of the provisions of this Code. It shall adopt rules of procedure for matters coming before it and its decisions shall be made in writing, one copy thereof to be filed with the Building Inspector and one copy to be delivered to the appellant. The decisions of the Council shall be conclusive except in case of mistake or fraud.

3.1.10 CIRCUIT COURT APPEAL:

Whenever any person is convicted in the Municipal Court, such person shall have the right of appeal to the Circuit Court of Malheur County. The appeal shall be taken in the manner provided by law.

3.1.11 STANDARDS FOR REPAIR, VACATION OR DEMOLITION:

The following standards shall be followed in substance by the Building Inspector and the City Council in ordering repair, rehabilitation, vacation, demolition or removal of a substandard building:

(A) If the substandard building can be reasonably repaired or rehabilitated so that it can comply with the requirements of the Code, it shall be ordered repaired or rehabilitated by the Building Inspector or City Council; provided, that the failure to comply with a final order of the Building Inspector or City Council shall authorize the Building Inspector to order the building vacated and closed.

(B) If the substandard building is in such condition as to make it imminently dangerous to health, safety, or general welfare of its occupants or the public, it shall be ordered to be vacated and closed in accordance with ordinances of the City.

(C) If the substandard building cannot be repaired or rehabilitated so it can comply with the requirements of this Code, it shall be demolished. *(Ord. 796, 4-9-99)*

Chapter 2

WATER USE CURTAILMENT

Sections

3.2.1 TRIGGERING EVENTS FOR WATER USE CURTAILMENT. 115
3.2.2 VOLUNTARY WATER USE CURTAILMENT. 115
3.2.3 MANDATORY FIRST LEVEL CURTAILMENT. 115
3.2.4 MANDATORY SECOND LEVEL CURTAILMENT. 116
3.2.5 PENALTIES. 116

3.2.1 TRIGGERING EVENTS FOR WATER USE CURTAILMENT.

This water use curtailment ordinance shall be enforced when water use demand within the City exceeds 90% of the system capacity, or when the water levels in City wells decline at a rate which the City officials reasonably determine is abnormal.

3.2.2 VOLUNTARY WATER USE CURTAILMENT.

Prior to enforcing mandatory curtailment of water consumption, as provided in Sections 3.2.3 and 3.2.4, the City shall

(a) Identify the percentage of voluntary reduction that is required to avoid a shortfall and request that the citizens voluntarily curtail usage by this percentage.

(b) Disseminate this information regarding voluntary reduction through means reasonably calculated to reach the general public, such as through news media, posters and notices included in utility bills.

3.2.3 MANDATORY FIRST LEVEL CURTAILMENT.

If the voluntary reduction program in Section 3.2.2 is unsuccessful, the City Manager will implement a First Level Curtailment Plan as follows

(a) The following non-essential residential uses of water will be prohibited:

- (i) Use of water to wash vehicles.
- (ii) Use of water to wash down exterior surfaces of dwellings and outbuildings (except for use of water drawn from the City's Railroad well).

(iii) Use of water to fill, refill or add to any private swimming pool or jacuzzi pool.

(iv) Use of water in a fountain or pond for aesthetic purposes.

(b) The following non-essential commercial, institutional or industrial uses of water will be prohibited:

(i) Use of water to serve a customer in a restaurant unless requested by customer.

(ii) Use of water in scenic pools, ponds or fountains.

(iii) Use of water in fire hydrants for any purpose other than fire fighting.

(iv) Use of irrigation water for parks, schools, community food gardens, recreation or memorial type facilities in excess of 75% of the normal historic amount consumed.

(v) Use of domestic water for schools, nursery facilities, restaurants, shopping centers, gasoline service stations, health swim clubs and all other commercial uses in excess of 90% of the normal historic amount consumed.

(vi) The use of water for manufacturing, food processing, cooling or cleaning of equipment in excess of 90% of the normal historic amount consumed.

(vii) The use of water for agricultural irrigation in excess of 75% of the normal historic amount consumed.

(viii) Use of water for dust control (unless drawn from the City's Railroad well).

(c) The running of water in gutters and drains will be prohibited. *(Ord. 832, 3-11-2003)*

3.2.4 MANDATORY SECOND LEVEL CURTAILMENT.

If the First Level Curtailment Plan is unsuccessful, the City Manager shall implement a Second Level Curtailment Plan, under which the usage allotment for all residential uses of City water shall be limited to the following maximum quantities during any twenty four hour period:

one permanent resident	80 gallons
two permanent residents	110 gallons
three permanent residents	140 gallons
each additional permanent resident	30 gallons
Multi-residential units	130 gallons per unit

(Ord. 832, 3-11-2003)

3.2.5 PENALTIES.

a) Any person who fails to comply with the provisions of the Mandatory First Level Curtailment Plan as set forth in Section 3.2.3 or the Mandatory Second Level Curtailment Plan as set forth in Section 3.2.4 shall be subject to a fine of $100. Any person who engages in a second violation within six months of the first violation shall be subject to a fine of $250. Any person who engages in a three or more violations within three years of the first violation shall be subject to a fine of $500.

b) An owner of premises shall be responsible for any violations occurring on the premises, whether or not the owner is a resident of the premises. In charging an owner with a violation, the City shall not be required to provide proof of which particular resident of the premises committed a violation so long as the violation occurred on the premises. *(Ord. 795 2-9-99, amended by Ord. 801, 6-22-99)*

Chapter 3

NUMBERING OF BUILDINGS

Sections

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3.3.5 SIZE OF NUMBERS **118**
3.3.6 COMPLIANCE WITH CHAPTER REQUIRED **118**

3.3.1 NUMBERING SYSTEM ESTABLISHED:

There shall be and hereby is established a numbering system for all houses, stores, structures and buildings other than temporary sheds and out buildings erected or hereafter to be erected within the Limits of the City, and the owners of the structures are required to number the same in the manner provided In this Chapter.

3.3.2 BASE LINE

The base line or street for starting said numbering system, shall be A Street for all streets running northerly and southerly, and the base line or street for all streets running easterly or westerly shall be Main Street.

3.3.3 NUMBERING OF BUILDINGS; MAP

Commencing with the number 101 and extending northerly and southerly from A Street and extending easterly and westerly from Main Street, there shall be assigned a number to each structure as defined in Section one (1) hereof, located in the City; one (1) number for each twelve and one-half foot (12.5') frontage beginning with the number one hundred and one (101) at the base line and not exceeding the number one hundred and ninety-nine (199) at the end of the first block either north or south or east or west. Number two hundred and one (201) at the beginning and not to exceed two hundred and ninety-nine (299) at the end of the second block and continuing In such manner in numbering all of the succeeding blocks and streets in the City.

The even numbers shall be assigned to the northerly side of the streets running east and west and on the easterly sides of streets running northerly and southerly and the odd numbers on the opposite sides of such streets. Provided, however, that in the event of streets not longer than one (1) block in length intersect on one (1) side only another street or avenue, such street shall be disregarded in the assigning of numbers on the intersected street or avenue and the numbering shall run consecutively to the next regularity intersecting street or avenue.

A map of the City and the numbering system herein provided for shall be maintained on file in the office of the Manager entitled "Official Building Numbering Map of the City of Vale, Oregon", and shall be made available for the uses of any property owner for the purpose of ascertaining proper number to be assigned to his property when the number of such property is not known to him.

In the event of any question arising as to the proper number to be assigned to any lot or structure, the matter shall be referred to the Manager and from the provisions of this Chapter and the official map, the Manager shall determine the number to be assigned to the same. *(Ord. 832, 3-11-2003)*

3.3.4 NUMBERING FEE

All numbers herein provided for shall be placed on the structure by a representative of the City under the direction of the Council and a charge of one dollar ($1.00) shall be made to the owner or occupant of any such structure to which numbers are attached, which said charge shall include the cost of the numbers.

All persons or owners having custody of any of such structures to which the numbers assigned shall have been attached or affixed by the City, shall make payment of the charge of one dollar ($1.00) within three (3) days of the date such numbers shall have been attached or affixed, and in the event of the failure to make such payment within such time, the charge of one dollar ($1.00) together with the expense of preparing the lien, which expense shall not exceed five dollars ($5.00), shall constitute a lien upon the property involved and shall be assessed and collected in the manner that other City liens are assessed and collected.

3.3.5 SIZE OF NUMBERS

All such numbers shall be not less than three inches (3") in height and shall be so placed on the structure as to enable them to be readily seen from the street.

3.3.6 COMPLIANCE WITH CHAPTER REQUIRED

Any owner of any building now erected or hereafter to be erected within the City, or any person having control thereof, who shall refuse or neglect to comply with the terms of this Chapter, and any person who shall take down, alter, or deface any number that has been assigned and put in place on said property either by the owner or by the City, and any person who shall attach or display upon a building an improper number or one different from that properly assignable to said structure, or who shall place the numbers on such structure in such a manner and such a place that the some cannot be readily seen from the street, shall be deemed guilty of a misdemeanor. *(Ord. 232, 4-13-50 as amended by Ord. 440, 8-17-62)*

Chapter 4

SIGN CODE

Sections

3.4.1 ADOPTION OF UNIFORM SIGN CODE **119**
3.4.2 PERMITS REQUIRED **119**

3.4.1 ADOPTION OF UNIFORM SIGN CODE

A certain document, three (3) copies of which are now on file in the offices of the City, being marked and designated as the "Uniform Sign Code" the 1997 Edition, copyrighted by the International Conference of Building Officials, be and the same is hereby adopted as the Sign Code of the City and made a part hereof as fully as though set out at length herein. *(1963 Code, amended by Ord. 800, 6-8-99)*

3.4.2 PERMITS REQUIRED

Prior to the installation or erection of a sign within the city limits of the City of Vale, the owner shall obtain from the City Manager a permit, using an application form provided by the City to ensure compliance with the Sign Code. The City Coordinator or his designee shall inspect the sign after installation to insure compliance with the City Code requirements. The charges for obtaining the permit and subsequent inspection shall be $25. From time to time the City Council may amend said charge by resolution. *(Ord. 803, 7-27-99, amended by Ord. 832, 3-11-2003)*

Chapter 5

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

Chapter 6

FIRE LIMITS

Sections

3.6.1 FIRE LIMITS 121

3.6.1 FIRE LIMITS

Commencing at the center of A street at the eastern boundary of the City: thence North along the boundary line to the center of Washington street thence west along the center of Washington street to the intersection of Washington and Smith Streets; thence south along Smith street to a point opposite the South line of lot 4, Block 6, Altshul Addition to the City of Vale; thence due east to the center of Cottage Street; thence South along the center of Cottage Street to the center of the intersection of A and Cottage Streets; thence west along the center of A Street to the center of the intersection of A and Smith Streets; thence South along the center of Smith Street to a point opposite the South boundary line of Lot 4, Block 6, Haleys *[sic]* Addition to the City of Vale; thence due East to the center of Block 11, Original Townsite of Vale; thence South along the center of the alley to the center of B Street; thence East to the center of the intersection of B and Bryant Street; thence South to the intersection of Bryant and C Streets; thence East along the center line of C Street to the intersection of C and Longfellow Streets; Thence North along the center line of Longfellow Street to the center of the intersection of B and Longfellow Streets; thence East along the center line of B Street to the Eastern boundary line of the City of Vale; thence in a Northeasterly direction following the boundary line of the City of Vale to the place of beginning, the same comprising and including within the boundary –

- the North Half of Block 10, the North Half and Southeast Quarter of Block 11, All of Block 17, 18, 19, 20, 23, 24, 25, 32, 33 and 36, all in the Original Townsite of Vale,
- Blocks 21 to 29, inclusive, Eldredge Addition to the City of Vale, Blocks 21 to 29, inclusive, Eldredge Addition to the City of Vale *[sic]*,
- the North Half of Block 1 and the North Half of Block 6 Altshul Addition to the City of Vale,
- the North Half of Block 6, Hadley's Addition to the City of Vale,
- the North Half of Block 1, Rinehart's Addition to the City of Vale, and
- the North Half of Block 1, Original Townsite of Vale, all according to the maps and plats thereof on file in the Office of the County Clerk of Malheur County, Oregon, be and the same hereby is set aside and apart and designated and declared to be and is established as the fire limits of the City of Vale–*provided however,* that in the Southeast Quarter of Block 25 and Blocks 32, 33 and 36 all of the Original Townsite, and Blocks 21, 22 and 23 of Eldredge Addition to the City of Vale, construction of a type generally known as stucco with metal lath will be deemed a compliance with the conditions of this Chapter. *(Ord. 423; 6-9-55)*

Chapter 7

FIRE PREVENTION CODE

Sections

3.7.1 ADOPTION OF FIRE PREVENTION CODE 122
3.7.2 PERMIT; FEE 122

3.7.1 ADOPTION OF FIRE PREVENTION CODE

For the purpose of regulating and governing conditions hazardous to life and property from fire, the Fire Prevention Code, 1962 Edition, as recommended by the National Board of Fire Underwriters, is hereby adopted. The Fire Prevention Code, three (3) copies of which shall be on file at all times in the office of the Manager, shall be made a part of this Code as if set out at length herein. *(1963 Code; amended by Ord. 832, 3-11-2003)*

3.7.2 PERMIT; FEE

No building, structure, superstructure, or erection of any kind whatsoever shall at any time be moved into or removed within the Fire Limits, and no building, structure, superstructure, erection, or addition to any building, structure, superstructure, or erection shall be constructed, erected, or added to within the Fire Limits without the owner or builder thereof having first filed in the office of the Manager a copy of the plans and specifications of such building, structure, superstructure, erection, or addition showing that the same complies with the provisions of this Chapter. The Manager, upon such showing being made and upon payment of one dollar ($1.00) license fee, shall thereupon issue, to owner or builder or contractor, a permit for construction or erection or addition or moving of such building, structure, superstructure, erection, or addition, as the case may be, which the permit shall be signed by the Manager and sealed with the Corporate Seal. *(Ord. 187, 11-18-38; amended by Ord. 440, 8-17-62; amended by Ord. 832, 3-11-2003)*

Chapter 8

EXPLOSIVES

Sections

3.8.1 EXPLOSIVES PROHIBITED **123**
3.8.2 EXCEPTION PERMITTED **123**

3.8.1 EXPLOSIVES PROHIBITED

It shall be unlawful for any person to make, keep or transport any gunpowder, nitroglycerin or other highly explosive substance within the limits of the City.

3.8.2 EXCEPTION PERMITTED

A vehicle carrying explosives may be permitted on the streets of the City only if a special written permit has first been obtained from the Chief of Police; such permit shall specify the exact route to be used by said vehicle and may permit the vehicle to be parked at a certain specified place for a certain specified amount of time. Each such permit shall be valid only for the one specified use. *(1963 Code)*

Chapter 9

UTILITIES, ZONING PERMITS

Sections

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3.9.1 SHORT TITLE

This Chapter shall be known as the ”City of Vale Utilities Ordinance” and may be so cited and pleaded.

3.9.2 SEVERABILITY

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any section, paragraph, sentence, clause or phrase of this Chapter is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Chapter.

3.9.3 DEFINITIONS

(A) *BUILDING:* A structure built for the support, shelter, enclosure of persons, animals, chattels or property of any kind.

(B) *CITY COUNCIL:* The members of the City Council for Vale, Oregon.

(C) *UTILITY:* Any public or private corporation or company which supplies the public or a group of individuals with electrical power.

(D) *SERVICE:* Providing or attaching to any newly constructed building or newly placed mobile home or prefabricated building the initial line, hookup or metering device to provide electricity.

(E) *ZONING PERMIT:* A zoning permit issued subject to the regulations as described in Title VIII of the City Code of the City of Vale, known as the ”Zoning Title” for the City of Vale.

3.9.4 PROVIDING SERVICES WITHOUT A ZONING PERMIT PROHIBITED

No utility shall provide any service to any newly constructed building or newly placed mobile home or prefabricated building within the City limits of the City of Vale until such utility has been furnished with a copy of the zoning permit which has been issued for such newly constructed building.

3.9.5 ISSUANCE OF COPIES

When a zoning permit is issued pursuant to the City Zoning Title, the issuer shall furnish to the successful applicant copies in an amount sufficient for said applicant to provide the utility with a copy.

3.9.6 PROCEDURE ON VIOLATION

The procedure on violation of this Chapter shall be that procedure set out in the City Zoning Title, said remedies shall not exclude any other remedies herein or otherwise provided.

3.9.7 PENALTIES

Each violation of this Chapter shall be punishable as provided in ORS Chapter 227 and the City of Vale Zoning Title. *(Ord. 636, 7-13-82)*

Chapter 10

FLOOD DAMAGE PREVENTION

Sections

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3.10.17 EMERGENCY: **133**

3.10.1 STATEMENT OF PURPOSE

It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

3.10.2 DEFINITIONS

Unless specifically defined below, the words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

AREA OF SHALLOW FLOODING: A designated AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet (1' to 3'); a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one percent (1 %) or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD: The flood having a one percent (1 %) chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

FLOOD or FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland or tidal waters; and/or

(B) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community .

FLOOD INSURANCE STUDY: The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Chapter found at Section 3.10.14(a)2.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers. travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK or SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION: Structures for which the "start of construction" commenced on or after the effective date of this Chapter.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE: A walled and roofed building including a gas or liquid storage tank that is principally above the ground.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

(A) Before the improvement or repair is started, or

(B) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(A) Any project for improvement of a structure to comply with existing State or local health. sanitary or safety code specifications which are solely necessary to assure safe living conditions, or

(B) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE: A grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

3.10.3 LANDS TO WHICH THIS CHAPTER APPLIES

This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City.

3.10.4 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a specific and engineering report entitled "The Flood Insurance Study for the City of Vale", effective September, 1987, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study is on file at City Hall, 252 B Street West, Vale, Oregon.

3.10.5 ABROGATION AND GREATER RESTRICTIONS

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.10.6 INTERPRETATION

In the interpretation and application of this Chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and,

(C) Deemed neither to limit nor repeal any other powers granted under State statutes.

3.10.7 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

3.10.8 ESTABLISHMENT OF DEVELOPMENT PERMIT

(A) *Development Permit Required:* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.10.4. The permit shall be for all structures, including manufactured homes, as set forth in Section 3.10.2, and for all development including fill and other activities, as set forth in Section 3.10.2.

(B) *Application for Development Permit:* Application for a development permit shall be made on forms furnished by the City Manager and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. *(Ord. 832, 3-11-2003)*

3.10.9 DESIGNATION OF THE PLANNING COMMISSION

The Planning Commission is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.

3.10.10 DUTIES AND RESPONSIBILITIES OF THE PLANNING COMMISSION

Duties of the Planning Commission shall include, but not be limited to:

(A) *Permit Review:*

(1) Review all development permits to determine that the permit requirements of this Chapter have been satisfied.

(2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 3.10.15(A) are met.

(B) *Use of Other Flood Base Data:* When base flood elevation data has not been provided in accordance with Section 3.10.4, *Basis for Establishing the Areas of Special Flood Hazard,* the Planning Commission obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 3.10.14, *Specific Standards*, and 3.10.15, *Floodways.*

(C) *Information to be Obtained and Maintained:*

(1) Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 3.10.10(B), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures, verify and record the actual elevation (in relation to mean sea level).

(3) Maintain for public inspection all records pertaining to the provisions of this Chapter.

(D) *Alteration of Watercourses:*

(1) Notify adjacent communities and the Oregon Division of Lands prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(E) *Interpretation of FIRM Boundaries:* Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

3.10.11 VARIANCE PROCEDURE

(A) The City Council shall hear and decide requests for variances from the requirements of this Chapter.

(B) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(C) Upon consideration of the factors of subsection (B) and the purposes of this Chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

(D) The City Manager shall maintain the records of all actions and report any variances to the Federal Insurance Administration upon request. *(Ord. 832, 3-11-2003)*

3.10.12 CONDITIONS FOR VARIANCES

(A) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection 3.10.11(B), or conflict with existing local laws or ordinances.

(B) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood evaluation and that the cost of flood insurance will commensurate with the increased risk resulting from the reduced lowest floor elevation.

3.10.13 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

In all areas of special flood hazards, the following standards are required:

(A) *Anchoring:*

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Area" guidebook for additional techniques).

(B) *Construction Materials and Methods:*

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) *Utilities:*

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New or replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood water; and,

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D) *Subdivision Proposals:*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Where base flood elevation data has not been provided or it is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).

(E) *Review of Building Permits:* Where evaluation data is not available either through the Flood Insurance Study or from another authoritative source (subsection 3.10.10(B), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') above grade in these zones may result in higher insurance rates.

3.10.14 SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.10.4, Basis for Establishing the Areas of Special Flood Hazard, or subsection 3.10.10(B), Use of Other Base Flood Data, the following provisions are required:

(A) *Residential Construction:*

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(a) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot (1') above grade.

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(B) *Nonresidential Construction:* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) Be certified by a registered professional engineer or architect that the designs and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on and/or review of the structural design, specifications and plans.

(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space 3.10.14(A)2.

(5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot (1') below that level).

(C) *Manufactured Homes:* All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 3.10.13(A)2.

3.10.15 FLOODWAYS

Located within areas of special flood hazard established in Section 3.10.4 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If subsection (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 3.10.13 to 3.10.15.

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

3.10.17 EMERGENCY:

The City Council declares that an emergency exists requiring that this Chapter be effective immediately in order to comply with the requirements of the Federal Emergency Management Agency. *(Ord. 687, 9-8-87)*

Title IV

HEALTH AND SANITATION

Chapters

1 ***[Repealed by Ord. 607, 11-7-78]*** **138**

2 UTILITY SYSTEM **139**

2A CONTRIBUTIONS TO WASTEWATER AND SEWAGE TREATMENT SYSTEM **150**

2B ***[Repealed by Ord. 776, 8-12-97, eff. 9-12-97]*** **160**

3 ***[Repealed by Ord. 586, 4-26-77]*** **161**

4 ***[Repealed by Ord. 586, 4-26-77]*** **162**

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6 ***[Repealed by Ord. 776, 8-12-97, eff. 9-12-97]*** **171**

7 ***[Repealed by Ord. 776, 8-12-97, eff. 9-12-97]*** **172**

8 ***[Repealed by Ord. 776, 8-12-97, eff. 9-12-97]*** **173**

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 Pit, 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 POlW 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 wilfully 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]

Title V

BUSINESS REGULATIONS

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1 ***[Repealed by Ord. 720, 8-10-93]*** **179**

2 ***[Repealed by Ord. 580, 12-14-76, eff. 1-1-77]*** **180**

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4 ***[Repealed by Ord. 700, 4-11-89]*** **182**

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HISTORY:

CHAPTER 1 *(Ord. 580, 12-14-76, last amended by Ord. 686, 6-9-87)* promulgated fees for "amusement devices." CHAPTER 2 was an earlier regulation of amusement devices repealed by Ord. 580 *(12-14-76,*

eff. 1-1-77). CHAPTER 4 *(Ord. 429, 12-6-56)* was the original "Green River Ordinance" which declared peddling and solicitation unlawful; when it was repealed, the replacement ordinance regulating peddling and solicitation became CHAPTER 14. CHAPTER 12 incorporates the City's Cable Franchise Agreement with Chambers Cable, and replaced the original CATV Ordinance upon the expiration of the original cable franchise agreement.

Chapter 1

[Repealed by Ord. 720, 8-10-93]

Chapter 2

[Repealed by Ord. 580, 12-14-76, eff. 1-1-77]

Chapter 3

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

Chapter 4

[Repealed by Ord. 700, 4-11-89]

Chapter 5

MOBILE HOMES AND TRAILERS

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5.5.1 DEFINITIONS

Definitions as used *[sic]* in this Chapter, the following words shall have the meaning as follows:

Person: The word "person" shall include individuals, co-partnerships, corporations, owners, partners, leasees *[sic]*, licensees and their agents.

Trailer: The word "trailer" shall include trailer coaches or any vehicle used for sleeping or living quarters but which is not equipped with running water, bath facilities, flush toilets and necessary sanitary conditions.

Mobile Homes: "Mobile Homes" shall be determined to be a unit similar to a trailer or any vehicles used for sleeping or living quarters which is equipped with running water, bath facilities, flush toilets, with City water and sanitary connections.

Individual Mobile Homes: "Individual Mobile Home" is *[sic]* any mobile home which is the only one (1) on a lot or parcel of land at least two thousand three hundred and fifty square feet (2350 sq.ft.) in area.

Permittee: "Permittee" is any person receiving a permit to conduct, operate or maintain mobile home park or individual mobile home as the case may be.

Mobile home park: "Mobile Home Park" is any privately owned land within the City upon which two (2)or more mobile homes or trailers are situated and are intended to be used and occupied as sleeping or living quarters, upon which there shall be installed proper facilities for toilet and sanitary uses for persons occupying trailers thereon. *(Ord 434, 4-7-60)*

5.5.2 TRAILERS PROHIBITED

No person shall use, maintain or operate a trailer as defined in Section 5.5.1, except in an approved mobile home park, or in accordance with the provisions of Article VII, Chapter Three, Recreational Vehicle Parking.

A single-wide mobile home may be permitted to be sited on an individual residential lot as a conditional use pursuant to Section 8.2.2 of Title VIII (Zoning), subject to the standards set forth in Section 8.9.6 of Title VIII and the requirements of this Chapter. *(Ord. 778, 8-26-97, eff. 9-26-97; amended by 799, 6-8-99)*

5.5.3 PLANNING COMMISSION RESPONSIBILITY

(A) It shall be the duty of the Planning Commission to enforce the provisions of this Chapter and any amendments thereto, and for the purpose of such enforcement the City Manager or his designee shall have the right to enter upon any premises on which any mobile home or trailer may be located or about to be located, or upon the premises where any mobile home park is located, or proposed to be located, and inspect the same and the sanitary condition thereof, at any time.

(B) The Planning Commission is further empowered to issue orders granting, renewing, or revoking such permits or licenses as provided for pursuant to this Chapter and are empowered to formulate from time to time such reasonable rules and regulations as the Commission may deem proper relating to the operation of mobile home parks, which rules and regulations must be approved by resolution regularly adopted by the City Council. *(Ord. 778, 8-26-97, eff. 9-26-97, amended by Ord. 832, 3-11-2003)*

5.5.4 PERMIT REQUIRED

(A) No person shall establish, maintain or operate a mobile home park, or establish or operate a single-wide mobile home without first having obtained a permit therefor.

(B) Permits issued pursuant to this Section shall be for a term of one (1) year from the date of issuance, and shall be renewable annually, subject to the terms of this Chapter, unless revoke.

(C) The permit required by the City shall be in addition to, not in lieu of, any permits which may be required by the state or county for the above activity. *(Ord. 778, 8-26-97, eff. 9-26-97)*

5.5.5 APPLICATION FOR PERMIT

The application for a permit hereunder shall be made to the City Manager in writing on forms provided by the City for that purpose. The application shall contain the name and address of the applicant and if the applicant be a lessee, licensee, or other than the owner of the premises and the operator of the mobile home park, shall contain the name and address of the owner thereof. The application shall be signed by the applicant, and if the applicant is other than the owner of the premises, shall also be signed by the owner thereof.

The applicant for any mobile home park permit shall submit with any application a certificate from the County Health Officer showing compliance with all requirements under the health and sanitation laws of the state for operation of a business of this character, plus an application fee of fifty dollars ($50.00). The application fee is subject to revision by resolution of the City Council.

Renewal of an already-granted permit shall not require an application fee. *(Ord. 778, 8-26-97, eff. 9-26-97, amended by Ord. 832, 3-11-2003)*

5.5.6 PERMIT FEES

The annual fee for permit for individual mobile homes or mobile home park shall be payable annually to the City as follows:

(A) Single-wide mobile home on individual lot	$5.00
(B) Mobile home park:	
Not to exceed ten (10) units	5.00
11 to 15 units	10.00
16 to 20 units	15.00
21 to 25 units	20.00
26 to 30 units	25.00
31 to 35 units	30.00
in excess of 35 units	35.00

The above fees are subject to revision by resolution of the City Council. *(Ord. 778, 8-26-97, eff. 9-26-97)*

5.5.7 REVOCATION AND SUSPENSION

Any permit granted hereunder may be revoked or suspended by the City Council for violation of any provision of this Chapter or for failure to comply with health and sanitation rules of the State of Oregon. *(Ord. 778, 8-26-97, eff. 9-26-97)*

5.5.8 HEARINGS

(A) The Planning Commission may call a public hearing regarding any application for a permit hereunder,

(1) if in their judgement, the circumstances require such action, or

(2) if requested in writing by the applicant for a permit.

(B) Hearings by the Planning Commission pursuant to this Chapter shall require the same notice as hearings by the Planning Commission on variance applications pursuant to Sec. 8.10.3 of Title VIII (Zoning).

(C) Any hearing by the Planning Commission pursuant to this Chapter shall not eliminate the requirement of additional hearings or actions by the Planning Commission, if required pursuant to Title VIII (Zoning) or Title IX (Subdivision) of the City Code. *(Ord. 778, 8-26-97, eff. 9-26-97)*

5.5.9 APPEALS

An action or ruling of the Planning Commission authorized by this Chapter may be appealed to the City Council within fifteen (15) days after the Commission has rendered its decision by filing written notice with the City Manager. If no appeal is made within the fifteen (15) day period, the decision of the Planning Commission shall be final. If an appeal is filed, the City Council shall receive a report and recommendation from the Planning Commission and shall hold a public hearing on the appeal. Notice of the public hearing shall be by one (1) publication in the official City newspaper not less than eight (8) days prior to the date of the hearing. In the case of an appeal, the decision of the City Council shall be final. *(Ord. 778, 8-26-97, eff. 9-26-97, amended by Ord. 832, 3-11-2003)*

Chapter 6

WRECKING YARDS

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5.6.1 WRECKING YARD DEFINED

Any place where more than one motor vehicle is kept for the purpose of being wrecked, dismantled, permanently disassembled or substantially altered in form, is hereby declared to come within the meaning of the term ”Wrecking Yard”.

5.6.2 ENCLOSURE REQUIRED

It shall be unlawful to operate within the City, a business commonly known as a Wrecking Yard or any place where old, used, or obsolete motor vehicles are wrecked, dismantled, permanently disassembled, or substantially altered in form, unless the operator thereof shall keep the motor vehicles and the bodies, chassis, and other parts thereof completely [sic] within a building used for that purpose, provided, however, that the vehicles or bodies, chassis or other parts thereof may be kept in the open if the owner or operator of the wrecking yard shall completely enclose the premises on which the same are kept with a solid board fence not less than seven feet (7’) In height.

5.6.3 FENCES TO BE KEPT IN GOOD REPAIR

All fences used to enclose wrecking yards within the City must be kept in good and proper state of repair and be kept so painted as to avoid all unsightly appearances. *(Ord. 191, 7-24-39)*

Chapter 7

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

Chapter 8

FOR HIRE VEHICLES

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5.8.1 LICENSE REQUIRED

Every person who shall hereafter operate and manage or cause to be operated and managed within the Corporate Limits, the common carrying of property, shall pay to the Treasurer an annual license fee of thirty dollars ($30.00) for each vehicle so operated or caused to be operated by such person.

5.8.2 LICENSE FEE

The license fee shall be payable in twelve (12) equal monthly installments of two dollars and fifty cent *[sic]* ($2.50) which installments shall be payable on or before the tenth day of each month.

5.8.3 MISDEMEANOR DECLARED

Every person who shall hereafter operate and manage, or cause to be operated and managed within the Corporate Limits for the common carrying of property without first having paid the license fee above stated, for the month then current, shall be deemed guilty of a misdemeanor. *(Ord. 183; 11-18-38)*

Chapter 9

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

Chapter 10

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

Chapter 11

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

Chapter 12

CABLE COMMUNICATIONS FRANCHISE

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5.12.1 PURPOSE

(A) *Repeal and Replacement of Ordinance.* Chapter 12 of Title V of the Vale City Code, entitled "CATV System", enacted September 26, 1978 as Ordinance Number 602, is hereby repealed and replaced with the provisions of this Ordinance, which shall be entitled "Cable Communications Franchise."

(B) *Grant of Non-Exclusive Cable Franchise.* A non-exclusive franchise is hereby granted Chambers Cable of Oregon, Inc., hereinafter referred to as "Grantee", to install, construct, operate, and maintain, a cable communications system within the public streets, ways, alleys, public utility easements, and places of the City of Vale, hereinafter referred to as "Grantor". This franchise shall constitute both a right and an obligation to provide the service of a cable communications system as required by the provisions of this ordinance. The City reserves the right to grant a franchise with similar terms and conditions for the use of said streets, alleys, public ways, and places to any person, firm and corporation at any time during the period.

5.12.2 DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not directory.

a. "City": The City above named, a municipal corporation of the State of Oregon, in its present incorporated form or in any other reorganized, consolidated changed forms.

b. "Council": The present governing body of the City or any future body constituting the legislative body of the City.

c. "Grantee": The person, firm or corporation to whom or to which a franchise under this ordinance is granted by the Council, and the lawful successor or assignee of said person, firm or corporation.

d. "Street": The surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway drive or other public property, hereafter existing as such within the City.

e. "Cable Communications System" or "System": means a system of antennas, cable, amplifiers, towers, microwave links, waveguides, laser beams, satellites, earth stations, or any other conductors, converters, equipment, or facilities, designed and constructed for the purpose of producing, receiving, amplifying, storing, processing or distributing audio, video, digital, or other forms of electronic or electrical signals.

f. "Converter": means an electronic device, which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and increases the number of channels the subscriber may select.

g. "Gross Annual Revenues": means any and all compensation in whatever form, grant, subsidy, exchange, or otherwise, directly or indirectly received by Grantee, including advertising revenue, except of the standard initial installation charge with the exception of all bad debts.

h. "Pay Television": means television signals for which the Grantee pays a fee or charge other than statutory copyright fees, on a per program, per channel, per subscriber, or similar basis, and which are offered individually to subscribers on a similar additional cost basis over an above the charge for basic service.

i. "Rate Schedule": means the charge of subscriber service.

j. "Standard Installation Charge": means the cost to the subscriber for connection to the Cable Communications System in the amount specified in the current rate schedule.

k. "Subscriber": means any person, firm, corporation, or other entity receiving electronic signals by means of the Grantee's Cable Communications System.

5.12.3 GRANTEE RULES

The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligations under this franchise and to assure uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof, the rules of the Federal Communications Commission or the laws of the State of Oregon. Examples of all rules, regulations, terms and conditions, including subscriber agreements, shall be kept current on file with the City Manager. *(Ord. 832, 3-11-2003)*

5.12.4 COMPLIANCE WITH CONSTRUCTION AND TECHNICAL STANDARDS

Grantee shall construct, install, operate and maintain its System in a manner consistent with applicable local construction standards, governmental requirements, FCC technical standards, and detailed standards submitted by Grantee and approved by the City Council. In addition, Grantee shall provide the City, upon the City's request, with a written report of the results of Grantee's annual proof of performance tests conducted pursuant to FCC standards and requirements.

The Grantee shall perform all work and construction herein authorized in a workmanlike manner and shall conform to all requirements of the National Electrical Code and the laws of the State of Oregon, and Ordinances of the City of Vale.

5.12.5 USE OF PUBLIC WAYS

(A) *Street Openings or Obstructions.* Any opening or obstruction in or disturbance of the streets made by the Grantee in the exercise of its rights under this franchise agreement shall be done in compliance with the standard specifications of the Grantor and all other applicable federal, state and local laws, ordinances, traffic manual and regulations. No hard surface pavement shall be cut or street broken by the Grantee without first obtaining a permit from the Grantor, which requires a plan submittal and approval before installation begins.

(B) *Undergrounding and Pole Use.* The Cable Communications System cable, wires an associated equipment or facilities shall be placed underground in areas of the franchise territory where telephone and electric utility lines are underground. At no time shall the cable system be the only aerial facility. Undergrounding of Grantee's equipment and facilities shall be done in compliance with code provisions of the Grantor, and in cooperation with the telephone company and electric utility board operating in the area. In all matters relating to undergrounding, Grantor shall not discriminate against Grantee with respect to any requirements imposed or benefits to telephone or electric utilities required by state law. Arrangements shall be made by the Grantee with the telephone company or utility board for the use of existing poles in areas where the utilities are above ground, and no poles shall be erected by the Grantee without prior approval of the Grantor. Before placing equipment or facilities underground, or above ground, it shall be the responsibility of Grantee to determine whether necessary easements exist, and except as otherwise provided in this ordinance, to secure easements, if needed, and to show said easements on each plan submitted for proposed construction.

