

CITY OF JOSEPH, OREGON

CODE OF ORDINANCES

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CHARTER OF THE CITY OF JOSEPH

To provide for the government of the City of Joseph, Wallowa County, Oregon; and to repeal all charter provisions of the city enacted prior to the time this charter takes effect.

Be it enacted by the people of the City of Joseph, Wallowa County, Oregon:

CHAPTER I. NAME AND BOUNDARIES**§ 1 TITLE OF ENACTMENT.**

This enactment may be referred to as the Joseph Charter of 1984.

§ 2 NAME OF CITY.

The city of Joseph, Wallowa County, Oregon, shall continue to be a municipal corporation with the name "City of Joseph."

§ 3 BOUNDARIES.

The City includes all territory encompassed by its boundaries as they exist when this revision of the charter is adopted or as they are subsequently modified in accordance with state law. The repository of city records shall include at least two copies of this charter, each containing an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection during regular office hours.

CHAPTER II. POWERS**§ 4 POWERS OF THE CITY.**

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

§ 5 CONSTRUCTION OF POWERS.

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

CHAPTER III. FORM OF GOVERNMENT**§ 6 WHERE POWERS VESTED.**

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

§ 7 COUNCIL.

The council is composed of a mayor and six council members elected from the city at large.

§ 8 MAYOR.

The mayor shall be elected for four years and shall hold office until his or her successor is elected and qualified.

§ 9 COUNCIL MEMBERS.

Members of the council shall be elected for four years. Three council members shall be elected at each biennial general election. Each council member shall hold office until his or her successor is elected and qualified.

§ 10 OTHER OFFICERS.

Additional officers of the city may be appointed and removed by the council as it deems necessary.

§ 11 SALARIES.

The compensation of council members, the mayor, other officers and employees shall be fixed by the council. However, no increase in the compensation of council members or the mayor shall take effect until the first day of the odd-numbered year following the first biennial general election after the increase is ordered.

§ 12 QUALIFICATIONS OF OFFICERS.

No person is eligible for an elective office of this city unless at the time of the officer's election, the officer is a qualified elector within the meaning of the state constitution, is a resident of the city, and has

been a resident of the city during the twelve months immediately preceding the election. No person shall hold an elective office of the city if the person is an employee of the city. The council is the final judge of the qualifications and election of its own members.

CHAPTER IV. CITY COUNCIL

§ 13 MEETINGS.

The council shall hold a regular meeting at least once each month in the city at a time and place which it designates. It shall adopt rules for the government of its members and proceedings. The mayor or three council members may call special meetings of the council. Special meetings may be held at any time by the common consent of a quorum of all members of the council at any regular meeting.

§ 14 RECORD OF PROCEEDINGS.

The council shall cause a record of its proceedings to be kept.

§ 15 QUORUM.

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

§ 16 PROCEEDINGS TO BE PUBLIC.

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

§ 17 MAYOR'S FUNCTION AT COUNCIL MEETINGS.

The mayor shall be chairman of the council and preside over its deliberations. He/she will cast a vote but he/she shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

§ 18 MAYOR PRO TEM.

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

§ 19 VOTE REQUIRED.

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

CHAPTER V. POWERS AND DUTIES OF OFFICERS**§ 20 MAYOR.**

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

§ 21 MUNICIPAL JUDGE.

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

Notwithstanding this section or section 11 of this charter, the council may provide for the transfer of powers and duties of the municipal court to the appropriate district court of the State of Oregon.

§ 22 RECORDER.

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

CHAPTER VI. ELECTIONS

§ 23 REGULATION OF ELECTIONS.

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

§ 24 VOTES.

The person receiving the greatest number of votes cast for any of the candidates for the office of mayor at the election at which the office is filled is elected to the office of mayor. The three persons receiving the greatest number of votes cast for any of the candidates for the office of councilor at the election at which the office is filled are elected to the office of councilor. In the event of a tie vote, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

§ 25 OATH OF OFFICE.

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

§ 26 NOMINATIONS.

A **qualified** elector who has resided in the city during the twelve months immediately preceding an election may be nominated for an elective city office to be filled at the election by written application. The recorder shall make a record of all applicants for city office and shall state the name and address of the person by whom it is filed. The recorder shall notify an eligible person of his/her nomination and that person shall file with the recorder his/her written acceptance of nomination, in such form as the council may require, within five days of **notification** of nomination. Upon receipt of the acceptance of nomination, the recorder shall cause the nominee's name to be printed on the ballots. The petition of nomination for a successful candidate at an election shall be preserved in the office of the recorder until the term of office for which the candidate is elected expires.

CHAPTER VII. VACANCIES IN OFFICE**§ 27 WHAT CREATES VACANCY.**

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

§ 28 FILLING OF VACANCIES.

The council shall fill a vacancy in any elective city office by appointment within 90 days after the vacancy occurs. A majority vote of the council is required to validate the appointment. The appointee's term of office begins immediately upon the appointment and expires when the term of the person whose office has become vacant would have expired had that person continued in office. During the temporary disability of any officer or an officer's temporary absence from the city for any cause, the office may be filled pro tern in the manner provided for filling vacancies in offices permanently.

CHAPTER VIII. ORDINANCES**§ 29 ENACTING CLAUSE.**

The enacting clause of all ordinances hereafter enacted shall be, “The City of Joseph ordains as follows.”

§ 30 ADOPTION.

(1) Except as subsection (3) of this section provides for reading by title or bill number only, and except as subsection (2) of this section provides for immediate adoption of emergency measures, an ordinance before being finally adopted, shall be full and distinctly read in open council meeting on two days.

(2) Except as subsection (3) of this section provides for reading by title or bill number only, an ordinance necessary to meet an emergency may, upon being read in full and then by title, be adopted at a single meeting of the council by unanimous vote of all councilors present.

(3) Any reading of an ordinance for purposes of adoption may be by title or bill number only:

(a) If no councilor present at the meeting requests that the ordinance be read in full; or

(b) If for one week prior to the scheduled reading, a copy of the ordinance is provided each councilor and copies are posted in at least two public places for inspection at the office of the mayor or city recorder during regular office hours.

(4) An ordinance adopted after being read by title or bill number only has no legal effect if it differs substantially from its terms as they stand when so read, unless each section incorporating such a difference, as finally amended prior to being adopted by the council, is fully and distinctly read in open council meeting.

§ 31 MAYOR’S SIGNATURE.

Upon the adoption of an ordinance by the council, the mayor shall sign the ordinance and indicate the date of the signing of his or her signature.

§ 32 WHEN ORDINANCE TAKES EFFECT.

Except when a later time for it to take effect is provided, an ordinance adopted by the council takes effect on the thirtieth day after its adoption by the council unless it is necessary to have immediate effect for the preservation of the peace, health, safety and welfare of the city, in which event it takes effect immediately upon its adoption.

CHAPTER IX. PUBLIC IMPROVEMENTS**§ 33 CONDEMNATION.**

Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the council describing the property and stating the uses to which it shall be devoted. All such proceedings shall be in accordance with existing state laws pertaining to condemnation.

§ 34 IMPROVEMENTS.

The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance, or to the extent not so governed by the applicable general laws of the state. Action on any proposed public improvement, except a sidewalk or except an improvement unanimously declared by the council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specially assessed therefor. In this section, "owner" shall mean the record holder of legal title or where land is being purchased under a land sale contract recorded in writing by the record holder of legal title to the land, the purchaser shall be deemed the "owner."

§ 35 SPECIAL ASSESSMENTS.

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

§ 36 CONTRACTS.

All contracts shall be in accord with State Contract Review Board laws and rules or as established by the city council in accordance with state laws as to public contracting.

CHAPTER X. MISCELLANEOUS PROVISIONS**§ 37 PRESUMPTION OF VALIDITY OF CITY ACTION.**

In every proceeding in any court concerning the exercise or enforcement by the city or any of its officers or agencies of any power by this act given to the city or any of its officers or agencies, shall [be] presumed to be valid, and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage; and the court shall disregard every error or admission which does not affect a substantial right of the person. Any action committed by this charter to the discretion of the council is final when taken and may not be reviewed or called into question elsewhere.

§ 38 EXISTING ORDINANCES CONTINUED.

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

§ 39 REPEAL OF PREVIOUSLY ENACTED PROVISIONS.

All charter provisions of the city enacted prior to the time that this charter takes effect are hereby repealed.

§ 40 PROCEDURE FOR AMENDMENT.

Amendments to this charter may be proposed by the city council by resolution duly adopted at any regular meeting of the council, and when so adopted, the same shall be submitted to a vote of the legal voters of the city upon the date of any general election in the State of Oregon, which may be held after giving notice as provided in this charter.

This charter may also be amended by proposal therefor under the initiative provisions of Oregon statutes by a petition duly signed by the appropriate number of qualified electors.

§ 41 ANNEXATION.

All annexations of property to the boundaries of the city limits shall be in accordance with ORS Chapter 222, as modified by City Ordinance and the Joint Management Agreement with Wallowa County.

(Res. 2002-05, passed 3-5-2002)

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Definitions
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- 10.06 Severability
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- 10.08 Reference to offices
- 10.09 Errors and omissions
- 10.10 Official time
- 10.11 Reasonable time
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- 10.13 Ordinances unaffected
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- 10.15 Repeal or modification of ordinance
- 10.16 Ordinances which amend or supplement code
- 10.17 Section histories; statutory references
- 10.18 Preservation of penalties, offenses, rights and liabilities

- 10.99 General penalty

§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Joseph City Code”, for which designation “code of ordinances”, “codified ordinances” or “code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “traffic code”. Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01”. Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 DEFINITIONS.

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

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

BUSINESS DAY. Any 24-hour day other than a Saturday, Sunday or federal or state legal holiday.

CITY, MUNICIPAL CORPORATION or MUNICIPALITY. The City of Joseph, Oregon. The term *CITY* when used in this code may also be used to refer to the City Council and its authorized representatives.

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

COUNCIL. The City Council of Joseph, Oregon.

COUNTY. The County of Wallowa, Oregon.

DAY. Calendar day unless otherwise indicated as business day or working day.

GOVERNING BODY. City Council.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Oregon.

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

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.05 RULES OF INTERPRETATION.

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

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

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

(C) **Gender; singular and plural; tenses.** Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the

plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES.

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

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall be deemed to mean at least 24 hours' notice.

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

§ 10.12 ORDINANCES REPEALED.

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the City Council shall take effect as provided in the City Charter.

Charter reference:

When ordinance takes effect, see § 32

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

§ 10.17 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and any amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 161, passed 5-13-1960; Ord. 170, passed 1-2-1979; Ord. 185, passed 4-1-1990)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (ORS 192.410)

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

Inspection of public records, see ORS 192.314

§ 10.18 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities,

proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

(A) Any person violating any provision of this code for which no other specific penalty is provided shall, upon conviction, be punished by a fine not to exceed \$500, subject to division (B) below.

(B) Any person violating any provision of this code which is identical to a state statute containing a penalty shall, upon conviction, be punished by the penalty prescribed by state statute.

(C) Each calendar date on which a violation occurs constitutes a separate violation.

TITLE III: ADMINISTRATION

Chapter

- 30. MAYOR AND CITY COUNCIL**
- 31. EMPLOYEES AND ORGANIZATIONS**
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- 33. DRUG AND ALCOHOL POLICY**
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CHAPTER 30: MAYOR AND CITY COUNCIL

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COUNCIL RULES

§ 30.01 AUTHORITY.

(A) The Charter of the city, Ch. II, § 4, “Powers of the City”, states: “The City has all powers which the constitution, statutes, or common law of the United States or of this state expressly or implicitly grant or allow municipalities as fully as though this Charter specifically enumerated each of those powers.” Ch. IV, § 13, “Meetings”, specifies: “It [the Council] shall adopt rules for the governance of its members and proceedings.”

(B) The rules adopted in this subchapter shall be in effect upon their adoption by the Council and until such time as they are amended, added to, deleted or replaced in the manner provided by these rules.

(C) These rules apply equally to the Mayor and Council members.

(D) These rules are to be observed in addition to and may not be contradictory to the current City Charter.

Joseph - Administration

(E) The consistent theme underlying these rules is “respect”. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Council members to do the right thing in even the most difficult situations.

(Ord. 2007-01, passed 4-5-2007)

§ 30.02 POLICY-MAKING BODY; PREPARATION; DECISIONS.

(A) The City Council is the policy-making body. The Council shall adopt administrative policy on media. Council members are expected to encourage and respect diversity among the viewpoints brought to the Council. Council decisions may not be unanimous, but once voted upon define the position of the entire Council. Council members who do not agree with the Council’s decisions are encouraged to not publicly undermine Council decisions.

(B) No member of the Council shall be authorized to speak or write on behalf of the Council unless authorized by a majority vote of the Council.

(C) Council decisions shall predominantly be policy decisions. The Council is encouraged to have a collective philosophy, embody beliefs, values, commitments and vision.

(D) The Mayor shall be the presiding officer and conduct all meetings, preserve order, enforce the rules and determine the order and length of discussion on any matter before the Council, subject to these rules. The Mayor Pro Tem shall preside in the absence of the Mayor. The presiding officer shall not be deprived of any of the rights and privileges of a Council member. In case of the absence of the Mayor and the Mayor Pro Tem, the City Recorder shall call the meeting to order and the Council shall elect a Chairperson for the meeting by majority vote.

(E) Council members shall diligently prepare for meetings and shall be ready to vote on the consent agenda during meetings. Meetings flow more smoothly and take less time when all Council members are well informed on issues including law, policy and general information. Council members will read all information prepared by city staff prior to meeting time.

(F) Council members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate for Council members to mention endorsements during Council meetings or other official city meetings.

(Ord. 2007-01, passed 4-5-2007)

§ 30.03 COUNCIL MEETINGS.

(A) Regular meetings of the Council will be held the first Thursday of each month beginning at 7:00 p.m. at the City Hall or the Community Center.

(B) Times, dates and locations of regular Council meetings may be adjusted because of changing circumstances, to facilitate work sessions or in order to have a quorum of Council members at the meeting. Temporary changes to times, dates and locations of regular Council meetings may be made by the Mayor or three Council members. Permanent changes require the common consent of a quorum of all members of the Council. Regular meeting notice requirements must be followed and the meeting must be held within the city limits.

(C) Special meetings of the Council may be called at any time on the request of three members of the Council, by the Mayor or by the Mayor Pro Tem in the Mayor's absence, by giving notice of the meeting to the Council members, news media which have requested notice and the public at least 24 hours in advance in a manner and for such time as the exigencies of the case may permit, but with a view to obtaining the largest possible attendance of Council members.

(D) Although the Council may choose other days on which to hold its meetings, the third Thursday of the month shall be the preferred alternate meeting time.

(E) Emergency meetings of the Council are special meetings which can be called when no more than 24 hours' notice can be given. The minutes of the meeting need to state the nature of the emergency. Emergency meetings may be held by consent of a majority of Council members. An attempt must be made to notify the public or the press of the need for any emergency meeting.

(F) Workshop or training meetings of the Council may be held at the convenience of the Council at a time when as many Council members as possible can attend. These meetings may be held for Council goal setting, new Council member training or longer workshops for planning programs or projects. Goal setting retreats may be held out of town so long as no decision making or discussion toward decisions occurs. Any goals arrived at by any process should be confirmed in public at a regular Council meeting. The Council may decide the public is welcome at any of these meetings and they may be held without opportunity for public input.

(G) Executive sessions may be held by the Council pursuant to ORS 192.640, 192.650, 192.660 and 192.670. Only those staff members required to attend will be present. Normally, the City Recorder is required to attend.

(H) Public meetings of the Council will be held in accordance with ORS 192.610 through 192.710. All regular and special meetings will be open to the public and provide an opportunity for public input.

(I) (1) Public hearings shall be held:

- (a) To gather public input;
- (b) In anticipation of legislation; or
- (c) Sitting in a quasi-judicial capacity.

(2) Public hearings shall be preceded by the notice required by law and shall be conducted in compliance with all applicable law.

(J) Except for quasi-judicial hearings, a pre-meeting conference with the issues' chief proponents, city staff members and opponents may be useful. Questions of fact may be resolved at such conferences and time may be saved at the hearing. To preserve the impartiality required for quasi-judicial hearings and to avoid violation of the Open Meeting Law, pre-meeting conferences should be conducted by city staff members rather than Council members.

(K) Council members shall inform the Mayor or City Recorder as soon as practical if unable to attend any Council meeting. The Mayor will inform the Mayor Pro Tem if unable to attend any Council meeting.

(L) Seating in the Council Chambers of the City Hall is limited to a small number of citizens in attendance. When the Council or staff anticipates a large number of citizens in attendance for a particular meeting, the meeting place shall be moved to the Community Center or another facility if the Community Center is unavailable.

(Ord. 2007-01, passed 4-5-2007)

§ 30.04 AGENDA AND ORDER OF BUSINESS.

(A) An agenda for each regular Council meeting shall be prepared by the City Recorder. The Mayor or the City Council may direct that specific items be included on the agenda. The city staff shall be given enough time to do necessary research or prepare necessary reports to address the agenda items. Agendas and informational material shall be distributed to the Council at least four business days prior to each regular meeting.

(B) The normal order of business for a regular Council meeting shall be as follows:

- (1) Call to order;
- (2) Police report;
- (3) Fire Chief report;
- (4) Committee reports;
- (5) Public comments;
- (6) Public hearings;
- (7) New business;

- (8) Old business and follow ups;
- (9) Presentations;
- (10) Ordinances, first reading;
- (11) Ordinances, second reading and passage;
- (12) Consent agenda, includes minutes, liquor licenses, bid awards, resolutions;
- (13) City staff items;
- (14) Council members' items;
- (15) Mayor's items;
- (16) Correspondence;
- (17) Public comment;
- (18) Bills reviewed and approved;
- (19) Executive session;
- (20) Action as the result of executive session (if required); and
- (21) Motion for adjournment.

(C) The Mayor may consider agenda items out of order as he or she deems necessary to facilitate the efficient management of the agenda and the needs or convenience of those in attendance.

(D) Except in emergency, proposals or requests to the Council to change, suspend or amend city policy must be submitted in writing with accompanying support documentation to the City Recorder at least seven business days prior to the Council meeting.

(Ord. 2007-01, passed 4-5-2007)

§ 30.05 COUNCIL MEETING PROCEDURES.

(A) *Rules of order.* Unless otherwise provided by law or by these rules, the procedure for Council meeting shall be governed by *Robert's Rules of Order* (current edition). The Mayor, or Presiding Officer, shall maintain order, allow full discussion of all items on the agenda and get through all agenda items in the allotted meeting time.

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(B) *Mayor's impartiality.* The Mayor shall remain impartial during all debate, but may express his or her views, and should have the respect of all meeting participants. As per the City Charter, Ch. IV, § 17, "Mayor's Function at Council Meetings": "The Mayor shall be chairman of the Council and preside over its deliberations. He/she will cast a vote but he/she shall have authority to preserve order, enforce the rules of the Council, and determine the order of business under the Rules of the Council."

(C) *Call to order.* Includes welcoming public members, a brief explanation of general conduct and courtesy, meeting procedure and a reminder that, except for staff, officers are all volunteers. If possible, a copy of the meeting agenda will be provided for all in attendance at the meeting.

(D) *Recognition.* Every Council member desiring to speak shall first address the Presiding Officer, and await recognition to obtain the floor. No persons other than members of the Council and the person having the floor shall enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer.

(E) *Main motion.* The basis of discussion at a meeting is a motion. A motion is announced or put forward by a Council member for the purpose of focusing the discussion. Each motion requires a "second" before debate. No motion shall be debated until it has been seconded and announced clearly by the Presiding Officer.

(F) *Discussion.* When a motion is "put on the floor" for discussion by the Council, that discussion must focus on the substance of the current motion. All other discussion is out of order and not allowed. Another motion cannot be introduced while there is a motion on the floor.

(G) *Order.* Council members shall be acknowledged by the Presiding Officer in order. Once a motion has been introduced and seconded, it is the Presiding Officer's responsibility to manage the discussion in an orderly manner. The Council member who seconds the motion is always given an opportunity to speak after the Council member who made the motion. In order to make sure that all participants who wish to speak are heard, the Presiding Officer will allow speakers who have not yet spoken to speak ahead of those who have already spoken.

(H) *Amending a motion.* A Council member who has the floor can move to amend the main motion currently being debated. An amendment is another motion that is used to change, by adding, subtracting or completely changing the main motion under discussion. When the amendment has been moved and seconded, all subsequent discussion must be on the substance of the current motion as amended. An amended motion can be amended once. An amendment can be passed by a simple majority vote of the Council. If an amendment is passed, defeated or withdrawn, the discussion goes back to the main motion on the floor with comments based on whether the amendment passed or not.

(I) *Calling the question.* If a Council member thinks that additional debate will be unproductive, he or she may "call for the question", which can end the debate. If no other Council member objects, the meeting proceeds to the motion. If there is an objection, the Council members vote on whether to end the debate. A two-thirds' majority vote is required to pass the motion and no debate is allowed. If the "call for the question" motion is passed, a vote on the main motion is taken with no additional debate.

(J) *Voting.* Prior to a vote, the Presiding Officer shall restate the motion or have the maker of the motion restate it to assure clarity of the issue. Except as otherwise provided by these rules or applicable law, when a quorum is present, a majority of the Council present in person or by speaker phone and voting shall decide a motion. Each Council member's vote shall be recorded individually. A Council member who is present, but abstains from voting is still counted in the quorum. A Council member must be present in person or by speaker phone to vote.

(K) *Abstentions.* Council members should abstain from voting only when they have a conflict of interest or are not well informed on the issue that is being voted upon.

(L) *Tie votes.* A motion fails in the event of a tie vote.

(M) *Point of order.* If a Council member believes that the meeting is progressing outside the rules of order, he or she can raise a "point of order". In such case, he or she states what rule or order has been violated or not enforced by the Presiding Officer. A point of order can be used to interrupt a speaker. The Presiding Officer has the responsibility of determining if the point is valid or not. A point of order cannot be used to comment on a motion out of turn.

(N) *Point of privilege.* A point of privilege can be used to interrupt a speaker. Any meeting participant who feels that his or her rights have been infringed upon or violated may bring this point by simply stating their problem. Privilege involves the comfort or accessibility of the meeting participant and can include such things as can't hear, too noisy, unclear copies and the like or more personal actions such as misquotes, misinterpretations or insults. The Presiding Officer has the responsibility of determining if the point is valid.

(O) *Challenge the Chair.* If a meeting participant feels that his or her point of order or point of privilege was ruled on unfairly by the Presiding Officer, a challenge can be made to the Chair. The Presiding Officer will then ask for a motion to uphold the Chair's decision and a vote is taken. The vote by the Council shall decide whether the Presiding Officer's action on the point was valid or not.

(P) *Point of information.* A point of information is a question raised by a Council member while another has the floor. The Presiding Officer asks the speaker if he or she wants to entertain the question when asked. The speaker can refuse. A point of information is only a question and cannot be used to speak out of turn or harass a speaker or disrupt the flow of the meeting.

(Q) *Table.* Normal discussion or debate at a meeting may end in one of several ways. If a Council member feels that the decision and vote on a motion needs to be delayed for any legitimate reason, that person can move to "table" the motion. A Council member must be recognized by the Presiding Officer in order to table a motion and cannot request this action at the end of a speech. Generally, a specific time limit is mentioned when tabling the motion so as not to leave the motion dangling. A motion to table requires a simple majority vote of Council members present in person or by speaker phone. The discussion allowed after a motion to table is solely about the length of time the motion is to be tabled.

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(R) *Rescind*. A Council member may make a motion to rescind only if the motion it refers to was passed at another meeting or on another day. This motion requires a two-thirds' majority of the Council members present in person or by speaker phone to pass,

(S) *Reconsider*. A Council member can make a motion to reconsider if the motion under reconsideration was passed at that same meeting. The motion can only be made by a Council member who voted with the prevailing majority on the earlier vote on the motion. A two-thirds' majority of the Council members present in person or by speaker phone is required.

(T) *Suspension of the rules*. Any motion for temporary suspension of the rules of order (usually used so that meeting participants can do something in violation of the rules) must have a majority vote of the Council members present in person or by speaker phone to succeed. There is no debate allowed. This motion cannot be amended and cannot be reconsidered at the same meeting.

(U) *Adjourn*. A motion to adjourn takes precedence over all other motions, except a motion to fix the time to adjourn. This motion cannot be debated or amended, nor can a vote to adjourn be reconsidered. A motion to adjourn cannot be made when a speaker has the floor, or when a vote is being conducted. A meeting cannot be adjourned without a motion by a Council member, a second and a majority vote of the Council members present in person or by speaker phone.

(V) *Public comment*. Members of the public desiring to address the Mayor and Council shall first sign in with their signatures, printed names, addresses and phone numbers before being recognized by the Presiding Officer. They must then state their names and addresses for the record. Unless otherwise designated by the Presiding Officer, each person shall have up to three minutes to present his or her comments. Groups with like comments should choose a spokesperson that will present their joint remarks.

(W) *Comment period*. City Council members normally should not directly respond to a public comment during the public open comment period. Council member comments should be held until the Council member comment period later in the meeting or referred to the city staff or a response at a subsequent time.

(X) *Referral to city staff*. The Council addresses policy and goals while the city staff addresses customers of city services. Council members should refer people with questions or complaints about city services to the city staff, explaining that if they are not satisfied with the results of the staff's response, they should ask to be put on the next Council meeting agenda or present their issues during the public comment portion at the next Council meeting or address a letter to the City Council.

(Y) *Anonymous communications*. Anonymous and unsigned communications shall not be introduced in Council meetings.

(Z) *Public comment during public hearings*. Remarks shall be limited to the question then under discussion. All remarks and questions shall be addressed to the Council as a whole and not to any individual Council member. Any remarks and questions regarding personnel or administration of the city

shall be referred to the appropriate city staff by the Presiding Officer. The Presiding Officer may redirect other questions to a Council member as appropriate.

(AA) *Questions of city staff by City Council members.* Every Council member may address questions directly to the city staff, who may either answer the inquiry or designate another staff member to do so. Council members are encouraged to present their questions to the city staff prior to the meeting when possible.

(Ord. 2007-01, passed 4-5-2007)

§ 30.06 DECORUM AND ORDER.

(A) Definition of *DECORUM* according to Webster's *Seventh New Collegiate Dictionary*; "decorum, 2. Propriety and good taste in conduct or appearance, synonyms: DECENCY, PROPRIETY, DIGNITY, ETIQUETTE: DECORUM suggests conduct according with good taste, often formally prescribed; DECENCY implies behavior according with normal self-respect or profession or condition in life; PROPRIETY suggests an artificial standard of what is correct in conduct or speech; DIGNITY implies reserve or restraint in conduct prompted less by obedience to a code than by a sense of personal integrity or of social importance; ETIQUETTE is the usual term for the detailed rules governing manners and conduct and for the observance of these rules."

(B) The Presiding Officer (Chair) shall preserve decorum and decide all points of order, subject to appeal to the Council.

(C) (1) The Council members shall help the Presiding Officer preserve decorum during Council meetings and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to follow the authorized directions of the Presiding Officer or these Council rules.

(2) Council members are encouraged to avoid the use of facial expressions which may convey "smirking", disbelief, anger or boredom while others are speaking.

(3) Council members shall, when addressing city staff, the Council or members of the public, confine themselves to the questions or issues then under discussion, shall not engage in personal attack, shall not impugn the motives of any speaker and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.

(4) It is never appropriate for Council members to engage in hostile cross-examination, belligerently challenge or belittle a speaker or make personal attacks or bigoted remarks of any kind, under any circumstance. Council members should be aware that their body language and tones of voice, as well as the words they use, can appear to be intimidating or aggressive.

(5) Council members shall dress with dignity and avoid clothing with written messages, especially those which suggest the Council member is not impartial on an issue which is or is likely to come before the Council or which can reasonably be considered an effort to intimidate the Council and/or members of the public.

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(D) Members of the city staff and all other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council.

(E) (1) Any person who makes personal, impertinent or irrelevant remarks or who becomes boisterous while addressing the Council or attending a Council meeting or who interferes with the conduct of the meeting in violation of these rules, may be removed from the room, after fair warning, if the Presiding Officer so directs. In case the Presiding Officer should fail to act, any member of the Council may obtain the floor and move to require enforcement of this rule; upon affirmative vote of the majority of the Council present, the person or persons shall be removed as if the Presiding Officer so directed, stamping of the feet, whistles, yells and cursing are similarly not permitted.

(2) Such person or persons may be barred from further in person audience before the Council and, in aggravated cases, an appropriate complaint shall be issued by the Presiding Officer to prosecute this person or persons.

(F) If a meeting is disrupted by members of the audience, or the Council, the Presiding Officer may order that the Council Chamber be cleared and a recess called until order is restored.

(G) (1) It shall be the policy of the city to have such an officer present at all regular and special meetings. The officer shall carry out all authorized orders and instructions given by the Presiding Officer for the purposes of maintaining order and decorum at the Council meetings. If the officer determines that the actions of any person who violates the order and decorum of the meeting constitutes a violation of any provision of any law, the officer may cite such person, or place such person under arrest and cause such person to be prosecuted under the provisions of the applicable law, or take other appropriate action as outlined in the county's *Official Police Manual*.

(2) Before the officer is directed to remove any person from a Council meeting for inappropriate behavior as described in these rules, that person shall be given a warning by the Presiding Officer to cease his or her conduct.

(Ord. 2007-01, passed 4-5-2007)

§ 30.07 CENSURE, SUSPENSION AND DISMISSAL.

(A) The Council has the inherent right to make and enforce its own rules and to ensure compliance with those laws generally applicable to public bodies, Council members who repeatedly do not follow these rules may be reprimanded or formally censured by the Council and/or by suspended or terminated from their positions on city boards, committees, commissions and task forces. Serious infractions may also lead to other sanctions as deemed appropriate by the Council and authorized by law.

(B) To exercise such inherent right, the Council has the right to investigate the actions of any Council member. Such investigation shall be referred to the Council as a whole in executive session to

discuss any evidence or finding that reasonable grounds exist that a substantial violation or repeated violation has occurred. Under ORS 192.660(2)(b), an individual has the right to request an open meeting.

(C) No individual Council member shall have the right to make public any information obtained through such investigation, unless individual has requested it to be an open meeting.

(D) If the offenses continue, then the matter should be brought to the attention of the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Mayor Pro Tem.

(E) It is the responsibility of the Mayor or Mayor Pro Tem to initiate action if a Council member's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation can be brought up with the full Council in a public meeting.

(F) Any Council member has the right to interrupt a speaker and raise a "point of order" during a meeting if he or she believes that a Council rule is being violated. When raising a "point of order", the Council member states what rule or order has been violated or not enforced by the Presiding Officer. The Presiding Officer has the responsibility of determining if the point is valid or not.
(Ord. 2007-01, passed 4-5-2007)

§ 30.08 CODE OF ETHICS.

(A) Council members are encouraged to conduct themselves so as to bring credit upon the city as a whole, and to set an example of good ethical conduct for all citizens of the community. Council members shall review and be bound by the requirements of the state's Ethics Law dealing with use of public office for private financial gain. Council members should constantly bear in mind these responsibilities to the entire electorate, and refrain from actions benefitting any individual or special interest group at the expense of the city as a whole. Council members should likewise do everything in their power to ensure impartial application of the law to all citizens and equal treatment of each citizen before the law, without regard to race, national origin, sex, age, social station or economic position.

(B) If the Mayor or a Council member represents the city before another public body, governmental agency, community organization or with the media, the Mayor or Council member should always present the majority position of the Council. Personal opinions and comments may be expressed only if it includes clarification that these statements do not represent the position of the City Council.

(C) A Council member must have another Council member's concurrence before representing that Council member's view or position with the media, if it is different from the majority.

(D) Council members are encouraged to visit with other Council members outside of meetings, so long as they observe the state's Open Meeting Law.
(Ord. 2007-01, passed 4-5-2007)

§ 30.09 COUNCIL RELATIONS WITH CITY STAFF.

(A) There will be mutual respect from both staff and Council members of their respective roles and responsibilities when and if expressing criticism in a public meeting.

(B) No individual Council member or City Council committee have authority over the city staff or employees.

(C) The Council sets city policies and goals, the city staff implements and administers the policies and goals. City staff is controlled by executive limitations, reasonable interpretation and monitoring.

(D) The Council members may seek information from staff members regarding the operation of their department, but will not attempt to change or interfere with the operation or practice of any city department or personnel except by directing their concerns about policy to the Council at large.

(E) During a City Council meeting, all requests for information shall be directed to the Presiding Officer who may then redirect the request to the appropriate staff. At other times, if the request for information would entail an effort that would require time to be spent in researching and/or preparing a response, the request shall be made directly to the Council at the next scheduled meeting.

(F) Council members shall not attend meetings with city staff unless requested by staff or the Council.

(G) Requests to the City Attorney for advice shall not be made by a Council member, except with the concurrence of the majority of the Council present in person or by speaker phone. The city shall not accept financial responsibility for any legal requests to the City Attorney made by private citizens. Before requesting research or other action by the City Attorney, the Council is encouraged to consider consulting with the City Recorder to ascertain whether the request of action can be accomplished more cost-effectively by alternate means. Outside a Council meeting, a Council member should make requests of the City Attorney through the City Recorder. The rare exceptions to this are issues related to the performance of the city staff and unique and sensitive personal, yet city business-related requests. The City Attorney shall in either case provide any written response to the full Council and City Recorder.

(H) The City Recorder shall keep a written running list of all actions to be done as determined by the Council during Council meetings. The list shall include "what is to be done, by whom, by when, what has been done and when" and be available at all times during and between meetings.

(Ord. 2007-01, passed 4-5-2007)

§ 30.10 COMMITTEES.

(A) As per the City Charter, Ch. V, § 20: "The Mayor shall appoint the committees provided by the rules of the council." In the absence of the Mayor, the Mayor Pro Tem or appointed Chair may appoint committees provided by the Council rules.

(B) All appointees to city boards, commissions or committees shall be registered electors, and shall have resided in the city for a period of at least one year. Task force members may be appointed from inside and outside the city limits, but should be involved in the city in some way, such as with a business located within the city.

(C) The Mayor may, for cause, remove a member from any city board, committee, commission or task force prior to the expiration of the term of office. Reasons for removal may include, but are not limited to: missing three consecutive regular meetings; disruptive or inappropriate behavior prior to, during or after meetings which prohibit the advisory body from completing its business in a timely manner; or not acting in the best interest of the citizens or city.

(D) Members of the Council will not attempt to lobby or influence board, committee, task force or commission members on any item under their consideration. It is important for the advisory bodies to make objective recommendations to the Council on items before them. Council members that attempt to influence board, committee, task force or commission members on any items may prejudice or hinder their role in reviewing the recommendation as Council members.

(E) The Budget Committee shall consist of seven resident lay members and the members of the City Council for a total of 14. The Committee shall annually elect a Committee Chair, Vice Chair and Secretary. The lay members' terms shall be three years, overlapping.

(F) A task force may be appointed for the length of time necessary to accomplish its mission. The appropriate number of appointees may be determined at the time of appointment. Resolutions adopted by commissions and boards may be created by the Council from time to time.

(Ord. 2007-01, passed 4-5-2007)

§ 30.11 CONFIDENTIALITY.

(A) Council members must keep in complete confidence all written material and verbal information provided to them on matters that are confidential under law, to ensure that the city's position is not compromised. No mention of information read or heard which is confidential under law should be made to anyone other than other Council members, the senior city staff or attorney and then only on a "need to know" basis.

(B) If the Council, in executive session, provides opinions or information to staff on proposed terms and conditions for any type of negotiation whether it be related to property acquisition or disposal, a proposed, pending or likely claim or litigation and/or employee negotiations, all contact with the other parties shall be made by the designated staff representative handling the negotiations or litigation.

(C) All public statements, information or press releases on confidential matters shall be handled by the designated staff or Council spokesperson.

(D) The disposition of public records created or received by Council members shall be in accordance

with state's Public Records Law. Written information incidental to the official duties of a Council member, including electronic mail, messages, notes, memos and calendars (e.g., "daytimers") are public records and are subject to disclosure under the Public Records Law.

(Ord. 2007-01, passed 4-5-2007)

§ 30.12 SUSPENSION OR AMENDMENT OF RULES.

(A) Any provision of these rules not governed by state law, the City Charter or city code may be temporarily suspended by a majority vote of the Council present or by speaker phone.

(B) Amendments, deletions or additions to these Council rules shall be by ordinance approved by the City Council.

(Ord. 2007-01, passed 4-5-2007)

CHAPTER 31: EMPLOYEES AND ORGANIZATIONS

Section

General Provisions

- 31.01 Credit cards for certain individuals
- 31.02 Bank account access

Organizations

- 31.15 Local Contract Review Board

Fire Department

- 31.30 Definitions
- 31.31 Creation
- 31.32 Fire limits
- 31.33 Duties and powers
- 31.34 Equipment
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GENERAL PROVISIONS

§ 31.01 CREDIT CARDS FOR CERTAIN INDIVIDUALS.

The City Council approves the following employees/individuals' authorization to apply for a VISA card in the city's name:

- (A) City Administrator/Recorder;
- (B) Public Works Lead; and

(C) Mayor.
(Res. 2018-03, passed 3-1-2018)

§ 31.02 BANK ACCOUNT ACCESS.

The City Council gives permission to add the Utility Clerk position to the city bank accounts for information access only.
(Res. 2017-13, passed 9-7-2017)

ORGANIZATIONS

§ 31.15 LOCAL CONTRACT REVIEW BOARD.

The city does hereby designate and establish its own governing body, the City Council, as the local contract review board for the city.
(Ord. 91-2, passed 4-2-1991)

FIRE DEPARTMENT

§ 31.30 DEFINITIONS.

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

FIRE. Fire, drill or any other incident.

PERSON. Any person or persons, firm or firms, corporation or corporations.
(Ord. 94-05, passed 12-16-1994)

§ 31.31 CREATION.

There is hereby created a City Fire Department. Said Fire Department shall operate under the control and supervision of the City Council. Personnel thereof shall consist of one Fire Chief, one Assistant Chief, each voted on by the Department membership and confirmed by the Council, and firefighters to be appointed by the Fire Chief and confirmed by the general membership, as provided

under the Constitution and by-laws of said association. All officers and firefighters shall serve without pay, except as hereinafter provided.

(Ord. 94-05, passed 12-16-1994)

§ 31.32 FIRE LIMITS.

Fire limits are hereby declared to include all public or quasi-public buildings, and all private property in the city, used by the public in general and all adjacent territory within 100 feet in any direction from such building or buildings, included are all properties covered by a current and valid rural contract and mutual aid agreements.

(Ord. 94-05, passed 12-16-1994)

§ 31.33 DUTIES AND POWERS.

(A) It shall be the duty of the Fire Chief:

- (1) To appoint sufficient firefighters;
- (2) To keep the personnel up to the requirements of this subchapter;
- (3) To keep a register book up to date of the names of firefighters together with a list of city property respectively held by them;
- (4) To keep a record of all fires, drills or incidents;
- (5) To enforce all city fire ordinances;
- (6) To make frequent inspection of fire apparatus and equipment and report equipment in need of repair to the City Council;
- (7) To inspect all school buildings and all other buildings upon request of owners once a year;
- (8) To require by notice in writing, the owner or occupant thereof to abate any nuisance which is or might reasonably be supposed to become a fire hazard, or to refrain from doing, or make or refrain from making any act to improve, where should such act be done or not done or such improvement made or not made according to the order of the Fire Chief, a fire hazard would result. The notice herein required shall be delivered to the occupant or owner if convenient or if not convenient shall be posted on said property in a conspicuous place;
- (9) To conduct fire drills of the members of his or her company once each week or as often as he or she shall deem necessary to maintain efficiency;

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(10) To attend Council meetings, make and report to the City Council that they may ask for or that he or she may deem necessary;

(11) To take charge of all fires, drills or incidents, make orders which, in his or her judgment, are necessary to preserve life and property;

(12) To make rules and regulations covering the operation of the Fire Department in the conduct of its own affairs and to post same in fire station; and

(13) To take charge of property after a fire in the absence of the owner.

(B) It shall be the duty of the Assistant Fire Chief to act as Fire Chief during the absence of the Fire Chief and to assist the Fire Chief in the performance of his or her duties.

(C) It shall be the duty of the firefighter:

(1) To obey the orders of the Fire Chief or Assistant Chief while on duty;

(2) To enforce under the order of the Fire Chief or Assistant Chief all fire ordinances or rules;

(3) To attend all fire calls, drills or incidents; and

(4) To notify the Fire Chief or Assistant Chief, when leaving the city, to be gone for a period of time exceeding three days.

(Ord. 94-05, passed 12-16-1994)

§ 31.34 EQUIPMENT.

(A) It shall be the duty of the Fire Chief to make any and all reports and recommendations necessary for the proper equipping of the Fire Department to the City Council. All city equipment shall be issued only upon written request to the Superintendent of Public Works by the Fire Chief or his or her assistant, and signed and receipted for by the person drawing the same.

(B) The responsibility of the receivers of said property shall be directly to the city.
(Ord. 94-05, passed 12-16-1994)

§ 31.35 COMPENSATION.

Compensation of officers of the Fire Department shall be set by resolution.
(Ord. 94-05, passed 12-16-1994)

§ 31.36 OBEDIENCE OF ORDERS; FAILURE TO OBEY.

(A) It shall be the duty of all persons to obey all regular orders of the Fire Chief or, in his or her absence, the Assistant Chief, in all instances within five days, from the date of notice or posting of such order and, in case of emergency, where an actual fire is in progress to obey such order immediately.

(B) Failure to obey any regular order of the Fire Chief or, in his or her absence, the Assistant Chief may be subject to dismissal or penalties, set by resolution by the City Council.
(Ord. 94-05, passed 12-16-1994)

§ 31.37 APPEALS.

An appeal may be taken from an order of the Fire Chief or the Assistant Chief to the City Council; providing that, a notice in writing setting forth said order is filed with the City Recorder within the time allowed by this subchapter for the obeisance of said order; provided further that, said notice of appeal shall specify the grounds or reasons relied on by the appellant; and, provided further that, any person appealing from said order shall post with the City Recorder at the time of filing said appeal, a good and sufficient surety or personal bond in the amount of \$500 conditioned upon the obeisance of said order in the event of affirmance and conditioned further upon the payment of damages to any person injured in his or her person or property by failure of appellant to obey said order.
(Ord. 94-05, passed 12-16-1994)

CHAPTER 32: PERSONNEL POLICIES

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GENERAL PROVISIONS

§ 32.001 PURPOSE.

(A) The purpose of this chapter is to provide a policy for systematic and equitable procedures and regulations relating to the hiring, compensation, hours of work, leave, safety, training, working conditions, promotions, transfer, discipline, removal and other matters affecting the status of employees of the city. Said rules and regulations are provided to maintain uniformity and equity in personnel matters which will make the city service attractive as a career and to encourage each employee to give his or her best service to the city.

(B) This chapter covers personnel in all city departments. In the event of a conflict between the provisions of this chapter and any city ordinance, state or federal law or regulation, the provisions of the city ordinance or state or federal law or regulation shall take precedence.

(C) Nothing contained in this chapter shall be construed as constituting a contract or as creating any contractual obligations on the part of the city or any employee. None of the city's personnel documents or benefits plans, including this chapter, constitutes, or is intended to constitute, an express or implied contract guaranteeing continued employment for any employee.

(Res. 2010-23, passed 11-4-2010)

§ 32.002 ADOPTION AND AMENDMENT OF RULES.

Personnel rules shall be adopted and amended by resolution of the City Council. The rules shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and development, job classification, salary administration, retirement, fringe benefits, discipline, discharge and other related activities.

(Res. 2010-23, passed 11-4-2010)

§ 32.003 ADMINISTRATION OF RULES.

The City Council shall be responsible for administering all the provisions of this chapter and of the personnel rules and policies.

(Res. 2010-23, passed 11-4-2010)

§ 32.004 ACCESSIBILITY.

(A) The city is committed to complying fully with the Americans with Disabilities Act (ADA) and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

(B) This policy is neither exhaustive, nor exclusive. The city is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with ADA and all other applicable federal, state and local laws.
(Res. 2010-23, passed 11-4-2010)

§ 32.005 VARIANCES.

The City Council shall have the power to vary or modify the strict application of the provisions of this chapter in any case in which the strict application of said provisions would result in practical difficulties or unnecessary hardships for the city.
(Res. 2010-23, passed 11-4-2010)

§ 32.006 DEFINITIONS.

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

ADVANCEMENT. A salary increase within the limits of a pay range established for a class or position.

ABANDONMENT OF POSITION. Failure to report to work without notification or permission.

ALLOCATION. The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibility exercised.

ANNIVERSARY DATE. One calendar year from the date of employee's first probationary hiring date and/or classification or reclassification period and each succeeding year thereafter.

APPEAL. A request by an employee to a supervisor or the City Council for reconsideration of a decision or ruling on a specific problem or situation.

APPOINTING POWER. The City Council makes all appointments to fill vacant positions.

CALENDAR YEAR. Twelve-month period beginning January 1 and ending December 31.

CENTRAL PERSONNEL FILE. A file maintained in the city office which contains complete personnel records of all city employees.

CITY. The City of Joseph.

CLASS. Positions sufficiently alike, with respect to duties, responsibilities and authorities to warrant using the same title, basic qualifications, examination and pay range.

CLASS DESCRIPTION. A written description of a class containing the title; a statement about the nature of work indicating the duties and responsibilities; representative examples of work; and general minimum recruiting qualifications.

COMPENSATORY TIME. Compensates the employee with paid time off in lieu of monetary payment for work performed either on overtime or on a holiday that is normally scheduled as a day off.

CONTINUOUS SERVICE. Uninterrupted employment with the city. Reasonable absences due to military service or extended leaves approved by the City Council do not constitute a break in **CONTINUOUS EMPLOYMENT.**

COUNSEL. The City of Joseph legal advisor.

DEMOTION. A transfer of an employee from a position in one class to a position in another class which has a lower salary range and/or less authority and responsibility.

DEPARTMENT. A functional unit or division of the city government.

DEPARTMENT HEAD. A person directly responsible to the City Council for the administration of a department.

DISCIPLINARY ACTION. Any action imposed upon an employee which may include a verbal, or written reprimand or warning, suspension, demotion or dismissal because of conduct detrimental to city government.

DISMISSAL. The involuntary termination of an employee from the city service for disciplinary reasons.

EMPLOYEE. An individual who is legally employed in an authorized position in the city service.

EMPLOYEE STATUS. The employment status in which an employee serves as determined by the nature and classification of the position.

(1) **FULL TIME.** An employee who is hired to work an average of greater than or equal to 32 hours per week.

(2) **PART TIME.** An employee who is hired to work at least 20 hours per week, but less than 32 hours per week.

(3) **REGULAR.** A full or part-time employee who is not on probationary status.

(4) **SEASONAL.** An employee of the city has been appointed for a limited period of time not to exceed 500 hours of employment in any given calendar year and is not eligible for benefits as provided by the city.

(5) **TEMPORARY.** An employee who is hired to serve a specific period, normally not to exceed six months for a full-time temporary employee, or 1,040 hours of employment, or as specified by contract. If circumstances require, the City Council may extend the six-month period. **TEMPORARY EMPLOYEES** may work full time during the specified period, but are not eligible for any benefits, except those provided by federal and state law. Cost of living increases are not applicable to **TEMPORARY EMPLOYEES**.

EXAMINATION. A physical, written and/or oral test for the purpose of evaluating an applicant for an employment vacancy or evaluating an employee for advancement.

FISCAL YEAR. Twelve-month period beginning July 1 and ending June 30.

GRIEVANCE. An allegation of a violation, misinterpretation or non-compliance with a constitutional right, or a federal, state or city statute, ordinance, resolution, rule, procedure or regulation, affecting working conditions, salary or benefits as filed by an employee.

IMMEDIATE FAMILY. The spouse, domestic partner or children living in the employee's household.

LAYOFF. An involuntary termination of employment without prejudice because of organizational changes, lack of work, lack of funds or other reasons not reflecting discredit upon an employee's performance.

LEAVE OF ABSENCE. Time off from work for reasons within the scope and purpose of these rules and regulations upon prior approval of the employee's supervisor or the City Council.

MILITARY LEAVE. Leave of absence for an employee serving in the Armed Forces Reserve or National Guard.

MONTH. One calendar month.

NON-OCCUPATIONAL DISABILITY. Disability from an accident, injury or sickness suffered or contracted by the employee during non-assigned working hours which cannot be attributed to the performance of assigned duties.

OCCUPATIONAL DISABILITY. Disability from an accident, injury or sickness suffered or contracted as a result of the performance of assigned duties.

OVERTIME. Time worked in excess of 40 hours in a workweek.

PAY RATE. A specific dollar amount expressed as an annual rate, monthly rate or hourly rate as shown in a pay schedule for the city.

PERSONNEL ACTION. Any action taken affecting the status of an employee or position.

(1) **EMPLOYEE ACTIONS.** Appointments, compensation, promotion, demotion, transfer, separation from service or any other action affecting the status of employment.

(2) **POSITION ACTIONS.** The establishment, reclassification, relocation or abolishment of a position.

POSITION CLASSIFICATION. Positions within the city are classified as either “exempt” or “non-exempt” from the Fair Labor Standards Act (FLSA). The following positions are designated as “exempt”: City Recorder and Working Public Works Director. All other positions are classified as “non-exempt”.

PROBATIONARY PERIOD. A working period of six months during which an employee is required to demonstrate his or her fitness for the duties to which he or she is appointed by actual performance of the applicable duties of the position. **PROBATIONARY PERIOD** is followed by an oral and written review of the employee’s performance.

PROMOTION. A change of status of an employee from a position in one class to another class, with a higher rate in pay.

RECLASSIFICATION. A change in classification of a position by raising it to a higher class, reducing it to a lower class or changing it to another class at the same level.

RULES. Policies, procedures, terms of employment and instructions that guide work.

SUPERVISOR. Any person who is responsible to a higher divisional or departmental level of authority and who directs and oversees the work of others.

SUSPENSION.

(1) **ADMINISTRATIVE.** Temporary separation of an employee, with pay, for an unspecified period of time to allow for investigation of matters concerning that employee.

(2) **DISCIPLINARY.** Temporary separation of an employee from city service without pay for disciplinary purpose.

TRANSFER. A change of an employee status from one position to another position within the same class or to a position in a comparable class within the city service.

WORKDAY. The regularly scheduled workday for full-time employees shall be eight hours unless modified by City Council written approval.

WORKWEEK. From 12:01 a.m. on Sunday to midnight on Saturday. Employees shall be scheduled to work five workdays within a **WORKWEEK** unless modified with City Council written approval.

VACANCY. An established budgeted position which is not occupied and for which funds have been appropriated. The City Council has the sole authority to authorize vacant positions to be filled. (Res. 2010-23, passed 11-4-2010)

POLICIES AND PROCEDURES

§ 32.020 APPOINTMENT.

(A) *Generally.* It is the policy of the city to provide equal employment and advancement opportunities to all individuals. Employment decisions will be based on merit, qualifications and abilities. The city does not discriminate in employment practices or opportunities on the basis of color, race, religion, sex, sexual orientation, gender identity, national origin, age or any other characteristic protected by law.

(B) *Immigration and nationality.* The city only employs United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin. In compliance with the Immigration Reform and Control Act of 1986, as a condition of employment, each new employee must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed the I-9 with the city in the past three years, or if their previous I-9 is no longer retained or valid.

(C) *HIV discrimination.*

(1) Acquired Immune Deficiency Syndrome (AIDS) is a fatal, infectious disease spread by the Human Immunodeficiency Virus (HIV). According to medical evidence, casual work place contacts among employees and citizens infected with HIV will not result in the transmission of the virus.

(2) The city recognizes that its employees are entitled to a safe working environment. Employees, citizens and job applicants who are HIV carriers or are afflicted with AIDS Related Complex (ARC or AIDS) are entitled to protection against unlawful discrimination.

(D) *Original appointments.* All original appointments to vacancies shall be made on the basis of merit, efficiency and fitness. These qualities shall be determined through careful and impartial evaluation of the following:

(1) The applicant's level of training relative to the requirements of the position for which he or she has applied;

(2) The applicant's level of education relative to the requirements of the position for which he or she has applied; and

(3) The applicant's ability to perform the essential functions of the job, with or without accommodation.

(E) *Investigation*. All statements submitted on the employment application or attached resume shall be subject to investigation and verification prior to appointment.

(F) *Fingerprinting*. If required by the department, applicants shall be fingerprinted prior to appointment.

(G) *Public works*. Public works job applicants, after conditional offer of employment is made, may be required to take a physical examination.
(Res. 2010-23, passed 11-4-2010)

§ 32.021 TRAINING/LEARNING PERIOD.

(A) The training/learning period gives new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to learn whether the new position meets their expectations. The city uses this period to provide the appropriate training and to evaluate employee capabilities, work habits and overall performance.

(B) Original and promotional appointments shall be tentative and subject to a training/learning period of not less than six consecutive months of service.

(C) If a longer period is necessary to demonstrate an employee's qualifications, the probationary period may be extended; however, a probationary period shall not be extended beyond nine months. The employee shall be notified in writing of any extension and the reasons therefor.

(D) A new employee shall earn vacation credit during the training/learning period, to be taken when it is permitted under the city's vacation policy.

(E) The supervisor shall share verbal assessments with the employee at significant milestones of the training/learning period. At the end of the period, the supervisor shall inform the employee of the successful transition from probational to regular employment status. The information shall be in writing to the employee with a copy to the personnel file and the supervisor and the employee shall discuss what has been achieved during the period and what each expects of the ongoing employment relationship.

(F) During the training/learning period, either the employee or the city may end the employment without appeal.

(G) In the case of promotional appointments, the promoted employee may be demoted at any time during the training/learning period without appeal.
(Res. 2010-23, passed 11-4-2010)

§ 32.022 HOURS OF WORK.

The hours during which city offices and departments shall be open for business shall be determined by the City Council.

(Res. 2010-23, passed 11-4-2010)

§ 32.023 ATTENDANCE.

(A) Employees shall be in attendance at their work in accordance with their assigned hours of work.

(B) An employee shall not absent themselves from work for any reason other than those specified in this chapter. Unless prior arrangements are made, an employee, who for any reason fails to report to work, shall make a sincere effort to immediately notify their supervisor of their reason for being absent, if the absence continues beyond the first day, the employee shall notify the supervisor on a daily basis unless other arrangements have been made with the supervisor.

(C) Departments shall maintain records of employees' attendance.

(D) Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be cause for disciplinary action.

(Res. 2010-23, passed 11-4-2010)

§ 32.024 PERSONNEL RECORDS.

(A) The City Recorder shall maintain a personnel record for each employee.

(B) The personnel record shall show the employee's name, title of position held, the department to which assigned, salary, change in employment status, training received and such other information as may be considered pertinent such as annual performance reviews, honors and disciplinary actions.

(C) A personnel action form shall be used as the single document to initiate and update personnel records.

(D) Employee personnel records shall be considered confidential and shall be accessible only to the following:

- (1) The employee concerned or employee's designee;
- (2) Supervisor or Council as a body;
- (3) The City Recorder; and/or

(4) As required by law.

(E) Employees may request copies of their personnel records.
(Res. 2010-23, passed 11-4-2010)

§ 32.025 TRANSFERS.

Requests from employees for transfers from one department to another shall be made in writing and shall be directed to the employee's present supervisor and referred to the appropriate supervisor and the appointing power. Such requests shall be given consideration when a suitable vacancy occurs; however, no employee shall be transferred to a position for which he or she does not possess the minimum qualifications.

(Res. 2010-23, passed 11-4-2010)

§ 32.026 PROMOTIONS AND HIRING.

(A) All job vacancies including newly created jobs shall be publically advertised through local news media (for example, local newspaper and radio) and through the state's Employment Office. Application materials from applicants, which may include city employees, will be taken under consideration by a hiring committee in a search for the best-qualified candidate. The city encourages promotions and transfers from within city service and seeks to select the best-qualified individual for the position.

(B) The appointing power may encourage applications from outside the city service whenever there is reason to believe that better-qualified applicants are available outside the city service.

(C) The appointment to fill the vacancy shall be made on a competitive basis utilizing the criteria for appointments established in § 32.020 of this chapter. Where qualifications and ability are relatively equal among candidates already in city employment, length of time within the city service shall be favorably considered.

(Res. 2010-23, passed 11-4-2010)

§ 32.027 LAYOFF.

(A) If there are changes of duties in the municipality, lack of work or lack of funds, the appointing power may lay off employees; however, the appointing power shall first make every reasonable effort to integrate those employees into another department by transfer.

(B) When layoffs are required, the appointing power shall base the decision on relative merit, and shall give due consideration to length of time in the city service only where the employees' qualifications and abilities are relatively equal.

(Res. 2010-23, passed 11-4-2010)

§ 32.028 LEAVE OF ABSENCE WITHOUT PAY.

A regular employee may be granted a leave of absence without pay for a period not to exceed 12 months; provided, such leave can be scheduled without adversely affecting the operations of the city. Requests for leaves of absence without pay shall be in writing, shall be directed to the City Council and shall contain reasonable justification for approval.

(Res. 2010-23, passed 11-4-2010)

§ 32.029 MILITARY LEAVE.

(A) A military leave of absence will be granted to employees who are absent from work because of service in the United States uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). This military leave is for a cumulative total of five years, but may be extended in certain cases (war, critical missions). Advanced written or verbal notice of military leave is required, unless military necessity prevents such notice.

(B) (1) The leave is unpaid; however, employees may use any available vacation for this absence.

(2) If the leave is less than 31 days, health insurance coverage will be maintained as if the employee was still employed. If the leave is more than 31 days, the employee may elect coverage under COBRA for up to 18 months and will be responsible for his or her own health insurance payments.

(C) Employees on military leave for up to 30 days are required to work the first regularly scheduled shift at the end of service. Employees on longer military leave must apply for reinstatement in accordance with USERRA and applicable state laws. Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable one depending on the length of military service in accordance with USERRA.

(Res. 2010-23, passed 11-4-2010)

§ 32.030 OUTSIDE EMPLOYMENT.

(A) Outside employment shall:

(1) In no way detract from the efficiency of the employee in his or her city work; or

(2) In no way conflict with the interests of the city or be a discredit to the city.

(B) Duty to the city shall take precedence. Applicants and employees must disclose outside employment as part of their application or personnel records.

(Res. 2010-23, passed 11-4-2010)

§ 32.031 DEPARTMENTAL RULES AND REGULATIONS.

Each department of the city is encouraged to establish written department rules, regulations and procedures. Such rules, regulations and procedures shall be in harmony with the provisions of this chapter and shall apply to all employees within the department.

(Res. 2010-23, passed 11-4-2010)

§ 32.032 TRAVEL EXPENSE.

(A) When employees are required to travel inside or outside the county on city business, the preferred method of travel is via city-owned vehicles when available. The preferred method of payment is directly by the city (for example, by purchase order or credit card provided by the city). If the employee must use a private vehicle, reimbursement for mileage shall be paid at the IRS reimbursement rate current at the time of the travel.

(B) Reimbursement for travel expenses incurred requires appropriate documentation (e.g., receipts, mileage notations) and shall be determined as follows.

(1) Prior to traveling overnight or out of the county, the employee shall obtain approval for the trip and the mode of travel from the supervisor or City Council. Reasonable, routine operations of city business are excluded.

(2) If the employee is authorized to use a private vehicle, mileage shall be paid at the current Internal Revenue Service reimbursement rate for use of a private vehicle.

(3) When travel by city-owned vehicle or public carrier is practical but the employee elects to use a private vehicle for personal reasons, reimbursement will be limited to fuel costs associated with travel to and from the place of duty.

(4) Reimbursement for meals on official trips shall not exceed the amount of actual and reasonable expense incurred. Reimbursement is limited to state meal reimbursement rates. The city will not reimbursement for alcoholic beverages during the performance of official duty as a city employee for the city's benefit. The city will not reimburse for meal expenses on one-day business trips.

(5) Lodging expenses are preferably paid by city purchase order or via city-provided credit card. In cases where an employee pays for his or her own lodging, reasonable effort will be made to seek lodging at moderate prices or government rates.

(C) Employees will submit requests for reimbursement on city-provided forms. Requests shall be submitted within five working days after completion of travel.

(D) City vehicles shall not be used for personal use.
(Res. 2010-23, passed 11-4-2010)

§ 32.033 IN-SERVICE TRAINING.

(A) City employees are encouraged to seek out training opportunities to improve their skills in rendering services to the city in accordance with goals recorded during performance reviews. Completed training experiences shall be documented in the employee's personnel record and in accordance with goals recorded during performance reviews.

(B) Employees may participate in in-service training sessions during regular working hours at the supervisor's discretion. Employees will not lose pay for participating in in-service training.
(Res. 2010-23, passed 11-4-2010)

§ 32.034 EMPLOYEE ORGANIZATIONS AND REPRESENTATION.

Employees of the city have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours, benefits and working conditions.
(Res. 2010-23, passed 11-4-2010)

§ 32.035 SELLING AND PEDDLING AMONG EMPLOYEES.

No peddling, soliciting or sale for charitable or other purposes shall be allowed by employees during working hours without the approval of the City Council.
(Res. 2010-23, passed 11-4-2010)

§ 32.036 POLITICAL ACTIVITY.

(A) City employees shall not solicit money, influence, service, other items of value or otherwise aid or promote any political committee or the nomination or election of any person to public office while on the job.

(B) City employees and officials shall not permit any city employee or private person to solicit assessments, contributions or services for any political party from a city employee during the employee's working hours.

(C) Nothing contained within this section shall affect the right of the employee to exercise his or her rights as a citizen to hold membership in and support a political party, to vote as he or she chooses, to privately express his or her opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings. Employees participating in any of these activities shall represent themselves as citizens and not in their status as city employees.
(Res. 2010-23, passed 11-4-2010)

§ 32.037 RELATIVES IN CITY SERVICES.

(A) Two members of an immediate family may be employed under the same supervisor. Such family members will not supervise other immediate family members.

(B) The provisions of this section shall apply to promotions, demotions, transfers, reinstatements and new appointments.

(Res. 2010-23, passed 11-4-2010)

GENERAL CONDUCT, DISCIPLINE, TERMINATION AND APPEAL

§ 32.050 PERSONAL CONDUCT.

(A) Public relations are an integral part of each employee's job.

(B) Employees shall be neat and clean in appearance, appropriately dressed and conduct themselves in a manner that is appropriate to their duties in the public service.

(C) Employees shall be courteous, efficient and helpful to everyone in their work and shall perform every assignment conscientiously.

(Res. 2010-23, passed 11-4-2010)

§ 32.051 CAUSES FOR WARNING, SUSPENSION OR DISMISSAL.

(A) When an employee's conduct falls below agreed standards, he or she may be subject to disciplinary action.

(B) Reasons for which an employee may be disciplined include:

(1) Drinking of intoxicating beverages or use of illegal substances on the job or arriving on the job under the influence of intoxicating beverages or illegal substances;

(2) Violation of a lawful duty;

(3) Insubordination;

(4) Breach of discipline;

(5) Being absent from work without notifying the employer;

- (6) Being habitually absent or tardy;
 - (7) Conviction of a felony or misdemeanor that may impair their effectiveness in city service;
 - (8) Using religious, political or fraternal influence in the conduct of city business;
 - (9) Accepting, for personal use, fees, gifts or items of monetary value, related to the performance of the employee's official duties for the city;
 - (10) Refusing to perform the assigned job;
 - (11) Physical or verbal abuse; and
 - (12) Other misconduct: infractions include, but are not limited to, the above.
- (Res. 2010-23, passed 11-4-2010)

§ 32.052 FORM OF DISCIPLINARY ACTION.

(A) *Policy statement.*

(1) The principal objective of any employer disciplinary action shall be to improve the performance, efficiency and morale of the city service. Any action that reflects discredit on the service hinders the effective performance of city government functions.

(2) The policy of the city is that employee discipline be corrective, progressive and lawful.

(a) Corrective in the sense that the supervisor comes to an understanding of the causes and/or reasons for an employee's deficiencies, and attempts to correct those deficiencies and restore the employee to a productive and positive employment status.

(b) Progressive in that discipline will normally begin with an oral reprimand or warning and, when circumstances warrant, may proceed to written reprimand, suspension from work without pay or demotion in status and finally to discharge from employment with the city. A severe incident of misconduct may require severe disciplinary measures such as termination, without previous forms of disciplinary action. Progressive discipline for misconduct may include:

1. Counseling or education;
2. Verbal warning;
3. Written warning;
4. Suspension;

- 5. Demotion; and
- 6. Termination.

(c) Lawful in that discipline and the procedure by which it is administered do not violate the employee’s civil rights.