(C) *Restoration and Repair of Streets.* Whenever the Grantee disturbs any of the streets, it shall restore them as soon as practicable, to good order and condition, as they were at the time of the disturbance using the kind and quality of material with which the street was improved prior to the disturbance, and making the repair or restoration under the direction, and inspection, and to the satisfaction of the Grantor. The Grantor shall have the right to fix a reasonable time within which such restoration and repair of streets shall be completed, and upon failure of Grantee to make the restoration and repair within the allotted time, the Grantor may cause such restoration and repair to be made at the expense of Grantee.

(D) *Grantor's Use of Streets.* Nothing in this franchise shall be construed in any way to prevent the proper authorities of the Grantor from sewering, grading, planking, rocking, paving, repairing, altering or improving any of the streets, alleys, easements, avenues, thoroughfares, and public ways within the franchise territory in or upon which the poles, wires or other equipment of said Grantee shall be placed. All such work or improvements shall be done, if possible, so as not to obstruct or prevent the free use of said poles, wires, conduits, or other equipment.

(E) *Tree Trimming.* Where tree trimming is necessary on public streets for the operation of the lines, wires, scales and antennas or other appurtenances of the Grantee, the trimmings shall be done

by competent employees, agents or contractors of the Grantee after application for and granting of a written permit by the Grantor, and it shall be done without cost or expense to the Grantor.

(F) *Grantor's Use of Poles.* Grantor reserves to itself the right at any time to use the poles and other installations of Grantee erected or installed under the authority granted in this ordinance for any Grantor-owned facilities of whatsoever nature, but it is agreed that such use shall not interfere or compete with Grantee's use thereof. Grantor shall hold Grantee harmless from any and all liability which may arise as a result of its use of Grantee' poles or other installation.

(G) *Equipment Maintenance.* Grantee shall, at all times, keep and maintain all of its poles, fixtures, conduits, wires, and its entire System in a good state of repair and shall indemnify and save harmless the Grantor of and from any and all damages of any kind or character growing out of or arising by reason of Grantee's failure to so maintain the Cable Communications System in the franchise territory.

(H) *Temporary Removal of Facilities:*

(1) Grantee shall, at its expense, protect, support, temporarily disconnect or relocate any of its equipment when required to do so by Grantor by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks, or any other type of structures or improvements by the Grantor.

(2) Grantee shall, within seven (7) days' written request of any person holding an appropriate permit issued by the Grantor, temporarily raise or lower its lines or other equipment to permit the moving of any building or other structure, machinery, or object, and the actual expense of the same shall be paid by the person making the request. The person making the request will indemnify and save harmless said Grantee of any and all damages or claims of whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the equipment of the Grantee, and if required by Grantee, shall provide a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by Grantee.

(3) All installations, rearrangements, removals, lowering or raising of aerial cables or wiring or other apparatus shall be done in conformance with the requirements of the National Electric Safety Code, and the laws of the State of Oregon and the ordinances of the Grantor.

(I) *Maps and Records.* The Grantee shall file with the Grantor a System "as built" map drawn to accurate scale, and shall amend the map annually or as often as necessary to keep the Grantor informed as to the location of all facilities installed in the franchise territory. The map shall clearly indicate location of trunks, distribution of lines, and amplifiers within the public rights of way.

(J) *Emergency Removal of Facilities.* If, at any time, in case of fire or disaster in the franchise territory, it shall become necessary in the reasonable judgment of the Grantor to cut or move any of the wires, cables, amplifiers, or their appurtenance to the system of the Grantee such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense, provided that such repairs are not necessitated by a negligent act of the Grantor, in which case costs for repairs shall be borne by the Grantor.

(K) *Alternate Routing of Facilities.* In the event continued use of a street is denied to the Grantee by the Grantor for any reason, the Grantee shall provide service to affected subscribers over such alternate routes as shall be determined by Grantees within a reasonable period of time. Grantee shall be afforded the opportunity to recover the extraordinary costs incurred by such event from users served by such alternate routing.

(L) *Common Trench Coordination.* The Grantor shall coordinate with other utility providers, subdividers, and the Grantee to enhance and encourage the usage of common trenching whenever feasible. The Grantor shall notify the Grantee at time of preliminary plat filing for intended subdivisions.

5.12.6 EXTENSION OF SERVICE

(A) *Service Availability and Request Record.* The Grantee shall provide cable communications service throughout the franchise territory pursuant to the provisions of this section and shall keep a record for at least three years of all requests for service received by the Grantee. This record shall be available for inspection by the City Manager or his designee at the local office of the Grantee during regular office hours, providing reasonable notice is given prior to such inspection.

(B) *Plan for Extension and Reconstruction of the Cable System.*

(1) In areas within the Urban Growth Boundary (UGB), but outside the corporate limits of Vale, where a joint management agreement exists between the City of Vale and the County of Malheur, the Grantee shall provide the Grantor plans for extension of service to those areas. To an extent possible, the Grantee shall coordinate construction in a manner consistent with the City's Comprehensive Plan for development of those areas.

(2) Additional Extension of System. Extension of the system into any areas not specifically mentioned herein shall be made under the following terms and conditions: In areas not meeting the requirements for mandatory extension service, Grantee shall provide, upon request of five or more potential subscribers desiring service, an estimate of costs required to extend service to said subscribers, and the amount by which said costs exceed what would be the cost of mandatory extension under this section. Grantee shall extend service to any such dwelling units upon advance payment (or assurance of payment satisfactory to the Grantee) of the additional cost. Such payments shall be nonrefundable, and in the event the areas subsequently reaches the density required for mandatory extension, such payments shall be treated in full or in part as consideration for early extension of service.

(C) *Service to Individual Subscribers from Existing System.* After initial installation, where a subscriber can be served from the Grantee's existing System, without extension of trunk or distribution cable, the Grantee shall serve the potential subscriber upon request on the following terms and conditions:

(1) The dwelling unit shall be connected to cable at the standard installation charge if the connection can be made with an aerial drop and does not exceed 150 feet.

(2) If the aerial connection drop exceeds 150 feet, the potential subscriber may be charged the actual cost for the distance exceeding 150 feet plus standard installation charge, and Grantee may request advance payment for such installation.

(3) After the initial installation, if the requested installation is to be placed underground, the potential subscriber must pay for or furnish an open trench, as specified by the Grantee, backfilling and restoring to original conditions and Grantee may request advance payment for such work.

(4) The potential subscriber shall arrange for all necessary easements over or under private property.

(D) *Underground Extension of System:*

(1) Installation of System. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give Grantee reasonable notice of such construction or development, including a copy of any final plat, and of the particular date on which open trenching will be available for Grantee's installation of conduit, pedestals, and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching.

(2) Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and lateral within two (2) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the two-day period, the cost of new trenching is to be borne by Grantee.

(3) Activation of Service. Grantee shall promptly provide service upon request at the standard installation rate where the potential subscriber can be served by extension of distribution cable past occupied dwelling units equivalent to a density of ten (10) dwelling units per quarter mile of cable contiguous to the already-activated system. Such density shall be computed on the basis of dwelling units which can be served on either side of the cable.

(E) *Aerial Extension of System.* In any area where utility lines are permitted above ground, Grantee shall extend its System and provide service upon request as provided herein, where the potential subscriber can be served by extension of distribution cable past occupied dwelling units equivalent to a density of ten (10) dwelling units per quarter mile of cable contiguous to the activated System. Such density shall be computed on the basis of dwelling units which can be served on either side of the cable. *(Ord. 832, 3-11-2003)*

5.12.7 FRANCHISE FEE

As compensation for the permit granted herein and in consideration of permission to use the streets and public ways of the Grantor in the franchise territory, the Grantee shall pay to the City quarterly and within sixty (60) days after the end of each period for which this franchise is granted, an amount equal to 5% of gross annual revenues as defined in Section 5.12.2.

5.12.8 RATES FOR INSTALLATION AND SERVICES

(A) *Schedule of Rates.* Grantee shall keep on file with the City Manager a current schedule of subscriber rates and charges.

(B) *Prohibition of Discriminatory or Preferential Practices.* The Grantee shall not, in its rates or charges, or in making available the services or facilities of its System, or in its rules or regulations, or in any other respect, make or grant discriminatory preference or advantages to any subscriber or potential subscriber to the System, or to any user or potential user of the System; and shall not subject any such persons to any prejudice or disadvantage; provided nothing herein shall prevent Grantee from establishing different rates for uniform classes of subscribers or reducing rates.

(C) *Disconnections, Failure to Pay.* If a subscriber has failed to pay a properly due monthly subscriber fee within 15 days after the due date of the fee, Grantee may cause disconnection of the subscriber's cable installation after ten (10) days prior written notice; however, upon payment in full of the delinquent monthly subscriber fee, and the reconnection charge, the Grantee shall promptly reinstate the subscriber's service.

(D) *Subscriber Refunds.* If any subscriber terminates, for personal reasons, any monthly service prior to the end of a prepaid period, a proportional amount of any prepaid monthly service fee, corresponding to the number of days remaining in the prepaid period, shall be refunded to the subscriber by the Grantee if the amount equals $5.00 or more.

(E) *Service to Institutions.* Upon request, the Grantee shall make single installations of its Cable Communication System facilities to each fire and police station, public school, City Hall, and all public libraries within the franchise territory of this Ordinance except no standard installation fee shall be imposed for such installations. No monthly service charge shall be made for distribution of the basic service to these locations. At such time as service available, Grantee shall provide one service drop to the water treatment plant. The installation shall be at no cost and the monthly fee shall be at the then current rate. *(Ord. 832, 3-11-2003)*

5.12.9 RATE CHANGE PROCEDURES

Should Federal or other legislation empower the Grantor rate review authority, the following procedures may be used, in accordance with such legislation.

(A) The Grantor is empowered to review and pass upon requests by the Grantee to change its rates for basic services when such changes exceed 4% within any twelve (12) month period of time.

(B) Requests for rate changes in excess of 4% shall be in writing and shall be supported by financial data conforming to a reporting format approved by and filed with the Grantor. Such requests must then be considered by the Grantor within thirty (30) days of the receipt of such request, or such request shall be considered approved and may be put into effect immediately.

(C) In the event the Grantor elects to review a requested rate change in excess of 4%, the Grantor may conduct such public hearings as are necessary and appropriate to the issues, but shall confine testimony in such hearings to the issue of rate change.

(D) Rate changes not subject to review by the Grantor will be submitted to the City Manager by the Grantee as provided in Section 5.12.8. Such submission shall be thirty (30) days prior to the effective date of such changes. *(Ord. 832, 3-11-2003)*

5.12.10 COMPANY LIABILITY AND INDEMNIFICATION

(A) *Public Liability Insurance.* Grantee shall indemnify and save the Grantor free and harmless from any and all liability, loss, cost, damage or expense from accident or damage, either to itself or to persons or property of others which may occur by reason of the exercise of the rights and privileges herein granted; and shall, for the purpose of carrying out the provisions of this section, and prior to commencing construction of any kind, have in full force and effect, and file evidence thereof with the Grantor, a good and sufficient policy (or policies) covering $500,000.00 personal injury each person, $1,000,000.00 personal injury each occurrence, $300,000.00 property damage each person, and $500,000.00 property damage each occurrence with the policy (or policies) to be executed by an insurance company (or companies) authorized and qualified to do business in the State of Oregon, and conditioned to indemnify and save harmless the Grantor from and against any and all claims, actions, suits, liabilities, loss, cost, expense or damage of any kind or description which may accrue to or be suffered by the Grantor or by anyone by reason of the erection, construction, reconstruction, relocation, replacing, readjustment, repair, maintenance or operation of the coaxial cable and appurtenances thereto, or by reason of anything that has been done or may be done by the Grantee hereunder which may in any way cause liability by reason thereof.

(B) *Reimbursement of Costs.* The Grantee shall pay all expenses incurred by the Grantor in defending itself with regard to all damages an penalties mentioned in subsection (1) above. These expenses shall include all out-of-pocket expenses, such as consultants or attorney fees.

(C) *Notice of Cancellation or Reduction in Coverage.* The insurance policies mentioned above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the Grantee under the terms of this ordinance and shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the City of Vale by registered mail of a written notice of such intent to cancel or reduce the coverage.

(D) *Evidence of Insurance Filed with Grantor.* Grantee shall provide to grantor evidence of its insurance coverage in compliance with this Section 5.12.10 before the franchise term begins and within 30 days before any modification or cancellation of such insurance.

5.12.11 RESPONSIBILITIES TO PUBLIC

The Cable Communications System shall be installed and maintained in accordance with the highest and best standards of the industry to the end that subscribers shall receive the best service possible. To this end Grantee shall:

(A) Supply to the City, upon the City's request, a copy of each report of technical compliance it prepared in conformance with orders of the Federal Communications Commission. Upon request by City, Grantee shall supply a qualified electronic technician who is satisfactory to City to test the performance of Grantees' technical facility. If the electronic technician selected is not employee of Grantee, then the Grantee and City shall share equally in the costs incurred.

(B) Limit System failures to minimum time duration by locating and correcting malfunctions promptly, but in no event longer than twenty-four (24) hours after occurrence, irrespective of holidays or other non-business hours. In the event of service interruption of a duration longer than twenty-four (24) hours, the Grantee shall notify the Grantor on the next business day of the reason for the failure and its expected duration.

(C) Render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible; such interruptions in so far as possible shall be preceded by notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of the system.

(D) Maintain test equipment for routine and performance tests.

(E) Any damage caused to the property of building owners or users or any other person, by the Grantee shall be repaired fully and promptly by the Grantee.

(F) Upon termination of Service to any subscriber, the Grantee shall remove promptly all its above ground external facilities and equipment from the premises of the subscriber at the owner's written request.

(G) Grantee shall maintain an office in the City of Ontario, which shall be open during all the usual business hours with its telephone listed in directories of the telephone company serving the franchise territory, and be so operated that complaints and requests for repairs or adjustments may be received at any time, day or night, seven days a week. The phone number and address of this office shall be furnished to each subscriber by the Grantee. Original records including service records pertaining to complaints received by the Grantee, and of the office procedures followed to satisfy those complaints, shall be maintained by the Grantee for a period of not less than three years and made available for inspection by the City Manager on reasonable notice to the Grantee.

5.12.12 COMPLAINT RESOLUTION POLICY

The Grantee shall make every effort to satisfactorily resolve all customer complaints. Should a resolution not be made, the complainant shall have the ability to file a written complaint with the City Manager. The City Manager shall review all available facts and issue a finding within ten (10) days of receipt of the written complaint. If the complainants or the Grantee feels the resolution is unsatisfactory, the complainant or the Grantee may, within ten (10) days of written notice by the City Manager, file an appeal for review by the City Council. Such review shall be held at the next regular City Council meeting. The decision of the City Council shall be considered as final. Grantee shall make the complaint resolution policy readily available to the public. *(Ord. 832, 3-11-2003)*

5.12.13 PROGRAMMING

At least thirty (30) calendar days prior to any change in programming, the Grantee shall provide notice to the Grantor of these changes, including reasons for the change. A lesser notification period will be accepted if the change was due to circumstances beyond the control of Grantee or circumstances were such that earlier notification was not possible. Grantee shall document reasons for lesser notification period to the Grantor.

5.12.14 DURATION OF CONDITIONS FOR ACCEPTANCE OF FRANCHISE

The franchise and all rights and privileges and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of fifteen years, provided that, within 30 days after the date of passage of this ordinance, the Grantee shall file with the City Manager, in writing, duly executed by the proper officials, the following documents. *(Ord. 832, 3-11-2003)*

5.12.15 LIMITATIONS OF FRANCHISE

This franchise shall be a privilege to be held in personal trust by the original Grantee. It cannot, in any event, be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or involuntary sale. Merger, consolidation or otherwise, without consent of the Council. Such sale, transfer, lease, assignment, disposition of all or any part, either by forced or involuntary sale, merger, consolidation or otherwise of this franchise shall not be unreasonably withheld by the Grantor.

5.12.16 SEPARABILITY

If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof.

5.12.17 MISCELLANEOUS PROVISIONS

(A) Time is the essence of this franchise. The Grantee shall not be relieved of its obligations to comply promptly with any of the provisions of this ordinance or by failure to the City to enforce prompt compliance.

(B) The Grantee shall have no recourse against the City for any loss, cost, expenses or damage arising out of any provisions or requirements of this ordinance or its enforcement.

(C) The Grantee shall not repair, maintain, sell or recommend any television or radio equipment or recommend radio and television repairmen. Any repair work done to subscriber sets shall be performed by repairmen other than employees, directly or indirectly, employed by the Grantee.

(D) Theft of Service. The Grantee will adopt ordinance language that will provide Grantor private right of action allowing civil action, including recovery of attorney fees for theft of service.

5.12.18 TERM OF FRANCHISE

The term of this franchise shall be for a period of fifteen (15) years commencing September 26, 1998, and continuing to September 25, 2013. *(Ord. 791, 10-13-98)*

Chapter 13

PERMITS IN GENERAL

Sections

5.13.1 GENERAL CONDITIONS AFFECTING THE GRANTING OF PERMITS 202
5.13.2 GARAGE SALES 202
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5.13.1 GENERAL CONDITIONS AFFECTING THE GRANTING OF PERMITS

(A) *Granting Permit:* The granting or refusal to grant a permit shall rest exclusively with the City Manager or his designated employees of the City.

(B) *Appeal:* Anyone aggrieved by the issuance or refusal to issue a permit may submit his appeal to the City Council and the decision of the Council shall be final.

(C) *Waiver of Permit Requirements:* Any of the requirements and limitations of this Ordinance may be waived by motion of the City Council upon written application by the person desiring such waiver, giving the reason for requesting such waiver.

(D) *Penalty:* Any violation of this Ordinance shall subject such violator to a fine not to exceed two hundred fifty dollars ($250.00) and revocation of such person's permit.

(E) *Severability:* The provisions of this Ordinance are severable. If a section, sentence, clause or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance. *(Ord. 605, 10-10-78, amended by Ord. 832, 3-11-2003)*

5.13.2 GARAGE SALES

(A) *Definition:* Garage sale shall mean and include all general sales open to the public for the purpose of disposing of personal property including, but not limited to, all sales entitled "Garage", "Lawn", "Yard", "Attic", "Porch", "Room", "Back Yard", or "Patio" sale. This definition shall not include a situation where no more than five (5) specific items are held out for sale and all advertisement for such sale specifically names those items to be sold. For the purpose of this definition of "Garage Sales", personal property shall mean property which is utilized, owned and maintained by an individual or by members of his or her residence and acquired in the normal course of living in or maintaining a residence.

(B) *Permit Required:* No garage sale shall be conducted unless and until the individuals desiring to conduct such sale shall obtain a permit from the Vale City Manager. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them.

(C) *Permit Fee:* An administrative fee of four dollars ($4.00) shall be assessed. This fee is subject to revision by resolution of the City Council from time to time.

(D) *Permit Conditions:*

(1) A permit shall allow for such sale not to exceed three (3) consecutive days during the daylight hours, being a total of three (3) days in a row.

(2) No more than one permit every six (6) months may be issued to one residence and/or family household.

(E) *Display and Removal of Sale Property:*

(1) No property offered for sale shall be displayed on any public right of way.

(2) Immediately following such sale, all items not sold, debris, signs and waste material shall be removed from the view of anyone using the City streets and/or sidewalks and the property restored to its original appearance.

(F) *Judicial Sales:* The provisions of this Section shall not be applicable to judicial sales conducted by the Sheriff of Malheur County or his deputies, trustees, or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor shall it apply to any business or retail store in the usual course of its business for sidewalk sales occasionally; provided, however, the terms "business" or "retail store" shall not include any business designed primarily for the sale of personal property outside of an established building or place of business. *(Ord. 686, 6-9-87; amended by Ord. 832, 3-11-2003)*

5.13.3 TRANSIENT VENDORS

(A) *Definition:* Transient vendors shall include all those offering goods for sale at one or more specific locations, who do not own or rent property in the City, whether or not they are sponsored by an established business in Vale. Transient vendors do not include participants in sidewalk sales or flea markets sponsored by local civic or business organizations.

(B) *Permit Required:* No transient vendor shall offer goods for sale in the City without first obtaining a permit from the City Manager.

(C) *Permit Fee:* For transient vendors sponsored by a business located within the City limits of the City, a fee of ten dollars ($10.00) shall be assessed. For transient vendors without a sponsor, a fee of sixty five dollars ($65.00) shall be assessed. The fees set for herein are subject to revision by resolution of the City Council from time to time.

(D) *Permit Conditions:*

(1) The permit shall be good for no more than seven (7) consecutive days.

(2) Upon expiration of the permit the property shall be restored to its pre-sale appearance and all debris, signs and waste material shall be removed from the premises upon which the sale was conducted.

(3) No property shall be displayed on any public right of way.

(4) The permit shall be posted in a conspicuous place so as to be readily seen by the public and the City police.

(E) *Bond:* Every applicant for a transient vendor's permit shall file with the City Manager a surety bond running to the City in the amount of one thousand dollars ($1,000.00) with surety acceptable to and approved by the Vale City Council, conditioned that the said applicant, if issued a permit, will fully comply with all the provisions of the ordinances of the City and the statutes of the State of Oregon, will not practice any fraud or deceit upon purchasers of personal property from him or suffer or permit any person in his employ to practice any such fraud or deceit, and will pay all damages which may be sustained by any reason of fraud, deceit, negligence or other wrongful act on the part of the permittee, his agents or employees, in the conduct of his vending. A liability insurance policy issued by an insurance company authorized to do business in the State of Oregon which conforms to the above requirements may be permitted by the City Manager, as well as posting one thousand dollars ($1,000.00) in cash with the City Manager, in his discretion, in lieu of a bond. *(Ord. 686, 6-9-87; amended by Ord. 832, 3-11-2003)*

5.13.4 BLOCKING OF STREETS

(A) *Permit Required:* No person shall block, obstruct, prevent or interrupt the travel or free passage of pedestrians and vehicular traffic without first obtaining a permit from the City Manager. Permitees hall act only under the direction and control of authorized City personnel.

(B) *Permit Conditions:* Before a permit is issued the applicant shall show that such blockage shall not be a hazard to the health, safety and welfare of the citizens of the City of Vale.

(C) *Duration of Permit:* The permit shall be issued for a reasonable length of time as determined by the City Manager.

(D) *Permit Fee:* A permit fee of twenty dollars ($20.00) shall accompany each application.

(E) *Additional Locations:* In the event that an applicant requests a permit for more than one location, an additional charge of ten dollars ($10.00) will be imposed for each additional location.

(F) *Extraordinary Expenses:* Any extraordinary expenses incurred by the City caused by the permit shall be assessed against the permitee.

(G) *Restoration of Premises:* Upon expiration of the permit, the property shall be restored to its original appearance and all debris, signs and waste material shall be removed from the premises.

(H) *Penalty:* Violation of any of the provisions of this Ordinance shall be punishable by a fine not to exceed $750, plus the reasonable and necessary expenses incurred by the City resulting from the violation including charges for labor and materials. *(Ord. 792, 12-22-1998; amended by Ord. 832, 3-11-2003)*

5.13.5 POSSESSION OF INTOXICATING LIQUOR IN CITY PARKS

(A) *Permit Required:* No person or group of persons shall possess any intoxicating liquor within any City park without first obtaining a permit from the City Manager or from the Vale Police Department.

(B) *Permit Conditions:*

(1) An application for a permit shall contain the following:

(a) The name of the person, group or organization applying for a permit;

(b) A statement of whether the person, group or organization is a natural person, partnership, corporation, or association;

(c) If the applicant is a natural person, the business or residence address and telephone number of the person;

(d) If the applicant is a partnership, the name, principal business address, and telephone number of the partnership;

(e) If the applicant is a corporation, the state of organization, mailing address, business location, and telephone number of the corporation;

(f) If the applicant is an unincorporated association or other group, the names, addresses, and telephone numbers of all group members, unless the group exceeds five (5) in number, in which case the permit application shall contain the name, address, and telephone number of a responsible party, and shall contain a description of the group membership;

(g) A statement that all federal, state and local laws and regulations pertaining to the possession and/or service of intoxicating liquor will be complied with and that all required permits will be obtained;

(h) A statement that the permittee(s) will not provide intoxicating liquor to any person under the influence of intoxicants, that no intoxicating liquor will be provided to any person not included within the terms of the permit, and that the permittee(s) will indemnify and hold the City harmless from any and all claims or damages of any kind arising out of the possession, consumption, delivery or service of intoxicating liquor by the permittee(s) or by anyone within any group, association, or organization holding the permit;

(i) A statement certifying that neither the applicant, nor, to the applicant's knowledge, anyone to be authorized to possess intoxicating liquor pursuant to the permit, has been convicted of any offense or violation involving the use of intoxicating liquor within a City park within one year preceding the date of the application.

(2) The permit shall be issued for a reasonable length of time, as determined by the City Manager or the Vale Police Department, not to exceed twelve (12) hours.

(3) The City Manager or the Vale Police Department may revoke or refuse to issue a permit if any applicant, permittee, or anyone to be authorized to possess intoxicating liquor pursuant to a permit has been convicted of any offense or violation involving the use of intoxicating liquor within a City park within a period of one year preceding the date of the application for a permit. The City shall have no obligation, however, to conduct any investigation to determine the existence of such a conviction. *(Ord. 832, 3-11-2003)*

(C) *Permit Fee:* Every permit application shall be accompanied by a non-refundable permit fee of five dollars ($5.00) to compensate the City for the cost of administering the permit program. *(Ord. 708, 6-9-92)*

Chapter 14

SOLICITATION

Sections

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5.14.1 DEFINITION

For the purposes of this Chapter the terms ”solicit” and ”solicitation” shall mean the entry onto real property used for residential purposes by a person for the purpose of communicating with an occupant of the property, whether the communication is verbal, visual or in writing.

5.14.2 PROHIBITED ACTS, PENALTIES

(A) It is unlawful for any person to:

(1) Solicit before nine o’clock (9:00) A.M. or after nine o’clock (9:00) P.M. when the local time is daylight savings time or after eight o’clock (8:00) P.M. when the local time is standard time, without the consent of the occupant to do so.

(2) Solicit without first having obtained a registration certificate pursuant to Section 5.14.7, if required by that Section.

(3) Violate the terms of a registration certificate issued pursuant to subsection 5.14.7(A).

(4) Solicit after a registration certificate has been revoked, pursuant to subsection 5.14.7(B).

(5) Allow, suffer or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this Section.

(6) Provide false or fraudulent information on a registration statement.

(7) Leave written materials upon real property where a sign conforming to the requirements of Section 5.14.9 is posted.

(8) Solicit upon real property where a sign conforming to the requirements of Section 5.14.9 is posted.

(9) Allow, suffer or permit any person to solicit on their behalf after a registration certificate has been revoked, pursuant to Section 5.14.7.

(B) Violation of any provision of this Section is punishable as provided in Section 1.4.1 of this Code.

5.14.3 CONSENT TO ENTER ONTO REAL PROPERTY, EXEMPTIONS

(A) It shall be an affirmative defense to an alleged violation of subsections 5.14.2(A)1, 5.14.2(A)7 or 5.14.2(A)8 that the person charged with the violation had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter real property may be implied from the circumstances of each instance, the relationship of the parties, and actual or implied contractual relationships.

(B) The occupant of real property shall be considered to have given constructive consent to enter real property tor the purpose of solicitation between the hours of nine o'clock (9:00) A.M. and nine o'clock (9:00) P.M., when the local time is daylight savings time or after eight o'clock (8:00) P.M. when the local time is standard time, if they have not posted a "No Solicitation" sign, pursuant to Section 5.14.9.

(C) Nothing in this Section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.

(D) Officers, employees or agents of a governmental entity while performing activities within the scope of their office, employment or agency are exempt from the requirements of this Chapter.

(E) No person may be charged with a violation of any paragraph of subsection 5.14.2(A) in connection with an act committed between four o'clock (4:00) P.M. and nine o'clock P.M. on each October 31.

5.14.4 REGISTRATION STATEMENT

(A) All persons desiring to solicit at five (5) or more dwelling units in the City during any eight (8) hour period shall file with the City Manager a registration statement, on forms provided by the City Manager containing the following information:

(1) The name of the person registering and desiring to solicit.

(2) Whether the person registering is a natural person, partnership, corporation or association and,

(a) If a natural person, the business or residence address and telephone number of the person.

(b) If a partnership, the names of all partners and the principal business address and telephone number of each partner.

(c) lf a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the local office of such corporation and the registered agent of the corporation, and the names of all officers and directors or trustees of said corporation, and, if a foreign corporation, the place of incorporation.

(d) If an association, the registration statement shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association, unless they exceed ten (10) in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multi state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.

(3) A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation from all persons of the intended purpose of the solicitation.

(4) The names, mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation and the number of persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the City or the public concerning the solicitation activities.

(5) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.

(6) A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.

(7) The names of any other cities in which the person registering has solicited within the past five (5) years, but in the event that the person registering has solicited in more than five (5) other cities, the person registering may list the five (5) cities located closest to Vale.

(8) A statement that if a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the City or any of its officers or employees.

(9) The names of any officer, director, trustee, partner, corporation or any current agent or employee engaging in the solicitation who has signed a consent decree or order in the last five (5) years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five (5) years; and the nature of the offense, or consent decree or order, the State where the conviction, or consent decree or order occurred, and the year of such conviction, or consent decree or order.

(10) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.

(11) The registration statement must be signed by the applicant, if the person registering is an individual; if the person registering is a partnership, by a partner; if a person registering is a corporation or an association, by an officer. The individual signing the registration statement shall sign the statement and swear or affirm before an Oregon notary that he has carefully read the registration statement and that all the information contained therein is true and correct.

(B) The registration statement and information submitted with the registration statement are public records available for public inspection during normal City business hours. *(Ord. 832, 3-11-2003)*

5.14.5 REGISTRATION FEE

With the exception of a registration statement submitted by persons or organizations exempted by Section 5.14.6, every registration statement shall be accompanied by a registration fee of fifteen dollars ($15.00) to compensate the City for the cost of administering this registration program, and such fee will not be refunded if a certificate is not issued.

5.14.6 EXEMPTION FROM REGISTRATION FEE

(A) No registration fee shall be charged to any charitable, religious, political or nonprofit organization, or to any person soliciting on behalf of such an organization or to any person soliciting for a charitable, religious, political or nonprofit purpose.

(B) No registration fee shall be charged to any person whom the City Manager determines to be financially unable to pay the required fee. Prior to making a determination of financial inability, the City Manager may require the applicant to provide a verified financial statement and other evidence of financial status. *(Ord. 832, 3-11-2003)*

5.14.7 ISSUANCE OF CERTIFICATE OF REGISTRATION, REVOCATION

(A) After a review of the registration statement to determine its compliance with Section 5.14.4, and, within ten (10) working days of the receipt of the registration statement, the City Manager shall either issue a certificate of registration, in the form provided by Section 5.14.8, or notify the person registering that the registration statement does not comply with the requirements of Section 5.14.4, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued. If the person registering is engaged in an activity for which a business license is required by this Code, proof of a valid business license shall be furnished prior to the issuance of the certificate.

(B) A certificate of registration shall be revoked by the City Manager if a registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of three (3) violations of Section 5.14.2 occurring within any thirty (30) calendar day period in connection with or on behalf of the solicitation of the registered person. A certified copy of the Municipal Court record of plea or conviction is conclusive proof that a violation has occurred. The period of revocation shall be for sixty (60) calendar days, during which the person may not receive a certificate of registration. Within five (5) working days of receipt of notification that a registered person has been convicted, plead guilty, or no contest to the third violation the City Manager shall notify the person designated in the registration statement to receive notice of the action to revoke, in writing, five (5) days prior to the effective date of the revocation. The person may appeal the Manager's decision to the City Council by filing a notice of appeal with the City Manager within ten (10) days of the effective date of the revocation. During the pendency of the appeal the order to revoke is stayed. *(Ord. 832, 3-11-2003)*

5.14.8 FORM OF CERTIFICATE OF REGISTRATION, TERM

(A) The City Manager shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the City of Vale or any of its officers or employees." Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the registrant.

(B) Every certificate of registration issued by the City Manager shall contain a termination date upon which the certificate shall expire, which date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.

(C) The certificate of registration shall contain a list of the acts prohibited by Section 5.14.2. *(Ord. 832, 3-11-2003)*

5.14.9 NO SOLICITATION SIGN

(A) If an occupant of real property chooses to not invite solicitors onto their property, the occupant may post "No Solicitation" sign *[sic]* pursuant to this Section. The effect of the posting of such a sign is to express the refusal of the occupant to grant consent to any person to enter their real property to solicit, except to those persons exempt from these provisions by subsections 5.14.3(D) and 5.14.3(E).

(B) Signs posted pursuant to this Section shall be posted on or near the boundaries of the property at the normal points of entry, and,

(1) Signs must be no smaller than six inches (6) in height by eight inches (8) in width; and

(2) Signs must contain the words "No Solicitation" and the reference "Vale City Code Section 5.14.2" in characters no less than one-half inch ($\frac{1}{2}$") in height.

For real property possessing no apparent barriers to entry at the boundaries of the property which limit access to the primary entrance of a structure located on the property, placement of the sign at the primary entrance to the structure constitutes compliance with this Section.

5.14.10 EVIDENTIARY MATTERS

(A) It shall be *prima facie* evidence of a violation of subsection 5.14.2(A)7 if written material is found on real property upon which a sign conforming to the requirements of Section 5.14.9 has been posted. The person responsible tor such written material shall be the person identified in the written material as its proponent, sponsor, distributor or potential beneficiary of the communication conveyed.

(B) For the purposes of subsections 5.14.2(A)5 and 5.14.2(A)9, if a person solicits on behalf of a person registered pursuant to Section 5.14.4, it is presumed that the person registered allowed, suffered or permitted the solicitation. *(Ord. 700, 4-11-89)*

Chapter 15

GAMBLING

Sections

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5.15.1 CARD GAMES AUTHORIZED

Pursuant to ORS 167.121, card games which are "social games" as defined in ORS 167.117 are hereby authorized in a private business, private club or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the game, provided that the requirements of this chapter are met. In order to insure that participants in social games meet the minimum age requirement of 21 years as provided in Section 5.15.8(E), and that appropriate procedures are being followed to check the ages of participants, social games which are conducted in private businesses or private clubs shall be conducted only in private businesses or private clubs which possess a current, valid liquor license issued by the Oregon Liquor Control Commission. The failure of a private business or a private club to possess a valid, current OLCC liquor license shall be a basis for denying the issuance of, refusing to renew, or revoking, a social gaming license. Places of public accommodation which are neither private businesses nor private clubs shall not be required to possess a liquor license in order to acquire a social gaming license from the City of Vale. *(Ord. 846, 1-24-2006)*

5.15.2 LICENSE REQUIRED

It shall be unlawful for any person, firm, corporation or other entity to maintain, operate or allow the playing of any game authorized pursuant to Section 5.15.1 of this chapter without first obtaining and holding a valid license from the City of Vale.

5.15.3 LICENSE APPLICATIONS; FEE

(A) An applicant for a license pursuant to this chapter shall submit an application to the City Manager, which application shall be under oath and shall include the true names and addresses of the applicant and all financially interested persons, the personal history, business experience and past criminal record, if any, of the applicant and all financially interested persons, a description of the location of the principal place of business of the applicant and of the location of the game when in operation, information concerning the number of game tables to be used, a statement from the applicant that there will be no house player, house odds or house income from the operation of the game, and any other matters determined by the City Council to be of necessary inquiry. The term "financially interested person" shall include all persons who share in, or have the right to share in, the profits of the establishment in which the games are to be played.

(B) No application shall be considered complete unless accompanied by a non-refundable application fee of $25. No application fee is required for an application to renew a current license.

(C) No application fee shall be required for non-profit organizations. *(Ord. 832, 3-11-2003)*

5.15.4 LICENSE NOT TRANSFERRABLE

No license issued pursuant to this chapter shall be transferable.

5.15.5 GRANTING AND DENIAL OF LICENSE; APPEAL

(A) Within five working days of receipt of a completed application the City Manager shall either approve the application and grant the license applied for or deny the application and refuse to grant the license. The license shall not be granted if:

1. The applicant or a financially interested person has been convicted of a felony within the previous ten (10) years;
2. The applicant or a financially interested person has been convicted of five (5) misdemeanors, excepting minor traffic offenses, the last of which was within five (5) years;
3. The applicant or a financially interested person has been convicted of or forfeited bail for any crime involving gambling within the previous (5) years;
4. The applicant or a financially interested person has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in the Oregon Revised Statutes where such gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed within the last five (5) years;
5. Any false or misleading information is supplied in the application or any information requested is omitted from the application.
6. The applicant or a financially interested person has had a license revoked or suspended three times by the Oregon Liquor Control Commission, the last of which was in the last five (5) years;
7. The City has previously revoked a license issued to the applicant or a financially interested person pursuant to this chapter.
8. The applicant or a financially interested person has engaged in any conduct involving moral turpitude.
9. An applicant seeks to allow games other than as activities secondary to another primary commercial or non-profit activity or enterprise.

(B) An applicant may appeal the denial of a license to the City Council by giving a written notice of appeal to the City Manager within ten (10) days of the date of the denial of the license. The City Council shall hear the appeal at the next regular council meeting held after the receipt of the notice of appeal. *(Ord. 832, 3-11-2003)*

5.15.6 TERM OF LICENSE; LICENSE FEE

(A) Licenses pursuant to this chapter shall be granted for no more than one year, and may be renewed each year upon re-application by the licensee, together with payment of the license fee. Licenses shall be issued on a calendar year basis. Licenses applied for after the beginning of the calendar year may be granted for a period of no more than the remainder of that calendar year.

(B) Prior to any license being issued pursuant to this chapter, each licensee shall pay to the City of Vale the sum of $200 per table per year as a license fee. In the case of licenses granted for less than a full calendar year, the licensee shall pay a license fee of one-fourth the annual fee for each quarter, or portion thereof, during which the license is to be in effect.

(C) No license fee shall be required for non-profit organizations.

5.15.7 REVOCATION OF LICENSES

(A) The City Manager shall revoke any license hereunder if:

1. Any circumstance exists or occurs that would be grounds for denial of an application for a license;
2. The licensee or a financially interested person violates any provision of this chapter.
3. Rowdy and/or disorderly conduct occurs on the premises of the licensed business.
4. Drunkenness and/or being under the influence of intoxicants occurs on the premises of the licensed business;
5. The use, possession, sale, gift, barter or exchange by any person of any controlled substance as defined by ORS 475.005 or of any drug whose possession, sale, exchange, gift or use is made illegal by any law of the State of Oregon or of the United States occurs on the premises.

(B) Revocation shall become effective ten (10) days after the City Manager notifies the licensee in writing of the grounds for such revocation, unless the licensee gives a written notice of appeal to the City Manager prior to the effective date of the revocation. Upon proper notice of appeal, the revocation shall be stayed until final determination by the City Council. The revocation shall not be stayed pending appeal where the Manager finds that grounds for revocation exist of an especially serious nature which grounds include, but are not limited to, conviction of any felony, or any activity which may result in a conviction for gambling-related offenses under any state, local, or federal law or regulation. *(Ord. 832, 3-11-2003)*

5.15.8 REGULATIONS FOR GAMES

It shall be unlawful to operate, or allow the operation of, any game licensed by this ordinance in violation of any of the following regulations:

(A) Premises where games are conducted shall be open to police inspection.

(B) No licensee or financially interested person shall participate in any licensed game or procure players, back, farm out, assign or sublet any games permitted on the premises.

(C) Games shall be arranged as to provide free access and visibility to any interested party.

(D) Doors to any premises where games are conducted must remain unlocked during all hours of operation.

(E) No person under the age of 21 years shall be permitted to participate in any game.

(F) No charge which is based on any percentage or number of games or hands played shall be collected from any player for the privilege of participating in any game.

(G) No game shall be played between 2:00 a.m. and 10:00 a.m.

(H) No licensee shall allow more than four (4) game tables to be utilized at any one time.

(I) No more than three hands may be played at any one time by a player.

(J) Bets shall be limited to a cumulative total of ten dollars per hand per player.

(K) No game shall be played in a location or under circumstances where the game itself is the primary activity on the premises. Games shall be secondary to another commercial or non-profit activity or enterprise.

5.15.9 PENALTY

Violation of any provision of this chapter is punishable upon conviction by a fine not to exceed one thousand dollars ($1,000).

5.15.10 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid. *(Ord. 745, 8-8-95)*

Title VI

POLICE REGULATIONS

Chapters

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10 ***[Repealed by Ord. 607, 11-7-78]*** **245**

11 ***[Repealed by Ord. 776, 8-12-97 eff. 9-12-97]*** **246**

12 ***[Repealed by Ord. 714, 2-23-93]*** **247**

13 IMPOUNDING VEHICLES **248**

HISTORY:

CHAPTER 6 *(Ord. 177, 11-18-38)* made bill posting unlawful. CHAPTER 7 *(Ord. 145, 11-14-30)* regulated radio interference. CHAPTER 8 (which came with the 1963 Code) prohibited "abandoned containers." CHAPTER 9 (which came with the 1963 Code) prohibited concealed weapons and discharge of firearms, including air guns. CHAPTER 10 *(Ord. 530, 9-24-68)* prohibited junk, including junk vehicles. CHAPTER 11 *(Ord. 542, 4-28-70)* dealt with "discarded" vehicles; CHAPTER 12 *(Ord. 543, 4-28-70)*, with "abandoned" ones. Chapters 6, 7, 8, and 10 were "melded" into the general-nuisance ordinance in 1978 (Chapter 5 of Title IV); Chapter 9 became part of Chapter 1 of this Title.

Chapter 1

GENERAL OFFENSES

Sections

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6.1.1 DISORDERLY CONDUCT

A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

(A) Engages in fighting or in violent, tumultuous or threatening behavior; or

(B) Makes unreasonable noise; or

(C) Uses abusive or obscene language, or makes an obscene gesture in a public place; or

(D) Disturbs any lawful assembly of persons without lawful authority; or

(E) Obstructs vehicular or pedestrian traffic on a public way; or

(F) Congregates with other persons in a public place and refuses to comply with the lawful order of the police to disperse; or

(G) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

(H) Creates a hazardous or physical offensive condition by any act which he is not licensed or privileged to do.

6.1.2 FIREARM, DISCHARGING OF

It shall be unlawful for any person to intentionally discharge any type of firearm within the City; *provided however*, that nothing herein contained shall prevent the discharge of firearms by peace officers in the performance of their duties, or to any person lawfully using a firearm in defense of his property or person. Any firearm in possession of the person that was used in committing a violation of this Section may be confiscated and forfeited to the City of Vale.

Wherever the term "firearm" is used in this Section, the term shall mean any instrument used in the propulsion of shot, shell or bullets or other harmful objects by the action of gunpowder exploded within it, or by the action of compressed air within it, or by the power of springs and including what are commonly known as air rifles, B-B guns and pellet guns.

Provided however, the City Council may at any time, upon receipt of proper application, grant permits to shooting galleries, gun clubs and others for shooting in fixed localities and under specified rules. Such permits shall be in writing, attested by the Manager, conforming to such requirements as the City Council shall demand, and the permit thus issued shall be subject to revocation at any time by action of the City Council. *(Ord. 832, 3-11-2003)*

6.1.3 HARASSMENT

It shall be unlawful for any person to harass, annoy or alarm another person. A person commits the offense of harassment if, with intent to harass, annoy or alarm another person, he:

(A) Subjects another to offensive physical contact; or

(B) Publicly insults another by abusive or obscene words or gestures in a manner likely to provoke a violent or disorderly response; or

(C) Communicates with a person anonymously or otherwise, by telephone, mail or other form of written communication, in a manner likely to cause annoyance or alarm; or

(D) Engages in a course of conduct that alarms or seriously annoys another person and which serves no legitimate purpose.

6.1.4 MINORS; POSSESSION OF AND SALE OR GIFT OF ALCOHOL TO

(A) No person under the age of twenty one (21) years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by his parent or guardian and with such parent's or guardian's consent, no person under the age of twenty one (21) years shall have in his possession alcoholic liquor.

(B) For the purposes of this Section, possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof or a drink of such liquor.

(C) No person shall sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.

(D) No person other than his parent or guardian shall sell, give or otherwise make available any alcoholic liquor to any person under the age of twenty one (21) years. A person violates this subsection if he sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person will violate this subsection.

(E) However, this Section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

6.1.5 RESISTING ARREST

(A) A person commits the crime of resisting arrest if he intentionally resists a person known by him to be a peace officer in making an arrest.

(B) ”Resists”, as used in this Section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.

(C) It is no defense to a prosecution under this Section that the peace officer lacked legal authority to make the arrest, provided he was acting under color of his official authority.

6.1.6 THEFT

A person commits theft when, with intent to deprive another of property or to appropriate property to himself or to a third person, he:

(A) Takes, appropriates, obtains or withholds such property from an owner thereof; or

(B) Commits theft of property lost, mislaid or delivered by mistake as hereinafter described.

(C) Commits theft by deception as hereinafter described.

(D) Commits theft by receiving as hereinafter described.

(E) The total value of the property in a single or aggregate transaction is under two hundred dollars ($200.00).

(F) As used in this Section unless the context requires otherwise:

(1) ”Appropriate property of another to oneself or a third person” or ”appropriate” means to:

(a) Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or

(b) Dispose of the property of another for the benefit of oneself or a third person.

(2) ”Deprive another of property” or ”deprive” means to:

(a) Withhold property of another or cause property of another to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him; or

(b) Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

(3) ”Obtain” includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.

(4) ”Owner of property taken, obtained or withheld” or ”owner” means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.

(5) ”Property” means any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, real property, choses-in-action, evidence of debt or of contract.

(G) *Theft of Lost or Mislaid Property:* A person who comes into control of property of another that he knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to the owner.

(H) *Theft by Deception:*

(1) A person, who obtains property of another thereby, commits theft by deception when, with intent to defraud, he:

(a) Creates or confirms another's false impression of law, value, intention or other state of mind which the actor does not believe to be true; or

(b) Fails to correct a false impression which he previously created or confirmed; or

(c) Prevents another from acquiring information pertinent to the disposition of the property involved; or

(d) Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which he does not intend to perform or knows will not be performed.

(2) "Deception" does not included *[sic]* falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed.

(3) In a prosecution for theft by deception the defendant's intention or belief that a promise would not be performed shall not be established by or inferred from the fact alone that such promise was not performed.

(4) In a prosecution for theft by deception committed by means of a bad check, it is *prima facie* evidence that the check or order would not be honored if:

(a) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or

(b) Payment is refused by the drawee for lack of funds, upon presentation within thirty (30) days after the date of utterance, and the drawer fails to make good within ten (10) days after receiving notice of refusal.

(I) *Theft by Receiving:*

(1) A person commits theft by receiving if he receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.

(2) "Receiving" means acquiring possession, control or title, or lending on the security of the property.

(J) *Theft of Services:*

(1) A person commits the crime of theft of services if:

(a) With intent to avoid payment therefor, he obtains services that are available only for compensation by force, threat, deception or other means to avoid payment for the services; or

(b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, he uses or diverts to the use of himself or a third person such labor, equipment or facilities with intent to derive a commercial benefit for himself or a third person not entitled thereto.

(2) As used in this Section, ”services” includes, but is not limited to, labor, professional services, toll facilities, transportation, telephone or other communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is *prima facie* evidence that the services were obtained by deception.

(K) *Right of Possession:*

(1) A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of a person who takes, obtains or withholds the property from him by means of theft.

(2) A joint or common owner of property shall not be deemed to have a right of possession of the property superior to that of any other joint or common owner of the property.

(3) In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest in the property, even if legal title to the property lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement.

(L) *Value of Stolen Property:* For the purposes of this Ordinance, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this Section, value means the market value of the property at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:

(a) The value of an instrument constituting an evidence of debt, including, but not limited to, a check, draft or promissory note, shall be considered the amount due or collectible thereon or thereby.

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.

(3) When the value of property cannot reasonably be ascertained, it shall be presumed to be an amount less than two hundred dollars ($200.00).

(M) *Defenses to Theft:*

(1) In a prosecution for theft it is a defense that the defendant acted under an honest claim of right, in that:

(a) He was unaware that the property was that of another; or

(b) He reasonably believed that he was entitled to the property involved or had a right to acquire or dispose of it as he did.

(2) In a prosecution for theft by receiving, it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.

(3) It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft.

(N) Shoplifting:

(1) It shall be *prima facie* evidence of an intent to deprive another of property or to appropriate property to his own use or to the use of a third person if such property is taken from the premises of a retail or wholesale store or other mercantile establishment without having paid for the same and without having made arrangement for payment with the owner, manager or agent thereof.

(2) Notwithstanding any other provision of law, a peace officer, merchant or merchant's employee who has probable cause for believing that a person has committed theft of property of a store or other mercantile establishment, may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time.

(3) If a peace officer, merchant or merchant's employee, with probable cause for believing that a person has committed theft of property of a store or other mercantile establishment, detains and interrogates the person in regard thereto, and the person thereafter brings against the peace officer, merchant or merchant's employee, any civil or criminal action based upon the detention and interrogation, such probable cause shall be a defense to the action, if the detention and interrogation were done in a reasonable manner and for a reasonable time.

6.1.7 NOISES, UNNECESSARY

It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any loud, disturbing or unnecessary noise in the City.

The following acts are declared to be violations of this Section, but such enumeration shall not be deemed to be exclusive:

(A) The keeping of any animal which by frequent or continued loud noise shall disturb the comfort and repose of any person in the vicinity.

(B) The use of any automobile, motorcycle or other vehicle, any engine, stationary or moving instrument, device or thing so out of repair, or loaded or operated so as to create loud or unnecessary noise.

(C) The sounding of any horn or signal device on any automobile, motorcycle or other vehicle on any street or public place within the City except as necessary warning of danger to property or person.

(D) The erection, including excavation, demolition, alteration or repair or any building, other than between the hours of seven o'clock (7:00) A.M. and six o'clock (6:00) P.M., except upon special permission granted by the Chief of Police or City Manager.

(E) The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle or by special permission.

(F) The operation of any internal combustion engine without having the same equipped with, and using thereon, an effective muffler.

(G) The use of a muffler "cut-out" on any motor vehicle upon any street.

(H) The use or operation of any automobile or electric piano, phonograph, radio, loud speaker, or any sound amplifying device so loudly as to disturb persons in the vicinity thereof, or in such manner as renders the same a public nuisance; provided, however, that upon application to the Chief of Police or City Manager, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment. *(Ord. 832, 3-11-2003)*

6.1.8 TENT SHOWS, REVIVAL MEETINGS, ROCK CONCERTS

It shall be unlawful for any person, firm or corporation to erect or cause to be erected, any temporary structure composed wholly or partly of canvas or similar material to be used as a place of amusement, or for any religious, educational or recreational purposes, or for any other public assemblages whatsoever, or to stage or conduct any open air concert, festival, revival meeting, circus or any other type of amusement or religious, educational or recreational assemblage of more than two hundred fifty (250) person *[sic]* at which sound amplification equipment, temporary stages, platforms or seating will be used within the limits of the City of Vale without first having made application to, and received permission to do so, in accordance with the conditions and limitations as set out in this Section:

(A) The applicant for such permission shall file an application in writing with the City Manager, which shall clearly indicate:

(1) The name of the person, firm or corporation that will use the structure or sponsor the event.

(2) The location of the principal place of business of such person, firm or corporation.

(3) The names and addresses of the officers of such firm or corporation.

(4) The length of time the structure is intended to be used for the purpose applied for.

(5) The hours of the day or night during which such structures are intended to be used as a place of assembly or during which the event is to be conducted .

(6) Such other relevant information as the City Manager may require.

(B) The applicant shall furnish evidence that a public liability insurance policy in amounts of not less than fifty thousand dollars ($50,000.00) for one person and one hundred thousand dollars ($100,000.00) for any one accident, shall be in force and effect at the time such structure is to be occupied, or at the time the event is to be conducted.

(C) The applicant shall deposit with the City Treasurer a cash bond in the sum of one thousand dollars ($1,000.00), conditioned upon saving harmless the City of Vale from any and all liabilities or causes of action, which might arise by the virtue of the granting of a permit to the applicant and conditioned further that no damage will be done to the streets, sewers, trees or adjoining property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or upon any private property by the applicant. Such cash bond shall be returned to the applicant upon certification by the Chief of Police that all conditions of this Section have been complied with.

(D) Upon completion of such structure or prior to commencement of an open air assemblage, the place shall not be used as a place of assembly until the applicant shall furnish evidence to the City Manager that the applicant has caused the entire premises to be inspected and approved by the State Fire Marshal, the County Sanitarian and the Chief of Police.

It shall be unlawful for any person, firm or corporation to cause or permit the occupancy of such structure or to conduct an open air assembly as aforesaid without first obtaining the inspections and approvals as aforesaid.

(E) Any person, firm or corporation whose application for a permit has been denied, or whose permit has been revoked for non-compliance with this Section, as aforesaid, may, within ten (10) days after receipt of a notice thereof, appeal to the City Council for a hearing thereon, and the decision of the Council in this regard shall be final.

(F) In no event shall a performance be conducted that would constitute a nuisance due to noise. Public address or sound amplification systems will be so tuned that words are not audible a distance of two hundred fifty feet (250') from the place of assembly.

All performances, meetings or shows shall be concluded by eleven o'clock (11:00) P.M. *(Ord. 832, 3-11-2003)*

6.1.9 POSTERS, UNAUTHORIZED

It shall be unlawful for any person to affix a placard, bill or poster upon any personal or real property, private or public, without first obtaining permission from the owner or proper public authority.

Within ten (10) days after the event has occurred for which the placard, bill or poster was displayed, the same shall be removed, the person displaying such placard, bill or poster and the person who gave permission for the posting, shall each be responsible for the removal thereof.

6.1.10 PROPERTY, MALICIOUS DESTRUCTION

It shall be unlawful for any person, with intent to cause substantial inconvenience to the owner, or to another person, and having no right to do so, nor reasonable grounds to believe that he has such right, to tamper or interfere with the property of another, or having no right to do so, nor reasonable ground to believe that he has such right, he intentionally or recklessly damages property of another in an amount not exceeding one thousand dollars ($1,000.00).

6.1.11 VEHICLES, CHILDREN LEFT UNATTENDED IN

(A) No person having the care, custody, control or guidance of a child under the age of eight (8) years shall leave or permit such child to be left unattended in any motor vehicle for a period of more than ten (10) minutes.

(B) For the purpose of this Section, a child under eight (8) years of age shall be considered ”unattended” unless there is another person over the age of twelve (12) years physically present in the motor vehicle with said child at all times.

(C) Whenever a peace officer has probable cause for believing that a child has been left unattended in a motor vehicle in violation of this Section, such peace officer may enter said vehicle and remove said child to a place of safety. A peace officer may use such force as may be reasonably necessary to effect an entry in order to remove such child.

(D) If a peace officer with probable cause for believing that a child has been left unattended in a motor vehicle, enters and removes a child therefrom, and the parent, guardian or other custodian responsible for such child thereafter brings against the police officer any civil or criminal action in any court, based upon the entry and removal of such child, such probable cause shall be a defense to the action, if the entry and removal of the child was done in a reasonable manner.

6.1.12 CRIMINAL TRESPASS

A person commits the crime of criminal trespass if he remains or enters unlawfully in or upon a premises, including a dwelling.

(A) ”Dwelling” means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.

(B) ”Premises” includes any building and any real property, whether privately or publicly owned.

6.1.13 LITTERING

(A) No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:

(1) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner or upon any public way.

(2) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank or other contaminated source upon the land of another without permission of the owner, or upon any public way.

(3) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to ORS 485.010 to 485.060.

(B) As used in this Section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the City, State, special service districts or County for use by the general public. *(Ord. 603, 9-26-78)*

6.1.14 OFFENSIVE LITTERING

(A) No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:

(1) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner or upon any public way.

(2) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank or other contaminated source upon the land of another without permission of the owner, or upon any public way.

(3) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to ORS 485.010 to 485.060.

(B) As used in this Section, "public way" includes but is not limited to roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the City, State, special service districts or county for use by the general public. *(Ord 584, 4-12-77; renumbered Ord. 607, 11-7-78)*

6.1.15 DRINKING IN PUBLIC PLACES; VEHICLES

(A) It shall be unlawful for any person to drink any intoxicating liquor upon any street, alley, sidewalk, doorway, or alcove, or any public or private parking lot or vacant lot within the City.

(B) It shall be unlawful tor any person to drink any intoxicating liquor while in any motor vehicle upon any street or alley or in any public or private parking lot within the City. *(Ord. 702, 10-10-89)*

6.1.16 POSSESSION OF MARIJUANA

It shall be unlawful for any person to possess any quantity of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. It shall be an affirmative defense to a charge under this section that such possession was authorized pursuant to state law. *(Ord. 709, 6-9-92)*

6.1.17 FAILURE TO APPEAR ON A CITATION; PENALTY

(A) A person commits the crime of failure to appear on a citation if the person knowingly fails to appear before the Municipal Court pursuant to a citation issued and served for a violation of this Code, and a complaint or information is filed.

(B) A person convicted of the crime of failure to appear on a citation pursuant to this section shall be subject to a sentence including a fine not to exceed $1,000.00 and/or a term of imprisonment not to exceed six (6) months. *(Ord. 711, 9-8-92. NOTE: This Section had been numbered 6.1.16 upon passage, but a 6.1.16 already existed.)*

Chapter 2

DOGS

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6.2.1 DEFINITIONS

For the purposes of this Chapter, the following words and phrases shall mean:

ADEQUATE LEASH: No more than six feet (6') in length and a tensile strength adequate to restrain the dog.

AT LARGE: Off the premises of the owner or person having control, custody or possession of the dog while the dog is not under the complete control of the owner or person by adequate leash. However, a dog in obedience or field training exercise under the direct supervision of a handler shall not be considered to be "at large".

DOG: A dog is defined, under this ordinance as any canine including but not limited to domestic dogs (canis familiaris), wolves (canis lupis) and wolf hybrids of any percentage. Admission by the owner is all that is required to prove wolf hybrid status.

OWNER: A person, firm, association or corporation owning, keeping or harboring a dog.

6.2.2 ANIMAL CONTROL OFFICER

(A) Definition. An Animal Control Officer shall mean the Chief of Police, a duly appointed deputy, police officer and/or any person with whom the City enters into an agreement for the control of dogs within the City.

(B) Powers and Duties. In addition to the powers and duties set forth in the Oregon Revised Statutes, the Animal Control Officer shall have the following powers and duties:

(1) To have police power in the enforcement of all the provisions of this Chapter relating to the licensing and impounding of dogs.

(2) To maintain and keep or contract with a private provider of a small animal shelter or other place where all dogs subject to impoundment may be kept and held safely and provided with proper and sufficient food and water.

(3) To impound and keep safely any dog which is found doing any of the activities set forth in this Chapter, apparently Abandoned [sic].

(4) To issue citations and complaints, appear as a witness and to perform all other acts necessary for the enforcement of this Chapter.

(5) To receive any costs and charges hereinafter provided in this Chapter.

(6) To investigate reports of biting dogs as hereinafter set forth in this Chapter.

(7) To investigate livestock claims. *(Ord. 715, 3-23-93)*

6.2.3 LICENSE REQUIRED, EXCEPTIONS; TAG AND COLLAR

Persons owning, possessing, or keeping a dog which has a set of permanent canine teeth shall, as of January 1 of each year, or immediately after such person becomes the owner, possessor, or keeper of such a dog, procure from the City a license for the dog.

It is unlawful to keep, maintain, harbor or possess upon any one premises more than three (3) dogs unless the owner makes special application to do so. This does not, however, permit the operation of a kennel or other commercial operation. Application to house more than three (3) dogs on a noncommercial basis must be made to the City and must be accompanied by the written consent of at least seventy five percent (75%) of all persons in possession of premises within three hundred feet (300') of the premises upon which application is being made. Application shall be accompanied by a fee of ten dollars ($10.00) per dog. All dogs covered by the provisions of this Code Section shall be confined upon the property or under leash at all times; provided, however, that this Section shall not apply to dogs under three months of age.

No license shall be required to be paid for a dog owned by a blind person or disabled person who uses it as a guide or trained assistance animal. A license shall be issued for such dog upon filing with the City an affidavit by the disabled person showing the dog to come within this exemption.

Every individually licensed dog must wear a collar with the license tag attached.

In addition to the other sections of this chapter, any wolf or wolf hybrid shall be subject to Sections 6.2.17 and 6.2.18 which shall supersede any other section in case of conflict. *(Ord. 715, 3-23-93)*

6.2.4 LICENSE FEES

The fees for the licenses required by the preceding Section shall be five dollars ($5.00) per year for a dog which has been spayed or neutered, for which a veterinarian's certificate of operation for the spaying or neutering of the dog is presented to the City. The fee for the license of any other dog shall be ten dollars ($10.00) per year. These licenses shall be required of all dogs which have a set of permanent canine teeth. Proof of rabies vaccination will be required prior to issuance of a license.

A penalty of twenty dollars ($20.00) shall apply to:

(A) A person who becomes the owner, possessor, or keeper of a dog required to be licensed under this Section who fails to apply for a license within thirty (30) days after he or she becomes the owner or keeper of the dog; and

(B) The owner, possessor, or keeper of a dog which has gained permanent canine teeth during any calendar year who shall neglect to procure a license for the dog at the time it gains permanent canine teeth.

A fee of one dollar ($1.00) shall be charged for replacement of lost license tags. *(Ord. 715, 3-23-93)*

6.2.5 RUNNING AT LARGE

It shall be unlawful for a dog to run at large. It shall also be unlawful for the dog to be on elementary or secondary school properties, City parks, golf courses or other municipally-owned property except on an adequate leash.

(A) It is unlawful for any owner, possessor, or person who keeps any dog, to permit the same to be, remain, or run at large off or away from the premises of the owner, possessor or keeper thereof, unless the dog is:

(1) Upon the private premises of another with the prior consent of the person in possession of such premises; or

(2) Controlled by a leash, not to exceed six feet (6') in length which shall be securely fastened to a collar or harness worn by the dog; provided, that the dog is not allowed in any case to enter without prior permission upon the private property of another; and provided the dog is not permitted to cause damage to any public property; or

(3) Confined in a motor vehicle.

(B) Any owner, possessor or person who keeps any dog, violating the provisions of this Section, shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars ($25.00) for the first occurrence, fifty dollars ($50.00) for the second occurrence, and one hundred dollars ($100.00) for each occurrence thereafter. *(Ord. 715, 3-23-93)*

6.2.6 IMPOUNDING DOGS, EXCEPTION

A dog which is running at large or is a nuisance as herein defined or is unlicensed is in violation of this Chapter and may be impounded by the Animal Control Officer, or a representative of Malheur County or a representative of a City-approved animal shelter. *(Ord. 715, 3-23-93)*

6.2.7 IMPOUNDING REGULATIONS, FEES

(A) Whenever a dog, licensed according to Section 6.2.3 of this Chapter, is impounded pursuant to the provisions of this Chapter, the Animal Control Officer or a representative of a City-approved animal shelter, shall forthwith give notice of the impounding by personal service or by registered mail to the owner, possessor or keeper, and if the owner, possessor, or keeper does not, within five (5) days after date of service of personal notice upon him/her or from date of the receipt of said registered mail, claim the dog and pay the required fines and any boarding fees, the dog may be humanely killed or disposed of to a person agreeing to provide it a suitable home. The owner, possessor or keeper of an impounded dog shall be required to pay all fines and boarding fees regardless of whether or not the dog is claimed. If the dog is unlicensed, the owner shall also purchase a license and pay the applicable penalty for failure to have a license.

(B) If the owner, possessor or keeper of the dog is not known to the impounding officer, notice of impoundment shall be placed on the bulletin board at the City Hall. If at the expiration of three (3) days after the notice is posted, neither the owner nor possessor nor keeper claims the dog and pays the required fines and any boarding fees, it may be humanely killed or redeemed by a

person agreeing to provide it a suitable home, except that destruction may be made in less time when the dog is sick or injured and should be disposed of for humanitarian reasons.

(C) The City is hereby authorized to charge and collect for impounding dogs a fee sufficient to cover the City's direct costs for impounding, confining, transporting and boarding any dogs impounded under this Section, plus an administrative fee of five dollars ($5.00). Such fees may be amended from time to time by resolution of the City Council. *(Ord. 715, 3-23-93; amended by Ord. 805, 8-24-99)*

6.2.8 RIGHT OF APPEAL

A dog owner, whose dog is impounded, within five (5) days of the date of service of personal notice upon him or from date of receipt of registered mail or from the date of placement of notice on the bulletin board of the City Hall or believing himself aggrieved by the seizure and impounding of his dog, may apply to the Municipal Judge for the release of the dog and the Municipal Judge shall thereupon set a time and place for hearing the application and notify the impounding officer, and upon a summary hearing at such time and place the Municipal Judge shall have full power to determine whether the dog has been wrongfully impounded and whether it shall be returned to its owner and upon what terms. Payment of the impoundment fee shall not prejudice an owner's right of appeal of an alleged wrongful impoundment. *(Ord. 715, 3-23-93)*

6.2.9 SALE, DESTRUCTION OF DOGS

(A) Upon the sale of an unlicensed dog, the purchaser shall be required to obtain a license for the current year.

(B) If after the expiration of the applicable time as set forth in subsection 6.2.7(A) or (B), a period of three (3) days has elapsed during which an impounded dog cannot be sold, the City or its agent is hereby authorized and empowered to kill the dog by lethal injection of sodium pentobarbital or other substance approved by the Oregon State Veterinary Medical Examining Board.

(C) If a particular dog to be destroyed poses an imminent threat to human or animal life, making use of lethal injection of sodium pentobarbital inappropriate, a reasonable and appropriate alternative may be used. *(Ord. 715, 3-23-93)*

6.2.10 CONFINEMENT OF BITING DOGS

In order to permit observation of dogs, skunks and other animals for rabies, the owner or keeper of an animal which is known to have bitten a human being, must confine the animal immediately after such biting for a period of ten (10) days in one of the following ways.

(A) Confine indoors or if outdoors upon a leash.

(B) Confine in a veterinary hospital or kennel.

Care shall be exercised to avoid neglect of, or injury to such animals during confinement pursuant to this Section. *(Ord. 715, 3-23-93)*

6.2.11 DOGS A NUISANCE

(A) A dog is a public nuisance if it:

(1) Bites a person.

(2) Chases vehicles or persons.

(3) Damages or destroys property of persons other than the owner of the dog.

(4) Scatters garbage.

(5) Trespasses on private property of persons other than the owner of the dog.

(6) Barks or howls or whines for five (5) or more total minutes in any fifteen (15) consecutive minutes and thereby disturbs one or more persons not then residing in the residence of the owner, possessor or keeper of the dog.

(7) Makes unprovoked attacks on other animals.

No person shall permit or allow a dog which they own or over which they have control to be a public nuisance. *(Ord. 748, 8-22-95, eff. 9-22-95)*

(B) Exception to Dog as Public Nuisance. A dog shall not be considered a public nuisance if the dog bites:

(1) A person assaulting the dog's owner or the owner's spouse or children or persons legally residing with the owner, or

(2) A person wrongfully assaulting the dog, or

(3) A person trespassing upon premises owned, leased, or rented by the dog's owner or the owner's spouse or children, or

(4) A person entering a fully fenced area, regardless of where located, if that area is conspicuously posted with signs warning of the presence of the dog within the fenced area.

6.2.12 DOG WASTE MATTER

It shall be unlawful for a person owning or keeping a dog to allow the dog to deposit solid waste matter on any property other than that of the person owning or keeping the dog, but it shall be a defense to this action if the owner or keeper removes the solid wastes. *(Ord. 715, 3-23-93)*

6.2.13 UNLAWFUL ACTS OF RELEASING

It is unlawful for any person, except those responsible for the enforcement of this Chapter, to release any dog without the consent of the owner, or to release his own or any other dog from the pound or from any place where a dog may be held for observation as set forth in this Chapter. *(Ord. 715, 3-23-93)*

6.2.14 CLASSIFICATION OF DOGS

(A) Classification of Levels of Dangerousness: A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog. For purposes of this section, behaviors establishing various levels of potential dangerousness are as follows:

(1) *Level 1* behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person or domestic animal;

(2) *Level 2* behavior is established if a dog, while confined in accordance with Section 6.2.16(A), or while at large, aggressively bites a person or a person's clothing or aggressively bites a domestic animal;

(3) *Level 3* behavior is established if:

(a) A dog, whether or not confined, causes the serious injury or death of any person;

(b) A dog, while at large, causes serious injury to or kills any domestic animal;

(c) A dog engages in fighting or is found to have been trained to engage in exhibitions of fighting;

(d) A dog that has been classified as a Level 2 potentially dangerous dog, repeats the behavior described in Subsection (2) of this Section, after the owner receives notice of the Level 2 classification.

(4) Notwithstanding Subsections (1) through (3) of this Section, the Animal Control Officer shall have discretionary authority to refrain from classifying a dog as potentially dangerous even if the dog has engaged in the behavior specified in Subsections (1) through (3) of this section, if the Animal Control Officer determines that the behavior was the result of a person injured having abused or tormented the dog or other extenuating circumstances tending to prove that the behavior was not the fault of the dog. In any case, no dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser inside any fully enclosed building on private property, if all exterior doors of the building were locked at the time the trespassing occurred, or against a trespasser inside any fully fenced yard, if all gates and entrances were locked at the time the trespassing occurred. *(Ord. 715, 3-23-93)*

6.2.15 IDENTIFICATION OF POTENTIALLY DANGEROUS DOGS; APPEAL; RESTRICTIONS PENDING APPEAL

(A) The Animal Control Officer shall have the authority to determine whether any dog has engaged in any of the behaviors specified in Section 6.2.14. This determination shall be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's control of the dog. These observations and testimony can be provided by the Chief of Police, a duly appointed deputy, police officer and/or any person with whom the City enters into an agreement for the control of dogs within the City or by other witnesses who personally observed the relevant behaviors.

(B) The Animal Control Officer shall give the owner written notice, by certified mail or personal service, of:

(1) The dog's specific behaviors;

(2) The dog's classification as a potentially dangerous dog.

(3) The additional restrictions applicable to that dog by reason of its classification.

The owner may appeal the Animal Control Officer's decision to the Municipal Court by filing a written request for a hearing with the Court within ten (10) days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

(C) The Municipal Court shall hold a public hearing on any appeal from the Animal Control Officer's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in Section 6.2.14 shall be allowed to present testimony. The Municipal Court shall determine whether any of the behaviors specified in Section 6.2.14 was exhibited by the dog in question. The Municipal Court shall issue an order containing a determination of the dog's classification, which determination shall be final.

(D) Once the owner has received notice of the dog's classification as a Level 1, 2 or 3 potentially dangerous dog pursuant to Subsection B of this section, the owner shall comply with the restrictions specified in the notice until such time as the Animal Control Officer's decision shall be reversed or modified on appeal. Failure to comply with the specified restrictions, pending the completion of all appeals, shall be a violation of this Chapter, for which a fine can be imposed. Additionally, the Animal Control Officer shall have authority to impound the dog pending completion of all

appeals. Liability for the cost of impounding the dog will be the same as provided in Section 6.2.15(E).

(E) If the Animal Control Officer finds that a dog has engaged in Level 3 behavior, the dog shall be impounded pending completion of any appeal to the Municipal Court. If the Animal Control Officer's decision is upheld by the Municipal Court, the dog's owner shall be liable and reimburse the City for the costs of the dog's impoundment. If the dog is found not to be a potentially dangerous dog, the City shall be liable for the costs of impoundment.

(F) The Municipal Court shall adopt procedural rules governing the conduct and scheduling of the appeals provided for in this Section.

(G) The imposition of regulations pursuant to this Section shall not prevent the Animal Control Officer from also issuing a citation for a violation of any provision of this Chapter. *(Ord. 715, 3-23-93)*

6.2.16 REGULATION OF POTENTIALLY DANGEROUS DOGS

In addition to the other requirements of this Chapter, the owner of a potentially dangerous dog shall comply with the following regulations:

(A) If the dog has engaged in Level 1 behavior, the owner shall confine the dog within a secure enclosure whenever the dog is not on a leash or inside the home of the owner or otherwise confined. The "secure enclosure" must be located so as not to interfere with the public's legal access to the owner's property, and have a "Beware of Dog" sign plainly visible.

(B) If the dog has engaged in Level 2 behavior, the owner shall meet the requirements of Subsection (A) of this Section and shall also comply with the following restrictions:

(1) The owner shall post warnings on the property where the dog is kept in conformance with administrative rules to be adopted by the Animal Control Officer.

(2) The owner shall not permit the dog to be off the owner's property unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person.

(3) The owner shall provide proof to the City Manager of the public liability insurance in a single incident amount of one hundred thousand dollars ($100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the City Manager.

(4) The owner shall provide to the City Manager two (2) color photographs of the dog clearly showing the color and approximate size of the dog.

(C) If the owner of a Level 2 dog fails to comply with the restrictions set forth herein, the City Manager shall have the authority to reclassify the dog as a Level 3 dog and order that it be humanely killed.