(B) *General principles of progressively applying discipline.*

(1) The supervisor shall:

- (a) Have a thorough knowledge of work rules;
- (b) Understand the reasons for each rule;
- (c) Make sure that all employees know and understand the rules; and

(d) Follow through and administer the rules fairly and uniformly for all employees under their supervision.

(2) Before any disciplinary action is taken against an employee, the supervisor must determine the following:

- (a) What rule was violated?
- (b) Who was involved?
- (c) When did the violation or deficiency occur?
- (d) Who were the witnesses, if any?

(e) What is the past record of the employee (length of service as well as previous violations should be considered)?

(C) *Disciplinary correspondence.* It will often be appropriate for a supervisor to communicate in writing with an employee who is being disciplined. **CORRESPONDENCE** in this process means formal memos or letters to an employee with a copy to the city’s personnel files. This meaning of “correspondence” does not apply to the supervisor’s notes for their own use. The supervisor shall:

(1) Make sure the written disciplinary message is clearly communicated. The employee being disciplined must clearly understand the action taken, the point at issue, the rule or policy being violated and the like;

(2) Make sure that the written message received by the employee clearly states both the constructive (e.g., he or she must improve, and these are the steps he or she must follow to achieve that improvement) and the progressive (e.g., failure to improve shall warrant more severe discipline) aspects of this disciplinary process; and

(3) Keep all disciplinary correspondence confined to the issue at hand and to the employee involved.

(D) *Minor disciplinary action/oral warnings and reprimands.* The warning should be given in a calm, constructive manner. It is intended to be instructive. Good supervisory practice promptly informs an employee when performance is substandard. Following are some recommended, but not required, procedures for applying progressive discipline by oral warning and reprimanding:

(1) Get all the facts about the incident as soon as possible;

(2) Warn the employee in private, never in front of others;

(3) Don't use sarcasm or ridicule;

(4) Fit the warning to the employee's performance deficiency and not to the employee's personal attributes;

(5) Outline the facts to the employee as he or she has found them;

(6) Ask the employee to explain his or her view of the issue or error; and

(7) The warning should begin and end on a friendly note. Let the employee know when the incident is closed.

(E) *Due process for major disciplinary action/suspension without pay, dismissal, demotion.* Before initiating this process, the supervisor shall consult with the city's legal counsel. Write a letter to the employee that includes the following elements:

(1) Factual allegations and the citation of the appropriate standard or rule violated;

(2) Sanctions under consideration (such as suspension or discharge);

(3) The employee's opportunity to challenge the allegations by filing a written response including any affidavits by a specified time and date (two city business days minimum in the case of discharge);

(4) Inform the employee of the opportunity for a formal meeting with the supervisor at a specific time, place and date (usually one day after the written response is due), during which the employee may verbally respond to the issues raised; and

(5) A date by which the supervisor will make a decision and when it will be communicated to the employee.

(F) *Disciplinary suspensions.* When an employee is suspended without pay, due process is required. A supervisor will maintain the discipline of the work force, but must insure the methods employed take into account the employee's claim to civil rights. In the event of a serious problem or very disruptive employee behavior, it may be necessary to suspend an employee during the course of a work day. A suspension will be with pay until the due process requirements are met, generally not more than one work shift. A letter communicating the discipline being considered and covering the due process requirements must precede any suspension without pay. The employee will not lose benefits or accruals during this period of suspension.

(G) *Discharge from employment.* It is city policy that no regular employee who has successfully completed the entry probationary period be discharged without being given an opportunity to respond to the charges brought against them. This means that even in the severest instance, the employee is to be suspended with pay pending this opportunity to be heard and will be allowed to respond to the charges made.

(H) *Due process interview (formal meeting).*

(1) The employee has been notified of an alleged violation of departmental and city rules, informed that the nature of the alleged offense might warrant discharge and has been given a time, date and place to respond formally on the issue.

(2) This is the meeting to get the final information upon which the decision whether to discipline will be based. Because of this, this is the one instance in the supervisor/subordinate relationship in which the employee may have a representative present if he or she so wishes. Either party may bring witnesses to testify on particular facts.

(3) If the employee brings a representative (or an attorney) to the meeting or requests permission to do so, the supervisor may not deny the request. However, if this occurs, another management person should be present during the meeting to avoid a "two-on-one" situation such as a higher-level supervisor or an individual appointed by the City Council.

(4) If the employee brings a representative to the meeting, inform the representative that he or she is free to consult with the employee, and the employee, or the representative, may be required to respond to the allegations. If the meeting becomes quarrelsome, temporarily halt the meeting and schedule a time to reconvene. Seek help from other city resources, if necessary to resolve the difficulty.

(5) Make thorough notes during the interview; read the notes back to the employee to ensure that the employee agrees on the substance of the response to be considered prior to making the final decision.

(I) *Notify the employee of the decision.*

(1) Having established a date, place and time to inform the employee of the final decision, the supervisor needs to commit the decision to writing. That letter must include:

- (a) A restatement of the allegations and the rule(s) violated;
- (b) A confirmation and acknowledgment that the information tendered during the interview with the employee has been considered;
- (c) A statement of the disciplinary decision;
- (d) In the case of a suspension, note the consequences of repeated violation (for example discharge); and
- (e) An instruction to the employee of their right to initiate a grievance procedure.

(2) As in all letters of this nature, the employee must acknowledge receipt of the letter. If the employee refuses to sign the acknowledgment, the supervisor shall write "employee refused to sign" and the supervisor should sign and date. Disciplinary decisions are communicated "face to face" with the employee; however, the above-described letter is required to document the resolution of the process.

(J) *Appeals.* A regular employee shall have the right to appeal disciplinary action taken against them within ten business days after the effective date of disciplinary action. Appeals are "grievances" that are to be made in accordance with the provisions of § 32.053 of this chapter.
(Res. 2010-23, passed 11-4-2010)

§ 32.053 GRIEVANCE PROCEDURE.

(A) The city shall promptly consider and equitably adjudicate employee grievances relating to employment conditions and relationships. Furthermore, the city desires to adjudicate the causes of grievances informally. Supervisors and employees are expected to resolve problems as they arise.

(B) The following steps shall be followed in submitting and processing a grievance.

(1) *Step 1.* The aggrieved employee or group of employees shall orally present the grievance to the immediate supervisor within five working days of its occurrence, not including the day of occurrence. The supervisor shall give an oral reply within three working days of the date of presentation of the grievance, not including the date of presentation.

(2) *Step 2.* If the grievance is not settled in Step 1, it shall be written in detail, shall be reduced to writing, dated and signed by the aggrieved employee or group of employees and shall be presented to the supervisor within five working days after the supervisor's oral reply is given, not including the day the answer is given. The supervisor shall reply in writing to the grievance within five working days of the date of the presentation of the written grievance, not including the day of presentation.

(3) *Step 3.* If the grievance is not settled in Step 2, the written grievance shall be presented along with all pertinent data accumulated to date to the City Council within five working days after the supervisors response is given, not including the day the response is given. The City Council shall meet with the aggrieved employee or group of employees and the immediate supervisory personnel. The City Council shall reply to the grievance in writing within five working days of the presentation of the written grievance. The decision of the City Council shall be final and binding on the employee or group of employees.

(C) If the grievance procedures are not initiated within the time limits established by this section, the grievance shall be considered not to have existed.

(D) Any grievance not taken to the next step of the grievance procedure shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this section.

(E) If the city fails to meet or answer any grievance within the time limits prescribed for such action by this section, such grievance shall automatically advance to the next step. If the city fails to meet or answer any grievance on the last step of the grievance procedure within the time limits prescribed for such action by this section, it shall be deemed that the city has considered the grievance to be in favor of the aggrieved employee or group of employees and shall resolve the matter accordingly.

(F) The time limits prescribed in this section for the initiation and completion of the steps of the grievance procedure may be extended by mutual consent of the parties so involved. Likewise, any step in the grievance procedure may be eliminated by mutual consent. Mutual consent shall be indicated in writing and shall be signed by all parties involved.

(G) No employee shall be disciplined or discriminated against in any way because of the employee's proper use of the grievance procedure.
(Res. 2010-23, passed 11-4-2010)

§ 32.054 RESIGNATION.

If circumstances make it necessary for an employee to resign, a written resignation must be submitted to the employee's supervisor. The resignation must state the reasons for resigning. The resigning employee should give as much notice as possible, preferably not less than ten working days. Failure to comply with this section shall be annotated in the employee's service record and may be cause for denying future employment by the city.
(Res. 2010-23, passed 11-4-2010)

§ 32.055 RE-EMPLOYMENT.

(A) If a former employee is rehired within one year of application, the employee is reinstated with previously credited years of service.

(B) Re-employment of retired employees must comply with state statutes.
(Res. 2010-23, passed 11-4-2010)

§ 32.056 COST CONSCIOUSNESS.

(A) City employees shall practice every economy possible in the discharge of their duties.

(B) Employees are encouraged to recommend to their supervisors work procedures which will result in a cost saving or improved service to the public.
(Res. 2010-23, passed 11-4-2010)

§ 32.057 SAFETY.

(A) All employees are encouraged to be involved in safety precautions. Any employee who notes a safety hazard or unsafe work practice should notify a supervisor immediately. The employee or supervisor should put the safety hazard/practice in writing using the safety incident report and file with the City Recorder. Anonymous suggestions or concerns for safety will be accepted by any Safety Committee member or can be placed in the safety suggestion box at City Hall.

(B) Supervisors shall be responsible for the development and maintenance of a safety program. Such program shall include safety regulations and discipline controls.

(C) Supervisors and employees shall guard the safety of themselves, fellow employees and the public. Employees will dress appropriately for safety in the work environment.

(D) When accidents occur while performing city work, the employee shall contact their supervisor immediately and the supervisor shall complete an accident report form. In case of a motor vehicle accident, the Police Department shall also be notified immediately.

(E) The City Recorder shall be notified of all on-duty accidents involving volunteer firefighters, city employees and city equipment as soon as possible and not later than the next workday.
(Res. 2010-23, passed 11-4-2010)

§ 32.058 LEGAL LIABILITY.

(A) Employees shall abide by all laws and regulations which govern the performance of their duties and shall perform their duties as reasonable, prudent persons. Employees who are reasonably cautious and prudent in the performance of their duties are not negligent and, therefore, neither legally, nor morally, liable for accidents or injuries which may occur.

(B) If an employee is negligent in the performance of duties and responsibilities and if an accident results from such negligent performance of duties and responsibilities, the employee may be held personally and legally liable.

(Res. 2010-23, passed 11-4-2010)

§ 32.059 CELLULAR PHONES, OTHER PERSONAL DIGITAL ASSISTANTS.

(A) *General.* Employees whose place of duty is outside of the city offices (for example, public works employees) are required to maintain appropriate communications in conduct of their duties. The city requires that employees use cell phones provided by the city for business use only. The city-provided phone will not be used for personal calls.

(B) *Routine audit of cell phone usage.* For each city-provided cell phone billing cycle, each employee using a city cell phone will review the phone bill and certify in writing on the phone bill whether any personal calls were placed using the cell phone. If personal calls were made, the employee will reimburse the city for these calls in a timely fashion. The employee will also be charged by the city a pro rata share of the monthly charge if the phone was used for personal use.

(C) *Employee owned (personal) cell phones and PDAs.* Employees who own personal cell phones or other communication devices may choose to use them for business calls; however, the city will not reimburse employees for conducting city business on personal cell phones.

(D) *Cell phone usage.* The city conforms to state law regarding using a cell phone while driving a vehicle or operating hazardous equipment. For the safety of employees and others, it is imperative that employees stop at a safe location or discontinue use of equipment in order to place or receive calls, text message or converse on the cell phone in any way unless using a hands-free device.

(Res. 2010-23, passed 11-4-2010)

§ 32.060 USE OF CITY EQUIPMENT AND COMPUTER SYSTEMS.

(A) *General.*

(1) The city is responsible for providing any supplies, special clothing, equipment, vehicles and materials necessary for employees to perform their jobs. These items are to be used solely for the city's purposes. Each employee is expected to exercise care in the use of city equipment and property and use such property only for authorized city uses. Negligence in the care and use of city property may be considered grounds for discipline, up to and including termination.

(2) The city's equipment and supplies, such as telephone, postage, facsimile and copier machine are intended to be used for business purposes only. Any personal or non-business use that is not permitted will be charged to employees at the same rate as charged to the public.

(3) Upon termination of employment, the employee must return all city property, special clothing, equipment, work product and documents in his or her possession or control.

(B) *Computer use.* City computers are for city business use only. Employees are prohibited from installing unauthorized software or downloading information from the internet for personal use on city computers. Employees desiring internet access for personal use may use the city library computers. Employees may use their personal computers and other wireless devices to access the city's wireless signal. Use of computers for personal use shall be only on employee's own time.

(C) *Email.* City email is city property and may be used for city business. City email is not to be used for employee personal gain or to support or advocate for non-city-related business or purposes. All use of email is subject to management access pursuant to the following policy.

(1) Incidental and occasional personal use of email can sometimes not be avoided, but such messages will be treated no differently from other messages.

(2) No computer system is completely secure. Email is not intended to transmit sensitive materials such as personnel decisions, legal opinions or confidential material that may be more appropriately communicated by written memorandum or personal conversation.

(3) Employees may not intentionally intercept, eavesdrop, record, read, alter or receive another employee's message without proper authorization in accordance with this policy.

(4) This policy applies to all employees, contractors, part-time employees, volunteers or other individuals provided with access to the city's email accounts.

(5) Employees' email communications should be routinely and regularly deleted from their inboxes or moved to folders.

(6) Solicitation of funds, political messages and harassing email are prohibited.

(7) Use of city email for personal business, whether for profit or non-profit is prohibited.

(8) The city may access email messages sent or received using city systems for all individuals covered by this policy for any purposes not specifically prohibited by law. If practicable, employees will be notified in advance of such access or receive notice within a reasonable time after the access. Employees will be notified of the date of access, purposes of access and identity of the person who accessed the information and information obtained.

(9) Employees are informed that supervisors may disclose to parties within or outside the city the contents of email sent to and between individuals covered by this policy without the permission of the individuals if it serves the interests of the city or the public.

(Res. 2010-23, passed 11-4-2010)

§ 32.061 PERFORMANCE REVIEW FORM.

(A) (1) The city has both full-time and part-time employees, non-union and union employees.

(2) Best practices in personnel management find that providing meaningful feedback in a constructive manner on a regular basis will improve morale and job performance.

(3) The city seeks to create a standardized, fair and respectful process of providing feedback and evaluating the job performance of its employees.

(B) The City Council adopts Exhibit A, Employee Performance Review Form, attached to the resolution codified herein.

(Res. 2018-09, passed 6-7-2018)

§ 32.062 STANDARDS OF CONDUCT.

(A) *Business ethics.* Each employee of the city shall maintain the highest standards of business ethics in transactions with the city, federal, state and local governments and with the public. Employees are expected to perform their duties faithfully and efficiently to avoid giving rise to suspicion of conflict of interest with the city or any agency of government.

(B) *Conduct.* Conduct, in accepting a position with the city, each employee accepts responsibility for conduct, both on and off the job, which reflects and will build a positive image for the city. Involvement in situations which would tend to bring discredit on the city may be cause for disciplinary action. The city expects employees to conform their conduct in accordance with all applicable laws, ordinances, rules and regulations.

(C) *Gratuities.* City employees shall not accept any favor or gratuity from any person, firm or corporation which is engaged in or attempting to engage in business transactions with the city, or any agency of the state or any local government which might affect or give the appearance of affecting the employee's judgment in the impartial performance of his or her duties.

(Res. 2010-23, passed 11-4-2010)

CLASSIFICATION PLAN

§ 32.075 POSITION CLASSIFICATION PLAN.

(A) A position classification plan as adopted and amended by the City Council shall be a part of these rules.

(B) The classification plan shall consist of positions in the city service defined by class specifications and identified by the class titles. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

(C) Copies of this plan and of specifications for individual classes shall be available in the office of the City Recorder.

(D) The following positions are designated as exempt from the Fair Labor Standards Act (FLSA): City Recorder and Working Public Works Director. All other positions are classified as non-exempt. (Res. 2010-23, passed 11-4-2010)

§ 32.076 TITLES AND SPECIFICATIONS.

(A) The position classification plan shall include titles and written specifications for the various classes of positions as a guide toward equal pay for equal work. Job titles shall refer to a particular position and shall be used in all personnel, budget and financial records.

(B) Each position shall be allocated to an appropriate class on the basis of the duties, responsibilities and minimum qualifications of the position.

(C) (1) Each class shall have a specification that includes a concise, descriptive title and a description of the duties and responsibilities of each position in the class.

(2) Position specifications take into consideration the requirements of the job and are merely descriptive and explanatory of the work to be performed.

(3) They may not include all of the duties and are not intended to replace detailed work assignments.

(Res. 2010-23, passed 11-4-2010)

§ 32.077 RECLASSIFICATION.

(A) The City Council may reclassify positions whenever the duties of the position change materially; provided, reclassification can be accomplished within the limitations of the current budget of the city.

(B) Reclassification of a position shall not be used to circumvent the effects of disciplinary action or to avoid restrictions concerning compensation.

(Res. 2010-23, passed 11-4-2010)

§ 32.078 NEW POSITIONS.

(A) The City Recorder shall be responsible for keeping the classification plan current through periodic studies of the positions within the city service.

(B) No position or class shall carry an official title which has not been approved by the City Council as being appropriate to the duties performed.

(C) The Council may create new positions and allocate the positions to an appropriate class. (Res. 2010-23, passed 11-4-2010)

§ 32.079 PERFORMANCE COUNSELING AND PERFORMANCE REVIEW.

(A) *General.* City policy requires supervisors to regularly review employee performance through a review process. Employee performance evaluations are an essential communication process between the employee and his or her immediate supervisor. Such evaluations provide information relating to training needs, targeting the strengths and weaknesses of the employee's work performance and measuring the relationship between goals and objectives and the employee's job performance. The purpose of the evaluation is to review with the employee how well he or she is performing his or her job and address any performance issues. It also serves as a basis of personnel decisions such as promotion and termination.

(B) *Frequency.* New employees or employees promoted into a new position will receive a performance review after 90 days of employment or promotion, 180 days after the conclusion of the six-month probationary period, and again after one year of employment. Continuation of employment after six months is contingent upon receipt of a satisfactory performance review. All employees will receive a performance review annually in January of each year after the above timelines.

(C) *Procedure.*

(1) The City Council supervises the City Recorder and the working Public Works Director. As such, performance counseling and reviews shall take place as an executive session of the City Council unless the employee requests that the session be open to the public. The employee must communicate this decision within five working days to the City Recorder so the session may be noticed and scheduled. The city must give the employee a minimum of 20 working days' advance notice of the meeting to discuss performance counseling and reviews as an open session. An open session does not entitle the public to provide comment.

(2) At the beginning of the performance review period, the supervisor and employee will jointly agree in writing on specific performance goals and objectives for the performance review period. These goals and objectives will reflect components of the employee's job description, but be more specific to the performance review period itself.

(3) At least once during the performance review period, the employee and supervisor will meet for a documented performance counseling session to review the goals and objectives and make adjustments as necessary. The emphasis should be on positive performance, improvements, goals and objectives.

(4) At the conclusion of the performance review period, the employee will self-evaluate how well he or she achieved the goals and objectives and provide this information to the supervisor. The employee and supervisor will meet, discuss and document the performance review in writing.

(5) The employee's performance review will be signed by the employee and the supervisor. This document shall be placed in the employee's personnel file.
(Res. 2010-23, passed 11-4-2010)

§ 32.080 CORE VALUES.

(A) The city has developed core values that represent performance expectations for all employees. While job expectations are different for different positions, these core values are the basic principles that the City Council uses to evaluate its employees. In addition to the definition given for each core value, supervisors may create additional expectations for one or more of the core values that are specific to each position or department. These additional expectations should be clearly communicated to employees.

(B) Performance review core values are as follows.

(1) *Communication.* The city values communication that is effective in sharing information internally and externally. Verbal and written communication should minimize misunderstanding between all involved parties.

(2) *Customer service.* The city values high quality, helpful and timely service. Customer service is effectively relating to and serving the needs of the public. Employees should show concern and respect for the public at all times.

(3) *Initiative and innovation.* The city values independent initiative and innovation demonstrated by its employees. This relates to the ability to see and solve problems through creativity, inventiveness and application of other's ideas and how well the employee takes initiative to develop new methods of completing work that are superior to current methods.

(4) *Job duties.* The city expects each employee to perform the duties of his or her position. This standard measures the degree to which the employee fulfills the basic expectations of his or her position, meets performance objectives and/or helps to achieve specific departmental goals assigned to them.

(5) *Job effort/quantity of work.* The city values productivity from all employees. This standard measures how hard the employee works at given tasks, the total amount of quality work completed by an employee and the demonstrated ability to make the best use of time in meeting deadlines.

(6) *Job skills and knowledge.* The city places a high value on the knowledge attained by its employees as well as the positive application of that knowledge. This refers to the amount of job-related knowledge the employee has and how well that knowledge is applied. Additionally, it includes the willingness of employees to seek opportunities to expand job knowledge.

(7) *Quality of work.* The city values a high level of quality in every aspect, whether in written communication, service provided or product produced and delivered. An employee's work should reflect careful planning, correct decisions and effective follow-through. An employee should exhibit the ability to produce results that meet or exceed standards of quality.

(8) *Safety and risk management.*

(a) The city values the lives and safety of its employees above all else. This standard measures the degree to which the employee follows safety practices which result in safety for self, other employees and the public.

(b) Safe practices are indicated by vehicle accident experience, personal injury experience, citizen safety experience and participation in promoting safety on the job.

(9) *Use of available resources.* The city provides resources and technology to assist and benefit employees in their jobs. The employee is expected to use city resources effectively and strive to control costs while continuing to provide excellent service. Employees should allocate resources efficiently and effectively. Employees should also be willing to learn and use new and existing technology.

(10) *Teamwork.* The city values effective teamwork among employees. This measure relates to how willing an employee is to work with others. This includes the willingness to assist and support other employees in completing their assigned tasks.

(Res. 2010-23, passed 11-4-2010)

PAY PLAN AND COMPENSATION

§ 32.095 PAY PLAN.

(A) The City Council shall prepare a compensation plan which shall prescribe a minimum, a maximum and any intermediate rates of pay appropriate for each class.

(B) The rate or range for each class shall equitably reflect the difference in duties and responsibilities and shall be related to compensation for comparable positions in other places of public employment within the same job market.

(Res. 2010-23, passed 11-4-2010)

§ 32.096 ANALYSIS OF PLAN.

(A) Periodically, but at least every three years, the City Council shall compare the current city salary rates, compensation policies and personnel developments with those of other public employers within the same job market.

(B) The City Council shall examine the salary range for each class of position to ascertain whether current minimum and maximum salaries should be maintained, increased or decreased during the succeeding fiscal year; and, upon the basis of this analysis, may amend the pay plan to the City Council. (Res. 2010-23, passed 11-4-2010)

§ 32.097 APPOINTEE COMPENSATION.

(A) Upon initial appointment to a position, the employee shall receive no less than the minimum salary for the class to which the position is allocated.

(B) Depending on qualifications or when the appointee is exceptionally qualified, the City Council may cause the appointment to be made at a salary level above the minimum, but not more than the maximum for the class.

(C) Upon promotion, an employee shall move to a salary level in the new class at a compensation level not less than the employee's current salary. (Res. 2010-23, passed 11-4-2010)

§ 32.098 PAY DAY.

(A) Employees shall be paid on the last day of each month. If the last day of the month falls on a Saturday, Sunday or a holiday, employees shall be paid on the last working day preceding the last day of the month.

(B) An employee may elect to receive an advance payment on the fifteenth of the month. The maximum advance payment an employee may receive shall not exceed 50% of the employee's net monthly earnings. An employee shall be limited to three advance payments in one calendar year. (Res. 2010-23, passed 11-4-2010)

§ 32.099 MEAL PERIOD.

Meal periods of not less than 30 minutes (unpaid) must be provided to non-exempt employees who work six or more hours in a work period. The employee must be relieved of all work duties during the meal period. (Res. 2010-23, passed 11-4-2010)

§ 32.100 REST PERIODS.

Rest periods are offered to all employees, however, non-exempt employees are required to take a rest period as follows: state law requires a rest period (paid by the employer) of not less than ten minutes for every segment of four hours or major portion thereof (two hours and one minute through four hours) worked in one work period. This time must be taken in addition to, and separately from, required meal periods. The rest period should be taken as nearly as possible to the middle of the work segment. (Res. 2010-23, passed 11-4-2010)

§ 32.101 OVERTIME.

(A) Supervisors shall assign to each employee regular work duties and responsibilities which can normally be accomplished within the established workday and workweek.

(B) When employees are required to work overtime, supervisors shall authorize compensatory time off in lieu of overtime pay. Compensatory time is calculated at the rate of one and one-half hours per one hour of overtime worked. The determination to grant overtime pay shall rest with the City Council.

(C) (1) Compensatory time accumulation shall not exceed 60 hours during the fiscal year.

(2) Compensatory time off can only be used by the employee with approval of the supervisor. Supervisors and employees shall work together to ensure that compensatory time off is utilized in a timely manner. The City Council will receive monthly reports on each employee's compensatory time accumulation.

(3) Once this maximum accumulation has been reached, all overtime compensation exceeding the 60 hours of compensatory time earned by the employee shall be paid in cash at the end of the fiscal year in which it has been earned.

(Res. 2010-23, passed 11-4-2010)

BENEFITS

§ 32.115 HOLIDAYS.

(A) All regular and probationary employees of the city shall be entitled to the holidays listed below with pay. Holiday pay is at the maximum of eight hours of pay for any holiday. If employees are normally scheduled to work more than eight hours in a workday, accrued vacation or compensation hours may be used to offset any hours beyond the eight-hour holiday pay for these recognized holidays:

- (1) New Year's Day;

- (2) Dr. Martin Luther King Jr. Day;
- (3) Presidents Day;
- (4) Memorial Day;
- (5) Independence Day;
- (6) Labor Day;
- (7) Veterans Day;
- (8) Thanksgiving Day;
- (9) Christmas Day; and
- (10) Others as deemed appropriate by City Council.

(B) If any such holiday falls on Saturday, the Friday before shall be given as a holiday, if any such holiday falls on a Sunday, the following Monday shall be given as a holiday.

(C) Any employee who works on a recognized holiday as part of their regular workweek shall be allowed time off in accordance with division (A) above.

(D) Holidays which occur during vacation or sick leave shall not be charged against such leave. (Res. 2010-23, passed 11-4-2010)

§ 32.116 VACATION.

(A) (1) All employees with less than one year of continuous service shall not be granted vacation leave with pay.

(2) Regular full-time employees with one or more years, but less than five years of continuous service are granted 80 hours of annual vacation leave with pay.

(3) Regular part-time employees working a minimum of 20 hours a week, with one or more years, but less than five years of continuous service are granted 40 hours of annual vacation leave with pay.

(4) Regular full-time employees with five or more years of continuous service are granted 80 hours of annual vacation leave with pay, plus eight hours for each year of continuous service over five years to a maximum of 160 hours.

(5) Regular part-time employees working a minimum of 20 hours a week, with five or more years of continuous service are granted 40 hours of annual vacation leave with pay, plus four hours for each year of continuous service over five years to an equivalent of 80 hours.

(B) New employees are not eligible to take vacation leave during their first 12 months of employment, although vacation leave shall accrue on the employee's anniversary date of employment.

(C) Vacation time is meant to be taken in the year immediately following the year in which it is earned.

(D) Vacation time shall not accumulate more than that earned in an 18-month period. When accumulated time reaches that level, no additional days accrue until some days are used.

(E) Should employment end prior to using the accrued vacation leave, the employee will be paid for the vacation time accrued.

(F) Supervisors shall schedule vacations for their respective employees with due consideration for the desires of the employees and the work requirements facing the department.

(G) Vacation schedules may be amended to allow the department to meet emergency situations.
(Res. 2010-23, passed 11-4-2010)

§ 32.117 SICK LEAVE.

(A) All regular and probationary employees shall be eligible to accrue sick leave with pay. Accrual shall begin from the date of employment, but shall not be taken until the successful completion of the probationary period. Sick leave shall not be accumulated in excess of 50 days (400 hours) for full time employees and a prorated equivalent maximum for part time. The City Council shall have the authority to extend accrued leave.

(1) Full-time employees shall earn sick leave with pay at the rate of 12 hours for each calendar month of service.

(2) Part-time employees working a minimum of 20 hours a week shall earn sick leave with pay at a prorated rate.

(B) An employee may use sick leave for the following reasons:

(1) Non-occupational personal illness or injury;

(2) Appointments with medical, dental or other healthcare providers;

(3) Quarantine of an employee by a physician for a non-occupational illness;

- (4) Caring for a family member with a health condition;
- (5) Pregnancy-related disability and childbirth;
- (6) Compassionate leave other than that addressed in § 32.118(A) of this chapter; and
- (7) Parental leave.

(C) Sick leave shall be charged as follows: an employee shall be charged sick leave on the basis of one hour of sick leave for each duty hour absent.

(D) Abuse of the sick leave privilege shall be cause for discipline, up to and including termination. An employee who is unable to report for work because of any of the reasons set forth in division (B) above shall report the reason for his or her absence to his or her supervisor or City Hall within one hour from the time he or she is expected to report for work. Sick leave with pay shall not be allowed unless such report has been made; except in the case of an emergency, in which case such report shall be made as soon as reasonably possible. Sick leave in excess of four working days shall be allowed only after the employee presents a written statement from a healthcare provider certifying that the employee's condition prevents him or her from appearing for work.

(E) Unused sick leave shall not be compensated for in any way at the time of resignation or dismissal of an employee.
(Res. 2010-23, passed 11-4-2010)

§ 32.118 LEAVES OF ABSENCE.

An employee may request leave of absence for the purposes specified in this section. Each request shall be considered on the basis of the guidelines provided in this section. Compensatory time, sick leave and vacation leave will not accrue during periods when employees takes unpaid leave of absence.

(A) *Compassionate leave.* In the event of a death in the employee's immediate family, an employee may be granted leave of absence with pay not to exceed 24 hours for full time employees and comparable hours for part-time employees. Such hours shall not be charged against the employee's vacation or sick leave or accrued compensatory time.

(B) *Funeral participation.* When an employee serves as a pallbearer, or in some other way participates in a funeral ceremony, he or she may be granted a reasonable time off to perform such duty. Vacation or accrued compensatory time may be used.

(C) *Witness or jury duty.* An employee called for jury duty or subpoenaed as a witness will not be charged leave during this period. Any compensation received by the employee for such duty (other than mileage reimbursement) shall be paid to the city.

(D) *Parental leave.* The city may grant parental leave to an employee for the purpose of caring for a newborn or a newly placed foster or adoptive child.

(1) Length and dates of parental leave will be agreed upon between the employee and the supervisor and documented in writing in the employee's personnel file. The employee may use earned sick or vacation leave, earned compensatory time and/or leave without pay in any combination. Parental leave will not exceed a total of 720 hours for full-time employees or a comparable number of hours for part-time employees.

(2) The employee is not required to exhaust accumulated earned leave or compensatory time before taking leave without pay for reasons of parental leave.

(3) When possible, the employee has the right to return from parental leave to their previous job without loss of benefits. Benefits accumulate only during paid leave status and not during leave without pay.

(E) *Attendance at training, conferences and conventions.* Decisions concerning attendance at training, conferences, conventions or other meetings at city expense when beneficial to the city shall be made by the supervisor with the approval of the City Council. Permission shall be granted on the basis of an employee's participation in or the direct relation of his or her work to the subject matter of the meeting. Employees will be compensated during their travel and attendance at such events.

(F) *Military leave.* An employee who has successfully completed the probationary period and who is a member of the National Guard or reserve component of the Armed Forces of the United States, the National Oceanographic and Atmospheric Administration or the United States Public Health Service, shall be entitled, upon application, to an unpaid leave of absence from city service. Such leave shall be granted without loss of rights or benefits to which the employee is entitled.
(Res. 2010-23, passed 11-4-2010)

§ 32.119 EDUCATIONAL OPPORTUNITIES.

(A) The city, with City Council approval, may reimburse an employee for tuition for courses directly related to the employee's work; provided that:

(1) Funds for such expenditures are available in the current budget;

(2) The employee has made application for approval of the course and tuition reimbursement to the supervisor at least ten days prior to the registration for such course or as soon as reasonably possible;

(3) The employee submits evidence of satisfactory completion (for example, a grade of "C" or better or a "passing" grade in a pass/fail course);

(4) The employee is not receiving reimbursement for tuition from any other source;

(5) The city shall allow time off with pay and shall reimburse an employee for the expenses of attending city-required and approved classes, lectures, conferences or conventions; and

(6) If the city purchases any of the textbooks and publications for such courses, said textbooks and publications shall become the property of the city.

(B) Employees may pursue educational opportunities which are not directly applicable to their city employment. Courses which are only offered during regular working hours may be approved by the City Council; provided, time off can be arranged conveniently and reasonable arrangements can be made to make up time off. The costs of tuition, textbooks and other materials for such courses are the employee's responsibility.

(Res. 2010-23, passed 11-4-2010)

§ 32.120 RETIREMENT.

After six months of employment, regular employees are eligible and required to participate in the Public Employee Retirement System (PERS). The city will pay the employer contributions to the state's Public Retirement System. Eligible employees pay the PERS-required percentage employee contribution of their gross monthly pay by payroll deduction.

(Res. 2010-23, passed 11-4-2010)

§ 32.121 SOCIAL SECURITY.

The city participates in Social Security and pays the employer contribution to Social Security. The employee contribution is deducted from the employee's gross monthly pay.

(Res. 2010-23, passed 11-4-2010)

§ 32.122 WORKER'S COMPENSATION.

The city provides worker's compensation insurance coverage for all employees.

(A) When an employee is injured or becomes ill in the performance of duty and becomes eligible for worker's compensation benefits, the city shall grant paid sick leave for the three-day waiting period required by the worker's compensation carrier.

(B) If the worker's compensation claim is accepted, the city will pay the employee, at the employee's request, the difference between time loss wages received from the Worker's Compensation insurance and the employee's regular salary rate.

(C) An employee on leave status due to an approved claim will contact the city in writing at least once monthly indicating whether the employee intends to return to work. The employee will be returned to work on a limited or full basis as soon as practical.

(D) If the employee has been released by the medical provider to return to work, the employee must return to work or request a leave of absence without pay. If there is no documentation from a medical provider that the employee is unable to return to work, he or she must return to work or be on an approved leave of absence. The city is not required to hold the employee's position open while the employee stays off work awaiting results of an appeal process with the worker's compensation insurance carrier.

(Res. 2010-23, passed 11-4-2010)

§ 32.123 HEALTH INSURANCE.

The City Council approves medical, dental and vision coverage with full benefits to the current employees and the new part-time employee will receive one-half of the individual premium.

(Res. 2010-23, passed 11-4-2010; Res. 2011-05, passed 5-5-2011)

§ 32.124 TIME/PAYROLL SHEETS.

(A) The hourly employee pay record is formal documentation of the exact time worked. It is completed daily and reviewed at the end of each week for completeness and accuracy, showing, time worked, sick leave taken, compensatory time earned and/or taken and holidays or vacation days taken. This report is submitted monthly for payroll processing.

(B) The part-time salaried employee pay record is submitted monthly and reflects time worked, sick leave taken, compensatory time earned and/or taken, and holidays or vacation days taken.

(C) Public works full-time employees are required to complete a worksheet with time worked and hours designated per type of job performed (for example, garbage removal, shop work, street sweeping). This report is submitted to the Public Works Director for review and signature and forwarded for payroll processing on a monthly basis.

(D) At the beginning of each year, a wall calendar is designated for payroll reporting of days taken for medical, compensation and vacation leave by all employees. This calendar is used on a monthly basis to transfer the information to the individual payroll sheets for each employee. At year end, payroll sheets are placed in each employee's personnel folder.

(E) The seasonal employee pay record is submitted monthly and reflects hours worked.

(Res. 2010-23, passed 11-4-2010)

CHAPTER 33: DRUG AND ALCOHOL POLICY

Section

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§ 33.01 PHILOSOPHY.

(A) The city believes that it has an obligation and right to have alert, drug/alcohol free employees on the job and must provide a safe work environment. This means that during working hours, all employees are expected to be free from any substance, whether legal or illegal, that can negatively affect job performance or risk the health and safety of employees or the public.

(B) The purpose of this testing policy is to protect the physical and psychological well-being of all the employees at the city's facilities and job sites and protect the safety of the public as well as comply with federal regulations. Use of intoxicants and drugs that alter the ability to function on the job in an effective and safe manner will not be tolerated. The use of or condition of being under the influence of drugs/alcohol while at work can affect the morale of other employees as well as increase accidents, theft and absenteeism. This testing policy is a critical step in establishing and maintaining an efficient and safe work force and will be applied in conjunction with all established company policies, procedures and programs.

(C) The city will vigorously pursue the enforcement of this policy, and will make efforts to protect the privacy of its employees. It is the intent of this policy to encourage and support employee recovery from substance abuse through the city's Employee Assistance Program, (EAP), unless the EAP proves ineffective for this employee.

(Res. 2003-01, passed 1-7-2003)

§ 33.02 CATEGORIES OF EMPLOYEES COVERED.

The following categories of employees are covered: Public Works Department.

(Res. 2003-01, passed 1-7-2003)

§ 33.03 DEFINITIONS.

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

ACCIDENT.

(1) A fatality; or

(2) A citation issued by a law enforcement officer to the commercial driver and one or more of the following situations:

(a) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(b) One or more of the vehicles incurs disabling damage as a result of the accident that renders the vehicle unable to be driven in daylight hours, or requires the vehicle to be transported away from the scene by a tow truck or other vehicle.

ALCOHOL. The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

ALCOHOL CONCENTRATION. The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

CONFIRMATION ALCOHOL TEST. A second test which follows a screening test with a result of 0.02% or greater, and which provides a quantitative result of alcohol concentration.

CONFIRMATION DRUG TEST. A second and different analytical procedure to identify the presence of a specific drug or metabolite in a positive screening test. The Gas Chromatography/Mass

Spectrometry is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines and plencyclidine.

CONTROLLED SUBSTANCE. The category of drugs as listed in 49 C.F.R. part 40, including:

- (1) Marijuana;
- (2) Cocaine;
- (3) Opiates;
- (4) Pliencyclidine (PCP); and
- (5) Amphetamines.

COVERED EMPLOYEE. Any employee that is subject to the alcohol and drug testing requirements of 49 C.F.R. part 382 or this policy.

COVERED POSITION. One that is subject to the alcohol and drug testing requirements of 49 C.F.R. part 382 or this policy.

DESIGNATED EMPLOYER REPRESENTATIVE (DER). The person(s) designated by the employer to receive confidential test results.

DILUTE SPECIMEN. A urine sample with a low specific gravity and a low creatinine level.

DRIVER. Any person who operates a commercial motor vehicle. This includes, but is not limited to, full-time, regularly employed drivers; casual, intermittent or occasional drivers. For the purpose of pre-employment/pre-duty testing only, the term includes a person applying to an employer to drive a commercial motor vehicle.

INVALID TEST. A urine sample with which the laboratory has been unable to obtain a valid test result.

MEDICAL REVIEW OFFICER (MRO). A licenses physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders, possesses a certificate of completion or certification from an approved MRO program and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

ON-DUTY TIME. All time spent performing the duties of the job description.

PERFORMING A SAFETY-SENSITIVE FUNCTION. A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform or immediately available to perform a safety-sensitive function.

PROHIBITED CONDUCT.

- (1) No employee shall report to work or engage in work while having alcohol, illegal drugs or any other disabling or controlled substance in their system;
- (2) Reporting to work or engaging in work with a breath alcohol level of 0.02% BrAC or greater;
- (3) The possession, sale storage, transporting (without manifest) or use of alcohol while on-duty and/or on the city's property;
- (4) No employee shall perform safety sensitive duties within four hours after using alcohol;
- (5) No employee involved in an accident and required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever comes first;
- (6) Refusing to submit to any testing required under this policy or required by 49 C.F.R. part 382; and
- (7) No employee shall report for duty or remain on duty requiring the performance of safety sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle.

REFUSAL TO TEST. Refusal to provide an acceptable alcohol or controlled substance test:

- (1) Failing to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirements for breath testing in accordance with the requirements of 49 C.F.R. part 382 or this policy;
- (2) Failing to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the requirements of 49 C.F.R. part 382 or this policy; and
- (3) Failure to cooperate with the process in a manner that obstructs the collection of the specimen.

SAFETY-SENSITIVE FUNCTION. Any of those duties set forth in 49 C.F.R. part 382. (See also ***ON-DUTY TIME.***)

SCREENING ALCOHOL TEST. An analytical procedure whether an employee may have a prohibited concentration of alcohol in a breath specimen.

SCREENING DRUG TEST. An immunoassay screen to eliminate “negative” urine specimens from further analysis.

SUBSTANCE ABUSE PROFESSIONAL (SAP). A licenses physician (medical doctor or doctor of osteopathy), or a licenses or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) who possesses a certificate of completion or certification from an approved SAP program with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

VALIDITY TESTING. Laboratory testing of the urine sample for the presence of substances not normally found in human urine or naturally occurring substances at levels not consistent with human urine. **VALIDITY TESTING** shall be conducted in accordance with the most recently published DOT guidelines.

WAITING TO BE DISPATCHED. All other time not specified as on-duty time.
(Res. 2003-01, passed 1-7-2003)

§ 33.04 PROHIBITIONS.

(A) *Alcohol concentration.* No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02% or greater.

(B) *Alcohol possession.* No covered employee shall perform a safety-sensitive function while the employee possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.

(C) *On-duty use.* No covered employee shall use alcohol or a controlled substance while performing safety-sensitive functions.

(D) *Pre-duty use.* No covered employee shall perform any safety-sensitive function with our (4) hours after ingesting alcohol.

(E) *Use following an accident.* No covered employee involved in an accident and required to provide a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he or she undergoes a post-accident test, whichever occurs first.

(F) *Refusal to submit to required alcohol or controlled substance test.* No covered employee shall refuse to submit to a post-accident alcohol or controlled substance test, a random alcohol or controlled

substance test, a reasonable suspicion alcohol or controlled substance test or tire follow-up alcohol or controlled substance test as required under 49 C.F.R. part 382 or the city's policy and procedures.

(G) *Controlled substance use.* No covered employee shall report to duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle. If the safety sensitive employee is taking a controlled substance listed on the DOT prohibited medication listing, the employee is required to submit a signed statement from the prescribing physician stating that the employee may perform safety sensitive functions while taking a prohibited medication. The prescribing physician shall not name the prescribed medication in his or her report to the employer. (Res. 2003-01, passed 1-7-2003)

§ 33.05 REQUIRED TESTS.

(A) *Pre-employment.*

(1) All applicants for employment in a covered position, or promotion into a covered position will be informed that their employment into a covered position is contingent upon passing a test for controlled substances. Successfully passing the test requires a negative controlled substance as verified by the medical review officer.

(2) Refusal to test by any finalist for a covered position will result in the individual not being hired into that position.

(B) *Post-accident.*

(1) A covered employee involved in an accident which involves a commercial motor vehicle shall be tested for alcohol and controlled substance as soon as practicable when the accident criteria meets the following DOT requirements:

(a) Covered employee was performing safety-sensitive functions with respect to the vehicle if the accident involved the loss of human life;

(b) Covered employee receives a citation under state or local law for a moving traffic violation arising from the accident; and

(c) The commercial vehicle was disabled (such that it cannot be driven in daylight hours), or anyone involved in the accident was immediately transported from the scene for emergency medical care.

(2) If the alcohol test is not administered within two hours of the accident, the employer shall follow the requirements of 49 C.F.R. part 382.

(3) If the controlled substance test is not administered within 32 hours or the alcohol test within eight hours of the accident, the employer shall cease attempts to administer the test and follow the requirements of 49 C.F.R. part 382.

(4) It is the responsibility of any covered employee who is subject to a post-accident testing to remain readily available for such testing. If the covered employee is not readily available, he or she may be deemed by the employer to have refused to submit to testing. This provision shall not be construed to require the delay of necessary medical attention for injured people, to prohibit the employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

(5) The results of a post-accident breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by federal, state or local officials having independent authority for the test(s), shall be considered to meet the requirements of this policy and procedures, and that the results of such test can be obtained by the employer in a timely manner.

(C) *Random.*

(1) The employer is required to conduct random alcohol and controlled substance tests. The minimum annual percentage rates for these tests are set, and can be modified, by the Federal Motor Carrier Safety Administration. The required testing rate shall be based on the average number of driver positions.

(2) The selection of covered employees for random alcohol and/or controlled substance testing shall be made by a scientifically valid method, such as a random table of a computer-based random number generator that is matched with employees' identification numbers. The random selection and testing dates shall be unannounced and spread reasonably throughout the year with each employee having an equal chance of being tested each time the random selections are made.

(3) Each covered employee randomly selected for testing shall, immediately upon notification, report to the testing site or to a specific on-site location for transporting to the testing site.

(D) *Reasonable suspicion.*

(1) A covered employee must submit to testing for alcohol and/or controlled substance if his or her supervisor or other employer representative meeting the training requirements of 49 C.F.R. part 382 has reasonable suspicion to believe that the employee has violated the driver prohibitions of this policy. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substance test must be based on specific, contemporaneous, articulable observation concerning the appearance, behavior, speech or body odors of the covered employee. Additionally, findings may also include indications of the chronic and withdrawal effects of controlled substances.

(2) If an alcohol test is required under this section, the time constraints and documentation if they are not met, are the same as those for a post-accident alcohol (within two hours). The supervisor shall prepare a report indicating the reason for the delay. Alcohol testing must be accomplished within eight hours of the request; after eight hours, all attempts shall cease to obtain an alcohol test.

(3) If a controlled substances test is required under this section, the time constraints and document, if they are not met are the same as those for a post-accident alcohol (within two hours). The supervisor shall prepare a report indicating the reason for the delay. Controlled substances testing should be accomplished within 32 hours of the request; after 32 hours all attempts shall cease to obtain a controlled substances test.

(4) A written record shall be made of the observations leading to an alcohol and/or controlled substance reasonable suspicion test, and signed by the Department supervisor or other employer representative that made the observation, within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

(E) *Return to duty.*

(1) Before a covered employee returns to performing a safety sensitive function after engaging in prohibited conduct, the covered employee shall undergo a return to duty substance and/or alcohol test.

(2) The return-to-duty test result for controlled substance must indicate a verified negative result for use.

(3) The return-to-duty test result for alcohol must indicate an alcohol concentration of less than 0.02%.

(F) *Follow-up.* All drivers who have engaged in prohibited conduct and are eligible to return to duty shall be subject to unannounced follow-up alcohol and/or controlled substance testing for up to 60 months. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional and shall consist of at least six tests in the first 12 months following the employee's return to duty. The substance abuse professional may terminate the requirements for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

(Res. 2003-01, passed 1-7-2003)

§ 33.06 HANDLING TEST RESULTS AND CONFIDENTIALITY OF RESULTS.

(A) *Test results, record retention and reports.* All reports and documentation generated under the requirements of 49 C.F.R. part 382 and this policy will be maintained in accordance with the requirements of 49 C.F.R. part 382.

(B) *Confidentiality and access to records.*

(1) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substance. Access to the employee's records shall not be contingent upon payment for the records other than those specifically requested.

(2) Except as required or allowed by law or expressly authorized or required in this section, the employer shall not release to a third party information contained in records required to be maintained under 49 C.F.R. part 382.

(3) Prospective employers are required to obtain, pursuant to an employee's signed consent, information regarding the drug and alcohol testing of the applicant including any refusals to be tested, during the preceding two years of the date of application for employment. The employer will not release this information to the prospective employer until it receives the employee's specific, written authorization to release the information. The background check also applies to employees transferring from a non-safety sensitive position into a covered position.

(4) The following is not federally mandated; however, it is mandated by state statute: licensed commercial drivers applying for a safety sensitive position will be asked to consent to a check of their drug and alcohol testing records from the state's Department of Motor Vehicles. If the applicant refuses to consent to the federal or state history checks, the offer for employment shall be withdrawn.

(5) Except as required or allowed by law or expressly authorized, records may be released to another identified party only with the specific, written consent of the covered employee authorizing release of the information to the party. The release request must specifically identify the individual to whom the information may be released and must specify the terms of the employee's consent for use of this information.

(Res. 2003-01, passed 1-7-2003)

§ 33.07 REQUIREMENT TO SUBMIT TO ALCOHOL AND CONTROLLED SUBSTANCE TESTING.

Any covered employee subject to testing under the requirements of 49 C.F.R. part 382 or this policy and procedures must submit to being tested for alcohol and/or controlled substances immediately, or as soon as possible, upon notification to do so by his or her supervisor or other designated employer representative. Failure to immediately report for a test will, in most cases, result in the driver being deemed as refusing to submit which carries the same consequences as a positive controlled substances test or an alcohol test with a concentration of 0.04% or greater. In most cases, refusals to be tested will result in immediate termination.

(Res. 2003-01, passed 1-7-2003)

§ 33.08 TESTING PROCEDURES AND RESULTS.

(A) *Alcohol testing procedures.* The instrument that will be used to determine the presence of alcohol is the evidential breath testing device (EBT). Only qualified breath alcohol technicians shall be used to conduct breath alcohol testing according to 49 C.F.R. part 40. If test results are negative, the breath alcohol technician will inform the employer and the employee and no further action is needed. If the result of the screening test is an alcohol concentration of 0.02% or greater, a confirmation test is needed. If the result of the confirmation test is 0.02% or greater, but less than 0.04%, the driver will be immediately removed from safety sensitive function and placed on unpaid leave for at least 24 hours or the next working day, whichever comes first. The driver will also be required to take required breath alcohol test prior to performing any safety sensitive function. If the result of the confirmation test is 0.04% or greater, the employee will be subject to the same consequences as testing positive for a controlled substance.

(B) *Controlled substance procedures.* The employer is required to use the “split sample” method of collection when conducting the test for controlled substances. The collection of samples for controlled substances testing shall be conducted by a qualified collection technicians following the guidelines as published in 49 C.F.R. part 40. The employee will be required to show the collection technician the contents of his or her pockets. If the employee possesses a substance that is obviously intended to adulterate or substitute a specimen, a direct observation shall be immediately conducted in accordance with federal protocols. If, at any time, the employee refuses to submit to an observed collection when it is required under any of the circumstances outlined in 49 C.F.R. part 40, it will be deemed a refusal to submit. The urine sample will be placed into two separate specimen bottles for shipment to a Department of Health and Human Services (DHHS) certified laboratory. If the screening test indicates a negative result, the employer will inform the employee and no further action is needed. If the test result of the primary specimen is positive for drugs, adulterated or substituted the MRO shall notify the employee of the verified test result. The employee will be offered the opportunity to request that the MRO direct the split specimen be tested in a different DHHS-certified laboratory to re-confirm the presence of the drug(s), adulterant or substitution for which a non-negative result was obtained. The MRO shall honor this request if it is made within 72 hours of the employee having been notified of a verified non-negative test result. The result on the split specimen will be transmitted back to the MRO. While waiting for the test result to be completed on the split specimen, the employee shall not be permitted to perform safety-sensitive functions and shall be placed on unpaid leave. If the test results of the split specimen fail to reconfirm the non-negative result of the primary specimen, the MRO will cancel the test and report the reasons as required by 49 C.F.R. part 382. A canceled test is considered neither positive nor negative. If a split sample test fails to reconfirm the non-negative test result, the employee will be paid for the time that he or she normally would have worked during the waiting process. In the certain cases of a canceled pre-employment, post-accident, return to duty or follow-up test a recollection may be necessary. If a test is canceled due to the split sample not being available for testing, the employer is required to have an immediate direct observation sample conducted. The MRO may also require a direct observation collection on canceled tests in which the employee has not provided an adequate explanation for an invalid test result. Employees who request a split sample to be tested at a

second DHHS laboratory shall bear all costs associated with the split testing unless the test fails to confirm the non-negative test result.

(C) *Shy bladder or shy breath syndrome.* If an employee has a medical condition that prevents an acceptable sample from being collected in accordance with C.F.R. part 40, the employee will be required to have a medical examination conducted by a physician acceptable to the employee and the MRO. The employee will have five business days to obtain a physicians statement verifying that a qualifying medical condition exists that would have prevented the employee from providing an acceptable sample. If the employee has failed to keep the appointment with the physician, the employee may be disciplined up to and including termination, If the employee is unable to get an appointment with a physician in the five-day period, the employee is required to notify the employer immediately of the situation. The employer will then assist the employee to find a qualified physician to conduct the examination. If, after the examination is completed and the physician has determined that the employee does not have a qualified medical condition that would prevent an acceptable urine/breath sample from being obtained, the test result will be reported as a refusal to submit.

(D) *Requirement to submit to observed or monitored urine specimen collection.*

(1) Under certain circumstances, a covered employee may be required to submit to an observed specimen collection. Some situations that will require the specimen collector to conduct an immediate direct observation collection are:

- (a) Providing a sample that is not within the acceptable temperature range;
- (b) Providing an obviously adulterated specimen; and
- (c) Conduct that clearly indicates an attempt to adulterate or substitute a specimen.

(2) In other cases, the employer has the right to request an observed collection for follow-up or return-to-duty testing. The medical review officer has the right to require a direct observation in other circumstances such as an invalid or canceled test result.

(3) The covered employee is required to submit to the observed specimen collection, when requested. Failure to permit an observed or monitored collection when requested will be deemed a refusal to submit.

(Res. 2003-01, passed 1-7-2003)

§ 33.09 CONSEQUENCES OF ENGAGING IN PROHIBITED ALCOHOL AND/OR CONTROLLED SUBSTANCES USE OR TREATMENT/FOLLOW-UP VIOLATIONS.

(A) *New probationary employees.* Probationary employees who violate any provision of this policy shall be subject to immediate discipline up to and including discharge.

(B) *Regular status employees.* Any regular status, covered employee who violates any provision of this policy shall be subject to discipline or discharge. This may include a requirement to fully comply with the employer return-to-work/last chance agreement. Such an agreement shall include the conditions under which the employee shall be allowed to continue his or her employment with the employer. It may also include a requirement for continued compliance and satisfactory completion of any treatment prescribed by the substance abuse professional including after-care programs and special requirements by the employer, or any other requirements deemed appropriate by the parties involved, including discharge if the conditions of the agreement are not met. The employer shall decide on a case-by-case basis, if the covered employee is eligible to participate in a last chance agreement; however, in most cases of violation of the policy the employee will be discharged.

(C) *Referral, evaluation and treatment.*

(1) Employees who have violated this policy may be offered a “last chance agreement”. Employees who have violated this policy are not automatically entitled to a last chance agreement. The employer will determine on a case-by-case basis depending upon the circumstances if an employee is eligible. In most cases, employees in violation of this policy will be terminated.

(2) The employee shall be evaluated by a qualified substance abuse professional (“SAP”). The employee is financially responsible for any and all costs associated with the SAP process and required follow-up drug/alcohol testing. The substance abuse professional shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use. An employee who has not been terminated or who may be eligible for a return to duty contract is responsible to have the substance abuse professional initial assessment completed within ten working days after referral from the employer.

(3) If determined necessary by the substance abuse professional, the employee must properly follow any education, treatment or rehabilitation program identified.

(4) The employee shall undergo a return-to-duty drug and/or alcohol and/or controlled substance tests following his or her return to duty. The number and frequency shall be as directed by the substance abuse professional and consist of at least six tests in the first 12 months following the employee’s return to duty. Such follow-up testing shall not exceed 60 months from the date of the employee’s return to duty. The substance abuse professional may terminate, at his or her discretion, the follow-up tests at any time the substance abuse professional’s private practice or be provided by a person or organization from which the substance abuse professional receives remuneration or has a financial interest.

(D) *Available work for employees removed from safety sensitive duties.* The employer will not provide non-safety-sensitive work for a covered employee who has violated any of the provisions of this policy. If, however, an employee has made a voluntary admission of use in accordance with this policy, if appropriate non-safety sensitive work is available, it may be offered on a case-by-case basis.

(Res. 2003-01, passed 1-7-2003)

§ 33.10 CONSEQUENCES OF ALCOHOL TEST.

(A) Any covered employee tested under the provisions of 49 C.F.R. part 382 or this policy who is found to have an alcohol concentration of 0.02% or greater, but less than 0.04%, shall not perform or continue to perform safety-sensitive functions. The employee may not return to work until the start of the employee's next regular scheduled duty period, but not less than 24 hours following administration of the test. If the result of the confirmation test is 0.04% or greater, the employee will be subject to the same consequences as testing positive for a controlled substance.

(B) The employer will not provide non-safety-sensitive work for a covered employee tested under the provisions of 49 C.F.R. part 382 or this policy who is found to have an alcohol concentration of 0.02% or greater, but less than 0.04%. Additionally, the employee may be required to pass a company required return-to-duty test, which results in an alcohol concentration of less than 0.02 before he or she begins his or her next regularly scheduled duty period.

(Res. 2003-01, passed 1-7-2003)

§ 33.11 PAYMENT OF COSTS ASSOCIATED WITH TESTING PROGRAM.

(A) *Pre-employment.* The employer will pay the costs associated with pre-employment testing. The employer will not pay the candidate's time for a pre-employment test.

(B) *Regular status and new probationary employees.* The employer will pay testing costs including paid time for random, reasonable suspicion and post-accident testing. Additional costs which result from an employee who voluntarily admits use or violates any of the provisions of this policy will be the responsibility of the employee unless those costs are covered by insurance or otherwise covered by any of the employer programs for which the employee is eligible. Such costs may include the dependency evaluation, treatment, return-to-duty testing and follow-up testing. An employee who requests to have a test performed on a split specimen following a positive drug result on the primary specimen must make the arrangements and pay for the test through the MRO. The employer will reimburse the employee for the testing cost if the test result does not re-confirm the non-negative test. Time losses incurred while seeking an evaluation or participating in treatment programs as well as the time needed to submit to follow-up testing shall be at the employee's expense and will not be compensated by the employer.

(Res. 2003-01, passed 1-7-2003)

§ 33.12 EDUCATIONAL INFORMATION ON EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES.

All covered employees will receive training and/or education materials on the effects of alcohol and controlled substances on a person's health, work and personal life; signs and symptoms of an alcohol or controlled substance problem; and available methods of intervention when an alcohol or controlled substances program is suspected.

(Res. 2003-01, passed 1-7-2003)

§ 33.13 MEDICINAL MARIJUANA.

The city, as well as the DOT, views marijuana as a Schedule 1 controlled substance and prohibits employees from having any detectable level in their systems while working for this company. Operation of a commercial motor vehicle is prohibited while using marijuana.

(Res. 2003-01, passed 1-7-2003)

§ 33.14 PRESCRIPTION MEDICATIONS AND OVER-THE-COUNTER DRUGS.

Employees are responsible to report to duty free from the effects of any controlled substance or alcohol. Covered employees must report the use of prescriptions and over-the-counter drugs that could have a disabling effect or otherwise adversely affect the covered employee's fitness for duty or job performance to their immediate supervisor. It is the covered employee's responsibility to determine from the physician, pharmacist or other health care professional whether or not the prescribed or over-the-counter drugs could affect the covered employee's fitness for duty or impair job performance or if the medication is listed on the prohibited controlled substance listing as published by the Department of Transportation. Covered employees may be required to provide a written medical authorization to work from a physician, upon reporting the use of prescription or over-the-counter drugs. Failure to report the use of prescription or over-the-counter drugs that have disabling effects or otherwise affect the covered employee's fitness for duty while at work and failure to provide proper evidence of medical authorization to work may result in discipline, up to and including suspension and/or discharge.

(Res. 2003-01, passed 1-7-2003)

§ 33.15 CERTIFICATE OF RECEIPT.

Each covered employee will be required to sign a certificate of receipt certifying that he or she has received a copy of this policy, which is the basis for implementing the requirements of the U.S. Department of Transportation Federal Motor Carrier Safety Administration rules and regulations pertaining to alcohol and controlled substances testing of covered employees.

(Res. 2003-01, passed 1-7-2003)

§ 33.16 QUESTIONS REGARDING POLICY.

Should a person have any questions regarding the information contained in this policy, he or she may contact his or her supervisor or the City Recorder.

(Res. 2003-01, passed 1-7-2003)

CHAPTER 34: ORDINANCE ENFORCEMENT

Section

- 34.01 Duties
- 34.02 Inspection and right of entry
- 34.03 Civil remedies
- 34.04 Stop order
- 34.05 Enforcement
- 34.06 Attorney fees

- 34.99 Penalty

§ 34.01 DUTIES.

Any person who is undertaking or causing construction or demolition work, including, without limitation intended, grading and excavation, to be undertaken in the city, or changing the use of any real property in the city, as an owner, tenant or contractor shall, before commencing work or changing the use, as applicable, take reasonable steps to ascertain that all approvals, permits and authorizations required under this chapter and all other city ordinances have been procured and are in full force and effect.

(Ord. 2008-02, passed 7-3-2008)

§ 34.02 INSPECTION AND RIGHT OF ENTRY.

Whenever the authorized individual (City Recorder, Public Works Supervisor or Mayor) has reasonable cause to suspect a violation of any provision of this chapter or any other city ordinance, the authorized individual or designee may enter on any site or into any structure for the purpose of investigation; provided that, no premises shall be entered without first attempting to obtain the consent of the owner or person in control of the premises if other than the owner. The City Recorder, Public Works Supervisor or Mayor may seek and secure a search warrant from the Circuit Court for the county or any other court having jurisdiction in order to gain entry.

(Ord. 2008-02, passed 7-3-2008)

§ 34.03 CIVIL REMEDIES.

In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, improved, demolished or used or land is, or is proposed to be, used in violation of this chapter or any other city ordinance, the construction, maintenance, repair, alteration, improvement, demolition and/or use of the building, structure or land thus in violation shall constitute a nuisance and the city may, in addition to other remedies that are legally available for enforcing this and any other city ordinance, including the criminal remedies specified herein, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily, preliminarily or permanently, abate or remove the nuisance.

(Ord. 2008-02, passed 7-3-2008)

§ 34.04 STOP ORDER.

The authorized individual or temporary substitute is hereby empowered to post a stop order in the form described herein on any premises on which any nuisance exists. The stop order shall describe the nuisance, state that the continuation of the nuisance is prohibited by law and that the failure to cease the nuisance may result in a fine. In the event the nuisance ceases, the stop order shall be rescinded by the city.

(Ord. 2008-02, passed 7-3-2008)

§ 34.05 ENFORCEMENT.

Before being cited, the city shall give notice of the ordinance violation by posting it on the property and allowing the individual ten days to correct the violation. If the violation is not corrected within the time allocated, the authorized individual may make a report of any violation of this or any other ordinance to the County Sheriff's office. The County Sheriff's office may issue a citation or other accusatory instrument with sufficient information and content to charge the person or persons with violation of any applicable terms and provisions of this chapter.

(Ord. 2008-02, passed 7-3-2008)

§ 34.06 ATTORNEY FEES.

If the city commences any civil action or proceeding authorized by this chapter, the prevailing party shall be entitled to recover his or her reasonable attorney fees, costs and disbursement, as determined by the court, including reasonable attorney fees, costs and disbursements on any application for a temporary restraining order, motion for preliminary injunction and any appeal or contempt proceedings and any proceedings to collect any monetary judgment.

(Ord. 2008-02, passed 7-3-2008)

§ 34.99 PENALTY.

(A) A person who violates or fails to comply with the provisions of this chapter or any other city ordinance shall, upon conviction thereof, be punished by a fine of not more than \$500. A violation of this chapter shall be considered a separate offense for each day the violation continues. For the purposes of this division (A), a **PERSON** may include each person undertaking or causing any work to be performed in violation of this chapter or other ordinance of the city. By way of example only, a person may include an owner, tenant, occupant or contractor. It is not an element of a violation that a person has knowledge that the work, change of use or other conduct prohibited by this chapter or any other city ordinance, is in violation of this chapter or any other city ordinance.

(B) (1) Any contractor, or owner of property on which a stop order has been posted, who continues or causes the continuation of a nuisance described in a stop order, after lawful posting of a stop order, knowing that a stop order has been posted, shall be punished by a fine of not more than \$500.

(2) A violation of § 34.04 of this chapter shall be considered a separate offense for each day the violation continues and shall be considered a separate and additional offense to those covered by division (B)(1) above. Issuance of a stop order shall be prima facie evidence of the nuisance described in the stop order, in any civil proceeding commenced by the city.

(Ord. 2008-02, passed 7-3-2008)

CHAPTER 35: PUBLIC CONTRACTING

Section

General Provisions

- 35.01 Policy
- 35.02 City Council as local contracting board
- 35.03 Definitions
- 35.04 Protests and appeals

Methods and Regulations

- 35.15 Application of regulations
- 35.16 Administration of public contracts
- 35.17 Model rules for public contracts
- 35.18 Construction services
- 35.19 Prescribed methods of procurement
- 35.20 Competitive sealed bids; proposals
- 35.21 Small procurement
- 35.22 Intermediate procurement
- 35.23 Sole source procurement
- 35.24 Emergency procurement
- 35.25 Class special procurement
- 35.26 Contract specific special procurement

Contracts

- 35.40 Public improvement contracts
- 35.41 Personal services contracts
- 35.42 Disposal of surplus property

Cross-reference:

Fee Schedule, see Ch. 38

Finance and Revenue; Taxation, see Ch. 37

Local Contract Review Board, see § 31.15

GENERAL PROVISIONS**§ 35.01 POLICY.**

The city does ordain that it is the policy of the city in adopting the public contracting regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and purchasing power of public funds by:

(A) Promoting impartial and open competition;

(B) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and

(C) Taking full advantage of evolving procurement methods that suit the contracting needs of the city as they emerge within various industries.

(Ord. 2010-01, passed 7-1-2010)

§ 35.02 CITY COUNCIL AS LOCAL CONTRACTING BOARD.

The City Council is designated as the Local Contract Review Board and shall have all of the rights, powers and authority necessary to carry out the provisions of ORS Ch. 279A, 279B and 279C (the "Public Contracting Code"). Except as otherwise provided in this chapter, the City Recorder, or their designated purchasing agent and department heads are designated as the city's contracting agency for purposes of contracting powers and duties assigned to the city as a contracting agency under the Public Contracting Code.

(Ord. 2010-01, passed 7-1-2010)

§ 35.03 DEFINITIONS.

All words and phrases not defined in this section shall have the meanings ascribed to them in the Public Contracting Code or the model rules adopted by the state's Attorney General thereunder ("model rules"). For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AWARD. The selection of a person to provide goods, services or public improvements under a public contract. The **AWARD** of a contract is not binding on the city until the contract is executed and delivered by the city.

BID. A binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.

CITY. The City of Joseph, Oregon.

CONCESSION AGREEMENT. A contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from real property owned or managed by the city, and under which the concessionaire makes payments to the city based, at least in part, on the concessionaire's revenues or sales. The term **CONCESSION AGREEMENT** does not include a mere rental agreement, license or lease for the uses of premises.

CONTRACT PRICE. The total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

CONTRACT REVIEW BOARD or **LOCAL CONTRACT REVIEW BOARD.** The Joseph City Council; referred to herein as City Council.

CONTRACTING AGENCY. The City Recorder, Public Works Director, Librarian or Fire Chief.

COOPERATIVE PROCUREMENT. A procurement conducted by or on behalf of one or more contracting agencies.

DEBARMENT. A declaration by the City Council under ORS 279B.130 or ORS 279C440 that prohibits a potential contractor from competing for the city's public contracts for a specified period of time.

DEPARTMENT HEAD. A head of a city department, which presently includes the Director of Public Works, head of the Department of Public Works; Recorder, head of the Department of Administration; Librarian, head of the Library Department and Fire Chief, head of the Volunteer Fire Department.

DISPOSAL. Any arrangement for the transfer of property by the city under which the city relinquishes ownership.

EMERGENCY. Circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety and require prompt execution of a contract to remedy the condition.

FINDINGS. The statements of fact that provide justification for a determination. **FINDINGS** may include, but are not limited to: information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations, value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability, performance and funding sources.

FORMAL QUOTE. Procedure pursuant to which written offers are solicited by advertising of other writing stating the quantity and quality of goods or services to be acquired, and which offers are received by the contracting agency on or before a stated date.

GOODS. Any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

INFORMAL SOLICITATION. A solicitation made in accordance with the city's public contracting regulations to a limited number of potential contractors, in which the solicitation agent attempts to obtain at least three written quotes or proposals.

INVITATION TO BID. A publicly advertised request for competitive sealed bids.

MODEL RULES. The public contracting rules adopted by the Attorney General under ORS 279A.065.

OFFEROR. A person who submits a bid, quote or proposal to enter into a public contract with the city.

OREGON PUBLIC CONTRACTING CODE. ORS Ch. 279A, 279B and 279C.

PERSON. A natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract.

PERSONAL SERVICES CONTRACT. A contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors and other licenses professionals, artists, designers, computer programmers, performers, consultants and property managers. The department head or City Council shall have discretion to determine whether additional types of services not specifically mentioned in this definition fit within the definition of "personal services".

PROPOSAL. A binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A **PROPOSAL** may be made in response to a request for proposals or under an informal solicitation.

PUBLIC CONTRACT. A sale or other disposal, or a purchase, lease, rental or other acquisition, by the city of personal property, services, including personal services, public improvements, public works, minor alterations or ordinary repair or maintenance necessary to preserve a public improvement.

PUBLIC IMPROVEMENT. A project for construction, reconstruction or major renovation on real property by or for the city. **PUBLIC IMPROVEMENT** does not include:

(1) Projects for which no funds of the city are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or

(2) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

PURCHASING MANAGER. The department head appointed by the City Council to exercise the authority of the purchasing manager under these public contracting regulations in the amount of \$15,000 or less.

QUOTE. A price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

REQUEST FOR PROPOSALS. A publicly advertised request for sealed competitive proposals.

SERVICES. All types of services (including construction labor) other than personal services.

SOLICITATION.

(1) An invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the city with respect to a proposed project, procurement or other contracting opportunity.

(2) The word **SOLICITATION** also refers to the process by which the city requests, receives and evaluates potential contractors and awards public contracts.

STANDARDS OF RESPONSIBILITY. The qualifications of eligibility for award of a public contract. An offeror meets the **STANDARDS OF RESPONSIBILITY** if the offeror has:

(1) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;

(2) A satisfactory record of performance. The department head shall document the record of performance of an offeror if the department head finds the offeror to be not responsible under this definition;

(3) A satisfactory record of integrity. The solicitation agent shall document the record of integrity of an offeror if the department head finds the offeror to be not responsible under this division;

(4) Qualified legally to contract with the city and perform the contract;

(5) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the department head concerning responsibility, the department head shall base the determination of responsibility upon any available information or may find the offeror non-responsible; and

(6) Not been debarred by the city and, in the case of public improvement contracts, has not been listed by the Construction Contractors Board as a contractor who is not qualified to hold a public improvement contract.

SURPLUS PROPERTY. Personal property owned by the city which is no longer needed for use by the department to which such property has been assigned.
(Ord. 2010-01, passed 7-1-2010)

§ 35.04 PROTESTS AND APPEALS.

(A) *Right to hearing.* Any person who has been debarred from competing for city contracts or for whom pre-qualification has been denied, revoked or revised may appeal to the City Council as provided in this section.

(B) *Filing of appeal.* The person must file a written notice of appeal with the City Administrator within three business days after the prospective contractor's receipt of notice of the determination or debarment or denial of pre-qualification.

(C) *Protests.* Any protest provided by this chapter or the state's Public Contracting Code shall be filed with the City Administrator and shall be heard and determined as provided herein.

(D) *Notification of City Council.* Immediately upon receipt of such notice of appeal or protest, the City Administrator shall notify the City Council of the appeal or protest.

(E) *Hearing.* The procedure for appeal from a debarment or denial of a pre-qualification, and the procedure for hearing and deciding a protest, shall be as follows:

(1) Promptly upon receipt of a notice of appeal or upon receipt of a protest, the city shall notify the appellant or protestor, and other interested parties, of the time and place of hearing;

(2) The City Council shall conduct the hearing and decide the appeal or protest within 30 days after receiving notice of the appeal or protest from the City Administrator; and

(3) At the hearing, the City Council shall consider de novo the protest, the debarment or denial, revocation or revision of pre-qualification, the standards of responsibility upon which the decision was based or the issue which is the subject matter of the protest.

(F) *Decision.* The City Council shall set forth in writing the reason for its decision.

(G) *Judicial review.* The decision of the City Council may be reviewed only as permitted by the state's Public Contracting Code and upon a petition in the Circuit Court of the county filed within 15 days after the date of the City Council's decision.
(Ord. 2010-01, passed 7-1-2010)

METHODS AND REGULATIONS**§ 35.15 APPLICATION OF REGULATIONS.**

In accordance with the provisions of ORS 279A.025, the city's public contracting regulations and the state's Public Contracting Code do not apply to the following classes of contracts.

(A) *Between governments.* Contracts between the city and a public body or agency of the state, its political subdivision and/or an agency of the Federal Government are exempt.

(B) *Grants.* Grant contracts are exempt. As used herein, a grant contract is a contract pursuant to which the city provides or receives funds for a particular purpose, including the construction of a public improvement.

(C) *Legal witnesses and consultants.* Contracts for professional expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters to which the city is or may become interested are exempt.

(D) *Real property.* Acquisitions or disposals of real property or interests therein are exempt.

(E) *State corrections enterprises.* Procurement for a state corrections enterprises program are exempt.

(F) *Finance.* Contracts, agreements or other documents entered into, issued or established in connection with the following are exempt:

(1) The incurring of debt by the city, including any associated contracts, obligations or other documents, regardless of whether the obligations that the contracts, agreements or other documents established are general, special or limited;

(2) The making of program loans and similar extensions or advances of funds, aid or assistance by the city to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;

(3) The investment of funds by the city as authorized by law; and/or

(4) Banking, money management or other predominantly financial transactions of the city that by their character, cannot practically be established under the competitive contractor selection procedures.

(G) *Employee benefits.* Contracts for employee benefits as provided in ORS 243.105(1), 243.125(4) 243.221, 243.275, 243.291, 243.303 and 243.565 are exempt.

(H) *Exempt under state law.* Any other public contracting or contracts specifically exempted for the state's Public Contracting Code by state law are exempt.

(I) *When federal law controls.* When federal law applied to a contracting matter, due to use of federal funds or other cause, and federal contracting procedures or requirements, imposed by federal statutes and regulations, are in conflict with the state's Public Contracting Code, the matter is exempt from said contracting code to the extent necessary to permit compliance with the requirements of federal law.

(Ord. 2010-01, passed 7-1-2010)

§ 35.16 ADMINISTRATION OF PUBLIC CONTRACTS.

(A) *Authority reserved to Council.* Except as expressly delegated under these regulations, the City Council reserves to itself the exercise of all of the duties and authority of a contract review board under state law, including, but not limited to, the power and authority to:

(1) *Solicitation methods applicable to contracts.* Authority to approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts are reserved to the City Council;

(2) *Waiver of performance and payment bonds.* Authority to approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond in connection with a contract for construction of a public improvement is reserved to the City Council;

(3) *Electronic advertisement of public improvements.* Authority to authorize the use of electronic advertisements for public contracts in lieu of publication in a newspaper of general circulation is reserved to the City Council; and

(4) *Appeals of debarment and pre-qualification decisions.* Authority to hear properly filed appeals from a decision of a city department head regarding debarment or pre-qualification is reserved to the City Council.

(B) *Responsibility for initiating solicitation.* Each department head shall be responsible for initiating solicitations or invitations to bid, with consultation and assistance of the City Attorney where appropriate and with the advice of the City Council where appropriate, for all public contracts pertaining to or related to the city department which the department head oversees. The City Council may assign responsibility for initiating a solicitation to a city officer or employee other than the department head of the department to which the solicitation pertains.

(C) *Decision on award of contract.*

(1) For all public contracts with an estimated price of \$15,000 or less, the department head shall make the decision to award the contract. Such authority of the department head is contingent upon budgeted funds being available for payment of the contract and is subject to the directions of the City Council, if any.

(2) For all public contracts with an estimated price of more than \$15,000, the City Council shall make the decision regarding award of the contract. The solicitation or invitation to bid shall state that the City Council decision regarding award of the contract will be made by the City Council.

(D) *Written contract.* For all public contracts other than a small procurement, the department head with responsibility for soliciting a public contract shall cause to be prepared, as part of the solicitation of the contract and with the advice and assistance of the City Attorney, a written contract in compliance with the requirements of the state's Public Contracting Code and which incorporates the terms of the contract. Said contract shall be executed by the city and the contractor.

(Ord. 2010-01, passed 7-1-2010)

§ 35.17 MODEL RULES FOR PUBLIC CONTRACTS.

(A) It is the city's intent to make specific changes to the model rules by adopting this chapter.

(B) The model rules adopted by the Attorney General under ORS 279A.065 (model rules) are hereby adopted as the public contracting rules for the city to the extent that the model rules do not conflict with the provisions of this chapter.

(Ord. 2010-01, passed 7-1-2010)

§ 35.18 CONSTRUCTION SERVICES.

(A) *Time lines; extensions.* The contracting agency shall issue addenda within a reasonable time to allow prospective offerors to consider the addenda in preparing their offers. The contracting agency may extend the closing if the contracting agency determines prospective offerors need additional time to review and respond to addenda. Except to the extent required by public interest, the contracting agency shall not issue addenda less than 24 hours before closing,

(B) *Request for change; delivery.* An offeror may request in writing a change to the specifications or contract terms and conditions. Unless otherwise specified in the solicitation document, an offeror must deliver the written request for change to the contracting agency not less than five days prior to closing.

(Ord. 2010-01, passed 7-1-2010)

§ 35.19 PRESCRIBED METHODS OF PROCUREMENT.

Procurement of goods and services shall be made under either competitive sealed bids pursuant to ORS 279B.055 or through competitive sealed proposals under ORS 279B.060 unless made as a small procurement (ORS 279B.065), an intermediate procurement (ORS 279B.070), a sole source procurement (ORS 279B.075), an emergency procurement (ORS 279B.080) or as either a class special procurement or a contract specific special procurement under ORS 279.085.
(Ord. 2010-01, passed 7-1-2010)

§ 35.20 COMPETITIVE SEALED BIDS; PROPOSAL.

(A) (1) *General requirements.* Procurement pursuant to competitive sealed bids shall be conducted in accordance with the state's Public Contracting Code and model rules provided however that the city adopts the following changes to the model rules, to wit, OAR 137-047-0255 shall not be applicable to competitive sealed bid procurement by the city.

(2) *City rule.* The city may include such provisions in the invitation to bid, in addition to those required by ORS 279B.055, as is appropriate to describe necessary terms, conditions and bidding procedures to prospective bidders and as necessary to otherwise comply with the requirements of law.

(3) *Notices, protests and judicial review.*

(a) *Protest of terms of solicitation.* A protest of the terms of a solicitation under ORS 279B.405 must be made not less than seven days after the initial advertisement or seven days prior to the bid opening, whichever is earliest.

(b) *Notice of intent to award.*

1. Prior to award of a contract, the city shall provide a notice of intent to award the contract which notice shall:

a. State to which bidder the city intends to award the contract and that the contract will be awarded seven days after the date of mailing of said notice, if no protest is filed;

b. State that a protest may be filed with the City Council at any time prior to the expiration of seven days after mailing of the notice; and

c. The protest will be barred if not filed within the time period.

2. The notice of intent to award shall be mailed by first class mail and either faxed or e-mailed to all bidders no later than seven days prior to the date set for award of contract.

(c) *Protests*. Protests shall be reviewed and determined by the City Council in accordance with the requirements of the state's Public Contracting Code and the model rules and in accordance with the procedures set forth in § 35.04 of this chapter.

(B) (1) *General requirements*. Procurement pursuant to competitive sealed proposals shall be conducted in accordance with the state's Public Contracting Code and model rules; provided, however, that, the city adopts the following changes to the model rules, to wit, OAR 137-047-0260 shall not be applicable to procurement by the city pursuant to competitive sealed proposals.

(2) *City rule*. The City may include such provisions in the request for proposal, in addition to those required by ORS 279B.060, as is appropriate to describe necessary terms, conditions and contract proposal procedures to prospective proposers and as necessary to otherwise comply with the requirements of law.

(3) *Notices and protest*. The procedures and time periods for:

(a) Protest of the terms of solicitation;

(b) Issuance of a notice of intent to award; and

(c) Review and determination of protests are as set forth in § 35.04 of this chapter.

(Ord. 2010-01, passed 7-1-2010)

§ 35.21 SMALL PROCUREMENT.

(A) *Provision of authority*. The procurement practices and procedures set forth in this section are authorized for department heads in making small procurement (in an amount of \$5,000 or less) pursuant to the authority granted by ORS 279B.065.

(B) *Catalogues and price lists*. Goods or services may be ordered from catalogues or other established price lists without resort to informal competitive price quotes. The department head purchasing by said method should periodically make such inquiries as to confirm the reasonableness and competitiveness of the price or prices and of the quality of the product or service.

(C) *General standard*. The department head may follow such small procurement procedures in general, whether involving informal price quotes or not, as is deemed reasonable under the circumstances and should endeavor to obtain a fair value for the city consistent with reasonable expenditures of time in making such procurement.

(D) *Basis for award*. The department head may award the contract based upon the award which is in the best interests of the city, including consideration of all applicable factors of which price is but one.

(E) *No notices.* No notices of intent to award a contract will be given by the city in connection with small procurement.

(Ord. 2010-01, passed 7-1-2010)

§ 35.22 INTERMEDIATE PROCUREMENT.

(A) *Provision of authority.* Intermediate procurement (procurement estimated at a price between \$5,000 and \$150,000), shall be conducted in accordance with the state's Public Contracting Code and model rules, subject to the modifications to the model rules set forth below.

(B) *City rules.* OAR 137-047-0270(2) is modified to require that a written solicitation be used to obtain all quotes and that the solicitation be structured to require submission of written quotes. The writings may be appropriate in extent and detail to the nature and estimated size of the procurement.

(C) *No notices.* No notices of intent to award a contract will be given by the city in connection with intermediate procurement.

(Ord. 2010-01, passed 7-1-2010)

§ 35.23 SOLE SOURCE PROCUREMENT.

Sole source procurement under the authority of ORS 279B.075 may be made only after adoption of findings as required by said section. OAR 137-047-0275, and the advertisement and time for protest contained therein, shall not apply to sole source procurement by the city. No notice of intent to award a contract will be given by the city in connection with sole source procurement.

(Ord. 2010-01, passed 7-1-2010)

§ 35.24 EMERGENCY PROCUREMENT.

Emergency procurement may be made in accordance with the requirements of ORS 279B.080. OAR 137-047-0280 shall not be applicable to city emergency procurement. No notice of intent to award a contract will be given by the city in connection with emergency procurement.

(Ord. 2010-01, passed 7-1-2010)

§ 35.25 CLASS SPECIAL PROCUREMENT.

(A) *Approved class special contracts.* The special procurement set forth in this section, and procedures therefor, are hereby approved under the authority of ORS 279B.085, based upon the contemporaneous findings of the City Council.

(B) *Award procedure.* The classes of contracts set forth in this section may be awarded in any manner which the department head deems appropriate to the city's needs, including by appointment or purchase. Contracts in excess of \$5,000 shall require the approval of the City Council. Except as otherwise provided, the department head shall make a record of the method of award.

(C) *Description of contract classes.* The following classes of contracts are approved for special procurement under the procedures provided herein:

- (1) *Advertising contracts.* Contracts for the placing of notice or advertisements in any medium;
- (2) *Amendments.* Contract amendments shall not be considered to be separate contracts if made in accordance with the public contracting regulations;
- (3) *Animals.* Contracts for the purchase of animals;
- (4) *Copyrighted materials; library materials.* Contracts for the acquisition of materials entitled to copyright, including, but not limited to, works of art and design, literature and music or materials even if not entitled to copyright, purchased for use as library materials;
- (5) *Equipment repair.* Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing;
- (6) *Government regulated items.* Contracts for the purchase of items for which prices or selection of suppliers are regulated by a government authority;
- (7) *Non-owned property.* Contracts or arrangements, in compliance with the requirements of law, for the sale or other disposal of abandoned property or other property not owned by the city;
- (8) *Sponsor agreements.* Sponsorship agreements, under which the city receives a gift or donation in exchange for recognition of the donor;
- (9) *Structures.* Contracts for the disposal of structures located on city property;
- (10) *Renewals.* Contracts that are being renewed according to their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures;
- (11) *Temporary extensions or renewals.* Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired contract, other than a contract for a public improvement;
- (12) *Used property.* A department head, for procurement less than \$5,000 and City Council, for procurement in excess of \$5,000, may contract for the purchase of used property by negotiation if such

property is suitable for the city's needs and can be purchased at a lower cost than substantially similar new property. For this purpose, the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city. A record of the findings which support the purchase will be maintained; and

(13) *Utilities*. Contracts for the purchase of steam, power, heat, water, telecommunication services (if provided under a regulated monopoly) and other utilities.

(D) *City rule*. The provisions of OAR 137-047-0285(2) regarding required public notices shall not be applicable to class special procurements.

(E) *Protests*. Any person may protest a proposed class special procurement at the public hearing before the City Council pertaining to said call special procurement. No judicial review of the approval thereof shall occur if protest is not made.

(F) *Alternative procurement procedures*.

(1) The officer administering a procurement or other transaction as a special procurement under this section (or the City Council for transactions in excess of \$5,000) shall follow alternative procurement procedures (such as, but not limited to, price quotes, price checks and negotiation):

(a) Which are appropriate to the transaction;

(b) Which assure full and adequate competition for the contract, when possible;

(c) Which are calculated to obtain reasonable and competitive prices; and

(d) Which assure that the alternate procurement procedures do not result in favoritism to a particular contractor.

(2) The specific procurement procedure shall be determined by the city officer responsible for the procurement, or by the City Council for transactions in excess of \$5,000.
(Ord. 2010-01, passed 7-1-2010)

§ 35.26 CONTRACT SPECIFIC SPECIAL PROCUREMENT.

(A) *Public hearing and findings*. Contract specific special procurement pursuant to the authority of ORS 279B.085 shall be undertaken only after:

(1) A public hearing with notice thereof advertised once at least ten days prior to the date set for public hearing in a newspaper of general circulation; and

(2) Adoption of the findings required by ORS 279B.085.

(B) *Procurement procedures.* The contract specific special procurement shall be conducted in accordance with method approved by the City Council and in accordance with the state's Public Contracting Code and model rules; provided, however, that, the city adopts the following changes to the model rules, to with, the provisions of OAR 137-047-0285(2) regarding required public notices shall not be applicable to special procurement.

(C) *Protests.* Any person may protest a proposed call special procurement at the public hearing before the City Council pertaining to said class special procurement. No judicial review of the approval thereof shall occur if protest is not made.

(D) *City rule.* The city may include such provisions in the request for proposal, in addition to those required by ORS 279B.060, as is appropriate to describe necessary terms, conditions and contract proposal procedures to prospective proposers and as necessary to otherwise comply with the requirements of law.

(E) *Notices, protests and judicial review.*

(1) *Protest of terms of solicitation.* A protest of the terms of a solicitation under ORS 279B.405, if one is made under the approved special procurement procedure, must be made not less than seven days after the initial advertisement or seven days prior to the bid opening, whichever is earliest.

(2) *Notice of intent to award.*

(a) Prior to award of a contract under the special procurement process, the city shall provide a notice of intent to award the contract which notice shall:

1. State to which contractor the city intends to award the contract and that the contract will be awarded seven days after the date of mailing of said notice, if no protest is filed;

2. State that a protest may be filed with the City Council at any time prior to the expiration of seven days after mailing of the notice; and

3. The protest will be barred if not filed within that time period.

(b) The notice of intent to award shall be mailed by first class mail and either faxed or emailed to participating or interested contractors no later than seven days prior to the date set for award of contract.

(3) *Protests.* Protests shall be reviewed and determined by the City Council in accordance with the requirements of the state's Public Contracting Code and the model rules and in accordance with the procedures set forth in § 35.04 of this chapter.

(Ord. 2010-01, passed 7-1-2010)

CONTRACTS**§ 35.40 PUBLIC IMPROVEMENT CONTRACTS.***(A) Method of solicitation and award.*

(1) All contracts for a public improvement as defined in the state's Public Contracting Code shall be awarded pursuant to a public bidding process, solicited pursuant to an invitation to bid, except for the following:

(a) *Disabled individuals.* Public improvement contracts with qualified non-profit entities providing employment opportunities to disabled individuals as defined in ORS 279C.335(1)(a);

(b) *Small purchases.* Purchased of goods or services in an amount less than \$5,000;

(c) *Intermediate contracts - competitive quotes.* Contracts not to exceed \$ 100,000, or not to exceed \$50,000 in the case of a contract for a highway, bridge or other transportation project, made under procedures for competitive quotes under §§ 132 and 133, Ch. 794, Oregon Laws of 2003;

(d) *Contracts exempted from bidding.* Contracts exempted from the competitive bidding process after public hearing and required findings under the authority of ORS 279C.335(2), (3) and (4); and

(e) *Contracts awarded by competitive proposal.* Contracts awarded under competitive proposals as authorized by ORS 279C.400 through ORS 279C.410, after exemption from public bidding under ORS 279C.335.

(2) *Applicable requirements.* Contracts for public improvements shall be solicited and awarded in conformance with the state's Code of Public Contracting and the model rules, except to the extent such rules have been modified herein.

(B) Contracts awarded by competitive quotes.

(1) *Provision of authority.* Public improvement contracts in an estimated amount of less than \$100,000 or \$50,000 in the case of a contract for a bridge, highway or other transportation project, may be awarded by competitive quotes under the procedures set forth in §§ 132 and 133, Ch. 794, and the provisions of the model rules, as modified herein.

(2) *City rules.* The following rules are adopted to supplement the provisions of the above statutes regarding award of contracts by competitive quotes.

(a) *Model rules.* The provisions of OAR 137-049-0160(2), (3), (4) and (5) are not applicable to the award of public improvement contracts under this section.

(b) *Procedures for solicitation of quotes.* Quotes for contracts estimated to be under \$10,000 may be solicited orally and quotes may be provided orally. In such cases, however, the department head shall create a written record of the source and amount of the quotes received. In all other cases, the solicitation shall be in writing and be appropriate in detail and extent to the project involved. The solicitation shall include the specifications, contract terms and advice of the various contract provisions required under the state's Public Contracting Code. Solicitations shall require that competitive quotes be submitted in writing for all contracts which are estimated to exceed \$10,000 in amount. Written solicitations for quotes may be circulated or be made known to qualified contractors under any procedure deemed appropriate by the department head.

(c) *Number of quotes.* The department head shall endeavor to obtain at least three competitive quotes. If a written solicitation is made and less than three quotes are received, the department head shall make informal efforts to obtain an additional quote or quotes. In the event that less than three competitive quotes are received, the department head may nevertheless award a contract, but shall maintain a record of the efforts made to obtain quotes.

(d) *Award of contract.* The contract may be awarded based upon the criteria set forth in § 133, Ch. 794, Laws of 2003, and the department head shall make a written record of the basis of the award if the contract is awarded to the contractor who does not submit the lowest contract quote. The department head may include a description of the selection criteria in the solicitation, but is not required to do so.

(e) *Execution of contract.* After award, the city and the contractor shall execute a written contract, and any additional required certifications or documents, which shall incorporate the terms of the agreement and be sufficient to comply with the requirements of the state's Public Contracting Code.

(C) *Abrogation of certain model contract rules.* OAR 137-49-0200(1)(b)(C) of the model rules (OAR 137-49-0200(1)(b)(C)) relating to evaluation factors, is hereby abrogated as respects city transactions.
(Ord. 2010-01, passed 7-1-2010)

§ 35.41 PERSONAL SERVICES CONTRACTS.

(A) *General method of selection.* Personal service contracts shall be awarded pursuant to a competitive proposal process. The city shall seek proposals through a request for proposals which shall state the services requested and the information, such as training, qualifications and experience, to be submitted. The request for proposals may require that a proposer submit price quotes, hourly fee rates, contract maximums and other information relative to fees and cost of the personal service. The request for proposals may be circulated and/or advertised under procedures deemed reasonable by the department head or City Council.

(B) *Selection of contractor.* The personal services contract may be awarded to the contractor or consultant whose selection is in the best interests of the city, after consideration of all relevant factors, including the relative trust in the capabilities and qualifications of the contractor and the relative cost to the city. The city is not required to select a contractor who submitted the lowest price quote.

(C) *Architects, engineers, land surveyors and related services.*

(1) Contracts for architects, engineers, land surveyors and for related services (as defined in the state's Public Contracting Code) in connection with a project for a public improvement shall be awarded as provided in divisions (A) and (B) above, unless the project to which the services pertain is included in the definition set forth in ORS 279C.110(2)(1) (project cost in excess of \$400,000 and state grants or loans exceeding 35% of project cost).

(2) In the event such services are in conjunction with a project that meets the above statutory definition, selection and award of such contract shall be in accordance with the selection process set forth in ORS 279C.110 and the accompanying model rules. The contract price shall comply with the requirements of OAR 137-048-0300.

(D) *Ongoing personal services.* The selection process set forth herein is only required at the time of initial selection of the contractor. A contractor may be selected to provide ongoing professional or other personal services on ongoing hourly or other fee basis. Existing contractors providing such professional services may be continued or the terms of provision of such service renegotiated without the necessity of utilizing the selection process set forth in this section. At any time, however, the city may elect to initiate a request for proposals with respect to the provision of such services.

(Ord. 2010-01, passed 7-1-2010)

§ 35.42 DISPOSAL OF SURPLUS PROPERTY.

(A) *General methods.* Surplus property may be disposed of by any of the methods set forth below upon a determination by the department head that the method of disposal is in the best interest of the city. Factors that may be considered by the department head include the costs of sale, administrative costs, and public benefits to the city. The department head shall maintain a record of the manner of disposal, including the name of the person to whom the surplus property was transferred. The following methods are approved:

(1) *Governments.* Without competition, by transfer to another city department or to another public agency or entity;

(2) *Auction.* By publicly advertised auction to the highest bidder;

(3) *Bids.* By public advertised invitation to bid;

(4) *Liquidation sale.* By liquidation sale using a commercially recognized third-party liquidator in accordance with rules for award of personal service contracts;

(5) *Fixed price sale.* The department head may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, with sale being pursuant to a scheduled sale with sale being to the first buyer to meet the sale terms;

(6) *Trade-in.* By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded; and

(7) *Donation.* By donation to any organization operating within or providing a service to residents of the city which is recognized by the Internal Revenue Service as an organization described in I.R.C. § 501(c)(3), as amended.

(B) *Disposal of property with minimal value.* Surplus property which has a value of less than \$500 or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost effective, including by disposal as waste. The official making the disposal shall make record of the estimated value of the item and the manner of disposal.

(C) *Restrictions on sale to city employees.* Employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of sale is publicly advertised.

(D) *Conveyance to purchaser.* Upon consummation of a sale of surplus personal property, the city shall make, execute and deliver a bill of sale or appropriate sale invoice on behalf of the city, conveying said property to the purchaser and shall deliver possession or the right to possession to the purchaser. (Ord. 2010-01, passed 7-1-2010)

CHAPTER 36: ADMINISTRATIVE POLICIES

Section

Identity Theft Prevention

- 36.01 Program adoption
- 36.02 Purpose and definitions
- 36.03 Red flags; identification
- 36.04 Detecting red flags
- 36.05 Preventing and mitigating identity theft
- 36.06 Program updates
- 36.07 Program administration

IDENTITY THEFT PREVENTION

§ 36.01 PROGRAM ADOPTION.

The city developed this identity theft prevention program (“program”) pursuant to the Federal Trade Commission’s Red Flags Rule (“Rule”), (16 C.F.R. part 681), which implements § 114 of the Fair and Accurate Credit Transactions (FACT) Act of 2003 and ORS 646A.622, the state’s Consumer Identity Theft Protection Act, (OCITPA). This program was developed with oversight by the City Recorder and approval of the City Council. After consideration of the size and complexity of the utility’s operations and account systems, and the nature and scope of the utility’s activities, the City Council has determined that this program was appropriate for the city and, therefore, approved this program on 5-7-2009. (Res. 2009-03, passed 5-7-2009)

§ 36.02 PURPOSE AND DEFINITIONS.

(A) *Fulfilling requirements of the red flags rule.* Under the Red Flag Rule, every financial institution and creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant red flags for new and existing covered accounts and incorporate those red flags into the program;

(2) Detect red flags that have been incorporated into the program;

(3) Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and

(4) Ensure the program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from identity theft.

(B) *Red flags rule definitions used in this program.*

(1) The Red Flags Rule defines “identity theft” as “fraud committed using the identifying information of another person” and a “red flag” as “a pattern, practice or specific activity that indicates the possible existence of identity theft.

(2) According to the rule, a municipal utility is a creditor subject to the rule requirements. The rule defines creditors “to include finance companies, automobile dealers, mortgage brokers, utility companies and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors.”

(3) All the utility’s accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the rule. Under the rule, a “covered account” is:

(a) Any account the utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and

(b) Any other account the utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the utility from identity theft.

(4) “Identifying information” is defined under the rule as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including: name, address, telephone number, Social Security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer’s Internet protocol address or routing code”.

(Res. 2009-03, passed 5-7-2009)

§ 36.03 RED FLAGS; IDENTIFICATION.

(A) In order to identify relevant red flags, the utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts and its previous experiences with identity theft.

(B) The utility identifies the following red flags, in each of the listed categories:

(1) *Notifications and warnings from credit reporting agencies, when used red flags.*

- (a) Report of fraud accompanying a credit report;
- (b) Notice or report from a credit agency of a credit freeze on a customer or applicant;
- (c) Notice or report from a credit agency of an active duty alert for an applicant; and
- (d) Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

(2) *Suspicious documents red flags.*

- (a) Identification document or card that appears to be forged, altered or inauthentic;
- (b) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
- (c) Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
- (d) Application for service that appears to have been altered or forged.

(3) *Suspicious personal identifying information red flags.*

- (a) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
- (b) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
- (c) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- (d) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- (e) Social Security number presented that is the same as on given by another customer;
- (f) An address or phone number presented that is the same as that of another person;

(g) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law, Social Security numbers must not be required); and

(h) A person's identifying information is not consistent with the information that is on file for the customer.

(4) *Suspicious account activity or unusual use of account red flags.*

(a) Change of address for an account followed by a request to change the account holder's name;

(b) Payments stop on an otherwise consistently up-to-date account;

(c) Account used in a way that is not consistent with prior use (example: very high activity);

(d) Mail sent to the account holder is repeatedly returned as undeliverable;

(e) Notice to the utility that a customer is not receiving mail sent by the utility;

(f) Notice to the utility that an account has unauthorized activity;

(g) Breach in the utility's computer system security; and

(h) Unauthorized access to or use of customer account information.

(5) *Alerts from others red flags.* Notice to the utility from a customer, identity theft victim, law enforcement or other person that is has opened or is maintaining a fraudulent account for a person engaged in identity theft.

(Res. 2009-03, passed 5-7-2009)

§ 36.04 DETECTING RED FLAGS.

(A) *New accounts.* In order to detect any of the red flags identified above associated with the opening of a new account, utility personnel will take the following steps to obtain and verify the identity of the person opening the account. Detect:

(1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;

(2) Review documentation showing the existence of a business entity; and/or

(3) Independently contact the customer.

(B) *Existing accounts.* In order to detect any of the red flags identified above for an existing account, utility personnel will take the following steps to extent possible to monitor transactions with an account. Detect:

(1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);

(2) Verify the validity of requests to change billing addresses; and

(3) Verify changes in banking information given for payment purposes.
(Res. 2009-03, passed 5-7-2009)

§ 36.05 PREVENTING AND MITIGATING IDENTITY THEFT.

In the event utility personnel detect red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag:

(A) *Prevent and mitigate.*

(1) Continue to monitor an account for evidence of identity theft;

(2) Contact the customer;

(3) Not open a new account;

(4) Close an existing account;

(5) Reopen an account with a new number;

(6) Notify the Program Administrator for determination of the appropriate step(s) to take;

(7) Notify law enforcement; or

(8) Determine that no response is warranted under the particular circumstances.

(B) *Protect customer identifying information.* In order to further prevent the likelihood of identity theft occurring with respect to utility accounts, the utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

(1) Ensure complete and secure destruction of paper documents and computer files containing customer information;

- (2) Ensure that office computers are password protected;
- (3) Keep papers containing customer information secure;
- (4) Ensure computer virus protection is up to date;
- (5) Require and keep only the kinds of customer information that are necessary for utility purposes; and
- (6) Ensure that its website is secure or provide clear notice that the website is not secure;
(Res. 2009-03, passed 5-7-2009)

§ 36.06 PROGRAM UPDATES.

The City Recorder will review and update the program at least once a year to reflect changes in risks to customers and the soundness of the utility from identity theft. In doing so, the City Recorder will consider the utility's experiences with identity theft situations, changes in identity theft methods, changes in identity theft detection and prevention methods, and changes in the utility's business arrangements with other entities. After considering these factors, the City Recorder will determine whether changes to the program, including the listing of red flags, are warranted. If warranted, the City Recorder will update the program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the program. (Res. 2009-03, passed 5-7-2009)

§ 36.07 PROGRAM ADMINISTRATION.

(A) *Oversight.* Responsibility for developing, implementing and updating this program lies with an Identity Theft Committee for the utility. The Committee is headed by the City Recorder or his or her appointee. Two or more other individuals appointed by the Mayor for the city comprise the remainder of the Committee membership. One of the members should have detailed technical knowledge of the utility's computer information systems. The City Recorder will be responsible for the program administration, for ensuring appropriate training of utility staff on the program, for reviewing any staff reports regarding the detection of red flags and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the program.

(B) *Staff training and reports.* Utility staff responsible for implementing the program shall be trained either by or under the direction of the City Recorder in the detection of red flags, and the responsive steps to be taken when a red flag is detected utility staff will provide reports to the Program Administrator on incidents of identity theft.

(C) *Service provider arrangements.* In the event the utility engages a service provider to perform an activity in connection with one or more accounts, the utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent and mitigate the risk of identity theft:

(1) Require, by contract, that service providers have such policies and procedures in place; and

(2) Require, by contract, that service providers review the utility's program and report any red flags to the City Recorder.

(D) *Non-disclosure of specific practices.*

(1) For the effectiveness of this identity theft prevention program, knowledge about specific red flag identification, detection, mitigation and prevention practices must be limited to the Identity Theft Committee who developed this program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "security information" (as defined in division (D)(2) below) and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the utility's identity theft prevention efforts in order to facilitate the commission of identity theft.

(2) **SECURITY INFORMATION** is defined as government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass or physical injury. (Res. 2009-03, passed 5-7-2009)

CHAPTER 37: FINANCE AND REVENUE; TAXATION

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GENERAL PROVISIONS

§ 37.01 BANK SERVICES AND PRODUCTS.

The City Council directs administrator staff to use the following bank services as described herein:

- (A) Remote deposit capture;
- (B) Merchant services;
- (C) Online banking; and
- (D) Cash management.

(Res. 2017-24, passed 12-7-2017)

§ 37.02 COST RECOVERY; CREDIT CARD TRANSACTION FEE.

(A) The city will add a 3% transaction fee to all debit/credit card transactions that will be collected and put in the General Fund.

(B) The City Council approves the Utility Clerk to apply the above process and fees.
(Res. 2019-14, passed 8-1-2019)

§ 37.03 NON-SUFFICIENT FUND TRANSACTION FOR UTILITY BILLS.

(A) The city will charge the account a fee of \$35 that will be collected and put in the General Fund.

(B) The City Council approves the Utility Clerk to apply the above process and fees.
(Res. 2019-15, passed 7-11-2019)

§ 37.04 TELECOMMUNICATION PRIVILEGE TAX.

Pursuant to the provisions of ORS 221.515, the city hereby enacts a privilege tax on telecommunications utilities operating within the city, in an amount equaling 4.05% of the gross revenues of the telecommunications utility currently earned within the boundaries of the municipality. This privilege tax is imposed for the use of public streets, alleys and highways, and shall be paid in lieu of the franchise fee currently collected.

(Ord. 90-2, passed 6-5-1990)

CLAIMS PROCESSING**§ 37.15 PURPOSE.**

This subchapter is intended to implement the provisions added to ORS Ch. 197 by Ballot Measure 37 (adopted by the electorate 11-2-2004) (“Measure 37”). 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; gives property owners who would be affected by a waiver of land use regulations an adequate and fair opportunity to be heard; preserves and protects limited public funds; and establishes a record of the city’s decision capable of circuit court review.

(Ord. 2004-09, passed 12-14-2004)

§ 37.16 DEFINITIONS.

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

ACCEPTED FOR FILING. The City Recorder determines that a claimant has submitted all of the documents and information required of a claimant under this subchapter, except any which the city has decided to waive or defer in accordance with this subchapter.

CITY RECORDER. The City Recorder of the City of Joseph, or his or her designee.

CLAIM. A claim filed under Ballot Measure 37.

EXEMPT LAND USE REGULATION. A land use regulation that:

(1) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;

(2) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, pollution control regulations; heavy industrial uses, and any other use with a deleterious effect on public health or safety, which may include without limitation intended, deleterious effects arising out of crime, traffic, noise, odor or vibration generated by a use;

(3) Is required in order to comply with federal law;

(4) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or

(5) Was enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the real 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 real 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 real property.

LAND USE REGULATION. Includes:

(1) Any statute regulating the use of land or any interest therein;

(2) Administrative rules and goals of the Land Conservation and Development Commission;

(3) Local government comprehensive plans, zoning ordinances, land division ordinances and transportation ordinances; and

(4) Statutes and administrative rules regulating farming and forest practices.

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

REAL PROPERTY. Real property located within the municipal limits of the city, which is the subject of a claim.

VALID CLAIM. A claim submitted by an owner of real property that is subject to a land use regulation adopted or enforced by the city which:

(1) Is not an exempt land use regulation; and

(2) That restricts the use of the private real property in a manner that reduces the fair market value of the real property.

(Ord. 2004-09, passed 12-14-2004)

§ 37.17 CLAIM FILING PROCEDURES.

(A) (1) A person seeking to file a claim under this subchapter must be the present owner of the real property that is the subject of the claim at the time the claim is submitted.

(2) The claim shall be filed with the City Recorder's office.

(B) A claim shall include:

(1) A completed claim form in the form adopted by resolution of the City Council from time-to-time, duly sworn to or affirmed under penalty of perjury by each claimant; and to the extent not included therein or attached thereto;

(2) (a) The name(s), address(es) and telephone number(s) of all owners, of the real property and any interest in the real property, including lien holders, trustees, renters, tenants, lessees;

(b) A description of the interest of each owner;

(c) The date each owner acquired their interest in the real property; and

(d) The date the first family member of each owner acquired their interest in the real property and a description of the interest of each such family member.

(3) The address, tax lot and legal description of the real property.

(4) (a) A title report issued by a title insurer no more than 30 days prior to the submission of the claim to the City Recorder, that reflects the ownership and other recorded interests in the real property;

(b) Recorded documentation (such as a copy of a recorded deed) and any unrecorded documentation (such as any unrecorded lease) reflecting when the owner acquired the ownership of the owners recorded or unrecorded interests in the real property by the owner; and

(c) Any recorded documentation (such as a copy of a recorded deed) and any unrecorded documentation (such as any unrecorded lease) reflecting when the date the first family member of each owner acquired their interest in the property.

(5) The citation and text of the land use regulations that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the real property; with the specific portion of the land use regulation which allegedly has such effect legibly underscored with black ink;

(6) The amount of the claim, based on the alleged reduction in value of the real property supported by a current appraisal addressed to the owner and the city - an appraiser licensed by the Appraiser Certification and Licensure Board of the state, with substantial experience appraising real property similar in classification (such as residential, commercial or agricultural) to the real property; and

(7) Copies of all encumbrances affecting the real property, including, without limitation intended and by way of example only, all leases, easements, declarations, reservations, covenants, conditions and restrictions.

(C) A fee in an amount established by resolution of the City Council to cover the costs and expenses reasonably anticipated to be incurred by the city in the consideration of a claim, including mailing and publication of a notice of a public hearing on the claim by the City Council.

(D) Notwithstanding a claimant's failure to provide all of the documents and information required by division (B) above, for good cause shown by the claimant, the city may, but shall not be obligated to, review and act on a claim provided and then only to the extent, the information and documents submitted to the city demonstrate a claimant has a clear right to relief under this subchapter and Measure 37.

(Ord. 2004-09, passed 12-14-2004)

§ 37.18 CITY RECORDER EVALUATION.

(A) The City Recorder shall review all documents and information received from a claimant, and may request that the claimant provide additional documents and information reasonably required for the City Recorder to make a preliminary evaluation of the claim even if the documents and information are not specifically required by this subchapter.

(B) Within 30 days after receipt of a claim, the City Recorder shall mail the claimant notice indicating either:

(1) The claim is accepted for filing; or

(2) The claim is not accepted for filing and setting out in general terms the missing documents and information required by this subchapter.

(C) Within 60 days after the date a claim is accepted for filing, the City Recorder shall forward all documents and information received from a claimant, together with a summary of the results of the City Recorder's evaluation, to the Council for their determination as to whether the claim is:

(1) Denied;

(2) In need of further investigation;

(3) Declared valid, and waive or modify the land use regulation, or compensate the claimant based on the appraisal received or after a further public hearing solely on the question of the amount of compensation; or

(4) Evaluated with the expectation of the city acquiring the real property or interest in the real property by condemnation.

(Ord. 2004-09, passed 12-14-2004)

§ 37.19 CITY COUNCIL PUBLIC HEARING.

(A) The City Council shall conduct a public hearing before taking final action on each claim.

(B) At least ten business days' notice of the public hearing shall be provided by:

(1) First class mail at the last address actually known by the City Recorder, to the claimant, to owners and occupants of property within 250 feet of the perimeter of the real property, and neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the real property; and

(2) Publication on one occasion in one newspaper of general circulation in the county which is distributed in the city.

(Ord. 2004-09, passed 12-14-2004)

§ 37.20 CITY COUNCIL ACTION ON CLAIM.

Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was accepted for filing, the City Council shall:

(A) Determine that the claim does not meet the requirements of Measure 37 and this subchapter, and deny the claim, adopting findings that supports such determination; or

(B) (1) Determine that the claim does meet the requirements of Measure 37 and this subchapter, uphold the claim, adopt findings that support such determination; and

(2) Either:

(a) Direct that the claimant be compensated in an amount set forth in the determination of the City Council for the reduction in value of the real property or interest therein; and/or

(b) Remove, modify or direct that the challenged land use regulation not be applied in whole or in part to the real property or interest therein.

(Ord. 2004-09, passed 12-14-2004)

§ 37.21 PROCESSING FEE.

The City Recorder shall maintain a record of the city's costs in processing a claim, including the costs of obtaining information required by § 37.17 of this chapter, which a claimant does not provide to the city, which record may be used by the city to revise its schedule of fees required of a claimant under this subchapter.

(Ord. 2004-09, passed 12-14-2004)

§ 37.22 EFFECTIVE DATE; LIMITATION.

(A) Due to the passage of Measure 37 at the general election on 11-2-2004 with an effective date 30 days thereafter, the City Council declares it is necessary for the preservation of the public health, welfare and safety for this subchapter to have immediate effect. Therefore, this subchapter shall become effective immediately upon its passage by the City Council.

(B) No claim which is time barred by Measure 37 shall be entitled to consideration or payment under this subchapter.

(Ord. 2004-09, passed 12-14-2004)

§ 37.23 AMENDMENTS.

If Measure 37 is modified or repealed by action of the legislature or electorate, then to the extent the provisions of this subchapter are inconsistent, the provisions of this subchapter shall be deemed to be modified accordingly.

(Ord. 2004-09, passed 12-14-2004)

§ 37.24 JUDICIAL REVIEW.

Final decisions by the city under this subchapter are subject to judicial review in the Circuit Court for the county.

(Ord. 2004-09, passed 12-14-2004)

TRANSIENT RENTAL RECEIPTS**§ 37.35 TITLE.**

The title of this subchapter shall be the “City of Joseph Transient Lodging Tax Ordinance”.
(Ord. 2003-01, passed 2-4-2003)

§ 37.36 ADOPTION OF PORTIONS OF COUNTY ORDINANCE.

It is the intent of the city to impose a tax upon all motel, hotel, bed and breakfast, and recreational vehicle park and all other transient lodging rents collected for transient lodging within the city. Except as modified in this subchapter, the city hereby adopts §§ 3, 6,7 and 8 of County Ord. 94-005, as approved by the electors of the county on 5-17-1994 and without regard to any subsequent amendments, modifications or repeal (“county ordinance”), by reference with the same force and effect as if fully set forth within this subchapter. A copy of the county ordinance is attached as exhibit “1” to the ordinance codified herein.

(Ord. 2003-01, passed 2-4-2003)

§ 37.37 DEFINITIONS.

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

CURRENT COUNTY ORDINANCE. The County Ordinance, as amended, modified or superseded from time-to-time by any ordinance of similar import or application.

PROPRIETOR. As the term is employed in the county ordinance, shall mean the person(s) and/or entity(ies) which own, lease, operate, manage or control transient lodging, but does not include transients. There may be multiple ***PROPRIETORS*** of each transient lodging facility.

RENT. As the term is employed in the county ordinance shall have the same meaning as “transient lodging rents” below.

TRANSIENT. Any individual, entity or other person, who expressly or impliedly agrees to pay or provide transient lodging rents for the use or occupancy of transient lodging for a term of less than 30 consecutive days or portions thereof. In the absence of a binding written agreement for use or occupancy of transient lodging for a term of 30 days or more, any individual, entity or other person who expressly or impliedly agrees to pay or provide transient lodging rents more frequently than once each month, shall be deemed to be a ***TRANSIENT***.

TRANSIENT LODGING. Any motel or recreational vehicle (RV park) as those terms are defined in the county ordinance.

TRANSIENT LODGING RENTS. All consideration of every nature, which accrues (without regard to collection) in exchange and/or in payment for transient lodging; excluding, however, any funds specifically earmarked from the inception of a transaction, to pay taxes (except income taxes) imposed by any governmental authority on such consideration and which are actually paid over to a governmental authority in payment of such taxes.

(Ord. 2003-01, passed 2-4-2003)

§ 37.38 REGISTRATION.

(A) Not later than the deadline, at least one operator of each situs of transient lodging shall register with the city, by filing with the City Recorder a registration form promulgated by the City Recorder (“registration”).

(B) **DEADLINE** shall mean the later of the following dates:

- (1) The date the operator became an operator; or
- (2) March 1, 2003.

(C) The city shall be entitled to treat each operator who files a registration as an operator of the applicable transient lodging, unless and until a replacement registration is filed by another operator for the same transient lodging, and to give all notices and other communications intended for the operators of the applicable transient lodging, addressed to the address set forth in the then current registration for the applicable transient lodging.

(Ord. 2003-01, passed 2-4-2003)

§ 37.39 IMPOSITION OF TAX.

For the privilege of use or occupancy of transient lodging on or after the effective date of this subchapter, each transient shall pay to the operator of the applicable transient lodging, a tax equal to 3% of the transient lodging rents (“tax”) for the applicable transient lodging. The tax constitutes a debt owned by the transient to the city which is extinguished only by payment to the operator.

(Ord. 2003-01, passed 2-4-2003)

§ 37.40 PAYMENT AND RECORD KEEPING.

Each transient shall pay the tax to the operator of the transient lodging at the time the transient lodging rent is paid. Each operator shall collect the tax from each transient at the time the transient

lodging rent is provided or paid. The operator shall enter the tax in the operator's records when the operator grants the transient use or occupancy of the transient lodging.

(Ord. 2003-01, passed 2-4-2003)

§ 37.41 AUDITS.

(A) All required operator records shall be produced upon request of the city or its authorized representatives for inspection, copying and audit, upon 15 days' prior notice. If any inspection or audit reveals that an operator paid less tax to the city than required by this subchapter, the deficiency shall be paid to the city within ten days after demand, together with interest at the rate of 24% per year ("default interest rate") from the date payment was due until the date payment is collected.

(B) If any operator fails or refuses to timely provide the city or its authorized representative with the required operator records which the operator is required to maintain and preserve by this subchapter, then the City Recorder shall have the right to:

(1) Issue subpoenas for:

(a) The production of the required operator records together with all other relevant books and records (in any and every form); and

(b) Any appropriate witnesses.

(2) Issue a deficiency determination (as defined below).

(Ord. 2003-01, passed 2-4-2003)

§ 37.42 TRUST FUND.

(A) All tax payments made or provided by transients are the sole and exclusive property of the city.

(B) Each operator shall collect and hold all tax payments collected by or on behalf of the operator as a trust fund for the sole and exclusive benefit of the city and shall not use any tax payment for any purpose except to pay over to the city the tax collected as required by this subchapter.

(Ord. 2003-01, passed 2-4-2003)

§ 37.43 DUE DATE.

The tax required to be collected by each operator shall be paid over to the City Recorder quarterly, in accordance with the following schedule:

(A) The tax which accrued during the first quarter of each year is due on April 30 of each year;

(B) The tax which accrued during the second quarter of each year is due on July 31 of each year;

(C) The tax which accrued during the third quarter of each year is due on October 31 of each year;
and

(D) The tax which accrued during the fourth quarter of each year is due on the immediately succeeding January 31 (collectively "due dates").

(Ord. 2003-01, passed 2-4-2003)

§ 37.44 QUARTERLY RETURNS.

(A) *Filing return and paying tax.*

(1) With each payment of tax, each operator shall file with the City Recorder a quarterly tax return ("city return") for each quarter on or before the due date.

(2) The city returns shall be signed by the operator or its authorized representative under penalty of perjury for false statements, and in the form adopted from time-to-time by the City Recorder.

(3) A copy of the signed quarterly return filed or being filed with the county under the current county ordinance for the same quarter shall be filed with the city return.

(B) *Effect of postmark; date of filing/payment.* If a city return and payment of tax are remitted to the City Recorder by first class U.S. mail, postage prepaid, property addressed to the City Recorder; then the official U.S. Postal Service postmark (if any) shall be considered the date the city return was filed and the date the taxes were paid; provided, any check or other form payment is collected in the ordinary course and both the city return and the taxes are actually received by the City Recorder. In all other circumstances, the business day the City Recorder actually receives a city return or payment of taxes, shall be the date they are respectively filed and paid over to the city; provided, any check or other form of payment is collected in the ordinary course.

(C) *Extensions for good cause.*

(1) For good cause shown by an operator, the City Recorder may extend the due date for a city return or payment of tax, for a period not to exceed one month.

(2) No further extension of the due date shall be granted, except by resolution adopted by the City Council.

(3) If one or more extensions are granted pursuant to this section, then interest shall accrue on the unpaid tax from the regular quarterly due date until the date the extension expires at the rate of 12% per year and the due date shall be deemed to be modified to be the date the extension expires.
(Ord. 2003-01, passed 2-4-2003)

§ 37.45 OPERATOR COLLECTION FEES.

Each operator who fully and timely complies with all applicable provisions of this subchapter and particularly the provisions relating to filing city returns and paying over to the City Recorder all taxes due on or before due dates, shall be permitted to deduct, as a personal collection expense, 5% of the taxes which would otherwise be payable over to the city, but solely for the period during which the operator fully and timely complied with all applicable provisions of this subchapter (“collection fee”).
(Ord. 2003-01, passed 2-4-2003)

§ 37.46 PENALTIES AND INTEREST.

(A) *Interest on past due tax.* Any tax not paid over to the city on or before the due date shall earn and be payable with interest at the default interest rate from the date the tax was due until the date the tax is paid over to the city.

(B) *Compounding interest.* If neither a city return is filed nor the tax due for a quarter is paid on or before the applicable due date, then the interest which accrues each month at the default rate shall at the end of the applicable month be deemed to be tax for the purposes of calculating the interest required to be paid by this subchapter (“compound default interest”).

(C) *Fraud/misappropriation penalty.* If the City Recorder determines that any operator misappropriated tax paid by transients (including by way of example only, commingled tax with the operator’s funds, or applied tax for any purpose except payment of tax over to the city and retention of any collection fee the operator was entitled to); or any operator engaged in any fraud in connection with the required operator records or the city returns (including without limitation intended, knowingly kept incomplete, misleading or false required operator records, or knowingly submitted any incomplete, misleading or false city return); then, in either of the foregoing circumstances, the city shall be entitled to payment from the applicable operator of a penalty within 30 days after the city gives the operator notice of the penalty due, in the amount of 25% of the amount of the tax due for the quarter(s) for which the misappropriation or fraud was committed, which penalty shall be in addition to and not in lieu of the default interest and any compound default interest due (“fraud penalty”).

(D) *Petition for waiver.* Any operator who is liable for payment of default interest or compound default interest may, upon the filing of all required city returns and payment of all tax, default interest and compound interest determined by the city to be done, petition the City Recorder for waiver and

refund of the default interest or compound interest, and the City Recorder may, if good cause is shown, waive and direct a refund of the default interest or compound default interest or any portions thereof. (Ord. 2003-01, passed 2-4-2003)

§ 37.47 DEFICIENCY DETERMINATIONS.

(A) If the City Recorder determines that any operator failed or refused to collect the tax or to pay the tax over to the city on or before the applicable due date, or failed to file a complete and accurate city return on or before the applicable due date, or failed to maintain complete and accurate required operator records for the period required by this subchapter, or otherwise violates any provision of this subchapter, the City Recorder may proceed in such manner as the City Recorder may deem best to obtain facts and information on which to base a reasonable estimate or make a determination of any tax due (“deficiency determination”), the City Recorder may compute and determine the amount of tax required to be paid upon the basis of the facts contained in the city return or city returns or upon the basis of any reasonable information within the City Recorder’s possession.

(B) One or more deficiency determinations may be made of the amount due for one or more than one quarter.

(1) In making a deficiency determination, the City Recorder may offset overpayment, if any, which may have been previously made for a quarter or quarters against any underpayment for a subsequent quarter or quarters or against any fraud penalty, default interest or compound default interest on the underpayment.

(2) The City Recorder shall give to each operator who submitted an incorrect city return, notice of the City Recorder’s deficiency determination.

(3) The City Recorder shall give to each operator who submitted an incorrect city return, notice of the City Recorder’s deficiency determination.

(4) Any amount owned by an operator as determined by a deficiency determination shall be due and payable immediately upon the date the City Recorder gives the operator notice of the deficiency determination, but earn default interest or compound default interest accruing as of the original due date of the tax.

(Ord. 2003-01, passed 2-4-2003)

§ 37.48 PREDETERMINATION.

(A) Any operator who is the subject of a deficiency determination may petition for a predetermination of the deficiency determination (“predetermination”) by filing his, her or its petition with the City Recorder within the appeal period (as defined below), the petition for predetermination,

must specify the grounds on which the deficiency determination is being challenged, and if those grounds include any error of law, the petition must cite the specific legal authority for the grounds raised.

(B) If a petition for predetermination is filed during the appeal period, the City Recorder shall reconsider the deficiency determination, and if the operator who petitioned for the redetermination has so requested in the operator's petition, shall grant the operator a hearing after giving the operator at least ten days prior notice of the time and place of the hearing. The City Recorder may continue the hearing from time to time as may be necessary or appropriate.

(Ord. 2003-01, passed 2-4-2003)

§ 37.49 LIEN.

The amount of any tax not paid over to the City Recorder on or before the applicable due date, together with the default interest, compound default interest and fraud penalties accruing and/or imposed under this subchapter, all costs and expenses, including reasonable attorneys' fees and recording charges, which may be incurred by the city in the city's efforts to conduct any audit or inspection or to copy required operator records (including the fees of any certified public accountant engaged by the city), or to collect or secure the obligation to pay tax, default interest, compound default interest, fraud penalties, together with interest at the default rate on all of the city's costs and expenses, (collectively "tax debt"), shall be secured by a lien "tax lien). The tax lien shall be perfected on the date the city records notice of the tax lien with the County Clerk, superior in priority to all subsequent liens, encumbrances, rights, title and interests in the transient lodging which gave rise to the tax lien, the tax lien, may be foreclosed and the real property encumbered by the tax lien may be sold in the same manner as mortgage, trust deed or construction contractor's claim, notice of a tax lien shall be given by the City Recorder to the operator which is the subject of the deficiency determination or other determination, promptly after notice of the tax lien is recorded by the City Recorder in the County Clerk's office. If, at least five days prior to the scheduled date of any sheriffs or other public sale conducted at the behest of the city, all of the tax debt secured by a tax lien is paid in full, then the tax lien shall be released by the City Recorder signing and acknowledging a release of the tax line, which may be recorded by any other person at his or her sole cost and expense.

(Ord. 2003-01, passed 2-4-2003)

§ 37.50 REFUNDS.

(A) *Operators' refunds.* Wherever the amount of any tax, fraud penalty, default interest or compound default interest, has been paid more than once or has been erroneously or illegally collected or received by the City Recorder, under this subchapter, the tax, fraud penalty, default interest or compound default interest (as the case may be), shall be refunded or credited to the operator who paid the amount to be refunded; provided a verified claim in writing therefor, stating the specific reasons upon which the claim is founded, is filed with the City Recorder within three years from the date of

payment to or collection by the city. The verified claim shall be made on a form promulgated by the City Recorder. If the claim is approved by the City Recorder, the excess amount collected or paid may at the election of the City Recorder, either be:

(1) Refunded to the person who made the overpayment; or

(2) Be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balance may be refunded to such operator.

(B) *Transient refunds.* Whenever the tax has been collected by an operator, paid over to the city, and it is later determined that the tax was erroneously or illegally collected by the operator, the tax shall be refunded to the transient provided a verified claim in writing therefore, stating the specific reasons on which the claim is founded is filed with the City Recorder within three years from the date of payment to or collection by the city. The verified claim shall be made on a form provided by the City Recorder. (Ord. 2003-01, passed 2-4-2003)

§ 37.51 CONFIDENTIAL CHARACTER OF INFORMATION OBTAINED; UNNECESSARY DISCLOSURE.

(A) Except as otherwise provided in this subchapter, it shall be unlawful for the City Recorder or any other city employee or agent, to disclose the contents of any city return or any other report utilized to calculate the amount of the tax payable to the city to the extent that such information is in a form which would permit identification of the individual, concern or enterprise.

(B) Nothing in this section shall be construed to prevent the following:

(1) The release of the information which is required to be released by ORS 192.502(17) or any successor law of similar import, regarding the identity of taxpayers who are over 60 days delinquent in payment of taxes and the amount of such delinquent taxes;

(2) The disclosure or the examination of required operator records, city returns and any other information by any city official, employee or agent for the purpose of administering, defending or enforcing any provisions of this subchapter or collecting tax debt;

(3) The disclosure after the receipt a written request for the disclosure, signed by or on behalf of the operator or its successor in interest or any representative authorized in writing by the operator, as to any tax debt paid by the operator, or any tax debt owed by the operator including default interest, compound default interest and fraud penalties; and copies of city returns and other documents filed by the operator under this subchapter;

(4) The disclosure of general statistics regarding taxes collected or business done in the city;

(5) Financial reporting or auditing required by applicable law or the terms of any bonded indebtedness incurred by the city; and

(6) Any other disclosure required by law or ordered by any court of competent jurisdiction.
(Ord. 2003-01, passed 2-4-2003)

§ 37.52 APPEALS.

(A) Any operator directly and materially adversely affected by any deficiency determination, redetermination or other decision or action of the City Recorder under this subchapter (“aggrieved operator”), may appeal the same to the City Council by filing a notice of appeal with the City Recorder within ten days after the City Recorder gives notice of the City Recorder’s decision to the affected operator (“appeal period”).

(B) Each deficiency determination, redetermination or other decision or action of the City Recorder under this subchapter is final and not subject to any further review or appeal unless within the appeal period, the aggrieved operator files notice of appeal with the City Recorder. The notice of appeal must specify the grounds on which the appeal is taken, and to the extent any of the grounds are founded on errors of law as opposed to factual errors, the notice of appeal must include the specific legal authority which supports each of the grounds raised. The notice of appeal must be accompanied by a non-refundable fee paid to the city to cover the costs and expenses of the city considering the appeal in the amount of \$200.

(C) The City Recorder shall transmit the notice of appeal together with the file of the appealed matter to the City Council who shall fix a time and place for hearing such appeal. The City Recorder shall give the aggrieved operator not less than ten days’ written notice of the time and place of the hearing of the appealed matter, the City Council may continue the hearing from time to time as may be necessary or appropriate.
(Ord. 2003-01, passed 2-4-2003)

§ 37.53 JURISDICTION.

This subchapter applies solely to transient lodging situated within the boundaries of the city.
(Ord. 2003-01, passed 2-4-2003)

§ 37.54 MULTIPLE OPERATORS.

If any transient lodging has more than one operator, any one duly authorized operator may on behalf of all the operators, comply with all of the provisions of this subchapter.
(Ord. 2003-01, passed 2-4-2003)

§ 37.55 NOTICES.

Any notice, demand or request authorized or required or given under this subchapter, shall be mailed by first class U.S. mail, postage prepaid, addressed:

(A) If to the city or the City Recorder to the then current mailing address of City Hall;

(B) If to operator which has filed a registration, at the address of the operator set forth in the operator's most current registration; and

(C) If to any other person, to the last address the City Recorder has actually received written notice of.

(Ord. 2003-01, passed 2-4-2003)

§ 37.56 CITY USE OF TAX; COLLECTION.