(D) Any dog that has been found to have engaged in Level 3 behavior as described in Section 6.2.14(A)(3) shall be humanely killed. In addition, the Animal Control Officer may suspend for a period of time specified by the Animal Control Officer (not to exceed one year) that dog owners' right to be the owner of any dog within the City limits of Vale, Oregon, including dogs currently owned by that person.

(E) To insure correct identification, all dogs which have been classified as potentially dangerous shall be marked with a permanent identifying mark. The Animal Control Officer shall adopt regulations specifying the character, location and manner of this marking.

(F) The Animal Control Officer hall disseminate the City's marking information to other agencies and shall maintain a file of and honor the markings of other agencies which are designed to identify dangerous dogs. *(Ord. 715, 3-23-93, amended by Ord. 843, 4-12-2005)*

6.2.17 REGULATION OF WOLVES AND WOLF HYBRIDS

(A) No city license shall be issued for any canine known to have any percentage of wolf in its breeding.

(B) Before any license is issued the owner must sign a statement verifying the canine is not known to have any wolf heritage in its breeding.

(C) Any canine known to be a wolf hybrid kept or brought into the City limits and not licensed and inspected according to Oregon Revised Statutes and Oregon Department of Agriculture rules governing Exotic Animals, or which is running at large, will be confiscated and euthanized as soon as is reasonably possible after confiscation or, in the event an owner is known, after the expiration of the time allowed for filing of an application for release of the animal pursuant to Section 6.2.18(B), or if such an application is filed, after the ruling of the Municipal Judge.

(D) No wolf or wolf hybrid may be kept or brought within the City of Vale city limits except those properly licensed and inspected according to Oregon Revised Statutes and Oregon Department of Agriculture rules governing Exotic Animals.

6.2.18 NOTICE OF DISPOSITION OF WOLVES AND WOLF HYBRIDS; APPEAL

(A) The Animal Control Officer shall give the owner, if known, of any wolf or wolf hybrid written notice by certified mail or personal service of the impoundment or confiscation and the pending euthanization of the wolf or wolf hybrid.

(B) An owner whose animal has been confiscated or impounded as a wolf or wolf hybrid, believing the impoundment or confiscation to be wrongful, may, within five (5) days of the date of service of personal notice, or from the date of mailing by certified mail, may apply to the Municipal Judge for the release of the animal and the Municipal Judge shall thereupon set a time and place for hearing the application and notify the Animal Control Officer, and upon a summary hearing at such time and place the Municipal Judge shall have full power to determine whether the animal has been wrongfully impounded or confiscated and whether it shall be returned to its owner and on what terms. *(Ord. 715, 3-23-93)*

6.2.19 PENALTY

Except where penalty provisions have been provided otherwise in this Chapter, violation of any provision of this Chapter shall be punishable by a fine as provided in Section 1.4.1 of this Code. *(Ord. 715, 3-23-93; replaced Ord. 558, 4-3-73, Eff. 4-13-73)*

Chapter 3

ANIMALS

Sections

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6.3.1 ANIMALS RUNNING AT LARGE:

The provisions of Oregon Revised Statutes, Chapter 607, Sections 607.005, 607.007 and 607.303 through 607.339 as now or hereinafter constituted, are hereby adopted as the law of the City and entitled "Animals Running at Large", as if said provisions were herein fully set forth.

In addition to the persons entitled to take up animals running at large, as hereinabove provided, the members of the City Police Force may also take up such animals. (Ord. 607, 11-7-78)

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

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

6.3.4 FOWL RUNNING AT LARGE

It shall be unlawful for the owner or keeper of any fowl to allow the same to run or be at large, out of his own enclosure, within the corporate limits. *(Ord. 22, 4-16-1906)*

6.3.5 DRIVING OR RIDING ANIMALS ON SIDEWALKS

It shall be unlawful for any person to ride or drive any horse, cattle, sheep, or hog on or across any public sidewalk in any public street or avenue within the corporate limits. *(Ord. 29, 9-26-1906)*

6.3.6 PERMIT REQUIRED

No person shall cause or allow the keeping of any livestock on real property within the City limits without a current, valid livestock permit. "Livestock" includes, but is not limited to, a horse, mule, jackass, cattle, sheep, goat, chicken, goose or other poultry, llama, ostrich, rabbit, bees or other domestic animal, excluding swine, but including fur-bearing animals bred and maintained commercially or otherwise. *(Ord. 842, 4-12-2005)*

6.3.7 SWINE PROHIBITED

No person shall cause or allow the keeping of swine on real property. *(Ord. 842, 4-12-2005)*

6.3.8 ANNEXED PROPERTY

If any real property where livestock is kept is annexed to the City, provided that no corrals, stables or other structures housing the livestock, other than fences, are located within two hundred feet of a dwelling owned or occupied by another person, the owners of the annexed property shall be allowed to maintain the livestock on such property without purchasing a livestock permit for a time not to exceed five years from the date of annexation or until the property is sold, whichever occurs first. After such period of exemption, the person owning the livestock must apply for the required permit. *(Ord. 842, 4-12-2005)*

6.3.9 ISSUANCE OF PERMIT

The City Manager or his designee shall issue a permit for keeping livestock upon application on a form prescribed by the City and payment of the permit fee as set by Council resolution, if he finds that:

A. The premises where the livestock will be kept are sanitary and adequately enclosed from other persons' property.

B. The premises lie not less than two hundred feet from any structure used for human occupancy or, in the alterative, the occupant and owner of such structure have agreed in writing to the applicant's keeping of the livestock.

C. As a condition of the issuance of a permit, the premises shall remain open for inspection at reasonable times by the City Manager or his designee for compliance with this Chapter. *(Ord. 842, 4-12-2005)*

6.3.10 PERMIT REVOCATION

A livestock permit shall be revoked if the City Manager finds that the premises are no longer sanitary or adequately enclosed, or reasonably open to inspection, or that fifty percent or more of the owners of abutting property now object in writing to the permittee's keeping of livestock, or that the livestock presents an unreasonable risk of danger to other persons or property. Any permittee whose permit is revoked shall have ten days to relocate or otherwise dispose of the livestock, unless the City Manager finds that the livestock pose an unreasonable threat to the health or safety of the public, in which case any revocation shall be effective immediately. *(Ord. 842, 4-12-2005)*

6.3.11 APPEAL FROM PERMIT REVOCATION

A. Any person whose application for a permit is denied or whose permit is revoked by the City Manager may seek review of the denial or revocation by filing with the City Manager a written notice of appeal not more than ten days after receiving notice of denial or revocation. The written notice of appeal shall state:

1. The name and address of the appellant;
2. A description of the livestock being kept or desired to be kept and the facilities for livestock;
3. A map showing the location of the livestock in relation to the permittee's property lines, abutting properties and all structures used for human occupancy;
4. The reason given by the City Manager for denying the application or revoking the permit; and
5. The reason the determination is incorrect.

B. If a written appeal from a revocation is timely filed, the permittee shall be allowed to continue to keep the livestock for which the permit was obtained, pending the determination of the appeal, unless the City Manager determines that the livestock present an unreasonable threat to the public health or safety, in which case the revocation of the permit shall become effective immediately.

C. The City Council shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the Council deems appropriate. If the City Council decides to take oral argument or evidence at the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.

D. The appellant shall have the burden of proving the error in the City Manager's determination.

E. A permit revocation may be reversed only by majority vote of the Council. Unless the City Council votes to reverse the decision, the City Manager's revocation of the permit shall stand, and the City Manager may order the immediate removal of the livestock from the real property at the livestock owner's expense.

F. Until the appeal is heard by the City Council, the City Manager may, within his discretion, reconsider his decision denying or revoking the permit. *(Ord. 842, 4-12-2005)*

Any violations of 6.3.6 or 6.3.7 shall be punishable by a fine not to exceed $100 for each day of the violation. *(Ord. 842, 4-12-2005)*

Chapter 4

CURFEW

Sections

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6.4.1 CURFEW HOURS

It shall be unlawful for any child under the age of eighteen (18) years to be in or remain in or upon any street, alley, park, or other public place or public way, within the City between the hours of 12:00 A.M. and 5:00 A.M. of the following morning, unless such child is accompanied by a parent, guardian, or other proper companion of the age of twenty-one (21) having the care and custody of the child, or unless such child is then engaged in employment, or going to or from employment, which makes it necessary to be in upon such street, alley, park, or other public place during the nighttime between such specified hours. *(Ord. 431, 1-9-58; amended by Ord. 850, 8-8-2006)*

6.4.2 PARENT RESPONSIBLE

It shall be unlawful for any parent or guardian or the person having the care and custody of any child under the age of eighteen (18) years, to allow or permit the child to be in, or remain in or upon any street, alley, park, dance hall, or other public place, between the hours designated in Section 6.4.1 hereof, contrary to the provisions of Section 6.4.1 of this Chapter.

The Marshal or other peace officer, is authorized to arrest any child violating any of the provisions of this Chapter, and, for the first violation, to take or send such child home and notify the parent, guardian, custodian, or person in control or charge of such child, of the violation. In the event any child under the age of eighteen (18) years shall the second time violate any of the provisions of this Chapter, such child shall be apprehended by the Marshal, or other peace officer, as a juvenile delinquent, or dependent, as the case may be, and shall be brought before the Juvenile Court of the State, for the County, to be dealt with in the court in accordance with the Laws of the State; and in the event any parent, guardian, custodian, or person in control or charge of the child under the age of eighteen (18) years, and who shall have had the notice provided for in this Section, shall knowingly or negligently permit such child to again violate Section 6.4.1 of this Chapter, such parent, guardian, custodian, or person in control or charge of such child shall be deemed guilty of a violation of Section 6.4.2 of this Chapter as provided for by the General Penalty Chapter of this Code. *(Ord. 174, 11-18-38)*

Chapter 5

FIREWORKS CODE

Sections

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SECTION

6.5.1 FIREWORKS CODE ADOPTED

The provisions of Oregon Revised Statutes, Chapter 480, Sections 480.110 through 480.170 *et seq.* as now or hereafter constituted are hereby adopted as the "Fireworks Code" of the City, as if said provisions were herein fully set forth. *(Ord. 607, 11-7-78)*

Chapter 6

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

Chapter 7

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

Chapter 8

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

Chapter 9

[Repealed by Ord. 603, 9-26-78]

Chapter 10

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

Chapter 11

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

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Chapter 13

IMPOUNDING VEHICLES

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6.13.1 DEFINITIONS

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

(A) *'Abandoned'* shall mean left unoccupied and unclaimed or in a damaged or dismantled condition upon the streets or alleys of the City for a period in excess of 24 hours without authorization by statute or ordinance.

(B) *'City'* shall mean the City of Vale.

(C) *'Chief of Police'* includes any authorized law enforcement officer of the City.

(D) *'Vehicle'* shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. *(Ord. 714, 2-23-93)*

6.13.2 IMPOUND

(A) A vehicle may be towed without prior notice when:

(1) the Chief of Police reasonably believes that the vehicle is stolen;

(2) the Chief of Police reasonably believes that the vehicle or its contents constitute contraband, evidence of any criminal offense, or property that has been used or is possessed for the purpose of being used to commit or conceal the commission of an offense, if such towing is reasonably necessary to obtain or preserve such evidence or property;

(3) the vehicle was in possession of a person taken into custody by a law enforcement officer;

(4) the vehicle is illegally parked on a public or private street in a conspicuously restricted space, zone or traffic lane where parking is limited or prohibited to designated classes of vehicles or periods of time, or at any time when the vehicle interferes with the intended use of such space, zone or traffic lane;

(5) the vehicle obstructs the entrance of any post office or postal station, or is within 10 feet of a private mailbox during the hours of delivery;

(6) the Chief of Police reasonably believes the vehicle operator:

(a) is driving without possessing a valid operator's license; or

(b) is driving on a suspended or revoked license; or

(c) is the holder of an instruction driver permit and does not have the permit in his or her possession or is not accompanied by a licensed person 21 years of age or older; or *(Ord. 724, 3-22-94)*

(d) is driving without proof of such liability insurance as is required by the Oregon Vehicle Code; or

(e) has failed to transfer title of the vehicle, register the vehicle, or carry a valid registration card.

(B) A vehicle may be towed after notice, as provided by Section 6.13.3 when:

(1) the Chief of Police reasonably believes that the vehicle is abandoned; or

(2) the vehicle is parked in violation of a temporary or permanent parking restriction where there is no reasonable need to immediately remove the vehicle; or

(3) the vehicle is parked on City owned or operated property without City permission.

(C) A vehicle may be towed under subsection (B) five days after notice by certified mail of the intent to impound has been sent to the registered owner. The notice may, in the discretion of the Chief of Police, be served by personal service in lieu of mailing. *(Ord. 724, 3-22-94)*. If notice by certified mail is not reasonably possible, the vehicle may be towed five days after it is posted with the notice of intent to impound.

(D) A vehicle impounded pursuant to this section shall be taken into custody by the Chief of Police and shall be held at the expense of the owner or person entitled to possession of the vehicle. The City Manager may direct that the personnel, equipment and facilities of the City be used for the removal and storage of such vehicles, or may contract with a private garage for that purpose. *(Ord. 714, 2-23-93; amended by Ord. 832, 3-11-2003)*

6.13.3 IMPOUND PROCEDURES

(A) *Pre-Impound Investigation.* When a vehicle is subject to being towed pursuant to Section 6.13.2(B), the Chief of Police shall:

(1) make a routine investigation to discover the driver or registered owner, when the vehicle is required by law to be registered with the Motor Vehicles Division of this or any other state, and request immediate removal of the vehicle; or

(2) if the registered owner or driver cannot be located, make a reasonable inquiry as to the name and address of the owner;

(3) if the registered owner is identified, mail a notice to the registered owner at the address listed with the Motor Vehicles Division; and place a notice of intent to impound upon the windshield or some other conspicuous part of the vehicle which is easily seen by the passing public.

(B) *Notice Generally.*

(1) Notice is deemed given when a certified letter addressed to the registered owner of the vehicle and the legal owner, if any, return receipt requested and postage prepaid, is mailed within 48 hours after the vehicle is taken into possession by or at the direction of the Chief of Police.

(2) If the vehicle is registered with the Motor Vehicles Division of the State of Oregon, notice may be addressed to the registered owner, and the legal owner, if any, at the last respective addresses of each as shown by the records of the Motor Vehicles Division. If the vehicle is not so registered, reasonable efforts shall be made to ascertain the name and address of the legal owner or person entitled to possession of the vehicle so that notice may be mailed, if reasonably possible, within 48 hours of impound. *(Ord. 714, 2-23-93)*

(3) Any notice may be given by personal service in lieu of mailing. *(Ord. 724, 3-22-94)*

(C) *Pre-Impound Notice.*

(1) The notice required by Section 6.13.3(A)4 shall state the following:

(a) the name and badge number of the officer or identification of other city employee issuing the notice;

(b) that if the vehicle is not removed within the prescribed time limit, the vehicle will be impounded;

(c) the number of the ordinance violated and under which the vehicle will be removed;

(d) the place where the vehicle will be held in custody or the telephone number and name of the person who will provide that information;

(e) that the City, or any person who, at the request of the Chief of Police, impounds a vehicle, shall have a lien on the vehicle and its contents for the towing and storage charges and the City impound fee authorized by the City Code or by resolution of the City Council, may retain possession of the vehicle until the charges and fee are paid, and may have the vehicle sold at public auction to satisfy the lien; and

(f) that a hearing on the validity of the proposed impound, or on the reasonableness of any towing and storage charges, may be held, if timely requested within five calendar days of receipt of notice by the owner. *(amended by Ord. 810, 5-9-2000)*

(D) Post-Impound Notice. After a vehicle has been impounded pursuant to either Section 6.13.2(A) or (B), notice must be provided to the registered owner, if known, indicating:

(1) the location of the vehicle;

(2) that a lien has arisen on the vehicle and its contents in favor of the person who towed and is storing the vehicle;

(3) that the vehicle may be sold at public auction to satisfy the lien; and

(4) that a hearing on the validity of the tow may be held, if requested within five calendar days of receipt of notice by the owner. *(Ord. 714, 2-23-93)*

6.13.4 HEARING

(A) *Request for Hearing.*

(1) The owner must request a hearing within five calendar days after receipt of the notice. The request may be made in person or in writing to the City Manager. Failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing. *(Ord. 832, 3-11-2003)*

(2) If the owner of the vehicle timely requests a hearing before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with this section.

(B) *Hearing Procedures.*

(1) When timely request for a hearing is made, a hearing shall be held before the Municipal Judge.

(2) The hearing shall be set and conducted within 72 hours of receipt of the request, excluding holidays, Saturdays and Sundays. The hearing can be set for a later date if the owner or person entitled to possession so requests.

(3) At the hearing, the owner may contest the validity of the impound.

(4) The City shall have the burden of proving the validity of the impound by a preponderance of the evidence.

(C) *Decision of the Municipal Judge.* If the Municipal Judge finds that:

(1) Impound of the vehicle was proper, the Municipal Judge shall:

(a) enter an order supporting the removal; and

(b) find that the owner or person entitled to possession is liable for the City impound fee of $50.00 plus any towing and storage charges resulting from the impound.

(2) Impound of the vehicle was improper, the Municipal Judge shall:

(a) order the vehicle released to the owner or person entitled to possession;

(b) find that the owner or person entitled to possession is not liable for the impound fee or any towing or storage charges resulting from the impound; and

(c) order the city to satisfy the towing and storage lien.

(3) The decision of the Municipal Judge is final.

(D) Failure to Appear at the Hearing. If the person requesting the hearing does not appear at the scheduled hearing, the Municipal Judge may enter an order supporting the impound and assessment of the City impound fee and towing and storage costs. *(Ord. 714, 2-23-93; amended by Ord. 810, 5-9-2000; amended by Ord. 832, 3-11-2003)*

6.13.5 RELEASE OF VEHICLE

A vehicle which has been impounded under this section may be released to the registered owner or legal owner, if different, or to the person operating the vehicle at the time of impound if:

(A) the owner or driver of the vehicle has paid to the City the City impound fee, and has paid all of the accrued towing and storage costs, unless otherwise ordered by the hearings officer; and

(B) the Vale Police Department has released its hold, if any, on the vehicle. *(Ord. 714, 2-23-93, amended by Ord. 810 5-9-2000)*

6.13.6 TOWING AND STORAGE LIENS

A person who, at the request of the Chief of Police, takes a vehicle into custody under the provisions of this Chapter shall have a lien on the vehicle and its contents for the just and reasonable towing and storage charges, may retain possession of the vehicle and its contents until the charges are paid, and may have the vehicle and its contents sold at public auction to satisfy the lien. The lien that attaches to the vehicle and its contents shall be a possessory chattel lien in accordance with ORS 87.142 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is $1,000 *(Ord. 724, 3-22-94)* or less, the vehicle shall be disposed of in the manner provided in ORS 819.220. *(Ord. 714, 2-23-93)*

6.13.7 ROTATING LIST OF ON-CALL TOWING COMPANIES

The City Manager shall establish a list of towing companies authorized to tow vehicles pursuant to this chapter. The Chief of Police shall request towing services pursuant to this chapter, on a rotating basis, from the businesses listed. In the event that a towing company is unavailable or unable to respond to a request for services within 30 minutes, the Chief of Police may request services from the next business on the rotating list. In the event that no businesses on the list are available, or if no listed business has equipment sufficient for a particular towing request, the Chief of Police may request services from a towing business not on the list.

6.13.8 QUALIFICATIONS FOR TOWING LIST; APPEAL

(A) The City Manager shall add the name of an applicant business to the rotating list established in Section 6.13.7 provided that the applicant demonstrates to the satisfaction of the City Manager that the applicant meets all of the following qualifications.

(1) The applicant possesses a valid towing business certificate pursuant to ORS 822.205, and meets the insurance and vehicle safety requirements of that statute;

(2) The applicant has the ability to respond to towing requests within 30 minutes on a 24-hour per day basis;

(3) The applicant's towing business is located within a five-mile radius of the City of Vale.

(4) The applicant has facilities for secure storage of towed vehicles through means such as fencing or enclosed structures.

(B) The City Manager may from time to time require that listed towing businesses provide evidence of continued compliance with the requirements of subsection (A), and shall remove any business from the rotating list which fails to meet such requirements.

(C) A decision denying an application or removing a business from the rotating list may be appealed to the city council by giving a written Notice of Appeal to the City Manager within ten (10) days of the date of the decision. The City Council shall hear the appeal at the next regularly scheduled Council meeting. *(Ord. 750, 10-10-95; amended by Ord. 832, 3-11-2003)*

6.13.9 IMPOUND FEE

Businesses towing vehicles pursuant to this chapter shall charge $60 for towing, plus storage charges of $10 per day for each day, or portion thereof, of storage after the first 24 hours following the towing of the vehicle. The City shall charge an impound fee of $60. If a towing company retains an impounded vehicle for more than 30 days, or disposes of an impounded vehicle for its towing and storage charges, it shall pay to the City the City's impound fee. The City Council may amend the approved towing and storage charges, and the City impound fee, from time to time by resolution *(Ord. 768, 3-10-97, eff. 4-10-97; amended by Ord. 810, 5-9-2000)*

Title VII

TRAFFIC

Chapters

1 TRAFFIC **256**

2 TRUCK ROUTE **269**

3 RECREATIONAL VEHICLE PARKING **270**

4 TRUCK AND LARGE VEHICLE REGULATIONS **273**

HISTORY:

CHAPTER 2 originally designated Washington St. as a truck route *(Ord. 556, 10-10-72)* prior to establishment of A. St. and Washington St. as a one-way grid. CHAPTER 3 was created for the regulation of recreational vehicles in order to prevent blockage of City streets *(Ord. 799, 6-8-99)*. CHAPTER 4 was created to prevent unecessary noise and damage to City streets *(Ord. 836, 5-11-2004)*.

Chapter 1

TRAFFIC

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7.1.1 SHORT TITLE

This Ordinance may be cited as the City of Vale Uniform Traffic Ordinance. *(Ord. 556, 10-10-72)*

7.1.2 APPLICABILITY OF STATE TRAFFIC LAWS

Violation of the Oregon Vehicle Code, Oregon Revised Statutes, Chapters 801 to 822 as now and hereafter constituted shall be an offense against the City. *(Ord. 689, 12-8-87)*

7.1.3 DEFINITIONS

In addition to those definitions contained in the Oregon Vehicle Code referred to above, the following words or phrases, except where the context clearly indicates a different meaning, shall mean:

(A) *Bicycle.* A nonmotorized vehicle designed to be ridden, propelled by human power, and having two (2) or more wheels the diameter of which are in excess of ten inches (10") or having two (2) or more wheels where any one wheel has a diameter in excess of fifteen inches (15").

(B) *Bus Stop.* A space on the edge of a roadway designated by sign for use by buses loading or unloading passengers.

(C) *Holiday.* New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other day proclaimed by the Council to be a holiday.

(D) *Loading Zone.* A space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours of specified days.

(E) *Motor Vehicle.* Every vehicle that is self-propelled, including tractors, fork-lift trucks, motorcycles, road building equipment, street cleaning equipment, and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicle laws of Oregon.

(F) *Park or Parking.* The condition of:

(1) A motor vehicle that is stopped while occupied by its operator with the engine turned off.

(2) A motor vehicle that is stopped while unoccupied by its operator whether or not the engine is turned off.

(G) *Pedestrian.* A person on the public right-of-way except:

(1) The operator or passenger of a motor vehicle or bicycle.

(2) A person leading, driving, or riding an animal or animal-drawn conveyance.

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

(I) *Stand or Standing.* The stopping of a motor vehicle while occupied by its operator with the engine running except stopping in obedience to the instructions of a traffic officer or traffic control device or for other traffic.

(J) *Stop.* Complete cessation of movement.

(K) *Street and other property open to public travel.*

(1) *Street.* The terms ”highway,” ”road” and ”street,” when used in this Ordinance or in the ORS Chapters incorporated herein, shall be considered synonymous, unless the context precludes such construction. ”Street”, as defined in this Ordinance and the ORS Chapters incorporated by reference herein, includes alleys, sidewalks, and parking areas and accessways owned or maintained by the City.

(2) *Other property open to public travel.* Property, whether publicly or privately owned and whether publicly or privately maintained, upon which the public operates motor vehicles either by express or implied invitation other than streets as defined in subsection (A) of this Section and excepting public school property, county property, or property under the jurisdiction of the State Board of Higher Education. Other property open to public travel shall include but not be limited to parking lots, service station lots, shopping center and supermarket parking lots, and other accessways and parking areas open to general vehicular traffic, whether or not periodically closed to public use.

(L) *Taxicab Stand.* A space on the edge of a roadway designated by sign for use by taxicabs.

(M) *Traffic Control Device.* A device to direct vehicular or pedestrian traffic, including but not limited to a sign, signaling mechanism, barricade, button, or street or curb marking installed by the City or other authority.

(N) *Traffic Lane.* That area of the roadway used for the movement of a single line of traffic. *(Ord. 556, 10-10-72)*

(O) *Vehicle.* As used in subsequent sections of this Ordinance, includes baccies.

As used in this Ordinance, the singular includes the plural and the masculine includes the feminine. *(Ord. 556, 10-10-72)*

ADMINISTRATION

7.1.4 POWERS OF THE COUNCIL

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

(B) The powers of the Council shall include but not be limited to:

(1) Designation of through streets.

(2) Designation of one-way streets.

(3) Designation of truck routes.

(4) Designation of parking meter zones.

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

(6) Authorization of greater maximum weights or lengths for vehicles using City streets than specified by State Law.

(7) Initiation of proceedings to change speed zones.

(8) Revision of speed limits in parks. *(Ord. 556, 10-10-72)*

7.1.5 DUTIES OF THE CITY MANAGER

The City Manager or his designate shall exercise the following duties:

(A) Implement the ordinances, resolutions and motions of the Council and his own orders by installing traffic control devices. Such installations shall be based on the standard contained in the "Oregon Manual on Uniform Traffic Control for Streets and Highways".

(B) Establish, maintain, remove, or alter the following classes of traffic controls:

(1) Crosswalks, safety zones, and traffic lanes.

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

(3) Parking areas and time limitations, including the form of permissible parking (*e.g.*, parallel or diagonal).

(C) Issue oversize or overweight vehicle permits. *(Ord. 556, 10-10-72; amended by Ord. 832, 3-11-2003)*

7.1.6 PUBLIC DANGER

Under conditions constituting a danger to the public, the City Manager or his designate may install temporary traffic control devices deemed by him to be necessary. During public works operations, when the City Manager deems it necessary, he or his designee may temporarily reroute traffic, impose temporary parking restrictions, install temporary traffic control devices, temporarily alter truck routes and take other measures reasonably necessary to protect the public, City employees and contractors. *(Ord. 556, 10-10-72; amended by Ord. 806, 10-1-99; amended by Ord. 832, 3-11-2003)*

7.1.7 STANDARDS

The regulations of the City Manager or his designate shall be based upon:

(A) Traffic engineering principles and traffic investigations.

(B) Standards, limitations and rules promulgated by the State Highway Commission.

(C) Other recognized traffic control standards. *(Ord. 556, 10-10-72; amended by Ord. 832, 3-11-2003)*

7.1.8 AUTHORITY OF POLICE AND FIRE OFFICERS

(A) It shall be the duty of police officers to enforce the provisions of this Ordinance.

(B) In the event of a fire or other public emergency, officers of the Police and Fire Department may direct traffic as conditions require, notwithstanding the provisions of this Ordinance. *(Ord. 556, 10-10-72)*

7.1.9 OBEDIENCE TO AND ALTERATION OF CONTROL DEVICES

(A) No person shall disobey the instruction of a traffic control device.

(B) No unauthorized person shall install, move, remove, obstruct, alter the position of, deface or tamper with a traffic control device. *(Ord. 556, 10-10-72)*

7.1.10 EVIDENCE

The existence of a traffic control device shall be prima facie evidence that the device was lawfully authorized and installed. *(Ord. 556, 10-10-72)*

7.1.11 EXISTING CONTROL DEVICES

Traffic control devices installed prior to the adoption of this Ordinance are lawfully authorized. *(Ord. 556, 10-10-72)*

GENERAL REGULATIONS

7.1.12 RULES OF ROAD

In addition to State law, the following shall apply to the operation of vehicles upon the streets of the City:

(A) The operator of a vehicle shall not back the vehicle unless the movement can be made with reasonable safety and without interfering with other traffic, and shall yield the right-of-way to moving traffic and pedestrians.

(B) The operator of a vehicle in the traffic lane shall have the right-of-way over an operator of a vehicle departing from a parking space.

(C) No operator of a vehicle shall pull away from a curb or other parking area without giving an appropriate turn signal when other traffic may be affected.

(D) Where a stop sign is erected at or near the entrance to an intersection, the operator of a vehicle approaching shall bring the vehicle to a stop before crossing a stop Line or crosswalk; or, if none, then before entering the intersection. Stopping at a point which does not yield an unobstructed view of traffic on the intersecting street shall not constitute compliance with the requirements of this Section.

(E) Notwithstanding an indication by a traffic control device to proceed:

(1) No operator of a vehicle shall enter an intersection unless there is sufficient space on the opposite side of the intersection to accommodate his vehicle without obstructing the passage of other vehicles.

(2) No operator of a vehicle shall enter a marked crosswalk, whether or not at an intersection, unless there is sufficient space on the opposite side of the crosswalk to accommodate his vehicle without obstructing the passage of pedestrians.

(F) A yield sign has the same function as a stop sign, except it is permissible to proceed with caution into or across an intersection without first stopping if no cross traffic is approaching so close as to constitute an immediate hazard. (Violation is same as stop sign) *(Ord. 556, 10-10-72)*

7.1.13 CROSSING PRIVATE PROPERTY

No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services. *(Ord. 556, 10-10-72)*

7.1.14 EMERGING FROM VEHICLE

No person shall open the door of a motor vehicle into a traffic lane without first ascertaining that it can be done in safety. *(Ord. 556, 10-10-72)*

7.1.15 UNLAWFUL RIDING

(A) No operator shall permit a passenger and no passenger shall ride on a vehicle upon a street except on a portion of the vehicle designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to a person riding within a truck body in space intended for merchandise.

(B) No person shall board or alight from a vehicle while the vehicle is in motion upon a street. *(Ord. 556, 10-10-72)*

7.1.16 CLINGING TO VEHICLES

No person riding upon a bicycle, motorcycle, coaster, roller skates, sled, or other device shall attach the device or himself to a moving vehicle upon a street. Nor shall the operator of a vehicle upon a street knowingly allow a person riding on any of the above vehicles or devices to attach himself, the vehicle, or the device to his vehicle. *(Ord. 556, 10-10-72)*

7.1.17 DAMAGING SIDEWALKS AND CURBS

(A) The operator of a vehicle shall not drive upon a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

(B) No unauthorized person shall place dirt, wood, or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.

(C) No person shall remove a portion of a curb or move a motor vehicle or device moved by a motor vehicle upon a curb or sidewalk without first obtaining authorization and posting bond if required. A person who causes damage shall be held responsible for the cost of repair. *(Ord. 556, 10-10-72)*

7.1.18 OBSTRUCTING STREETS

(A) No unauthorized person shall obstruct the free movement of vehicles or pedestrians using the streets.

(B) No person shall park or stand a vehicle in such a manner or location that it constitutes a hazard to public safety or an obstruction on the street. *(Ord. 556, 10-10-72)*

7.1.19 REMOVING GLASS AND DEBRIS

A party to a vehicle accident or a person causing broken glass or other debris to be upon a street shall remove the glass and other debris from the street. *(Ord. 556, 10-10-72)*

7.1.20 TRAINS NOT TO BLOCK STREETS

No person shall direct or operate a train or permit railroad cars to block the use of any street for a period of time longer than five (5) minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching. *(Ord. 556, 10-10-72)*

PARKING REGULATIONS

7.1.21 METHOD OF PARKING

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

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

(C) The operator who first begins maneuvering his motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to deprive him of his priority or block his access.

(D) Whenever the operator of a vehicle discovers that his vehicle is parked close to a building to which the Fire Deportment has been summoned, he shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.

(E) No person shall leave unattended in or from any motor vehicle parked on a public street or parking lot minor children under the age of fourteen (14) years, leaving said children for a longer period than thirty (30) minutes. *(Ord. 556, 10-10-72)*

7.1.22 PROHIBITED PARKING AND STANDING

In addition to the State Motor Vehicle Laws prohibiting parking, no person shall park or stand:

(A) A vehicle upon a bridge, viaduct, or other elevated structure used as a street or within a street tunnel unless authorized.

(B) A vehicle in an alley, thereby blocking vehicular travel, other than for the expeditious loading or unloading of persons or materials but in no case for a period in excess of fifteen (15) consecutive minutes.

(C) A vehicle upon a parkway or freeway, except as authorized. *(Ord. 556, 10-10-72)*

7.1.23 PROHIBITED PARKING

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

(A) Displaying the vehicle for sale.

(B) Repairing or servicing the vehicle, except repairs necessitated by an emergency.

(C) Displaying advertising from the vehicle.

(D) Selling merchandise from the vehicle, except when authorized. *(Ord. 556, 10-10-72)*

7.1.24 USE OF LOADING ZONE

No person shall stand or park a vehicle for any purpose or length of time, other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. In no case when the hours applicable to the loading zone are in effect shall the stop for loading and unloading of materials exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed fifteen (15) minutes. *(Ord. 556, 10-10-72)*

7.1.25 STANDING OR PARKING OF BUSES AND TAXICABS REGULATED

The operator of a bus or taxicab shall not stand or park the vehicle upon a street in a business district at a place other than a bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab from temporarily stopping his vehicle outside a traffic lane while loading or unloading passengers. *(Ord. 556, 10-10-72)*

7.1.26 RESTRICTED USE OF BUS AND TAXICAB STANDS

No person shall stand or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers, when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space. *(Ord. 556, 10-10-72)*

7.1.27 LIGHTS ON PARKED VEHICLE

No lights need be displayed upon a vehicle that is parked in accordance with this Ordinance. *(Ord. 556, 10-10-72)*

7.1.28 EXTENSION OF PARKING TIME

Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking. *(Ord. 556, 10-10-72)*

7.1.29 EXEMPTION

The provisions of this Ordinance regulating the parking or standing of vehicles shall not apply to a vehicle of the City, County or State or Public Utility while necessarily in use for construction or repair work on a street, or a vehicle owned by the United States while in use for the collection, transportation, or delivery of mail. *(Ord. 556, 10-10-72)*

7.1.30 BICYCLE EQUIPMENT

A bicycle operated upon the streets shall be equipped as required by State law. In addition, a bicycle shall be equipped with a brake capable of sliding at least one tire when applied on dry, level and clean pavement. No bicycle shall be equipped with a siren or whistle. *(Ord. 556, 10-10-72)*

7.1.31 BICYCLE OPERATING RULES

In addition to observing all other applicable provisions of this Ordinance and State law, a rider of a bicycle upon a street shall:

(A) Not ride upon a sidewalk in a business district within the City of Vale.

(B) Yield the right-of-way to pedestrians on sidewalks.

(C) On a two-way street, ride to the extreme right except when preparing for a left turn. On a one-way street, ride to the extreme curbside of the traffic lane and with the direction of travel designated for that lane. If the curb lane is designated for ”left turn” or ”right turn” only, and the operator is not intending to turn, he shall operate in the through lane.

(D) Not carry a package, bundle, or article which prohibits him from having full control of the bicycle and unhindered vision.

(E) Not ride abreast of another bicycle or in any manner other than single file, except on designated bicycle paths.

(F) Not operate a bicycle in a careless or reckless manner which endangers or would be likely to endanger himself, another, or any property. Racing or trick riding shall be included in this offense.

(G) Not leave a bicycle, except in a bicycle rack. If no rack is provided, he shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway, or building entrance. Nor shall he leave the bicycle in violation of the provisions relating to the parking of motor vehicles. *(Ord. 556, 10-10-72)*

7.1.32 IMPOUNDING OF BICYCLES

(A) It shall be unlawful to leave a bicycle on public or private property without the consent of the person in charge or the owner thereof.

(B) A bicycle left on public property for a period in excess of twenty four (24) hours may be impounded by the Police Deportment.

(C) In addition to any citation issued, a bicycle parked in violation of this Ordinance may be immediately impounded by the Police Department.

(D) If a bicycle impounded under this Ordinance is licensed, or other means of determining its ownership exist, the police shall make reasonable efforts to notify the owner. An impounding fee of five dollars ($5.00) shall be charged to the owner. No impounding fee shall be charged to the owner of a stolen bicycle which has been impounded.