After deducting the collection fees and the costs and expenses incurred by the city administering, defending and enforcing this subchapter (including collection of tax debt), all tax collected by the city shall be deposited in the Motel Tax Fund, and shall be expended only for purposes authorized by resolution of the City Council for the Motel Tax Fund. The Tax collected shall not be used for general fund purposes or for city programs and activities that are presently supported by property tax revenue. (Ord. 2003-01, passed 2-4-2003; Res. 2007-02, passed 2-1-2007; Res. 2007-03, passed 2-1-2007; Res. 2011-02, passed 3-3-2011)

§ 37.99 PENALTY.

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

(B) It is unlawful for any operator or other person to violate any of the provisions of §§ 37.35 through 37.56 of this chapter; any operator or other person violating any of the provisions of §§ 37.35 through 37.56 of this chapter shall be subject to a fine of not more than \$250.

(Ord. 2003-01, passed 2-4-2003)

CHAPTER 38: FEE SCHEDULE

Section

38.01 Administrative services fee schedule

§ 38.01 ADMINISTRATIVE SERVICES FEE SCHEDULE.

	<i>Fee</i>
Administrative fees	
Audit report	\$25
Budget document	\$25
Duplication of recordings from meetings	\$18.50/hour
Fax - incoming	\$0.25
Fax - outgoing	\$1.25
Library - interlibrary loan	\$1
NSF check	\$25
Photo copies - legal, one sided	\$0.30
Photo copies - legal, two sided	\$0.35
Photo copies - letter, one sided	\$0.25
Photo copies - letter, two sided	\$0.30
Business fees	
Concessionaire setup	\$55
Food concessionaire setup	\$105
Liquor license for one day special event	\$10
Liquor license review fee - renewal application only	\$10
Liquor license - initial application	\$50
Sandwich board signs - annual permit	\$50
Sidewalk/sign usage	\$50
Sign review	\$15

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	<i>Fee</i>
Social games license - initial application	\$10
Social games license - renewal	\$10
Transient merchant license - 1-10 days	\$25
Transient merchant license - annual	\$150
Transient merchant license - commercial food	\$250
Transient merchant license - per month	\$30
Fire Department fees	
Annual rural contract rate	\$140 per landowner - residential
	\$162 per landowner - commercial
Foam	\$260 per five (5) gallons
Initiation, startup costs	\$100 will be charged to each new rural fire contract established
Jaws extrication/rescue cost recovery	\$25 per person/hour
	\$150 per vehicle/hour
Out-of-city/transportation corridor	
Support service cost per incident	\$255.36
Base availability	\$15.58 per hour
Engine and/or water tender	\$175
Rescue apparatus	\$150 per hour per each
Brush trucks	\$125 per hour
Command vehicles	\$100 per hour
Rope rescue cost recovery	\$25 per person/hour
	\$150 per vehicle/hour
Rural fire contract cost recover	\$25 per person/hour
	\$150 per vehicle/hour
Scuba air bottle used (each)	\$10
Land use fees	
Alley vacation	\$0
Annexation request for initial determination	\$1,000
Annexation if timely, but no development agreement	\$2,000
Annexation to include concurrent land use application	\$3,000

Fee Schedule

	<i>Fee</i>
Annexation with failing septic tank	\$100
Comprehensive Plan amendment - text or map	\$425
Conditional use permit	\$375
Copy of land use code book	\$5
Fence permit	\$25
Home occupation permit	\$375
Land partition - minor	\$50
Land partition - requiring staff report and attorney review	\$425
Land use amendment - map	\$1,000
Land use amendment - text	\$760
Lot line adjustment	\$50
Recreational vehicle on property	\$55
Rezone without Comprehensive Plan amendment	\$425
Site plan review	\$0
Subdivision - conceptual	\$500
Subdivision - final plat	\$500
Subdivision - tentative plat	\$0
Variance	\$375
Written interpretation of code	\$125
Zoning permit	\$75
Water and Sewers	
Special user fee - street	\$10
Special user fee - wastewater	\$5
Special user fee - water	\$5

(Res. passed 7-2-1985; Res. 2005-06, passed 7-5-2005; Res. 2006-12, passed 11-2-2006; Res. 2007-10, passed 7-5-2007; Res. 2012-14, passed 6-26-2012; Res. 2015-04, passed 1-8-2015; Res. 2019-03, passed 3-7-2019; Res. 2019-11, passed 7-11-2019; Res. 2019-18, passed 9-5-2019; Res. 2019-22, passed 9-23-2019)

TITLE V: PUBLIC WORKS

Chapter

50. WATER

51. SEWERS

52. CROSS-CONNECTIONS

CHAPTER 50: WATER

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- 50.081 Easements

- 50.999 Penalty

GENERAL PROVISIONS**§ 50.001 SHORT TITLE.**

This chapter shall be known as “Rules and Regulations for the Operation of the Water Department of the City of Joseph, Wallowa County, Oregon”, and may be so cited and pleaded.
(Ord. 94-2, passed 5-3-1994)

§ 50.002 SCOPE.

The Water Department and all customers receiving services from the Water Department, whether inside or outside the city limits, are bound by these rules and regulations of the Water Department.
(Ord. 94-2, passed 5-3-1994)

§ 50.003 DEFINITIONS.

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

APPLICANT. The person or persons, firm or corporation, making application for water service from the Water Department under the terms of these regulations.

CITY. The legally constituted municipal government of the City of Joseph, Wallowa County, Oregon.

CITY COUNCIL. The legally elected group of member composing the City Council, including the Mayor, of the city.

CUSTOMER or USER. An applicant who has been accepted under the terms of these regulations and who receives water service from the Water Department.

SUPERINTENDENT. The person appointed by the City Council to superintend the affairs of the Water Department.

WATER DEPARTMENT. The Water Department of the city.
(Ord. 94-2, passed 5-3-1994)

§ 50.004 SERVICE AREA.

The area served by the Water Department shall be all that area included within the corporate limits of the city and such other contiguous and neighboring territory as the City Council shall, from time to time, deem necessary to serve.

(Ord. 94-2, passed 5-3-1994)

PROHIBITIONS AND CONDITIONS**§ 50.015 WASTE.**

Water may not be allowed to run, or be kept running, at any time longer than necessary for its proper use without the permission of the Water Superintendent. The city may demand that certain customers leave water running to prevent damage to city water line. Water may be kept running to prevent freezing with the permission of Water Superintendent.

(Ord. 94-2, passed 5-3-1994) Penalty, see § 50.999

§ 50.016 UNAUTHORIZED CONNECTION.

No person shall make connection with the mains, make alterations in any conduit, pipe or other fixtures connected with the mains, connect pipes when they have been disconnected or turn off or on any water for any premises without permission from the city.

(Ord. 94-2, passed 5-3-1994) Penalty, see § 50.999

§ 50.017 TEMPORARY SERVICE CONNECTIONS.

For water service of a temporary nature, applicants shall be required to pay in advance the estimated cost of installation and removal of metering equipment and materials, plus a reasonable depreciation charge, for the use of equipment and material furnished by the Water Department. The applicant shall also pay his or her water bill in advance and based on an estimate of the quantity to be used, or he or she shall otherwise establish satisfactory credit.

(A) *Time limit.* Temporary service connections shall be disconnected and terminated within six months after application is granted unless an extension of time is granted in writing by the Water Department.

(B) *Charge for water serviced.* Charges for water furnished through a temporary service connection shall be at the established rates set forth in the current water rate schedule.

(C) *Installation charge and deposits.* The applicant for temporary service will be required:

(1) To pay the Water Department, in advance, the estimated cost of installing and removing all facilities necessary to furnish each service;

(2) To deposit an amount sufficient to cover bills for water during the entire period such temporary service may be used, or to otherwise establish credit approved by the Water Department; and

(3) To deposit with the utility an amount equal to the value of any equipment loaned by the Water Department to such appellant.

(D) *Responsibility for meters and installation.* The customer shall use all possible care to prevent damage to the meter and to any other loaned facilities of the Water Department. If the meter or other facilities are damaged, the cost of making repairs shall be deducted from the deposit fund. If the loaned materials are returned in satisfactory condition and all bills paid, the full amount of the equipment deposit less depreciation will be returned to the temporary customer at the termination of service.

(Ord. 94-2, passed 5-3-1994)

§ 50.018 CUSTOMER'S PLUMBING.

(A) *Plumbing Code.* The customer's plumbing, which shall include the customer's service line and all plumbing, piping, fixtures and other appurtenances carrying or intended to carry water, sewer or drainage, shall comply with the Plumbing Code of the state.

(B) *Control valves.* Customers shall install a suitable control valve in the customer service line as close to the meter as possible, the operation of which will control the entire water supply to the premises served. In the event a customer's service is discontinued for any reason, a control valve must be installed, if not exists, as provided by this section.

(Ord. 94-2, passed 5-3-1994)

§ 50.019 SPRINKLING AND IRRIGATION.

Water from the city system may be used for sprinkling and irrigation only through a nozzle or a spray stand in the form of a spray. At its discretion, the city may refuse water for sprinkling and irrigation or limit the hours during which it may be used.

(Ord. 94-2, passed 5-3-1994) Penalty, see § 50.999

§ 50.020 DUAL WATER SUPPLY.

A person who desires to use both a city water supply and a private supply may obtain city water only so long as there is no physical connection, direct or indirect, between the city water supply and the private supply. In case of disconnection for a violation of this provision, service shall not be resumed until satisfactory proof is furnished that the cross-connection has been completely and permanently severed and until a new water service connection fee has been paid.

(Ord. 94-2, passed 5-3-1994) Penalty, see § 50.999

§ 50.021 REPAIRING AND RELOCATION.

Consumers will be responsible for damage to their service lines and meters caused by negligence due to freezing and the like. The consumer will be responsible for protecting his or her meter from freezing. The consumer will be billed accordingly for repair by the city. When any consumer being served by the city requests a relocation or an alteration of the service, a determination of the advisability of such relocation or alteration shall be made by the Water Superintendent. In no event shall the service be relocated onto private property beyond the property line, except by the order of the Council. The cost of such relocation or alteration shall be charged to the consumer. The cost shall cover material, labor and all cost incurred therein.

(Ord. 94-2, passed 5-3-1994)

§ 50.022 TURNING ON WATER WITHOUT AUTHORITY.

After the water has been shut off at the curb stopcock, if it is turned on without authority from the city, the Water Department may shut off service at the main. The water shall not be turned on again until all arrears and penalties, the cost of cutting and replacing the street and the charge for shutting off and turning on the water are paid.

(Ord. 94-2, passed 5-3-1994)

§ 50.023 ACCESS TO PROPERTY.

All duly appointed employees of the Water Department, under the direction of the Water Superintendent, shall have free access at all reasonable hours of the day to any and all parts of structures and premises in which water is or may be delivered for the purposes of inspecting connections, the conditions of conduits and fixtures and the manner and extent in which the water is being used. The Water Department does not, however, assume the duty of inspecting the customer's line, plumbing and equipment and shall not be responsible therefor.

(Ord. 94-2, passed 5-3-1994)

§ 50.024 RESPONSIBILITY FOR EQUIPMENT.

(A) *Responsibility for customer equipment.* The Water Department shall not be liable for any loss or damage of any nature whatsoever caused by any defect in the customer's line, plumbing or equipment, nor shall the Water Department be liable for loss or damage due to interruption of service or temporary changes in pressure. The customer shall be responsible for valves on his or her premises being turned off when the water service is turned on.

(B) *Responsibility for Water Department equipment.* Water Department equipment on the customer's premises remains the property of the Department and may be repaired, replaced or removed by the Department's employees at any time without consent of the customer. No payment will be made to the customer for the right to install, maintain, replace or remove Water Department equipment on his or her premises. The customer must keep vicious dogs or other animals secured or confined to avoid interference with the utility operation and maintenance.

(C) *Damage to Water Department equipment.* The customer shall be liable for any damage to equipment owned by the Water Department which is caused by an act of the customer, his or her tenants, agents, employees, contractors, licensees or permittees. Damage to equipment shall include, but not be limited to, breaking of seals and locks, tampering with meters, injury to meters, including, but not limited to, damages by hot water or steam and damaged meter boxes, curb stops, meter stops and other appurtenances.

(Ord. 94-2, passed 5-3-1994) Penalty, see § 50.999

§ 50.025 FIRE HYDRANTS.

(A) *Operation.* No person or persons other than those designated and authorized by the Water Department shall open any fire hydrant belonging to the Water Department, attempt to draw water from it or in any manner damage or tamper with it. Any violation of this regulation will be prosecuted according to law. No tool other than special hydrant wrenches shall be used to operate a hydrant valve. In cases where a temporary service has been granted and received water through a fire hydrant, an auxiliary external valve will be provided to control the flow of water.

(B) *Moving a fire hydrant.* When a fire hydrant has been installed in the locations specified by the proper authority, the Water Department has fulfilled its obligation. If a property owner or other party desires to change the size, type or location of the hydrant, he or she shall bear all costs of such changes. Any changes in the location of a fire hydrant must be approved by the Water Department and the Fire Department.

(Ord. 94-2, passed 5-3-1994) Penalty, see § 50.999

METERS**§ 50.040 OWNERSHIP.**

The Water Department will own and maintain all water meters. The Water Department will not pay rent or any other charge for a meter or other water facilities, including housing and connections on a customer's premises.

(Ord. 94-2, passed 5-3-1994)

§ 50.041 INSTALLATION.

Installation of water meters shall be performed only by authorized employees of the Water Department. All meters shall be sealed by the Water Department at the time of installations, and no seal shall be altered or broken, except by one of its authorized employees.

(Ord. 94-2, passed 5-3-1994)

§ 50.042 SIZE AND TYPE.

The applicant may request and receive any size meter regularly stocked or furnished by the Water Department; provided, the request is reasonable and, further provided that, the meter is not greatly oversized or undersized, as determined by the Water Superintendent. The Water Department reserves the right to determine the type of meter to be installed.

(Ord. 94-2, passed 5-3-1994)

§ 50.043 LOCATION.

Meters shall normally be placed at the curb or property lines; the meter will be installed wherever the applicant desires, within reason, but the location must be approved by the Water Department. The meters will not be located in driveways or other location where damage to the meter or its related parts may occur.

(Ord. 94-2, passed 5-3-1994)

§ 50.044 JOINT USE OF METERS.

The joining of several customers to take advantage of the single minimum charges and large quantity rates shall be prohibited.

(Ord. 94-2, passed 5-3-1994)

§ 50.045 CHANGES IN SIZE OR LOCATION.

If, for any reason, a change in the size of a meter and service is required, the installation will be accomplished on the basis of a new connection, and the customer's application shall be amended. Meters or services moved for the convenience of the customer will be relocated only at the customer's expense.

(Ord. 94-2, passed 5-3-1994)

ADMINISTRATION AND ENFORCEMENT**§ 50.060 DESCRIPTION OF SERVICE.****(A) *Supply.***

(1) The Water Department will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to the customer at a reasonable pressure and to avoid so far as reasonably possible any shortage or interruption in delivery.

(2) The Water Department shall not be liable for damage resulting from the interruption in service or from the lack of service. Temporary suspension of service by the Water Department for improvements and repairs will be necessary occasionally. Whenever possible, and when time permits, all customers affected will be notified prior to shutdowns.

(B) *Quality.* The Water Department will exercise reasonable diligence to supply safe and potable water at all times.

(C) *Ownership of system.* All water mains, valves, fittings, hydrants and other appurtenances, except “customer service lines”, shall be the property of the Water Department.
(Ord. 94-2, passed 5-3-1994)

§ 50.061 CONNECTION APPLICATION.

On forms provided by the city the property owner or authorized agent shall make written application for connection with the city system. The applicant shall specify the location and the use for which the service is required and shall agree to abide by the city’s regulations governing the use of water.
(Ord. 94-2, passed 5-3-1994)

§ 50.062 SERVICE INSTALLATION.

Upon payment of the connection fee, the city or a contractor approved by the Water Department shall install a service pipe from the main to the curb or to the property line of the street in which the main is located. The cost of the materials and excavating used by the city in the connection shall be paid by the consumer. The city shall own, operate and maintain the service connection between the main and the curb line. The consumer shall install and bear the expense of pipes from the curb service connection to the facilities on the premises, subject always to building, plumbing and sanitation codes and required inspection of the city. The city shall have sole jurisdiction to determine the location of the street service line.
(Ord. 94-2, passed 5-3-1994)

§ 50.063 WATER USE BY APPLICANT.

No person supplied with water from the city system shall use the water for any purpose other than that stated in the application or supply the water to other persons without an application and permit to do so.
(Ord. 94-2, passed 5-3-1994) Penalty, see § 50.999

§ 50.064 SEPARATE CONTROL OF SERVICE.

A separate service direct to the tap in the main is required for each residence or business that is supplied with water. Service pipes must be so placed that the supply to each consumer may be controlled by a separate stop-cock placed within and near the line of the street curb or public right-of-way. The standard service line shall be three-fourths inch. Larger size service lines may be provided upon special application to the city. The city shall have final determination of service pipe lines provided. Customer lines shall have a minimum of three-foot ground cover to the top of the pipe.
(Ord. 94-2, passed 5-3-1994)

§ 50.065 WATER CHARGED TO PREMISES.

The user served shall pay all rates and charges for water services imposed by the city. In extending water services to the occupants of the premises, the city has no duty to ascertain the true owner of the property. Anyone in possession of the property to be served is presumed to be in lawful possession and to be acting as the agent for the purpose of contracting with the city for water service.

(Ord. 94-2, passed 5-3-1994)

§ 50.066 TEMPORARY DISCONNECTION.

Water service may be discontinued temporarily upon written request to the city. During the period of disconnection, water charges shall cease, but that account shall be charged for the turn-off. Upon written request, water services shall be resumed but only after full payment of all outstanding charges against that account, including the cost of the turn-off and the turn-on.

(Ord. 94-2, passed 5-3-1994)

§ 50.067 SHUT-OFF FOR REPAIRS.

If, at any time, the water is shut off from the mains without notice for repairs or any other purpose, the city will not be responsible for any consequent damages to boilers or other equipment or for any other inconvenience. However, when possible the city shall give notice of the time and reason for the shut-off which is reasonably calculated to give actual notice to the consumers whose water is to be shut off.

(Ord. 94-2, passed 5-3-1994)

§ 50.068 LIABILITY FOR LEAKAGE AND DAMAGE.

Customers shall keep all pipes and fixtures on their premises in repair at their own expense and shall be liable for any leakage or damage which results from their failure to do so. The city does not guarantee to maintain any maximum or minimum water pressure in its lines and no loss of pressure or unexpected surge of pressure in such lines shall give any customer a cause of action against the city.

(Ord. 94-2, passed 5-3-1994)

§ 50.069 SERVICE OUTSIDE CITY.

(A) Water service outside the city limits may be furnished by the city upon approval of the Council and subject to whatever conditions the Council deems appropriate. New connections outside the city shall be approved only after a determination is made that the city can provide and maintain adequate water pressure to such customers without detriment to existing water users.

(B) In case of shortage of supply, the Water Department reserves the right to give preferences in the matter of furnishing service to customers and interests of the Water Department from the standing of public convenience or necessity. Water service to users outside of the city limits shall at all times be subject to the prior and superior rights of the customers within the city limits.

(Ord. 94-2, passed 5-3-1994)

§ 50.070 WATER MAIN EXTENSION.

Extension of existing water mains may be made by the following methods:

(A) By forming a local improvement district as provided by state law;

(B) By the city installing a water main with the applicant paying the entire cost;

(C) The mains so installed will be conveyed to the city with necessary easements at no cost to the city. The city will maintain all mains accepted as part of the water system;

(D) The mains so installed shall meet the city requirements as to the size, material and location. Where the main passes through private property, a ten-foot easement shall be provided for maintenance and operation. Fire hydrants and control valves shall be installed at locations determined by the city. The city will pay such additional costs incurred if a larger than normal supply pipe is required to provide for future connections;

(E) No extension of a water main shall be authorized until the applicant files with the city any necessary permits, licenses or approvals required by any other governmental agency; and

(F) Any plans, blueprints, specifications and the like filed with the city shall become city property and remain at City Hall as public documents.

(Ord. 94-2, passed 5-3-1994)

§ 50.071 WATER MAINS OUTSIDE CITY LIMITS.

Water mains outside the city limits shall be extended only at the expense of the customers served. The main extensions shall become the property of the Water Department at the time installed. The City Council shall determine the size of the main extensions and all extensions shall be of a suitable material approved by the City Council. Extensions outside the city limits shall be installed by the Water Department or by contractors approved by the Water Department. The installation procedures and materials used shall be in accordance with the city and the state standards.

(Ord. 94-2, passed 5-3-1994)

Joseph - Public Works

§ 50.072 CONNECTION CHARGES; RATES AND CHARGES.

(A) (1) Fees for water connection made within the city limits shall be set by Council resolution for each connection and for water connection made outside the city limits, the fee shall be set by Council resolution for each connection. Said fee, plus all material costs of installing water connection, including water meters, meter bodies, valves and piping and including all labor and any city equipment cost, as estimated by the Superintendent of Water Department shall be paid to the City Recorder in advance of any work on the connection.

(2) Any sum of money paid in excess of the actual cost of installation shall be returned, to the water user upon completion of the connection. Payment for any additional work beyond the estimated cost shall be due upon completion and shall become an overdue account to the city after 30 days.

(B) (1) *Monthly water rates for residential.*

(a) *Inside the city.*

5,000 gallons or less	\$32.60 minimum
Over 5,000 gallons	\$0.95 per 1,000 gallons
Multiple-family dwellings	\$32.60 per first 5,000 gallons
Multiple business units apartments, duplexes, mobile home parks	\$0.95 per 1,000 gallons over first 5,000 gallons
Motels	\$74.44
	\$0.95 per 1,000 gallons over first 3,000 gallons

(b) *Outside the city.*

5,000 gallons or less	\$62.20 minimum
Over 5,000 gallons	\$1.90 per 1,000 gallons
Extra charge for outside city limits because of accessibility to lines with more maintenance costs	

(c) *Other than residential size service.*

Minimum bill for the first 5,000 gallons:	
High school	\$62.20
Grade school	\$62.20
Laundromat	\$62.20
Anything over 5,000 gallons will be \$0.95 per 1,000 gallons	

(2) *Commercial.*

3,000 gallons or less	\$31.03 minimum
Over 3,000 gallons	\$0.95 per 1,000 gallons

(3) *System development fees for water.*

Initial hook-up excluding installation costs and materials:	
Saddle	\$700
Water connection fee	\$1,650
Meter cost	
Residential meter (3/4-inch meter)	\$250
Commercial meter (1-inch meter)	\$350
Restoration of asphalt	\$15 x (sq. ft.)
Digging	\$25 x (sq. ft.)
Duplexes, apartments and motel - initial hook up, plus:	\$40
Fees shall be placed for expenditure in anew line item within the Water Fund entitled "Capital Repairs"	

(4) *Fees and charges for repair; relocation and re-connection.*

Material	At cost to the city
Installation costs	At cost to the city
Turn-on at curb	\$50
Turn-off at curb	\$50

(5) *Other fees and charges.*

Service charge because of delinquent accounts (§ 50.075(D))	\$50
Customer request for meter test (§ 50.076(B))	\$100
Restoration of service (§ 50.079)	\$50

(Ord. 94-2, passed 5-3-1994; Ord. 2019-09, passed 7-11-2019)

§ 50.073 NOTICES.

(A) *Notices to customers.* Notices from the Water Department to the customer will normally be given in writing and either mailed to or delivered to him or her at his or her last known address. Where conditions warrant and in emergencies, the Water Department may notify either by telephone or messenger.

(B) *Notices from customers.* Notices from the customer to the Water Department may be given by the customer or his or her authorized representative orally or in writing at the office of the Water Department in the City Hall or to an agent of the Water Department duly authorized to receive notices or complaints.

(Ord. 94-2, passed 5-3-1994)

§ 50.074 BILLING AND PAYMENTS.

(A) *Meter readings.* Meters will be read and customers billed on the basis of the meter reading to the nearest 100 gallons. The Water Department will keep an accurate account on its books of all readings of meters and such account so kept shall be offered at all times, places and courts as prima fade evidence of the use of water service by the customer.

(B) *Rendering of bills.*

(1) *Billing period.* All meters shall be read and bills rendered therefor every month.

(2) *Bills for other than normal billing period.* Opening or closing bills or bills that, for any other reason, cover a period containing 10% more days or 10% less days than in the normal billing period, shall be prorated.

(3) *Bills for more than one meter.* All meters supplying a customer's premises shall be billed separately; except that, where the Water Department has for operating purposes installed two or more meters in place of one, the reading may be combined for billing.

(C) *Disputed bills.* When a customer disputes the correctness of a bill, he or she shall deposit the amount of the disputed bill at the time the complaint is lodged, to preclude discontinuance of service pending final settlement of the bill or bills. Subsequent bills shall be paid or placed on deposit in a similar manner. Failure of the customer to make such a deposit shall warrant discontinuance of service.

(D) *Failure to read meters.* In the event that it shall be impossible or impractical to read a meter on the regular reading date, the water consumption shall be prorated on the basis of 30 days per month and the total water consumption for billing purposes for that period shall be estimated.

(E) *Payment of bills.* Each bill rendered shall contain the final date on which payment is due. If the bill is not paid by that date, the account shall be considered delinquent, unless other arrangements have been made with the Water Department in writing that specify another due date.

(F) *Delinquent accounts.*

(1) *Delinquent notice.* A reminder of account delinquency may be sent, at the discretion of the City Recorder, to each delinquent account on or about ten days after the account becomes delinquent.

(2) *Turn-off notice.* On or about 15 days after an account becomes delinquent, a turn-off notice may be sent to the customer. Said notice shall state a date on which water will be turned off if delinquent account is not paid in full prior thereto.

(3) *Service turn-off.* On the turn-off date, the meter reader or other agent of the city shall deliver a written notice to the customer stating that the water service is being turned off until all delinquent amounts have been paid. The meter reader or other agent of the city shall immediately thereafter turn off the service. A delivery to the premises served by the meter shall be considered a delivery to the customer.

(4) *Service charge.* In all instances where water has been turned off because of delinquent accounts, a service charge of \$25 for water and \$25 for sewers shall be made for the restoration of services.

(G) *Installment payments of delinquent accounts.* In cases of extreme hardship, the City Recorder shall have the discretion of renewing service to a delinquent account upon receipt of a satisfactory installment plan for the payment of the overdue amount, installment period not to exceed the period of time the account was delinquent.

(Ord. 94-2, passed 5-3-1994; Res. 2018-01, passed 1-4-2018)

§ 50.075 METER ERROR.

(A) *Meter accuracy.* All meters will be tested prior to installation. No meter will be placed in service or allowed to remain in service which is known to have an error in registration in excess of 2% under conditions of normal operation.

(B) *Meter test.*

(1) *Standard test.* Meter tests will be conducted in accordance with standards of practice established by the American Meter Works Association.

(2) *On customer request.* A customer may, giving not less than seven days' notice, request the Water Department to test the meter servicing his or her premises. The Water Department will require

the customer to deposit the testing fee. This fee shall be set by Council resolution for meters three-fourths inch and smaller, and for meters larger than three-fourths inch shall be an estimate of the cost of testing the meter as determined by the Water Superintendent. The deposit will be returned to the customer if the test reveals the meter to over-register more than 2% under the standard test conditions, the deposit shall be retained by the Water Department. Customers may, at their option, witness any meter tests which they request.

(3) *On Water Department request.* If, upon comparison of past water usage, it appears that a meter is not registering properly, the Water Department may, at its option, test the meter and adjust the charges accordingly if the meter either over-registers or under-registers. No charge for meter testing will be made to the customer for the meter test under these conditions.

(C) *Adjustments of bill for meter error.*

(1) No credits or debits will be borne by the city or the customer should the tested meter show variance high or low from the accuracy defined in division (A) above.

(2) The Water Department will bill the customer for water consumed while the meter was not registering. The bill will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year, or upon a reasonable comparison with the use of other customers receiving the same class of service during the same season and under similar circumstances and conditions.

(Ord. 94-2, passed 5-3-1994)

§ 50.076 DISCONTINUANCE OF SERVICE.

(A) *On customer request.*

(1) Each customer about to vacate any premises supplied with water service by the Water Department shall give the Water Department written notice of his or her intentions at least two days prior thereto, specifying the date service is to be discontinued; otherwise, he or she will be responsible for all water supplied to such premises until the Water Department shall receive notice of such removal.

(2) At the time specified by the customer that he or she expects to vacate the premises where service is supplied or that he or she desires to be discontinued, the meter will be read and a bill rendered which is payable immediately. In no case will the bill be less than the monthly minimum specified in the schedule applying to the class or classes of service furnished.

(B) *Non-payment of bills.* A customer's water service may be discontinued if the water bill is not paid in accordance with the procedures listed herein.

(C) *Non-payment of sewer service charges.* If said sewer service charges are not paid when due by any such person, firm or corporation whose premises are served or who are subject to the charges herein provided, water service provided to the customer by the city's Water Department may be discontinued because of the default in the payment of the sewer service charges.

(D) *Improper customer facilities.*

(1) *Unsafe facilities.* The Water Department may refuse to furnish water and may discontinue services to any premises without prior notice where plumbing facilities, appliances or equipment using water are dangerous, unsafe or not in conformity with the Plumbing Code of the state.

(2) *Cross-connections.*

(a) A cross-connection is defined as any physical connection between the Water Department's system and another water supply.

(b) The state's Health Division and the U.S. Environmental Protection Agency prohibit cross-connections.

(c) The Water Department will not permit any cross-connection and will discontinue service to any persons or premises where a cross-connection exist. Service will not be restored until the cross-connection is eliminated. Customers using water from one or more sources in addition to receiving water from the Water Department on the same premises shall maintain separate systems for each; and the Water Department's water supply facilities shall be separated from any and all other systems by an air gap of not less than one foot or, if in the ground, by not less than five feet.

(E) *Service detrimental to others.* The Water Department may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

(F) *Fraud or abuse.* The Water Department will refuse or discontinue service to any premises where it is deemed necessary to protect the Water Department from fraud or abuse. Discontinuance of service from one or both of these causes will be made immediately upon receipt of knowledge by the Water Department that the condition or conditions exist.

(G) *Unauthorized turn-on.* Where water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed. The charges for shutting off the water at the main or removing the meter shall be computed at actual cost to the Water Department, plus 15% overhead, but no less than \$80. These charges shall be billed to the offending customer and water shall not be furnished to the premises or customer until such charges are paid and the Water Department has reasonable assurance that the violation will not reoccur.

(H) *Non-compliance with regulations.* The Water Department may, upon five days' notice, discontinue service to a customer's premises for failure to comply with any of the provisions of these regulations. In case of emergency, service may be discontinued immediately upon the discretion of the Water Superintendent.

(Ord. 94-2, passed 5-3-1994)

§ 50.077 RESPONSIBILITY FOR CHARGES.

(A) The user shall be responsible for all charges for water consumption. The city may require deposits prior to providing water service or in lieu of a deposit, obtain a signed agreement from the property owner, whether the user or not, that they will be ultimately liable for the charges and that the city may use a lien as one method to secure payment if the charges are not paid. However, the city may not require, a property owner to sign such an agreement.

(B) If the property owner elects to authorize the use of a lien on real property to secure user charge payment in lieu of a security deposit, all water charges and monthly sewer service fees shall be a lien against the premises served from and after the date of billing, and entry on the ledger or other records of the city pertaining to its municipal water system, and such ledger record or other record shall be made accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for water service and/or monthly sewer service fee remains unpaid 60 days after it has been rendered, the lien thereby created may be foreclosed in the manner provided for by ORS 223.610 or in any other manner provided by law or city ordinance.

(Ord. 94-2, passed 5-3-1994)

§ 50.078 RESTORATION OF SERVICE.

(A) Restoration of service after discontinuance for non-payment of bills shall be made after payment of current and past due charges have been paid.

(B) Restoration of service after discontinuance of service for unsafe facilities, water waste, fraud, abuse or for non-compliance with any of the policies, rules and regulations will only be made after the irregularity has been corrected and the Water Department has been assured that the irregularity will not reoccur. The restoration charge shall be set by Council resolution, plus any other charges due or past due that the Water Department may have incurred to correct the irregularity.

(Ord. 94-2, passed 5-3-1994)

§ 50.079 UNUSUAL DEMANDS.

(A) When an abnormally large quantity of water is desired for filling a swimming pool, log pond or for other purposes, arrangements must be made with the utility prior to taking such water.

(B) Permission to take water in unusual quantities will be given only if the Water Department facilities and other consumers are not inconvenienced.

(Ord. 94-2, passed 5-3-1994)

§ 50.080 SUSPENSION OF RULES.

No employee of the Water Department is authorized to suspend or alter any of the policies, rules and regulations cited herein without specific approval or direction of the City Council, except in cases of emergency involving loss of life or property or which would, place the water system operation in jeopardy.

(Ord. 94-2, passed 5-3-1994)

§ 50.081 EASEMENTS.

Each applicant and user gives and grants to the city an easement and right-of-way on and across his or her property for the installation of water mains and the necessary valves and equipment in connection therewith.

(Ord. 94-2, passed 5-3-1994)

§ 50.999 PENALTY.

Violation of this chapter is a Class B misdemeanor. This penalty shall be in addition to, and unaffected by, an remedial action taken by the city.

(Ord. 94-2, passed 5-3-1994)

CHAPTER 51: SEWERS

Section

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- 51.02 Definitions
- 51.03 Application; permit required
- 51.04 Connection fees; rates and charges
- 51.05 Required connections
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- 51.07 Sewer extensions
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§ 51.01 PURPOSE.

(A) Pursuant to the general laws of the state and the powers granted in the Charter of the city, the Council of said city does hereby declare its intention to own, equip, extend, operate and maintain within and without the city limits a sewage disposal plant or plants, sewers, equipment and appurtenances necessary, useful or convenient for a sewer system and disposal area.

(B) There is hereby levied and imposed upon all water users within the city using water from the city water system, as herein provided, and also against all users connected to the sewer system, whether said users be within or outside the city limits of the city and whether or not said users are connected to the city's water system, just and equitable charges for service, connection, maintenance, operation, extension and reconstruction. The amount of such fees shall be set by resolution.

(Ord. 97-02, passed 6-3-1997)

§ 51.02 DEFINITIONS.

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

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet outside the inner face of a building wall.

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

COMMERCIAL. All sewer users, except residential.

GARBAGE. All putrescible wastes, except sewage and body waste, including wastes accumulated of animals, food or vegetable matter, and including wastes that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetables, and shall include all such wastes or accumulations of vegetable matter of residences, restaurants, hotels and places where food is prepared for human consumption. The term ***GARBAGE*** shall not include recognized industrial products or by-products, nor shall it include cans, boxes, cartons, paper or other objects which may or not have good or other organic material of any nature in or adhering thereto.

INDUSTRIAL USER. Any non-residential user who discharges industrial waste.

INDUSTRIAL WASTE. The liquid wastes from industrial processes as distinct from residential sewage.

INSPECTOR. The individual, firm or corporation, designated by the city, including, but limited to, the Director of Public Works or his or her authorized assistants and inspectors.

MAY. The act referred to is permissive.

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

PERSON. Any individual, firm, partnership, company, association, society, corporation or group.

PLUMBING REGULATIONS. The state plumbing laws, rules and regulations, governing plumbing and water supply as adopted by the state's Board of Health, state's Bureau of Labor Rules and Regulations, Department of Environmental Quality and city specifications, rules and regulations.

PRIVATE SEWER. A sewer privately owned and constructed in conformance with the provisions hereof.

PROPERLY SHREDDED GARBAGE. The waste from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch in any dimension.

PUBLIC SEWER. A pipe or conduit for carrying sewage, consisting of all conduits placed or accepted by the city for public usage.

RECORDER. City Recorder of the City of Joseph.

RESIDENTIAL. One family unit under a single roof.

SANITARY SEWER. A sewer which carries sewage from any building to the public sewer.

SEWAGE TREATMENT PLANT. Any arrangement of devices or structures used for treating sewage.

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

SHALL. The act referred to is mandatory.

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

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 97-02, passed 6-3-1997)

§ 51.03 APPLICATION; PERMIT REQUIRED.

No person shall make a connection to any part of the public and/or sanitary sewer system of the city without first making an application and securing a permit therefor, and then only by using a connection approved by the Inspector, in accordance with the provisions of this chapter. Application for sewer stub connection permits shall be made in writing to the City Recorder in the form prescribed by the city and shall give the location of the property, name of the person engaged to make the connection and such other information or plans as may be required by the city.

(Ord. 97-02, passed 6-3-1997) Penalty, see § 51.99

§ 51.04 CONNECTION FEES; RATES AND CHARGES.

(A) All applications for connection to the public system shall require a payment of a connection fee, the amount of such fees shall be set by resolution.

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(B) (1) (a) All persons and property subject to the provisions of this chapter shall be subject to the following schedule of rates and charges for the use of the sewer system:

Sewer connection	\$1,650
Saddle and strap	\$240
Total connection fee	\$1,890

(b) Connection fees shall be placed for expenditure in a new line item within the Sewer Fund, entitled "Capital Repairs".

(2) (a) Monthly charge:

<i>Type of Unit</i>	<i>Monthly Charge</i>
Motel (without cooking facilities, but with manager's quarters) and bed and breakfast	\$23.88
Plus each unit	\$17.90
Grocery stores with cold storage	\$48.17
Laundromat	\$102.73
Multiple dwellings and apartments (each unit same as a single residence)	\$31
Public buildings, lodges and churches	\$31
Residences	\$31
Restaurants and taverns	\$87.20
School/per school	\$102.72
Service stations	\$42.08
Small business and offices	\$31

(b) Any user served or connected to said sewer system which is located outside of the city limits shall pay a monthly service charge of 200% of the above monthly charge applying to the same classification of type of unit.

(Ord. 97-02, passed 6-3-1997; Res. 2019-10, passed 7-11-2019)

§ 51.05 REQUIRED CONNECTIONS.

Any applicant for service to houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the city and abutting on any street, alley or public right-of-way in which there is located a city sanitary sewer, is hereby required at his or her

expense to install suitable toilet facilities therein, and to connect said facilities to the public sewer in accordance with the provisions of this chapter, within 90 days after the date of official notice to do so; provided that, said public sewer is not more than 100 feet from said users nearest property line and connection is available through public right-of-way.

(Ord. 97-02, passed 6-3-1997)

§ 51.06 PUBLIC WAYS; REPLACEMENT.

The applicant shall agree to pay the cost of replacing streets or alleys excavated for the purpose of making the sewer connections covered by the permit. Costs shall be paid in advance in accordance with rates established by the city, regulating street cuts and establishing reasonable rates for the replacement of the same. The widest cut at any point shall be considered the width of such cut.

(Ord. 97-02, passed 6-3-1997)

§ 51.07 EXTENSION OF SEWERS.

(A) Extension of existing sewers may be made and financed by the following methods:

(1) By the formation of a local improvement district, as provided for by state law, with all benefitted users sharing the cost;

(2) By having the city extend the sewer, with the developer paying the entire cost; and

(3) By having the developer construct the sewer to city standards and paying the entire cost. Sewers so extended shall be conveyed to the city with necessary easements at no cost to the city. The city will maintain all such extended sewers.

(B) Where future extensions are probable, the city will pay a proportionate share of the additional pipe and bedding cost of larger pipe sizes.

(Ord. 97-02, passed 6-3-1997)

§ 51.08 CONSTRUCTION STANDARDS.

(A) All extensions shall be constructed to meet city and state requirements as to size and locations. All extensions greater than 280 feet shall be designed by a registered professional engineer or as required by state statute.

(B) The minimum pipe size shall be eight inches, except a six-inch pipe may be used on the last 250 feet of a sewer which cannot possibly be extended due to topographic limitations.

(C) Sewers shall be constructed of PVC pipe generally, with cast iron being required under waterways. Other pipe materials may be approved by the city on a case by case basis. All sewers shall be bedded in a well graded, free draining granular material free from large amounts of silts and clay. Bedding material shall extend from one-half diameter of pipe below to one-half diameter of pipe above installed sewer line.

(D) Manholes shall be provided at every change of alignment and grade and shall not exceed 500 feet in spacing. Manholes shall be constructed with precast sections, with the completed manhole being equal in quality to those in the original sewer system.

(E) Any property owner constructing a sewer through private property shall provide to the city a ten-foot wide easement for construction, operation and maintenance of the sewer line.
(Ord. 97-02, passed 6-3-1997)

§ 51.09 BUILDING SEWERS.

(A) The building sewer shall be constructed of cast iron, or PVC pipe, with rubber gasket joints. Any other material approved by the state's Plumbing Code for building sewers, shall be an approved material under this chapter. Concrete grout joints shall under no circumstances be an acceptable joint. Fittings for angles and the like shall be prefabricated and standard. Mudding-in angles will not be acceptable unless approved in writing and inspected by the inspector. Orangeburg and fiber-type pipe shall not be an approved type conduit.

(B) The size and slope of the building sewer shall be set to the approval of the inspector, but in no event shall be diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-fourth inch per foot, and the slope of pipe of larger diameter shall conform to state's Plumbing Code.

(C) Where the users cannot enter directly to the public sewer and have to enter an existing four-inch line of another user, from the point of connection, the building sewer pipe to the public sewer shall not be less than six inches including Wye connection.

(D) Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. Cast iron pipe or other approved pipe as herein specified shall not terminate less than five feet from the building, and a cleanout shall be placed in every building sewer and at every change of alignment or grade extending and including a 45-degree bend. No building sewer shall be laid parallel to or within feet of any bearing wall, which might thereby be weakened.

(E) The department shall be sufficient to afford protection from frost, and shall be laid with a minimum cover of 18 inches within the property or street or alley right-of-way. Any line with less than 30-inch cover in an alley or street shall be cast iron. The building sewer shall be laid at uniform grade

and in straight alignment wherever possible. Changes in direction shall be made only with properly curved pipe and fittings.

(F) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such drain shall be lifted by mechanical, electrical or pneumatic means approved by the inspector, and discharged to the building sewer, and the user shall provide a back water valve to prevent back flow of sewage.

(G) The city shall not be liable for any damage caused by backflow.

(H) Whenever possible all building drains and building sewers shall be installed not less than ten feet from a potable water supply. In the event that this provision cannot be complied with, applicant will proceed only under special permit, and under the direction of the inspector. When circumstances force the installer to cross potable water lines with sewer lines, the sewer lines shall be installed under the water lines and as near as possible to a 90-degree angle. Cast iron pipe with approved gasketed joints shall be used in crossing water mains unless the following requirements are met. Caulked and leaded joints will not be allowed.

(1) The bottom of the water piping at all points shall be at least 18 inches above the top of the sewer piping.

(2) The water piping shall rest on a solid shelf on both sides of the common trench crossing.

(I) All excavation required for the installation of a building sewer shall be open trench work. Pipe laying and backfill shall be performed in accordance with good construction practices, using granular bedding free from large amounts of silts and clays. No backfill shall be placed until the work has been inspected by the inspector.

(Ord. 97-02, passed 6-3-1997)

§ 51.10 PUBLIC SEWER USE.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any insanitary manner upon private property or public property with the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sanitary sewage, industrial waste or other polluted waters, except where suitable treatment has been provided in accordance with this chapter.

(C) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or vided for disposal of sewage.

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

(E) No person shall discharge or cause to be discharged any of the following described waters or waste into any public sanitary sewer:

- (1) Any liquid or vapor having a temperature higher than 150°F;
- (2) Any water or waste which contains more than 100 parts per million by weight, or fat, oil or grease;
- (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- (4) Any garbage that has not been properly shredded;
- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar plastic, wood, paunch manure or other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
- (6) Any waters or waste having any corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
- (7) Any waters or waste which in the opinion of the city contains a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment facilities. Any substances which may cause excessive foaming, be toxic to sewer systems, humans and animals including, but not limited to: copper; chromium; cyanide; lead; zinc; arsenic; nickel; phenol detergents; and wastes from nuclear fission;
- (8) Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the treatment facilities;
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance;
- (10) Water added to a wastewater discharge for the sole purpose of dilution as a means to achieve compliance with any pretreatment standard;
- (11) No industrial user shall discharge to the city wastewater system any wastewater subject to federal categorical pretreatment standards or other limits established by the city or state; and

(12) Industrial users shall notify the city wastewater treatment plant immediately upon occurrence of a “slug” or accidental discharge of substances regulated by this chapter. The notification shall include location of discharge, date and time thereof, type of waste concentration and volume and corrective action. Any industrial user shall be liable for any expense, loss or damage to the city wastewater collection system or treatment plant, in addition to the amount of any fines imposed on the city on account thereof under state or federal law.

(Ord. 97-02, passed 6-3-1997) Penalty, see § 51.99

§ 51.11 INTERCEPTORS.

(A) Grease, oil and sand interceptors shall be provided by hotels, restaurants, filling and service stations, laundries, meat packing plants and other places when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that, such interceptors shall not be required for private living quarters or dwelling units.

(B) All interceptors shall be of a type and capacity approved by the inspector and shall be located so as to be readily accessible for cleaning and inspection.

(C) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, water-tight and equipped with easily removable covers which, when bolted in place shall be water-tight.

(D) Where installed, all grease, oil and sand interceptors shall be maintained by the user at his or her expense, in continuously efficient operation at all times. The inspector shall ascertain that all interceptors are cleaned and/or replaced at least once every month.

(Ord. 97-02, passed 6-3-1997) Penalty, see § 51.99

§ 51.12 PRIVATE SEWAGE; DISPOSAL.

(A) Where a public sanitary sewer is not available for connection, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter and the requirements of the Department of Environmental Quality (DEQ).

(B) Before commencement of construction of a private sewage disposal system, or before issuance of a permit, if such a system is planned to be constructed, whichever is prior, the applicant shall first obtain a permit from the Department of Environmental Quality.

(C) A private sewage disposal system shall not be used until the installation is completed to the satisfaction of the DEQ. The work may be inspected at any stage of construction, and in any event, the applicant shall notify the DEQ when work is ready for final inspection and before any underground portions are covered.

(D) No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 5,000 square feet or where the served property is within 100 feet of a public sewer.

(E) At such time as a public sewer becomes available to a property served by a private disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar sewage disposal facilities shall be abandoned, cleaned and filled with gravel.

(Ord. 97-02, passed 6-3-1997) Penalty, see § 51.99

§ 51.13 SEWER SERVICE CHARGE.

Sewer service charge shall be established by resolution and shall be included in the water billing and connected monthly.

(Ord. 97-02, passed 6-3-1997)

§ 51.14 PROTECTION FROM DAMAGE.

No person shall break, damage, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works.

(Ord. 97-02, passed 6-3-1997) Penalty, see § 51.99

§ 51.15 RIGHT OF ENTRY.

The inspector shall be authorized by any owner or occupant of a building connected to the public and/or sanitary sewer to enter onto private property or into private buildings for the purpose of determining compliance with this chapter. Said authorization is an implied provision of any sewer permit.

(Ord. 97-02, passed 6-3-1997)

§ 51.16 VIOLATIONS; NOTIFICATION.

(A) When the Director finds that an industrial user has violated or continues to violate any provision of this chapter or requirement, the Director may serve upon that industrial user a written notice of violation. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the industrial user to the Director. Submission of this plan in no way relieves the industrial user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(B) When the Director finds that an industrial user has violated or continues to violate any provision of this chapter or order issued hereunder, or any other requirement of this chapter, the city may issue an order to the industrial user responsible for the discharge requiring that the industrial user come into compliance within a time specified in the order. The order may contain a fine. If the industrial user does not come into compliance within the time specified in the order, sewer or water service may be discontinued. Compliance orders may also contain other requirements to address the non-compliance, including management practices designed to eliminate the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for taking any other action against the industrial user.

(Ord. 97-02, passed 6-3-1997)

§ 51.99 PENALTY.

(A) Any person found to be violating any provision of this chapter shall be served by the city a notice of violation (NOV) with written notice stating the nature of the violation providing a reasonable time limit for the satisfactory correction thereof. Any person who shall continue any violation beyond the time limit set shall be fined in the amount not exceeding \$100 for each violation. Each day in which the violation shall continue shall be deemed a separate offense.

(B) Any person who continues the same violation after being issued a notice of non-compliance shall be subject to being fined: \$250 per violation per day for second infraction; \$500 per violation per day for third infraction; fourth infraction issuance of an order that may include a fine up to \$1,000 per violation per day, disconnection of water and/or sewer service and any other terms or conditions of the order. The city may authorize the Public Works Director to initiate emergency procedures to protect the public health and safety or public facilities or the environment.

(C) Notwithstanding the other conditions of this provision, the city may take any enforcement action deemed appropriate for the violation.

(Ord. 97-02, passed 6-3-1997)

CHAPTER 52: CROSS-CONNECTIONS

Section

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- 52.03 Cross-connection regulated
- 52.04 Installation, maintenance and testing
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- 52.06 Access to premises
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§ 52.01 DEFINITIONS.

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

APPROVED BACKFLOW PREVENTION DEVICE. A device to counteract back pressures or prevent back siphonage. This device must appear on the list of approved devices issued by the state's Health Division.

AUXILIARY SUPPLY. Any water source or system other than the public water system that may be available in the building or on the premises.

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

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

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

which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change over devices or other temporary or permanent devices through which, or because of which, backflow may occur are considered to be **CROSS-CONNECTIONS**.

DEGREE OF HAZARD. Derived from the evaluation of a health, system, plumbing or pollution hazard.

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

DIVISION. The Health Division of the state's Department of Human Resources.

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

PLUMBING HAZARD. An internal or plumbing-type cross-connection in a consumer's potable water system that may be either a pollutional or a contamination-type hazard. This includes, but is not limited to, cross-connections to toilets, sinks, lavatories, wash trays, domestic washing machines and lawn sprinkling systems. Plumbing-type cross-connections can be located in many types of structures including homes, apartment houses, hotels and commercial or industrial establishments.

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

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

PREMISES. Any piece of land to which water is provided including all improvements, mobile homes(s) and structures located on it.

REDUCED PRESSURE PRINCIPLE DEVICE. An assembly containing two independently acting approved check valves together with a hydraulically-operated, mechanically-independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The device shall include properly located test cocks and tightly closing shut-off valves at the end of the assembly. A check valve is approved if it appears on the list of approved devices issued by the state's Health Division.

SYSTEM HAZARD. An actual or potential threat of severe danger to the physical properties of the public or consumer's potable water system or of a pollution or contamination which would have a detrimental effect on the quality of the potable water in the system.
(Ord. 96-02, passed 2-6-1996)

§ 52.02 PURPOSE.

The purpose of this chapter is to protect the water supply of the city from contamination or pollution due to any existing or potential cross-connections.
(Ord. 96-02, passed 2-6-1996)

§ 52.03 CROSS-CONNECTION REGULATED.

The control of cross-connections shall be in accordance with this chapter and in compliance with the OAR Ch. 333-61-070 (Cross-Connection Control Requirements). The city shall have the authority to establish requirements more stringent than the Division's regulations if conditions so dictate. Therefore, no cross-connections shall be created, installed, used or maintained on any property served by the city water system, except in accordance with this chapter.
(Ord. 96-02, passed 2-6-1996)

§ 52.04 INSTALLATION, MAINTENANCE AND TESTING.

To ensure proper operation, installation and accessibility of all backflow prevention devices, the following requirements shall apply to the installation of these device assemblies within the water system of the city.

(A) The city will have the right to approve or deny the plans for installation of the approved device prior to installation.

(B) Assemblies must be installed at the point of delivery of the water supply, before any branch in the line. Alternate locations must be approved by the city prior to installations.

(C) All backflow device prevention assemblies shall be of a type and model approved by the Division and the city.

(D) Only device assemblies specifically approved by the Division for vertical installation may be installed vertically. Written requests for a variance must be submitted to the city prior to installation.

(E) The device assembly shall be readily accessible with adequate room for maintenance and testing. Device assemblies two inches and smaller shall have at least a six-inch clearance on all sides of the

device assembly. All device assemblies larger than two inches shall have a minimum clearance of 12 inches on the backside, 24 inches on the test cock side, 12 inches below the device assembly and 36 inches above the device assembly.

(F) If permission is granted to install the backflow device inside of the building, the device assembly shall be readily accessible during regular working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

(G) Maximum height of installation shall not exceed five feet for device assemblies two inches and larger unless there is a permanently installed platform meeting occupation safety and health (OSHA) standards to facilitate servicing the device assembly.

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

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

(J) Immediately after installation, repair of the device assembly and/or the moving of the device assembly to another approved location, the device assembly must be tested by a state certified backflow device assembly tester. If, for any reason, a device assembly fails any test, it shall be repaired and retested immediately until satisfactorily passing the test.

(K) The city will retain registration of all device assemblies. Registration shall consist of date of installation, installer, make, model, serial number, size and location of the device assembly and initial test report. All subsequent test results shall be retained in the file.

(L) Any damage to the device assembly(ies) caused by negligence or intentional acts will be the financial responsibility of the property owner. This responsibility will include, but not be limited to, purchase of a new device assembly, together with its installation, initial testing and annual testing thereafter.

(M) Device assemblies shall be tested more frequently if the city determines that there is “an extreme health risk” or the device assembly repeatedly fails.

(N) The property owner shall be responsible for protecting the device assembly from freezing and other severe weather conditions.

(Ord. 96-02, passed 2-6-1996) Penalty, see § 10.99

§ 52.05 MOBILE APPARATUS.

Any mobile apparatus which uses the city's water system or water from any premises with the city system must obtain permission from the city. Permission shall not be required for authorized fire personnel in providing emergency fire protection services.

(Ord. 96-02, passed 2-6-1996) Penalty, see § 10.99

§ 52.06 ACCESS TO PREMISES.

Authorized employees or representatives of the city, with proper identification, shall have access during reasonable hours to all parts of the premises and within the buildings to which water is supplied. However, if any water user refuses access to a premises or to the interior of a structure at reasonable times and on reasonable notice for inspection by a cross-connection specialist appointed by the city, the supply of water will be terminated until the inspection can be completed.

(Ord. 96-02, passed 2-6-1996)

§ 52.07 ANNUAL TESTING AND REPAIRS.

All backflow device assemblies installed on any property served by the city water system shall be re-tested annually and/or on a more frequent basis as required by § 52.04(J) of this chapter by a state certified tester. All device assemblies found not functioning properly shall be immediately repaired by the tester as set out in § 52.04(J) of this chapter or replaced. All associated expenses shall be billed to the property owner.

(Ord. 96-02, passed 2-6-1996)

§ 52.08 VARIANCES.

(A) Any variance from this chapter shall be requested in writing by the owner and approved in writing by the city prior to device assembly installation.

(B) It is the responsibility of the property owner to demonstrate satisfactorily to the city:

(1) Strict compliance with the rule would be highly burdensome or impractical due to special conditions or causes; and

(2) The reasons for granting a variance clearly outweigh the purpose of this chapter.

(Ord. 96-02, passed 2-6-1996)

§ 52.09 COST OF COMPLIANCE.

If, in the opinion of the inspector, based on State Health Department and city guidelines a condition is found which warrants a backflow device installation the owner of the property will be notified that an approved device is required and a time limit set for installation. All costs of the approved device installation will be the property owners responsibility.

(Ord. 96-02, passed 2-6-1996)

§ 52.10 TERMINATION OF SERVICES.

In the event of serious cross-connection or immediate threat to the public water system, the water service will be terminated until approved corrective action is taken (OAR Ch. 333-61-070, § 1).

(Ord. 96-02, passed 2-6-1996)

TITLE VII: TRAFFIC CODE

Chapter

70. TRANSPORTATION SYSTEM PLAN

71. BICYCLE AND PEDESTRIAN PLAN

72. TRAFFIC AND PARKING

73. RECREATIONAL VEHICLES

74. PARKING SCHEDULES

CHAPTER 70: TRANSPORTATION SYSTEM PLAN

Section

70.01 Adoption of plan; incorporation

§ 70.01 ADOPTION OF PLAN; INCORPORATION.

The city's Transportation System Plan (adopted by Ord. 2004-01) is hereby amended to incorporate the city's Bicycle and Pedestrian Plan (2009), as set out in Ch. 71 of this traffic code. (Ord. 2004-01, passed 2-3-2004; Ord. 2009-01, passed 7-9-2009)

CHAPTER 71: BICYCLE AND PEDESTRIAN PLAN

Section

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- 71.003 Plan purpose and community involvement
- 71.004 Contents of the plan

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GENERAL PROVISIONS

§ 71.001 INTRODUCTION.

(A) Since 1949, a stern yet plain-spoken sign has greeted visitors entering the community of Joseph: “This Little Town Is Heaven To Us. Don’t Drive Like Hell Through It.” In an effort to soften the tone, city leaders recently added the word “Please”. The sign exemplifies this northeast Oregon community’s character: a town proud of its down-to-earth roots, its straightforward honesty and never-ending eagerness to improve itself through efforts small and large.



(B) Joseph’s character, location and history truly place the community in a class of its own. Known by many as the “Switzerland of America”, the city is situated where the towering Wallowa Mountains descend into Wallowa Lake, a five-mile long lake formed by glaciers over nine million years ago. The town officially incorporated in 1879, with its namesake reflecting either that of Old Chief Joseph or his son, both from the Nez Perce Tribe. The Nez Perce resided in the area long before the arrival of farmers and settlers, and even longer before Joseph became the first Wallowa County seat in the late 1880s. The

Tribe's forced exodus from the Wallowa Valley represents a darker moment in America's 19th Century history, though the Chief Joseph Monument and Nez Perce National Historic Park celebrate the Tribe's tremendous cultural and historical contributions.

(C) Today, the city has transformed itself from a small timber community into a widely popular destination. Since opening two bronze foundries in the 1980s, attractive bronze statues on Main Street now compliment numerous downtown art studios and galleries. Recreation opportunities abound in and near the city, including Wallowa County Park, Eagle Cap Wilderness Area and Hells Canyon. The community's 1,100 residents and countless visitors enjoy activities and events almost every weekend of the year such as Chief Joseph Days, the Bronze Blues and Brews Music Festival, Bronze Bike Motorcycle Rendezvous and Eagle Cap Sled Dog Races.

(Ord. passed 6- -2009)

§ 71.002 WALKING AND BICYCLING: MAKING THE CONNECTION.

(A) Whether it be a leisurely bike ride to Wallowa Lake or a short walk to school, city residents and visitors greatly value the area's walking and bicycling opportunities. The foundation of a potentially-tremendous walkway and bikeway network is already in place or in development. Joseph's downtown core offers an attractive walking environment largely resulting from the visionary Main Street Beautification Project completed in 2000. Surrounding neighborhoods have well-connected streets, many of which serve as excellent bicycling routes, and efforts are underway to establish new recreation opportunities. To enhance these assets, city residents and leaders desire to make the community even more attractive for walkers and bicyclists. In some areas, bicycle and pedestrian system upgrades are needed. These include intersection improvements, sidewalk completion, Americans with Disabilities Act (ADA) compliance, completing bikeway network gaps and establishing new connections.

(B) The Bicycle and Pedestrian Plan will take the city to the next level. This plan presents the vision of a fully-developed bicycle and pedestrian system over the next 20 years, serving residents and visitors alike. A complete bikeway and walkway network will increase overall connections within the community, increase the number of children walking and bicycling to school and promote the overall health of city residents by making walking and bicycling safe, comfortable and attractive travel modes. (Ord. passed 6- -2009)

§ 71.003 PLAN PURPOSE AND COMMUNITY INVOLVEMENT.

(A) The Bicycle and Pedestrian Plan provides an updated inventory and assessment of the city's walkway and bikeway network, and replaces the bicycle and pedestrian element of the city's 2001 Transportation System Plan. This plan lays out comprehensive strategies for system-wide improvements and specifies exactly what needs to be done to achieve the city's goal of becoming a better walking and bicycling community. These strategies will help the city leverage the necessary funding and other resources needed to achieve this goal.



(B) City staff, stakeholder groups and most of all - Joseph residents - helped guide this plan. Community workshops were held throughout the project's duration, enabling residents and other interested individuals to express concerns and ideas for improvements. The city also hosted walking and bicycling tours, allowing participants to gain a user's perspective on current conditions and needs. The project team conducted stakeholder interviews to identify bicycle/pedestrian issues from the standpoint of various interest groups and organizations. Finally, the project's walking and bicycling tours, hosted by the project team, gave participants first-hand knowledge of opportunities and challenges facing bicyclists and pedestrians in the city.

(C) Technical Advisory Committee and City Council provided insights in a series of work sessions and public meetings.

(Ord. passed 6- -2009)

§ 71.004 CONTENTS OF THE PLAN.

The Bicycle and Pedestrian Plan is organized as follows:

(A) Introduction, provides an overview of this plan and its purpose;

(B) Existing conditions, describes the city's existing walkway and bikeway network and summarizes system strengths and weaknesses;

(C) Recommended walkway and bikeway network, depicts the recommended system of on- and off-street walkways and bikeways, and details several "top priority" projects. The subchapter also includes a project list with planning-level cost opinions, and a project prioritization discussion;

(D) Recommended pedestrian and bicycle programs, describes education, encouragement, enforcement and evaluation measures the city and/or other local agencies should implement to promote walking and bicycling, to increase bicyclist and pedestrian safety and to increase the awareness of walking and bicycling as viable travel modes;

(E) Design guidelines, provides design guidance to be referenced when implementing the city's walkway and bikeway projects. Design guidelines are gathered from local, state and national best practices;

(F) Funding sources, identifies potential strategies for funding the recommended pedestrian and bicycle projects and programs; and

(G) At the end of this plan, a facts and findings report documenting existing traffic operations at key intersections, along with a discussion of potential traffic impacts associated with the proposed pedestrian/bicycle improvements. Additional appendices include a detailed project evaluation matrix and recommended changes to the city's Comprehensive Plan, Zoning Ordinance and Land Division and Partitioning Ordinance.

(Ord. passed 6- -2009)

EXISTING CONDITIONS

§ 71.015 INTRODUCTION.

(A) This subchapter describes the city's existing walking and bicycling environment as well as system strengths and weakness.

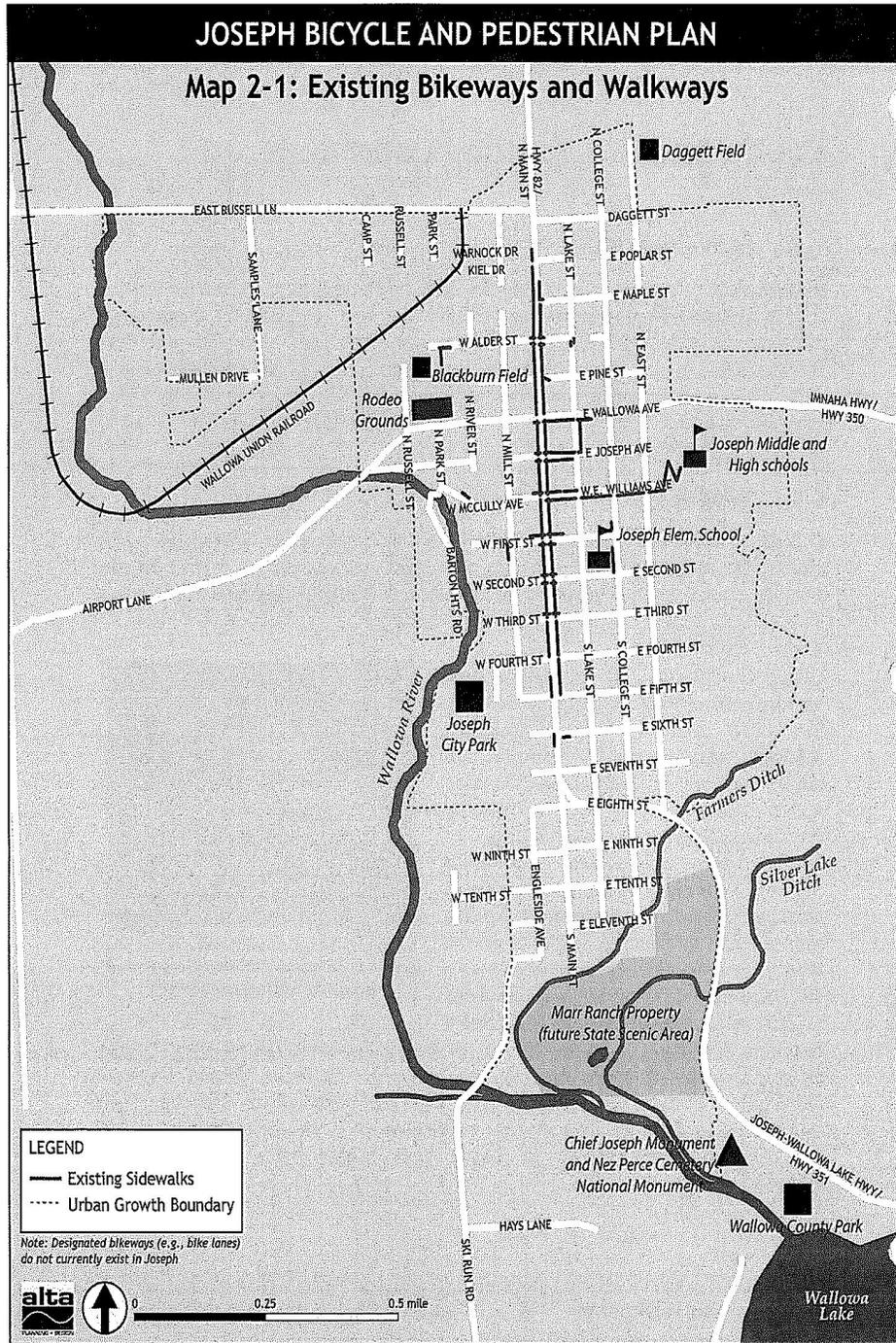
(B) The text first discusses the community's various bicycle/pedestrian facility types, highlights non-motorized user destinations and describes inter-modal connections.

(C) The chapter concludes with a summary of system strengths and weaknesses, enabling city leaders to identify system attributes and needs, setting the stage to identify and prioritize improvements.
(Ord. passed 6- -2009)

§ 71.016 WALKWAYS.

Pedestrian travel is accommodated and enhanced by sidewalks, shared use paths, crosswalks, curb ramps and other infrastructure. Various facility types comprise Joseph's existing walkway network, the most basic of which are described below.

(A) Depicted on Map 2-1, sidewalks comprise the vast majority of the city's walkway network. The most common type of walkway, sidewalks generally parallel roadways and have a hard, smooth surface (e.g., concrete), with separation from the roadway typically consisting of a curb and/or planter strip.



(B) The presence and condition of sidewalks in the city varies by location. The downtown area, particularly along Main Street, benefits from a relatively complete sidewalk system with sidewalks on both sides between Maple and Third streets. This system was completed in 2000 as part of the city’s

Main Street Beautification Project, a partnership of the Joseph Economic Improvement District, Oregon Department of Transportation (ODOT), the Northeast Oregon Economic Development District and several other agencies and organizations. The Main Street sidewalk environment includes a variety of complementary pedestrian facilities such as curb ramps and amenities like street trees, public art, benches and trash receptacles.



(C) (1) Beyond the downtown core, sidewalk segments exist along Main Street, between E Maple and E Poplar streets and between Third and Fifth streets.

(2) The city recently constructed sidewalks on the south side of W.E. Williams Avenue between Main and East streets to better connect students with Joseph Middle and High Schools.

(3) Other streets with existing sidewalk segments include E Wallowa Avenue (between N Main and N College streets), E Joseph Avenue (between S Main and S Lake streets), and portions of W Alder, N Lake, S Mill, S College and E Sixth streets.

(D) (1) Sidewalk widths vary by location, ranging from four to five feet wide on residential streets, to over ten feet wide on portions of Main Street in the downtown core.

(2) Sidewalk conditions vary, ranging from relatively smooth surfaces (e.g., along S Main Street north of Third Street), to cracked sidewalks with intruding vegetation (e.g., on the east side of S Main Street south of Third Street).

(E) (1) The vast majority of city streets lack sidewalks or other dedicated pedestrian facilities. In these areas, pedestrians either walk in adjacent shoulders (grass or gravel) or share the road with motor vehicles.

(2) Despite the general absence of sidewalks on these streets, pedestrians benefit from relatively low traffic volumes and low posted on S Main Street due to a lack of sidewalks.



(Ord. passed 6- -2009)

§ 71.017 INTERSECTIONS.

The quality of intersections from a pedestrian perspective varies by location. The following sections describe general intersection conditions in the city.

(A) *Crosswalks*. Within the downtown core, marked crosswalks exist at nearly all intersections along Main Street. Most crosswalks consist of transverse (also called “parallel bar”) markings, while some intersections include higher-visibility longitudinal (also called “ladder-style”) markings. Most intersections beyond downtown lack marked crosswalks, with the exception of a few streets near school areas (e.g., E Wallowa Avenue at N: Longitudinal crosswalk on Main East Street). The city currently applies paint to mark and re-mark crosswalks, but has expressed interest in using thermoplastic to reduce maintenance needs.

Image Not
Available

(B) *Curb ramps*. Curb ramps represent a fundamental element of an accessible public realm. A sidewalk without a curb ramp can be useless to someone in a wheelchair, forcing them back to a driveway and out into the street for access. In downtown Joseph, curb ramps exist at most intersections

along Main Street. Curb ramps also exist along the recently completed W.E. Williams Avenue sidewalk, with some ramps including detectable warning strips to guide visually-impaired users. A more scattered system of ramps exists along other streets throughout the city.

(Ord. passed 6- -2009)

§ 71.018 SHARED USE PATHS.

(A) Shared use paths currently do not exist in the city. These facilities (also referred to as “multi-use trails” and “multi-use paths”) accommodate various non-motorized users, including pedestrians, bicyclists, in-line skaters and runners. Shared use paths are typically paved (asphalt or concrete), but may also consist of an unpaved smooth surface as long as it meets Americans with Disabilities Act (ADA) standards.

(B) Although shared use paths currently do not exist in the city, previous planning efforts have identified several potential path development opportunities (described later in this plan).

(Ord. passed 6- -2009)

§ 71.019 SOFT SURFACE TRAILS.

(A) Soft surface trails typically serve walkers and joggers, and may also accommodate equestrians and cross-country skiers.

(B) The city currently lacks a formalized soft surface trail system; however, residents and visitors have created several informal trails, including a former jogging trail circling the Joseph Middle/High School campus, a trail along the Wallowa River near Wallowa County Park and the Marr Ranch property and a trail following the Wallowa River near Barton Heights Road.

(Ord. passed 6- -2009)

§ 71.020 ACCESSWAYS.

(A) Accessways are short sidewalk or shared use path segments providing direct pedestrian/bicycle connections to destinations that would otherwise require out-of-direction travel on the surrounding street system.

(B) Accessways commonly connect cul-de-sac streets with nearby streets or paths to minimize pedestrian/bicycle travel distance in areas with limited street system connectivity.

(C) North of the city’s downtown core, a pedestrian bridge crosses over Big Bend Ditch, linking N Main Street with E Pine Street.

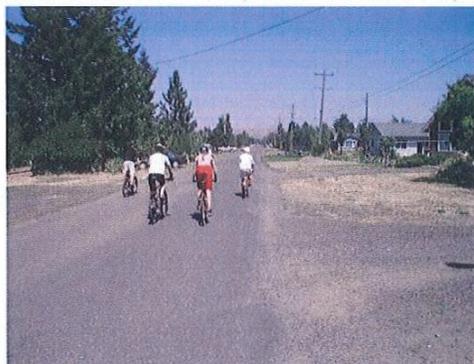


(Ord. passed 6- -2009)

§ 71.021 BIKEWAYS.

(A) Several types of “bikeways” exist, as defined by federal and state bicycle planning and design guides and manuals. Bikeways generally are distinguished as preferential roadways accommodating bicycle travel, with accommodation taking the form of bicycle route designation, bike lane striping or shared use paths to physically separate cyclists from motorists.

(B) Joseph currently lacks a formalized bikeway system (e.g., bike lanes and shared use paths). Rather, bicyclists share streets with motorists. Most lower-order streets in Joseph can be classified as “shared roadways”. Typically the most common type of bikeway, shared roadways, accommodate vehicles and bicycles in the same travel lane. The most suitable roadways for shared vehicle/bicycle use are those with lower posted speeds (25 mph or less) or lower traffic volumes (3,000 average daily traffic or less). Most lower-order streets in the city have posted speeds of 15 to 25 mph while serving relatively low traffic volumes.



(C) Although bicyclists and motorists can sufficiently share travel lanes on most streets, higher vehicle volumes and speeds on other corridors indicate a potential need for enhanced bicyclist accommodations (e.g., separation from motorists). The city’s major roads provide varying shoulder

widths to accommodate bicycle travel, including two-to three-foot wide shoulders on segments of Oregon 82 north of Russell Lane, one- to three-foot wide shoulders on E Eighth Street and Wallowa Lake Highway, and no shoulders on Airport Lane/Hurricane Creek Road.
(Ord. passed 6- -2009)

§ 71.022 BIKE PARKING.

(A) Bike parking is a critical component of a community's bikeway network and can strongly influence one's decision whether to complete a trip via bicycle. The city's bike parking facilities largely consist of bike racks located at intersections along Main Street in the downtown core (installed as part of the Main Street Beautification Project). Bike racks also exist adjacent to Joseph Elementary School (near the building entrance on E Second Street), and at the east end of W.E. Williams Avenue near Joseph Middle and High schools.



(B) The quality of existing bike parking facilities varies by location, particularly due to the style of rack chosen and/or placement of the rack. Some existing racks (particularly those near the schools) are considered substandard because they do not provide sufficient points of contact to support a bicycle at two points. In other words, they do not allow a bicycle frame and at least one wheel to be locked to the rack without the use of a long bicycle cable or mounting the bicycle over the rack.
(Ord. passed 6- -2009)

§ 71.023 PEDESTRIAN AND BICYCLIST DESTINATIONS.

(A) The city benefits from a relatively compact layout and well-connected street system, making walking and bicycling convenient and attractive travel modes. Major walking and bicycling destinations include:

- (1) Restaurants and commercial/retail businesses on Main Street in downtown Joseph;
- (2) U.S. Post Office;
- (3) Public restrooms and informational kiosk at the Joseph Public Parking Lot;

- (4) Blackburn Field;
- (5) Daggett Field;
- (6) Joseph City Park; and
- (7) Rodeo grounds.

(B) Non-motorized users (especially bicyclists) also benefit from a variety of destinations within close proximity of the city, including Wallowa County Park and the Nez Perce National Historic Park. Several rural roads immediately outside the city serve as recreational cycling routes, including Hurricane Creek Road, Imnaha Highway, Wilson Lane, Walker Lane and Ski Run Road.



(Ord. passed 6- -2009)

§ 71.024 TRANSIT CONNECTIONS.

(A) Community connections of the county provides fixed route shuttle bus service between Enterprise and Wallowa Lake State Park, including six roundtrips each day between mid-June and mid-September. Within Joseph, shuttle buses travel along Oregon 82, Main and E Eighth streets, and Wallowa Lake Highway. Buses make “flag stops” along the route (designated stops do not exist), and drivers will deviate from the route to serve mobility-impaired users upon request. Shuttle buses are ADA-accessible, but currently lack bike racks. Shuttle operators allow bicycles inside shuttle buses when sufficient room exists, and the agency is currently seeking grant funding for a new vehicle that would include a bike rack. Approximately 15 to 20 passengers utilize the service each day, while usage increases to 25 to 30 riders during peak periods.

(B) Northeast Oregon Public Transportation operates the “Wallowa Link” shuttle between the city and La Grande. Buses operate on Mondays and Tuesdays with two departures each day. Buses also make stops in five communities along Oregon 82 between the city and La Grande.

(Ord. passed 6- -2009)

§ 71.025 CONNECTIONS TO SCHOOLS.

(A) Joseph Elementary School occupies the city block surrounded by E First, E Second, S Lake and S College streets; while Joseph Middle and High schools share a building on a bluff above East Street near W.E. Williams Avenue. Within the schools' immediate vicinity, streets with sidewalks include Main Street, W.E. Williams Avenue, E Joseph Avenue and segments of S College Street. The absence of sidewalks on other streets near the schools forces pedestrians to walk in adjacent yards or share the road with motorists. With the exception of Main Street and the E Wallowa Avenue at N East Street intersection, most nearby intersections lack marked crosswalks. Signage alerting motorists of pedestrians exists on S Lake Street, while a school speed zone of 20 mph is posted on S College Street.



(B) Designated bikeways do not exist near either school campus, although students use the surrounding residential street and alley system. Bike parking at the Elementary School is located near the S Second Street building entrance; while the closest bike rack to the Middle and High schools is located at the east end of W.E. Williams Avenue.

(C) A cyclone fence encircles the Elementary School campus, limiting access to the E Second Street building entrance. The Middle and High School campus's location on a bluff largely limits access to the west and south. Most students use a sidewalk and pedestrian path linking W.E. Williams Avenue with the Middle/High School parking lot, where a stairway provides access to the main building entrance. (Ord. passed 6- -2009)

§ 71.026 SYSTEM STRENGTHS AND WEAKNESSES.

(A) *System strengths.* Summarized below, various characteristics create a positive bicycling and walking environment in the city and surrounding areas.

(1) *Land use characteristics.* Land use characteristics, particularly along Main Street in downtown Joseph, foster a pedestrian- and bicycle-friendly environment. For instance, buildings fronting the sidewalk edge on Main Street create a sense of tight urban form and an inviting pedestrian

atmosphere. Walking and bicycling as a means for running errands are also encouraged through the grouping of diverse land uses in the downtown core.

(2) *Streetscape treatments.* Streetscape treatments on Main Street (as part of the city’s Main Street Beautification Project) create an attractive walking and bicycling environment. Treatments include street trees, benches, trash receptacles and public art celebrating downtown Joseph. The presence of angled on-street parking also buffers foot traffic from adjacent motor vehicle traffic. Other nearby streets (e.g., W.E. Williams Avenue) include planter strips between the sidewalk and curb, providing an additional buffer between pedestrians and benefit from a variety of streetscape motorists. treatments.



(3) *System connectivity.* The city’s street grid provides generally good system connectivity, especially in areas south and east of downtown. The relatively well-connected grid facilitates convenient and direct bicycle and pedestrian travel.

(4) *Presence of intersection treatments for pedestrian crossings.*

(a) *Curb extensions.* Curb extensions slow vehicle traffic by creating a visual “pinch point” for approaching motorists. Typically constructed within the on-street parking lane (e.g., along Main Street between Maple and Third Streets), these devices can calm traffic passing through or turning at an intersection. Curb extensions also reduce the pedestrian crossing distance, while increasing motorists’ visibility of pedestrians waiting to cross the street.

(b) *High-visibility crosswalks and signage.* High-visibility crosswalks and supplemental warning signage exist at several intersections in the city. High-visibility crosswalks usually include multiple wide stripes oriented perpendicular to the pedestrian’s direction of travel while crossing the street. Some crossings also include warning signage to alert motorists of the presence of foot traffic (e.g., E Wallowa Avenue at N Lake Street).

(5) *Signage alerting motorists of bicyclists and pedestrians.* Although many streets in and around the city lack sidewalks, bike lanes or other dedicated facilities, the city and ODOT have placed warning signs on some streets to alert motorists to the presence of non-motorized users. For instance, several “BIKES ON ROADWAY” signs exist on Wallowa Lake Highway immediately south of the city where bicyclists must ride on narrow shoulders or share travel lanes with motorists.



(6) *Presence of available right-of-way for future bikeways and walkways.* Right-of-way widths on many city streets provide sufficient room for future bicycle and pedestrian facilities. Widths range from about 60 feet on most east-west streets to about 100 feet on north-south streets. These right-of-way widths, coupled with relatively narrow existing street widths (typically two travel lanes) provide opportunities to construct bikeways and walkways with minimal or no private property impacts.

(B) *System weaknesses.* Described below, pedestrians and bicyclists in and around the city face a variety of challenges.

(1) *Barriers.* City residents cite major roads as barriers to bicycling and walking, particularly due to higher vehicle speeds and volumes which create uncomfortable and potentially unsafe crossing conditions. Examples include S Main Street (south of downtown), E Eighth Street and Wallowa Lake Highway.

(2) *Uncomfortable walking and bicycling environment along high-volume roadways.* Large vehicles (e.g., trucks, buses and recreational vehicles), high vehicle speeds and volumes create challenging, uncomfortable and potentially unsafe walking and bicycling conditions on major streets. These conditions present additional challenges on major roads with minimal or no bicycle/pedestrian facilities. Example corridors include S Main Street near Seventh Street (narrow shoulders for bicyclists and no sidewalks for pedestrians), Wallowa Lake Highway (narrow bridges forcing foot and bicycle traffic into the roadway), Airport Lane/Hurricane Creek Road and Engleside Avenue/Ski Run Road.

(3) *Limited street system connectivity in some areas.* Although the city benefits from generally good street system connectivity, limited connectivity in some parts of town provides few bicycle/pedestrian routing options. Specific locations include areas west of S Main Street and neighborhoods north of Wallowa Avenue. In these areas, bicyclists and walkers must use major roadways to travel longer distances.

(4) *Lack of wayfinding tools.* Joseph's walkway and bikeway system could benefit from signage and other wayfinding tools to orient users and direct them to and through major destinations like downtown, surrounding schools, ball fields and parks.

(5) *Maintenance issues.* Described below, several maintenance issues complicate pedestrian/bicycle travel in the city.

(a) *Marginal/poor pavement conditions on several streets.* Bicyclists encounter difficult riding conditions on unpaved streets such as W Fourth Street west of Mill Street (near Joseph City Park), and N Russell Street (near the rodeo grounds). These streets present difficult maneuvering issues, especially for cyclists making tight turns. Paved streets with numerous potholes or other pavement quality issues also complicate riding, especially at night in areas with limited or no lighting. Roadways with marginal or poor pavement include segments of Lake, College and East Streets.



(b) *Gravel/debris on roadway shoulders.* Gravel and debris on roadway shoulders create difficult bicycling conditions, and typically force bicyclists to ride in adjacent vehicle travel lanes. The project team observed these conditions on E Wallowa Avenue/Imnaha Highway.



(c) *Damaged/deteriorated sidewalks.* Existing sidewalks in some parts of the city suffer from cracking, heaving and/or vegetation growing between pavement seams (e.g., the west side of S Main Street south of Fourth Street). Uneven pavement joints (often caused by tree roots below the sidewalk) create tripping hazards and complicate travel for wheelchair users. Mobility-impaired pedestrians also experience difficulty on sidewalk surfaces consisting of larger rocks (e.g., the east side of S Main Street near Fifth Street). Water ponding on sidewalk surfaces can further challenge walking, especially when ponding water freezes in cold weather.

Joseph - Traffic Code

(d) *Damaged/deteriorated trails.* Briefly described earlier, Joseph residents helped construct a soft surface perimeter trail around the Joseph Middle/High School campus in 2004. Approximately one-half mile long, the trail served as a popular walking, jogging and cross-country trail; and included a weed barrier below the ground surface to deter vegetation encroachment. Little to no maintenance has occurred since trail construction, resulting in vegetation overgrowth and surface deterioration.

(6) *Obstructed signs.* Although the city has posted school speed zone and other advisory signs aimed at motorists, overgrown vegetation obstructs these signs in some locations (e.g., on S College Street north of Joseph Elementary School).



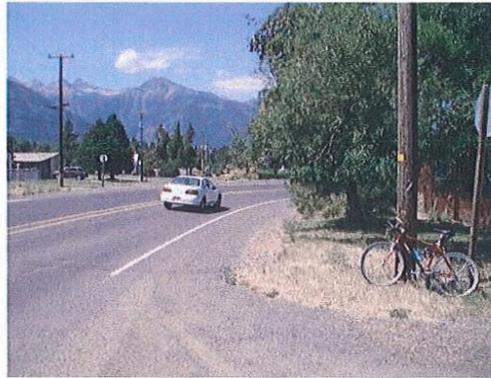
(7) *Fragmented sidewalk network in some areas.* As discussed earlier, downtown Joseph benefits from a fairly complete sidewalk network while the system is fragmented in other areas. Beyond the downtown core, many streets have sidewalks on one side only (e.g., portions of E Wallowa Avenue) while other streets lack sidewalks altogether. In some locations, sidewalks abruptly end (e.g., on W Alder Street), forcing pedestrians into the roadway shoulder (if one exists) or into the road.

(8) *Sight distance issues.* Limited sight distance in some locations creates potentially hazardous bicycling and walking conditions. Several tight curves on the Tenth Street/Engleside Avenue/Ski Run Road corridor create an uncomfortable and potentially unsafe walking and riding environment, as motorists maneuvering around curves have little time to react when encountering foot and bicycle traffic on the roadway. Pedestrians and bicyclists crossing E Eighth Street also encounter challenging conditions, as relatively tight curves and overgrown vegetation limit visibility for all roadway users.

(9) *Demonstrated need for more bicycle/pedestrian facilities.*

(a) The presence of informal paths (also known as “demand paths”) in some areas indicates a demand for pedestrian and bicycle facilities where they currently do not exist, or where formalized facilities require users to follow circuitous routes to overcome relatively short distances.

(b) This is particularly evident along the Wallowa River near Wallowa County Park, where non-motorized users have created a system of informal paths.



(Ord. passed 6- -2009)

RECOMMENDED WALKWAY AND BIKEWAY NETWORK

§ 71.040 INTRODUCTION.

(A) The city has potential to transform itself into one of the region’s most walkable and bikeable communities. Although challenges lie ahead, the foundation of a fantastic system already exists. This subchapter lays out a 20-year plan for completing this system. The recommended network builds upon previous and on-going local and regional planning efforts and reflects the extensive input offered by city staff, bicycle/pedestrian stakeholder groups and city residents.

(B) The recommended walkway and bikeway network includes a comprehensive and diverse set of pedestrian and bicycle facilities connecting key destinations in and around the city. System improvements include filling sidewalk gaps, establishing a designated bikeway network, upgrading intersections for safer bicycle/pedestrian crossings, expanding the shared use path network and other infrastructure projects to encourage bicycling and walking. Suggested improvements include low-cost measures yielding immediate results, such as establishing bicycle boulevard corridors. Other suggested improvements, such as expanding the local trail system, represent longer-term strategies for transforming the city into a truly bicycle- and pedestrian-friendly community.

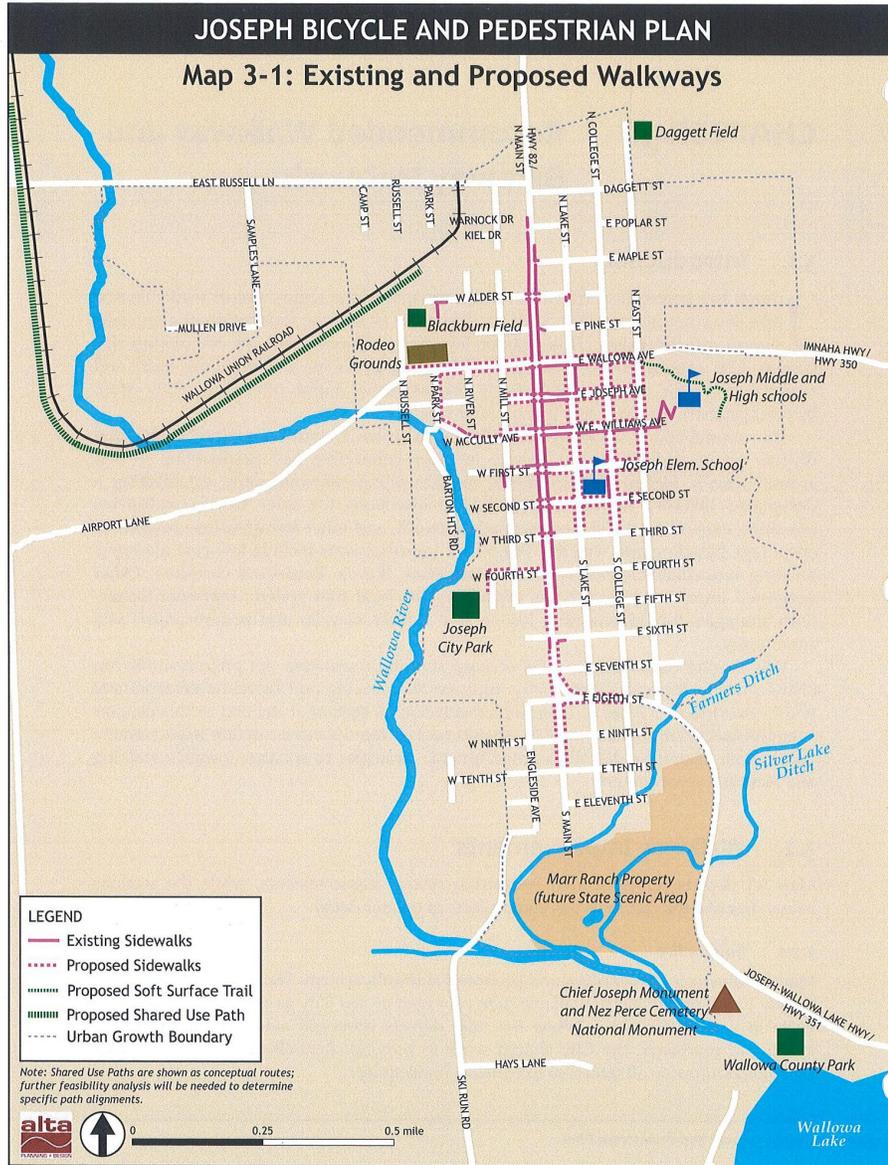
(C) (1) This subchapter contains a long list of suggested improvements, yet projects at the top of the priority list will substantially improve the walking and bicycling environment within the first five years of plan implementation. A section at the end of this subchapter suggests specifically where the city should concentrate its infrastructure improvement efforts first.

(2) This subchapter describes programmatic strategies to enhance the city’s walking and bicycling environment.

(Ord. passed 6- -2009)

§ 71.041 WALKWAY IMPROVEMENTS.

Map 3-1 depicts recommended pedestrian system improvements, while the sections below describe the facility types and projects in greater detail.



(A) Sidewalks.

(1) Map 3-1 illustrates the existing and proposed sidewalk system. The existing inventory is largely based on the latest available data provided by the city as well as follow-up site visits in various locations. While the map depicts proposed sidewalks on a limited number of roadways, the city should work to provide sidewalks or other pedestrian accommodations on all streets to maximize connectivity.

(2) If physical constraints, limited funding or other issues preclude sidewalk construction on both sides of a street simultaneously, the city should implement projects in multiple phases (e.g., by first constructing a sidewalk on one side of the street as an interim measure).

(3) Maintaining and improving the existing system holds equal importance. The city should thoroughly inventory the existing sidewalk network to identify needed improvements (e.g., cracked or heaving pavement, intersections lacking curb ramps and the like) and dedicate resources on a continual basis to address these problem areas.

(4) Alpine House Subarea.

(a) The Alpine House Assisted Living Facility is located on N Park Street between W Wallowa and W McCully avenues. Residents and staff have consistently expressed a desire for improved pedestrian connections between the facility and downtown Joseph. Despite the Alpine House’s relatively close proximity to Main Street and Downtown businesses, pedestrians face numerous challenges, most notably an absence of sidewalks and other pedestrian infrastructure. Between the Alpine House and Downtown, pedestrians currently follow two main routes:

1. N Park Street to W Wallowa Avenue; or
2. N Park Street to W McCully Avenue.

(b) The project team, at community open houses and citywide walking tour events, discussed existing conditions and potential improvement ideas with Alpine House residents and staff. Map 3-2 depicts potential pedestrian infrastructure improvement options on the two main routes linking the facility with Main Street and downtown Joseph, and also describes opportunities and constraints associated with each route. The following sections describe the two routing options in greater detail.

(5) (a) The N Park Street and W Wallowa Avenue route link Alpine House residents with a commercial business hub at the N Main Street/Wallowa Avenue intersection, including a popular restaurant and grocery store.

(b) The following table summarizes opportunities and constraints associated with pedestrian infrastructure improvements on this route.

(c) Major opportunities include the route’s direct connections with N Main Street, and potential to connect pedestrians with other nearby destinations (e.g., rodeo grounds).

(d) Major constraints include potentially-costly sidewalk or path retrofit projects on two W Wallowa Avenue bridges.

(e) Wallowa County owns and maintains the bridge over Wrenn Dobbin Ditch while the city owns and maintains the bridge over Big Bend Ditch.

<i>N Park Street/W Wallowa Avenue Opportunities and Constraints</i>	
<i>Opportunities</i>	<i>Constraints</i>
<ul style="list-style-type: none"> • Provides the most direct routing between Alpine House and Main Street 	<ul style="list-style-type: none"> • Higher vehicle volumes compared with W McCully Avenue route
<ul style="list-style-type: none"> • Sidewalk and/or other pedestrian improvements on W Wallowa Avenue would also improve connections to the nearby rodeo grounds 	<ul style="list-style-type: none"> • Potentially costly sidewalk retrofit projects to two existing bridges on W Wallowa Avenue
<ul style="list-style-type: none"> • Sufficient room exists to construct a sidewalk on the east side of N Park Street adjacent to Alpine House 	<ul style="list-style-type: none"> • Existing right-of-way encroachment (parking lot) on north side of W Wallowa Avenue near N Main Street

(6) The N Park Street and W McCully Avenue route link Alpine House residents with the U.S. Post Office and other nearby destinations at the Main Street/McCully Avenue intersection. The Post Office serves as a major pedestrian destination, as Joseph currently lacks mail delivery service. The following table summarizes opportunities and constraints associated with pedestrian infrastructure improvements on this route. Major opportunities include the route’s relatively low auto traffic (compared with W Wallowa Avenue), and the presence of a sidewalk on the W McCully Avenue bridge over Wrenn Dobbin Ditch. Alpine residents expressed a preference for this route particularly due to these characteristics. Major constraints include private property encroachment in the public right-of-way (e.g., near the W McCully Avenue/Mill Street intersection) and potential sidewalk obstructions such as existing mailboxes and utility poles.

<i>N Park Street/W McCully Avenue Opportunities and Constraints</i>	
<i>Opportunities</i>	<i>Constraints</i>
<ul style="list-style-type: none"> • Lower vehicle volumes compared with W Wallowa Avenue route 	<ul style="list-style-type: none"> • Provides less direct routing between Alpine House and Main Street
<ul style="list-style-type: none"> • Alpine House residents expressed a stronger preference for this route compared with W Wallowa Avenue 	<ul style="list-style-type: none"> • Existing utility poles on north side of W McCully Avenue (west of Mill Street) could complicate sidewalk construction
<ul style="list-style-type: none"> • Sufficient room exists to construct a sidewalk on the east side of N Park Street adjacent to Alpine House 	<ul style="list-style-type: none"> • Existing right-of-way encroachment (vegetation) on north side of W McCully Avenue at Mill Street
<ul style="list-style-type: none"> • Existing sidewalk on bridge over Wrenn Dobbin Ditch 	<ul style="list-style-type: none"> • Existing utility poles and mailboxes in sidewalk area on north side of W McCully Avenue between Mill and Main streets



(7) Although the opportunities and constraints discussion above is intended to guide the city in project prioritization, this plan strongly recommends improvements on both routes to better connect the Alpine House with surrounding areas.

(B) *Intersection improvements.*

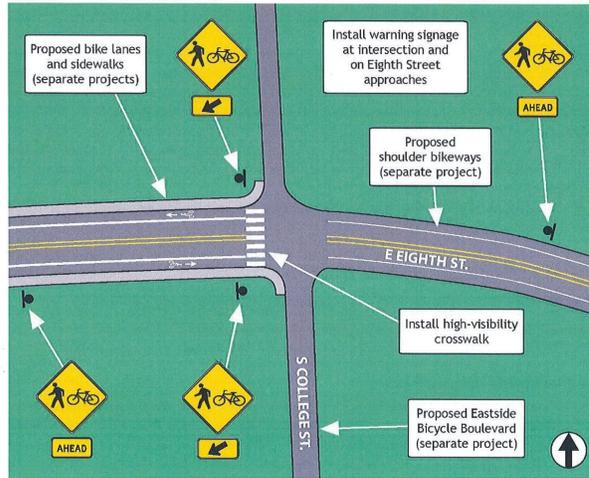
(1) Although some intersections in the city create challenging pedestrian crossing conditions, improvement opportunities exist. This plan proposes an overall strategy to improve intersections and other pedestrian crossings citywide through a variety of treatments. Most intersections that could benefit from improvements are located on streets with higher vehicle speeds and volumes, higher pedestrian volumes, limited sight distance and/or other conditions complicating pedestrian crossing movements. Potential improvements include:

- (a) Adding marked crosswalks and warning signs in vicinity of Joseph Elementary School;
- (b) Adding warning signage on tight roadway curves to warn motorists of bicycle/pedestrian traffic on cross-streets;
- (c) Removing overgrown vegetation impeding intersection sight distance; and
- (d) Intersection upgrades as part of several proposed bicycle boulevard corridors (a later section in this chapter discusses bicycle boulevards in greater detail).

(2) Among intersections identified by city staff and residents as needing improvements, intersections along E Eighth Street were consistently noted for their challenging crossing conditions. Non-motorized users attempting to cross E Eighth Street encounter higher vehicle speeds and limited sight distance due to tight roadway curves and overgrown vegetation in some locations. E Eighth Street also accommodates higher vehicle volumes, particularly heavy recreational traffic during summer months. Joseph residents, including children who cross E Eighth Street en route to school, expressed a desire for treatments to alert motorists to the presence of bicycle and pedestrian crossings. Crossing improvements would also reduce E Eighth Street's "barrier effect" between the city's southern neighborhood and other community areas.

(3) The following figure depicts recommended crossing enhancements at the E Eighth Street at S College Street intersection. Among the three intersections along E Eighth Street, this location offers the greatest sight distance for approaching motorists. Suggested improvements include a high-visibility crosswalk and supplemental warning signage to alert motorists to bicycle/pedestrian crossings in this area. This project would tie in with several other proposed enhancements including sidewalks and bike lanes on E Eighth Street west of S College Street, and shoulder bikeways on E Eighth Street east of S College Street. The project also serves as a key element of a proposed bicycle boulevard on S College Street (described later in this subchapter). It should be noted that E Eighth Street's status as a state highway would require ODOT approval for improvements at this location.

Joseph - Traffic Code



(C) *Shared use paths.*

(1) *General.*

(a) Although the city currently lacks a shared use path system, tremendous path development opportunities exist. Previous planning efforts have identified numerous potential paths in and around the community and the city should take the next step of evaluating these opportunities in greater detail.

(b) Path feasibility studies devote detailed attention to specific trail projects. These studies examine a particular path corridor in-depth, and include opportunities-and-constraints analyses, development of potential path alignment options, selection of a preferred alignment and development of cost estimates. Feasibility studies are particularly useful for agencies exploring potential path corridors in areas faced with topographic, environmental, political or other challenges. City residents and other bicycle/pedestrian advocacy groups have consistently expressed a desire for shared use paths in potentially-challenging areas, particularly along the Wallowa Union Railroad and Wallowa River. The following sections describe specific areas where the city should devote extra path development evaluation.

(c) City residents strongly desire a safe, attractive and comfortable bikeway and walkway linking the city with Enterprise and other Wallowa County communities. In addition to potential on-street bikeway/walkway improvements (described later), potential shared use path opportunities exist along the Wallowa Union Railroad corridor. With its eastern terminus in the city, the railroad roughly follows Oregon 82 and the Wallowa and Grande Ronde rivers to La Grande. Between June and October, the Eagle Cap Excursion Train offers tourism rides between Elgin and Wallowa.

(d) Previous plans, including the Wallowa County and Joseph Transportation System Plans (TSPs), identify the Wallowa Union Railroad as a potential shared use path corridor. Depending on the railroad's future status (e.g., active or inactive), a path could either be constructed directly on the existing rail alignment (in place of the existing tracks) or adjacent to the railroad. Opportunities also exist to redevelop the former station area near W Alder Street in the city.



(e) The city should partner with the City of Enterprise, Wallowa County, and the Railroad to conduct a feasibility study evaluating potential “rail-to-trail” or “rail-with-trail” options between the city and Enterprise. This segment could serve as the first piece of a potentially longer path corridor. The feasibility study should specifically examine railroad right-of-way widths, railroad setback requirements and property ownership adjacent to the railroad corridor.

(2) *Wallowa river path.* The Wallowa Land Trust recently prepared a feasibility study examining potential path corridors along the Wallowa River between Joseph City Park and Wallowa Lake. The study includes an “Upper Wallowa River Canyon Trail System” map depicting several potential path corridors on both sides of the river including several trails on the nearby Marr Ranch property, city residents have consistently expressed interest in a Wallowa River Path corridor. The city should further examine path development opportunities on both sides of the river between Joseph City Park and Wallowa Lake. A feasibility study would identify potential path development issues (e.g., proximity of private- and publicly-owned properties to the river).



(3) *Irrigation ditch paths.* The city benefits from an extensive irrigation ditch system passing through several neighborhoods. Most adjacent properties along ditch corridors are privately-owned, with development abutting waterway edges. Other potential issues include liability concerns of ditch maintenance companies. Shared use paths or soft surface trails along ditches would represent a longer-term bikeway/walkway expansion strategy. As a first step, the city should identify and preserve path development along drainage ditches.



(4) *Utility corridor paths.* Path development opportunities also exist along utility corridors, such as the city's existing north-south utility easement near Joseph City Park. Approximately 30 feet wide, the easement is located west of the S Mill Street and Engleside Avenue alignments between Fourth Street and Ski Run Road. A path along this corridor would greatly enhance pedestrian/bicycle system connectivity in this area.

(D) *Soft surface trails.*

(1) *General.*

(a) Tremendous opportunities exist to improve the city's existing soft surface trails, and establish connections to other planned and proposed trails. As a first step, the city could partner with the Joseph School District to reconstruct the perimeter trail circling the Joseph Middle/High School campus. This project would re-establish a popular walking, jogging and cross-country facility, serving both transportation and recreation users.

(b) Described earlier, new trail development opportunities exist along the Wallowa Union Railroad, Wallowa River, irrigation ditches and utility corridors. Soft surface trails typically occupy less physical space compared with paved shared use paths, lending the city opportunities to establish trails and paths in a phased approach (e.g., constructing a soft surface trail first, and upgrading the facility to a paved shared use path in the future).

(2) *Marr Ranch Trails.*

(a) Oregon State Parks recently prepared a Draft Master Plan for the Marr Ranch property, a future state scenic area in southern Joseph. Native American tribes view the property as sacred ground, representing a key place in their rich cultural history. Consequently, the property will likely remain in its largely undeveloped state, potentially including a series of soft surface trails following existing maintenance roads.

(b) The city's Bicycle and Pedestrian Plan acknowledges this separate planning process and its associated trail development recommendations.

(E) *Accessways.* The city should explore accessway development opportunities in existing neighborhoods where limited street connectivity exists and require accessways in future residential subdivisions (where necessary) to maximize bicycle and pedestrian connectivity.

(Ord. passed 6- -2009)

§ 71.042 BIKEWAY IMPROVEMENTS.

Map 3-3 depicts recommended bicycle system improvements, while the sections below describe the facility types and projects in greater detail.



(A) *Bike lanes.*

(1) The city's major streets currently lack dedicated bike lanes, forcing cyclists to ride on narrow roadway shoulders (if they exist) or in vehicle travel lanes. Safely accommodating bicyclists on major roadways is important, as major streets generally offer the most direct routes between bicyclist destinations while providing better connectivity than lower-order streets. Consequently, commuter cyclists and those traveling longer distances often gravitate to these routes.

(2) Map 3-3 depicts proposed bike lanes on portions of S Main Street, E Eighth Street and Wallowa Avenue. The proposed bike lanes on S Main and E Eighth streets would transition to proposed shoulder bikeways on Wallowa Lake Highway, connecting cyclists to the future Marr Ranch State Scenic Area, Wallowa Lake and other destinations south of town. The Wallowa Avenue bike lanes would enhance east-west bikeway connections, linking with proposed shoulder bikeways on Hurricane Creek Road and Imnaha Highway. This project would also connect cyclists to two proposed Bicycle Boulevard corridors and a potential shared use path along the Wallowa Union Railroad.

(3) The city's bike lane implementation projects would primarily occur through shoulder widening. Sufficient right-of-way width and minimal physical obstructions exist on most roadways targeted for improvements. Potential issues include topography and right-of-way encroachment on E Eighth Street, and the Big Bend Ditch bridge on W Wallowa Avenue.

(4) Depending on funding or other constraints, bike lane project implementation could occur in multiple phases. For instance, the city and ODOT could first widen the western/southern shoulder of S Main Street/E Eighth Street. This improvement would vastly improve conditions for southbound bicyclists riding in the uphill direction. As ODOT and Wallowa County own and maintain most roadways targeted for future bike lanes, the city will need to coordinate with these agencies during project planning, design and implementation.



(B) *Shoulder bikeways.*

(1) Shoulder bikeways are common in less-developed and rural areas, and typically consist of a wide paved shoulder for pedestrian and bicycle travel. This plan recommends shoulder bikeways on several roads in the city's outlying areas, including Oregon 82, Imnaha Highway, Wallowa Lake Highway, and Airport Lane/Hurricane Creek Road. Shoulder bikeways on Oregon 82 and Imnaha Highway would connect cyclists to popular recreational riding routes such as Walker Lane, Wilson Lane and Dobbin Road. Shoulder bikeways on Wallowa Lake Highway (south of the proposed bike lanes on E Eighth Street) would better connect riders to the future Marr Ranch State Scenic Area, the Nez Perce National Historic Park, Wallowa County Park and Wallowa Lake.

(2) The city residents have consistently expressed a desire for shoulder bikeways on Airport Lane/Hurricane Creek Road, an attractive bicycle route linking Joseph with Enterprise. Several previous plans, including the Highway 82 Corridor Plan and Wallowa County TSP, reference this project (although funding has not been secured). Within the city's urban growth boundary, sufficient right-of-way and bridge width may exist for shoulder widening, although bridges and culverts on the corridor's remaining sections do not provide sufficient width.

(3) The proposed shoulder bikeway projects would require roadway widening, as most roads targeted for improvements currently provide narrow or no shoulders. Most proposed shoulder bikeways lie outside the city's urban growth boundary and are located on county- or ODOT-owned roadways. The city should coordinate with these agencies to establish seamless bicycle connections in these jurisdictional transition areas.



(C) *Bicycle boulevards.*

(1) (a) The city benefits from a generally well-connected system of lower-volume streets that - with the addition of relatively small-scale treatments - could become spectacular bicycling routes for riders of all ages and skills.

(b) These streets (commonly referred to as “bicycle boulevards”) accommodate bicyclists and motorists in the same travel lanes often with no specific vehicle or bike lane delineation.

(c) Traffic controls along a bicycle boulevard assign priority to thru cyclists while encouraging thru vehicle traffic to use alternate parallel routes.

(d) Traffic calming and other treatments along the corridor reduce vehicle speeds so that motorists and bicyclists generally travel at the same speed, creating a safer and more-comfortable environment for all users.

(e) Boulevards also incorporate treatments to facilitate safe and convenient crossings where bicyclists must traverse major streets.

(f) Bicycle boulevards work best in well-connected street grids where riders can follow reasonably direct and logical routes with few “twists and turns”.

(g) Boulevards also work best when higher-order parallel streets exist to serve thru vehicle traffic.

(2) Map 3-3 depicts two primary bicycle boulevard corridors in the city. A bicycle boulevard on Mill Street would connect western Joseph neighborhoods with Joseph City Park, while providing an alternative route to Main Street. Located one block west of Main Street, this corridor would lie within close proximity of downtown Joseph businesses and other attractions.

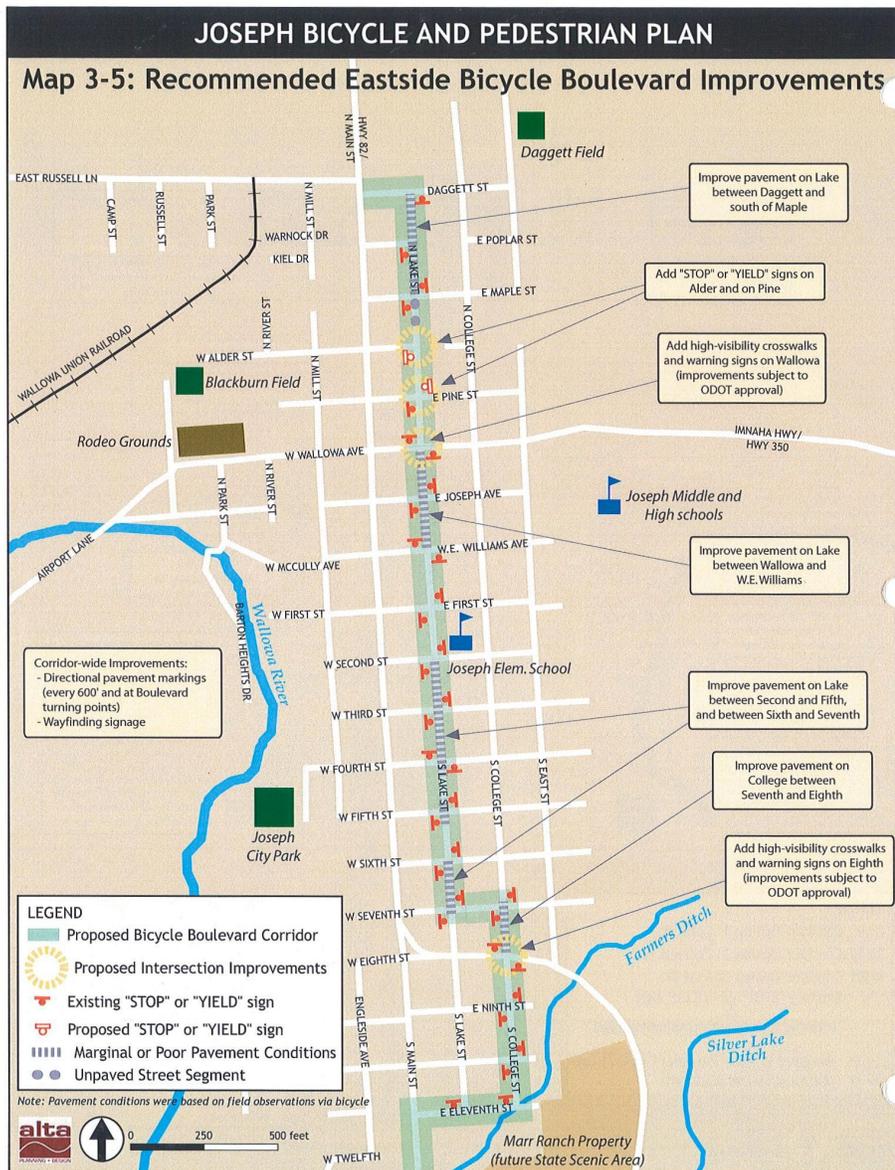
(3) Eastside Bicycle Boulevard Subarea.

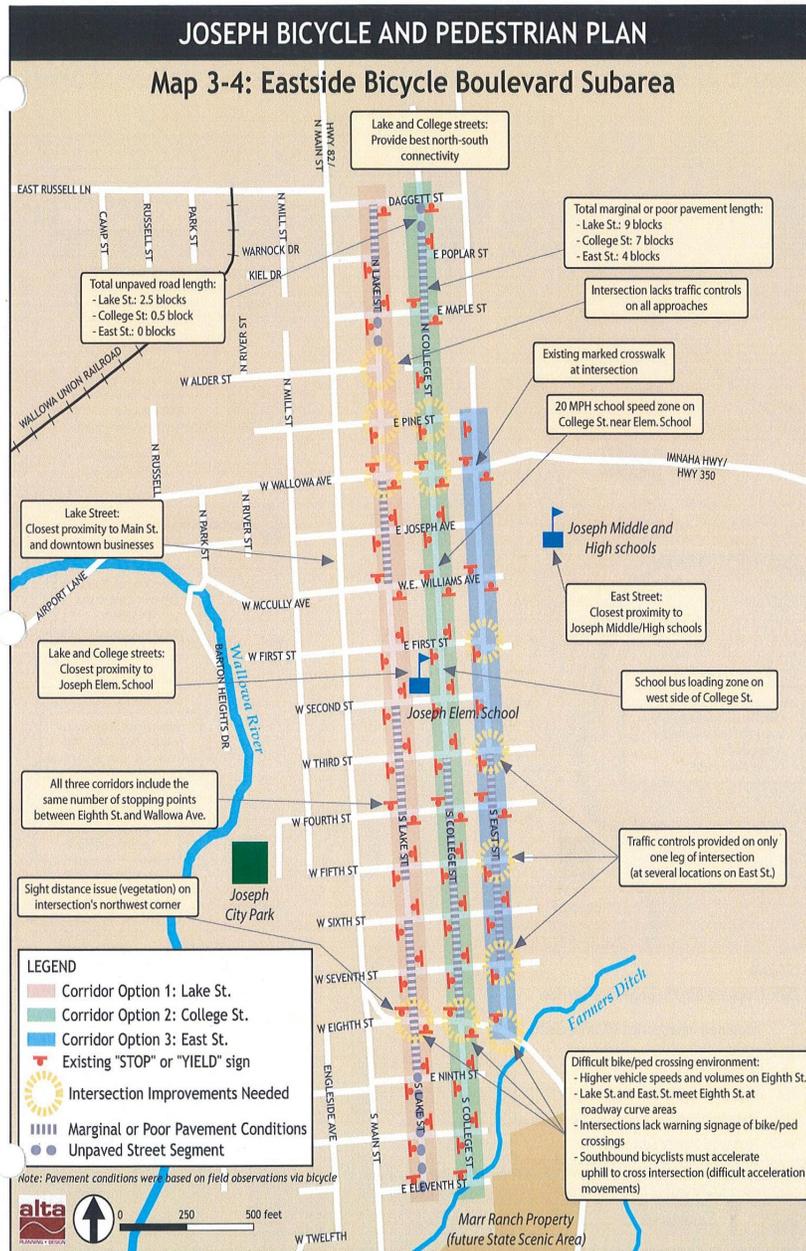
(a) The project team conducted a more detailed evaluation to determine an appropriate Bicycle Boulevard corridor on the city’s eastside. Map 3-4 illustrates three potential corridors, including Lake, College and East Streets. The map graphically depicts benefits and drawbacks of each corridor, while the following table lists the evaluation criteria and results. The evaluation considered several elements affecting the bicycling environment, including pavement conditions, number of stopping points along the corridor, proximity to bicyclist destinations and quality of intersections.

(b) The following and Map 3-4 demonstrate that each corridor presents benefits and drawbacks, with no single corridor emerging as the preferred route. The project team, working with city staff, bicycle advocates and city residents, ultimately selected a hybrid alignment following Lake and College Streets, shown on Map 3-3. The Lake/College Bicycle Boulevard would provide direct access to Joseph Elementary School while lying within close proximity of Downtown Joseph businesses and attractions. This corridor also directly connects cyclists with a potential Marr Ranch State Scenic Area access point at S Main Street’s south terminus.

<i>Eastside Bicycle Boulevard Corridors Evaluation</i>			
<i>Evaluation Criterion</i>	<i>Potential Corridors</i>		
	<i>Option 1: Lake Street</i>	<i>Option 2: College Street</i>	<i>Option 3: East Street</i>
Total corridor length	18 blocks	18 blocks	11 blocks
# of stopping points for bicyclists on corridor between E Eighth Street and E Wallowa Avenue*	4	4	4
Proximity to Main Street	1 block	2 blocks	3 blocks
Proximity to Joseph Elementary School	Adjacent to school	Adjacent to school	1 block
Proximity to Joseph Middle/High Schools	3 blocks from school access road	2 blocks from school access road	1 block from school access road
Potential conflicts with school bus loading zones	No	Yes	No
Total existing marginal/poor pavement length	9 blocks	7 blocks	4 blocks
Total unpaved road length	2.5 blocks	0.5 blocks	0 blocks

<i>Eastside Bicycle Boulevard Corridors Evaluation</i>			
<i>Evaluation Criterion</i>	<i>Potential Corridors</i>		
	<i>Option 1: Lake Street</i>	<i>Option 2: College Street</i>	<i>Option 3: East Street</i>
# of intersections needing improvements**	4	3	5
<p>* This segment is the only common segment among the three corridors; count includes stopping points at E Eighth Street and at E Wallowa Avenue.</p> <p>** Depending on location, intersection improvements may include marked crosswalks and warning signage, vegetation removal to improve sight distance, and/or installation of traffic-control devices where they currently do not exist.</p>			





(4) Map 3-5 depicts the proposed Eastside Bicycle Boulevard in greater detail, highlighting specific improvements necessary to transform this corridor into a premier bicycle facility. Recommended improvements range from relatively low-cost measures such as wayfinding signage, directional pavement markings, and minor intersection traffic control revisions, to higher-cost measures such as pavement resurfacing. The Eastside Bicycle Boulevard would also take advantage of proposed improvements at the E Eighth Street at S College Street intersection, described earlier in this chapter.

(D) Other bikeway system improvements.

(1) *Wallowa Lake State Park Access.*

(a) City residents have routinely expressed interest in improved bikeway connections to Wallowa Lake State Park.

1. Numerous planning documents reference this strongly-desired connection and offer potential improvement options.

2. The Highway 82 Corridor Plan recommends evaluation of potential shoulder widening on Wallowa Lake Highway's east side between the State Park and Wallowa County Park.

3. The Corridor Plan, Wallowa Lake State Park Master Plan and Joseph and Wallowa County TSPs also recommend consideration of a potential soft surface trail on the lake's west side, which would also serve as a secondary emergency access road to/from the State Park.

4. Depending on the roadway targeted for improvements, the project would fall under Wallowa County or ODOT jurisdiction.

(b) Establishing a dedicated bicycle facility (e.g., shoulder bikeways, shared use paths, or soft surface trails) could incur substantial cost; however several cost-effective interim options exist, including:

1. Lowering the existing posted speed on Wallowa Lake Highway between Wallowa County Park and Wallowa Lake State Park (the current posted speed is 55 mph). This measure would require a speed study to be conducted, and is also subject to ODOT approval;

2. Installing warning signs at pre-determined distances along the highway advising motorists of bicyclists' presence (similar to existing "BIKES ON ROADWAY" signs on Wallowa Lake Highway north of Wallowa County Park); and

3. Routine police enforcement of speeding and other relevant traffic laws.

(B) *Citywide improvements.*

(1) *Bike parking.*

(a) Lack of secure, convenient bike parking is a deterrent to bicycle travel. Bicyclists need parking options that provide security against theft, vandalism and weather. Like automobile parking, bike parking is most effective when located close to trip destinations, is easy to access and is easy to find. Where quality bike parking facilities are not provided, determined bicyclists lock their bicycles to street signs, utility poles or trees. These alternatives are undesirable as they are usually not secure, may interfere with pedestrian movement and can create liability issues or damage street furniture or trees.

Bike parking facilities that are conveniently located and adequate in both quantity and quality can help reduce bicycle theft and eliminate inappropriate parking, benefitting everyone. Bike parking is also highly cost-effective compared with automobile parking.

(b) The city currently specifies minimum bike parking requirements for multi-family housing, public parking lots, schools and downtown businesses. Although the city's "blanket" requirements ensure a minimum number of bike parking spaces for most developments, the requirements may not fully address parking demand for some land uses. The city also currently lacks bike parking facility design requirements (e.g., rack type, distance between spaces and the like). The proposed Zoning Ordinance updates developed as part of this plan reflect guidelines outlined in the Oregon Bicycle and Pedestrian Plan (Draft update) and ODOT's Model Development Code and User's Guide for Small Cities.

(c) Zoning Ordinance enforcement holds equal importance. The city should periodically undertake a bicycle parking analysis to determine whether all of the bicycle parking required by the ordinance is provided and, if so, that it is sited in locations that are visible and free of obstacles. It should also be noted that the proposed ordinance updates only establish parking minimums and new developments should be encouraged to exceed these standards.

(2) *Pedestrian/bicycle/transit connections.*

(a) Tremendous opportunities exist for increasing pedestrian/bicycle/transit connections in the city. Pedestrian infrastructure improvements leading to the community connections shuttle route would enhance pedestrian safety, comfort and may generate more ridership since most passengers start and end their trips on foot. Integrating bicycles with transit allows the bicyclist to overcome barriers such as hills, inclement weather, night riding and breakdowns.

(b) To improve the pedestrian/bicycle/transit link, the city and community connections should:

1. Complete the sidewalk network on both sides of streets along the community connections shuttle route (specifically along S Main and E Eighth Streets) to ensure connectivity and accessibility for all users;
2. Provide benches, shelters, lighting, posted maps and schedules at transit stops (if designated stops are established);
3. Provide secure bike parking at or near transit stops (including bike racks for short-term parking and bike lockers or other facilities for long-term parking); and
4. Ensure that bicycles are always allowed on shuttle buses and other transit vehicles.

(3) *Other improvements.* The city should implement the following additional infrastructure improvements to further enhance walking and bicycling:

- (a) Install warning signage on high-volume roadways (e.g., Engleside Avenue and Ski Run Road) advising motorists of bicycle/pedestrian traffic (particularly on roads lacking dedicated walking/bicycling facilities);
 - (b) Develop and implement a bicycle/pedestrian wayfinding signage plan;
 - (c) Develop a routine walkway and bikeway maintenance program and schedule (e.g., sweeping, pothole repair, pavement upgrades, snow/ice removal);
 - (d) Implement traffic calming measures as needed;
 - (e) Ensure that all new and upgraded pedestrian facilities meet ADA standards and guidelines;
 - (f) Provide sidewalks on both sides of new and reconstructed streets;
 - (g) Retrofit existing streets with sidewalks on both sides where possible;
 - (h) Complete sidewalk gaps, especially near schools and other activity centers; and
 - (i) Upgrade and repair existing cracked sidewalks and curb ramps.
- (Ord. passed 6- -2009)

§ 71.043 PROJECT PRIORITIZATION.

(A) The project team developed several evaluation criteria to identify and prioritize the city's bicycle and pedestrian projects. Specifically, the criteria were applied in two ways:

- (1) To lay out the best possible future pedestrian/bicycle network by identifying the features of a network most important to city residents; and
- (2) To rank projects against each other as an indication of their relative importance.

(B) The goal was to develop a three tiered priority list, enabling the city to focus financial resources and funding applications on the highest priority projects. The project team assigned each criterion a range of points, with the number of potential points reflecting the criterion's relative importance (based on input from city staff, the Technical Advisory Committee and the public). Specific criteria included the following:

- (1) User generator: to what degree will the project likely generate transportation or recreational usage based on population, corridor aesthetics and the like?

(2) Land uses: how many user generators does the project connect within reasonable walking or bicycling distance, such as schools, parks, downtown and the like?

(3) Overcomes barrier: how well does the project overcome a barrier in the current bicycle and pedestrian network?

(4) Safety and comfort: can the project potentially improve bicycling and walking at locations with perceived or documented safety issues? This criterion takes into account available crash data as well as feedback from the local bicycling and walking community?

(5) Regional benefit: to what degree does the project offer potential benefits to the wider, regional community by offering opportunities for increased connectivity to parks, Wallowa Lake, surrounding communities and the like?

(6) Community support: to what degree do city residents desire the proposed project? This criterion takes into account oral and written feedback received at the community open houses, the walking and bicycling tours and other public outreach events?

(7) Cost: what financial resources are needed to implement the project? Is the project cost prohibitive or can it be implemented through grant funding or other opportunities?

(C) (1) Using the above criteria, the project team ranked each project based on information obtained from site visits, field work, city staff and the public.

(2) Projects fulfilling the greatest number of evaluation criteria received higher scores, correspondingly leading to higher rankings in the overall project list.

(3) As a result, the projects were grouped by classification into Tier 1 (short-term, zero to five years), Tier 2 (medium-term, six to ten years) and Tier 3 (long-term, ten to 20 years) priorities.

(4) The short-, medium- and long-term priorities may change according to available funds, changing priorities, new roadway projects that coincide, new development and redevelopment opportunities or other factors.

(D) (1) It should be noted that the purpose of this exercise is to understand the relative priority of the projects so that the city may apportion available funding to the highest priority projects.

(2) Medium- and long-term projects are also important, and may be implemented at any point in time as part of a development or public works project.

(3) The ranked lists should be considered a “living document” and should be frequently reviewed to ensure they reflect current priorities.

(E) The following table lists the recommended bicycle/pedestrian improvement projects and relative prioritization, while § 71.155 of this chapter provides the evaluation scoring for each individual project.

[Please insert JosephTable71-043.wpd. Landscape table. Four pages.]

(Ord. passed 6- -2009)

§ 71.044 PROJECT COSTS.

(A) The following table provides planning level cost opinions for each project recommended in this plan. The estimates were based on similar bicycle and pedestrian plans and experience in the city and other nearby communities. The infrastructure project costs also include contingency, design, engineering, mobilization and construction management costs (typically representing a proportion of the original project cost). Supplementing the bicycle/pedestrian infrastructure projects, the table lists recommended programmatic measures (described in greater detail in § 71.060 of this chapter).

(B) The following table provides a cost summary for Tier 1, Tier 2 and Tier 3 projects combined. The total implementation cost of the Bicycle and Pedestrian Plan is estimated at approximately \$4.2 million. Sections 71.100 through 71.104 of this chapter discusses potential funding sources for implementing projects in this plan.

<i>Planning Level Cost Opinions for Tier 1, 2 and 3 Projects</i>	
<i>Projects</i>	<i>Planning Level Cost Opinion</i>
Tier 1	\$261,900
Tier 2	\$1,452,000
Tier 3	\$2,460,500
Total	\$4,174,400

(Ord. passed 6- -2009)

§ 71.045 TOP PRIORITY PROJECT DESCRIPTION SHEETS.

Setting the initial stage for plan implementation, the following “project description sheets” highlight specific actions the city should undertake first to improve walking and bicycling in the city. The project description sheets provide detailed information for three Tier 1 projects, including project descriptions, recommended improvements, potential issues, lead agencies and estimated costs. This information can be used as the city pursues grant or other funding opportunities and as guidance for project implementation.

(A) *W McCully Avenue Sidewalk.*

(1) *Description.*

(a) This project would develop a sidewalk on the north side of W McCully Avenue, between N Park Street and Main Street. In most locations, sufficient room exists to construct a sidewalk with minimal or no impacts to adjacent properties.

(b) This project responds to the overwhelming desire among city residents to develop a safe and convenient pedestrian connection between downtown and the Alpine House Assisted Living Facility. The W McCully Avenue sidewalk would directly connect Alpine House residents with the Joseph Post Office and other downtown businesses. The project would also connect users with several other existing and proposed bicycle/pedestrian facilities.



(2) *Proposed improvements.*

- (a) Sidewalk on north side of W McCully Avenue between N Park Street and Main Street;
- (b) Removal of encroaching vegetation on northwest corner of W McCully Avenue at Mill Street;
- (c) Utilize existing sidewalk on bridge crossing Wrenn Dobbin Ditch; and
- (d) Potential to add marked crosswalk on north side of W McCully Avenue at Mill Street intersection.

(3) *Potential issues.*

- (a) Existing right-of-way encroachment (vegetation) on W McCully Avenue's north side at Mill Street;
- (b) Existing utility poles on W McCully Avenue's north side (west of Mill Street) could complicate sidewalk construction; and
- (c) Existing utility poles and mailboxes on W McCully Avenue's north side between Mill and Main streets could complicate sidewalk construction.

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(4) *Lead agency(ies)*. Joseph.

(5) *Planning-level cost opinion*. \$139,800.

(B) *Eastside bicycle boulevard*.

(1) *Description*.

(a) This project would develop a bicycle boulevard on the city's eastside, roughly following College and Lake streets between Daggett Street and the future Marr Ranch State Scenic area. As shown on Map 3-5, improvements would include wayfinding signage, directional pavement markings, roadway pavement upgrades and intersection enhancements to improve bicycle/pedestrian crossings.

(b) The eastside bicycle boulevard would provide a continuous north-south bicycle route connecting several neighborhoods with downtown Joseph, Joseph Elementary School and the future Marr Ranch State Scenic Area. The improved corridor would also connect riders with other existing and proposed bicycle/pedestrian facilities and serve as an alternative to higher-volume roads such as Main Street.



(2) *Proposed improvements.*

- (a) Additional STOP or YIELD signs on E Alder Street and on E Pine Street to clarify intersection traffic controls;
- (b) High-visibility crosswalks and warning signage on E Eighth Street at S College Street;
- (c) High-visibility crosswalks and warning signage on E Wallowa Avenue at N Lake Street;
- (d) Directional pavement markings;
- (e) Wayfinding signage; and
- (f) Pavement upgrades on approximately nine and one-half blocks to improve riding conditions for bicyclists.

(3) *Potential issues.*

- (a) Pavement upgrades could substantially increase project implementation cost; and
- (b) Intersection improvements at College and Eighth and at Lake and Wallowa subject to ODOT approval.

(4) *Lead agency(ies).* Joseph, ODOT.

(5) *Planning-level cost opinion.* \$19,200 (project cost does not include roadway resurfacing, nor does it include intersection improvements at College and Eighth, which are identified as a separate project).