(E) A bicycle impounded under this Ordinance which remains unclaimed shall be disposed of in accordance with the City’s procedures for disposal of abandoned or lost personal property. (Ord. 556, 10-10-72)

PEDESTRIANS

7.1.33 USE OF SIDEWALKS

A pedestrian shall not use a roadway for travel when a sidewalk is available. *(Ord. 556, 10-10-72)*

7.1.34 PEDESTRIANS MUST USE CROSSWALKS

No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within one hundred fifty feet (150') of a marked crosswalk. *(Ord. 556, 10-10-72)*

7.1.35 RIGHT ANGLES

A pedestrian shall cross a street at a right angle, unless crossing within a crosswalk. *(Ord. 556, 10-10-72)*

7.1.36 OBEDIENCE TO TRAFFIC LIGHTS AND BRIDGE AND RAILROAD SIGNALS

(A) At an intersection where a pedestrian control light is in operation, no pedestrian shall start to cross the street except when the walk signal is illuminated. Where only vehicle control lights are in operation, no pedestrian shall start to cross the street except when the green light is illuminated.

(B) No pedestrian shall enter or remain upon a railroad grade crossing, an openable bridge, or the approach thereto beyond a crossing gate or barrier after an operation signal indication has been given.

(C) No pedestrian shall pass through, around, over or under a crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed. *(Ord. 556, 10-10-72)*

7.1.37 FUNERAL PROCESSIONS

A permit shall not be required to conduct a funeral procession.

(A) The procession shall proceed to the place of interment by the most direct route which is both legal and practicable.

(B) The procession shall be accompanied by adequate escort vehicles for traffic control purposes.

(C) All motor vehicles in the procession shall be operated with their lights turned on.

(D) No person shall unreasonably interfere with a funeral procession.

(E) No person shall operate a vehicle that is not a part of the procession between the vehicles of a funeral procession. *(Ord. 556, 10-10-72)*

TRAFFIC OFFENSES ON OTHER PROPERTY OPEN TO PUBLIC TRAVEL

7.1.38 CARELESS DRIVING

No person shall operate a motor vehicle on other property open to public travel in a careless manner that endangers or would be likely to endanger any person or property. *(Ord. 556, 10-10-72)*

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

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

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

7.1.42 ENFORCEMENT:

(A) The violation of a provision of this Ordinance relating to the operation of a motor vehicle on other property open to public travel shall be a municipal offense and shall subject the violator to arrest by a police officer or a private citizen if the violation takes place in the presence of the officer or citizen or by a police officer acting under authority of a Municipal Court warrant.

(B) ORS 133.310 (3) and 484.105 shall not apply to offenses on other property open to public travel. The "Oregon Uniform Traffic Citation and Complaint Form" shall not be used and convictions for offenses occurring on other property open to public travel shall not be reported to the Department of Motor Vehicles.

(C) A misdemeanant citation may be issued in lieu of custody. *(Ord. 556, 10 10-72)*

PARKING CITATIONS AND OWNER RESPONSIBILITY

7.1.43 PARKING REGULATIONS & CITATIONS

(A) *PROHIBITED PARKING:* No person shall park a vehicle for longer than two (2) hours between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M. excepting Sundays and holidays, upon any of the following streets or sections thereof:

(1) A Street between Bryant Street and Longfellow;

(2) Bryant between Washington and B Street; and

(3) Court between Washington and B Street.

Signs shall be erected in each block of the streets set forth above giving notice of the parking limitations. The penalty for violation of this section shall be a fine of $5.00.

(B) *PUBLIC WORKS OPERATIONS:* Signs shall be erected on streets designated herein prohibiting parking during public works operations, including street sweeping. The streets designated herein are:

(1) A Street within the City Limits;

(2) Washington Street within the City limits; and

(3) Bryant, Court, Main, Longfellow and Glenn Streets, between Washington and B. Street.

The Public Works Committee shall have the authority to impose parking restrictions to carry out the provisions of this subsection. Permanent signs shall be erected on the streets designated herein prohibiting parking at such times as are approved by the Public Works Committee. If public works operations are to be conducted on days or during hours other than as posted, temporary warning signs shall be posted on the streets designated herein at least twenty four (24) hours prior to such operations.

Any aggrieved person may seek review by the City Council of parking restrictions imposed by the Public Works Committee; *provided*, however, that such review shall not occur until the grievance has been presented first to the Public Works Committee and denied; *provided further*, that such review shall not include review of parking citations or parking tickets. The penalty for violation of this subsection shall be a fine of $10.00.

(C) *CITATIONS:* Whenever a vehicle is found parked in violation of Sections 7.1.43(A) or 7.1.43(B), the officer finding the vehicle shall affix to the vehicle a traffic citation that the operator is to answer the charge or pay the penalty imposed within five (5) days during the hours and at a place specified in the citation. Other than the towing charge, the owners of towed vehicles shall not be required to pay a City impound fee. If the operator does not respond to the citation within a period of five (5) days, a delinquency fee of ten dollars ($10.00) shall be assessed in addition to the fine indicated on the citation and the Municipal Judge shall send to the owner of the vehicle to which the traffic citation was affixed a letter informing the owner of the violation and the delinquency fee and warning the owner that, in the event the letter is disregarded for a period of five (5) days, a further delinquency fee of five dollars ($5.00) and a warrant for arrest may be issued. *(Ord. 764, 10-22-96)*

7.1.44 CITATION ON ILLEGALLY PARKED VEHICLE

Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this Ordinance, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a traffic citation for the operator to answer to the charge against him or pay the penalty imposed within five (5) days during the hours and at a place specified in the citation. *(Ord. 556, 10-10-72)*

7.1.45 FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE

If the operator does not respond to a traffic citation affixed to such vehicle within a period of five (5) days, the Municipal Judge may send to the owner of the vehicle to which the traffic citation was affixed, a letter informing him of the violation and warning him that in the event the letter is disregarded for a period of five (5) days, a warrant for his arrest will be issued. *(Ord. 556, 10-10-72)*

7.1.46 OWNER RESPONSIBILITY

The owner of a vehicle placed in violation of a parking restriction shall be responsible for the offense, except where the use of the vehicle was secured by the operator without the owner's consent. *(Ord. 556, 10-10-72)*

7.1.47 REGISTERED OWNER PRESUMPTION

In a prosecution of a vehicle owner, charging a violation of a restriction on parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that he was then the owner in fact. *(Ord. 556, 10-10-72)*

IMPOUNDMENT AND PENALTIES

7.1.48 IMPOUNDMENT OF VEHICLES

(A) Whenever a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, a police officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner, but subsequently became an obstruction or hazard.

(B) The disposition of a vehicle towed and stored under authority of this Section shall be in accordance with the provisions of Ordinance No. 543, relating to impoundment and disposition of vehicles abandoned on the City street.

(C) The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this Ordinance.

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

(E) Whenever a police officer observes a vehicle parked in violation of a provision of this Ordinance, if the vehicle has four (4) or more unpaid parking violations outstanding against it, the officer may, in addition to issuing a citation, cause the vehicle to be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as provided in subsection (B) of this Section. *(Ord. 556, 10-10-72)*

7.1.49 PENALTIES

(A) Except as may be limited by Charter, violations of ORS provisions made offenses against this City are punishable to the same extent provided in the Statutes. *(Ord. 556, 10-10-72)*

(B) Violation of Sections 7.1.6 through 7.1.20 is punishable by fine not to exceed one hundred dollars ($100.00). *(Ord. 556, 10-10-72; amended by Ord. 607, 11-7-78)*

(C) Violation of Sections 7.1.21 through 7.1.37 is punishable by fine not to exceed fifty dollars ($50.00). *(Ord. 556, 10-10-72)*

(D) Violations of Sections 7.1.38 through 7.1.42 are punishable by a fine not to exceed two hundred fifty dollars ($250.00). *(Ord. 607, 11 7-78)*

GENERAL

7.1.50 SEVERABILITY CLAUSE

If a portion of this Ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this Ordinance. *(Ord. 556, 10-10-72)*

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

Chapter 2

TRUCK ROUTE

Sections

7.2.1 TRUCK ROUTE ESTABLISHED: **269**
7.2.2 THROUGH TRUCK TRAFFIC PROHIBITED **269**

7.2.1 TRUCK ROUTE ESTABLISHED:

A truck route is hereby established along the following thoroughfare within the City of Vale:

- Oregon Street between the John Day Highway and Fourteenth St.;
- Fourteenth Street between Oregon Street and Hope Street;
- Hope Street between Fourteenth Street and Barkley Drive;
- Barkley Drive between Hope Street and Graham Boulevard.

Signs shall be posted designating the described thoroughfare as a truck route. *(Ord. 741, 6-13-95)*

7.2.2 THROUGH TRUCK TRAFFIC PROHIBITED

Through truck traffic is prohibited on Fifteenth and Sixteenth Streets between Oregon Street and Hope Street. Signs shall be posted at each such street giving notice of the prohibition. *(Ord. 741, 6-13-95)*

Chapter 3

RECREATIONAL VEHICLE PARKING

Sections

7.3.1 DEFINITION **270**
7.3.2 PARKING RESTRICTED **270**
7.3.3 PARKING IN FRONT YARDS **270**
7.3.4 OCCUPANCY OF RECREATIONAL VEHICLES **270**
7.3.5 TEMPORARY PARKING **271**
7.3.6 EXEMPTIONS AND SPECIAL CIRCUMSTANCES **271**
7.3.7 ONSTREET PARKING RESTRICTED **272**

7.3.1 DEFINITION

As used in this Chapter, a ”recreational vehicle” means a vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes. It includes a pickup truck with a camper shell installed in its bed. It also includes the definition of a recreational vehicle in ORS 446.003, and in administrative rules promulgated thereunder.

7.3.2 PARKING RESTRICTED

It shall be unlawful within the limits of the City, for any person to park or locate any recreational vehicle, utility trailer, boat, floatation device or similar device on any street, alley or highway except as provided for herein.

7.3.3 PARKING IN FRONT YARDS

Recreational vehicles, utility trailers, boats, floatation devices or similar devices may be parked, placed, or stored in any front yard provided they are parked, placed or stored behind the public sidewalk or sidewalk area of any front yard and comply with the vision clearance requirements of the Code, including Section 8.7.10.

7.3.4 OCCUPANCY OF RECREATIONAL VEHICLES

No recreational vehicle shall be used as a place of habitation on any public street, alley or highway within the limits of the City; except that recreational vehicles may be parked in the front yard (behind the sidewalk or

sidewalk area of a lot, parcel or tract of land) temporarily as a place of habitation not to exceed seventy-two (72) hours. Longer periods of time, up to fourteen (14) consecutive days may be authorized in writing by the Public Works Committee with no fee required. Habitation permits shall not exceed three (3) per year. Recreational vehicles, utility trailers, boats, floatation devices and other similar devices shall gain access to the front yard parking, placement or storage area via a developed curb cut, or where the curb is not developed, by an established driveway.

7.3.5 TEMPORARY PARKING

The unoccupied temporary stopping or parking of a recreational vehicle is permitted on any street, alley or highway for a period of seventy-two (72) hours in any seven (7) consecutive days subject to any other prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

7.3.6 EXEMPTIONS AND SPECIAL CIRCUMSTANCES

A. Other circumstances allowing for the temporary habitation of a recreational vehicle are:

1) Authorized R.V. overnight park or mobile home park;

2) Authorized watchman's quarters;

3) Authorized use during construction of a permitted or conditional use, as provided in Section 7.3.6(C); or

4) During a health hardship, as provided in Section 7.3.6(D).

B. Recreational vehicles and manufactured dwellings on sales lots, not set up for occupancy, are exempt from any requirements of this section.

C. Any person who is constructing a dwelling house upon his own lot, tract or parcel of land, may for a period not to exceed one hundred twenty (120) days park and occupy a recreational vehicle upon said lot, tract or parcel of land which may be occupied by the owners of said property during the period of construction. The Public Works Committee may, if it determines that an extension of time is warranted, grant an extension in monthly increments of up to three months.

D. Temporary occupancy for a health hardship may be authorized by the Public Works Committee, provided that the use is of a temporary nature. Approval of a health hardship permits the placement of a recreational vehicle (travel trailer) subject to the following conditions:

1. The applicant can demonstrate that approval of the request would allow for the care of a seriously ill person in a manner that could not be achieved by any other reasonable existing alternative.

2. The applicant has a medical doctor's written confirmation of a health hardship.

3. The approval is for a length of time not to exceed twelve (12) months or the duration of the health hardship, whichever is less. The Public Works Committee may extend approval for an additional twelve (12) month period if a written request for renewal is submitted by the applicant before expiration and written reconfirmation of the health hardship is provided by a medical doctor.

E. An owner of railroad facilities within the City's Industrial Zone may install up to four recreational vehicles as temporary living quarters for railroad employees and contractors, so long as they are used only in connection with the operation and maintenance of the railroad facilities, as an accessory use. Such use shall be exempt from the requirements of a mobile home park or a trailer park under the City Code. *(Ord. 804, 8-10-99)*

7.3.7 ONSTREET PARKING RESTRICTED

It shall be unlawful, within the limits of the City, for any person to place or locate any utility trailer, boat, floatation device or other similar devices on any streets, alleys or highways; except that emergency or temporary stopping or parking is permitted on any street, alley or highway for no longer than seventy-two (72) hours in any seven (7) consecutive days, subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, ally or highway. No accessory trailer, boats, floatation devices, or other similar devices shall park in such a fashion that they block or obstruct a public sidewalk, ally or street. *(Ord. 799, 6-8-99)*

Chapter 4

TRUCK AND LARGE VEHICLE REGULATIONS

Sections

7.4.1 TEMPORARY PARKING OF TRUCKS 273
7.4.2 TRUCK PARKING LOCATIONS 273
7.4.3 PARKING VEHICLES USING METAL SUPPORTS PROHIBITED 273
7.4.4 USE OF EXHAUST BRAKES PROHIBITED 274
7.4.5 PENALTIES 274

7.4.1 TEMPORARY PARKING OF TRUCKS

It is unlawful for any person to park any tractor truck or semi trailer on the streets or street right-of-way, other than for temporary parking, except in areas posted for truck parking by the City. Temporary parking is allowed only during vehicle loading or unloading, for no more than thirty minutes. In the event loading or unloading is going to exceed thirty minutes, the driver shall notify the city manager or the chief of police and will park the vehicle in such a manner as to minimize the impact on the flow of traffic. If any law or ordinance enforcement officer determines that the parked vehicle constitutes a hazard to persons or property, the officer has the authority to order the driver to remove the truck from that location, and refusal to do so shall be a violation of this section.

7.4.2 TRUCK PARKING LOCATIONS

The City Council may, by resolution, designate locations and/or times within the City in which parking of tractor trucks and semi trailers is permitted for more than temporary parking as defined in Section 7.4.1. The City shall post signs at the designated locations authorizing truck parking within the times designated by the City Council.

7.4.3 PARKING VEHICLES USING METAL SUPPORTS PROHIBITED

It is unlawful for any person to park any tractor, truck, recreational vehicle, camper, camper trailer, mobile home, motor home, double wide, trailer house or semitrailer on the paved portion of any street or street right of way, when that unit is supported by a jack, footing, prop, brace, lever or other support that causes steel or similar metal to rest directly upon the pavement.

7.4.4 USE OF EXHAUST BRAKES PROHIBITED

It is unlawful for any motor vehicle exceeding 10,000 lbs. total gross vehicular weight, while operating over and along the streets and highways of the City, to make use of exhaust brakes for the purpose of slowing or stopping. The term ”exhaust brakes” shall include, but not be limited to, exhaust brakes commonly known as jake brakes.

7.4.5 PENALTIES

Violation of any of the provisions of Chapter 4 of Title VII of the Vale City Code is punishable by fine not to exceed one hundred dollars ($100.00). *(Ord. 836, 5-11-2004; amended by Ord. 851, 8-8-2006)*

Title VIII

ZONING

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HISTORY:

UGB zoning ordinances–CHAPTERS 15B, and 15D *(Ord. 661,4-9-85)* referred to original text of the City zoning ordinance *(Ord. 601, 8-8-78)* rather than sections of the City Code. Chapters 3A and 5A (Residential Protection Overlay and Industrial Protection Overlay) were created in 2002 to allow overlaps in zoning of residential and industrial areas.

Chapter 1

GENERAL PROVISIONS

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8.1.1 TITLE

This Ordinance shall be known as the ”Zoning Title” for the City of Vale.

8.1.2 PURPOSE

The several purposes of this Title are:

- to encourage the most appropriate use of land;
- to conserve and stabilize the value of property;
- to aid in the rendering of fire and police protection;
- to provide for adequate light and air;
- to lessen congestion;
- to encourage the orderly growth of the City;
- to prevent undue concentration of population;
- to facilitate adequate provisions for community utilities and facilities such as water, sewerage and transportation; and
- in general to promote public health, safety, convenience and general welfare.

8.1.3 DEFINITIONS

As used in this Title, the masculine includes the feminine and neuter and singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

ACCESSORY USE: A use incidental and subordinate to the main use of the property, and which is located on the same lot with the main use. A home occupancy is an accessory use.

ALLEY: A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

APARTMENT HOUSE: See Dwelling, Multi-family.

BILLBOARD: A sign which has a surface sign space upon which advertising may be posted, painted or affixed and which is primarily designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists.

BOARDING, LODGING OR ROOMING HOUSE: A building where lodging with or without meals is provided for compensation for not less than five (5) nor more than ten (10) guests.

BUILDING: A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

CITY: City of Vale.

PLANNING COMMISSION: The City Planning Commission.

DWELLING, DUPLEX: Dwelling, two-family. A detached building containing two (2) dwelling units.

DWELLING, MULTI-FAMILY: A building containing two (2) or more dwelling units.

DWELLING, SINGLE-FAMILY: A detached building containing one dwelling unit.

DWELLING UNIT: One or more rooms designed for occupancy by one family and not having more than one cooking facility. For the purpose of this Title, a trailer house is not a dwelling unit.

FAMILY: An individual, or two (2) or more persons related by blood, marriage, legal adoption or guardianship living together in a dwelling unit which board and lodging may also be provided for not more than four (4) additional persons excluding servants; or a group of not more than five (5) persons who need not be related by blood, marriage, legal adoption or guardianship, living together in a dwelling unit.

MOTEL: A building or group of buildings on the same lot containing guests *[sic]* units with separate entrances from the building exterior and consisting of individuals *[sic]* sleeping quarters, detached or in connected rows, with or without cooking facilities, for rental to transients.

NON-CONFORMING USE: A lawful existing structure or use at the time this Title or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.

PARKING SPACE: A rectangular area not less than twenty feet (20') long and eight feet (8') wide together with maneuvering and access space required for a standard American automobile to park within the rectangle.

PERSON: Every natural person, firm, partnership, association, or corporation.

PROFESSIONAL OFFICES: Offices or clinics for doctors, dentists, lawyers or architects or any office of a similar nature or impact. *(Ord. 601, 7-7-78)*

PUBLIC FACILITIES: Structures or uses owned or operated by governmental or other untaxed entities, or intended for use or occupation by, or service to, the public. *(Ord. 782A, 10-28-97)*

RESIDENTIAL FACILITY: A facility licensed by or under the authority of the Department of Human Resources under Oregon Revised Statutes 443.400 to 443.460 which provided residential care alone or in conjunction with treatment or training or a combination thereof for six (6) to fifteen (15) individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

RESIDENTIAL HOME: A home licensed by or under the authority of the Department of Human Resources under Oregon Revised Statutes 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. *(Ord. 704, 6-26-90)*

SCREENING: See Fence, Sight Obscuring.

SIGN: A presentation or representation, other than a house number, which by words, letters, figures, designs, pictures, or colors publicly displayed, give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of advertising. This includes the surface upon which the presentation or representation is displayed. Each display surface of a sign shall be considered to be the sign.

STORY: That portion of a building included between the upper surface of any floor and upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet (6') above grade, such basement or cellar shall be considered a story.

STREET: The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and including the terms "road," "highway," "lane," "place," "avenue," "alley," or other similar designation.

STRUCTURE: That which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.

STRUCTURAL ALTERATION: A change to the supporting members of a structure, including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders, or the roof.

TRAILER HOUSE OR MOBILE HOME: A building or vehicle originally designed or presently constructed to be used as a dwelling or lodging place and to be movable from place to place over streets.

TRAILER PARK: A plot of ground upon which two (2) or more trailer houses occupied for dwelling or sleeping purposes is located, regardless of whether a charge is made for such accommodation.

USE: The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

VISION CLEARANCE AREA: A triangular area on a lot at the intersection of two (2) streets or a street and a railroad, two (2) sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two (2) sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to the point of the intersection.

YARD: An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Title.

YARD, FRONT: A yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building.

YARD, REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.

YARD, SIDE: A yard between the front and rear yards and measured horizontally and at right angles to the side lot line from the side lot line to the nearest point of the building.

8.1.4 COMPLIANCE WITH PROVISIONS OF THE ZONING TITLE

No structure or premises shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered contrary to the provisions of this Title.

8.1.5 CLASSIFICATION OF ZONES

For the purposes of this Title, the City is divided into zones designated as follows:

Zone	*Abbreviated Designation*
Residential	R1
Residential/Professional Offices	R2
General Commercial	C
Industrial	I

8.1.6 ZONING MAP

(A) The location and boundaries of the zones designated in Section 8-1-5 are hereby established as shown on the map entitled "Zoning Map of the City of Vale, Oregon". The effective date of zoning is the date shown on the Zoning Map. The Map shall be signed by the City Manager. The Map shall hereafter be referred to as the Zoning Map.

(B) The signed copy of the Zoning Map shall be maintained without change on file in the office of the City Manager and is hereby made a part of this Title. *(Ord. 601, 7-7-78; amended by Ord. 832, 3-11-2003)*

8.1.7 COMPREHENSIVE PLAN ADOPTED

The 2003 Comprehensive Plan for the City is hereby adopted. *(Ord. 834, 6-24-2003)*

8.1.8 PROPOSALS TO AMEND OR ADOPT LAND USE REGULATIONS

A proposal to amend the Comprehensive Plan or a land use regulation, or to adopt a new land use regulation, shall be forwarded to the Director of the Oregon Department of Land Conservation and Development (DLCD) at least forty five (45) days before the final City Council hearing on adoption. The proposal submitted shall contain four (4) copies of the text and any supplemental information the City Council believes is necessary to inform the Director of DLCD as to the effect of the proposal and shall indicate the date of the final hearing on adoption by the City Council.

8.1.9 NOTICE OF AMENDMENT OR NEW REGULATION

Upon any amendment to the Comprehensive Plan or a land use regulation, or any adoption of a new land use regulation, the City Council shall forward to the Director of the Oregon Department of Land Conservation

and Development a copy of the adopted text of the Comprehensive Plan provision or land use regulation together with the findings adopted by the City Council. The text and findings shall be mailed or otherwise submitted not later than five (5) working days after the final decision by the City Council. If the proposed amendment or new regulation that the Director received under Section 8.1.8 has been substantially amended, the City Council shall specify the changes that have been made in the notice provided to the Director.

8.1.10 FINAL ACTION ON APPLICATION FOR PERMIT OR ZONE CHANGE

(A) In accordance with ORS 227.178, except as provided in subsection (C) of this Section, the City shall take final action upon an application for a permit or zone change, within one hundred twenty (120) days after the application is deemed complete.

(B) In accordance with ORS 227.178, if an application for a permit or a zone change is incomplete, the City Council or its designate shall notify the applicant of what information is missing within thirty (30) days of receipt of information. The application shall be deemed complete for the purposes of subsection (A) of this Section upon receipt by the City Council or its designate of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for the purpose of subsection (A) of this Section on the thirty first day after the City first received the application.

(C) In accordance with ORS 227.178, the one hundred twenty (120) day period specified in subsection (A) hereof may be extended for a reasonable period of time at the request of the applicant. Subsection (A) shall not apply to decisions not wholly within the authority and control of the City Council, nor to an amendment to the Comprehensive Plan or a land use regulation which has been acknowledged or to the adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610(1). *(Ord. 704, 6-26-90)*

Chapter 2

RESIDENTIAL ZONE R1

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8.2.1 USES PERMITTED OUTRIGHT

In an R1 Zone the following uses and their accessory uses are permitted outright:

(A) Single-family dwellings.

(B) Residential homes.

(C) Double wide mobile homes.

(D) Duplexes. *(Ord. 704, 6-26-90)*

8.2.2 CONDITIONAL USES PERMITTED

In an R1 Zone the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Sections 8.9.1 to 8.9.6.

(A) Golf course and other open land recreational use but excluding intensive commercial amusement use such as "pitch and putt" golf course, driving range, automobile racetrack, or amusement park.

(B) Community building.

(C) Radio or television transmitter or tower.

(D) Utility lines, station or substation.

(E) Multi-family dwellings of more than two (2) dwelling units.

(F) Residential facilities *(Ord. 704, 6-26-90)*

(G) Boarding, lodging or rooming house.

(H) Single wide mobile homes.

(I) Public facilities or a residentially compatible character for which because of the temporary nature of use re-zoning to PF-RESIDENTIAL is not appropriate. *(amended by Ord. 782A, 10-28-97)*

8.2.3 SIGNS

In an R1 Zone the following signs are permitted:

(A) One nonilluminated name plate or sign not exceeding one and one-half (1.5) square feet in area for each dwelling.

(B) One nonilluminated sign pertaining to the lease, rental, or sale of the property and not exceeding eight (8) square feet in area.

(C) One sign per tract of land or subdivision advertising the sale of the property. Such sign shall not exceed eighty (80) square feet in area, and shall be removed one year from the date of construction. The Commission may grant an extension of time not to exceed one year. *(Ord. 601, 8-8-78)*

(D) Signs for conditional uses in accordance with Section 8-9-6. *(Ord. 647, 10-25-83)*

(E) One sign per boarding, lodging or rooming house and not exceeding eight (8) square feet in area.

8.2.4 LOT SIZE

In an R1 Zone the minimum lot size shall be as follows:

(A) The minimum lot area shall be seven thousand fifty (7,050) square feet.

(B) The minimum lot width at the front of the building line shall be seventy five feet (75').

(C) The minimum lot depth shall be ninety four feet (94').

(D) The minimum lot area for a two-family dwelling shall be seven thousand fifty (7,050) square feet. The minimum lot area for any multi-family dwelling allowed as a conditional use shall be related to the number of bedrooms in each dwelling unit as prescribed in the following table:

	Square Feet of Lot Area to be Added for Each Dwelling Unit Over Two
Studio or Efficiency	750 square feet
1 bedroom	1000 square feet
2 bedroom	1500 square feet
3 bedroom	2250 square feet
4 bedroom	2500 square feet

8.2.5 SETBACK REQUIREMENTS

Except as provided in Sections 8.7.1 and 8.7.6, in an R1 Zone the yards shall be as follows:

(A) The front yard shall be a minimum of twenty feet (20').

(B) Each side yard shall be a minimum of five feet (5') from outside of overhang, each with at least ten feet (10') between building overhangs.

(C) The rear yard shall be a minimum of twenty feet (20').

8.2.6 HEIGHT OF BUILDINGS

In an R Zone no building shall exceed a height of thirty five feet (35') measured from the grade.

8.2.7 LOT COVERAGE

In an R1 Zone buildings and paved areas shall not occupy more than eighty percent (80%) of the lot area. *(Ord. 601, 8-8-78)*

Chapter 3

RESIDENTIAL/PROFESSIONAL OFFICE R2

Sections

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8.3.1 USES PERMITTED OUTRIGHT

In an R2 Zone the following uses are permitted outright:

(A) Single family dwellings.

(B) Duplexes.

(C) Double wide mobile homes.

(D) Professional offices.

(E) Churches.

8.3.2 CONDITIONAL USES PERMITTED

In an R2 Zone the following uses and their accessory uses are permitted when authorized in accordance with Sections 8.9.1 to 8.9.6:

(A) All uses listed under Section 8.2.2 of this Title as conditional uses permitted in an R1 Zone.

8.3.3 SIGNS

In an R2 Zone, provisions of Section 8.2.3 of this Title apply.

8.3.4 LOT SIZE

In an R2 Zone, provisions of Section 8.2.4 of this Title, relative to coverage, apply.

8.3.5 SETBACK REQUIREMENTS

In an R2 Zone, provisions of Section 8.2.5 of this Title, relative to setbacks, apply. Provisions of Section 8.2.7, relating to lot coverage, also apply in an R2 Zone. *(Ord. 601, 8-8-78)*

Chapter 3A

RESIDENTIAL PROTECTION OVERLAY

Sections

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8.3A.1 PURPOSE; CRITERIA

The purpose of a Residential Protection Overlay (RPO) Zone is to provide for the continuation of established residential use in selected Industrially zoned (I) areas. In determining whether to establish an RPO zone within an existing Industrial zone, the City shall consider the following:

(A) The number of residences within the proposed RPO zone prior to January 1, 1995;

(B) The economic hardships, if any, experienced by existing residential owners as a result of restrictions imposed by the Industrial zone designation;

(C) The economic hardships that would be experienced by nonresidential owners within the Industrial zone resulting from the creation of an RPO zone as an overlay zone; and

(D) Whether the creation of an RPO zone would impede the orderly development of Industrial uses within the area. *(amended by Ord. 830, 8-27-2002)*

8.3A.2 PERMITTED USES

Uses allowed as permitted uses in Sections 8.2.1 and 8.3.1 are also permitted in an RPO zone, but only to the extent that those uses existed prior to January 1, 1995. Industrial uses identified in 8.5.1 as permitted uses shall continue to be permitted uses. *(amended by Ord. 830, 8-27-2002)*

8.3A.3 CONDITIONAL USES

Those uses conditionally permitted under the provisions of 8.2.2 and 8.3.2 (R-1 and R-2 conditional uses) are allowed as conditional uses, but only to the extent that those uses existed prior to the establishment of

the Industrial zone in the area. However, those uses otherwise conditionally permitted under the provisions of 8.5.2 are explicitly prohibited in an RPO zone.

8.3A.4 STANDARDS

Signs, lot sizes, setback and other requirements will conform to those standards applicable to the specifications in Sections 8.2 and 8.3 (R-1 and R-2 Residential) and 8.5 (Industrial) respectively.

8.3A.5 RESIDENTIAL CONSTRUCTION

No new construction shall be permitted on residential structures within an RPO zone, if the effect of the construction is to substantially expand the residential use of the property. Residential buildings which are damaged or destroyed, in whole or in part, may be rebuilt within 24 months, so long as they conform to the uses existing prior to the damage or destruction. A rebuilt residential building shall have a square footage no greater than that of the structure it replaces, or more storeys, except upon the granting of a variance upon a showing of hardship.

8.3A.6 RECONSIDERATION

After due notice and hearing, the City may from time to time review and rescind any RPO zone designation if the City determines that the criteria for establishing an RPO zone set forth in 8.3A.1 are no longer being met. *(Ord. 825, 1-29-2002)*

Chapter 4

COMMERCIAL ZONE C

Sections

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8.4.1 USES PERMITTED

In a C Zone, the following uses and their accessory uses are permitted:

- A use permitted outright or as a conditional use in an R Zone except public facilities pursuant to 8.17.2.
- Amusement enterprise, including pool hall, bowling, dancing hall and skating rink.
- Auditorium, exhibition hall, or other public assembly room except public facilities of a commercially compatible character pursuant to Sec. 8.17.3.
- Automobile service station.
- Automobile laundry.
- Automobile, truck, boat or trailer sales, rental, service, parts and repair.
- Bakery.
- Bank, loan company, or similar financial institution.
- Barber shop.
- Beauty shop.
- Bicycle shop.
- Blueprinting, photostating, or other reproduction.
- Book or stationery store, or newsstand.
- Bookbindery.
- Building supply.
- Bus station.

- Business machines, retail and service.
- Cabinet, carpenter or woodworking shop.
- Catering establishment.
- Clinic, except animal clinic.
- Clothes cleaning or laundry agency.
- Clothing store or tailor shop.
- Club, lodge, union or fraternal organization except public facilities of a commercially compatible character pursuant to Sec. 8.17.3.
- Cocktail lounge or tavern.
- Confectionery store, including soda fountain.
- Curtain or drapery shop.
- Dancing school or music studio.
- Day nursery.
- Delicatessen.
- Drug store, pharmacy.
- Dry cleaning or pressing, except those using highly volatile or combustible materials or using high pressure steam tanks or boilers.
- Dry goods, millinery or dress shop.
- Electrical supply store.
- Feed and seed store.
- Florist shop.
- Floor covering sales and service.
- Food store.
- Freight depot.
- Frozen food lockers, retail only.
- Furniture store.
- Garden store.
- Gift, hobby or art shop.
- Grocery store.
- Hardware store.
- Health studio, physical therapist, reducing salon.
- Hotel or motel.
- Ice or cold storage plant.
- Jewelry store, including repairing.

- Laboratory for research or testing.
- Laundry, dry cleaning, or dyeing establishment.
- Leather goods sales, including harness and saddle shop.
- Locksmith.
- Machinery or equipment sales, service or storage.
- Magazine or newspaper distribution agency.
- Meat market, retail only.
- Mortuary, undertaking or funeral parlor.
- Newspaper publishing.
- Notions.
- Office, business or professional.
- Office supplies.
- Paint store, including related contractor shop.
- Parking lot or parking garage except public facilities of a commercially compatible character pursuant to Sec. 8.17.3.
- Pet shop.
- Plumbing, heating, electrical, or paint contractor sales, repair or storage.
- Printing plant.
- Radio or television sales and service.
- Restaurant or hotel supply.
- Restaurant or tearoom.
- Retail store.
- Scientific or professional instrument sale or repair.
- Secondhand store.
- Self-service laundry.
- Shoe store or shoe repair shop.
- Storage building for household goods.
- Studio; art, music or photography.
- Taxidermy shop.
- Telephone or telegraph exchange.
- Theater, except drive-in theater.
- Trailer park.
- Upholstery shop.
- Welding, sheet metal, or machine shop.
- Wholesale distribution or outlet, including warehousing and storage.
- Wholesale office or showroom with merchandise on the premises limited to small items and samples. *(amended by Ord. 782A, 10-28-97)*

8.4.2 SIGNS

In a C Zone, signs located within one hundred feet (100') of a residential zone shall be set back at least ten feet (10') from the lot in a residential zone, shall not be moving or intermittent flashing, and shall not exceed an area of twenty five (25) square feet on each side.

8.4.3 SETBACK REQUIREMENTS

Except as provided in Sections 8.7.2 and 8.7.7, in a C Zone, the yards shall be as follows:

(A) The side yard shall be a minimum of ten feet (10') between building overhangs where abutting a residential zone.

(B) The rear yard shall be a minimum of twenty feet (20') where abutting a residential zone. *(Ord. 601, 8-8-78)*

Chapter 5

INDUSTRIAL ZONE I

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8.5.1 USES PERMITTED

In an I Zone, the following uses and their accessory uses are permitted:

(A) Warehousing and storage, excluding storage of hazardous products.

(B) Wholesale distribution and sales outlet.

(C) Service stations.

(D) Railroad facilities.

(E) Manufacturing, repairing, fabricating, processing or packaging.

(F) Utility facilities necessary for public services, excluding waste disposal facilities and public facilities of an industrially compatible character pursuant to Sec. 8.17.4 *(amended by Ord. 782A, 10-28-97)*

(G) A dwelling for caretaker or night watchman on the property.

(H) Geothermal development.

(I) Freight depots.

8.5.2 CONDITIONAL USES

In an I Zone, the following uses are permitted as conditional uses when authorized in accordance with Section 8.9.1 to 8.9.6 of this Title:

(A) Junkyards or automobile wrecking yards.

(B) Animal slaughterhouses.

(C) Rendering plants.

(D) Any uses that may possess characteristics injurious to health and safety due to emissions of smoke, dust, odor, fumes, refuse, noise or other effluents.

8.5.3 SITE PLAN REVIEW

Site plans for all permitted and conditional uses as delineated in Sections 8.5.1 and 8.5.2 must be submitted to the Planning Commission for review. Construction and development of the site shall be in substantial conformance to the plans approved by the Planning Commission.

8.5.4 LIMITATIONS ON USE

In an I Zone, the following conditions and limitations shall apply:

(A) Materials shall be stored and grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or otherwise create a health hazard.

(B) Points of access from a public street to properties in an I Zone shall be so located as to minimize traffic congestion and avoid directing traffic into residential streets.

(C) Building entrances or other openings adjacent to or across the street from a residential zone shall be prohibited if they cause glare, excessive noise, or otherwise adversely affect land uses in the residential zones.

8.5.5 SIGNS

In an I Zone, signs located within one hundred feet (100') of a residential zone shall comply with Section 8.2.3 of this Title.