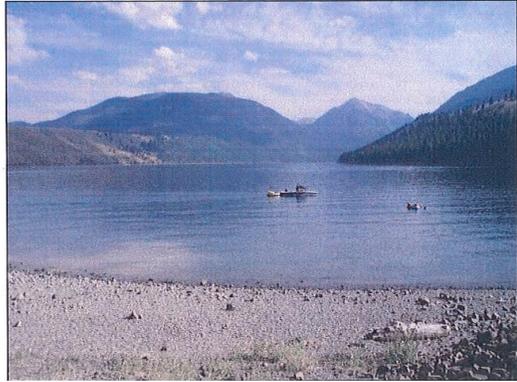
(C) *Wallowa river path feasibility study.*

(1) *Description.*

(a) This project would develop a feasibility study identifying potential path development opportunities along the Wallowa River between Joseph City Park and Wallowa Lake. The study would build on recent trail development research prepared by the Wallowa Land Trust, including a map depicting potential trail corridors in this area. The Land Trust has also discussed the potential trail with nearby property owners.

(b) Depending on community preferences and physical or other constraints, a paved or soft surface path could follow either side of the river. The path would establish a premier walking and bicycling facility for city residents and visitors, tying together numerous destinations including Joseph

City Park, the future Marr Ranch State Scenic Area, Nez Perce National Historic Park, Wallowa County Park and Wallowa Lake. The trail would also connect with several existing and proposed bikeways and walkways.



(2) *Proposed improvements.* Path feasibility study including an existing conditions review and assessment, opportunities-and-constraints analysis (e.g., property ownership, environmental issues and the like), development of potential path alignment alternatives, selection of a preferred alignment, cost estimates and potential funding sources.



(3) *Potential issues.*

(a) Major topography on both sides of the river;

(b) Privately-owned property along most segments of the river under focus; and

(c) Potential need for bridges crossing the river (depending on the path's alignment), which could substantially increase path development costs.

(4) *Lead agency(ies).* Joseph, Wallowa County.

(5) *Planning-level cost opinion.* \$15,000.

(Ord. passed 6- -2009)

RECOMMENDED PEDESTRIAN AND BICYCLE PROGRAMS

§ 71.060 RECOMMENDED PROGRAMS.

(A) The city’s education and outreach programs are designed to raise awareness of walking and bicycling, connect city residents to existing resources and educate them about safety issues surrounding walking and bicycling.

(B) The following sections describe recommended programmatic measures to enhance walking and bicycling in the city. Estimated costs are displayed as low (\$), moderate (\$\$) and high (\$\$\$), as actual costs can vary widely based on specific program details. Key target audiences include motorists, current and potential (interested) bicyclists and walkers, students, children and families, school personnel and employees (through employer programs).

<i>Bike Rodeos</i>	
Cost	\$
Key elements	Drop-in event aimed at teaching kids basic skills and safety rules; often organized by Police or Fire Departments; can include free or low-cost helmet distribution
Partners	Wallowa County Sheriff’s Department
Potential funding sources	Bike shops (in-kind donations); transit agencies and local news outlets; traffic safety foundations and grant programs; hospitals and insurance companies
Primary agency	City of Joseph Fire Department
Sample programs	http://www.bicyclinglife.com/SafetySkills/BicycleRodeo.htm http://www.saferoutestoschools.org/pdfs/lessonplans/RodeoManualJune2006.pdf Burden/Williams Bike Rodeo Guide (http://stores.kepubs.com/-strse-76/0184/Detail.bok)
Target	Children and youth
Time frame	Fall and spring, annually

(C) (1) Bicycle rodeos are events that include bicycle safety checks, a safety talk that includes rules of the road and the importance of wearing a helmet, and the interactive learning experience of riding through a “chalk street” course.

(2) Bicycle rodeos usually focus on children ages five through 14.

(3) The rodeos allow young bicyclists to learn and practice skills needed for competent bicycling in a protected environment.

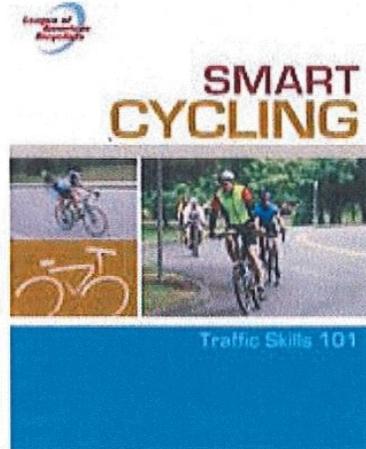


<i>Adult Cycling Skills Education</i>	
Cost	\$
Key elements	On-bike skills training for adult cyclists
Partners	Wallowa County Sheriff's Department
Potential funding sources	Bike shops; transit agencies and local news outlets; traffic safety foundations and grant programs; hospitals and insurance companies
Primary agency	City of Joseph Fire Department
Sample programs	League of American Bicyclists skills courses: http://bikeleague.org/programs/education/courses.php
Target	Current and potential adult cyclists
Time frame	Flexible (one-time or on-going)

(D) Most bicyclists learn to ride a bike when they are children, and do not have the opportunity to learn riding skills or safe road positioning. Adult bicycle skills training is an excellent way to improve both cyclist confidence and safety. Any training should include a significant on-bike section.

(E) (1) The League of American Bicyclists has developed a comprehensive bicycle skills curriculum considered the national standard for adults seeking to improve their on-bike skills. Various classes are offered, including basic and advanced on-road skills, and commuting (as well as driver education and youth courses). The local League of American Bicyclists chapter offers "StreetSmarts Cycling" classes, where participants can learn how to safely operate a bicycle under various conditions, and learn about bicyclists' rights and responsibilities. There are currently three League-certified instructors within 100 miles of the city.

(2) Contact the League of American Bicyclists to schedule a course with these instructors.



<i>Share the Road Campaign</i>	
Cost	\$ - \$\$
Key elements	Implement an education campaign targeting unsafe motorist, bicycle and pedestrian behavior
Partners	Wallowa County Sheriff’s Department, Joseph Fire Department
Potential funding sources	Federal and state safety grant funding
Primary agency	City of Joseph
Sample programs	http://www.bicyclinginfo.org/education/motorists.cfm http://www.walkinginfo.org/problems/problems-motorists.cfm http://www.marinbike.org/Campaigns/ShareTheRoad/Index.shtml
Target	Residents and tourists who drive through the city
Time frame	Spring, annually

(F) (1) Share the Road programs seek to remind road users that bicyclists, pedestrians and motor vehicles are legal road users. While laws for bicyclists, pedestrians and passenger vehicles may differ, all groups share the responsibility to use the road safely and respect the rights of other users.

(2) The city should work with the Wallowa County Sheriff’s Department to implement a Share the Road campaign focusing on motorist behaviors that endanger cyclists and pedestrians. This includes issues such as failure to yield to bicyclists and pedestrians, speeding and passing too closely to bicyclists. The Share the Road campaign should also include information for cyclists and pedestrians on what it means to be safe, responsible and courteous road users.

(3) A Share the Road campaign can include the following:

(a) Safety literature for motorists, bicyclists and pedestrians outlining Oregon Vehicle Code information and a code of safe conduct for all road users;

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(b) Share the Road safety checkpoints in which volunteers stop motorists, bicyclists and pedestrians and highlight safe road sharing using safety literature;

(c) Police checkpoints in which traffic violations are administered for road users exhibiting unsafe behavior; and

(d) Share the Road presentations at local community group meetings to highlight the importance of traffic safety.

<i>Police Education Courses</i>	
Cost	\$ - \$\$
Key elements	Pedestrian and Bicycle Law Enforcement Training Course includes a “How Pedestrian and Bicycle Crashes Happen”, “Education on Pedestrian Laws and Bicycle Laws” and “Crash Investigation and Reporting”. The course can be open to all law enforcement entities for a fee, which covers instruction and materials
Partners	City of Joseph
Potential funding sources	Federal and state safety grant funding
Primary agency	Wallowa County Sheriff’s Department
Sample programs	http://www.bicyclinginfo.org/enforcement/training.cfm http://www.massbike.org/police/
Target	Law enforcement agencies
Time frame	Spring, annually

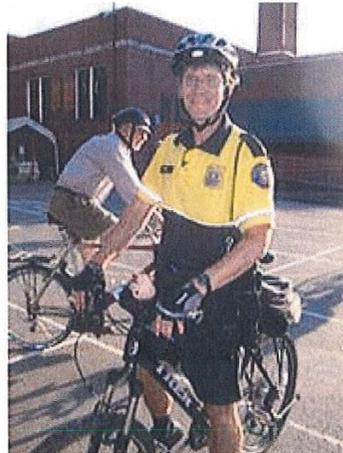
(G) (1) The city should work with the Wallowa County Sheriff’s Department to provide bicycle traffic education to police officers focusing on the rights and responsibilities of bicyclists and the practice of proper bicycle positioning techniques in traffic.

(2) Bicycle traffic education should be integrated into trainings for all Wallowa County Sheriff’s Department officers.

(3) In addition to developing awareness of the challenges of maneuvering a bicycle in traffic, a bicycle safety training course should provide a list of guidelines to assist with bicycle-related collision reports.

(4) This helps ensure valuable documentation of information for public health studies regarding injury prevention. A League of American Bicyclists Certified Instructor should administer the bicycle safety training.

(5) There are currently three League-certified instructors within 100 miles of the city.



<i>Safe Routes to School - Phase 1</i>	
Cost	\$\$
Key elements	Bicycle and pedestrian audit of infrastructure at elementary schools; recommended route maps
Partners	ODOT, parent groups at schools, school neighbors
Potential funding sources	Federal Safe Routes to School grant funding; local, state or national health grants (e.g., Robert Wood Johnson Active Living by Design grants)
Primary agency	Joseph School District
Sample programs	Portland Safer Routes to School Program: http://www.trans.ci.portland.or.us/saferoutes/
Target	Parents, schoolchildren, administrators, City of Joseph staff
Time frame	Spring

(H) (1) Helping children walk and bicycle to school is good for childrens’ health and can reduce congestion, traffic dangers and air pollution caused by parents driving children to school. Robust Safe Routes to School programs address all of the “Five Es” (Engineering, Education, Encouragement, Enforcement and Evaluation).

(2) (a) The city and the Joseph School District should work with ODOT and Wallowa County to implement the first phase of a Safe Routes to School Program. This phase will use a walkabout (also known as a bicycle and pedestrian audit) to assess walking and bicycling conditions of streets adjacent to city schools. Parents, students, neighbors and city planners and/or traffic engineers should be invited to join in the walkabout.

(b) Safety concerns, issues and ideas should be recorded.



(3) After the bicycle and pedestrian audit is conducted, parent maps for each school showing recommended routes to reach school, along with high-traffic intersections and routes to avoid, should be produced and distributed.

(4) As a final step, an initial infrastructure improvement plan should be produced for each school, including cost estimates and a prioritized project list. This infrastructure improvement plan will serve as a blueprint for future investments, and can be used to apply for further grant funding.

<i>Bike and Walking Maps</i>	
Cost	\$\$ - \$\$\$
Key elements	Clear symbology, designations and services attractive for cyclists and walkers, good selection of routes
Partners	Wallowa County, Northeast Oregon Economic Development District
Potential funding sources	Bike shops (in-kind donations); transit agencies and local news outlets (donated ad space); traffic safety foundations and grant programs; hospitals and insurance companies
Primary agency	City of Joseph
Sample programs	http://www.sfbike.org/download/map.pdf http://www.cityofchicago.org/Transportation/bikemap/keymap.html http://www.nycbikemaps.com/
Target	Current and potential cyclists and walkers
Time frame	One-time, with regular updates; can happen at any time

(I) (1) One of the most effective ways of encouraging people to bike and walk is through the use of maps and guides showing that the infrastructure exists, to demonstrate how easy it is to access different parts of the community by bike or on foot, and to highlight unique areas, shopping districts or recreational areas. Bicycling and walking maps can be used to promote tourism, encourage residents to walk or promote local business districts. Maps can be city wide, district-specific or neighborhood/family-friendly maps.

(2) The Joseph Chamber of Commerce has created an Art Walk: Bronze Sculpture Display brochure. The Chamber could enhance this brochure by creating a walking map highlighting historic Joseph and its amenities including walking and bicycling facilities. This map could be distributed at the information kiosk on Main Street near City Hall, the Wallowa County Museum and other places attracting residents and visitors.

<i>Joseph Bike and Walk Central Website</i>	
Cost	\$ - \$\$ (depending on design and scope)
Key elements	Resources, maps and map orders, safety, events, groups
Partners	Local bicycle advocacy groups and enthusiastic cyclists, Joseph Chamber of Commerce, Wallowa Mountain Institute, Northeast Oregon Economic Development District, Cycle Oregon, Travel Oregon
Potential funding sources	Low cost; may not require outside funding
Primary agency	City of Joseph
Sample programs	Velo Quebec website: http://www.velo.qc.ca/english/home.lasso
Target	Current and potential cyclists and walkers
Time frame	On-going

(3) The Joseph Bike and Walk Central website should contain:

- (a) A list of all bicycling and walking groups, including clubs, racing teams, hiking and advocacy groups;
- (b) Information about current projects and how to get involved (e.g., public meetings, comment periods);
- (c) Maps and brochures (links to online maps and brochures, where to find in-person and how to request mailed materials);
- (d) Links to laws and statutes relating to bicycling and walking;
- (e) Links to all relevant local jurisdictions and their contacts (e.g., the city, Wallowa County Sheriff’s Office and the like);
- (f) Information about cycling and walking events (e.g., rides, walks, classes, volunteer opportunities);
- (g) A list of local bike shops, including phone number and address; and

(h) Relevant phone numbers (e.g., hotlines for pothole repair, parking enforcement, bike rack installation request and the like).

(4) The website may also feature:

- (a) Events calendar;
- (b) Request form for route planning assistance;
- (c) Message boards;
- (d) Blog featuring stories and news;
- (e) Photo galleries from events and submitted by readers; and
- (f) Popular ride routes.

(5) Note that these additional features may increase the cost to set up and maintain the website.

(6) A one-stop bike and walk website would not be difficult to set up, but would only be successful if the site is both easy to use and updated regularly. Corners should not be cut in either design or in maintenance of the site and its information. All website content should be reviewed annually for accuracy.

<i>Complete Streets Policy</i>	
Cost	\$
Key elements	Policy language that creates streets to work for all users, including drivers, freight, walkers, cyclists and transit riders
Partners	Bicycle advocacy groups, health organizations, etc.
Potential funding sources	Low cost; may not require outside funding
Primary agency	City of Joseph, Wallowa County
Sample programs	http://www.completestreets.org/
Target	Planners and engineers
Time frame	One-time; can happen at any time

(J) (1) Complete streets policies direct transportation planners and engineers to consistently design roadways with all users in mind (e.g., motorists, transit riders, pedestrians, bicyclists, older people, children and people with disabilities). There are many ways to implement complete streets policies. Once

a policy is in place, training is recommended for professionals whose work will be affected by the policy (e.g., planners and engineers).

(2) Guidance from the Complete Streets Coalition.

(a) *The principle.*

1. Complete streets are designed and operated to enable safe access for all users. Pedestrians, bicyclists, motorists and transit riders of all ages and abilities must be able to safely move along and across a complete street.

2. Creating complete streets means changing the policies and practices of transportation agencies.

3. A complete streets policy ensures that the entire right-of-way is routinely designed and operated to enable safe access for all users.

4. Transportation agencies must ensure that all road projects result in a complete street appropriate to local context and needs.

(b) *Elements of a good complete streets policy.*

1. Specifies that “all users” includes pedestrians, bicyclists, transit vehicles and users, and motorists, of all ages and abilities;

2. Aims to create a comprehensive, integrated, connected multi-modal network;

3. Recognizes the need for flexibility: that all streets are different and user needs will be balanced;

4. Is adoptable by all agencies to cover all roads;

5. Applies to both new and retrofit projects, including design, planning, maintenance and operations, for the entire right-of-way;

6. Makes any exceptions specific and sets a clear procedure requiring high-level approval of exceptions;

7. Directs the use of the latest and best design standards;

8. Directs that complete streets solutions fit in with context of the community; and

9. Establishes performance standards with measurable outcomes.

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<i>Perform Annual Bicycle and Pedestrian Counts</i>	
Cost	\$\$ - \$\$\$
Key elements	Annual bicycle and pedestrian user counts and surveys at set locations to provide for evaluation over time
Partners	Wallowa County, bicycle advocacy groups, health organizations and the like
Potential funding sources	Oregon Department of Transportation
Primary agency	City of Joseph
Sample programs	National Bicycle and Pedestrian Documentation Project (http://www.fhwa.dot.gov/environment/bikeped/study/)
Target	N/A
Time frame	Annually

(K) (1) Many jurisdictions do not perform regular bicycle user counts. As a result, they do not have a mechanism for tracking ridership trends over time, or for evaluating the impact of projects, policies and programs.

(2) It is recommended that the city perform and/or coordinate annual counts of bicyclists (and pedestrians if desired) according to national practices. The National Bicycle and Pedestrian Documentation Project has developed a recommended methodology, survey and count forms and reporting forms and can be modified to serve the needs and interests of individual jurisdictions.

(3) If desired, further bicycle and pedestrian data collection opportunities may be pursued as well, including:

- (a) Include before-and-after bicycle/pedestrian/vehicle data collection on priority roadway projects;
- (b) Insert bicycle/pedestrian survey questions into any existing travel mode or city audit survey instrument;
- (c) Require counting of bicyclists/pedestrians in all traffic studies; and
- (d) Purchase National Household Travel Survey add-on.

<i>Promotional Events to Encourage Walking and Biking</i>	
Cost	\$
Key elements	Sponsor events that create a low-barrier of entry for people to “try” walking and bicycling

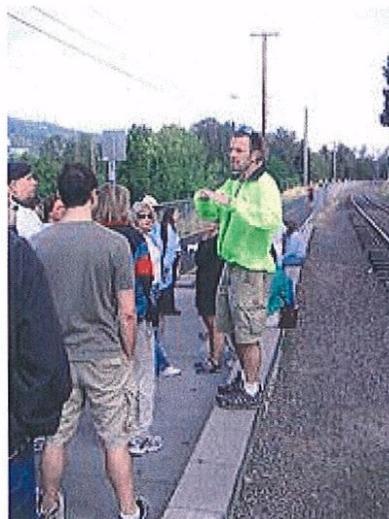
<i>Promotional Events to Encourage Walking and Biking</i>	
Partners	Joseph Chamber of Commerce, Wallowa County, event organizers, bicycle advocacy groups, health organizations and the like
Potential funding sources	Low cost; may not require outside funding
Primary agency	City of Joseph
Sample programs	WalkBikeMarin, Way to Go events: http://walkbikemarin.org/documentsAA/TGcalendar0616.pdf
Target	Joseph residents
Time frame	On-going

(L) (1) In many cases, the decision to drive rather than walk or bike is guided by habit. People often choose what is familiar to them: driving. Encouragement programs help shift peoples’ driving habits by providing a fun environment for them to “try” walking. Encouragement programs are one of the most cost effective ways of getting people out walking and biking.

(2) (a) It is recommended that the city promote events to encourage and support walking and biking.

(b) Events may include city-sponsored walking tours of new projects and development, recreational walks, historic walks, car-free days, Walk and Bike to Work and School days, and walks and rides to Chief Joseph Days.

(3) The city should also encourage organizers of existing events to promote walking projects and biking to the event.



(Ord. passed 6- -2009)

DESIGN GUIDELINES**§ 71.075 INTRODUCTION.**

This subchapter discusses recommended design guidelines for the city's pedestrian and bicycle system. Design recommendations are proposed for each of the non-motorized facility types proposed in this plan, including bikeways and walkways. This subchapter also discusses other important issues that should be considered as the city improves existing facilities and expands the pedestrian and bicycle network. The recommendations described in this subchapter are based on several bicycle and pedestrian design guidance documents, including the Manual on Uniform Traffic Control Devices (MUTCD), the American Association of State Highway and Transportation Officials' (AASHTO) Guide for the Development of Bicycle Facilities and Guide for the Planning, Design and Operation of Pedestrian Facilities, the Oregon Bicycle and Pedestrian Plan and other literature describing best practices.
(Ord. passed 6- -2009)

§ 71.076 WALKWAYS.**(A) Sidewalks.**

(1) A variety of considerations are important in sidewalk design. Providing adequate and accessible facilities should lead to increased numbers of people walking, improved safety and the creation of social space. Attributes of well-designed sidewalks include the following:

(a) Accessibility: a network of sidewalks should be accessible to all users and meet Americans with Disabilities Act (ADA) requirements;

(b) Adequate width: two people should be able to walk side-by-side and pass a third person comfortably and different walking speeds should be possible. In areas of intense pedestrian use, sidewalks should be wider to accommodate the higher volume of foot traffic;

(c) Safety: design features of the sidewalk should allow pedestrians to have a sense of security and predictability. Sidewalk users should not feel they are at risk due to the presence of adjacent traffic;

(d) Continuity: walking routes should be obvious and should not require pedestrians to travel out of their way unnecessarily;

(e) Landscaping: plantings and street trees within the roadside area should contribute to the overall psychological and visual comfort of sidewalk users, without providing hiding places for attackers;

(f) Social space: sidewalks should be more than areas to travel; they should provide places for people to interact. There should be places for standing, visiting and sitting. The sidewalk area should be a place where adults and children can safely participate in public life; and

(g) Quality of place: sidewalks should contribute to the character of neighborhoods and business districts and strengthen their identity.

(2) Sidewalk conditions in the city vary, ranging from relatively smooth surfaces (e.g., along S Main Street north of Third Street), to cracked sidewalks with intruding vegetation (e.g., on the east side of S Main Street south of Third Street). Common sidewalk problems include obstructions (e.g., sign posts, utility poles, mail boxes and the like), cracks and driveway interruptions. General strategies for addressing these existing sidewalk deficiencies include:

(a) Relocating/removing sidewalk obstructions: provides sufficient horizontal clearance for pedestrian movement;

(b) Repairing cracked sidewalks: increases safety for walkers and wheelchair users by providing a smooth surface free of cracks or other tripping hazards; and

(c) Driveway consolidation (especially on streets with surrounding commercial or strip development): reduces the number of potential conflict points between pedestrians and motorists.

(B) *Width.* Sidewalk widths in the city vary by location, ranging from four to five feet wide on residential streets, to over ten feet wide on portions of Main Street in the Downtown core. Required sidewalk widths in the city vary based on a street's ownership and functional classification. The 2001 TSP recommends sidewalk widths of six to ten feet on Arterial streets, and five- to six-foot wide sidewalks on collector and local streets. According to the Oregon Bicycle and Pedestrian Plan, sidewalks should measure at least six feet wide, enabling pedestrians and wheelchair users to pass each other or walk side-by-side comfortably. The TSP recommends a seven- to eight-foot wide planter strip (between the sidewalk and curb) on all streets.

(C) *Surface.*

(1) Sidewalk surfaces should be smooth and continuous. It is also desirable that the sidewalk surface be stable, firm and slip resistant. Preferred materials include portland cement concrete (PCC) and asphalt concrete (AC). PCC provides a smooth, long-lasting and durable finish that is easy to grade and repair. PCC can also be patterned and colored if desired. AC has a shorter life expectancy but may be more appropriate in less urbanized areas and in park settings. Crushed aggregate may also be used as an all-weather walkway surface in park areas, but this material generally requires a higher level of maintenance to maintain accessibility.

(2) Brick pavers (or other decorative treatments) may be used on some sidewalks and crosswalks if they are constructed to avoid settling or removal of bricks, which can create tripping

hazards. This treatment should also be constructed to provide a high level of smoothness to accommodate wheelchairs and other mobility devices. Alternatives to brick pavers include “stamping” molds to create the visual appearance of bricks.

(3) ADA allows a maximum two percent cross-slope on sidewalks and other walkways. Where sidewalks meet driveways, curb cuts or intersections, a three-foot-wide area should be maintained with a 2% cross-slope.

(D) *Addressing obstructions.*

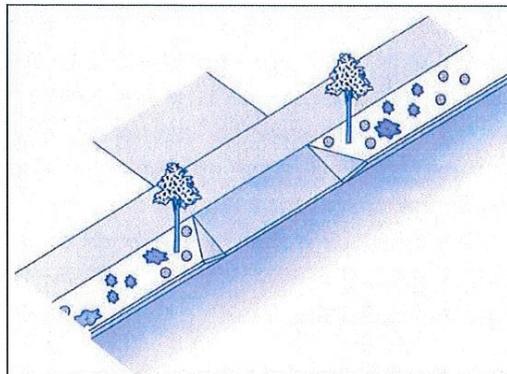
(1) Obstructions to pedestrian travel in the sidewalk corridor typically include sign posts, utility and signal poles, mailboxes, fire hydrants and street furniture. Obstructions should be placed between the sidewalk and the roadway to create a buffer for increased pedestrian comfort while maintaining six feet of lateral clearance. When sidewalks abut perpendicular or angled on-street parking, wheelstops should be placed in the parking area to prevent parked vehicles from overhanging in the sidewalk. When sidewalks abut hedges, fences or buildings, an additional two feet of lateral clearance should be added to provide appropriate shy distance.

(2) Driveways represent another sidewalk obstruction, especially for wheelchair users. The following techniques can be used to accommodate wheelchair users at driveway crossings:

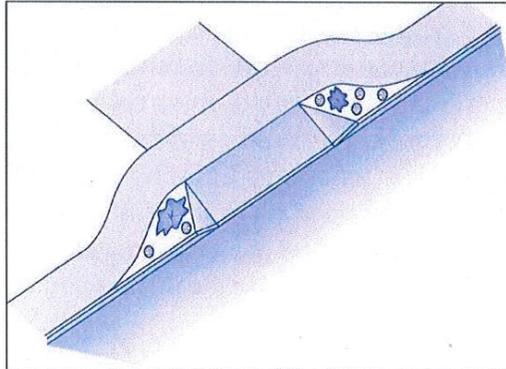
(a) Reducing the number of driveways minimizes the need for special provisions. This strategy should be pursued first;

(b) Constructing wide sidewalks avoids excessively steep driveway slopes. The overall width must be sufficient to avoid an abrupt driveway slope;

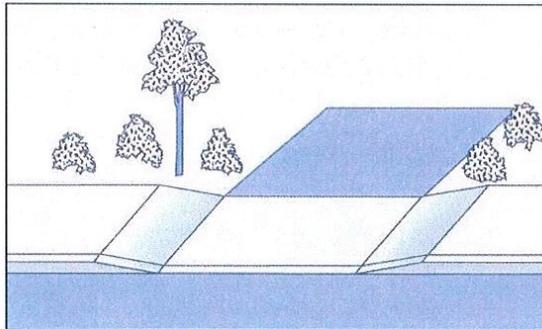
(c) Planter strips allow sidewalks to remain level, with the driveway grade change occurring within the planter strip;



(d) Where constraints preclude a planter strip, wrapping the sidewalk around the driveway has a similar effect. However, this method may have disadvantages for visually-impaired pedestrians who follow the curb line for guidance; and



(e) When constraints only allow curb-tight sidewalks, dipping the entire sidewalk at the driveway approaches keeps the cross-slope at a constant grade. However, this may be uncomfortable for pedestrians and could create drainage problems behind the sidewalk.



(E) *Alternatives to sidewalks.* Although the city has a goal of providing sidewalks on both sides of all streets, physical and other constraints (especially in older neighborhoods) could preclude sidewalks in some parts of the city. Described below, alternative sidewalk treatments could be used to accommodate foot traffic in these areas.

(1) *Soft paths.*

(a) In areas where paved sidewalks are not feasible or appropriate due to site conditions such as existing trees, walls, or other obstacles, a soft path alternative should be explored. A soft path is a pedestrian path constructed of a pervious material such as decomposed granite or other universally accessible material. Soft paths should be at least five feet wide. Constricted areas may have a reduced width consistent with ADA guidelines.

(b) Another option is rubberized sidewalks, which use one recycled automobile tire per square foot of sidewalk. Rubberized sidewalks cost approximately one-third more than the cost of typical concrete sidewalks, but require significantly less maintenance than concrete sidewalks that are located near trees, since they can be lifted out of the ground for periodic tree root trimming. Rubberized sidewalks are less likely than concrete to be broken up by tree roots, further reducing long-term costs.

(2) *Colored shoulders.* Colored shoulders visually narrow the roadway and slow traffic, making it more pedestrian friendly. They are optional treatments for neighborhoods with no room for traditional sidewalks. Drivers see only travel lanes as available road space, so the roadway appears narrower than it is when the shoulders are a different color. Painting the road surface requires frequent maintenance; lower-maintenance methods include:

- (a) Paving travel lanes with concrete, and shoulders with asphalt, or the reverse;
- (b) Slurry sealing or chip-sealing the roadway, and not the shoulder;
- (c) Incorporating dyes into concrete or asphalt; and
- (d) Colored unit pavers that resemble brick.

(Ord. passed 6- -2009)

§ 71.077 INTERSECTION TREATMENTS.

(A) *General.*

(1) Several design and operational treatments could be implemented to improve the pedestrian environment at intersections. Attributes of good intersection design include the following:

- (a) *Clarity:* it should be obvious to motorists that there will be pedestrians present; it should be obvious to pedestrians where to cross;
- (b) *Predictability:* the placement of crosswalks should be predictable. Additionally, the frequency of crossings should increase where pedestrian volumes are higher;
- (c) *Visibility:* the location and illumination of the crosswalk allows pedestrians to see and be seen by approaching traffic while crossing;
- (d) *Short wait:* the pedestrian does not have to wait unreasonably long for an opportunity to cross;
- (e) *Limited exposure:* conflict points with traffic are few, and the distance to cross is short or is divided into shorter segments with crossing islands; and
- (f) *Clear crossing:* the crosswalk is free of barriers, obstacles and hazards and is accessible to all users. Pedestrian crossing information is available in accessible locations.

(2) These factors should be considered whenever bicyclists or pedestrians cross a street. Strategies and treatments for improving intersections and other bicycle/pedestrian crossings in the city include:

(a) Enhanced crosswalks and warning signage: longitudinal (“ladder-style”) crosswalks, raised crosswalks and crosswalks with pavement or color texturing provide visual cues to oncoming motorists;

(b) Curb extensions: reduce the pedestrian crossing distance on the roadway, and also increase motorists’ visibility of pedestrians crossing the street;

(c) Medians and refuge island: separate the pedestrian crossing into multiple segments, allowing pedestrians to focus on one direction of traffic at a time; and

(d) ADA-accessible curb ramps with detectable warning strips: facilitate safe and convenient crossings for wheelchairs and mobility-impaired users; also convenient for pedestrians with strollers.

(B) *Crosswalks.*

(1) The city currently uses a variety of crosswalk treatments, including “transverse” (also called “parallel bar”) markings consisting of two bars crossing an intersection; “longitudinal” (also called “ladder style”) markings; and combinations of these marking styles. The MUTCD indicates that transverse crosswalks should include solid white lines six to 24 inches wide (extending across the full pavement width), with a minimum of six feet between the lines. Longitudinal crosswalk bars should be 12 to 24 inches wide, at least six feet long, with one- to five-foot spacing between each bar (the space between bars should not exceed two and a half times the bar width). To minimize maintenance costs, the bars should not be placed directly within vehicle wheelpaths (where possible). Also, the city currently applies paint to mark and re-mark crosswalks, but has expressed an interest in using thermoplastic to reduce maintenance needs.

(2) ODOT prescribes additional standards for the placement of crosswalks on state highways. Longitudinal crosswalks may only be placed in designated school zones, at mid-block crossing locations, and at intersection slip lanes. ODOT’s longitudinal crosswalk bars typically measure nine feet in length. Transverse markings on state highways consist of 12-inch wide bars spaced ten feet apart. The placement of all crosswalks on state highways is subject to the State Traffic Engineer’s approval.

(C) *Curb ramps.*

(1) Curb ramps are a fundamental element of an accessible public realm. A sidewalk without a curb ramp can be useless to someone in a wheelchair, forcing them back to a driveway and out into the street for access. Likewise, street crossings must be aligned and properly designed to accommodate the needs and desires of all people. Many of the single access ramps built in previous decades direct users diagonally into the street intersection (rather than straight into the crosswalk area). This can be problematic for visually-impaired pedestrians as they could experience difficulty orienting themselves toward the crosswalk.



(2) Where possible, all intersection corners should provide dual curb ramps oriented directly across the street. Curb ramps should also have detectable warning strips to accommodate the visually-impaired. AASHTO's Guide for the Planning, Design and Operation of Pedestrian Facilities and the ODOT Highway Design Manual provide further guidance on curb ramp design.

(3) Curb extension installations should include a vertical element to alert snowplow operators to their location. Reducing the width of the curb extension to fall just inside the edge of the parking lane will allow the plow to remove snow from the entire travel lane in a single pass.



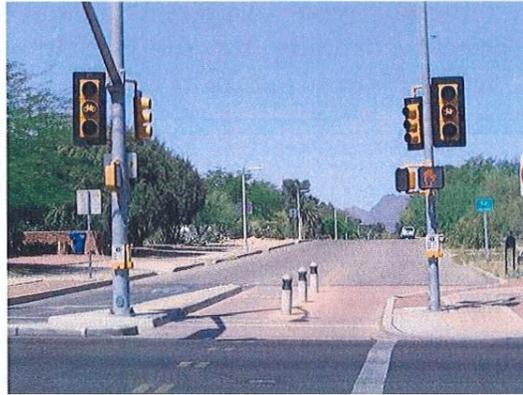
(Ord. passed 6- -2009)

§ 71.078 SIGNALS AND SIGNAL WARRANTS.

Although the need for traffic signals in the city is not anticipated in the next several decades, this section briefly discusses the role of traffic signals in the bicycle/pedestrian environment.

(A) *Full signalized crossings.* The federal government provides guidance to determine where traffic control signals should be considered for installation. The pedestrian volume signal warrant is intended

to be applied where traffic volumes on a major street are high enough that pedestrians on an approaching side street or path experience excessive delay in crossing the major street. Section 4C.05 of the MUTCD details Warrant Four, Pedestrian Volume. For signal warrant analysis, a location with a wide median, even if the median width is greater than 30 feet, should be considered as one intersection.



(B) *Half signalized crossings.* In situations where there are few “crossable” gaps and where vehicles do not stop for pedestrians waiting to cross, there are a number of innovative pedestrian traffic signals that do not operate as full signals that exist, including the Toucan signal and Hawk signal. Many of these models have been used successfully for years overseas and their use in the United States has increased dramatically over the last decade.

(C) *Signal timing evaluation and modification.* Providing adequate pedestrian crossing time is a critical element of the walking environment at signalized intersections. The MUTCD recommends traffic signal timing to assume a pedestrian walking speed of four feet per second, meaning that the length of a signal phase with parallel pedestrian movements should provide sufficient time for a pedestrian to safely cross the adjacent street. It should be noted however that the four feet per second walking speed does not reflect the walking rates of many users. At crossings where older pedestrians or pedestrians with disabilities are expected, crossing speeds as low as three feet per second may be assumed.



(D) *Pedestrian countdown signals.* According to the MUTCD, “Pedestrian Signal Heads provide special types of traffic signal indications exclusively intended for controlling pedestrian traffic. These signal indications consist of the illuminated symbols of a WALKING PERSON (symbolizing WALK)

and an UPRAISED HAND (symbolizing DON'T WALK)". An advanced type of pedestrian signal head contains a countdown signal, in addition to the WALK/DON'T WALK symbol. The countdown signal displays the number of complete his or her crossing.



(Ord. passed 6- -2009)

§ 71.079 BICYCLE FACILITIES.

(A) *Bike lanes.*

(1) *General.*

(a) Bike lanes are appropriate on busy thoroughfares, and are marked to call attention to the presence of bicyclists. They encourage more predictable cyclist behavior and differentiate an area on the street where bicycles have priority.

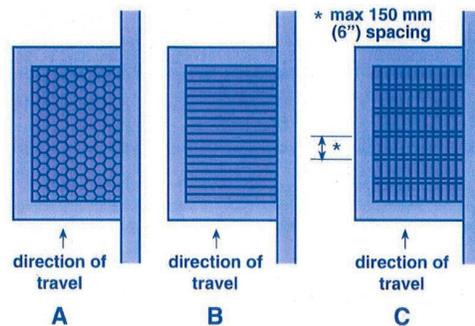
(b) Typical bike lanes range from five to seven feet wide. A bike lane's usable width is normally measured from the curb face to the center of the lane stripe, although adjustments should be made for drainage grates and longitudinal joints between the street pavement and the curb gutter pan. ODOT's standard as defined by the Oregon Bicycle and Pedestrian Plan for a bike lane is six feet. Five feet is an appropriate width if the lane is against a curb or adjacent to a parking lane. A four-and-a-half foot lane can be acceptable in severely strained conditions. Four-foot bike lanes are acceptable only on uncurbed shoulders. If parking is permitted on a street, bike lanes should be placed between the parking lanes (as much as seven feet wide) may be desirable in areas with high vehicle parking turnover, considerable bicycle use or substantial automobile traffic.

(c) Joseph's TSP recommends five- to six-foot wide bike lanes on arterial streets, while ODOT requires six-foot wide bike lanes on state highways. This plan recommends a six-foot bike lane width standard for Arterials in addition to five-foot wide bike lanes on collectors in the city.

(d) Oregon Administrative Rules require bike lanes to be striped with an eight-inch solid white line to increase the visual separation between the vehicle lane and bike lane, as shown herein. A four-inch solid white line may also be striped between the bike lane and adjacent on-street parking to encourage parking closer to the curb and to provide additional separation from motor vehicles. Bike lanes should also be marked with stencils and directional arrows. The Oregon Bicycle and Pedestrian Plan recommends placing stencils after most intersections to alert motorists and cyclists of the exclusive nature of bike lanes. For long street segments with few intersections, the appropriate frequency of stencils is calculated by multiplying the street’s design speed by 40. For instance, stencils should be placed every 1,400 feet on streets with a 35 mph design speed.



(2) *Addressing drainage grates and other obstacles.* Bike lanes should be provided with adequate drainage to prevent ponding, washouts, debris accumulation and other potentially hazardous situations for cyclists. Drainage grates should be bicycle-safe, as shown herein. When an immediate replacement of an incompatible grate is not possible, a temporary correction of welding thin metal straps across the grates perpendicular to the drainage slots (four to six inches apart, center-to-center spacing) should be considered. Bike lanes should also include a smooth riding surface, and utility covers should be adjusted flush with the street surface. Furthermore, raised pavement markings (e.g., reflectors and truncated domes) can cause steering difficulties for bicyclists, and should not be used to delineate bike lanes.



(B) *Shoulder bikeways.* Shoulder bikeways serve bicyclists and pedestrians in less-developed and rural areas, and typically consist of a wide paved shoulder separated from vehicle traffic through striping treatments. The Oregon Bicycle and Pedestrian Plan recommends a six-foot wide paved shoulder on each

side of the roadway, allowing a cyclist to ride far enough from the pavement edge to avoid debris, yet far enough from passing motorists to avoid conflicts. The Oregon Bicycle and Pedestrian Plan also recommends that gravel driveways approaching the road be paved at least 15 feet from the roadway to prevent gravel from spilling onto roadway shoulders.

(C) *Shared roadways.* Typically the most common type of bikeway, shared roadways are streets with relatively low traffic volumes and posted speeds enabling cyclists and motorists to share the same travel lanes. These streets usually have two travel lanes with or without adjacent on-street parking. Additional treatments, described below, vary by street.

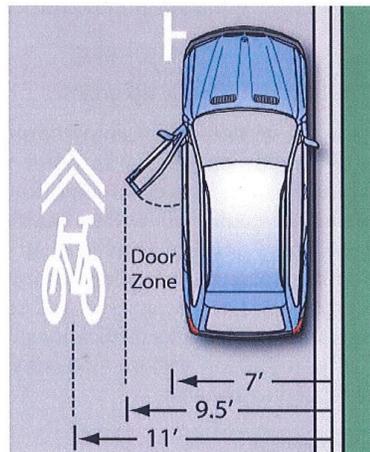
(1) *General.* Shared lane markings (also known as “sharrows”) are high-visibility pavement markings that help position bicyclists within the travel lane. These markings are often used on streets where dedicated bike lanes are desirable but are not possible due to physical or other constraints. Sharrows are placed strategically in the travel lane to alert motorists of bicycle traffic, while also encouraging cyclists to ride at an appropriate distance from the “door zone” of adjacent parked cars. On streets too narrow to accommodate a bicycle and car side-by-side, sharrows encourage cyclists to ride in a straight line so their movements are predictable to motorists who may want to pass them. They also reduce the incidence of wrong-way riding by indicating the appropriate direction of travel.



(2) *MUTCD guidelines.*

(a) The Draft 2009 MUTCD provides guidance on the use and placement of shared lane markings. Sharrows are not appropriate on streets with bike lanes, on shoulders, or on roadways with posted speed limits over 35 mph. Markings should be placed in a linear pattern along a corridor (typically every 100 to 200 feet, with a maximum of 250 feet) at a minimum of 11 feet from the face of curb. If the street does not have on-street parking, sharrows should be placed at least four feet from the face of the curb (or roadway edge if a curb does not exist).

(b) These pavement markings have been successfully used in many small and large communities throughout the U.S. Sharrow markings made of thermoplastic tend to last longer than traditional paint.



(3) *Bicycle boulevards*. Bicycle routes that incorporate treatments to accommodate cyclists are often called “bicycle boulevards”. Bicycle boulevards are developed through a combination of traffic calming measures and other streetscape treatments, and are intended to slow vehicle traffic while facilitating safe and convenient bicycle travel. Appropriate treatments depend on several factors including traffic volumes, vehicle and bicycle circulation patterns, street connectivity, street width, physical constraints and other parameters.

(4) *Bicycle boulevard application levels*.

(a) This section describes various treatments commonly used for developing bicycle boulevards. The treatments have been divided into five main “application levels” based on their level of physical intensity, with Level 1 representing the least physically-intensive treatments that could be implemented at relatively low cost. Identifying appropriate application levels for individual bicycle boulevard corridors provides a starting point for selecting appropriate site-specific improvements. The five bicycle boulevard application levels include the following:

1. Level 1: Signage;
2. Level 2: Pavement markings;
3. Level 3: Intersection treatments;
4. Level 4: Traffic calming; and
5. Level 5: Traffic diversion.

(b) It should be noted that some applications may be appropriate on some streets while inappropriate on others. In other words, it may not be appropriate or necessary to implement all “Level 2” applications on a Level 2 street. Furthermore, several treatments could fall within multiple categories

as they achieve multiple goals. To identify and develop specific treatments for each bicycle boulevard, the city should involve the bicycling community, neighborhood groups and the Public Works Department. Further analysis and engineering work may also be necessary to determine the feasibility of some applications.

(c) The following sections describe the five bicycle boulevard application levels and associated treatments.

1. *Level 1. Signage.* Bikeway signage is a relatively cost-effective treatment that can improve the bicycling environment along the city's bicycle boulevard system. Described below, signage can serve both wayfinding and safety purposes.

a. *Wayfinding signs.* Bicycle wayfinding signs should be installed along the city's bicycle boulevards and other cycling routes.

b. *MUTCD Guidelines.* There are no standards prescribed for wayfinding or guide signs in the current MUTCD. However, there are several sections that do address wayfinding signage along bicycle routes.

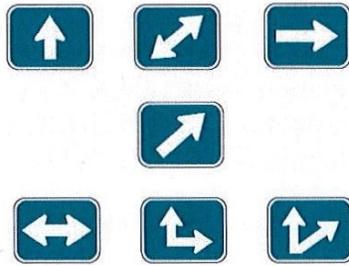
i. Section 9B.20 Bicycle Route Guide Signs provides the following guidance: "Bicycle Route Guide (D11-1) signs may be provided along designated bicycle routes to inform bicyclists of bicycle route direction changes and to confirm route direction, distance, and destination. If used, Bicycle Route Guide signs may be repeated at regular intervals so that bicyclists entering from side streets will have an opportunity to know that they are on a bicycle route."

ii. Section 9B.21 Bicycle Route Signs provides the option of establishing a unique identification (route designation) for a state or local bicycle route using the Bicycle Route (M1-8) sign. The guidance is to establish continuous routing for bicycle routes.



iii. Section 9B.22 Bicycle Route Sign Auxiliary Plaques provides the option of mounting destination (D1-1b) signs or directional arrow signs (M7-1 through M7-7) below the Bicycle Route Guide sign to furnish additional information.





d. *Optional signage design.* The City of Portland has found great success in using a slightly different bicycle route sign than identified in the MUTCD, shown in Figure 5-16. The City of Portland sign differs in three primary ways:

- i. It incorporates the Bicycle Route Guide Sign, the Destination Arrow and the Directional Arrow signs all on one sign;
- ii. It provides for the inclusion of multiple destinations on one sign; and
- iii. It includes riding time to destinations as well as distances.



e. *Warning signs.* On Bicycle Boulevards with higher vehicle and bicycle volumes, the city should also consider installing additional warning signs advising motorists to the presence of cyclists. This signage would also be effective in other areas with higher numbers of bicycle trips.

f. *MUTCD Guidelines.*

i. Section 9B. 17 Bicycle Surface Condition Warning Sign notes that a bicycle surface condition warning sign (W8-10) alerts the road user to unexpected entries into the roadway by bicyclists and other crossing activities that might cause conflicts, such as bumps, dips and pavement ending. As an option, a supplemental plaque with the legend AHEAD or XXX FEET may be used with the bicycle warning sign.

ii. Section 9B.18 Bicycle Warning and Combined Bicycle/Pedestrian Signs allows for signage that “alerts the road user to unexpected entries onto the roadway by bicyclists and other crossing activities that might cause conflicts”. This should be supplemented with a downward pointing arrow plaque indicating the location of the crossing.

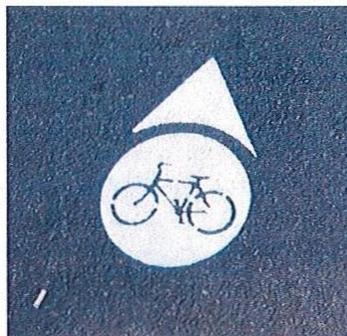
iii. Section 9B.19 Other Bicycle Warning Signs provides the option to install warning signs such as PATH NARROWS Warning Sign (W11-1) with (W5-4a) and Hill (W7-5) on bicycle facilities to warn supplemental plaque (W16-1) bicyclists of conditions not readily apparent. In addition, in situations where there is a need to warn motorists to watch for bicyclists traveling along the highway, the SHARE THE ROAD (W16-1) plaque may be used in conjunction with the W11-1.



2. *Level 2: Pavement Markings.* A variety of pavement marking techniques can effectively improve bicycling conditions along bicycle boulevards.

a. *On-street parking delineation.* Delineating on-street parking through paint or other materials clearly indicates where a vehicle should be parked, and can discourage motorists from parking their vehicles too far into the adjacent travel lane. This helps cyclists by maintaining a wide enough space to safely share a travel lane with moving vehicles while minimizing the need to swerve farther into the travel lane to maneuver around parked cars. In addition to benefitting cyclists, delineated parking spaces also promote the efficient use of on-street parking by maximizing the number of spaces in high-demand areas.

b. *Directional pavement markings MUTCD guidelines.*



i. The MUTCD currently provides no guidance on the use of directional pavement markings for bicyclists, although Section 9C.01 Function of Markings provides this general support: “Markings indicate the separation of the lanes for road users, assist the bicyclist by indicating assigned travel paths, indicate correct position for traffic control signal actuation, and provide advance information for turning and crossing maneuvers.”

ii. Directional pavement markings effectively lead cyclists along a bicycle boulevard (and reinforce cyclists that they are on a designated route). The markings take the form of small bicycle symbols (about one foot in diameter) placed every 600 to 800 feet along a linear corridor, shown herein. When a bicycle boulevard travels along several streets (with multiple turns at intersections), additional markings accompanied by directional arrows are provided to guide cyclists through turns and other complex routing areas. Directional pavement markings also visually cue motorists that they are traveling along a bicycle route and should exercise caution.

3. *Level 3. Intersection Treatments.* Described below, a variety of intersection treatments can be used to safely and conveniently facilitate bicycle travel on bicycle boulevards.

a. *Stop sign placement.* Placing stop signs on cross-streets approaching a bicycle boulevard can facilitate convenient thru bicycle travel. A reduced number of stop signs on a designated bicycle route enables riders to maintain their momentum and exert less energy with fewer “stops and starts”. This treatment should be used judiciously to minimize the potential for increasing vehicle speeds on the bicycle boulevard. Additionally, appropriate traffic-control measures should be used where bicycle boulevards intersect major streets.

b. *Half signals.* Bicycle boulevards often follow lower-volume side streets that provide minimal or no bicycle/pedestrian treatments to cross major roadways. In situations where there are few “crossable” gaps and where vehicles on the major street do not stop for pedestrians and cyclists waiting to cross, “half signals” (described earlier) could be installed to improve the crossing environment. Half signals include pedestrian and bicycle activation buttons and may also include bicycle loop detectors on the bicycle boulevard approach. Many of these models have been used successfully for years overseas and their use in the United States has increased dramatically over the last decade.

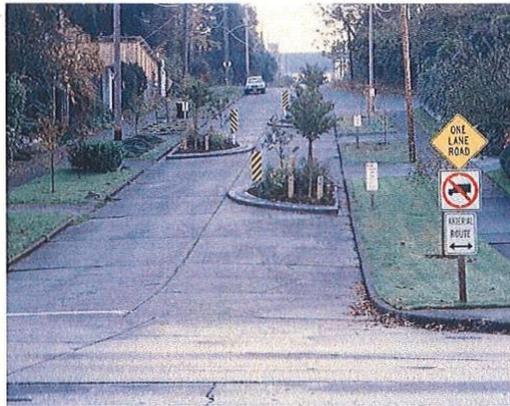
c. *Curb extensions.* Curb extensions slow vehicle traffic by creating a visual “pinch point” for approaching motorists. Typically constructed within the on-street parking lane, these devices can calm vehicle traffic passing through or turning at an intersection. Curb extensions also benefit cyclists and pedestrians on cross-streets by reducing the crossing distance within the roadway. Curb extensions should be designed with sufficient radii to accommodate the turning movements of snowplows, school buses and emergency vehicles.

d. *Medians/refuge islands.* Medians are elevated or delineated islands that break up non-motorized street crossings into multiple segments. Where bicycle boulevards cross major streets at unsignalized intersections, medians can be used to simplify bicyclist and pedestrian crossings on the major street. Appropriate signage should be installed on the major street to warn motorists of

bicyclist/pedestrian crossings. Additionally, vegetation within the median should be low to maintain adequate sight distances for both motorists and bicyclists/pedestrians. Medians can also be used along the bicycle boulevard to create a visual pinch point for motorists as well as to accommodate mid-block bicycle/pedestrian crossings.

4. *Level 4: Traffic Calming.* Traffic calming treatments on Bicycle Boulevards improve the bicycling environment by reducing vehicle speeds to the point where they generally match cyclists' operating speeds, enabling motorists and cyclists to safely co-exist on the same facility. Specific traffic calming treatments are described below.

a. *Chicanes.* Chicanes are a series of raised or delineated curb extensions on alternating sides of a street forming an S-shaped curb, which reduce vehicle speeds through narrowed travel lanes. Chicanes can also be achieved by establishing on-street parking on alternate sides of the street. These treatments are most effective on streets with narrower cross-sections. Chicane installations should include a vertical element as a visibility aid for snowplows.



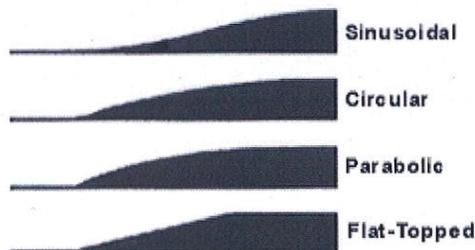
b. *Mini traffic circles.* Mini traffic circles are raised or delineated islands placed at intersections, reducing vehicle speeds through tighter turning radii and narrowed vehicle travel lanes. These devices can effectively slow vehicle traffic while facilitating all turning movements at an intersection. Mini traffic circles can also include a paved apron to accommodate the turning radii of larger vehicles like fire trucks or school buses.



c. *Speed humps.*

i. Speed humps are rounded raised areas of the pavement requiring approaching motor vehicles to reduce speed. These devices also discourage thru vehicle travel on a street when a parallel alternate route exists.

ii. Speed humps are generally 12 to 22 feet long and three to four inches high. There are four speed hump shapes - sinusoidal, circular, parabolic and flat-topped - which differ in the shape of their slope. The sinusoidal shaped are much smoother to drive over at the intended speed, and are also more friendly to bicyclists. (Many older speed humps are of the parabolic shape, which provides a more pronounced bump when driving over them.) Sinusoidal speed hump design should be used in snowy areas as they are compatible with snow removal operations.

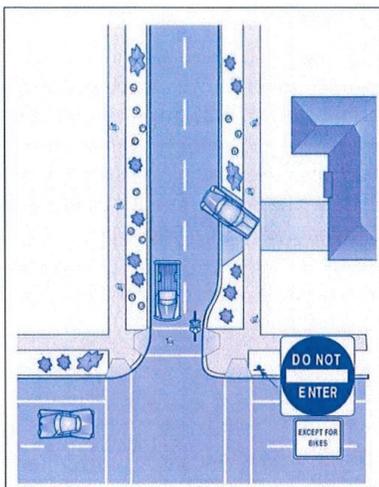


5. *Level 5: Traffic Diversion.* Traffic diversion treatments maintain thru bicycle travel on a street while physically restricting thru vehicle traffic. These treatments direct thru vehicle traffic onto parallel higher-order streets while accommodating bicyclists and local vehicle traffic on the Bicycle Boulevard. Traffic diversion is most effective when the higher-order streets can sufficiently accommodate the diverted traffic associated with these treatments.

a. *Choker entrances.*

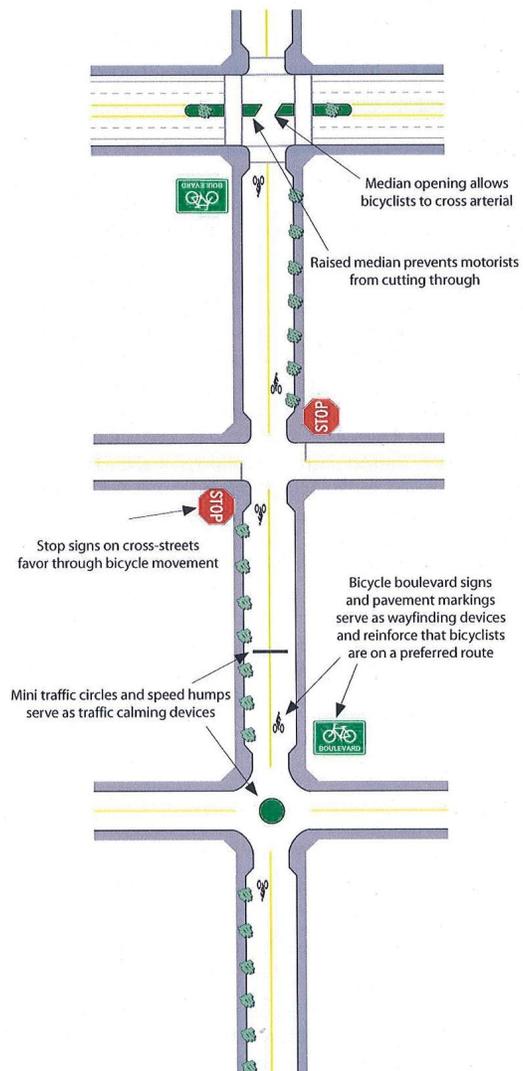
Joseph - Traffic Code

- i. Choker entrances are intersection curb extensions or raised islands allowing full bicycle passage while restricting vehicle access to and from a bicycle boulevard.
- ii. When they approach a choker entrance at a cross-street, motorists on the bicycle boulevard must turn onto the cross-street while cyclists may continue forward.
- iii. These devices can be designed to permit some vehicle turning movements from a cross-street onto the bicycle boulevard while restricting other movements.

**b. Traffic diverters.**

- i. Similar to choker entrances, traffic diverters are raised features directing vehicle traffic off the bicycle boulevard while permitting thru bicycle travel.
- ii. Two examples of traffic diverters are shown herein.





(Ord. passed 6- -2009)

§ 71.080 RECOMMENDED STREET STANDARDS.

This section discusses recommended changes to street design standards pertaining to walking and bicycling fatalities. Depending on the corridor under focus, standards are either dictated by the city or ODOT.

(A) *ODOT Street Design Standards.*

(1) Within the city, designated state highways include E Wallowa Avenue/Imnaha Highway, and the north-south corridor formed by Oregon 82, Main Street, E Eighth Street and Wallowa Lake Highway. These highways are subject to ODOT design standards, which are laid out in the agency's Highway Design Manual (HDM), updated in 2003. The HDM standards are based on several parameters, including a highway's functional classification and traffic volumes. Within the city limits, the HDM classifies E Wallowa Avenue/Imnaha Highway as a "Rural Major Collector", while the Oregon 82/Main Street/Eighth Street/Wallowa Lake Highway corridor is classified as a "Rural Principal Arterial-Other". Based on these classifications and traffic volume data collected for this plan, the HDM requires five- to eight-foot wide shoulders on E Wallowa Avenue/Imnaha Highway, and six- to eight-foot wide shoulders on the Oregon 82/Main Street/Eighth Street/Wallowa Lake Highway corridor. Rural roadway shoulders, as stated in the HDM, are intended for shared bicycle/pedestrian use. Although the HDM does not require sidewalks on these corridors, the relatively urban character of these roadways in Joseph indicates a potential need for sidewalks which are addressed by the city's street design standards.

(2) Within the city, the segment of Oregon 82/Main Street between Russell Lane and Third Street includes ODOT's "Special Transportation Area" (STA) designation. Within an STA, local auto, pedestrian, bicycle and transit movements on a state highway are considered equally important as the movement of thru traffic. State highways passing through STAs typically include design standards to foster a more bicycle- and pedestrian-friendly environment. The HDM does not provide design standards for designated rural highways passing through STAs, but provides the following bicycle/pedestrian facility design guidance for urban highways:

- (a) Thirteen- to 15-foot wide center landscaped median;
- (b) Five-foot wide (minimum) striped bike lanes;
- (c) Seven-foot wide minimum on-street parking lanes (or 12-foot wide combined parking/bike lanes); and
- (d) Ten-foot wide curb-tight sidewalks (or a minimum six-foot wide sidewalk separated from the curb by a four-foot wide planter strip).

(3) It should be noted that on-street parking tends to increase conflicts between vehicles and cyclists, especially if parking and bicycle travel is accommodated in the same lane. In these areas,

bicyclists need room to operate and safely maneuver around open car doors, side mirrors and vehicles entering or leaving parking spaces.

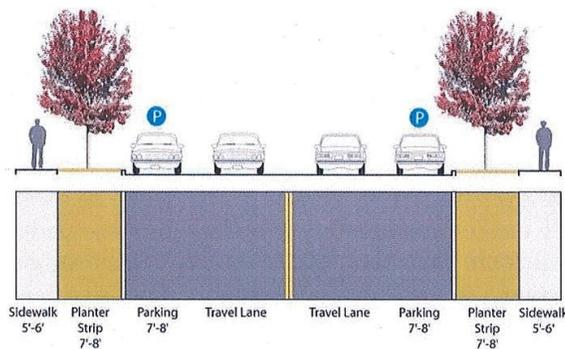
(4) This plan does not recommend changes to ODOTs bicycle/pedestrian facility design standards for state highways in the city, as they generally reflect sound design practices. However, as mentioned earlier, this plan recommends the inclusion of sidewalks on the urbanized portions of state highways within the city.

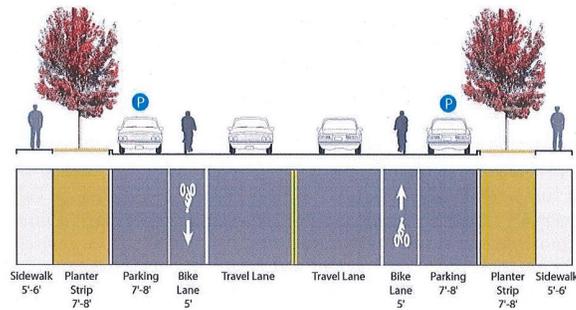
(B) *City Street Design Standards.*

(1) The Joseph TSP presents recommended design standards for city-owned streets (based on a street’s functional classification, as shown in the TSP), listed in the following table. The standards generally reflect best practices for bicycle and pedestrian facilities, although this plan recommends that the collector street design standard be revised to include striped bike lanes. Dedicated bike lanes would enhance bicyclists’ comfort and safety on these higher-order roadways. Figures below depict the city’s existing collector street design standard and the proposed design revision.

<i>Existing and Recommended City Street Design Standards (bicycle and pedestrian facilities)</i>						
<i>Functional Classification</i>	<i>Bike Lanes</i>		<i>Sidewalks</i>		<i>Planter Strips</i>	
	<i>Existing TSP Standard</i>	<i>Proposed Standard</i>	<i>Existing TSP Standard</i>	<i>Proposed Standard</i>	<i>Existing TSP Standard</i>	<i>Proposed Standard</i>
Alley	Not required	Not required	Not required	Not required	Not required	Not required
Arterial	5’ min.	5’ min.	6’ min.	6’ min.	7’ min.	7’ min.
Collector	Not required	5’ min.	5’ min.	5’ min.	7’ min.	7’ min.
Local	Not required	Not required	5’ min.	5’ min.	7’ min.	7’ min.

(2) The proposed standards noted above are intended for application when new streets are built and when major reconstruction of existing streets (e.g., if a street is completely rebuilt) occurs. As the city works to complete the bicycle and pedestrian network within the current built environment, adhering to the proposed standards noted in the table above will provide tremendous improvements in many locations.





(Ord. passed 6- -2009)

§ 71.081 TRANSITION ZONES.

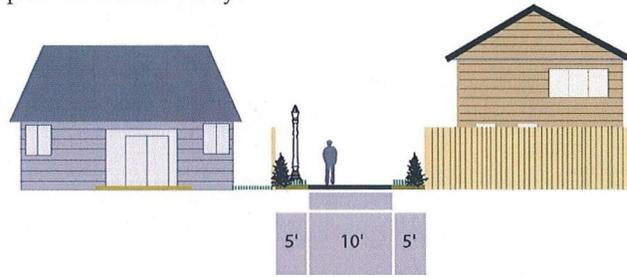
The ODOT HDM discusses the importance of accommodating pedestrians and cyclists in “transition zones”. These transitions often occur when high-speed rural highways (e.g., Oregon 82) enter urbanized areas. The HDM indicates that visual cues and other design elements are critical to informing motorists that they are entering a changing environment that is urbanized, requires slower speeds, and greater attention to pedestrians, cyclists and transit vehicles. The HDM recommends various treatments on rural state highways where they enter urbanized areas, including bike lanes, sidewalks with planter strips, marked crosswalks and landscape features. On the state highway system in the city, the primary rural/urban transition areas exist along Oregon 82 north of town, E Wallowa Avenue/Imnaha Highway on the east, and Eighth Street/Wallowa Lake Highway to the south. A variety of treatments are proposed to visually cue motorists that they are entering the city, including shoulder bikeways and sidewalks.

(Ord. passed 6- -2009)

§ 71.082 ACCESSWAYS.

(A) Accessways provide direct connections to schools, parks, community centers, retail areas, neighborhoods and other paths. They are intended to be short, direct connections to reduce unnecessary out-of-direction travel for bicyclists and pedestrians, as shown herein. Accessways are necessary where routes for pedestrians are not otherwise provided by the street system, particularly in neighborhoods with a disconnected street grid that requires both out-of-direction travel and walking on a major street. Accessways should be considered when “desire lines” or informal, unauthorized and unmaintained paths have been created.

(B) Accessways should include a ten-foot wide paved path centered in a 20-foot wide right-of-way or easement. The city should explore accessway development opportunities in existing neighborhoods where limited street connectivity exists, and require accessways in future residential subdivisions (where necessary) to maximize bicycle and pedestrian connectivity.

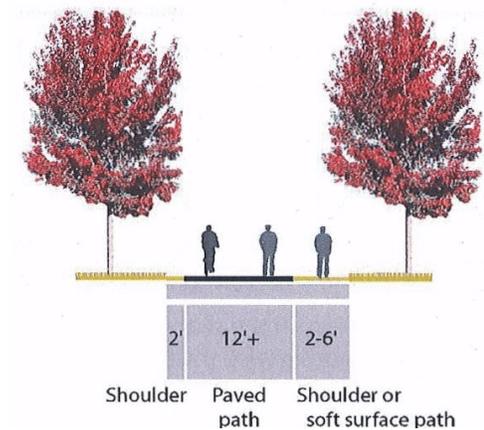


(Ord. passed 6- -2009)

§ 71.083 SHARED USE PATHS.

(A) General.

(1) Shared use paths (also referred to as “multi-use trails” and “multi-use paths”) accommodate various non-motorized users, including pedestrians, bicyclists, in-line skaters and runners. Shared use paths are typically paved (asphalt or concrete) but may also consist of an unpaved smooth surface as long as it meets ADA standards. Although shared use paths currently do not exist in the city, previous planning efforts have identified several potential path development opportunities.