8.5.6 SETBACK REQUIREMENTS

Except as provided in Sections 8.7.2 and 8.7.7 of this Title, in an I Zone the yards shall be as follows:

(A) The side yard shall be a minimum of ten feet (10') between building overhangs.

(B) The rear yard shall be a minimum of twenty feet (20').

8.5.7 COMPLIANCE WITH STATE REGULATIONS

All uses involving manufacturing, repair, storage or processing shall meet all applicable standards and regulations of the State Board of Health, Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. *(Ord. 647, 1 0-25-83)*

Chapter 5A

INDUSTRIAL PROTECTION OVERLAY

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8.5A.6 RECONSIDERATION **298**

8.5A.1 PURPOSE; CRITERIA

The purpose of a Industrial Protection Overlay (IPO) Zone is to provide for the continuation of established industrial uses in selected R-1 and R-2 zoned areas. In determining whether to establish an IPO zone within an existing R-1 or R-2 zone, the City shall consider the following:

(A) The number of industrial uses within the proposed IPO zone prior to January 1, 1995;

(B) The economic hardships, if any, experienced by existing industrial owners as a result of restrictions imposed by the Residential zone designation;

(C) The economic hardships that would be experienced by nonindustrial owners within the Residential zone resulting from the creation of an IPO zone as an overlay zone; and

(D) Whether the creation of an IPO zone would impede the orderly development of residential uses within the area. *(amended by Ord. 831, 8-27-2002)*

8.5A.2 PERMITTED USES

Uses identified as permitted uses in 8.5.1 are also permitted in an IPO zone, but only to the extent that those uses existed prior to January 1, 1995. Residential uses identified in 8.2.1 and 8.3.1 shall continue to be permitted uses. *(amended by Ord. 831, 8-27-2002)*

8.5A.3 CONDITIONAL USES

No conditional uses identified in 8.5.2 are allowed as conditional uses in an IPO Zone. Residential conditional uses identified in 8.2.2 and 8.3.2 (R-1 and R-2 conditional uses) shall continue to be allowed as conditional uses.

8.5A.4 STANDARDS

Signs, lot sizes, setback and other requirements will conform to those standards applicable to the specifications in Sections 8.2.2 and 8.3.2 (R-1 and R-2) and 8.5 (Industrial) respectively.

8.5A.5 INDUSTRIAL CONSTRUCTION

No new construction shall be permitted on industrial structures within an IPO zone, if the effect of the construction is to substantially expand the industrial use of the property. Industrial buildings which are damaged or destroyed, in whole or in part, may be rebuilt within 24 months, so long as they conform to the uses existing prior to the damage or destruction. A rebuilt industrial building shall have a square footage no greater than that of the structure it replaces, or more storeys, except upon the granting of a variance upon a showing of hardship.

8.5A.6 RECONSIDERATION

After due notice and hearing, the City may from time to time review and rescind any IPO zone designation if the City determines that the criteria for establishing an IPO zone set forth in 8.5A.1 are no longer being met. *(Ord. 824, 1-29-2002)*

Chapter 6

OFF-STREET PARKING AND LOADING

Sections

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8.6.1 OFF-STREET PARKING

At the time of erection of a new structure within any zone in the City, or at the time of an enlargement or change in use of an existing structure within the C and I Zones, off-street parking spaces shall be provided in accordance with the requirements of this Section unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less than is required by this Section.

Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space.

USE	STANDARD
Residential	
One-family dwelling	One space per dwelling unit
Multi-family dwelling	Three spaces per two dwelling units
Boarding, lodging, or rooming house	Spaces equal to 80 percent of the number of guest accomodations plus one additional space for the owner or manager.
Commercial/Residential	
Commercial/Residential	One space per two guest rooms plus one space per two employees
Motel	One space per guest room or suite plus one additional space for the owner or manager.
Club; lodge	Spaces to meet the combined requirements of the uses being conducted such as a hotel, restaurant, auditorium, etc.

Institutional	
Convalescent hospital, nursing home, sanitarium, rest home, home for the aged	One space per two beds for patients or residents
Hospital	Spaces equal to 1.5 times the number of beds.
Places of Public Assembly	
Church	One space per four seats or eight feet of bench length in the main auditorium.
Library; reading room	One space per 400 square feet of floor area plus one space per two employees
Nursery; primary *[school]*	Two spaces per teacher
Elementary or junior high school	One space per classroom plus one space per administrative employee or one space per four seats or eight feet of bench length in the main auditorium, whichever is greater.
High school	One space per classroom plus one space per administrative employee plus one space for six students or one space per four seats or eight feet of bench length in the main auditorium, whichever is greater.
College; commercial school for adults	One space per five seats in classrooms
Other auditorium; meeting room	One space per four seats or eight feet of bench length
Commercial Amusement	
Arena; theater	One space per four seats or eight feet of bench length
Bowling alley	Five spaces per alley plus one space per two employees
Dance hall; skating rink	One space per 100 square feet of floor area plus one space per two employees
Commercial	
Retail store except as provided in following paragraph	One space per 200 square feet of floor area
Service or repair, retail store handling exclusively bulky merchandise such as automobiles and furniture	One space per 600 square feet of floor area
Bank; office (except medical or dental)	One space per 600 square feet plus one space per two employees
Medical and dental clinic	One space per 300 square feet of floor area plus one space per two employees
Eating and drinking establishment	One space per 200 square feet of floor area
Mortuaries	One space per four seats or eight feet of bench length in chapels
Industrial	
Storage warehouse; manufacturing establishment; rail or trucking freight terminal	One space per employee
Wholesale establishment	One space per employee plus one space per 600 square feet of patron serving area

8.6.2 OFF-STREET LOADING

(A) *Passengers.* A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty five (25) students.

(B) *Merchandise, Materials or Supplies.* Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this Chapter shall not be used for loading and unloading operations except during the periods of the day when not required to take care of parking needs.

8.6.3 GENERAL PROVISIONS–OFF-STREET PARKING AND LOADING

(A) The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Chapter. Use of property in violation hereof shall be a violation of this Chapter. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Chapter to begin or maintain which altered use until the required increase in off-street parking or loading is provided.

(B) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Commission, based upon the requirements of comparable uses listed.

(C) In the event several uses occupy a single structure or parcel of land, the total requirements for off street parking shall be the sum of the requirements of the several uses computed separately.

(D) Owners of two (2) or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Building Official in the form of deeds, leases, or contracts to establish the joint use.

(E) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than five hundred feet (500') from the building or use they are required to serve, measured in a straight line from the building.

(F) Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(G) Unless otherwise provided, required parking and loading spaces shall not be located in a required yard.

(H) Plans shall be submitted as provided in Section 8.12.3 of this Title.

(I) *Design Requirements for Parking Lots:*

(1) Areas used for standing and maneuvering of vehicles shall have a durable and dustless surface maintained adequately for all-weather use and so drained as to avoid flow of water across public sidewalks.

(2) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize the disturbance of residents by the erection between the uses of a sight obscuring fence of not less than five feet (5') nor more than six feet (6') in height except where vision clearance is required.

(3) Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at least four inches (4") high and set back a minimum of four and one-half feet (4.5') from the property line or by a bumper rail.

(4) Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.

(5) Access aisles shall be of sufficient width for all vehicles turning and maneuvering.

(6) Groups of more than four (4) parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street other than an alley will be required.

(7) Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provided maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives.

(8) Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points twenty feet (20') from the intersection .

(9) Lighting of the parking area shall be deflected from a residential zone.

(J) Completion Time for Parking Lots. Required parking spaces shall be improved and available for use by the time the use served by the parking is ready for occupancy. An extension of time may be granted by the Building Official providing a performance bond, or its equivalent, is posted equaling the cost to complete the improvement as established by the Building Official. In the event the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements thenceforth constructed under the direction of the City. *(Ord. 601, 8-8-78)*

Chapter 7

SUPPLEMENTARY PROVISIONS

Sections

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8.7.1 ZONE BOUNDARIES

Unless otherwise specified, zone boundaries are property lines, the center line of street, alleys and railroad right of way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two (2) zones, the entire parcel shall be placed in the zone that accounts for the greater area of the lot by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than ten feet (10'). If the adjustment involves a distance of more than twenty feet (20'), the procedure for a zone change shall be followed.

8.7.2 GENERAL PROVISIONS REGARDING ACCESSORY USES

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this Title and shall comply with the following limitations:

(A) Fences, which may be located within yards, shall not exceed three feet (3') from the grade of the street center line in the front yard and shall not conflict with requirements of a vision clearance area.

(B) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

(C) A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.

(D) Regardless of the side yard requirements of the zone, in a residential zone a side or rear yard may be reduced to three feet (3') for an accessory structure erected more than sixty five feet (65') from a street other than an alley, provided the structure is detached from other buildings by five feet (5') or more and does not exceed a height of one story nor an area of four hundred fifty (450) square feet.

8.7.3 AUTHORIZATION OF SIMILAR USES

The Commission may rule that a use, not specifically listed in the allowed uses of a zone, shall be included among the allowed uses if the use is of the same general type and is similar to the allowed uses. However, this Section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone.

8.7.4 PROJECTIONS FROM BUILDINGS

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features may project not more than two feet (2') into a required yard or into required open space as established by coverage standards.

8.7.5 MAINTENANCE OF MINIMUM REQUIREMENTS OF THE ZONING TITLE

No lot area, yard or other open space, or required off-street parking-loading area existing on or after the effective date of this Title shall be reduced in area, dimension, or size below the minimum required by this Title, nor shall any lot area, yard or other open space or off-street parking or loading area which is required by this Title for one use be used as the lot area, yard, or other open space or off-street parking or loading area requirement for any other use.

8.7.6 GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS

If, at the time of passage of this Title, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or aggregate holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone and providing, if there is an area deficiency, residential use shall be limited to single-family residence.

8.7.7 EXCEPTION TO YARD REQUIREMENTS

(A) Subject to the requirements of subsection (B) of this Section, in the case of dwellings, the following exception to the front yard requirement is authorized for a lot in any zone: If there are dwellings on both abutting lots with front yards of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half ($\frac{1}{2}$) way between the depth of the abutting lot and the required front yard depth.

(B) To permit or afford better light, air and vision on more heavily traveled streets and on streets of substandard width; to protect arterial streets; and to have the location of structures compatible with the need for the eventual widening of streets, a yard shall be provided abutting the streets and portions of streets hereinafter named which shall be greater than the required yard dimension specified in the zone by the number of feet set forth in the right-hand column, measured at right angles to the center line of the street, and, unless otherwise specified, measured from the center line of the street as constructed and improved with a hard surface pavement, or where not paved, from the center line of general extension thereof of the street right of way.

Street or Portion of Street	*Setback*
All streets less than 60' in width except those specifically listed below	30 feet

8.7.8 GENERAL EXCEPTION TO BUILDING HEIGHT LIMITATIONS

The following types of structures or structural parts are not subject to the building height limitations of this Title: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors, and other similar projections.

8.7.9 ACCESS

All lots shall abut a street other than an alley for a width of at least twenty five feet (25').

8.7.10 VISION CLEARANCE

The vision clearance area shall contain no plantings, walls, structures, or temporary or permanent obstructions exceeding two and one-half feet (2.5') in height measured from the grade of the street center line. Vision clearance areas shall be provided. In a residential zone at an intersection including an alley, the minimum distance shall be thirty feet (30'). *(Ord. 601, 8-8-78)*

8.7.11 *[EMPTY]*

8.7.12 PURPOSE

This Ballot Measure 37 Property Compensation Ordinance is intended to implement the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 (November 2, 2004). These provisions establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city's decision capable of circuit court review. *(Ord. 847, 3-14-2006)*

8.7.13 DEFINITIONS

As used in this Ordinance, the following words and phrases mean:

City Manager. The City Manager of the City of Vale, or his or her designee.

Claim. A claim filed under Ballot Measure 37.

Exempt Land Use Regulation. A land use regulation that:

(a) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;

(b) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

(c) Is required in order to comply with federal law;

(d) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or

(e) Was enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

Family Member. Includes the wife, husband, son, daughter, mother, father, brother, brother_in_law, sister, sister_in_law, son_in_law, daughter_in_law, mother_in_law, father_in_law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

Land Use Regulation. Includes:

(a) Any statute regulating the use of land or any interest therein;

(b) Administrative rules and goals of the Land Conservation and Development Commission;

(c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

(d) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and

(e) Statutes and administrative rules regulating farming and forest practices.

Owner. The present owner of the property, or any interest therein.

Valid Claim. A claim submitted by the owner of real property that is subject to a land use regulation adopted or enforced by the city that restricts the use of the private real property in a manner that reduces the fair market value of the real property. *(Ord. 847, 3-14-2006)*

8.7.14 CLAIM FILING PROCEDURES

(1) A person seeking to file a claim under this ordinance must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the city manager's office, or another city office if so designated by the city manager.

(2) A claim shall include:

(a) The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;

(b) The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by the claimant, and the date the property was acquired;

(c) The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;

(d) The amount of the claim, based on the alleged reduction in value of the real property supported by an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon; and

(e) Copies of any leases or Covenants, Conditions and Restrictions ("CCR's) applicable to the real property, if any, that impose restrictions on the use of the property.

(3) Notwithstanding a claimant's failure to provide all of the information required by subsection (2) of this section, the city may review and act on a claim. *(Ord. 847, 3-14-2006)*

8.7.15 CITY MANAGER INVESTIGATION AND RECOMMENDATION

(1) Following an investigation of a claim, the city manager shall forward a recommendation to the city council that the claim be:

(a) Denied;

(b) Investigated further;

(c) Declared valid, and waive or modify the land use regulation, or compensate the claimant upon completion of an appraisal; or

(d) Evaluated with the expectation of the city acquiring the property by condemnation.

(2) If the city manager's recommendation is that a claim be denied, and no elected official informs the city manager within 14 days that the official disagrees, then the city manager may deny the claim. If an elected official objects, then the city manager shall wait an additional seven days to see whether two more elected officials object to the proposed denial. If they do, then the city manager shall schedule a work session with the city council. If not, the city manager may deny the claim. *(Ord. 847, 3-14-2006)*

8.7.16 CITY COUNCIL PUBLIC HEARING

The City Council shall conduct a public hearing before taking final action on a recommendation from the City Manager. Notice of the public hearing shall be provided to the claimant, to owners and occupants of property within 300 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the subject property. *(Ord. 847, 3-14-2006)*

8.7.17 CITY COUNCIL ACTION ON CLAIM

(1) Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was filed, the City Council shall:

(a) Determine that the claim does not meet the requirements of Measure 37 and this Ordinance, and deny the claim; or

(b) Adopt a Resolution with findings therein that supports a determination that the claim is valid and either direct that the claimant be compensated in an amount set forth in the Resolution for the reduction in value of the property, or remove, modify or direct that the challenged land use regulation not be applied to the property.

(2) The City Council's decision to waive or modify a land use regulation or to compensate the owner shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property. *(Ord. 847, 3-14-2006)*

Chapter 8

NONCONFORMING USES AND STRUCTURES

Sections

8.8.1 CONTINUATION OF NONCONFORMING USE OF STRUCTURE 308
8.8.2 NONCONFORMING STRUCTURE 308
8.8.3 DISCONTINUANCE OF A NONCONFORMING USE 308
8.8.4 CHANGE OF A NONCONFORMING USE 308
8.8.5 DESTRUCTION OF A NONCONFORMING USE 309
8.8.6 COMPLETION OF STRUCTURE 309

8.8.1 CONTINUATION OF NONCONFORMING USE OF STRUCTURE

Subject to the provisions of Sections 8.7.10 to 8.8.5 of this Title, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this Title is permitted.

8.8.2 NONCONFORMING STRUCTURE

Except for signs, a structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended providing the alteration or extension does not exceed the height, setback or coverage requirements of this Title. A nonconforming sign shall not be altered or extended except to make it comply with the requirements of this Title.

8.8.3 DISCONTINUANCE OF A NONCONFORMING USE

If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zone and, after change, it shall not be changed back to the nonconforming use.

8.8.4 CHANGE OF A NONCONFORMING USE

If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zone and, after change, it shall not be changed back to the nonconforming use.

8.8.5 DESTRUCTION OF A NONCONFORMING USE

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding eighty percent (80%) of the value of the structure, a replacement structure or use on the property shall comply with the provisions for a conforming use in the zone. The value of the structure for purposes of this Section shall be determined by establishment of its replacement cost using current values for labor and materials.

8.8.6 COMPLETION OF STRUCTURE

Nothing contained in this Chapter shall require any change in the plans, construction, alteration, or designed use of a building for which construction work has commenced prior to the adoption of this Title. *(Ord. 601, 8-8-78)*

Chapter 9

CONDITIONAL USES

Sections

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8.9.1 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES

Uses designated in this Title as conditional uses may be permitted, enlarged, or otherwise altered upon authorization by the Commission in accordance with the standards and procedures set forth in Sections 8.9.1 to 8.9.6 of this Chapter.

Conditional uses are those which may be appropriate, desirable, convenient or necessary in the districts in which they are allowed but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed.

In permitting a conditional use or modification of an existing conditional use, the City may impose, in addition to those standards and requirements expressly specified by this Title, the following additional conditions which the City considers necessary to protect the best interests of the surrounding property or the City as a whole. These conditions include increasing the required lot size or yard dimensions, limiting the height of buildings, controlling the location and number of vehicle access points, increasing the street width, increasing the number of off-street parking and loading spaces required, limiting the size, number and location of signs, requiring screening landscaping to protect adjacent property, controlling noise, smoke, odor. dust or gas and other conditions consistent with the intent of the particular zone in which a conditional use is allowed.

In the case of a use existing prior to the effective date of this Title and which is classified in this Title as a conditional use, any change in use or in lot area or any alteration of the structure shall conform to the requirements dealing with conditional uses. *(Ord. 601, 8-8-78)*

The City shall not require conditions which would have the effect, either of themselves or cumulatively, of discouraging or denying the needed housing through unreasonable cost or delay. Therefore, multiple-family housing shall be subject to the development standards in Chapters 2 and 3 of this Title or other applicable sections of this Title, but shall not be subject to any increase in required lot size or yard dimensions, limiting height of buildings, increasing street width, increasing the number of off-street parking and loading spaces, and screening landscaping required pursuant to this Title. *(Ord. 667, 9-10-85)*

8.9.2 APPLICATION FOR A CONDITIONAL USE

A property owner or his authorized agent may INITIATE a request for a conditional use or the modification of any existing conditional use by filing an application with the City Manager using forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development and names and addresses of property owners within one hundred feet (100'). The Commission may require other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties. The application shall be accompanied by a fee of fifty dollars ($50.00) plus five dollars ($5.00) for the cost of each registered letter required to be sent to affected landowners. This fee is subject to revision by resolution of the City Council from time to time.*(Ord. 783, 3-24-98; amended by Ord. 832, 3-11-2003)*

8.9.3 PUBLIC HEARING ON A CONDITIONAL USE

Before the Commission may act on a request for a conditional use, it shall hold a public hearing. The hearing shall be held within forty (40) days after the application for the conditional use is filed. The City Manager shall give notice of the hearing in the following manner:

(A) Notice of the hearing shall be published in the official newspaper of the City not less than eight (8) days nor more than twenty (20) days prior to the date of the hearing.

(B) Not less than twenty (20) days *(Ord. 712, 9-8-92)* prior to the date of the hearing, notices shall be sent by registered mail, or by personal service, to all property owners within the area enclosed by lines parallel to and one hundred feet (100') from the exterior boundaries of the property involved. The names and addresses of property owners shall be those shown in the records of the County Assessor. Failure of a person to receive the notice shall not invalidate the proceedings in connection with the application for a conditional use. *(Ord. 601, 8-8-78)*

(C) Notices to property owners shall:

(1) Explain the nature of the application and the proposed use or uses which could be authorized;

(2) List the applicable criteria from the ordinance and the Comprehensive Plan that apply to the application at issue;

(3) Set forth the street address or other easily understood geographical reference to the subject property;

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

(5) State the failure of an issue to be raised in a 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;

(6) Include the name of local government representative to contact and the telephone number where additional information may be obtained;

(7) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(8) If any staff report is to be used at the hearing, state that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost; and

(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. *(Ord. 704, 6-26-90; amended by Ord. 832, 3-11-2003)*

8.9.4 RECESS OF THE HEARING BY THE COMMISSION

The Commission may recess a hearing on a request for a conditional use in order to obtain additional information or to serve further notice on other property owners or persons who it decides may be interested in the request. Upon recessing for this purpose, the Commission shall announce the time and date when the hearing is resumed.

8.9.5 NOTIFICATION OF ACTION

Within five (5) days after a decision has been rendered, the City Manager shall provide the applicant with written notice of the Commission's action on the request for a conditional use. *(Ord. 832, 3-11-2003)*

8.9.6 STANDARDS GOVERNING CONDITIONAL USES

A conditional use shall comply with the standards of the zone in which it is located except as these standards may have been modified in authorizing the conditional use or as otherwise provided as follows:

(A) *Setback.* In a residential zone, yards shall be at least two-thirds (2/3) the height of the principal structure. In any zone, additional yard requirements may be imposed.

(B) *Height Exception.* A church or governmental building may be built to exceed the height limitations of the zone in which it is located to a maximum height of fifty feet (50') if the total floor area of the building does not exceed one and one-half (1.5) times the area of the site and if the yard dimensions in each case are equal to at least two-thirds (2/3) of the height of the principal structure.

(C) *Mobile Homes.* In an R1 or an R2 Zone, mobile homes shall be required to meet the following standards:

(1) Must be on a lot not less than seventy five feet by ninety four feet (75' x 94') or a minimum of seven thousand fifty (7,050) square feet.

(2) Must have the tongue and wheels removed and be out *[sic]* down on a permanent foundation with tie down, both approved by the City and the Building Inspector.

(3) Must hook up to the City water and sewer, if available.

(4) Must have a minimum floor space of at least five hundred (500) square feet. Double wide mobile homes must have a minimum floor space of nine hundred (900) square feet.

(5) Must not be over five (5) years old and must meet State Plumbing, Building and Electrical Codes.

(D) *Limitation on Access to Property and on Openings to Buildings.* The City may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within fifty feet (50') of residential property in a residential zone if the openings will cause glare or excessive noise or otherwise adversely affect adjacent residential property.

(E) *Signs.* In case of a conditional use the sign limitations of a zone may be exceeded to allow one indirectly illuminated sign or nonilluminated sign, not more than six (6) square feet in area, on each side of a structure abutting a street. In addition, a church may have a bulletin board not exceeding ten (10) square feet in area. Said sign shall pertain to the conditional use and may be located in required yards.

(F) *Schools.*

(1) Nursery schools shall provide and maintain at least one hundred (100) square feet of outdoor play area per child. A sight-obscuring fence at least four feet (4') but not more than six feet (6') shall separate the play area from abutting lots.

(2) Primary schools shall provide one acre of site area for each ninety (90) pupils or one acre for every three (3) classrooms, whichever is greater.

(3) Elementary schools shall provide one acre of site area for each seventy-five (75) pupils or one acre for every two and one-half (2.5) classrooms, whichever is greater.

(G) *Utility Station or Substation.* In the case of a utility station or substation the City may waive the minimum lot size required only if it is determined that the waiver will not have a detrimental effect on adjacent property. *(Ord. 601, 8-8-78)*

Chapter 10

VARIANCES

Sections

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8.10.1 AUTHORIZATION TO GRANT OR DENY VARIANCES

The Commission may grant variances from the provisions of this Title where it can be shown that owing to unusual topographic conditions, unusual conditions as to the shape of the property or the location of the building on the property, or other conditions over which the applicant has had no control, the literal interpretation of this Title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting the variance the Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or neighborhood or otherwise achieve the purpose of this Title. *(Ord. 601, 8-8-78)*

8.10.2 APPLICATION FOR A VARIANCE

A request for a variance may be initiated by a property owner or his authorized agent by filing an application with the City Manager. The application shall be accompanied by a fee of fifty dollars ($50.00) plus five dollars ($5.00) for the cost of each registered letter required to be sent to affected landowners. This fee is subject to revision by resolution of the City Council from time to time. *(Ord. 686, 6-9-87; amended by Ord. 783, 3-24-98; amended by Ord. 832, 3-11-2003)*

8.10.3 NOTICE OF A PUBLIC HEARING ON A VARIANCE

(A) Before authorization for a variance is granted it shall be considered by the Commission at a public hearing. The City Manager shall send notice of the hearing by registered mail, or by personal service, to property owners within one hundred feet (100') of the exterior boundaries of the property where the variance is requested and other adjacent property owners deemed to be affected by the request. Names for the purpose of the notification shall be obtained from the records of the County Assessor. Failure of a person to receive the notice shall not invalidate any proceedings in connection with the application for a variance. The Commission may recess a public hearing in order to obtain more information or to serve further notice to persons it decides

are affected by the proposed variance. The Commission shall announce the time and date the hearing is to be rendered.

(B) Notice shall:

(1) Explain the nature of the application and the proposed use or uses which could be authorized;

(2) List the applicable criteria from the ordinance and the Comprehensive Plan that apply to the application at issue;

(3) Set forth the street address or other easily understood geographical reference to the subject property;

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

(5) State the failure of an issue to be raised in a 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;

(6) Include the name of local government representative to contact and the telephone number where additional information may be obtained;

(7) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(8) If any staff report is to be used at the hearing, state that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost; and

(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. *(Ord. 704, 6-26-90; amended by Ord. 832, 3-11-2003)*

8.10.4 NOTICE TO APPLICANT

The City Manager shall notify the applicant for a variance of the action of the Commission within five (5) days after a decision has been rendered. *(Ord. 832, 3-11-2003)*

8.10.5 CONDITIONS FOR GRANTING A VARIANCE

No variance shall be granted unless it can be shown that all of the following conditions exist:

(A) Exceptional or extraordinary conditions apply to the property that do not generally apply to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.

(B) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.

(C) The authorization of the variance shall not be materially detrimental to the purpose of this Title, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any City development pattern or policy.

(D) The variance requested is the minimum variance from the provisions and standards of this Title which will alleviate the hardship. *(Ord. 601, 8-8-78)*

Chapter 11

AMENDMENTS TO THE ZONING TITLE

Sections

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8.11.1 AUTHORIZATION TO INITIATE AMENDMENTS

An amendment to this Title in the text or map may be initiated by the City Council, the Commission, or by application of a property owner or his authorized agent.

8.11.2 APPLICATION FOR A ZONING CHANGE

An application for an amendment by a property owner or his authorized agent shall be filed with the City Manager. The application shall be filed at least twenty (20) days prior to the hearings on the request. The application shall be accompanied by a fee of fifty dollars ($50.00) plus five dollars ($5.00) for the cost of each registered letter required to be sent to affected landowners. This fee is subject to revision by resolution of the City Council from time to time. *(Ord. 783, 3-24-98; amended by Ord. 832, 3-11-2003)*

8.11.3 PUBLIC HEARING ON AN AMENDMENT

A public hearing shall be held by the Commission and the City Council on any amendment to the Zoning Ordinance.

(A) *Notice of Hearing.* Notice of time and place of the public hearing before the Commission and of the purpose of the proposed amendment shall be given by the City Manager in the following manner:

(1) If an amendment to the text of this Title or a change in the Zoning Map of an area of ten (10) acres or more is proposed, the notice shall be by three (3) publications in the official City newspaper once a week for three (3) consecutive weeks prior to the date of the hearing.

(2) If an amendment to the Zoning Map of an area of less than ten (10) acres is proposed, the notice shall be by one publication in the official City newspaper, not less than eight (8) days nor more than twenty (20) days prior to the date of the hearing and by sending written notice by registered mail, or by personal service, not less than twenty (20) days *(Ord. 712, 9-8-92)* prior to the date of hearing to owners of property within the area enclosed by the lines parallel to and one hundred feet (100') from the exterior boundaries of the property involved, using for this purpose the names and addresses of the owners as shown upon the records of the County Assessor. Where all property so located is under the same ownership, owners of property abutting that of the same ownership shall be notified in the manner as provided in this Section.

(3) Failure of a person to receive the notice shall not invalidate any proceedings in connection with the proposed zone change.

(B) *Recess of Hearing.* The Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. Upon recessing for this purpose, the Commission shall announce the time and date when the hearing shall be resumed.

(C) *Notice and Hearing Before City Council.* After the hearing and recommendations have been made to the Commission, the City Council shall hold a public hearing upon the proposed amendment. Notice of the hearing shall be by one publication in the official City newspaper not less than five (5) days nor more than twenty (20) days prior to the date of the hearing.

(D) The City Council shall approve or reject the proposed amendment. An approved amendment shall be adopted by ordinance. *(Ord. 832, 3-11-2003)*

8.11.4 RECORDS OF AMENDMENTS

The signed copy of the amendment to the text and map of this Title shall be maintained without change on file in the office of the City Manager. The City Manager shall maintain a record of the amendments to the text and map of this Title in a form convenient for the use of the public. *(Ord. 601, 8-8-78; amended by Ord. 832, 3-11-2003)*

8.11.5 NOTICE TO MOBILE HOME PARK TENANTS

In accordance with ORS 227.175, if an application would change the zone of property which includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, written notice by first class mail shall be sent to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least twenty (20) days but not more than forty (40) days before the date of the first hearing on the application. The City may require an applicant for such a zone change to pay the cost of such notice. *(Ord. 704, 6-26-90)*

Chapter 12

ADMINISTRATION, ENFORCEMENT AND INTERPRETATION

Sections

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8.12.1 ENFORCEMENT

The City Manager shall have the power and duty to enforce the provisions of this Title. An appeal from a ruling of the City Manager shall be made to the Commission. *(Ord. 832, 3-11-2003)*

8.12.2 APPEAL

An action or ruling of the Commission authorized by this Title may be appealed to the City Council within fifteen (15) days after the Commission has rendered its decision by filing written notice with the City Manager. If no appeal is taken within the fifteen (15) day period, the decision of the Commission shall be final. If an appeal is filed, the City Council shall receive a report and recommendation from the Commission and shall hold a public hearing on the appeal. Notice of the public hearing shall be by one publication in the official City newspaper not less than eight (8) days prior to the date of the hearing. *(Ord. 832, 3-11-2003)*

8.12.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS

Petitions, applications and appeals provided for in this Title shall be made on forms provided for the purpose or as otherwise prescribed by the City in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record. Where plans must be submitted, the plans submitted shall show the site and its relationship to adjacent property at a suitable scale and with sufficient supplemental drawings

or material to show all elements necessary to indicate the dimensions and arrangement of the proposed development and its relationship to surrounding properties and streets.

8.12.4 INTERPRETATION

The provisions of this Title shall be held to the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this Title are less restrictive than comparable conditions imposed by any other provisions of this Title, or of any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

8.12.5 SEVERABILITY

The provisions of this Title are hereby declared to be severable. If any section, sentence, clause or phrase of this Title is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Title.

8.12.6 PERMITS

(A) No building or structure subject to any of the provisions of this Title shall be erected, moved, reconstructed, extended, enlarged or altered except upon first obtaining from the Building Official a permit to do so, upon compliance with this Title and all other applicable ordinances, State laws and regulations. The application fee for a building permit shall be the sum of $25.00. This fee is subject to revision by resolution of the City Council from time to time. *(Ord. 783, 3-24-98)*

(B) Applications for building permits shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use for each building, structure or part thereof; the number of families to be accommodated, if any; and such information as is needed to determine their conformance with the provisions of this Title.

(C) All structural designs and specifications of structures primarily designed or intended for public assembly use by the general public, shall be approved by and carry the registration stamp of a duly registered architect or engineer before a building permit for such structure is issued.

8.12.7 TIME LIMIT ON A PERMIT FOR A VARIANCE

A permit for a conditional use or for a use involving a variance shall be void after one year if no substantial construction has taken place.

8.12.8 PENALTY

A person who violates or refuses to comply with any provision of this Title shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100.00), or by imprisonment of not more than thirty (30) days, or both fine and imprisonment, for each provision violated. it shall be the responsibility of the offender to abate the violation and each day that such violation is permitted to exist shall constitute a separate offense. *(Ord. 601, 8-8-78)*

Chapter 13

AIRPORT OVERLAY ZONE

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8.13.1 PURPOSE

In order to carry out the provisions of this overlay zone there are hereby created and established certain zones which include all of the land lying beneath the Airport Imaginary Surfaces as they apply to the Vale Airport. Such zones are shown on the map attached hereto and made a part of this chapter. Further, this overlay zone is intended to prevent the establishment of air space obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the city of Vale.

8.13.2 COMPLIANCE

In addition to complying with the provisions of the primary zoning district uses and activities shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning district, the more restrictive provision shall apply.

8.13.3 SPECIAL DEFINITIONS

AIRPORT APPROACH SAFETY ZONE: A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of 1,250 feet for Utility Runway having only visual approaches and 1,500 feet from a runway other than a Utility Runway having only visual approaches. The Airport Approach Safety Zone extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward (20:1) for all utility and visual runways.

AIRPORT HAZARD: Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

AIRPORT IMAGINARY SURFACES: Those imaginary areas in space which are defined by the Airport Approach Safety Zone, Transitional Zones, Horizontal Zone, Clear Zone and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.

CLEAR ZONE: Extends from the primary surface to a point where the approach surface is 50 feet above the runway end elevation.

CONICAL SURFACE: Extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each end of the Primary Surface of each visual and utility runway at 150 feet above the airport elevation) and upward extending to a height of 350 feet above the airport elevation.

HORIZONTAL SURFACE: A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the Primary Surface of each visual or utility runway and connecting the adjacent arcs by lines tangent to those arcs.

NOISE SENSITIVE AREAS: Within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 Ldn.

PLACE OF PUBLIC ASSEMBLY: Structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each end of that runway. The width of the Primary Surface is 25 feet for Utility Runways having only visual approaches and 50 feet for other than utility runways.

TRANSITIONAL ZONES: Extend seven feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).

UTILITY RUNWAY: A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

8.13.4 PERMITTED USES WITHIN THE AIRPORT APPROACH SAFETY ZONE

Any uses permitted outright in the underlying zone may be permitted in the Airport Approach Safety Zone, except as provided in Section 8.13.7.

8.13.5 CONDITIONAL USES WITHIN THE AIRPORT APPROACH SAFETY ZONE

Except as provided in Section 8.13.7, any conditional uses in the underlying zone may be permitted in the Airport Approach Safety Zone when authorized in accordance with Chapter 9 of this Title.

8.13.6 DEVELOPMENT STANDARDS

The following development standards shall apply in the Airport Approach Safety Zone:

(A) All permitted and conditional uses proposed in this Zone are subject to site plan review by the Planning Commission. A site plan, drawn to scale, and accompanying specifications, shall include the following information:

(1) Lot dimensions and setbacks.

(2) Sizes and locations of all existing and proposed structures or other uses.

(3) Height of proposed structures.

(4) Any other information that may be relevant for review to assure compliance with the purpose of this Chapter.

(B) Construction and development of the site shall be in substantial conformance to the plans approved by the Planning Commission.

(C) All proposed development in the Airport Approach Safety Zone is subject to appropriate provisions of an airport master plan, if one is adopted for the Vale airport.

(D) The height of any structure or part of a structure, such as a chimney, tower or antenna, shall not project above the airport approach surface, and may be further limited according to requirements established by the Planning Commission or by other Municipal or government authorities.

8.13.7 LIMITATIONS

(A) To meet the standards and reporting requirements established in FAA Regulations, Part 77, no structure shall penetrate into the Airport Imaginary Surfaces as defined above under Section 8.13.3.

(B) The following uses are prohibited in the Airport Approach Safety Zone:

(1) Landfills, garbage dumps, water impoundments or other uses that attract birds.

(2) Churches, auditoriums, school facilities, hospitals, day care centers and other public or private meeting places designed to accommodate more than twenty-five (25) persons at one time.

(3) Uses that interfere with aviation due to height of structures, glare from buildings, smoke, lights that shine upwards and radio interference from transmissions.

(C) No structure or building shall be allowed within the Clear Zone.

(D) Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.

(E) No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.

(F) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 Ldn and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit or development approval. In areas where the noise level is anticipated to be 55 Ldn and above, prior to issuance of a building permit of construction of noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospital, or public libraries) the permit applicant shall be

required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 Ldn. The Planning Commission will review building permits for noise sensitive land use. *(Ord. 706, 11-27-90, eff. 12-27-90)*

Chapter 14

HISTORIC PRESERVATION ZONE HP

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8.14.1 PURPOSES

The Historic Preservation Zone HP is an overlay zone that applies to all sites and structures listed in the Vale Comprehensive Plan Inventory of Historic Sites and Structures. The purposes of the Historic Preservation Zone are to:

(A) Implement the historic preservation policies in the Vale Comprehensive Plan.

(B) Encourage the preservation and rehabilitation of sites and structures that represent significant aspects of Vale's history and architectural heritage.

(C) Strengthen the economy of Vale by protecting and enhancing the City's attractions to residents and visitors.

8.14.2 PERMITTED USES

The uses permitted in the Historic Preservation Zone shall be the same as the uses permitted in the underlying zone.

8.14.3 BUILDING AND DEMOLITION PERMITS

A permit is required for the alteration of the exterior appearance, the demolition or the removal of any site or structure listed on the Vale Comprehensive Plan Inventory of Historic Sites and Structures.

(A) "Exterior appearance" as governed by this Chapter includes any alteration of a facade, texture, design, material, fixtures or other such treatment.

(B) Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any historic site or structure that does not involve a change in design, material or external appearance thereof; nor does this Chapter prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when the Building Inspector or Fire Marshal certifies to the Planning Commission that such action is required for the public safety due to an unsafe or dangerous condition.

8.14.4 PERMIT PROCESS

The following process shall be followed for permits required under Section 8.14.3:

(A) The Building Inspector shall refer an application for a permit to work on or demolish a historic site or structure to the Planning Commission through the City staff.

(B) Such application shall be accompanied by a fee of $25.00 and by such material as required by the Planning Commission as being reasonably necessary for proper review of the proposed work. This fee is subject to revision by resolution of the City Council from time to time. *(Ord. 783, 3-24-98)*

(C) Within thirty (30) days from the date of receipt of an application from the Building Inspector, the Planning Commission shall hold a public meeting to review the permit request. Notice of such meeting shall be published in a newspaper of general circulation at least seven (7) calendar days in advance of the meeting. The applicant and any other interested parties shall have the opportunity to be present at this meeting and to present information pertaining to the permit request. The Planning Commission shall complete its review at this meeting and make a final decision. The decision shall be in writing and shall state findings of fact and reasons relied upon in making the decision.

(D) The decision of the Planning Commission shall be transmitted to the Building Inspector within three (3) working days after the meeting pertaining to the permit request.

(E) In review of an application to wholly or partially remove or demolish a historic site or structure, the Planning Commission may defer action on the request for a period not to exceed ninety (90) days. During this period, the Planning Commission shall attempt to determine if public or private acquisition and preservation is feasible, or if other alternatives are possible to prevent demolition or removal of the historic site or structure.

8.14.5 PERMIT CRITERIA

The Planning Commission, or City Council on appeal, shall approve a permit required under Section 8.14.3 if it determines that the proposed work will not detrimentally alter, destroy or adversely affect any exterior architectural feature of a historic structure, or in the case of proposed construction of a new improvement, building or structure on a historic site, the exterior of such improvements will not adversely affect the site and will be compatible with the external appearance of existing historic structures, if any, on the site.

8.14.6 APPEALS

Decisions made pursuant to this Chapter may be appealed under the provisions of Chapter 12.

8.14.7 HARDSHIPS

The Planning Commission or City Council may approve a permit required under Section 8.14.3 for alteration of a historic site or structure if the applicant presents clear and convincing evidence that denial of the permit

will work immediate and substantial hardship on the applicant because of special circumstances of the property owner, tenant, or resident, or because of conditions peculiar to the site structure involved. If a hardship is found to exist, the Planning Commission or City Council shall make written findings to that effect, specifying the facts and reasons relied upon in making such a determination. *(Ord. 647, 10-25-83)*

Chapter 15A

URBAN GROWTH AREA JOINT MANAGEMENT AGREEMENT

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8.15A.1 INTRODUCTORY PROVISIONS

8.15A.1.1 PURPOSE OF AGREEMENT:

The purpose of this agreement is to establish a joint, cooperative agreement between Malheur County and Vale in the adoption of and administration of the City's urban growth boundary.

More specifically, this agreement shall establish the growth boundary for Vale in agreement with the County; shall provide for the administration of unincorporated lands within the urban growth boundary; shall provide for use provisions and land development standards to guide growth in the urban growth area; shall specify the means whereby the unincorporated lands may be annexed; shall specify the mechanism for amending this agreement; and, shall provide other administrative provisions deemed necessary.

8.15A.1.2 DEFINITIONS:

As used in this agreement, unless the context shall otherwise require, the singular shall include the plural and the masculine shall include the feminine and neuter. The following words and phrases shall mean:

ANNEXATION: An act commenced by a city through a public hearing, the intent of which is to incorporate additional land into the legal boundaries of the city.

CITY: The City of Vale, Oregon.

CITY COMMISSION: The City of Vale Planning Commission

CITY COUNCIL: The duly elected governing body for the City of Vale.

COUNTY: The County of Malheur, Oregon.

COUNTY COMMISSION: The Malheur County Planning Commission

COUNTY COURT: The duly elected governing body for Malheur County. Oregon.

DIRECTOR: The Planning Director for Malheur County.

LAND USE ACTION: A specific use or development of land or structures thereon that is subject to the applicable County or City land use plan and implementing ordinances.

PERMIT: As used herein, permit shall mean the approval of a proposed land use action. without limitation, including minor and major partitions, subdivisions, zone changes, variances, conditional uses and zoning permits.

PLANNING OFFICIAL: The Planning Official for the City of Vale.

PUBLIC FACILITIES AND SERVICES: Projects, activities and facilities which the planning agency determines to be necessary for the public health, safety and welfare.

URBAN GROWTH AREA: The land outside the corporate limits of the City, but enclosed by the urban growth boundary.

URBAN GROWTH BOUNDARY: The defined boundary of the City's growth and development area encompassing the land deemed needed to support that growth and development during the planning period.

8.15A.1.3 URBAN GROWTH BOUNDARY AND URBAN AREA LAND USE DESIGNATIONS MAP:

For purposes of administration, the County hereby accepts and adopts the City Plan Map as the urban growth boundary for the City. The Map specifies the land use classifications, as defined in the Vale Comprehensive Plan and applicable to the urban growth area.

8.15A.1.4 RELATIONSHIP TO COMPREHENSIVE PLAN, ZONING AND LAND DIVISION ORDINANCES AND DEVELOPMENT REGULATIONS:

By accepting this agreement, Malheur County hereby:

(A) Adopts the City urban growth boundary as shown on the Plan Map,

(B) Accepts the Vale zone designations and development standards for lands within the urban growth area as shown on the Plan Map and as defined in the Vale Comprehensive Plan;

(C) Agrees that all land use actions in the urban growth area shall comply with the substantive provisions of the Vale Comprehensive Plan, as applicable, and shall be in conformance with the zoning and development standards specified therein;

(D) Agrees to amend the Malheur County Comprehensive Plan and implementing ordinances to incorporate the necessary changes to bring the County Plan and ordinances into conformance with the City's planning program.

8.15A.2 SUBSTANTIVE PROVISIONS

(A) *Growth Boundary Administration:* The City shall administer all lands within the corporate limits. Malheur County shall retain responsibility for administration of all unincorporated lands within the Vale urban growth boundary. Such responsibility shall cease immediately upon annexation.

(B) *Land Use Designations and Development Standards:*

(1) Until such time as unincorporated areas of the urban growth area are annexed, the land use designations as shown on the City Plan Map shall control growth and development in these areas.

(2) All use and development within the urban growth area shall comply with the appropriate substantive provisions of the City's zoning and land development regulations, including those applicable to utilities and streets. In addition, all standards of construction for water and sewer facilities, streets and other required improvements shall comply with the standards specifications for the City.

8.15A.3 ADMINISTRATIVE PROVISIONS

8.15A.3.1 REVIEW PROCESS FOR LAND USE ACTIONS:

(A) Permits requiring only ministerial action (*i.e.*, require no public hearing and/or notice to adjacent landowners), shall be referred by the Director to the Planning Official within three (3) working days of the date the application is filed with the County Planning Department. In the event there is no response or recommendation received from the City within ten (10) days from the date the application is filed with the County Planning Department, the Director shall presume the application is acceptable to the City and shall proceed to review and either approve or disapprove the application pursuant to County review procedures. In the event the Director's decision is contrary to the recommendation of the City, the Director shall issue a tentative decision and provide the applicant and City a copy of that tentative decision within five (5) days of the action. The tentative decision of the Director shall not become final for ten (10) days from the date of the tentative decision to provide the applicant. City and County an opportunity to resolve the differences. If agreement cannot be reached within ten (10) days. the tentative decision of the Director shall become final. If agreement is reached and the tentative decision is modified, the modifications shall be shown in the final decision of the Director. All final actions of the Director may be appealed by any aggrieved party in the manner prescribed in County ordinance.

(B) Permits requiring discretionary review (i.e., requires a public hearing and/or notice to adjacent landowners) shall be forwarded to the City by the Director within seven (7) days of the date the application is filed with the County Planning Department. Review of discretionary permits shall proceed as follows:

(1) The City shall review the application and, if it deems necessary, shall respond with its comments on recommendations prior to the commencement of the hearing (if possible) or during the hearing or, in the case of a permit application requiring administrative review with notice, prior to the deadline set for receipt of written testimony. The

date set for public hearing or as deadline for receipt of written testimony shall be such as to provide both the City Commission and City Council an opportunity to review the application in a regularly scheduled meeting.

(2) No response from the City shall be presumed to mean the City has no objections to the application.

(3) The County shall retain full decision-making authority in reviewing all permits for land use actions in the urban growth area. In making its decision, the County shall consider, and is obligated to respond to all comments submitted by the City with regard to the application. The final decision of the County shall be provided to the City within five (5) days of the date of the final action. The City reserves the right to appeal any final action of the County.

8.15A.3.2 PUBLIC FACILITIES AND SERVICES:

(A) The cost of extension or improvements of public facilities and utilities required as a condition of a permit approval shall be borne by the developer, unless the City or County agrees to bear all or any portion of the costs thereof.

(B) Creation of a new street or improvements of existing streets or rights of way shall conform to the City's existing street patterns and Master Plan and shall be engineered and constructed to City specifications. Road maintenance shall be the responsibility of the County or appropriate road district, if and only if, the road is formally accepted into the road system pursuant to the provisions of State statute.

(C) The City and County shall exchange recommendations with respect to the following items which are within, or adjacent to, or which directly impact, the Vale urban growth boundary and all lands adjacent therein, and for which either has the ultimate decision-making capacity:

(1) Capital improvement programs and major public works projects for transportation, recreation, sewer, water or drainage facilities; acquisition or development of property; or other similar activities.

(2) Functional plans, or amendments thereto, for utilities. drainage, solid waste, transportation, recreation or other similar activities.

(3) Plans or amendments thereto, for economic and industrial development.

(4) Design and engineering standards for urban facilities and services.

8.15A.3.3 URBAN SERVICES:

(A) Extension of City water and/or sewer services shall be permitted only when consistent with the policies of the Vale Comprehensive Plan and with any adopted functional plans for water and/or sewer extension which are consistent with the Comprehensive Plan.

(B) City services such as water, sewer and street maintenance shall be provided only to those areas which either annex to the City or which enter into an unlimited agreement signed by the affected property owners that they will consent to petition for annexation at a time specified by the City.

(C) All City services shall be provided and maintained to City standards, and under supervision of the City, unless some other arrangement acceptable to the City has been made for the maintenance and supervision of said services.

8.15A.3.4 SPECIAL DISTRICT COORDINATION:

(A) When a special district situated fully or partially within the urban growth area has entered into an intergovernmental coordination agreement with the County and the City, it shall be given the opportunity to review and comment on the land use actions and activities specified herein.

(B) If such an agreement is entered into, the special district shall give the City and County the opportunity to review and comment on the following district activities which may apply to the lands within the urban growth boundary:

(1) Major public works projects to be provided by the district.

(2) Plans for establishment, improvement or extension of facilities provided by the district.

(3) Capital improvement programs and design standards which are being developed by the district.

8.15A.3.5 ANNEXATIONS:

(A) The City may annex land after having received a request for annexation when affirmative findings are made in relation to the following:

(1) The land is contiguous with the City limits and within the urban growth boundary.

(2) The development of the property is compatible with the rational and logical extension of utilities and streets to the surrounding area.

(3) The City is capable of providing and maintaining its full range of urban services to the property without negatively impacting existing systems and the City's ability to adequately serve all areas within the existing City limits.

(B) Within seven (7) days after an annexation application has been filed with the City, the City shall forward the application to the County Court and shall give the County no less than thirty (30) days to review and comment on the request. Additional time may be provided at the request of the County and with the concurrence of the City. The County's review shall address consistency of the annexations with the City and the County Comprehensive Plan and development regulations, as well as its possible impact on the immediate area, the neighborhood, and the entire urban area. No response from the County shall be presumed to mean that the County has no objection to the proposed annexation.

(C) Requests for annexation to the City of areas outside the urban growth boundary shall not be considered until such time as the boundary is amended to include the subject land. Once the boundary has been amended. the annexation application can be processed.

(D) Establishment of the urban growth boundary does not imply that all land within the boundary shall be annexed to the City.

8.15A.3.6 AMENDMENTS TO THE URBAN GROWTH BOUNDARY:

(A) Amendments to the Vale urban growth boundary may be initiated by the City, County or an affected property owner.

(B) An application to amend the urban growth boundary shall be filed with the City as an application to amend the City's Comprehensive Plan and/or Plan Maps. The City's review and decision shall proceed any action by the County on the requested amendment. The City shall forward the application to the County within seven (7) days of the date the application is filed with the City. The City shall provide the County sufficient time prior to the City's public hearing for both the County Commission and the County Court to consider the request at a regularly scheduled meeting. The County reserves the right to withhold comment on the application until such time as it is brought before the County for review.

(C) The City shall review the requested amendment to the urban growth boundary in public hearing and shall consider whether or not it will be practical in the future to provide public facilities and services in a manner consistent with the Comprehensive Plan, public facilities plans and the

agreement. All amendments to the City's urban growth boundary shall be found consistent with the criteria of Goal 14, Statewide Planning Goals and Guidelines, as well as other applicable goals, plans and ordinances. The final action of the City on the proposed amendment to the urban growth boundary shall be placed in writing and is applicable under the provision of State statute.

(D) In the event the City approves the requested amendment to the urban growth boundary, the final action of the City shall be forwarded to the County within five (5) days of the date of the final action of the City. The approval of the requested amendment by the City shall be conditioned on the approval by the County of a like amendment to the County Comprehensive Plan and Plan Map. Once the City has approved the requested amendment to the City's Comprehensive Plan and Plan Maps, the applicant shall immediately file with the County an application to amend the County Comprehensive Plan and Plan Map corresponding to the amendment to the City plan and Plan Map. County review shall be as specified in County ordinance for review of requests to amend the County land use plan and/or Plan Map. Following review of the application, the County shall either approve the request or disapprove the request. The final action of the County is appealable in the manner prescribed by State statute.

(E) An amendment to the City's urban growth boundary shall not be effective until such time as both the City and County have amended their respective plans and plan maps and the County adopts the City's Plan Map amendment as an amendment to the implementing ordinance for this agreement.

8.15A.3.7 ZONE DESIGNATION CHANGES:

(A) Applications to amend the zone designations within the urban growth area or to amend the provisions of any zone applied to lands within the urban growth area shall be initiated by filing the appropriate application with the City. The City's review of the proposed zone change or amendment to the provisions of a zone shall proceed as specified by City ordinance. City shall forward a copy of an amendment request to the County within seven (7) days of the date the application is filed with the City. The City shall schedule its hearing to provide the County sufficient time for both the County Commission and County Court to review the amendment in regularly scheduled meetings. The County shall not have the authority to INITIATE amendments to the zoning or zone provisions as applied within the urban growth area.

(B) The City shall review the amendment request as specified in City ordinance, shall consider all pertinent testimony and shall set forth its findings, conclusions and decisions in writing. If the decision of the City is to deny the requested amendment, the matter shall not be forwarded to the County. The City's decision to deny a requested zone change is appealable pursuant to the provisions of State statute. If the decision of the City is to approve the requested amendment, that approval shall be conditioned upon the County approving the amendment. The City's final action on the amendment shall be forwarded to the County within five (5) days of the date of that action.

(C) The County shall review the City's decision to approve an amendment to the zoning or zone provisions as applied in the urban growth area in the manner prescribed amending the zoning or zone text as set forth in the appropriate County ordinance. The County shall review the record of the City's review and its findings and conclusions. In the event the County acts to deny the requested amendment, the County shall set forth appropriate findings in support of its decision. The final action of the County to approve or disapprove an amendment request may be appealed in the manner specified in State statute.

8.15A.3.8 REVIEW, AMENDMENT AND TERMINATION OF THIS AGREEMENT:

(A) This agreement may be reviewed and amended at any time by the mutual consent of both parties and after public hearing by the City Council and County Court. Either governing body may consult the respective Planning Commission for a recommendation. Amendments to this agreement shall be heard initially before the City and, if approved by the City, shall be forwarded to the County. Approval by both parties shall be in the form of an ordinance amending the ordinance adopting this agreement. Any amendment to this agreement shall not be effective unless and until both the City and the County approve said amendment .

(B) Any modification of this agreement shall be consistent with other provisions of this agreement, both the City and County Comprehensive Plans, and with applicable State law.

(C) This agreement may be terminated by either party under the following procedure:

(1) A public hearing shall be called by the party considering termination. The party shall give the other party notice of hearing at least forty (40) days prior to the scheduled hearing date. The forty (40) day period shall be used by both parties to seek resolution of differences.

(2) Public notice of the hearing shall be in accordance with each party's respective ordinance requirements for notice of legislative actions.

(3) An established date for termination of the agreement shall be at least ninety (90) days after the public hearing in order to provide ample time for resolution of differences.

8.15A.3.9 APPEALS:

Any person or party aggrieved by a decision or ruling pursuant to this agreement shall have the right of appeal as set forth in the appropriate ordinance or in State law.

8.15A.3.10 ENFORCEMENT:

(A) The County shall be responsible for enforcement of all land use ordinances within the urban growth area. The County shall have the exclusive right to decide whether to proceed with any enforcement actions. All enforcement actions shall be taken in accordance with the enforcement provisions of the County ordinances.

(B) The County shall indemnify and hold the City harmless from any claims for damages arising out of enforcement of the land use ordinances within the urban growth area.

(C) The County shall be responsible for all costs connected with enforcement of the land use ordinances within the urban growth area.

8.15A.3.11 FEES:

Applications for land use actions to be filed with the County shall be accompanied by the fee set forth in appropriate County ordinance. Applications for zone changes or zone provision amendments and for amendments to the urban growth boundary shall be filed with the City and be accompanied by the appropriate fee as specified in City ordinance. *(Ord. 660, 4-9-85)*

8.15A.3.12 *[Repealed by Ord. 776, 8-12-97, eff. 9-12-97]*

Chapter 15B

URBAN GROWTH AREA RESIDENTIAL (R) ZONE

Sections

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8.15B.1 PURPOSE

The purpose of the Urban Growth Area Residential (R) Zone is to provide land use and development standards to those unincorporated areas of the Vale urban growth area designated for residential use and shown on the "Urban Growth Boundary and Urban Area Land Use Designation Map" as residential. The elements of the Residential Zone shall apply to all unincorporated lands in the urban growth area designated residential until such time as they are annexed by the City.

8.15B.2 PRINCIPAL USE

The following principal uses and their accessory uses are permitted outright in the Residential Zone:

- Farm use as defined in ORS 215.203(2)(a)
- Single-family dwelling
- Double-wide mobile home
- Duplex

8.15B.3 CONDITIONAL USES

In a Residential Zone, the following uses and the accessory uses are permitted when authorized in accordance with the requirements of sections 46 to 51 of Ordinance No. 601 [codified as Sec. 8.9.1 et seq. of Title VIII (Zoning)]:

- Church
- Golf course

- Governmental structure, but not limited to a public park
- Community building
- Hospital, sanitarium, rest home, home for the aged, nursing home or convalescent home
- Radio or television transmitter or tower
- School
- Utility lines, station or substation
- o Multi-family dwelling of more than two-dwelling units
- o Boarding, lodging or rooming house
- o Single-wide mobile homes

8.15B.4 SITE STANDARDS

The following site standards shall apply to all uses and developments in the Residential Zone:

(A) *Lot Area:* The following lot size provisions shall apply to uses and developments in the Residential Zone:

(1) All residential uses shall require a minimum lot size of five (5) acres, except that lots and parcels legally existing as of the effective date of this Chapter and less than five (5) acres in size shall retain the right to a single-family dwelling or a mobile home provided the lot or parcel meets all other standards of the City Zoning Ordinance [SEE Title VIII of this Code.]

(2) All uses. other than residential uses, permitted in the Residential Zone shall require lots or parcels of sufficient size as to provide for the use, all required yard and set-backs, required off-street parking and loading areas and for on-site sewage and water facilities.

(B) *Setback Requirements:* Except as provided in Ordinance No. 601, sections 30 and 35 *[codified as Sec. 8.7.1 and 8.7.6, respectively, of Title VIII (Zoning)]*, in a Residential Zone, the yards shall be as follows:

(1) The front yard shall be minimum *[sic]* of twenty feet (20).

(2) Each side yard shall be a minimum of five feet (5') from outside of overhang, each with at least ten feet (10') between building overhangs.

(3) The rear yard shall be a minimum of twenty feet (20').

(C) *General Site Requirements:*

(1) *Height of Buildings:* In a residential Zone, no building shall exceed a height of thirty-five feet (35') measured from the grade.

(2) *Lot Coverage:* In a Residential Zone, buildings and paved areas shall not occupy more than eighty percent (80%) of the lot area.

(3) *Projections from Buildings:* Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills. pilasters, lintels, ornamental features and other similar architectural features may project not more than two feet (2') into a required yard or into required open space as established by coverage standards.

(4) *Signs:* In a Residential Zone, the following signs are permitted:

(a) One nonilluminated name plate or sign not exceeding one and one- half (1.5) square feet in area for each dwelling.

(b) One nonilluminated sign pertaining to the lease, rental or sale of the property and not exceeding eight (8) square feet in area.

(c) One sign per tract of land or subdivision advertising the sale of the property. Such sign shall not exceed eighty (80) square feet in area and shall be removed one year from the date of construction. The Commission may grant an extension of time not to exceed one year.

(d) Signs for conditional uses in accordance with section 51 of Ordinance No. 601 *[codified as Sec. 8.9.6 of Title VIII (Zoning)].*

(e) One sign per boarding, lodging or rooming house and not exceeding eight (8) square feet in area.

(5) Vision clearance shall be maintained in accordance with section 39 of Ordinance No. 601 *[codified as Sec. 8.7.10 of Title VIII (Zoning)].*

(6) Off-street parking and loading shall be provided in accordance with the provisions of sections 27 through 29 of Ordinance No. 601 *[codified as Sec. 8.6.1 et seq. of Title VIII (Zoning)]. (Ord. 661, 4-9-85)*

Chapter 15C

URBAN GROWTH AREA COMMERCIAL (C) ZONE

Sections

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8.15C.2 PRINCIPAL USES **337**
8.15C.3 SITE STANDARDS **340**

8.15C.1 PURPOSE

The purpose of the Urban Growth Area Commercial (C) Zone is to provide land use and development standards to those unincorporated areas of the Vale urban growth land designated commercial on the "Urban Growth Boundary and Urban Area Designations Map." The elements of the Commercial Zone shall apply to all unincorporated lands in the urban growth area designated commercial until such time as they are annexed by the City.

8.15C.2 PRINCIPAL USES

The principal uses and the accessory uses listed in Section 19, Ordinance No. 601are permitted outright in the Commercial Zone. *[NOTE: Sec. 19 of Ord. 601 is Sec. 8.4.1 of Title VIII (Zoning) AS ORIGINALLY CODIFIED, which permitted the following uses and their accessory uses:*

- *A use permitted outright or as a conditional use in an R Zone.*
- *Amusement enterprise, including pool hall, bowling, dancing hall and skating rink.*
- *Auditorium, exhibition hall, or other public assembly room.*
- *Automobile service station.*
- *Automobile laundry.*
- *Automobile, truck, boat or trailer sales, rental, service, parts and repair.*
- *Bakery.*
- *Bank, loan company, or similar financial institution.*
- *Barber shop.*

- *Beauty shop.*
- *Bicycle shop.*
- *Blueprinting, photostating, or other reproduction.*
- *Book or stationery store, or newsstand.*
- *Bookbindery.*
- *Building supply.*
- *Bus station.*
- *Business machines, retail and service.*
- *Cabinet, carpenter or woodworking shop.*
- *Catering establishment.*
- *Clinic, except animal clinic.*
- *Clothes cleaning or laundry agency.*
- *Clothing store or tailor shop.*
- *Club, lodge, union or fraternal organization.*
- *Cocktail lounge or tavern.*
- *Confectionery store, including soda fountain.*
- *Curtain or drapery shop.*
- *Dancing school or music studio.*
- *Day nursery.*
- *Delicatessen.*
- *Drug store, pharmacy.*
- *Dry cleaning or pressing, except those using highly volatile or combustible materials or using high pressure steam tanks or boilers.*
- *Dry goods, millinery or dress shop.*
- *Electrical supply store.*
- *Feed and seed store.*
- *Florist shop.*
- *Floor covering sales and service.*
- *Food store.*
- *Freight depot.*
- *Frozen food lockers, retail only.*
- *Furniture store.*
- *Garden store.*

- *Gift, hobby or art shop.*
- *Grocery store.*
- *Hardware store.*
- *Health studio, physical therapist, reducing salon.*
- *Hotel or motel.*
- *Ice or cold storage plant.*
- *Jewelry store, including repairing.*
- *Laboratory for research or testing.*
- *Laundry, dry cleaning, or dyeing establishment.*
- *Leather goods sales, including harness and saddle shop.*
- *Locksmith.*
- *Machinery or equipment sales, service or storage.*
- *Magazine or newspaper distribution agency.*
- *Meat market, retail only.*
- *Mortuary, undertaking or funeral parlor.*
- *Newspaper publishing.*
- *Notions.*
- *Office, business or professional.*
- *Office supplies.*
- *Paint store, including related contractor shop.*
- *Parking lot or parking garage.*
- *Pet shop.*
- *Plumbing, heating, electrical, or paint contractor sales, repair or storage.*
- *Printing plant.*
- *Radio or television sales and service.*
- *Restaurant or hotel supply.*
- *Restaurant or tearoom.*
- *Retail store.*
- *Scientific or professional instrument sale or repair.*
- *Secondhand store.*
- *Self-service laundry.*
- *Shoe store or shoe repair shop.*
- *Storage building for household goods.*

- *Studio; art, music or photography.*
- *Taxidermy shop.*
- *Telephone or telegraph exchange.*
- *Theater, except drive-in theater.*
- *Trailer park.*
- *Upholstery shop.*
- *Welding, sheet metal, or machine shop.*
- *Wholesale distribution or outlet, including warehousing and storage.*
- *Wholesale office or showroom with merchandise on the premises limited to small items and samples.]*

8.15C.3 SITE STANDARDS

The following site standards shall apply to all uses and developments in the Commercial Zone:

(A) *Lot Area:* The following lot size provisions shall apply to uses and developments in the Commercial Zone:

(1) Except for dwellings and mobile homes, the minimum lot size shall be six thousand (6,000) square feet. In no case shall a lot be less than the size needed to provide for the use, all required yard and setbacks, required off-street parking and loading areas, and for on-site sewage and water facilities.

(2) Dwellings and mobile homes shall require a minimum lot size of five (5) acres except that lots and parcels legally existing as of the effective date of this Article and less than five (5) acres in size may be conditionally approved for a single-family dwelling or mobile home provided the lot or parcel meets all other standards of this Article.

(B) *Signs:* In a Commercial Zone, signs located within one hundred feet (100') of a residential zone shall be set back at least ten feet (10') from the lot in a residential zone, shall not be moving or intermittent flashing, and shall not exceed an area of twenty five (25) square feet on each side.

(C) *Setback Requirements:* Except as provided in sections 31 and 36 of Ordinance No. 601 *[codified as Sec. 8.7.1 and 8.7.6, respectively, of Title VIII (Zoning)]*, in a Commercial Zone the yards shall be as follows:

(1) The side yard shall be a minimum of ten feet (10') between building overhangs where abutting a residential zone.

(2) The rear yard shall be a minimum of twenty feet (20') where abutting a residential zone.

(D) Off-Street Parking and Loading. At the time of erection of a new structure within any zone in the City, or at the time of an enlargement or change in use of an existing structure within the Commercial and Industrial Zones, off street parking spaces shall be provided pursuant to sections 27 through 29, Ordinance No. 601 *[codified as Sec. 8.6.1 et seq. of Title VIII (Zoning)]. (Ord. 661, 4-9-85)*

Chapter 15D

URBAN GROWTH AREA INDUSTRIAL (I) ZONE

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8.15D.1 PURPOSE

The purpose of the Urban Growth Area Industrial (I) Zone is to provide land use and development standards to those unincorporated areas of the Vale urban growth area designed for industrial use on the "Urban Growth Boundary and Urban Area Land Use Designations Map". The elements of the Industrial Zone shall apply to all unincorporated lands in the urban growth area designated industrial until such time as they are annexed by the City.

8.15D.2 USES PERMITTED

In an Industrial Zone, the following uses and their accessory uses are permitted:

- Warehousing and storage, excluding storage of hazardous products
- Wholesale distribution and sales outlet
- Service stations
- Railroad facilities
- Manufacturing, repairing, fabricating, processing or packaging
- Utility facilities necessary for public services, excluding waste disposal facilities
- A dwelling for caretaker or night watchman on the property
- Geothermal development
- Freight depots

8.15D.3 CONDITIONAL USES

In an Industrial Zone, the following uses are permitted as conditional uses when authorized in accordance with Sections 46 to 51 of Ordinance No. 601 [codified as Sec. 8.9.1 et seq. of Title VIII (Zoning)]:

- Junk yards or automobile wrecking yards
- Animal slaughterhouses
- Rendering plant
- Any uses that may possess characteristics injurious to health and safety due to emissions of smoke, odor, dust, fumes, refuse or other effluents

8.15D.4 SITE STANDARDS

Site plans for all permitted and conditional uses as delineated in Sections 8.15D.2 and 8.15D.3 of this Chapter must be submitted to the Planning Commission for review. Construction and development of the site shall be in substantial conformance to the plans approved by the Planning Commission.

(A) *Limitations on Use:* In an Industrial Zone, the following conditions and limitations shall apply:

(1) Materials shall be stored and ground shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or otherwise create a health hazard.

(2) Points of access from a public street to properties in an Industrial Zone shall be so located as to minimize traffic congestion and avoid directing traffic into residential streets.

(3) Building entrances or other openings adjacent to or across the street from a residential zone shall be prohibited if they cause glare, excessive noise or otherwise adversely affect land uses in the residential zones.

(B) *Signs:* In an Industrial Zone, signs located within one hundred feet (100') of a residential zone shall comply with Section 9 of Ordinance No. 601 *[codified as Sec. 8.2.4 of Title VIII (Zoning)].*

(C) *Setback Requirements:* Except as provided in Sections 31 to 36 of Ordinance No. 601 *[codified as Sec. 8.7.1 through 8.7.6 of Title VIII (Zoning)]*, in an Industrial Zone the yards shall be as follows:

(1) The side yard shall be a minimum of ten feet (10') between building overhangs.

(2) The rear yard shall be a minimum of twenty feet (20').

(D) Off-Street parking and loading shall be provided pursuant to Sections 27 through 29 of Ordinance No. 601 *[codified as Sec. 8.6.1 et seq. of Title VIII (Zoning)].*

(E) Vision clearance shall be maintained in accordance with Section 39, Ordinance 601 *[codified as Sec. 8.7.10 of Title VIII (Zoning)].*

8.15D.5 PROHIBITION OF USE

Uses and developments which create significant waste and/or requires [sic] discharge of waste or by-products into the air, water or land shall not be permitted in the I Zone if such impacts create the potential for adverse impacts on the health or safety of the public and said adverse impacts can be mitigated through provisions facilities such as sewer and water. *(Ord. 661, 4-9-85)*

Chapter 15E

INDUSTRIAL-COMMERCIAL CONDITIONS

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8.15E.1 GENERAL CONDITIONS

The following general conditions apply to Urban Growth Area Commercial Zones and Urban Growth Area Industrial Zones:

(A) The following intrusions are exempt from yard requirements: eaves, cornices, belt courses, sills, awnings, buttresses and other similar features, which may not in any case protrude more than two feet (2') into any required yard area; chimneys and fireplaces, provided they do not exceed eight feet (8') in width, and do not protrude more than two feet (2') into any required yard area; and uncovered porches, platforms or landings which do not exceed above the level of the first floor of the building, and do not protrude more than four feet (4') into any front or rear yard setback area, or more than two feet (2') into any side yard setback area.

(B) All uses involving manufacturing, repair, storage or processing shall meet all applicable standards and regulations of the State Board of Health, Department of Environmental Quality and any other public agency having appropriate regulatory jurisdiction. *(Ord. 661, 4-9-85)*

Chapter 15F

URBAN GROWTH AREA AIRPORT ZONE

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8.15F.1 PURPOSE

The Urban Growth Area Airport Zone is intended to protect airport facilities from incompatible uses, provide for future airport expansion, and to ensure compatibility at the airport with adjacent land use.

8.15F.2 PERMITTED USES

The following uses are permitted in the Urban Growth Area Airport Zone:

- Facilities on the airport property essential for the operation of the airport such as runways, hangers, aircraft maintenance and fuel services, including fuel storage.
- Offices and structures to support airport activities, such as fixed base operator's office.
- Aircraft sales, repair, service, storage and schools relating to aircraft operations.
- Air cargo terminals.
- Passenger terminals and passenger services, including food services.
- Open spaces.
- Public parking and/or auto or vehicular storage.
- Agricultural and farm uses.
- Farm chemical aerial application activities such as storage for aerial application chemicals, storage for equipment associated with aerial application, mixing facilities.

8.15F.3 CONDITIONAL USES

The following are conditional uses in the Urban Growth Area Airport Zone subject to the provisions of Chapter 15A of Title VIII (Zoning) of the City Code:

- Temporary housing for caretaker and/or security guard for the airport and/or aircraft. This permit shall be issued for a six-month (6) period only.
- Facility for the temporary use of the Interagency fire crews waiting for deployment. This permit shall be issued for a one-year period only.
- Municipal wells and the supporting underground pipe lines, structures and storage facilities associated with the operation of the Vale municipal water system including water storage and chlorination facility.
- Temporary storage of municipal equipment and public works supplies. Storage is not to exceed 120 days in any calendar year.
- Airport related/airport dependent commercial or industrial facilities.
- Park or other recreation area, including trap shooting facility. *(Ord. 851, 8-8-2006)*

8.15F.4 LIMITATIONS ON USE

All materials shall be stored and grounds and buildings shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or will otherwise create a health hazard.

All activities will occur in the area of the hangers. There will be no activity or storage in the area of the City of Vale municipal well field or the associated pipeline unless it is directly related to the operations of the municipal wells and is such that there will be no adverse impact on the wells.

8.15F.5 COMPLIANCE WITH STATE REGULATIONS

All uses involving manufacture, repair, storage or processing (including farm chemical storage, mixing and container disposal) shall meet all applicable standards and regulations of the Oregon Health Division, Oregon Department of Environmental Quality, Oregon Department of Agriculture, and any other public agency having appropriate regulatory jurisdiction.

8.15F.6 SITE PLAN REVIEW

All permitted and conditional uses as delineated in Sections 8.15F.2 and 8.15F.3 must be submitted to the Planning Commission for review and approval.

8.15F.7 TEMPORARY USE PERMIT RENEWAL

Any use that is identified as ”temporary” shall be issued a permit for a length of time not to exceed a length of time so designated for that activity. This permit may be renewed by application to, and approval by, the Vale Planning Commission. In no case will a temporary permit exceed one calendar year.

8.15F.8 COMPATIBILITY WITH AIRPORT APPROACH OVERLAY ZONE

All permitted, conditional, and accessory uses as delineated in sections 8.15F.2 and 8.15F.3 shall comply with the provisions of Chapter 13 (Airport Approach Zone AA) of Title VIII (Zoning) of the City Code, as applicable. *(Ord. 787, 6-23-98; amended by Ord. 851, 8-8-2006)*

Chapter 16

[Reserved for Planned Unit Development zoning]

Chapter 17

PUBLIC FACILITIES

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8.17.1 PURPOSE

The PUBLIC FACILITY (PF) zones are designed to provide areas which are in or designated for governmental or public use, or held for such use, with development regulations which ensure development occurs in a manner compatible with surrounding uses.

8.17.2 PF-RESIDENTIAL

(A) *General:* Public facilities of a neighborhood-service nature or which are otherwise compatible with residential uses shall be sited in areas zoned PF-RESIDENTIAL.