(2) The recommended cross-section for shared use paths in the city is a 12-foot minimum width with two-foot minimum shoulders. AASHTO and the Oregon Bicycle and Pedestrian Plan recommend a 12-foot width, although narrower widths may be allowed (eight feet minimum) in physically constrained areas. Wider path widths are recommended in areas where user volumes are expected to be high and a wider shoulder should be provided to accommodate runners and joggers where space permits. Soft shoulders may consist of bark or wood chips. For paths in outlying areas of town, the city should consider providing a parallel soft surface equestrian trail.

(3) The following table summarizes design recommendations for the city's shared use path network. The recommendations are based on experience in other communities, as well as guidelines prescribed by AASHTO and the Oregon Bicycle and Pedestrian Plan.

<i>Shared Use Path Design Recommendations</i>	
<i>Element</i>	<i>Recommendation</i>
Bollards	5' minimum between bollards
Cross-slope	2% maximum
Fence height	60 inches ²
Grade/running slope	5% maximum
Lateral clearance between path and adjacent signs	3'-6'
Overhead clearance	8' minimum
Paved width	12' (8' in constrained areas)
Separation from parallel roadway	5' minimum
Shoulder width ¹	2' minimum
Soft surface width	6' minimum
NOTES TO TABLE:	
Source: AASHTO Guide for the Development of Bicycle Facilities; ODOT Oregon Bicycle and Pedestrian Plan	
¹ A soft surface path paralleling the paved path can take the place of a shoulder on one side	
² Although bicycle/pedestrian design guidance documents typically recommend fence heights of 42 to 54 inches, the 60-inch height reflects current city requirements	

(B) *Shared use paths along roadways.*

(1) Shared use paths should not be placed directly adjacent to roadways (e.g., with minimal or no separation) for a variety of reasons:

(a) Half of bicycle traffic would ride against the normal flow of vehicle traffic, contrary to the rules of the road;

(b) When the path ends, cyclists riding against traffic tend to continue to travel on the wrong side of the street, as do cyclists making their way to the path. Wrong-way bicycle travel is a major cause of vehicle/bicycle crashes;

(c) At intersections, motorists crossing the path often do not notice bicyclists approaching from certain directions, especially where sight distances are poor;

(d) Bicyclists on the path are required to stop or yield at cross-streets and driveways, unless otherwise posted;

(e) Stopped vehicles on a cross-street or driveway may block the path;

(f) Because of the closeness of vehicle traffic to opposing bicycle traffic, barriers are often necessary to separate motorists from cyclists. These barriers serve as obstructions, complicate facility maintenance and waste available right-of-way; and

(g) Paths directly adjacent to high-volume roadways diminish users' experience by placing them in an uncomfortable environment. This could lead to a path's underutilization.

(2) Shared use paths can successfully be placed along roadways; provided, several design considerations are met:

(a) A minimum five-foot buffer should be provided between the path and roadway to address potential conflicts between motorists and path users;

(b) There are few vehicle/path user conflict points (e.g., cross-streets and driveways);

(c) There is a commitment to provide path continuity along the corridor;

(d) The path can be terminated at each end onto streets with good bicycle and pedestrian facilities or onto another safe, well-designed path through appropriate street crossing treatments; and

(e) The path should not take the place of bicycle/pedestrian facilities (e.g., sidewalks and bike lanes) on the parallel street.

(C) *Sidewalks as shared use paths.*

(1) Utilizing or providing a sidewalk as a shared use path is unsatisfactory for several reasons. Sidewalks are typically designed for pedestrian speeds and maneuverability and are not safe for higher bicycle speeds. Conflicts are common between pedestrians traveling at low speeds (e.g., exiting stores, parked cars and the like) and bicyclists, as are conflicts with fixed objects (e.g., utility poles, mailboxes, parked cars extending into the sidewalk from a driveway). Walkers, joggers, skateboarders and in-line skaters can (and often do) change their speed and direction almost instantaneously, leaving bicyclists insufficient reaction time to avoid collisions.

(2) Similarly, pedestrians often have difficulty predicting the direction an oncoming cyclist will take. At intersections, motorists are often not looking for bicyclists (who are traveling at higher speeds than pedestrians) entering a crosswalk area, particularly when motorists are making a turn. Sight distance is often impaired by buildings, walls, fences and shrubs along sidewalks, especially at driveways. In addition, bicyclists and pedestrians often prefer to ride or walk side-by-side when traveling in pairs. Sidewalks are typically too narrow to enable this to occur without serious conflict between users.

(3) It should also be noted that developing extremely wide sidewalks does not necessarily add to the safety of sidewalk bicycle travel. Wide sidewalks might encourage higher speed bicycle use and can increase the potential for conflicts with motorists at intersections.

(D) *Path/roadway crossings.*

(1) Like most bicycle and pedestrian systems in built urban areas, non-motorized users in the city must cross roadways at certain points. While at-grade crossings create a potentially high level of conflict between bicyclists and pedestrians and motorists, well-designed crossings have not historically posed a safety problem. In most cases, intersection crossings can be properly designed at-grade to a reasonable degree of safety and meet existing traffic and safety standards.

(2) Evaluation of intersections involves analysis of vehicular and anticipated path user traffic patterns, including vehicle speeds, traffic volumes (e.g., average daily traffic and peak hour traffic), street width, sight distance and user profile (e.g., age distribution, destinations served). Crossing features for all roadways include warning signs both for vehicles and path users. The type, location and other criteria are identified in AASHTO's Guide for the Development of Bicycle Facilities and the MUTCD. Consideration must be given for adequate warning distance based on vehicle speeds and line of sight, with visibility of any signing absolutely critical. Catching the attention of motorists jaded to roadway signs may require additional alerting devices such as a flashing light, roadway striping or changes in pavement texture. Care must be taken not to place too many signs at crossings lest they begin to lose their impact.

(3) The following section identifies several roadway crossing treatments that should be considered for the city's bicycle and pedestrian system.

(a) *Roadway crossing prototypes.*

1. The proposed intersection approach that follows is based on established standards, published technical reports (Federal Highway Administration (FHWA) Report, "Safety Effects of Marked vs. Unmarked Crosswalks at Uncontrolled Locations") and experiences from cities around the country (in particular, the recommendations in this report are based in part on experiences in cities like Portland (OR), Seattle (WA), Tucson (AZ) and Sacramento (CA), among others). Intersection crossings generally will fit into one of four basic categories:

- a. Type 1: Marked/Unsignalized; Type 1 + : Marked/Enhanced;
- b. Type 2: Route Users to Existing Signalized Intersection;
- c. Type 3: Signalized/Controlled; and
- d. Type 4: Grade-Separated Crossings.

2. Although the city's predominantly rural character may not create the need for some of the more intensive crossing treatments described below, their inclusion in this plan is intended to provide additional guidance on path/roadway crossing design.

(b) *Type 1. Marked/Unsignalized Crossings.*

1. A marked/unsignalized crossing (Type 1) consists of a crosswalk, signage, and often no other devices to slow or stop traffic. The approach to designing crossings at mid-block locations depends on an evaluation of vehicular traffic, line of sight, use patterns, vehicle speed, road type and width and other safety issues such as proximity to schools. The following thresholds recommend where unsignalized crossings may be acceptable:



- a. Maximum traffic volumes:
 - i. <9,000-12,000 Average Daily Traffic (ADT) volumes;
 - ii. Up to 15,000 ADT on two-lane roads, preferably with a median; and
 - iii. Up to 12,000 ADT on four-lane roads with median.
- b. Maximum travel speed: 35 mph; and
- c. Minimum line of sight:
 - i. 25 MPH zone: 155 feet;
 - ii. 35 MPH zone: 250 feet; and
 - iii. 45 MPH zone: 360 feet.

2. On two-lane Local and Collector streets below 15,000 ADT with average vehicle speeds of 35 mph or less, crosswalks and warning signs ("Path Xing") should be provided to warn

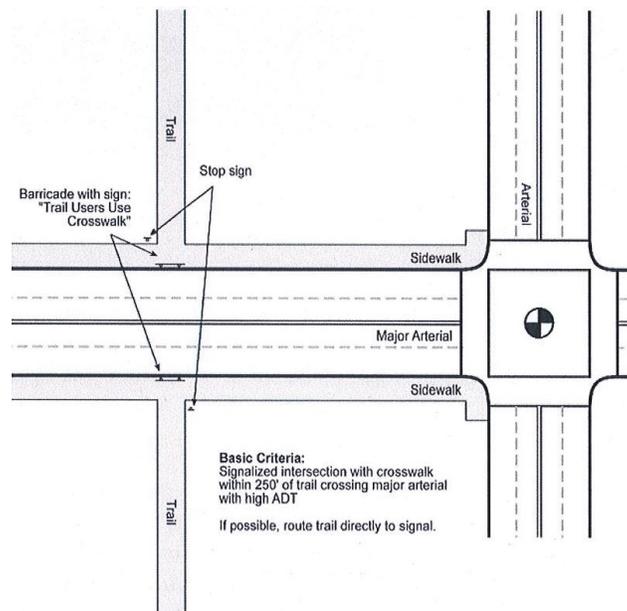
motorists, with engineering judgment used to determine the appropriate level of traffic control and design.

(c) *Type 1 Enhanced (Type 1+)*.

1. If well-designed, crossings of multi-lane higher-volume arterials over 15,000 ADT may be unsignalized with features such as a combination of some or all of the following: excellent sight distance, sufficient crossing gaps (more than 60 per hour), median refuges, and/or active warning devices like flashing beacons or in-pavement flashers. These are referred to as “Type 1 Enhanced” (Type 1+). Such crossings would not be appropriate however, if a significant number of school children used the identified route. Furthermore, both existing and potential future non-motorized traffic volumes should be taken into consideration.

2. On roadways with low to moderate traffic volumes (<12,000 ADT) and a need to control traffic speeds, a raised crosswalk may be the most appropriate crossing design to improve pedestrian visibility and safety. These crosswalks are raised 75 millimeters above the roadway pavement (similar to speed humps) to an elevation matching the adjacent sidewalk. The top of the crosswalk is flat and typically made of asphalt, patterned concrete or brick pavers. Brick or unit pavers should be used sparingly due to potential problems related to pedestrians, bicyclists and ADA requirements for a continuous, smooth, vibration-free surface. Detectable warning strips are needed at the sidewalk/street boundary so that visually-impaired pedestrians can identify the edge of the street.

(d) *Type 2: Route Users to Existing Signalized Intersection.* Where paths intersect roadways within 250 feet of an existing signalized intersection with pedestrian crosswalks, users are typically diverted to the signalized intersection for safety purposes. For this option to be effective, barriers and signing may be needed to direct trail users to the signalized crossing. In most cases, signal modifications would be made to add pedestrian detection and to comply with ADA requirements. The following figure shows an example Type 2 crossing treatment.



(e) *Type 3: Signalized/Controlled Crossings.*

1. New signalized crossings may be recommended for crossings that meet pedestrian, school or modified warrants, are located more than 250 feet from an existing signalized intersection and where 85th percentile travel speeds are 40 mph and above, and/or ADT exceeds 15,000 vehicles.
2. Each crossing, regardless of traffic speed or volume, requires additional review by a registered engineer to identify sight lines, potential impacts on traffic progression, timing with adjacent signals.
3. The maximum delay for activation of the signal should be two minutes, with minimum crossing times determined by the width of the street.
4. As described in the “Half Signalized Crossings” section earlier in this chapter, various types of pedestrian signals exist and can be used at Type 3 crossings.



(f) *Type 4: Grade-Separated Crossings.*

1. Grade-separated crossings may be needed where existing bicycle/pedestrian crossings do not exist, where ADT exceeds 25,000 vehicles, and where 85th percentile speeds exceed 45 mph.
2. Grade-separated crossings are expensive and create additional concerns, including safety, ADA accessibility, drainage and maintenance.

(E) *Soft surface trails.*

- (1) (a) Soft surface trails typically serve walkers and joggers, and may also accommodate equestrians and cross-country skiers.

(b) Soft surface trails can be considered when a trail is desired next to a natural resource or if the expected use will be minimal.

(c) They are also appropriate where a paved trail would be incompatible with the surroundings.

(d) Soft surface trails should take into account issues such as drainage, erosion, compaction/impaction from anticipated use, presence of waterways and sensitive riparian areas and habitat areas.

(e) They should be designed to minimize illegal activity and trash dumping.

(2) (a) Trail width will depend on the number and characteristics of intended users and the width of available right-of-way.

(b) For example, narrower paths intended only for walking use may be necessary in constrained areas.

(c) Larger areas with natural trails (e.g., natural parks and green spaces) should have a complimentary accessible route that meets or exceeds ADA standards in addition to the natural trail.

(d) A soft surface trail should have a five- to eight-foot trail width, and can be as narrow as three feet if constraints exist.

(3) (a) The trail width should include two-foot shoulders where possible, which can be planted with a bio-swale or low shrubbery.

(b) This area is meant to prevent the tunnel effect that can occur if fences directly abut the trail's edge.

(c) Clearance to overhead obstructions should be eight feet minimum, with ten feet of clearance recommended.

(F) *Path amenities.* A variety of amenities can make a path inviting to the user. The following sections highlight some common items that make path systems stand out. Costs vary depending on the design and materials selected for each amenity.

(1) *Interpretive installations.*

(a) Interpretive installations and signs can enhance users' experience by providing information about the history of Joseph and the surrounding area.

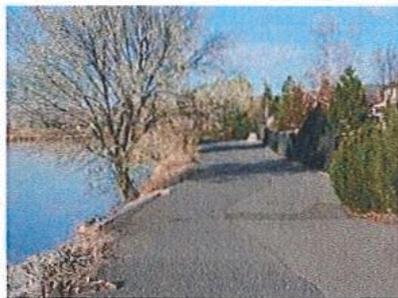
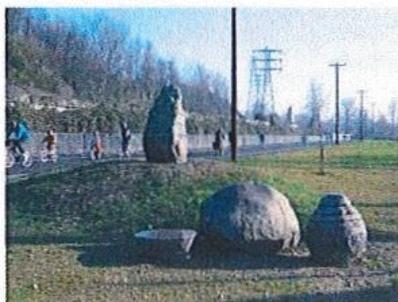
(b) Installations can also discuss local ecology, environmental concerns, and other educational information.



(2) *Water fountains and bike parking.* Water fountains provide water for people (and pets, in some cases) and bike racks allow recreational users to safely park their bikes if they wish to stop along the way, particularly at parks and other desirable destinations.

(3) *Pedestrian-scale lighting and furniture.* Pedestrian-scale lighting improves safety and enables the facility to be used year-round. It also enhances the aesthetics of the path. Lighting fixtures should be consistent with other light fixtures in the city, possibly emulating a historic theme. Providing benches at key rest areas and viewpoints encourages people of all ages to use the path by ensuring that they have a place to rest along the way. Benches can be simple (e.g., wood slates) or more ornate (e.g., stone, wrought iron or concrete).

(4) *Maps and signage.* A comprehensive signing system makes a path system stand out. Informational kiosks with maps at trailheads and other pedestrian generators can provide enough information for someone to use the network with little introduction - perfect for areas with high out-of-area visitation rates.



(5) *Art installations.* Local artists can be commissioned to provide art for the path system, making it uniquely distinct. Many path art installations are functional as well as aesthetic, as they may provide places to sit and play on.

(6) *Landscaping*. Landscape features, including street trees or trees along paths, can enhance the visual environment and improve the path user experience. Trees can also provide shade from heat and also provide protection from rain and snow.

(7) *Restrooms*. Restrooms benefit path users, especially in more remote areas where other facilities do not exist. Restrooms can be sited at major trailheads or at other strategic locations along the path system.

(G) *Path safety and security*.

(1) Various design and programmatic measures can be taken to address safety issues on a shared use path.

(2) The following table summarizes key safety issues and strategies for minimizing impacts.

<i>Path Safety and Security Recommendations</i>	
<i>Safety Issue</i>	<i>Recommended Improvements</i>
Crime	<ul style="list-style-type: none"> • Manage vegetation so that the corridor can be visually surveyed from adjacent streets and residences • Select shrubs that grow below 3' in height and trees that branch out greater than 6' in height • Place lights strategically and as necessary • Place benches and other path amenities at locations with good visual surveillance and high activity • Provide mileage markers at quarter-mile increments and clear directional signage for orientation • Create a Path Watch Program involving local residents • Proactive law enforcement; utilize the corridor for mounted patrol training
Litter and dumping	<ul style="list-style-type: none"> • Post path rules encouraging pack-it-in/pack-it-out etiquette • Place garbage receptacles at trailheads • Strategically-placed lighting, utilizing light shields to minimize unwanted light in adjacent homes • Manage vegetation within the right-of-way to allow good visual surveillance of the path from adjacent properties and from roadway/path intersections • Encourage local residents to report incidents as soon as they occur • Remove dumpsites as soon as possible
Local on-street parking	<ul style="list-style-type: none"> • Post local residential streets as parking for local residents only to discourage path user parking. Place “no outlet” and “no parking” signs prior to path access points
Privacy of adjacent property owners	<ul style="list-style-type: none"> • Encourage the use of neighborhood friendly fencing and also planting of landscape buffers • Clearly mark path access points • Post path rules that encourage respect for private property • Strategically placed lighting
Trailhead safety	<ul style="list-style-type: none"> • Clearly identify trailhead access areas

<i>Path Safety and Security Recommendations</i>	
<i>Safety Issue</i>	<i>Recommended Improvements</i>
Trespassing	<ul style="list-style-type: none"> • Clearly distinguish public path right-of-way from private property through the use of vegetative buffers and the use of good neighbor type fencing • Post path rules that encourage respect for private property
Unwanted vehicle access on the path	<ul style="list-style-type: none"> • Utilize landscaping to define the corridor edge and path, including earth berms and large boulders • Use bollards at intersections • Pass a motorized vehicle prohibited ordinance and sign the path • Create a Path Watch Program and encourage citizens to report illegal vehicle use of the corridor • Lay the trail out with curves that allow bike/ped passage, but are uncomfortably tight for automobile passage
Vandalism	<ul style="list-style-type: none"> • Select benches, bollards, signage and other site amenities that are durable, low maintenance and vandal resistant • Respond through removal or replacement in rapid manner • Keep a photo record of all vandalism and turn over to local law enforcement • Encourage local residents to report vandalism • Create a Path Watch Program; maintain good surveillance of the corridor • Involve neighbors in path projects to build a sense of ownership • Place amenities (benches, etc.) in well used and highly visible areas

(H) *Community involvement with safety on the path.* Creating a safe path environment goes beyond design and law enforcement and should involve the entire community. The most effective and most visible deterrent to illegal activity on the city’s path system will be the presence of legitimate path users. Getting as many “eyes on the corridor” as possible is a key deterrent to undesirable activity. There are several components to accomplishing this as outlined below.

(1) *Provide good access to the path.* Access ranges from providing conveniently located trailheads along the path, to encouraging the construction of sidewalks to accommodate access from private developments adjacent to the path. Access points should be inviting and signed so as to welcome the public onto the path.

(2) *Good visibility from adjacent neighbors.* Neighbors adjacent to the path can potentially provide 24-hour surveillance of the path and can become the city’s biggest ally. Though some screening and setback of the path is needed for privacy of adjacent neighbors, complete blocking out of the path from neighborhood view should be discouraged. This eliminates the potential of neighbors’ “eyes on the path” and could result in a “tunnel effect” for users on the path.

(3) *High level of maintenance.* A well-maintained path sends a message that the community cares about the public space. This message alone will discourage undesirable activity along the path.

(4) *Programmed events.* Community events along the path will help increase public awareness and thereby attract more people to use the path. Neighbors and residents can help organize numerous

public events, which will increase support for the path. Events might include a day-long path clean up or a series of short interpretive walks led by long time residents or a park naturalist.

(5) *Community projects.* The support generated by community groups could be further capitalized by involving neighbors and friends of the path in a community project. Ideas for community projects include volunteer planting events, art projects, interpretive research projects, or even bridge building events. These community projects are the strongest means of creating a sense of ownership along the path that is perhaps the strongest single deterrent to undesirable activity along the path.

(6) *Adopt-a-Path Program.* Nearby businesses, community institutions, and residential neighbors often see the benefit of their involvement in path development and maintenance. Businesses and developers may view the path as an integral piece of their site planning and be willing to take on some level of responsibility for the path. Creation of an adopt-a-path program should be explored to capitalize on this opportunity and build civic pride.

(7) *Path Watch Program.* Partnering with local and county law enforcement, a path watch program would provide an opportunity for local residents to become actively involved in crime prevention along the city's path system. Similar to neighborhood watch programs, residents are brought together to get to know their neighbors, and are educated on how to recognize and report suspicious activity.

(Ord. passed 6- -2009)

§ 71.084 INTERNAL CIRCULATION STANDARDS.

Pedestrian and bicycle circulation in larger residential and commercial developments is influenced by the infrastructure provided for non-motorized users as well as the infrastructure and design of auto circulation and parking.

(A) *Automobile infrastructure.* Parking lots should be located in such a manner as to encourage pedestrian access to the development, connect land uses to the street and decrease the distance between adjacent developments. To accomplish this, parking should be located behind and to the side of buildings wherever possible. Landscaping should be provided between the pedestrian circulation system and automobile areas to provide protection, security and accessibility for the pedestrian while providing sufficient sight distance. Parallel parking can also be used to buffer pedestrian routes from moving vehicles.

(B) *Pedestrian infrastructure.*

(1) An internal pedestrian circulation system should:

(a) Be barrier-free and designed for safety and security;

- (b) Provide continuous sidewalks and safe crossing points;
- (c) Connect all uses within a development (buildings, parking areas and the like);
- (d) Clearly link public sidewalks with all internal walkways;
- (e) Clearly link the individual sites within a development to each other and to surrounding off-site uses (mixed-use and residential areas);
- (f) Be defined with landscaping, paving, and pedestrian-scale lighting;
- (g) Meet ADA standards and guidelines; and
- (h) Provide adequate sight distance.

(2) Pedestrian circulation routes could consist of treated surfaces such as scored or brushed concrete to differentiate the pedestrian system from the auto system. Where pedestrian routes cross an auto circulation route, striping should be provided.

(3) To enhance pedestrian connectivity and prevent autos from having to use the public street system to travel between adjacent developments, parking and pedestrian circulation should be designed to accommodate connections between developments.

(4) Pedestrian circulation plans should be required with each large lot development. These plans must emphasize connectivity through sidewalk design, traffic circulation, landscaping and lighting.

(C) *Bicycle infrastructure.*

(1) Internal circulation for bicyclists is as important a consideration as for cars and pedestrians. Bicyclists should have a clearly delineated travel path through any development, as well as clear travel paths linking individual sites within the development and provide safe travel. In smaller developments or constrained situations, this can be accomplished through directional signage, lane markings and signage clearly delineating a shared roadway system (such as a shared lane marking), and signage and markings indicating slow speeds (ten mph) required while in the development.

(2) In larger developments, bike lanes should be striped to both indicate the preferred bicycle route to constantly inform motorists to expect bicyclists within the development. Bike lanes should be supplemented with appropriate directional signage.

(Ord. passed 6- -2009)

§ 71.085 BIKE PARKING.

(A) *General.*

(1) Lack of secure, convenient bike parking is a deterrent to bicycle travel. Bicyclists need parking options that provide security against theft, vandalism and weather. Like automobile parking, bike parking is most effective when located close to trip destinations, is easy to access, and is easy to find. Where quality bike parking facilities are not provided, determined bicyclists lock their bicycles to street signs, utility poles or trees. These alternatives are undesirable as they are usually not secure, may interfere with pedestrian movement and can create liability issues or damage street furniture or trees. Bike parking facilities that are conveniently located and adequate in both quantity and quality can help reduce bicycle theft and eliminate inappropriate parking, benefitting everyone. Bike parking is also highly cost-effective compared with automobile parking.

(2) Bike parking can be broadly defined as either short-term or long-term parking.

(a) *Short-term parking.* Bike parking meant to accommodate visitors, customers, messengers and others expected to depart within two hours; requires approved standard rack, appropriate location and placement and weather protection.

(b) *Long-term parking.* Bike parking meant to accommodate employees, students, residents, commuters and others expected to park more than two hours. This parking is to be provided in a secure, weather-protected manner and location.

(B) *Short-term bike parking.*

(1) Short-term bike parking facilities typically include racks which permit the locking of the bicycle frame and one wheel to the rack while supporting the bicycle in a stable position without damaging wheels, frame or components. Short-term bike parking is currently provided at no charge in the city. Such facilities should continue to be free, as they provide minimal security, but encourage cycling and promote proper bicycle parking.





(2) Bike rack dimension requirements should meet or exceed those recommended by the Oregon Bicycle and Pedestrian Plan (These standards are being set in the 2009 update to the 1995 Oregon Bicycle and Pedestrian Plan.), including the following.

- (a) Bike parking spaces should be at least six feet long and two feet wide and overhead clearance for covered spaces should be at least seven feet.
- (b) A five-foot aisle for bicycle maneuvering should be provided and maintained beside or between each row of bike parking.
- (c) Bike racks or lockers should be securely anchored to the surface or structure.
- (d) Bike parking should be located in well-lit, secure locations within 50 feet of the main entrance to a building.
- (e) Combined parking could be allowed in areas of concentrated small businesses.

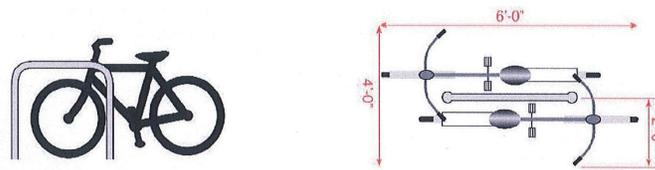
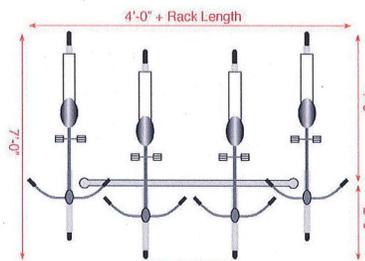


Figure 5-36: Inverted U-rack.

Ribbon, Spiral, or Freestanding Racks
(with access from only one side)



24" per space
Actual capacity is usually 3 bikes

(3) Where racks are not possible on sidewalks (because of narrow sidewalk width, sidewalk obstructions, or other issues), bike parking can be created in the street where on-street vehicle parking is allowed. Two possible options for creating parking in the street include clustered racks in a car parking space protected by bollards or curbs, and racks installed on sidewalk curb extensions where adequate sight distance can be provided. Installing bike parking directly in a car parking space incurs only the cost of the racks and bollards or other protective devices.

(4) A curb extension is more expensive to install, and can be prohibitively expensive if substantial drainage and/or utility work is necessary. Costs may be less if the curb extension is installed as part of a larger street or pedestrian improvement project. While on-street bike parking may take space away from automobile parking, there are ways to mitigate auto parking loss: additional auto parking spaces can be created by consolidating driveways, moving fire hydrants or otherwise finding places where it may be possible to permit auto parking where it is currently prohibited. Options for combining bicycle and motorcycle parking also exist.



(5) On-street bike parking may be installed at intersection corners or at mid-block locations. Mid-block on-street parking may be closer to cyclists’ destinations, although it could force cyclists to dismount and walk to the parking site if access from the street is difficult or dangerous. Combining a mid-block pedestrian crossing with mid-block on-street parking facilities could mitigate this situation.

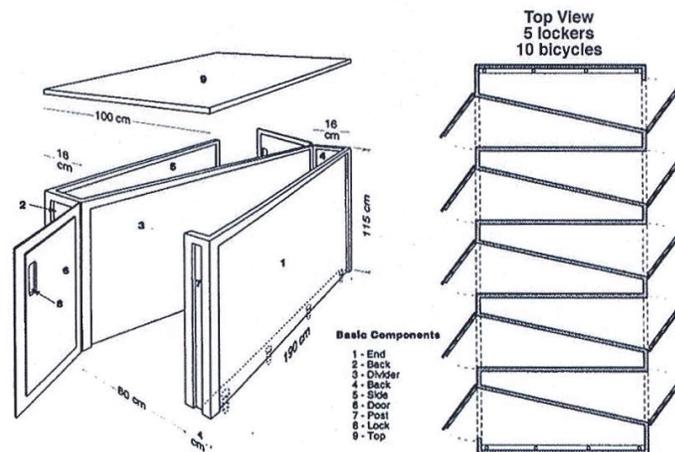
(6) The following table provides additional guidance for placement of bike racks, considering a range of design issues.

<i>Bike Rack Placement Guidelines</i>	
<i>Design Issue</i>	<i>Recommended Guidance</i>
Frequency of racks on streets	In popular retail areas, two or more racks should be installed on each side of each block. This does not eliminate the inclusion of requests from the public which do not fall in these areas. Areas officially designated or used as bicycle routes may warrant the consideration of more racks
Lighting	Lighting of not less than one foot-candle illumination at ground level should be provided in all bike parking areas

<i>Bike Rack Placement Guidelines</i>	
<i>Design Issue</i>	<i>Recommended Guidance</i>
Location and access	Access to facilities should be convenient; where access is by sidewalk or walkway, curb ramps should be provided where appropriate and be ADA compliant. Parking facilities intended for employees should be located near the employee entrance, and those for customers or visitors near the main public entrances. (Convenience should be balanced against the need for security if the employee entrance is not in a well traveled area). Bike parking should be clustered in lots not to exceed 16 spaces each. Large expanses of bike parking make it easier for thieves to operate undetected
Locations near transit stops	To prevent bicyclists from locking bikes to bus stop poles - which can create access problems for transit users, particularly those who are disabled - racks should be placed in close proximity to transit stops where there is a demand for short-term bike parking
Locations within a campus-type setting	Racks are useful in a campus-type setting at locations where the user is likely to spend less than two hours, such as classroom buildings. Racks should be located near the entrance to each building. Where racks are clustered in a single location, they should be surrounded by a fence and watched by an attendant. The attendant can often share this duty with other duties to reduce or eliminate the cost of labor being applied to the bike parking duties; a cheaper alternative to an attendant may be to site the fenced bicycle compound in a highly visible location on the campus. For long-term parking needs of employees and students, attendant parking and/or bike lockers are recommended
Locations within buildings	Provide bike racks within 50 feet of the entrance. Where a security guard is present, provide racks behind or within view of a security guard. The location should be outside the normal flow of pedestrian traffic
Minimum rack height	To increase visibility to pedestrians, racks should have a minimum height of 33 inches or be indicated or cordoned off by visible markers
Retrofit program	In established locations, such as schools, employment centers, and shopping centers, the City should conduct bicycle parking audits to assess bike parking availability and access, and add additional bike racks where necessary
Signing	Where bike parking areas are not clearly visible to approaching cyclists, signs at least 12 inches square should direct them to the facility. The sign should give the name, phone number, and location of the person in charge of the facility, where applicable

(C) *Long-term bike parking.* Long-term bike parking facilities protect the entire bicycle, its components and accessories against theft and against inclement weather, including snow and wind-driven rain. Examples include lockers, check-in facilities, monitored parking, restricted access parking and personal storage. Long-term parking facilities are more expensive to provide than short-term facilities, but are also significantly more secure. Although many bicycle commuters would be willing to pay a nominal fee to guarantee the safety of their bicycle, long-term bike parking should be free wherever automobile parking is free. Potential locations for long-term bike parking include large employers and

institutions where people use their bikes for commuting, and not consistently throughout the day. An advantage of lockers is that they can be configured to more easily accommodate different styles of bicycles, such as recumbent bicycles.



(Ord. passed 6- -2009)

§ 71.086 TRANSIT STOPS.

This section provides guidance for the design of transit stop elements, including sidewalk approaches, landing pads, bus pullouts and bus shelters.

(A) *Sidewalk and path approaches.* Pedestrian connections should be designed to provide the most direct route to transit stops to avoid out-of-direction travel. Direct routes will also reduce damage to landscaping by providing pedestrians with other preferred routes. Connections should be a continuation of the sidewalk and path system to reduce dead-end paths. At transit stops, sidewalks should be provided at a minimum to the nearest intersection or to the nearest section of existing sidewalk. It may also be

necessary to wrap a sidewalk around a corner to join an existing sidewalk on a side street. If a transit route does not have complete sidewalks, it is still important to provide a suitable area for waiting passengers.

(B) *Landing pads.* At permanent bus stops, the ADA requires an eight- by five-foot landing pad to accommodate disabled users. For bus stops along streets without curbs, the roadway shoulder should be at least eight feet wide to serve as the landing pad.

(C) *Bus pullouts.* Where traffic conditions warrant a bus pullout at an intersection, a far-side location is preferred. The needs of passengers boarding or exiting the bus should not conflict with the needs of pedestrians and cyclists moving through the area. A curb extension helps pedestrian crossing movements, prevents motorists from entering the bus pullout area, and reduces conflicts with thru bicyclists. Each pullout should be designed to meet roadway conditions and bus characteristics. Where parking is allowed on streets, a curb extension can be placed within the parking lane so that passengers may board or exit the bus without stepping into the street. This also makes it easier to meet ADA requirements (the bus pulls up right next to the curb).

(D) *Bus shelters.* A standard-size bus shelter requires a six- by ten-foot pad. The shelter should be placed at least two feet from the curb when facing away from the street and at least four feet when facing toward the street. The adjacent sidewalk must still have a five-foot clear passage. Orientation of the shelter should take into account prevailing winter winds. Sidewalks separated from the roadway with a planter strip offer a unique opportunity to provide a bus shelter out of the path of passing pedestrians.



(Ord. passed 6- -2009)

§ 71.087 MAINTENANCE GUIDELINES.

Proper maintenance of pedestrian and bicycle facilities is a critical element of providing a safe and user-friendly system. The following table summarizes a recommended maintenance schedule for the city's bicycle/pedestrian system. These guidelines address maintenance of the system's off-street

portions. On-street segments should be maintained according to the standards of the responsible jurisdiction (e.g., City of Joseph, Wallowa County, ODOT and the like).

<i>Recommended Maintenance Guidelines</i>	
<i>Maintenance Task</i>	<i>Frequency</i>
Culvert inspection	Before rainy season; after major storms
Fencing repair	Inspect monthly for holes and damage, repair immediately
Graffiti removal	Weekly; as needed
Inspections	Seasonal - at both beginning and end of summer
Introduced tree and shrub plantings, trimming	1-3 years
Lighting repair	Annually
Litter pick-up	Weekly during high use; twice monthly during low use
Maintaining culvert inlets	Inspect before onset of wet season
Major damage response (fallen trees, washouts, flooding)	Schedule based on priorities
Pavement markings replacement	1-3 years
Pavement sealing; pothole repair	5-15 years
Pavement sweeping/blowing	As needed; before high use season
Shoulder plant trimming (weeds, trees, branches)	Twice a year; middle of growing season
Shrub/tree irrigation for introduced planting areas	Weekly during summer months until plants are established
Signage replacement	1-3 years
Site furnishings; replace damaged components	As needed
Trash disposal	Weekly during high use; twice monthly during low use
Waterbar maintenance (soft surface trails)	Annually

(Ord. passed 6- -2009)

FUNDING SOURCES

§ 71.100 FEDERAL FUNDING SOURCES.

(A) *General.*

(1) Federal funding is primarily distributed through a number of different programs established by the Federal Transportation Act. The latest act, The Safe, Accountable, Flexible, Efficient Transportation Equity Act - a Legacy for Users (SAFETEA-LU) was enacted in August 2005 as Public Law 109-59. SAFETEA-LU authorizes Federal surface transportation programs for highways, highway safety, and transit for the five-year period 2005 to 2009.

(2) In Oregon, federal funding is administered through state (ODOT) and regional planning agencies. Most, but not all, of these funding programs are oriented toward transportation versus recreation, with an emphasis on reducing auto trips and providing inter-modal connections. Federal funding is intended for capital improvements and safety and education programs and projects must relate to the surface transportation system.

(B) *SAFETEA-LU*. There are a number of programs identified within SAFETEA-LU that provide for the funding of bicycle and pedestrian projects.

(1) *Surface Transportation Program*.

(a) The Surface Transportation Program (STP) provides states with flexible funds which may be used for a variety of projects on any federal-aid highway including the National Highway System, bridges on any public road and transit facilities.

(b) Bicycle and pedestrian improvements are eligible activities under the STP. This covers a wide variety of projects such as on-street facilities, off-road trails, sidewalks, crosswalks, bicycle and pedestrian signals, parking and other ancillary facilities. SAFETEA-LU also specifically clarifies that the modification of sidewalks to comply with the requirements of the Americans with Disabilities Act (ADA) is an eligible activity.

(c) As an exception to the general rule described above, STP-funded bicycle and pedestrian facilities may be located on local and collector roads which are not part of the federal-aid highway system. In addition, bicycle-related non-construction projects, such as maps, coordinator positions, and encouragement programs, are eligible for STP funds. ODOT estimates that they will receive an average of \$84 million annually for this program through the lifetime of SAFETEA-LU.

(2) *Highway Safety Improvement Program*. This program funds projects designed to achieve significant reductions in traffic fatalities and serious injuries on all public roads, bikeways and walkways. This program includes the Railway-Highway Crossings Program and the High Risk Rural Roads Program. ODOT estimates that they will receive an average of \$14 million annually for this program through the lifetime of SAFETEA-LU. This program replaces the Hazard Elimination Program from TEA-21.

(3) *Transportation Enhancements*. Administered by ODOT, this program is funded by a set-aside of STP funds. Ten percent of STP funds are designated for Transportation Enhancement Activities (TEAs), which include "provision of facilities for pedestrians and bicycles, provision of safety

and educational activities for pedestrians and bicyclists” and the “preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian and bicycle trails”. 23 U.S.C. § 190(a)(35). Projects must serve a transportation need. These funds can be used to build a variety of pedestrian, bicycle, streetscape and other improvements that enhance the cultural, aesthetic or environmental value of transportation systems. The statewide grant process is competitive.

(4) *Congestion Mitigation/Air Quality Program.*

(a) The Congestion Mitigation/Air Quality Improvement Program (CMAQ) provides funding for projects and programs in air quality non-attainment and maintenance areas for ozone, carbon monoxide and particulate matter which reduce transportation related emissions.

(b) These federal funds can be used to build bicycle and pedestrian facilities that reduce automobile travel. Recreational facilities generally are not funded. ODOT estimates that they will receive an average of \$14 million annually for this program through the lifetime of SAFETEA-LU.

(5) *Recreational Trails Program.*

(a) The Recreational Trails Program of the Federal Transportation Bill provides funds to states to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized uses. Examples of trail uses include hiking, bicycling, in-line skating and equestrian use. These funds are available for both paved and unpaved trails, but may not be used to improve roads for general passenger vehicle use or to provide shoulders or sidewalks along roads.

(b) Recreational Trails Program funds may be used for:

1. Maintenance and restoration of existing trails;
2. Purchase and lease of trail construction and maintenance equipment;
3. Construction of new trails, including unpaved trails;
4. Acquisition or easements of property for trails;
5. State administrative costs related to this program (limited to 7% of a state’s funds);

and

6. Operation of educational programs to promote safety and environmental protection related to trails (limited to 5% of a state’s funds).

(6) *Safe Routes to School (SR2S).* Under the SR2S Program, federal funds are administered by ODOT. Under the Oregon Safe Routes to School Program, approximately \$3.7 million will be available

for grants between 2006 and 2010. The grants can be used to identify and reduce barriers and hazards to children walking or bicycling to school. ODOT estimates that they will receive an average of \$1.37 million annually for this program through the lifetime of SAFETEA-LU.

(7) *New freedom initiative.* SAFETEA-LU creates a new formula grant program providing capital and operating costs to provide transportation services and facility improvements that exceed those required by the Americans with Disabilities Act.

(C) *Community development block grants.* The Community Development Block Grants program provides money for streetscape revitalization, which may largely consist of pedestrian improvements. Federal Community Development Block Grant grantees may “use Community Development Block Grants funds for activities that include (but not limited to): acquiring real property; reconstructing or rehabilitating housing and other property; building public facilities and improvements, such as streets, sidewalks, community and senior citizen centers and recreational facilities; paying for planning and administrative expenses, such as costs related to developing a consolidated plan and managing Community Development Block Grants funds; provide public services for youths, seniors or the disabled; and initiatives such as neighborhood watch programs”.

(D) *Rivers, Trails and Conservation Assistance Program.* The Rivers, Trails and Conservation Assistance Program (RTCA) is a National Parks Service program providing technical assistance via direct staff involvement to establish and restore greenways, rivers, trails, watersheds and open space. The RTCA program provides only for planning assistance - there are no implementation monies available. Projects are prioritized for assistance based on criteria including conserving significant community resources, fostering cooperation between agencies, serving a large number of users, encouraging public involvement in planning and implementation and focusing on lasting accomplishments.

(E) *Land and Water Conservation Fund.* The Land and Water Conservation Fund is a federally-funded program providing grants for planning and acquiring outdoor recreation areas and facilities, including trails. Funds can be used for right-of-way acquisition and construction. These funds are administered by the Oregon Parks and Recreation Department.

(F) *Transportation, Community and System Preservation Program.*

(1) The Transportation, Community and System Preservation Program provides federal funding for transit-oriented development, traffic calming and other projects that improve transportation system efficiency, reduce the impact on the environment and provide efficient access to jobs, services and trade centers. The program is intended to provide communities with resources to explore the integration of their transportation system with community preservation and environmental activities.

(2) The Transportation, Community and System Preservation Program funds require a 20% match.

(Ord. passed 6- -2009)

§ 71.101 STATE FUNDING SOURCES.*(A) Statewide Transportation Improvement Program.*

(1) The Statewide Transportation Improvement Program (STIP) is ODOT's short-term capital improvement program, providing project funding and scheduling information for the department and Oregon's metropolitan planning organizations. It is a four-year program developed through the coordinated efforts of ODOT, federal and local governments, Area Commissions on Transportation, tribal governments and the public.

(2) In developing this funding program, ODOT must verify that the identified projects comply with the Oregon Transportation Plan, ODOT Modal Plans, Corridor Plans, local comprehensive plans, and SAFETEA-LU planning requirements. The STIP must fulfill federal planning requirements for a staged, multi-year, statewide, intermodal program of transportation projects. Specific transportation projects are prioritized based on federal planning requirements and the different state plans. ODOT consults with local jurisdictions before highway-related projects are added to the STIP.

(B) *ORS 366.514*. Often referred to as the "Oregon Bike Bill", this law applies equally to bicycle and pedestrian facilities. The statute's intent is to ensure that future roads be built to accommodate bicycle and pedestrian travel. The statute requires the provision of bicycle and pedestrian facilities on all major arterial and collector roadway construction, reconstruction or relocation projects where conditions permit. The statute also requires that in any fiscal year, at least 1% of highway funds allocated to a jurisdiction must be used for bicycle/pedestrian projects.

(C) Oregon Transportation Infrastructure Bank.

(1) The Oregon Transportation Infrastructure Bank is a statewide revolving loan fund designed to promote innovative transportation funding solutions. Oregon's program was started in 1996 as part of a ten-state federal pilot program. Additional legislation passed in 1997 by the Oregon Legislature establishes the program in state law and includes expanded authority. Eligible borrowers include cities, counties, transit districts, other special districts, port authorities, tribal governments, state agencies and private for-profit and non-profit entities. Eligible projects include:

- (a) Highway projects, such as roads, signals, intersection improvements and bridges;
- (b) Transit capital projects, such as buses, equipment and maintenance or passenger facilities; and
- (c) Bicycle or pedestrian access projects on highway right-of-way.

(2) Eligible project costs include preliminary engineering, environmental studies, right-of-way acquisition, construction (including project management and engineering), inspections, financing costs and contingencies.

(D) *Measure 66 Funds - Oregon State Lottery.* Ballot Measure 66 amends the Oregon Constitution to allow money from the state lottery to be used for restoring and protecting Oregon's parks, beaches, watersheds and critical fish and wildlife habitat. Funds are coordinated by the Oregon Parks and Recreation Department and may be used for trail-related right-of-way acquisition and construction.

(E) *Special Transportation Fund.* The State's Special Transportation Fund Program (STF) provides financial support to designated counties, transit districts and Indian tribal governments for special transportation services benefitting seniors and people with disabilities. The majority of the STF money (75%) is allocated on a population-based formula. The remaining funds are distributed by the Public Transportation Discretionary Grant Program.

(F) *Bicycle and Pedestrian Program Grants.* The Pedestrian and Bicycle Grant Program is a competitive grant program providing approximately \$5 million every two years to Oregon cities, counties and ODOT regional and district offices for design and construction of pedestrian and bicycle facilities. Proposed facilities must be within public rights-of-way. Grants are awarded by the Oregon Bicycle and Pedestrian Advisory Committee.

(G) *Bicyclist Safety Mini-Grant Program.* The Community Cycling Center Bicyclist Mini-Grant Program provides funding to public agencies and non-profit 501(c)(3) organizations to promote the safety of bicyclists in Oregon. Funding is available statewide through a grant to the Community Cycling Center from ODOT's Transportation Safety Division. Funding is available for projects targeting youth and/or adults, with a focus on projects incorporating a strong educational element, especially in communities that do not currently have access to bike safety education resources. For communities that currently do have access to these resources, innovative and creative project proposals are highly encouraged. Applicants may apply for grants between \$800 and \$5,000.

(H) *Pedestrian Safety Mini-Grant Program.* Administered by Oregon's Bicycle Transportation Alliance and the Willamette Pedestrian Coalition, the Pedestrian Safety Mini-Grant Program is funded through ODOT's Traffic Safety Division. The program provides funds to police departments around the state to stage crosswalk enforcement actions against motorists who fail to yield to pedestrians. In these operations, a decoy police officer attempts to cross a street at an intersection or marked crosswalk (crosswalk laws apply to unmarked crosswalks as well). If passing motorists fail to stop and yield for the pedestrian, they are issued either a warning or a citation. The operations include a media outreach component, with the purpose of raising awareness around motorists' responsibility toward pedestrians. Grant funds may also be used to offer diversion classes that violators can take in lieu of paying tickets. Applicants may apply for grants up to \$5,000.

(I) *Business Energy Tax Credits (BETC).* Offered by the Oregon Department of Energy, BETCs reward companies who invest in energy conservation, recycling, renewable energy resources and less-polluting transportation fuels. Eligible applicants include trade, business or rental property owners with business sites in Oregon or Oregon non-profit organizations, tribes or public entities partnering with an Oregon business or resident. Non-profit organizations, schools and other public entities can use a

transfer option for a cash-sum payment. Investments in alternative fuel infrastructure projects can recoup 50% of eligible project costs over five years. Projects with eligible costs under \$20,000 can take the tax credit in one year. Employer bicycle purchases may be eligible for a 35% of cost grant. To receive the credit, an application must be submitted prior to the beginning of the project, and again after the project is completed, indicating the resulting reduction in vehicle miles traveled.

(Ord. passed 6- -2009)

§ 71.102 LOCAL FUNDING SOURCES.

(A) *Local bond measures.* Local bond measures, or levies, are usually initiated by voter-approved general obligation bonds for specific projects. Bond measures are typically limited by time based on the debt load of the local government or the project under focus. Funding from bond measures can be used for right-of-way acquisition, engineering, design and construction of pedestrian and bicycle facilities.

(B) *Tax increment financing/urban renewal funds.* Tax increment financing is a tool to use future gains in taxes to finance the current improvements that will create those gains. When a public project (e.g., sidewalk improvements) is constructed, surrounding property values generally increase and encourage surrounding development or redevelopment. The increased tax revenues are then dedicated to finance the debt created by the original public improvement project. Tax increment financing typically occurs within designated Urban Renewal Areas (URA) that meet certain economic criteria and approved by a local governing body. To be eligible for this financing, a project (or a portion of it) must be located within the URA.

(C) *System development charges/developer impact fees.* System development charges, also known as developer impact fees, are typically tied to trip generation rates and traffic impacts produced by a proposed project. A developer may reduce the number of trips (and hence impacts and cost) by paying for on- or off-site pedestrian improvements that will encourage residents to walk or use transit rather than drive. In-lieu parking fees may be used to help construct new or improved pedestrian facilities. Establishing a clear nexus or connection between the impact fee and the project's impacts is critical in avoiding a potential lawsuit.

(D) *Street user fees.* The revenue generated by a street user fee is used for operations and maintenance of the street system, and priorities are established by the Public Works Department. Revenue from this fund should be used to maintain on-street bicycle and pedestrian facilities, including routine sweeping of bicycle lanes and other designated bicycle routes.

(E) *Local Improvement Districts (LIDs).* Local Improvement Districts (LIDs) are most often used by cities to construct localized projects such as streets, sidewalks or bikeways. Through the LID process, the costs of local improvements are generally spread out among a group of property owners within a specified area. The cost can be allocated based on property frontage or other methods such as traffic trip generation.

(F) *Business improvement districts.* Pedestrian improvements can often be included as part of larger efforts aimed at business improvement and retail district beautification. Business Improvement Districts collect levies on businesses in order to fund area-wide improvements that benefit businesses and improve customer access. These districts may include provisions for pedestrian and bicycle improvements, such as wider sidewalks, landscaping and ADA compliance.

(G) *Other local sources.* Residents and other community members are excellent resources for garnering support and enthusiasm for a bicycle and pedestrian facility, and the city should work with volunteers to substantially reduce implementation and maintenance costs. Local schools, community groups or a group of dedicated neighbors may use the project as a project for the year, possibly working with a local designer or engineer. Work parties can be formed to help clear the right-of-way for a new path or maintain existing facilities where needed. A local construction company could donate or discount services. Other opportunities for implementation will appear over time, such as grants and private funds. The city should look to its residents for additional funding ideas to expedite completion of the bicycle and pedestrian system.

(Ord. passed 6- -2009)

§ 71.103 OTHER FUNDING SOURCES.

(A) *American Greenways Program.* Administered by the Conservation Fund, the American Greenways Program provides funding for the planning and design of greenways. Applications for funds can be made by local, regional or statewide non-profit organizations and public agencies. The maximum award is \$2,500, but most awards range from \$500 to \$1,500. American Greenways Program moneys may be used to fund unpaved trail development.

(B) *Bikes Belong Grant Program.* The Bikes Belong Coalition of bicycle suppliers and retailers has awarded \$1.2 million and leveraged an additional \$470 million since its inception in 1999. The program funds corridor improvements, mountain bike trails, BMX parks, trails and park access. It is funded by the Bikes Belong Employee Pro Purchase Program.

(Ord. passed 6- -2009)

§ 71.104 FUTURE POTENTIAL FUNDING SOURCES.

(A) *2010 Campaign for Active Transportation.* Organized by the Rails-to-Trails Conservancy, the Campaign for Active Transportation aims to double the federal funding for trails, walking and biking in the upcoming Federal transportation reauthorization. The campaign is encouraging communities to gather a campaign team and develop an active transportation case statement, considering what the community could achieve with a \$50 million federal investment in bicycling and walking.

(B) *Complete Streets Act of 2008.* The Complete Streets Act was proposed to the U.S. Senate on 3-3-2008, and would ensure that future transportation investments made by State Departments of

Transportation and Metropolitan Planning Organizations create appropriate and safe transportation facilities for all roadway users, including motorists, transit vehicles and riders, bicyclists and pedestrians of all ages and abilities.
 (Ord. passed 6- -2009)

FACTS AND FINDINGS REPORT

§ 71.115 INTRODUCTION.

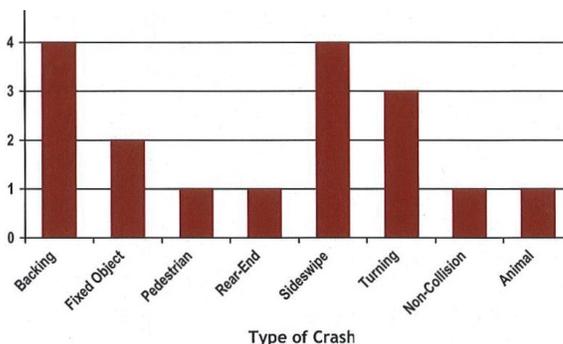
To support the development of the Bicycle and Pedestrian Plan for the city, an investigation of existing and future transportation conditions was conducted through a tour of the study area and an examination of data describing traffic volumes, the recent crash history and the physical environment. This memorandum documents the findings of that investigation.
 (Ord. passed 6- -2009)

§ 71.116 CRASH ANALYSIS.

The most recent five years (2003 to 2007) of crash data for all roadways within the city urban growth boundary (UGB) was obtained from the ODOT Crash Analysis and Reporting Unit and analyzed to identify high crash locations and crash patterns where countermeasures may be needed to improve safety, specially in regards to walking and biking. Crashes reported over that period of time have been illustrated in the “2003-2007 Reported Crashes” map, which has been organized to show all crash locations and types of crashes that occurred.

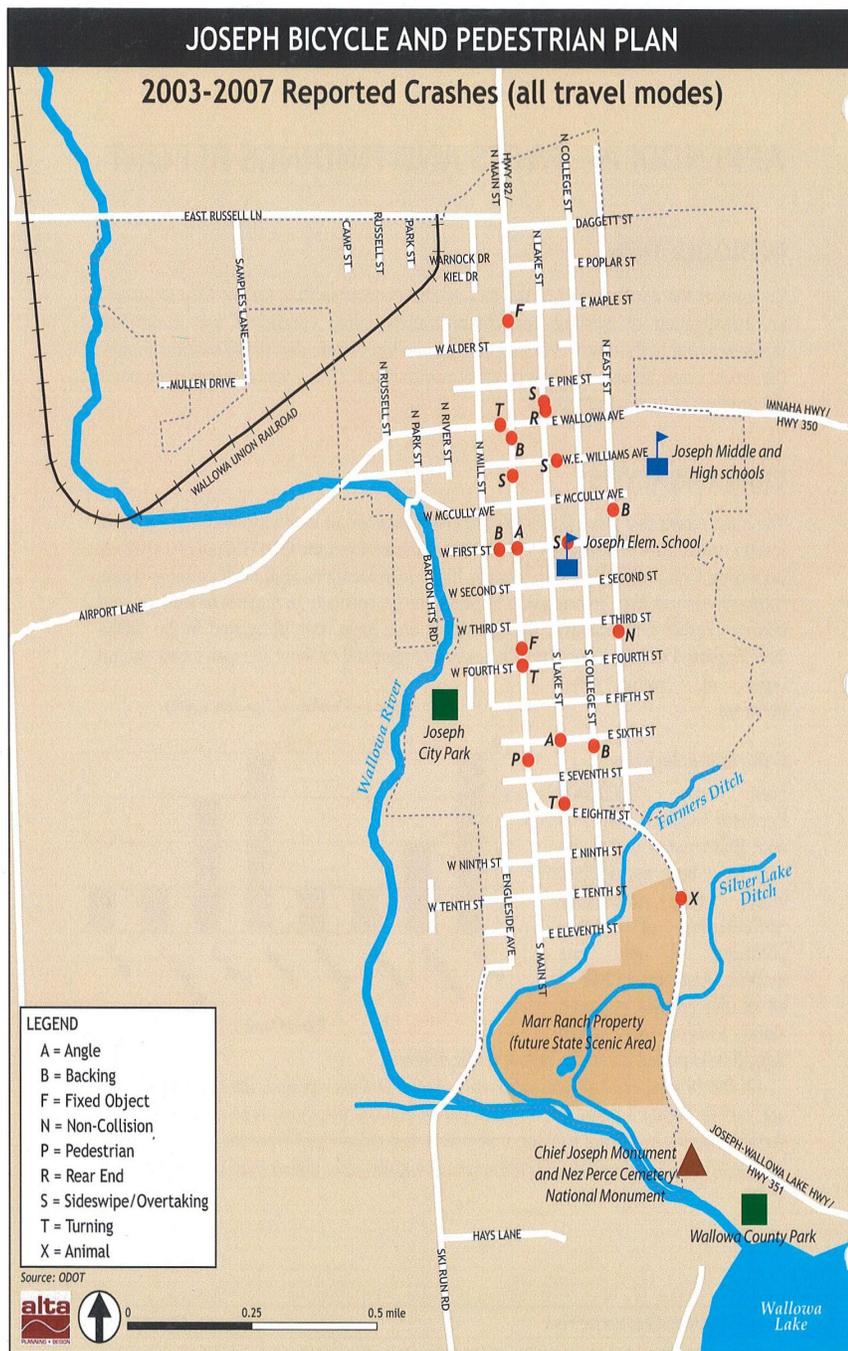
(A) Crash characteristics.

(1) From the “2003-2007 Reported Crashes” map, it is seen that crashes within the city have been spread out, with no noticeable concentration of crashes occurring at any one location. Also, nearly half of all of the crashes occurred along Oregon 82, which should be expected given the higher traffic volumes.



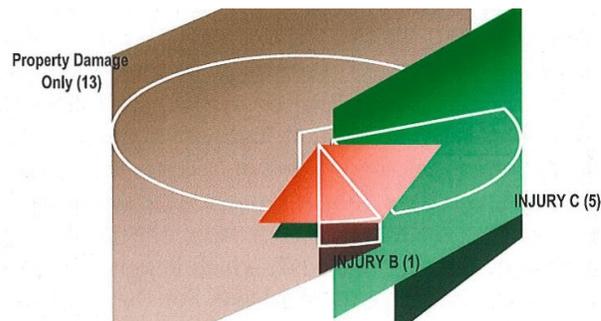
Joseph - Traffic Code

(2) Of the 19 total crashes that occurred over the five-year period, the types of crashes are varied. The figure below compares the number of crashes per crash type experienced. As shown, crashes involving backing maneuvers and sideswipes were the most common, but the numbers of those crash types were not significantly higher than most others.



(3) It should also be noted that there was one crash that involved a pedestrian crossing Oregon 82 south of Sixth Street. According to the crash record, the pedestrian was crossing the highway at a mid-block location at night. There were no reported crashes involving bicycles.

(4) In general, the severity of crashes experienced was low, with 13 of the 19 total crashes resulting in only property damage with no injuries. Five crashes resulted in possible or minor injuries (reported as “Type C Injuries”), while only one crash resulted in moderate injuries (reported as “Type B Injuries”). There were no crashes resulting in incapacitating or fatal injuries reported and only two of the six total crashes resulting in injuries were found to have occurred on the highways.



(5) In searching for other potential crash trends, it was found that most crashes occurred under daylight conditions (79%), with dry pavement (74%), and were spread out relatively evenly among all days of the week. Crashes were also spread out relatively evenly among the months of the year, with slight peaks in the months of July and November. There was also a slight trend towards crashes occurring during the mid-day hours.

(B) *Crash rates.*

(1) To help assess whether the number of crashes experienced on the state highways through the city is significant, crash rates per million vehicles miles (MVM) on Oregon 82 and Imnaha Highway were compared to those experienced on similar facilities throughout the state. The use of crash rates as a means of comparison between facilities is common practice because it accounts for the differences in traffic volumes served, which is typically proportional to the number of crashes.

(2) Crash rates for study area highways were taken from an annual publication by the ODOT Crash Analysis Reporting Unit called the State Highway Crash Rate Tables (2006 State Highway Crash Rate Tables, ODOT Transportation Data Section, Crash Analysis & Reporting Unit, July 2007). In this document, crash rates for given segments of all state highways are calculated and listed for each of the last five years. In addition, this document provides average crash rates over each of the last five years for various types of facilities, separating urban and rural environments and freeways from non-freeways, to allow for comparison between similar facilities. When comparing highway segments from the study area to the statewide averages for similar facilities, the use of segments less than one mile in length was avoided, as crash rates for such short segments can be heavily influenced by a single problem location.

(3) When examining the crash data over the last five-year period (note that due to the publishing date of the Crash Rate Tables, the five-year span from 2002 to 2006 was the most recent available), it was noticed that there had not been any reported crashes on the V4-mile segment of Innaha Highway within the city limits from 2003 through 2006. However, in 2002, there were three reported crashes, which is a significantly high amount for such a short segment of roadway. Because no crashes have been found to occur since then (even in 2007, as evidenced by the new crash data obtained), a comparison of the crash rates for this segment of highway to the statewide average rates would not be of value as there is clearly no trend of frequent crashes occurring on a consistent basis.

(4) In the Crash Rate Tables, Oregon 82 is comprised of two separate state highways: Highway 10, which approaches from the north and ends at the Innaha Highway intersection, and Highway 351, which begins at the Innaha Highway intersection and runs past the end of Wallowa Lake. For the purpose of this analysis, the segments of each separate highway along Oregon 82 within the city limits were combined into one 1.24-mile long segment. The resulting crash rates during each of the five years examined are shown in the following table, with the statewide average crash rate for principal arterials in rural cities also provided for comparison. As shown, the crash rate for this segment was significantly lower than the statewide average rate during most years, with the exception of the year 2002. Further examination of crash data revealed that three crashes occurred within the segment of Oregon 82 from the north city limits to the Innaha Highway intersection during the year 2002, which is relatively high for such a short distance. However, since crash rates have substantially dropped every year since then, the rate of crashes occurring on Oregon 82 within the city limits is not of concern.

<i>Table 1-OR82 5-year Crash Rate Comparison for Statewide Rural Cities (2002-2006)</i>						
<i>Section Limits (mile points)</i>	<i>Section Description</i>	<i>Annual Crashes per Million Vehicles</i>				
		<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
Statewide average rate		1.16	1.28	0.99	0.90	0.94
Hwy 10 MP 70.98 - Hwy 351 MP 0.80	OR 82 from north city limits to south city limits	2.19	1.10	0.57	0.00	0.60
NOTES TO TABLE: Bold type indicates the crash rate is greater than the statewide average.						

(Ord. passed 6- -2009)

§ 71.117 SPIS LOCATIONS.

(A) *General.*

(1) This analysis was supplemented by reviewing ODOT's Safety Priority Index System listing for locations on state highways ranked among the state's top 10% of hazardous locations. The Safety Priority Index System (SPIS) is a method developed by ODOT for identifying hazardous locations on state highways. The SPIS score is based on three years of crash data and considers crash frequency, crash rate, and crash severity. ODOT bases its SPIS on 0.10-mile segments to account for variances in how crash locations are reported. This information is a general comparison of the overall safety of the highway based on crash information for all sections throughout the state.

(2) According to ODOT's 2006 SPIS ratings, there are no locations on any of the state highways within the study area with a SPIS score ranked among the state's top 10%.

(B) *Sight distance.*

(1) Through field observations, locations on area roadways within the city were examined for provision of adequate sight distance. The provision of proper sight distance allows adequate time for drivers to react to changing conditions, such as obstacles in the roadway or other vehicles that are crossing or entering the roadway ahead.

(2) The most common location noted where sight distance is limited is along Oregon 82 through the downtown, where sight distance is often limited by cars in angled parking stalls. The presence of these parked cars along the highway can limit sight distance at intersections, as well as for vehicles attempting to back out of parking stalls. In fact, the backing maneuvers and poor sight distance were cited as deterrents to bicycling along Oregon 82 in this area by residents.

(3) Another location where sight distance was noted to be limited is at the intersection on Oregon 82 at Lake Street, where the horizontal curve to the north and the adjacent vegetation/development on the north side of the highway shorten sight distance for vehicles, bicyclists and pedestrians crossing or entering from the north. The existing sight distance to the west from the north approach was measured at approximately 225 feet. According to A Policy of Geometric Design of Highways and Streets (A Policy on Geometric Design of Highways and Streets, fifth edition, American Association of State Highway and Transportation Officials, Washington, D.C., 2004.), assuming a highway design speed of 30 mph (it is currently posted at 25 mph), the minimum intersection sight distance should be 335 feet, with the minimum stopping sight distance being 200 feet. Therefore, the provided sight distance is not desirable for entering or crossing traffic, but is sufficient for on-coming vehicles to stop prior to the intersection if needed.

(Ord. passed 6- -2009)

§ 71.118 TRAFFIC VOLUMES.

(A) To provide a basis for evaluating the conditions of area transportation, the volumes of motor vehicles, bicycles and pedestrians were counted for two hours during the AM and PM peak periods at three key intersections in the city, including:

- (1) Oregon 82 at Imnaha Highway;
- (2) Oregon 82 at McCully Avenue; and
- (3) Imnaha Highway at College Street.

(B) In addition, hourly motor vehicle data was collected over a 24-hour period at 15 locations throughout the city to determine how traffic volumes vary throughout the day, which may provide further insight into the appropriate accommodation of bicycles and pedestrians on city streets.

(Ord. passed 6- -2009)

§ 71.119 SEASONAL FACTORING.

(A) To provide for consistency during analysis, common peak hours were selected at all studied locations during the AM and PM periods. The peak hours chosen were from 7:40 to 8:40 a.m. and from 4:35 to 5:35 p.m.