(B) *Permitted Uses:* In a PF-RESIDENTIAL zone, the following uses and their accessory uses are permitted:

(1) Parks.

(2) Schools.

(3) Recreation facilities.

(C) *Conditional Uses:* In a PF-RESIDENTIAL zone, the following uses are permitted as conditional uses when authorized in accordance with Section 8.9.1 to 8.9.6 of this Title:

(1) Fire stations.

(2) Libraries.

(3) Utility substations.

(4) Churches.

(5) Hospitals, sanitariums, rest homes, homes for the aged, nursing homes or convalescent homes.

(6) Municipal water supply facilities.

8.17.3 PF-COMMERCIAL

(A) *General:* Public facilities which are high traffic generators shall be sited in areas zoned PF-COMMERCIAL.

(B) *Permitted Uses:* In a PF-COMMERCIAL zone, the following uses and their accessory uses are permitted:

(1) Government offices.

(2) Meeting halls.

(3) Fire stations.

(4) Libraries and museums.

(5) Visitor facilitates.

(C) *Conditional Uses:* In a PF-COMMERCIAL zone, the following uses are permitted as conditional uses when authorized in accordance with Section 8.1.9 to 8.9.6 of this Title:

(1) Jails.

(2) Government repair shops, warehouses, and yards.

(3) Any use authorized as a permitted or conditional use in a PF-RESIDENTIAL zone.

8.17.4 PF-INDUSTRIAL

(A) *General:* Public facilities which are of a manufacturing or repair nature, or which by virtue of noise, dust, refuse, odor or other emissions are inappropriate in residential or commercial areas shall be sited in areas zoned PF-INDUSTRIAL.

(B) *Permitted Uses:* In a PF-INDUSTRIAL zone, the following uses and their accessory uses are permitted:

(1) Government repair shops, warehouses, and yards.

(2) Municipal water supply facilities.

(C) *Conditional Uses:* In a PF-INDUSTRIAL zone, the following uses are permitted as conditional uses when authorized in accordance with Sections 8.9.1 to 8.9.6 of this Title:

(1) Waste processing, treatment and disposal facilities (excluding facilities for processing, treating and disposing of hazardous waste).

(2) Geothermal development.

(3) Public uses which by virtue of emissions of smoke, noise, dust, odor, refuse or other effluents may be inappropriate in or near residential or commercial areas.

(D) *Compliance with State Regulations:* All uses in the PF-INDUSTRIAL zone shall comply with the provisions of Section 8.5.7 as applicable.

8.17.5 SITE PLAN REVIEW

Site plans for all permitted and conditional uses must be submitted to the Planning Commission for review and approval.

8.17.6 LIMITATIONS ON USE

(A) Materials shall be stored and grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health or safety hazard.

(B) Points of access from any public street to any public-facility use shall be so located as to minimize traffic congestion and avoid directing traffic into residential areas.

(C) Building entrances or other openings adjacent to or across the street from residential areas shall be prohibited if they cause glare, excessive noise, or otherwise adversely affect land uses in residential zones.

8.17.7 SIGNS

Signs located within one hundred feet (100') of a residential zone shall comply with the provisions of Sec. 8.2.3 of this Title.

8.17.8 SETBACK REQUIREMENTS

(A) Setbacks specified in Sec. 8.2.5 of this Title shall apply in all public-facilities zones, except that public facilities built within that area designated as the "Fire Limits" in Sec. 3.6.1 of Title III (Building and Fire Regulations) may be built to the lot lines provided they are constructed of fireproof materials.

(B) Accessory structures in all public-facilities zones shall comply with the setback requirements of Sec. 8.7.2(D).

(C) All public facilities shall provide for off-street parking pursuant to Sec. 8.6.1 et seq. *(Ord. 782A, 10-28-97)*

Title IX

SUBDIVISION

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Chapter 1

PURPOSE AND GENERAL PROVISIONS

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9.1.1 PURPOSE

The purpose of adopting and enacting this Ordinance is to provide standards and guidelines and establish procedures for regulating the subdivision and partitioning of land in the City of Vale. The study and approval of subdivision and partitioning plans are necessary in order that the City secure and provide for the proper width and arrangement of streets, ways or thoroughfares, to provide for conformity to the Comprehensive Plan for physical development and improvement to the City; to provide for public utilities and for securing safety from fires, flood, pollution or other dangers; to prevent overcrowding of land and to facilitate adequate provisions of transportation, water supply, sewage, drainage, educational facilities or other needs.

9.1.2 SHORT TITLE

This Ordinance shall be known as the Subdivision Ordinance.

9.1.3 RELATIONSHIP TO COMPREHENSIVE PLAN

A subdivision plat shall take into consideration the policies of the Comprehensive Plan and its elements as adopted by the City Council with respect to the type and intensity of land use, population densities and distribution, location and sizes of public areas, rights-of-way and street improvement.

9.1.4 RELATIONSHIP TO ZONING ORDINANCE

A subdivision plat shall conform in all respects with applicable regulations of the Zoning Ordinance. *(Ord. 591, 9-13-77)*

Chapter 2

CONSTRUCTION AND DEFINITIONS

Sections

9.2.1 CONSTRUCTION **355**
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9.2.1 CONSTRUCTION

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance:

(A) *Tense:* Words used in the present tense include the future tense.

(B) *Number:* Words used in the singular include the plural, and words used in the plural include the singular.

(C) *Shall and May:* The word "shall" is mandatory; the word "may" is permissive.

(D) *Gender:* The masculine shall include the feminine and neuter.

9.2.2 DEFINITIONS

As used in this Ordinance, the following words and phrases shall mean:

BUILDING LINE: A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.

THE CITY: The City of Vale, Oregon.

EASEMENT: A grant of the right to use a strip of land for specific purposes.

CITY ENGINEER: An engineer or a person with the necessary qualifications appointed by the City Council. The City's Public Works Supervisor is empowered to perform any of the functions and discharge any of the duties required of and placed upon the Engineer. In the absence of the Public Works Supervisor, the Engineer's duties may be delegated to another City official by the City Manager or, alternatively, by the Council. *(Ord. 749, 9-12-95; amended by Ord. 832, 3-11-2003)*

LOT: A unit of land that is created by a subdivision of land.

(A) *Corner Lot:* A lot with a least two (2) adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed one hundred thirty five degrees (135°).

(B) *Reversed Corner Lot:* A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.

(C) *Through Lot:* A lot having frontage on two (2) parallel or approximately parallel streets other than alleys.

MAP: A final diagram, drawing or other writing concerning a major partition.

PARTITION: Either an act of partitioning land or an area or tract of land partitioned as defined in this Section.

(A) *Major Partition:* A partition which includes the creation of a street.

(B) *Minor Partition:* A partition that does not include the creation of a street.

PARCEL: A unit of land that is created by partitioning of land.

PARTITION LAND: To divide an area or tract of land into two (2) or three (3) parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of each year. "Partition land" does not include divisions of land resulting from lien foreclosure; divisions of land made pursuant to a court order, including but not limited to court orders in proceedings involving testate or intestate succession; and "partition land" does not include an adjustment to a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of the Zoning Ordinance.

PEDESTRIAN WAY: A right-of-way for pedestrian traffic.

PERSON: A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

PLANNING COMMISSION: The Planning Commission of the City.

PLAT: The final map, drawing, diagram, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning the subdivision.

RIGHT-OF-WAY: The area between boundary lines of a street or other easement.

ROADWAY: The portion of a street right-of-way developed for vehicular traffic.

SIDEWALK: A pedestrian walkway with permanent surfacing.

STREET: A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road," "highway," "land," *[sic]* "avenue," "alley," or similar designations.

(A) *Alley:* A narrow street through a block primarily for vehicular traffic service access to the back or side of properties otherwise abutting on another street.

(B) *Arterial:* A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.

(C) *Collector:* A street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used to some extent for through traffic and to some extent for access to abutting properties.

(D) *Cul-de-sac (dead-end street):* A short street having one end open to traffic and being terminated by a vehicle turn-around.

(E) *Half Street:* A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

(F) *Marginal Access Street:* A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

(G) *Minor Street:* A street intended primarily for access to abutting properties.

SUBDIVIDED *[sic]* LAND: To divide an area or tract of land into four (4) or more lots within a calendar year when such an area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

SUBDIVISION: Either an act of subdividing land or an area or tract of land subdivided as defined in this Section. *(Ord. 591, 9-13-77; definition of "City Engineer" changed by Ord. 749, 9-12-95)*

Chapter 3

TENTATIVE PLAT

Sections

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9.3.5 STATEMENTS TO ACCOMPANY TENTATIVE PLAT 359
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9.3.7 PLANNING COMMISSION REVIEW AND ACTION 360

9.3.1 SUBMISSION–FILING PROCEDURE

The subdivider shall prepare a tentative plat with other supplemental material required to indicate his general program and objectives. Fifteen (15) copies of the tentative plat and supplementary data shall be submitted to the City Manager's office at least fifteen (15) days prior to the Planning Commission meeting at which consideration of the plat is desired. *(Ord. 832, 3-11-2003)*

9.3.2 SERVICE CHARGE

Upon filing application for the approval of tentative subdivision plat or partitioning plan, the applicant shall pay a fee which shall be set by resolution of the City Council and may be revised from time to time.

9.3.3 SCALE

The tentative plat of a subdivision shall be drawn on a sheet eighteen by twenty four inches (18" x 24") in size or a multiple thereof at a scale of one inch equals one hundred feet (1"= 100') or, for areas over one hundred (100) acres, one inch equals two hundred feet (1"= 200').

9.3.4 INFORMATION ON TENTATIVE PLAT

(A) *General Information:* The following general information shall be shown on the tentative plat of a subdivision:

(1) Proposed name of subdivision. The name shall not duplicate or resemble the name of another subdivision in the County and shall be approved by the Planning Commission.

(2) Date, northpoint, scale of drawing and approximate acreage of area to be subdivided.

(3) Appropriate identification of the drawing as a tentative plat.

(4) Location of the subdivision by section, township and range sufficient to define its boundaries and a legal description of the tract boundaries.

(5) Names and addresses of the owner, subdivider and engineer or surveyor.

(B) *Existing Conditions:* The following existing conditions shall be shown on the tentative plat:

(1) The location, widths and names of both opened and unopened streets within or adjacent to the subdivision, together with easements, other rights-of-way and other important features such as section lines, corners, City boundary lines and monuments.

(2) Contour lines related to an established bench mark or other datum approved by an engineer or other person with the necessary qualifications appointed by the City, and having contour intervals as follows (except the engineer may approve omission of contours when he believes they are unnecessary):

(a) For slopes not in excess of ten percent (10%): two-foot (2') contours.

(b) For slopes over ten percent (10%): five-foot (5') contours.

(3) The location of at least one temporary bench mark within the plat boundaries.

(4) The location and direction of all water courses and the location of all areas subject to flooding.

(5) Natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees.

(6) Existing uses on the property, including location of all existing structures to remain on the property after the platting.

(C) Proposed Plan of Subdivision: The following information shall be included with the tentative plat of a subdivision:

(1) The location, width, name and approximate grade and radii of street curves. The relationship of streets to any projected streets as shown on any Comprehensive Plan adopted by the Planning Commission; or if no Comprehensive Plan has been adopted, the Planning Commission may suggest, in order to assure adequate traffic circulation, a plan that is appropriate.

(2) The location and approximate dimensions of lots and the proposed lot numbers.

(3) Sites, if any, allocated for purposes other than single-family dwellings.

(4) The location, approximate acreage and approximate dimensions of areas proposed for public use.

(5) An outline of the areas proposed for partial recording of a final plat if phased recording is proposed.

(6) The relationship of proposed subdivision to future streets on adjacent land controlled by the subdivider.

9.3.5 STATEMENTS TO ACCOMPANY TENTATIVE PLAT

The tentative plat shall be accompanied by written statements from the subdivider giving essential information regarding the following matters:

(A) Protective covenants to be recorded, if any.

(B) The time the proposed improvements are to be made or installed.

(C) A statement that the owner of the property or his agent is submitting the tentative plat for approval or that the owner consents to the filing of the map.

9.3.6 SUPPLEMENTAL PROPOSALS WITH TENTATIVE PLAT:

Any of the following may be required by the Planning Commission to supplement the plan of the subdivision:

(A) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.

(B) If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.

(C) Proposals for other improvements such as electrical utilities and sidewalks.

9.3.7 PLANNING COMMISSION REVIEW AND ACTION

(A) *Preliminary Review of Tentative Plat:* Upon receipt, the City Manager shall furnish one copy of the tentative plat and supplementary [sic] material to the City Engineer, and to such other agencies as are known to be affected. Other agencies believed to have an interest shall be provided notice of the proposal. These officials and agencies shall be given a reasonable time to review the plat and to suggest revisions that appear to be in the public interest. *(Ord. 832, 3-11-2003)*

(B) *Planning Commission Review:* The tentative plat, supplementary information and recommendations of the officials and agencies reviewing the plat shall be submitted to the Planning Commission at the hearing. The Planning Commission shall review the plan of the plat and reports submitted by officials and agencies taking action upon the proposal within forty (40) days from the time of the hearing.

They may approve, conditionally approve, or disapprove the proposed subdivision. If the plat is not approved the Commission shall state its reasons. Approval of the tentative plat shall indicate approval of the final plat if there is no change in the plan of the subdivision and if the subdivider complies with established requirements as set by the Commission.

The action of the Planning Commission shall be noted on two (2) copies of the tentative plat, including reference to any attached documents describing conditions imposed by the Commission. One copy shall be returned to the subdivider and the other retained in the files of the Planning Commission.

(C) *Hearing:* Before the Planning Commission may take action on a tentative plat, it shall hold a public hearing. Notification of the hearing shall be by posting property to be developed with at least one notice of the hearing and notifying by mail, the developer and all property owners within one hundred feet (100') who are listed as recorded owners in the records of the County Assessor. Notice of the hearing shall be posted and mailed twenty (20) days *(Ord. 712, 9-8-92)* prior to the time of the hearing. *(Ord. 591, 9-13-77)*

Chapter 4

FINAL PLAT

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9.4.1 SUBMISSION OF FINAL PLAT

Within one year after approval of the tentative plat, the subdivider shall cause the subdivision or any part thereof to be surveyed and a final plat prepared in conformance with the tentative plat as approved. The subdivider shall submit the original drawing, five (5) prints and any supplementary material or information to the City Manager. If the subdivider wishes to proceed with the subdivision after the expiration date of the one year period following the approval of the tentative plat, he must submit a new tentative plat and make any revisions necessary to meet changed conditions. *(Ord. 832, 3-11-2003)*

9.4.2 INFORMATION ON FINAL PLAT

In addition to that required for the tentative plat or otherwise specified by law, the following information shall be shown on the plat:

(A) Reference points of existing surveys identified, related to the plat by distance and bearings, and referenced to a field book or map as follows:

(1) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision.

(2) Adjoining comers of adjoining subdivisions.

(3) Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this Ordinance.

(B) The exact location and width of streets and easements intercepting the boundary of the tract.

(C) Tract, block and lot boundary lines and street right-of-way and center lines, with dimensions, bearing or deflection angles, radii, arcs, points of curvature and tangent bearings. Normal high water lines for any creek or other body of water. Tract boundaries and street bearing shall be shown to the nearest thirty seconds (30") with basis of bearings. Distances shall be shown to the nearest one hundredth foot (0.01'). No ditto marks shall be used.

(D) The width of the portion of the streets being dedicated and the width of the existing right-of-way. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.

(E) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

(F) Lot numbers beginning with the number one and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.

(G) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots intended for sale.

(H) Building setback lines, if any, are to be made a part of the subdivision restriction.

(I) The following certificates which may be combined where appropriate:

(1) A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and record of plat.

(2) A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants, and servants.

(3) A certificate with the seal of and signed by the engineer or surveyor responsible for the survey and final map.

(4) Other certificates now or hereafter required by law.

9.4.3 SUPPLEMENTAL INFORMATION WITH FINAL PLAT

The following information shall accompany the final plat:

(A) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.

(B) Sheets and drawings showing the following:

(1) Traverse data including the coordinates of the boundaries of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.

(2) The computation of distances, angles, and courses shown on the plat.

(3) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and State highway stationing.

(C) A copy of any deed restrictions applicable to the subdivision.

(D) A copy of any dedication requiring separate documents.

(E) A list of all taxes and assessments on the tract which have become a lien on the tract.

(F) A certificate by the City Manager that the subdivider has complied with the requirements of Sections 9.4.6 and 9.4.7. *(Ord. 832, 3-11-2003)*

9.4.4 TECHNICAL PLAT REVIEW

(A) Upon receipt by the City, the plat and other data shall be reviewed by the City Engineer who shall examine them to determine that the subdivision as shown is substantially the same as it appeared on the approved tentative plat and that there has been compliance with provisions of the law and of this Ordinance.

(B) The City Engineer may make such checks in the field as are desirable to the City to verify that the map is sufficiently correct on the ground and his representatives may enter the property for that purpose.

(C) If the City Engineer determines that full conformity has not been made, he shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions.

9.4.5 APPROVAL OF THE PLAT

Upon receipt of the plat, with the approval of the City Engineer, the Planning Commission shall determine whether it conforms with the tentative plat and with these regulations. If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made and shall afford him an opportunity to make corrections. If the Planning Commission determines that the plat conforms to all requirements it shall give approval, provided supplemental documents and provisions for required improvements are satisfactory. Approval shall be indicated by the chairman of the Planning Commission. The approval of the plat does not constitute or effect an acceptance by the public of the dedication of any street or other easement shown on the plat.

9.4.6 AGREEMENT FOR IMPROVEMENTS

Before Planning Commission approval of a final plat or partition map, the land divider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City Manager an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover full cost and expense, together with court costs and attorney fees necessary to collect said amount from the land divider. The agreement shall also provide for reimbursement of the City for the cost of inspection by the City which shall not exceed ten percent (10%) of the cost of the improvements to be installed. *(Ord. 832, 3-11-2003)*

9.4.7 BONDS

(A) The land divider shall file with the agreement, to ensure his full and faithful performance thereof, one of the following:

(1) A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.

(2) A personal bond, co-signed with at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.

(3) Cash.

(B) Such assurance of full and faithful performance shall be for a sum approved by the City Manager as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspection.

(C) If the land divider fails to carry out provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds cost and expense incurred by the City, it shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expenses incurred by the City, the land divider shall be liable to the City for the difference. *(Ord. 832, 3-11-2003)*

9.4.8 FILING OF FINAL PLAT

The subdivider shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within the thirty (30) days after the date the last required signature has been obtained. *(Ord. 591, 9-13-77)*

Chapter 5

LAND PARTITIONS

Sections

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9.5.1 PURPOSE

This Chapter describes procedures and standards governing the partition of land into two (2) or three (3) parcels within a calendar year when such area or tract of land exists as a unit or continuous units of land under single ownership at the beginning of such year. Such partitions, when involving the creation of a street or road, are a major partition. When they do not involve the creation of a street or road they are minor partitions.

9.5.2 CREATION OF A PUBLIC STREET OUTSIDE A SUBDIVISION

(A) The creation of a public street and the resultant separate land parcels shall be in conformance with the requirements for subdivision except, however, the Planning Commission shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:

(1) The establishment of the public street is initiated by the City Council or County Court and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.

(2) The tract in which the street is to be dedicated is a major partition within an isolated ownership either of not over one acre of land or of such size and characteristics as to make it impossible to develop building sites for more than three (3) dwelling units.

(B) In those cases where approval of a public street is to be without a full compliance with the regulations applicable to subdivision, a copy of a tentative plan and the proposed deed shall be submitted to the City Manager at least five (5) days prior to the Planning Commission meeting at which consideration is desired. The plan, deed and such information as may be submitted

shall be reviewed by the Planning Commission and, if not in conflict with the standards of these regulations, shall be approved with the conditions necessary to preserve these standards. *(Ord. 832, 3-11-2003)*

9.5.3 CREATION OF A PRIVATE STREET OUTSIDE A SUBDIVISION

A street which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future, shall be in the form of a street in a subdivision or as provided in Section 9.5.2 of these regulations, except that a private street to be established by deed without full compliance with these regulations shall be approved by the Planning Commission provided it is the only reasonable method by which the rear portion of an unusually deep land parcel of a size to warrant partitioning into not over two (2) parcels may be provided with access. A copy of the tentative plan to create a street and partition the tract will be submitted to the City Manager at least five (5) days prior to the Planning Commission meeting at which consideration is desired. The document and such information as may be submitted shall be reviewed by the Planning Commission and, if assurance of adequate utility and vehicular access is indicated shall be approved.

9.5.4 MAJOR PARTITIONING PROCEDURE

A major partition authorized by Sections 9.5.2 and 9.5.3 shall be approved under the following conditions:

(A) There shall be submitted to the City Manager a tracing of a tentative plan eight and one-fourth by eleven inches (8.25 x 11”), or eighteen by twenty-four inches (18 x 24”) in size with the following information:

(1) The date, northpoint, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.

(2) The name and address of the record owner and of the person who prepared the tentative plan.

(3) Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the land owners directly involved in the partitioning.

(4) For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets; location and size of water and sewer lines and drainage ways and the location of power poles.

(5) Outline and location of existing buildings to remain in place.

(6) Parcel layout, showing size and relationship to existing or proposed streets and utility easements.

(7) Such additional information as required by the Planning Commission.

(B) The Planning Commission may define the circumstances under which an application for partitioning may be given routine administrative review and approval. Under this procedure the City Manager shall check the proposal against the development plan and approve the proposal without submitting it to the Planning Commission.

(C) If the location or type of land is not such as has been defined for routine administrative approval or if the proposed partitioning does not appear to comply with the requirements for routine administrative approval, the tentative plan shall be submitted for the Planning Commission review and determination that the proposal will comply with this Ordinance. The Planning Commission may require dedication of land and easements and may specify conditions or modifications in the tentative plan as necessary. In no event, however, shall the Planning Commission require greater dedication or conditions than could have been required if the tract were subdivided.

(D) When a tentative plan has been approved, all copies shall be marked with the dates and conditions, if any, of the approval. When compliance with conditions has been assured, the plan shall be approved and then becomes the partition map.

(E) The provisions of Section 9.3.6 apply to review of a major partition. *(Ord. 832, 3-11-2003)*

9.5.5 STANDARDS AND IMPROVEMENTS

The design standards in Chapter 6, the improvement requirements in Chapter 7 and the provisions of Chapter 4, Sections 9.4.7 and 9.4.8 shall apply to major partitions.

9.5.6 MINOR PARTITIONING PROCEDURE

The land partitions located within the City that do not contain a street dedication and which are not considered major partitions shall be submitted for review and approval.

(A) *Minor Partition Map.*

(1) The map shall be a survey map that meets the requirements of the County Surveyor for filing the survey of the parcel.

(2) The survey information to locate the parcel and the monuments set to identify its location.

(3) The dimensions and area of the parcel proposal for approval.

(4) The legal description of the parcel.

(5) The names of the owner [sic] of the property.

(6) The street that serves the parcel, its widths and improvements.

(7) Location of services to the parcels, including sewer, water, drainage, power, and telephone.

(8) Location of buildings, slope of land, drainage ways, trees, easements and any other features of land important to its development.

(B) *Application for Approval.* Application shall include the original map and five (5) copies filed with the City Manager. The map shall be reviewed by the City Manager and the chairman of the Planning Commission. They shall determine that the proposed parcel is consistent with the Zoning Ordinance, the subdivision regulations and that it has adequate City services and that, upon request, the proposed parcel could be issued a building permit. *(Ord. 832, 3-11-2003)*

If these conditions are met, three (3) copies and the original map shall be signed. The original shall be forwarded to the County Surveyor for filing as a recorded survey, a signed copy returned to the applicant, a signed copy filed in the Planning Commission files and a signed copy forwarded to the appropriate building department.

If the above conditions are not met, the map shall not be signed and the original map shall be returned to the applicant with the letter stating the reasons for refusal. The applicant may modify the map or improve the parcel to meet the requirements or he may, within ten (10) days request review by the Planning Commission at its next regular meeting. The Commission may uphold the decision of the staff, establish conditions of approving the application or approve the application as proposed. *(Ord. 591, 9-13-77)*

Chapter 6

DESIGN STANDARDS

Sections

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9.6.1 PRINCIPLES OF ACCEPTABILITY

Subdivisions shall conform to the objectives of the Comprehensive Plan and the preliminary *[sic]* in anticipation of developing comprehensive plans. Subdivisions shall conform to the requirements of State law and standards established by this Ordinance.

9.6.2 STREETS

(A) *General.* The location, width and grade of the streets shall be considered in their relation to existing and planned streets and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried and the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:

(1) Provide for the continuation or appropriate projection of existing principal street [sic] in surrounding areas; or

(2) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

(B) *Minimum Right-of-Way and Road-Way Width.* Unless otherwise indicated on the development plan, the street right-of-way and road-way widths shall not be less than the minimum width in feet shown in the following tables:

Type of Street Min.	Right-of-Way Width Min.	Roadway Width
Arterial	80 feet	60 feet
Collector Street	60 feet	38 feet
Continuous Minor Street	60 feet	38 feet
Radius for Turn Around at the end of Cul-de-Sacs	50 feet	40 feet
Alleys	20 feet	16 feet

Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-way may be accepted, ordinarily not less than fifty feet (50'). If necessary, slope easements may be required.

(C) *Reserved Strips.* Reserve strips or street plugs controlling access to street will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the City under the conditions approved by the Planning Commission.

(D) *Alignment.* As far as it is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center line thereof. Staggered street alignment resulting from "T" intersections shall, when practical, leave a minimum distance of two hundred feet (200') between the center lines of streets having approximately the same direction and, in no case, shall be less than one hundred feet (100').

(E) *Future Extensions of Streets.* Where necessary to give access to or permit a future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved without a turn-around. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

(F) *Intersection Angles.* Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than eighty degrees (80°) unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred feet (100') of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet (50') of a tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than eighty degrees (80°) or which include an arterial street shall have a minimum comer radius sufficient to allow for a roadway radius of twenty feet (20') and maintain a uniform width between the roadway and right-of-way line. Ordinarily, the intersection of more than two (2) streets at any one point will not be approved.

(G) *Existing Streets.* Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.

(H) *Half Street.* Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining tract is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.

(I) *Cul-de-sacs.* A cul-de-sac shall be as short as possible and shall have a maximum length of four hundred feet (400') and serve building sites for not more than eighteen (18) dwelling units. A cul-de-sac shall terminate with a circular turn-around.

(J) *Street Names.* Except for extensions of existing streets, no street name shall be used which will duplicate the name of an existing street. Street names and numbers shall conform to the established pattern of the City and shall be subject to the approval of the Planning Commission.

(K) Grades and Curves. Grades shall not exceed six percent (6%) on arterials, ten percent (10%) on collector streets and twelve percent (12%) on other streets. Center line radii and curves shall not be less than three hundred feet (300') on major arterials, two hundred feet (200') on secondary arterials or one hundred feet (100') on other streets, and shall be to an even ten feet (10'). Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, as determined by the City Engineer.

(L) *Streets Adjacent to Railroad Right-of-Way.* Whenever the proposed land divisions *[sic]* contains or is adjacent to a railroad right-of-way, provisions may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

(M) *Marginal Access Streets.* Where land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property lines, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(N) *Alleys.* Alleys shall be provided in residential, commercial, and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than twelve feet (12').

9.6.3 BLOCKS

(A) *General.* The length, width, and shape of the blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.

(B) *Size.* No block shall be more than one thousand feet (1,000') in length between street comer lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length along an arterial street is one thousand eight hundred feet (1,800'). A block shall have sufficient width to provide for two (2) tiers of building sites unless topography or the location of adjoining streets justifies an exception.

(C) *Easements.*

(1) *Utility Lines.* Easements for sewers, water mains, electric lines or public utilities shall be dedicated wherever necessary. The easements shall be at least twelve feet (12') wide and centered on lot or parcel lines, except for utility pole tieback easements which may be reduced six feet (6') in width.

(2) *Water Courses.* If a tract is traversed by a water course such as a drainage-way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose. Street or parkways parallel to the major water course may be required.

(3) *Pedestrian and Bicycle Ways.* When desirable for public convenience, a pedestrian or bicycle way may be required to connect a cul-de-sac or to pass through an unusually long or oddly shaped block or otherwise provide appropriate circulation.

9.6.4 BUILDING SITES

(A) *Size and Shape.* The size, width, shape and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the residential lot size provisions of the Zoning Ordinance with the following exceptions *[sic]*:

(1) Where the property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purpose shall be adequate to provide for the off-street parking facilities required by the type of use and development contemplated.

(B) *Access.* Except as set forth in Section 9.2.2, each lot and parcel shall abut upon a street other than an alley for a width of at least twenty five feet (25').

(C) *Through Lots and Parcels.* Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten feet (10') wide and across which there shall be no right of access may be required along the line of building sites abutting such a traffic artery or other incompatible use.

(D) *Lot and Parcel Side Lines.* The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.

9.6.5 GRADING OF BUILDING SITES

Grading of building sites shall conform to the following standards unless physical conditions demonstrate the need for other standards.

(A) Cut slopes shall not exceed one and one-half feet (1.5') horizontally to one foot (1') vertically.

(B) Fill slopes shall not exceed two feet (2') horizontally to one foot (1') vertically.

(C) The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.

9.6.6 BUILDING LINES

If special building setback lines are to be established in a subdivision, they shall be shown on the subdivision plat or, if temporary in nature, they should be included in the deed restrictions.

9.6.7 LARGE BUILDING SITES

If tracts are to be divided into large lots or parcels which at some future time are likely to be redivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into building sites and contain such site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots and parcels of smaller size.

9.6.8 LAND FOR PUBLIC PURPOSE

If the City has an interest in acquiring any portion of the proposed subdivision for a public purpose, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that those portions of the subdivision be reserved for public acquisition for a period of not to exceed two (2) years. *(Ord. 591, 9-13-77)*

Chapter 7

IMPROVEMENTS

Sections

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9.7.1 IMPROVEMENTS PROCEDURE

In addition to other requirements, improvements installed by a land divider either as a requirement of these regulations or at his own option shall conform to the requirements of this Ordinance and improvement standards and specifications followed by the City, and shall be installed in accordance with the following procedure:

(A) Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plat of a subdivision or partition.

(B) Improvement work shall not commence until after the City is notified and if the work is discontinued for any reason it shall not be resumed until after the City is notified.

(C) Improvements shall be constructed under the inspection and to the satisfaction of the City Manager. The City may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change. *(Ord. 832, 3-11-2003)*

(D) Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when service connections are made.

(E) A map showing public improvements as built shall be filed with the City upon completion of the improvements.

9.7.2 SPECIFICATIONS FOR IMPROVEMENTS

The City Manager shall prepare and submit to the City Council specifications to supplement the standards of this Ordinance based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and private streets. *(Ord. 832, 3-11-2003)*

9.7.3 IMPROVEMENTS IN SUBDIVISIONS

The following improvements shall be installed at the expense of the subdivider and at the time of the subdivision:

(A) *Streets.* Public streets, including alleys, within the subdivision and public streets adjacent but only partially within the subdivision shall be improved to meet the standards required by the City Council. Catch basins shall be installed and connected to the drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of tangency of their center lines.

(B) *Surface Drainage and Storm Sewer System.* Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage ways or storm sewers outside the subdivision. Design of drainage within the subdivision, as provided by the engineer, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.

(C) *Sanitary Sewers.* Sanitary sewers shall be installed to serve the subdivision to existing mains. If required sewer facilities will without further sewer construction directly serve property outside the subdivision, the following arrangements will be made to equitably distribute the cost:

(1) If the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installation at the time, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is desirable to assure financing his share of this construction.

(2) If the installation is not made as an assessment project, the City will reimburse the subdivider an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside the subdivision for a period of ten (10) years from the time of the installation of the sewers. The actual amount shall be determined by the Planning Commission at the time of the approval of the plat, considering current construction costs.

(D) *Water System.* Water lines and fire hydrants serving each building site in the subdivision and connecting the subdivision to City mains shall be installed. The engineer's design shall take into account provisions for extension beyond the subdivision and to adequately grid the City system. If required water mains will directly serve property outside the subdivision, the City will reimburse the subdivider an amount estimated to be the proportionate share of the cost for each connection made to the water mains by property owners outside the subdivision for a period of ten (10) years from the time of installation of the mains. The actual amount shall be determined by the Planning Commission at the time of approval of the plat, considering current costs.

(E) *Sidewalks.* Sidewalks shall be installed on both sides of a public street and in any special pedestrian way within the subdivision, except that in the case of primary or secondary arterials, or special type industrial districts, the Planning Commission may approve a subdivision without sidewalks if alternative pedestrian routes are available; and provided further, that in case of streets serving residential areas having single-family dwellings located on lots equivalent to two and one-half (2.5) or less dwellings per gross acre, the requirements for sidewalks shall not apply, provided there is no evidence of special pedestrian activity along the streets involved.

(F) *Street Name Signs.* Street name signs shall be installed at all street intersections.

(G) *Other.* The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of lines and facilities.

9.7.4 IMPROVEMENTS IN PARTITIONS

The same improvements shall be installed to serve each building site of a partition as is required of a subdivision. However, if the Planning Commission finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the Planning Commission shall except those improvements. In lieu of excepting an improvement, the Planning Commission may recommend to the City Council that the improvement be installed in the area under special assessment financing or other facility extension policies of the City. *(Ord. 591, 9-13-77)*

Chapter 8

EXCEPTIONS, VARIANCES, ENFORCEMENT, AMENDMENTS AND EMERGENCY DECLARATION

Sections

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9.8.1 EXCEPTIONS IN THE CASE OF A PLANNED UNIT DEVELOPMENT

The standards and requirements of these regulations may be modified by the Planning Commission in the case of a planned unit development.

9.8.2 VARIANCE APPLICATION

The Planning Commission may authorize conditional variances to requirements of this Ordinance. Application for a variance shall be made by a petition of the land divider, stating fully the grounds of the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative plat. A variance may be granted in the event that all of the following circumstances exist:

(A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to the other properties in the same vicinity, and result from tract size or shape, topography or other circumstances over which the owners of the property since enactment of this Ordinance have had no control.

(B) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other properties in the same vicinity possess.

(C) The variance would not be materially detrimental to the purpose of this Ordinance, or to the property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.

(D) The variance requested is the minimum variance which would alleviate the hardship.

9.8.3 PLANNING COMMISSION ACTION ON VARIANCES

In granting or denying a variance, the Planning Commission should make written record of its findings and the facts in connection therewith, and shall describe the variance granted and the conditions designated. The City shall keep the findings on file as a matter of public record.

9.8.4 APPEAL

(A) A person may appeal to the City Council from a decision or requirement made by the Planning Commission or the City Manager. Written notice of the appeal must be filed with the City within ten (10) days after the decision or requirement is made. The notice of appeal shall state the nature of the decision or requirement and the grounds for appeal.

(B) The City Council hall hold a hearing on the appeal within thirty (30) days from the time the appeal is filed. The Council may continue the hearing for good cause. Following the hearing the Council may overrule or modify the decision or requirement made by the Planning Commission or the City Manager if the decision of the Council complies with the spirit and intent of this Ordinance. The disposition of the appeal shall be final. *(Ord. 832, 3-11-2003)*

9.8.5 SEVERABILITY

The provisions of this Ordinance are severable. If a section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

9.8.6 PENALTIES

Violations of any provision of this Ordinance or amendment thereto is punishable, upon conviction, by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisonment in the County jail for not less than twenty five (25) days, or both.

Each violation of a provision of this Ordinance shall constitute a separate offense.

9.8.7 AMENDMENTS

(A) An amendment to the text of this Ordinance may be initiated by the City Council, the Planning Commission, or by the application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Manager using forms provided by the City Manager. *(Ord. 832, 3-11-2003)*

(B) The Planning Commission shall conduct a public hearing on the proposed amendment after publishing notice of the hearing once a week for two (2) successive weeks prior to the hearing in the [sic] newspaper of general circulation within the City of Vale. The notice shall specify the time, place, and purpose of the hearing.

(C) Within ten (10) days after such hearing, the Planning Commission shall recommend to the City Council approval, disapproval or modified approval of the proposed amendment. Upon receiving a recommendation of approval from the Planning Commission, the City Council shall hold a

public hearing on the proposed amendment following the same procedures as described for the Planning Commission in subsection (B) of this Section.

(D) No applications of this property owner for an amendment to the text of this Ordinance shall be considered by the Planning Commission within the one year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

(E) A copy of the Subdivision Ordinance and any amendment adopted to such Ordinance shall be filed with the recording officer of Malheur County. *(Ord. 591, 9-13-77)*