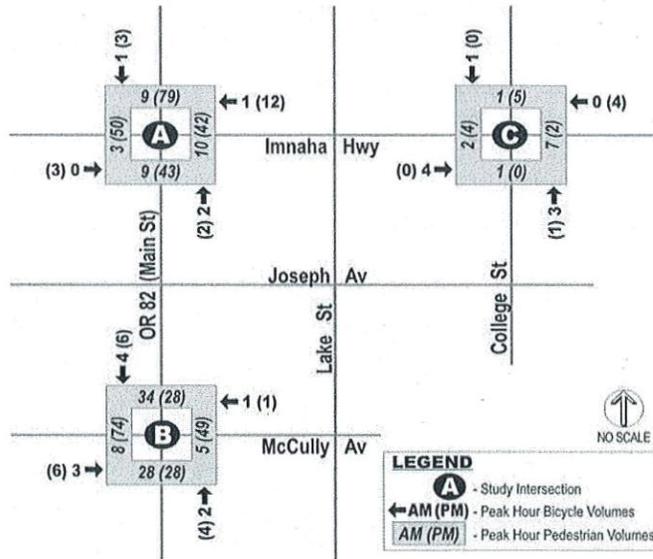
(B) For the purposes of transportation facility analysis and design, the 30th highest annual hour (30 HV) of traffic volume is typically the time period of interest. The 30 HV is also used by ODOT as the basis for highway mobility standards. Therefore, all volume data collected was adjusted to better reflect this time period.

(C) (1) Because there are no local or comparative sources of traffic volume data that indicate how volumes fluctuate throughout the year, ODOT's 2008 Seasonal Trend Table was used to determine how the collected counts should be factored to replicate the 30 HV.

(2) The Seasonal Trend Table was developed by ODOT by averaging seasonal trends at Automatic Traffic Recorder (ATR) stations throughout the state that continuously collect traffic volume data.

(3) For traffic characteristics through Joseph, the seasonal trends from ATRs on routes described as "recreational summer" were used.

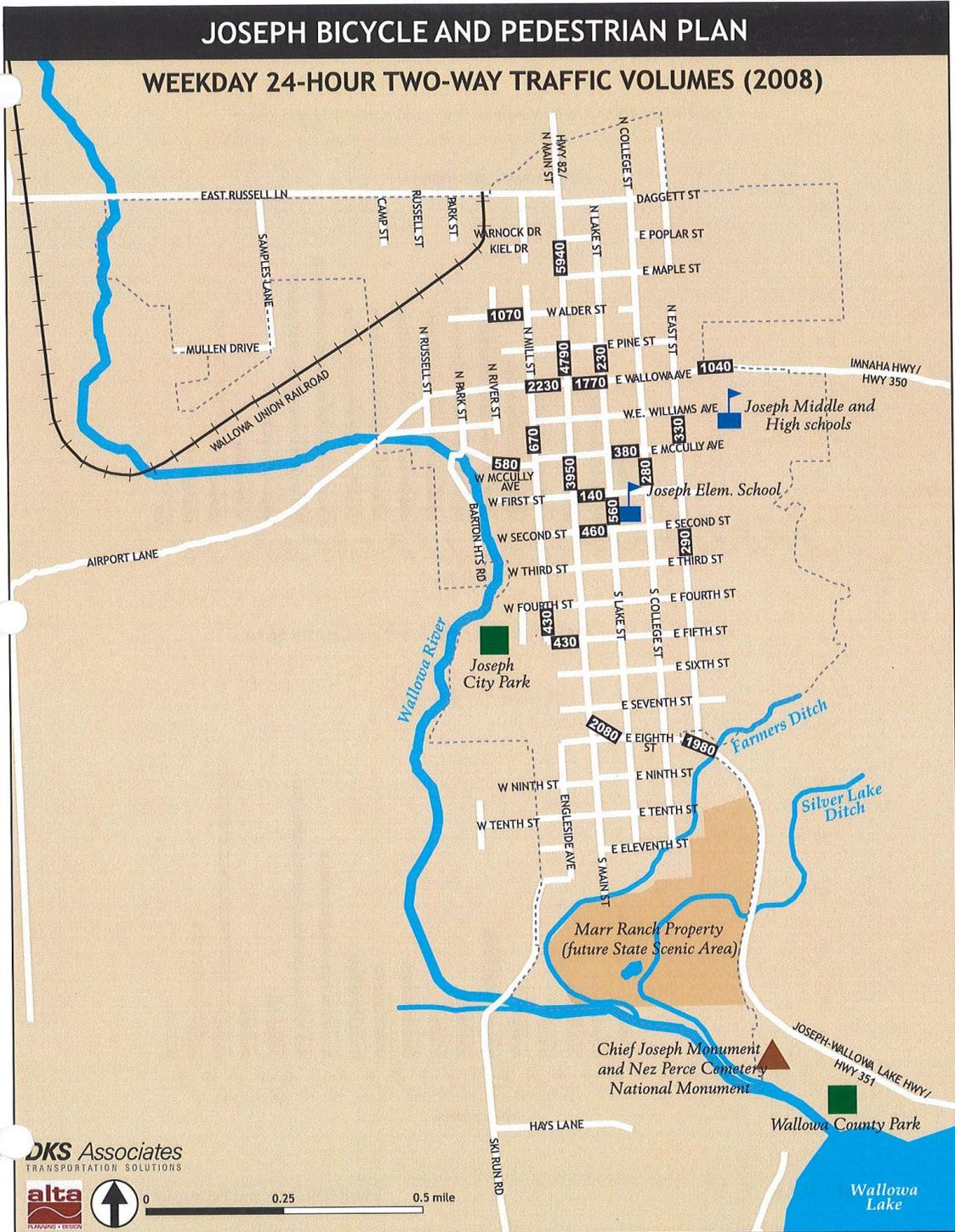
(D) For "recreational summer" routes, the 30 HV typically occurs in mid-July. Because the traffic counts in the city were collected on 7-23-2008, the count data obtained was taken to be representative of the 30 HV and no seasonal factoring was applied. It should be noted that the Chief Joseph Days festival/rodeo had begun on the day the counts were collected and that as a result, the traffic volumes may actually be higher than the 30 HV. However, after comparing the volumes to historical counts and conducting a sensitivity test on the operational analysis, it was determined that while the counts may be conservatively high, they would not be high enough to affect the study findings (Confirmed with Dorothy Upton, ODOT Transportation Planning Analysis Unit (7-29-2008)).



(E) The resulting 30 HV traffic volumes at the three study intersections are displayed in the “Existing and Future AM/PM Peak Hour Traffic Volumes” map (showing both 2008 volumes as well as forecasted 2030 volumes). Volumes of bicycles by intersection approach and pedestrians by crosswalk for each of the three intersections during the 2008 AM and PM peak hours are displayed in the following figure. When examining the volumes of motor vehicle, bicycle and pedestrian traffic at each of the three intersections, the intersections along Oregon 82 are shown to experience far more traffic than the intersection on Imnaha Highway at College Street, where volumes are relatively low. Also, traffic volumes are higher in the afternoon than in the morning. Finally, as expected given the surrounding land uses, the pedestrian activity along Oregon 82 is fairly high.

(F) In addition to the motor vehicle turning movements and bicycle and pedestrian volumes, daily traffic volumes on area streets were obtained and displayed in the “Weekday 24-hour Two-Way Traffic Volumes (2008)” map. To provide a frame of reference when viewing the daily traffic volumes, roadways maintaining average daily traffic volumes of less than 3,000 vehicles are generally considered acceptable for shared use of travel lanes between motor vehicles and bicycles, while roadways with daily volumes of less than 1,500 vehicles are often considered desirable for residential neighborhood streets (assuming posted speeds are compatible with these uses). As shown in the “Weekday 24-hour Two-Way Traffic Volumes (2008)” map, all streets within the city, with the exception of Oregon 82, Imnaha Highway and Wallowa Avenue, are maintaining traffic volumes well below these thresholds, with shared bicycle-motor vehicle use of travel lanes possible on some segments of these roadways as well.

(G) At several of the locations where 24-hour volume data was collected, additional information showing hourly motor vehicle volumes by direction of travel was obtained as well. The hourly volume profiles for these locations are provided in the following figures, showing how traffic volumes change during each hour of the day.



Joseph - Traffic Code

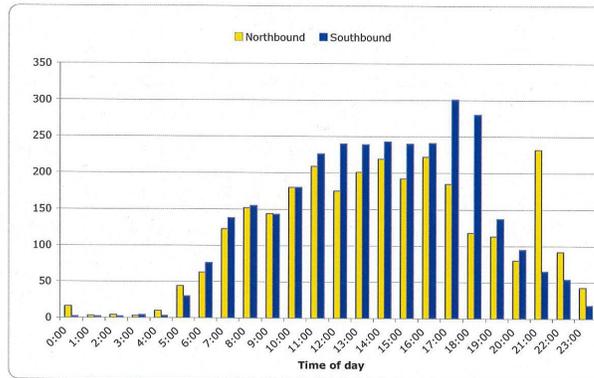


Figure 5 - 24-Hour Traffic Volumes: Alder Street west of Mill Street

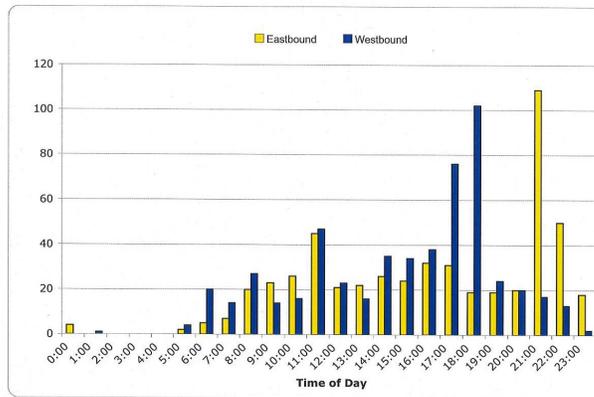
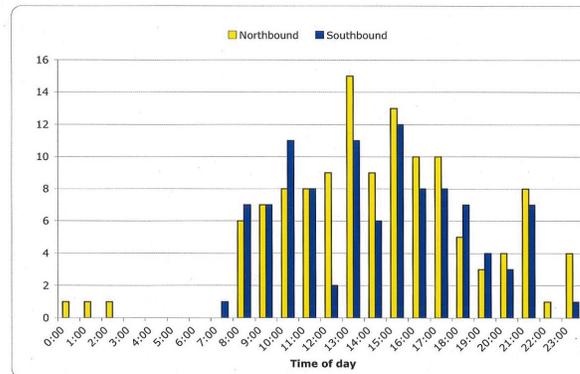


Figure 7 - 24-Hour Traffic Volumes: Lake Street north of Innaha Highway



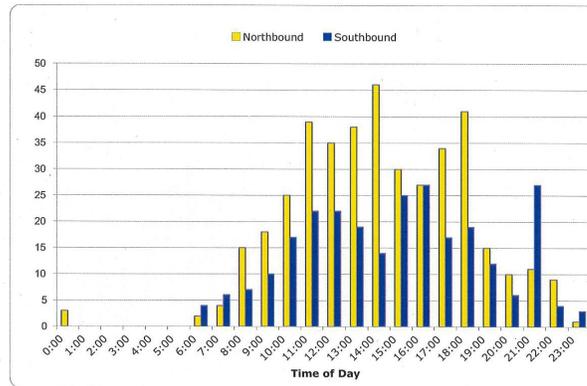


Figure 9 - 24-Hour Traffic Volumes: McCully Avenue west of Mill Street

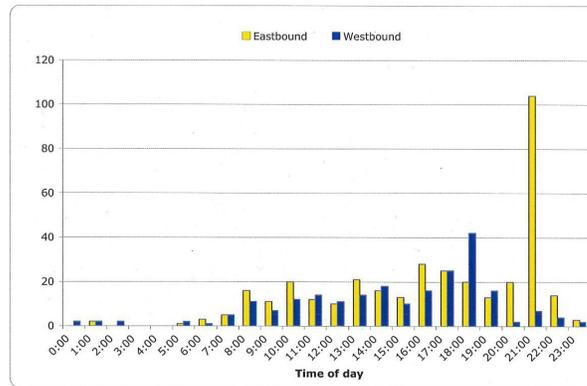
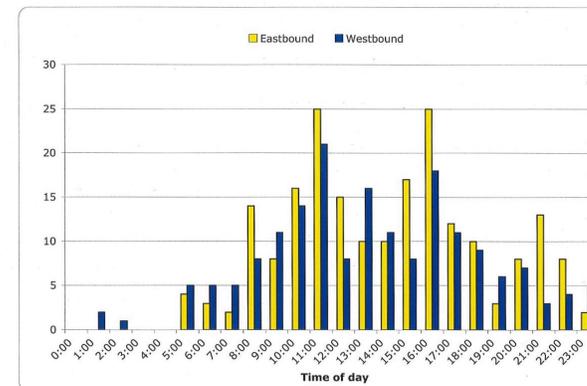


Figure 11 - 24-Hour Traffic Volumes: McCully Avenue west of College Street



Joseph - Traffic Code

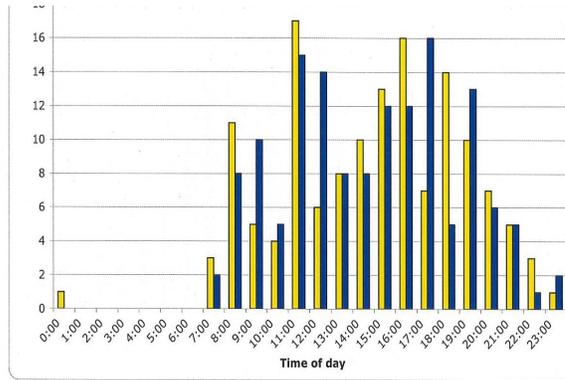


Figure 13 - 24-Hour Traffic Volumes: First Street west of Lake Street

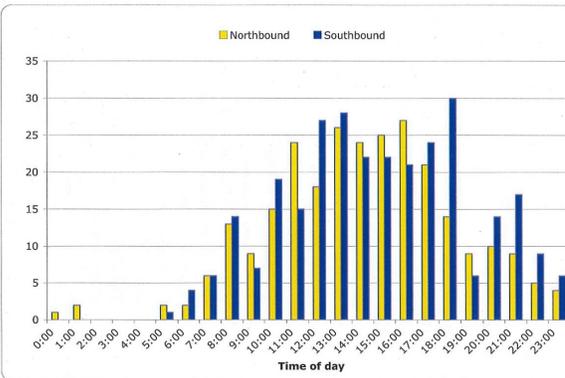
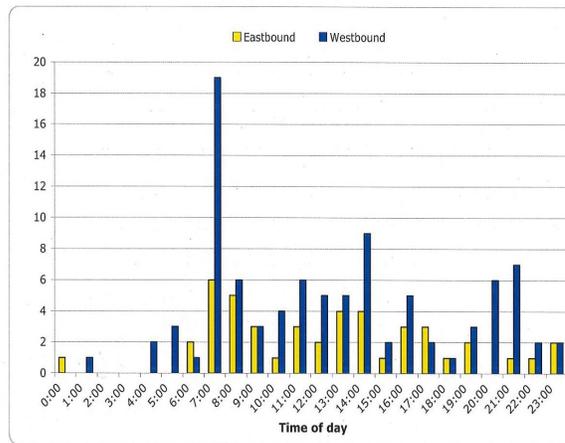
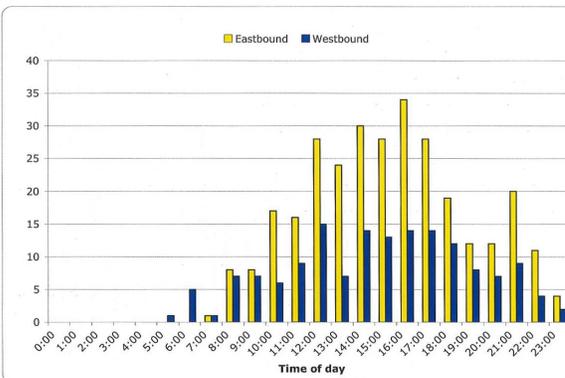


Figure 15 - 24-Hour Traffic Volumes: Second Street west of Lake Street



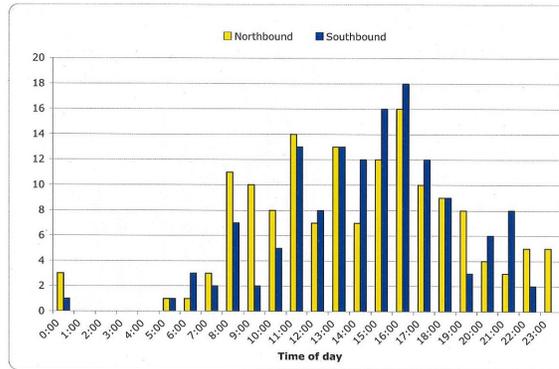
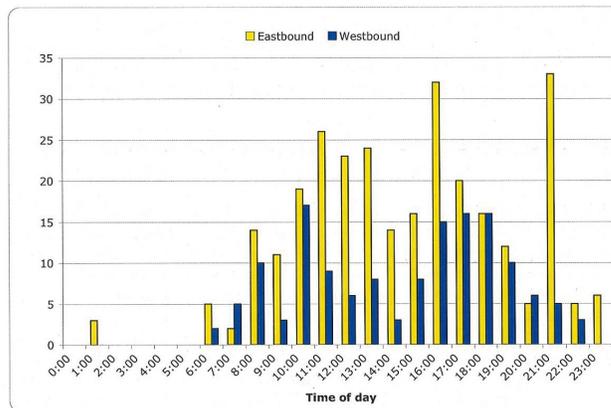
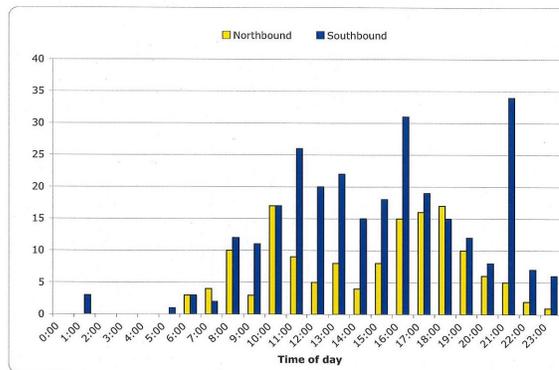


Figure 17 - 24-Hour Traffic Volumes: Mill Street north of Fourth Street



(Ord. passed 6- -2009)

§ 71.120 ANNUAL GROWTH FACTOR.

(A) To forecast future conditions in the year 2030, a growth rate was applied to the existing 30 HV in 2008. This growth rate was calculated using ODOT’s 2026 Highway Future Volume Table, (2026 Highway Future Volume Table, Oregon Department of Transportation, obtained July 2008 at <http://www.oregon.gov/ODOT/TD/TP/TADR.shtml>) which provides base year average daily traffic

volumes for state highways, as well as projected average daily traffic volumes for the year 2026. The projected volumes for 2026 are based on historical growth trends or travel demand modeling where available.

(B) The Future Volume Table includes projections for three highway segments within Joseph: Oregon 82 north of Imnaha Highway, Imnaha Highway east of Oregon 82, and Oregon 82 south of Imnaha Highway. For all segments of highway, the forecasts from the Future Volume Tables had r-squared values of 0.77 or higher, so were deemed acceptable for use. Using these forecasts, an annual compound growth rate of 2.0% was calculated and applied to the 30 HV developed for the year 2008 over a 22-year period to estimate traffic volumes at study intersections during the year 2030. These volumes have been provided in the “Existing and Future AM/PM Peak Hour Traffic Volumes” map. (Ord. passed 6- -2009)

§ 71.121 TRAFFIC OPERATIONS.

To help understand the measures of effectiveness used in traffic analysis to evaluate the quality of traffic operations provided, as well as the quality of operation expected, the following sections describe the concepts of “level of service” and “volume-to-capacity ratios” and identify standards for traffic mobility adopted by ODOT for state highways.

(Ord. passed 6- -2009)

§ 71.122 LEVELS OF SERVICE (LOS) AND VOLUME-TO-CAPACITY (V/C) RATIOS.

(A) An intersection’s LOS is similar to a “report card” rating, based on the average vehicle delay (seconds per vehicle) for all movements at the intersection. Level of service A, B and C indicate conditions where vehicles can move freely. Level of service D and E are progressively worse and generally indicate intersections where queuing of vehicles occur. Level of service F is the worst performance an intersection can attain.

(B) Another measure of effectiveness is the volume-to-capacity (v/c) ratio. This is a measure of the actual number of vehicles that utilize the intersection during the peak hour compared to the amount of capacity (number of vehicles an intersection can accommodate) available. As an intersection becomes more heavily utilized, the v/c ratio increases, heading toward a maximum value of 1.0. When the v/c ratio exceeds 1.0, the demand is greater than the intersection capacity, revealing that more traffic wants to use the intersection that it can actually serve (most commonly seen when forecasting future conditions).

(Ord. passed 6- -2009)

§ 71.123 MOBILITY STANDARDS.

(A) *General.*

(1) As all three study intersections are under ODOT jurisdiction, the 1999 Oregon Highway Plan (1999 Oregon Highway Plan, Oregon Dept. of Transportation, amended January 2006) (OHP) sets out planning mobility standards based on functional classification, posted speed limit, presence of highway segment designations and location relative to urban growth boundaries, which employ v/c ratios rather than LOS. Selected relevant mobility standards from the OHP, Policy IF, that are to be applied to the study intersections along Oregon 82 and Imnaha Highway can be seen in the following table. It should be noted that at unsignalized intersections, the mobility standards from Table 2 are to be applied only to movements that are not required to stop or yield right-of-way. For movements that must stop or yield right of way, the mobility standard for district highways/local interest roads is to be applied, regardless of the actual highway classification.

(2) While the planning mobility standards from the OHP are used for deficiency identification purposes, a different set of mobility standards from ODOT’s Highway Design Manual (HDM) (Highway Design Manual, Oregon Department of Transportation - 2003 English) are used for design. Therefore, future needs are determined by comparing operations to the OHP mobility standards, while the adequacies of proposed improvements are determined by comparing operations to the HDM standards. The HDM mobility standards have also been included in the following table 2.

(3) Because Oregon 82 is designated as a statewide highway and both study intersections at Imnaha Highway and McCully Avenue are within the Special Transportation Area (STA) designation, the v/c ratio requirement for unstopped movements at these intersections is 0.90 (for both OHP and HDM standards) or lower during the 30 HV. Imnaha Highway is designated as a district highway, with the study intersection at College Street being in a zone posted for 30 mph (with a 20 mph school zone to the east). Therefore, the v/c ratio requirement for unstopped movements at this intersection will also be 0.90 or lower during the 30 HV for planning purposes (OHP), but will be 0.80 or lower for design applications (HDM). Stopped movements at all study intersections will be subject to the mobility standard for district highways/local interest roads.

<i>Selected Mobility Standards</i>				
<i>Maximum Volume to Capacity Ratios Inside Urban Growth Boundary, Non-MPO</i>				
<i>Highway Category</i>	<i>Inside a Special Transportation Area (STA)</i>		<i>Outside a Special Transportation Area (STA) with Speed < 35 mph</i>	
	<i>1999 Oregon Highway Plan</i>	<i>2003 Highway Design Manual</i>	<i>1999 Oregon Highway Plan</i>	<i>2003 Highway Design Manual</i>
Statewide highways (non-freight route)	0.90	0.90	-	-
District highway/ local interest roads	0.95	0.95	0.90	0.80

(B) *Operational analysis results.*

(1) Each study intersection was analyzed using the traffic volumes shown in the “Existing and Future AM/PM Peak Hour Traffic Volumes” map and the existing lane configurations and traffic controls. No modifications to these intersections were assumed to occur in the future. The operational analysis was performed using the Synchro software program, which employs the Highway Capacity Manual (2000 Highway Capacity Manual, Transportation Research Board, Washington D.C., 2000) methodology. The results of this analysis are shown in the following tables for conditions under existing (2008) and future (2030) traffic volumes.

(2) As shown in following tables, under existing conditions the PM peak hour experiences more congestion than the AM peak hour, with the intersection on Oregon 82 at Innaha Highway being the most congested. However, all study intersections operate well and are in compliance with adopted mobility standards.

<i>Intersection Operations - AM PEAK HOUR</i>				
<i>Intersection</i>	<i>OHP Mobility Standard (v/c ratio)</i>	<i>v/c ratio</i>	<i>LOS</i>	<i>delay (sec)</i>
2008 Existing Conditions				
Oregon 82 @ Innaha Highway	0.90	0.12	B	11.0
Oregon 82 @ McCully Avenue	0.90	0.02	B	10.4
Innaha Hwy @ College Street	0.90	0.01	A	9.4
2030 Future Conditions				
Oregon 82 @ Innaha Highway	0.90	0.21	B	13.4
Oregon 82 @ McCully Avenue	0.90	0.05	B	11.6
Innaha Hwy @ College Street	0.90	0.02	A	9.8
NOTES TO TABLE:				
Operations are only shown for stop-controlled movements, as they are the critical movements in all cases.				

(3) While traffic volumes will have increased by approximately 55% by the year 2030, adequate operating conditions will continue to be provided at the study intersections, with no further improvements required to comply with ODOT’s mobility standards. Again, the intersection on Oregon 82 at Innaha Highway will be the most heavily congested intersection.

<i>Intersection Operations - PM PEAK HOUR</i>				
<i>Intersection</i>	<i>OHP Mobility Standard (v/c ratio)</i>	<i>v/c ratio</i>	<i>LOS</i>	<i>delay (sec)</i>
2008 Existing Conditions				
Oregon 82 @ Innaha Highway	0.90	0.31	C	18.9

<i>Intersection Operations - PM PEAK HOUR</i>				
<i>Intersection</i>	<i>OHP Mobility Standard (v/c ratio)</i>	<i>v/c ratio</i>	<i>LOS</i>	<i>delay (sec)</i>
Oregon 82 @ McCully Avenue	0.90	0.10	B	13.3
Imnaha Hwy @ College Street	0.90	0.03	B	10.2
2030 Future Conditions				
Oregon 82 @ Imnaha Highway	0.90	0.78	F	56.3
Oregon 82 @ McCully Avenue	0.90	0.22	C	19.1
Imnaha Hwy @ College Street	0.90	0.06	B	11.1
NOTES TO TABLE:				
Operations are only shown for stop-controlled movements, as they are the critical movements in all cases.				

(4) Although it will comply with ODOT’s mobility standards, the delays experienced on the stop-controlled side-streets of the Oregon 82 at Imnaha Highway intersections will be nearly one minute long per vehicle on average, resulting in a level of service F rating. Traffic volumes on the east-west approaches of Imnaha Highway and Wallowa Avenue would be too low to warrant the installation of a traffic signal (according to ODOT Preliminary Signal Warrants for 2030 condition) and construction of a roundabout would have significant right of way impacts, potentially requiring the purchase of all properties adjacent to the intersection. The installation of a separate westbound to northbound right turn lane would provide some benefits (improved to LOS E with 49.5 seconds of delay), but is also likely to require significant impacts to the property in the northeast quadrant of the intersection.

(5) Alternatively, if the existing intersection were converted from two-way stop-control to all-way stop-control, all approaches would comply with ODOT’s mobility standards from the HDM. As an added benefit, the new stop-control on the northbound and southbound highway approaches would facilitate bicycle and pedestrian crossings. However, while the side-street operations would be significantly improved, the north-south highway approaches along Oregon 82, which previously experienced almost no delay, would be significantly degraded to the point where the critical v/c ratio would actually be higher than under no-build conditions (from 0.78 to 0.82). The following table shows the v/c ratios, levels of service and delay anticipated to occur on each approach under all-way stop-control.

<i>Oregon 82 at Imnaha Highway Operations under All-Way Stop-Control (2030 PM PEAK HOUR)</i>			
<i>Intersection Approach</i>	<i>v/c ratio</i>	<i>LOS</i>	<i>delay (sec)</i>
Northbound	0.67	C	18.6
Southbound	0.82	D	26.9
Eastbound	0.26	B	11.9

<i>Oregon 82 at Imnaha Highway Operations under All-Way Stop-Control (2030 PM PEAK HOUR)</i>			
<i>Intersection Approach</i>	<i>v/c ratio</i>	<i>LOS</i>	<i>delay (sec)</i>
Westbound	0.40	B	13.2

(6) Again, it should be recognized that no improvements to the Oregon 82 at Imnaha Highway intersection are necessary to comply with ODOT's adopted mobility standards. Because the installation of all-way stop-control would introduce trade-offs in transportation operations, improving side-street, bicycle and pedestrian movements at the expense of highway through traffic movement, the appropriate treatment of this intersection should be discussed between ODOT and the city, with prioritization of traffic movement reflecting statewide, regional and local needs.

(7) The need for advanced warning signing for motorists traveling along Oregon 82 should also be considered if all-way stop-control is to be implemented. Such signing may improve driver awareness, as this would be the only required stop for several miles in either direction. However, the roadside environment in this area, including angled parking, striped crosswalks and zero building setbacks, should already convey to motorists that stopping may be necessary.

(8) Under existing conditions, vehicle queue lengths at study intersections are relatively low, ranging from two to four vehicles in length during peak periods (noted during observations in the field). With existing block lengths of approximately 300 feet, queue spillback into adjacent intersections is rare.

(9) Future vehicle queue lengths in the year 2030 were calculated through a simulation analysis using the SimTraffic software program. The results showed that vehicle queues will continue to be low, with the highest queues found at the Oregon 82/Imnaha Highway intersection of less than 200 feet, which would still fit within the existing block lengths.

(10) If all-way stop-control were installed at the Oregon 82/Imnaha Highway intersection, the queue lengths on the eastbound and westbound approaches would not be significantly different, but the northbound and southbound approaches, which previously were not required to stop, would experience much longer queues. However, it was estimated that these queues would be approximately 175 feet long in the northbound direction and 275 feet long in the southbound direction, which would still fit within the existing block lengths.

(Ord. passed 6- -2009)

§ 71.124 SUMMARY.

(A) The history of crashes within the city suggests there is a relatively low crash potential, with most crashes being of low severity. There have been no significant patterns or locations experiencing reoccurring crashes requiring mitigation. Because of the higher traffic volumes, bicycles and pedestrians are more likely to be involved in crashes with motor vehicles along Oregon 82, suggesting that the provision of separate walking and biking facilities should be a priority along this route.

(B) Furthermore, bicyclists traveling along Oregon 82 through the downtown are frequently in conflict with vehicles backing out of angled parking stalls, where the driver’s sight distance is limited by adjacent parked cars. This condition makes biking through the downtown on Oregon 82 undesirable by many bicyclists.

(C) Traffic volumes in the city are typically higher during the PM peak period than during the AM peak period, but traffic tends to increase gradually throughout the day without the presence of significant peak hours.

(D) Most traffic activity, including motor vehicle, bicycle and pedestrian modes of travel, is focused on the Oregon 82 corridor.

(E) With the exception of Oregon 82, Innaha Highway and Wallowa Avenue, traffic volumes on city streets are low enough that they would typically be considered adequate for allowing shared bicycle and motor vehicle use of travel lanes and are consistent with the character of neighborhood residential streets. Field observations and feedback from residents also indicate that walking on these streets, even without the presence of sidewalks, is generally a comfortable experience.

(F) The three study intersections of Oregon 82 at Innaha Highway, Oregon 82 at McCully Avenue and Innaha Highway at College Street all operate adequately, complying with ODOT mobility standards under both existing (2008) and future (2030) conditions. However, by the year 2030, the delays experienced on the stop-controlled side-streets of the Oregon 82 at Innaha Highway intersection during the PM peak hour will average nearly a minute per vehicle. Should mitigation of this condition be desired, it is recommended that installation of all-way stop-control (potentially paired with advanced warning signing), which would also benefit bicycle and pedestrian movement, be considered. While the intersection will continue to meet ODOT mobility standards under this scenario, the added stop signs will significantly increase delays for north-south highway traffic. Therefore, before such improvements are implemented, the needs of statewide, regional and local travel should be considered, with prioritization of traffic movement established accordingly.

(Ord. passed 6- -2009)

***POTENTIAL TRAFFIC IMPACTS OF PROPOSED
WALKWAY/BIKEWAY IMPROVEMENTS***

§ 71.135 GENERAL.

(A) The Joseph Pedestrian and Bicycle Improvement Plan recommends many modifications to the transportation system throughout the city that are intended to enhance safety and mobility for walking and biking. However, because different modes of travel share many of the transportation corridors through the city (e.g., motor vehicles, pedestrians, bicycles), modifications made for the enhancement

of travel by one mode could have a negative impact on travel by the other modes. While some negative impacts may be minor and may be accepted as necessary to balance needs for all modes, others that compromise safety or degrade operations below adopted standards should be avoided.

(B) To ensure the recommended improvements in the plan are compatible with other travel modes and do not result in negative safety or operational impacts that would be considered unacceptable, the proposed improvements were reviewed and evaluated to determine the associated impacts.
(Ord. passed 6- -2009)

§ 71.136 INTERSECTION IMPROVEMENTS.

(A) Improvements made at intersections have the potential to have some of the greatest impacts on operations and safety, as intersections often represent the bottlenecks in travel corridors and are typically the locations where conflicts between travelers are the most frequent. Each intersection improvement recommended was examined, with the results described below.

(1) *Intersections in the vicinity of Joseph Elementary School.*

(a) *Description.* Install high-visibility crosswalks and advanced warning signs.

(b) *Impact.* The local streets surrounding the elementary school experience low volumes of motor vehicle traffic at low speeds. The installation of crosswalks and signing should be compatible with the existing transportation system and surrounding area. However, given the pavement conditions on many local streets and the short life span of pavement markings in the city due to the weather, painted crosswalks may not be possible prior to street resurfacing and may not last long if implemented.

(2) *E Eighth Street (OR 82) at College Street.*

(a) *Description.* Install crosswalks and advanced warning signs on E Eighth Street.

(b) *Impact.* Eighth Street (OR 82) acts as a barrier for bicyclists and pedestrians traveling to and from the south end of the city, as well as for those destined for Wallowa Lake. Through discussions with citizens and field observations, the intersection on Eighth Street at College Street was selected as a preferred crossing location. The primary reasons for selecting this location was the availability of better sight distance than at Lake Street or East Street and the non-standard geometry at Main Street, which can make it difficult to predict where motor vehicles will turn.

(c) *Key characteristics.* Key characteristics of the transportation system at this location include:

1. Sight distance: fair.

a. According to A Policy of Geometric Design of Highways and Streets (A Policy on Geometric Design of Highways and Streets, fifth edition, American Association of State Highway and Transportation Officials, Washington, D.C., 2004), assuming a highway design speed of 35 mph (it is currently posted at 30 mph), the minimum intersection sight distance should be 390 feet, with the minimum stopping sight distance being 250 feet. In the most constrained direction (from the south College Street approach to the east along OR 82), the available sight distance is approximately 375 feet.

b. The crossing of Eighth Street at College Street provides the best sight distance of the four intersections from Main Street to East Street that provide crossing opportunities, with the possible exception of the Main Street intersection. However, the nonstandard geometry of the Main Street intersection makes vehicle turns unpredictable and is often avoided by pedestrians.

2. Posted speed: Eighth Street is posted for 30 mph through this area.

3. Traffic controls: there is stop-control on the northbound and southbound College Street approaches. Eighth Street is uncontrolled.

4. Traffic volumes: Eighth Street serves approximately 2,000 vehicles per day. College Street is estimated to serve less than 500 vehicles per day.

5. Crash history: there have been no crashes at this intersection over the last five years (2003 to 2007). There was one turning crash at the intersection on Eighth Street at Lake Street one block to the west.

6. Grade: relatively flat.

(d) *Requests for marked crosswalks.* Requests for marked crosswalks at uncontrolled locations on state highways must be approved by ODOT's Region and State Traffic Engineers. ODOT maintains guidance for the application of marked crosswalks at uncontrolled locations in the ODOT Traffic Manual (ODOT Traffic Manual, Oregon Department of Transportation, March 2008, p. 6-9). As part of the consideration for a marked crosswalk, an engineering investigation must be provided that includes an assessment of the following criteria (from § 6.6.2.2 of the ODOT Traffic Manual).

1. There is good visibility of the crosswalk from all directions, or it can be obtained. Stopping sight distance is a minimum. As noted previously, sight distance in all directions is greater than the minimum required stopping sight distance of 250 feet. Visibility in all directions is good.

2. There is no reasonable alternative crossing location.

a. There are a total of four locations to cross Eighth Street (OR 82), including Main Street, Lake Street, College Street and East Street. All locations are relatively evenly spaced within

a 1,200-foot segment of Eighth Street. However, due to the horizontal alignment of OR 82 through this area, sight distance is significantly less at the other three locations. In addition, the intersection at Main Street has a non-standard geometry that makes vehicle movements unpredictable.

b. Through discussions with residents it was revealed that College Street is the preferred crossing location of the four, with some people claiming to avoid the other locations altogether due to concerns regarding safety.

c. In summary, there are other crossing locations available. However, the crossing at College Street is the best from a safety perspective and is preferred by residents interviewed.

3. a. There is established pedestrian usage. Considerations include: volume of pedestrians, opportunity for safe crossing (i.e., sufficient gaps in traffic), percentage of elderly or young children and the nature of the attraction (see ITE suggested pedestrian volume thresholds in § 6.6.2.11). Lower pedestrian volumes would be acceptable for areas where there is greater proportion of less experienced and less agile pedestrians (e.g., near schools and/or elderly housing areas).

b. Pedestrian volumes in the area are generally low. The population of the city is approximately 1,000 people. Tourism adds a significant amount of pedestrian activity, but most of that is experienced in the downtown, several blocks to the northwest. The total crossings are not anticipated to meet the pedestrian volume thresholds referenced in § 6.6.2.11.

c. With average daily traffic volumes on Eighth Street of approximately 2,000, there are ample gaps for crossing.

d. The use of the proposed crossing is general in nature and would serve people of all ages. It would facilitate the connection for pedestrians and bicycles between schools, parks, residences and the amenities/ services in the downtown to the north with residences and recreational opportunities at Wallowa Lake (approximately one mile to the south) to the south. The crossing location would also be used as part of a proposed bicycle boulevard running from north to south through the city.

4. Posted speeds should be 35 mph or less. The posted speed on Eighth Street is 30 mph.

5. Traffic volumes should be less than 10,000 ADT or if above 10,000 ADT raised median islands should be included. Eighth Street serves approximately 2,000 vehicles per day. College Street is estimated to serve less than 500 vehicles per day.

6. On multi-lane highways, pedestrian crossing enhancements (curb extensions and/or pedestrian refuges) should be considered. Eighth Street (OR 82) is a two-lane facility in the area.

(e) *Recommendations.*

1. In addition, § 6.6.2.10 of the ODOT Traffic Manual recommends that engineering studies for proposed marked crossings include:

a. Marked crosswalks at other than signalized intersections or stop-controlled approaches should be used selectively. Allowing a proliferation of marked crosswalks may reduce the overall effectiveness of marking crosswalks. There are other marked crossings over OR 82 at uncontrolled intersections approximately eight blocks to the north in the downtown. The downtown is designated as a Special Transportation Area and has curb extensions to aid crossings. There are no marked crossings to the south. No other marked crossings of OR 82 are requested at this time (the crossing at OR 82 and Fourth Street discussed later is not recommended). To avoid the proliferation of marked crossings on OR 82 through the city, it is recommended that no other crossings be marked between College Street and the Special Transportation Area in the downtown.

b. Consideration must be given to concerned citizens, civic groups and neighborhood organizations; balancing engineering judgment with perceived public need. The establishment of College Street as a preferred and marked crossing location was, in part, encouraged by public comments received at an open house and through other stakeholder group meetings. The general feeling from the public is that other crossing opportunities along Eighth Street are uncomfortable or unsafe. While it is possible to cross Eighth Street at other locations, College Street does represent the best opportunity from a safety perspective, with other locations either having limited sight distance or awkward geometry.

c. The roadway design features that influence the pedestrians' ability to cross the street (e.g., street width, presence of a median, one-way versus two-way operation and geometries of the highway or intersection being crossed), all need to be included in the planning of the crosswalk. Other pedestrian design improvements such as curb extensions and pedestrian refuges should be encouraged to increase the safety of the crossing.

d. Under existing conditions, Eighth Street (OR 82) is a two-lane highway with no curb or sidewalk. While curb and sidewalk are proposed as a future improvement, the widening of Eighth Street beyond two lanes is not anticipated. As the complimenting sidewalk improvements are being designed at some time in the future, curb extensions could be considered.

2. A three to five-year pedestrian crash history should be obtained. There have been no crashes at this intersection over the last five years (2003 to 2007). There was one turning crash at the intersection on Eighth Street at Lake Street one block to the west.

3. a. The walking path of the pedestrian. Will marking crosswalks encourage pedestrians to use a single point of crossing rather than choosing random crossing points? Pedestrians could still cross Eighth Street at the intersections with Main Street, Lake Street and East Street. However, College Street provides a direct path to the elementary school six blocks to the north and a near direct path to the middle and high schools nine blocks to the north. Parents could be encouraged to instruct children to use the College Street crossing as part of a Safe Routes to School Plan.

b. College Street would also provide a crossing that would be in the natural path for most people destined for Wallowa Lake and would be part of a proposed bicycle boulevard connecting the north and south ends of the city.

4. There should be opportunities for crossing (sufficient gaps in traffic) With average daily traffic volumes on Eighth Street of approximately 2,000, there are ample gaps for crossing.

5. Uncontrolled marked crosswalks may be continental crosswalk marking and should be accompanied by other enhancements such as pedestrian refuge islands, bulb-outs, pedestrian signs and the like.

6. Under existing conditions, Eighth Street (OR 82) is a two-lane highway with no curb or sidewalk. While curb and sidewalk are proposed as a future improvement, the widening of Eighth Street beyond two lanes is not anticipated. As the complimenting sidewalk improvements are being designed at some time in the future, curb extensions could be considered. Pedestrian crossing warning signs are proposed as part of this improvement.

7. There should be adequate sight distance for the motorist and the pedestrian, or it can be obtained. This includes examination of on-street parking, street furniture (e.g., mailboxes, utility poles, newspaper stands) and landscaping. Corrective measures should be taken wherever possible. As noted previously, the available sight distance of 375 feet is greater than the minimum required stopping sight distance of 250 feet and nearly meets the minimum intersection sight distance of 390 feet. Visibility in all directions is good. It could be improved further, but that would require vegetation removal/maintenance on private property.

8. All crosswalk locations should be investigated for adequate illumination where there is prevalent nighttime pedestrian activity. Nighttime pedestrian activity is anticipated to be low. The intersection is currently illuminated.

9. Mid-block and school crossings must be supplemented with crosswalk signs. This would not create a mid-block or school crossing.

10. Mid-block crosswalks should not be located immediately down-stream from bus stops. This would not be a mid-block crossing.

11. For mid-block crosswalks: are there more reasonable locations pedestrians could cross (i.e., no more than a block (300 feet)) from a location being considered? This would not be a mid-block crossing.

(B) In consideration of the above criteria, the installation of a marked crosswalk at the Eighth Street/College Street intersection is recommended.

(Ord. passed 6- -2009)

§ 71.137 SIDEWALKS.

(A) Sidewalk improvements generally include infilling gaps in the existing system and constructing new sidewalks along streets where none currently exist. These types of improvements typically have no negative impact on travel by other modes and can improve safety by appropriately accommodating pedestrians who may have been previously walking in the roadway.

(B) It should be noted that the proposed sidewalk construction projects along Wallowa Avenue, between Park Street and Main Street will require crossings over two irrigation ditches. While there are currently two bridges on Wallowa Avenue spanning these ditches, there is not sufficient width on the bridges to add both sidewalks and shoulders/bike lanes. Therefore, to provide for separate pedestrian facilities, the construction of parallel pedestrian bridges may be necessary.

(Ord. passed 6- -2009)

§ 71.138 SHARED USE PATHS.

(A) Shared use paths are often located in right of ways separate from those used by motor vehicles. Conflicts generally only occur at crossing locations.

(B) The proposed projects involving shared use paths are for studies to better define conceptual connections. As alignments are identified for shared use paths through the city, the design and operations will need to be reevaluated.

(Ord. passed 6- -2009)

§ 71.139 SOFT SURFACE TRAILS.

The proposed project to reconstruct the perimeter trail surrounding the Joseph Middle/High School campus is entirely contained on private property. The trail does not conflict with other elements of the transportation system and is intended for recreational purposes.

(Ord. passed 6- -2009)

§ 71.140 BIKE LANES.

The inclusion of bike lanes on a roadway can impact motor vehicle travel by potentially reducing travel lanes where right-of-way is limited. However, where a significant amount of bicycle traffic is expected, bike lanes can be beneficial by separating bikes and motor vehicles, enhancing both street capacity and safety.

(A) *S. Main Street/ E. Eighth Street: College Street to Third Street.*

(1) *Description.* Widen shoulders to provide bike lanes on OR 82 from College Street to Third Street.

(2) *Impact.* In general, the widening of shoulders to provide bike lanes would improve safety and operations by removing bicycles from the travel lanes used by motor vehicles. However, because the bike lanes would end at Third Street, dropping into a shared roadway with curb extensions and angled on-street parking, warning signs to alert bicyclists of this condition should be considered.

(B) *Wallowa Avenue: Russell Street to East Street.*

(1) *Description.* Widen shoulders to provide bike lanes on Wallowa Avenue (Imnaha Highway east of Main Street) from Russell Street to East Street.

(2) *Impact.* In general, the widening of shoulders to provide bike lanes would improve safety and operations by removing bicycles from the travel lanes used by motor vehicles. In this corridor, the most significant constraints are the two bridges over the irrigation ditches west of Main Street and the curb extensions at the intersection with Main Street. However, it appears that sufficient width is available in all locations to provide the proposed bike lanes.

(Ord. passed 6- -2009)

§ 71.141 SHOULDER BIKEWAYS.

The construction of shoulder bikeways generally consists of widening paved shoulders to an appropriate width (generally a minimum of six feet) to accommodate bicycle travel out of the motor vehicle travel lanes. These types of improvements enhance both capacity and safety by providing for the separation of bikes and motor vehicles. In addition, the widened shoulders can be used by pedestrians and generally enhance motor vehicle safety by providing additional opportunities for errant vehicles to recover and return to their travel lanes without running off of the road.

(Ord. passed 6- -2009)

§ 71.142 BICYCLE BOULEVARDS.

(A) *Description.*

(1) These types of facilities provide for bicycle travel within an existing motor vehicle corridor without the added expense of constructing separate bike lanes. In general, corridors where bicycles share the roadway with motor vehicles can experience some reductions in capacity and concerns regarding safety due to the presence of the slower moving bicycles. However, on the corridors identified for such improvements in this plan, the current posted speeds are no higher than 25 mph and average daily traffic volumes are expected to be less than 1,000 vehicles, which should limit the impact of bicycle presence.

(2) The extent of the treatments applied to such corridors may vary from only signage to the implementation of traffic calming devices in the roadway. For this plan, a five-level system was presented to identify the range of treatments possible. Only Level 3 applications have been recommended as part of this plan, which include: intersection treatments (flipping stop signs at some locations, crosswalks, warning signing, wayfinding signing and directional pavement markings).

(3) Most treatments proposed would be compatible with the existing transportation system. However, the proposed marking and signing of uncontrolled crossings of major roadways may be of concern in some locations. Proposed marked crossings include:

- (a) Main Street (OR 82) at Alder Street;
- (b) Main Street (OR 82) at Fourth Street;
- (c) Eighth Street (OR 82) at College Street;
- (d) Imnaha Highway at Lake Street; and
- (e) Wallowa Avenue at Mill Street.

(B) *Impact.*

(1) The crossing on Main Street at Alder Street is in the improved downtown corridor and already has curb extensions, marked crosswalks and illumination. No further improvements should be required.

(2) The crossing on Main Street (OR 82) at Fourth Street would facilitate the connection of the west side and east side bicycle boulevards between Mill Street and Lake Street.

(3) Key characteristics of the transportation system at this intersection include:

(a) Sight distance: good. According to A Policy of Geometric Design of Highways and Streets (A Policy on Geometric Design of Highways and Streets, fifth edition, American Association of State Highway and Transportation Officials, Washington, D.C., 2004), assuming a highway design speed of 35 mph (it is currently posted at 30 mph), the minimum intersection sight distance should be 390 feet, with the minimum stopping sight distance being 250 feet. Main Street is relatively straight and flat in this area and sight distance easily exceeds these minimum lengths.

(b) Posted speed: Main Street is posted for 30 mph through this area.

(c) Traffic controls: there is stop-control on the westbound and eastbound Fourth Street approaches. Main Street is uncontrolled.

(d) Traffic volumes: Main Street serves approximately 3,900 vehicles per day in this area. Fourth Street is estimated to serve less than 500 vehicles per day.

(e) Crash History: There was one crash at this intersection over the last five years (2003 to 2007) related to a turning movement. In addition, there was another crash on Main Street just to the north involving a collision with a fixed object.

(f) Grade: relatively flat.

(4) Requests for marked crosswalks at uncontrolled locations on state highways must be approved by ODOT's Region and State Traffic Engineers. ODOT maintains guidance for the application of marked crosswalks at uncontrolled locations in the ODOT Traffic Manual. As part of the consideration for a marked crosswalk, an engineering investigation must be provided that includes an assessment of the following criteria (from § 6.6.2.2 of the ODOT Traffic Manual).

(a) There is good visibility of the crosswalk from all directions, or it can be obtained. Stopping sight distance is a minimum. As noted previously, sight distance in all directions is greater than the minimum required stopping sight distance of 250 feet. Visibility in all directions is good.

(b) There is no reasonable alternative crossing location.

1. There are a number of reasonable alternative crossing locations in this area. The intersection on Main Street at Third Street is one block to the north (approximately 300 feet) and is illuminated with curb extensions and a marked crosswalk on the north approach. The intersection on Main Street at Third Street also marks the end of the improved downtown area.

2. To the south, crossings can also be made at the unmarked intersections on Main Street with Fifth and Sixth Streets.

3. There is established pedestrian usage. Considerations include: volume of pedestrians, opportunity for safe crossing (i.e., sufficient gaps in traffic), percentage of elderly or young children and the nature of the attraction (see ITE suggested pedestrian volume thresholds in § 6.6.2.11). Lower pedestrian volumes would be acceptable for areas where there is greater proportion of less experienced and less agile pedestrians (e.g., near schools and/or elderly housing areas).

a. Pedestrian volumes in the area are generally low. The population of the city is approximately 1,000 people. Tourism adds a significant amount of pedestrian activity, but most of that is experienced in the improved downtown corridor along Main Street, which begins one block to the north. The total crossings are not anticipated to meet the pedestrian volume thresholds referenced in § 6.6.2.11.

b. With average daily traffic volumes on Main Street of approximately 3,900, there are ample gaps for crossing.

c. The crossing location is proposed as part of a bicycle boulevard system connecting corridors that would run from north to south through the city, but it would serve general pedestrian traffic as well. The use of the proposed crossing is general in nature and would serve people of all ages. It would facilitate connections for pedestrians and bicycles between schools, parks and residences.

4. Posted speeds should be 35 mph or less. The posted speed on Main Street is 30 mph.

5. Traffic volumes should be less than 10,000 ADT or if above 10,000 ADT raised median islands should be included. Main Street serves approximately 3,900 vehicles per day in this area. Fourth Street is estimated to serve less than 500 vehicles per day.

6. On multi-lane highways, pedestrian crossing enhancements (curb extensions and/or pedestrian refuges) should be considered. Main Street is a two-lane facility in the area.

(5) In addition, § 6.6.2.10 of the ODOT Traffic Manual recommends that engineering studies for proposed marked crossings include:

(a) Marked crosswalks at other than signalized intersections or stop-controlled approaches should be used selectively. Allowing a proliferation of marked crosswalks may reduce the overall effectiveness of marking crosswalks. With the improved downtown corridor beginning only one block to the north, there are several marked crosswalks in succession in the immediate vicinity (nine intersections in total). In addition, another marked crossing has been proposed along OR 82 (Eighth Street) at the unsignalized intersection with College Street. As part of that investigation, it has been recommended that no other marked crossings be installed between College Street and Third Street to avoid the proliferation of marked crossings. Installing another marked crosswalk at Fourth Street may reduce the overall effectiveness of all crossing locations, as drivers could become less attentive if marked crosswalks become too common;

(b) Consideration must be given to concerned citizens, civic groups and neighborhood organizations; balancing engineering judgment with perceived public need. There has been no direct request for such a crossing;

(c) The roadway design features that influence the pedestrians' ability to cross the street (e.g., street width, presence of a median, one-way versus two-way operation and geometries of the highway or intersection being crossed), all need to be included in the planning of the crosswalk. Other pedestrian design improvements such as curb extensions and pedestrian refuges should be encouraged to increase the safety of the crossing. Under existing conditions, Main Street is a two-lane highway. There is no curb, but sidewalks are present along both sides of Main Street. The widening of the highway beyond two lanes is not anticipated. Curb extensions could be considered in the future;

(d) A three to five-year pedestrian crash history should be obtained. There was one crash at this intersection over the last five years (2003 to 2007) related to a turning movement. In addition, there was another crash on Main Street just to the north involving a collision with a fixed object;

(e) The walking path of the pedestrian. Will marking crosswalks encourage pedestrians to use a single point of crossing rather than choosing random crossing points? With several reasonable crossing locations nearby and relatively low traffic volumes on Main Street, it is unlikely that the proposed marked crossing at Fourth Street would encourage pedestrians to use a single point of crossing;

(f) There should be opportunities for crossing (sufficient gaps in traffic) With average daily traffic volumes on Main Street of approximately 3,900, there are ample gaps for crossing;

(g) Uncontrolled marked crosswalks may be continental crosswalk marking and should be accompanied by other enhancements such as pedestrian refuge islands, bulb-outs, pedestrian signs and the like. Under existing conditions, Main Street is a two-lane highway. There is no curb, but sidewalks are present along both sides of Main Street. The widening of the highway beyond two lanes is not anticipated. Curb extensions could be considered in the future. Pedestrian crossing warning signs are proposed as part of this improvement;

(h) There should be adequate sight distance for the motorist and the pedestrian, or it can be obtained. This includes examination of on-street parking, street furniture (e.g., mailboxes, utility poles, newspaper stands) and landscaping. Corrective measures should be taken wherever possible. As noted previously, the available sight distance is far greater than the minimum required stopping sight distance of 250 feet and exceeds the minimum intersection sight distance of 390 feet as well. Visibility in all directions is very good;

(i) All crosswalk locations should be investigated for adequate illumination where there is prevalent nighttime pedestrian activity. Nighttime pedestrian activity is anticipated to be low. The intersection is currently illuminated;

(j) Mid-block and school crossings must be supplemented with crosswalk signs This would not create a mid-block or school crossing;

(k) Mid-block crosswalks should not be located immediately down-stream from bus stops. This would not be a mid-block crossing; and

(l) For mid-block crosswalks: are there more reasonable locations pedestrians could cross (i.e., no more than a block (300 feet)) from a location being considered? This would not be a mid-block crossing.

(C) (1) In consideration of the above criteria, the installation of a marked crosswalk at the intersection on Main Street at Fourth Street is not recommended. The primary reasons being the

availability of other reasonable crossing locations and the need to not over-stripe the corridor with crosswalks, which could reduce the overall effectiveness of all crossing locations. However, other treatments, such as warning signing and curb extensions, could still be considered.

(2) The crossing on Eighth Street at College Street was previously discussed under “intersection improvements” and has been proposed as a pedestrian system enhancement as well.

(3) The crossing on Innaha Highway at Lake Street is already improved with a marked crosswalk on the west approach and illumination. Other than warning signing, no further improvements should be required.

(4) The crossing on Wallowa Avenue at Mill Street is under Wallowa County jurisdiction. This crossing would be part of the west side bicycle boulevard and would facilitate the connection between the north and south sides of the city.

(5) Key characteristics of the transportation system at this intersection include:

(a) Sight distance: good. According to A Policy of Geometric Design of Highways and Streets (A Policy on Geometric Design of Highways and Streets, fifth edition, American Association of State Highway and Transportation Officials, Washington, D.C., 2004), assuming a design speed of 35 mph (it is currently posted at 30 mph), the minimum intersection sight distance should be 390 feet, with the minimum stopping sight distance being 250 feet. Wallowa Avenue is relatively straight and flat in this area and sight distance easily exceeds these minimum lengths;

(b) Posted speed: Wallowa Avenue is posted for 30 mph through this area;

(c) Traffic controls: there is stop-control on the northbound and southbound approaches of Mill Street. Wallowa Avenue is uncontrolled;

(d) Traffic volumes: Wallowa Avenue serves approximately 2,200 vehicles per day in this area. Mill Street is estimated to serve less than 700 vehicles per day;

(e) Crash history: there were no crashes at this intersection over the last five years (2003-2007). There was one crash on Wallowa Avenue just to the east involving a turning collision; and

(f) Grade: relatively flat.

(6) The installation of a marked crosswalk at this intersection must be approved by Wallowa County. Key factors in that decision should include:

(a) Sight distance: as shown above, sight distance is good;

(b) Crash history: as shown above, there were no crashes at this intersection over the last five years (2003 to 2007);

(c) Traffic volumes: ample gaps in traffic for crossing should be available, as volumes are moderately low. Wallowa Avenue serves approximately 2,200 vehicles per day in this area. Mill Street is estimated to serve less than 700 vehicles per day;

(d) Posted speed: the posted speed is relatively low at 30 mph. The presence of the stop sign on Wallowa Avenue one block to the east will also slow traffic down;

(e) Availability of other crossing opportunities: Main Street is one block to the east and has marked crosswalks, curb extensions and illumination. However, to the west, the closest intersections are at Park Avenue (approximately 700 feet away) and Russell Street (approximately 950 feet away). Neither of these intersections have crossing treatments; and

(f) Proliferation of marked crosswalks: there are no other marked crosswalks on Wallowa Avenue west of Main Street.

1. The installation of a crosswalk one block from Main Street would be consistent with the existing treatments east of Main Street, where a crosswalk has been installed at Lake Street.

2. However, if installed, it is recommended that no other crosswalks be striped on Wallowa Avenue west of Main Street.
(Ord. passed 6- -2009)

§ 71.143 OTHER PROJECTS.

(A) These projects involve the installation of wayfindings signing for walking and biking routes.

(B) The installation of any signing must first be approved by the agency maintaining jurisdiction of the subject right-of-way.
(Ord. passed 6- -2009)

§ 71.144 PROGRAMMATIC ELEMENTS.

(A) Programs to promote walking and biking do not directly impact traffic operations and safety, but proposed actions originating from them may.

(B) Any proposed actions that may arise in the future involving transportation system modifications should be coordinated with affected stakeholders and agencies maintaining jurisdiction of affected infrastructure.
(Ord. passed 6- -2009)

PROJECT EVALUATION MATRIX

§ 71.155 EVALUATION MATRIX.

Project	Segment	Description	Evaluation Criteria						TOTAL SCORE	
			User Generator (15 points)	Land Uses (15 points)	Overcomes Barrier (15 points)	Safety & Comfort (15 points)	Regional Benefit (10 points)	Community Support (25 points)		Cost (10 points)
Intersection Improvements										
Intersections in vicinity of Joseph Elem. School	N/A	Install high-visibility crosswalks and advanced warning signs	10	14	14	15	7	15	7	82
E Eighth St. at S College St.	N/A	Install crosswalks and advanced warning signs on E Eighth St.	6	6	15	15	6	24	10	82
Sidewalks										
N Park St.	W McCully Ave. to W Wallowa Ave.	Construct sidewalk on east side of street	10	15	15	15	8	25	6	94
S Main St.	Eighth St. to Tenth St.	Construct sidewalks on both sides of street	5	5	5	10	6	13	3	47
S Main St./E Eighth St.	Fourth St. to S College St.	Construct sidewalks on both sides of each roadway where they currently do not exist	7	8	15	15	10	23	2	83
Lake St.	E Third St. to E Wallowa Ave.	Construct sidewalks on both sides of street where they currently do not exist	8	15	10	12	6	10	1	62
College St.	E Third St. to E Wallowa Ave.	Construct sidewalks on both sides of street where they currently do not exist	8	12	10	12	6	8	3	59
East St.	E First St. to E Wallowa Ave.	Construct sidewalks on both sides of street	7	10	8	9	5	6	3	48
W Wallowa Ave.	N Russell St. to N Main St.	Construct sidewalk on north side of street	8	13	15	15	8	20	3	82
W Wallowa Ave.	N Park St. to N Main St.	Construct sidewalk on south side of street	8	15	15	15	8	20	3	84
E Wallowa Ave.	N Main St. to N East St.	Construct sidewalks on both sides of street where they currently do not exist	9	13	15	15	9	2	3	66
W Joseph Ave.	N Mill St. to N Main St.	Construct sidewalks on both sides of street	7	8	7	8	5	5	6	46
E Joseph Ave.	N Lake St. to N East St.	Construct sidewalks on both sides of street	10	11	12	12	7	5	4	61
W.E. Williams Ave.	Lake St. to East St.	Construct sidewalk on north side of street	10	14	8	8	5	5	5	56
W McCully Ave.	N Park St. to W Main St.	Construct sidewalk on north side of street	10	14	15	15	7	25	4	90
W McCully Ave.	Mill St. to Main St.	Construct sidewalk on south side of street	9	8	7	10	5	5	7	51
W First St.	S Mill St. to S Main St.	Complete sidewalk caps on north side of street	5	5	5	5	5	5	7	37
E First St.	S Main St. to S East St.	Construct sidewalks on both sides of street where they currently do not exist	10	15	15	15	8	5	4	72
E Second St.	S Main St. to S East St.	Construct sidewalks on both sides of street	10	12	14	12	7	5	4	64
W Fourth St.	Joseph City Park to S Main St.	Construct sidewalk on north side of street	10	14	14	12	10	10	5	75
Shared Use Paths										
Wallowa Union Railroad Path Feasibility Study	Joseph Enterprise	Conduct a study to determine the feasibility of developing a shared use path on or along the Wallowa Union Railroad corridor between Joseph and Enterprise	10	10	15	15	10	22	9	90
Wallowa River Path Feasibility Study	Joseph City Park to Wallowa Lake	Building on the previous Wallowa Land Trust study, develop a study to determine the feasibility of developing a soft surface or paved path along Wallowa River between Joseph City Park and Wallowa Lake	10	15	15	15	10	20	9	94
Safe Routes Trails										
Joseph Middle/High School Trail	N/A	Reconstruct perimeter trail surrounding the Joseph Middle/High School campus	8	10	5	4	5	5	4	41

Project	Segment	Description	Evaluation Criteria						TOTAL SCORE	
			User Generator (15 points)	Land Uses (15 points)	Overcomes Barrier (15 points)	Safety & Comfort (15 points)	Regional Benefit (10 points)	Community Support (25 points)		Cost (10 points)
Bike Lanes										
S Main St./E Eighth St.	S College St. to Third St.	Widen shoulders to provide bike lanes	10	10	15	15	10	16	4	80
Wallowa Ave.	N Russell St. to N East St.	Widen shoulders to provide bike lanes	8	12	10	13	10	5	4	62
Shoulder Bikeways										
Oregon 62N Main St.	Daggett St. to north city limits	Construct shoulder bikeways	7	3	14	15	10	5	4	68
Airport Ln./Hurricane Cr. Rd.	West city limits to N Russell St.	Construct shoulder bikeways	7	4	14	15	10	20	5	75
E Wallowa Ave./Amaha Hwy.	N East St. to east city limits	Construct shoulder bikeways	7	6	14	15	10	5	3	60
Bicycle Boulevards										
Westside Bicycle Boulevard	S Main St. at E Fourth St. to N Main St. at E Fourth St.	Develop a "Level 3" Bicycle Boulevard along Fourth St. between Lake and Mill, along Mill between Fourth and Alder, and along Alder between Mill and Lake	9	12	14	15	8	2	9	69
Eastside Bicycle Boulevard	S Main St. southern terminus to N Main St. at Daggett St.	Develop a "Level 3" Bicycle Boulevard along Main St. between its southern terminus and Eleventh, along Eleventh St. between Main and College, along College St. between Eleventh and Seventh, along Seventh St. between College and Lake, along Lake St. between Seventh and Daggett, and along Daggett St. between Lake and Main	10	15	15	15	10	18	9	92
Other Projects										
Wayfinding Signage Plan	N/A	Develop a citywide pedestrian and bicycle Wayfinding Signage Plan identifying appropriate sign locations, destinations to be highlighted on each sign, approximate distance and walking/riding time to each destination	10	10	10	6	10	10	10	66
Warning Signage	N/A	Install signage (e.g., "BIKES ON ROADWAY") on major roads to alert motorists to the presence of bicyclists on the roadway	5	10	12	15	10	13	10	75
Safe Routes to Schools Plan	N/A	Develop a Safe Routes to School Plan for Joseph Elementary, Middle, and High schools outlining engineering, education, encouragement, enforcement, and evaluation measures to increase walking and bicycling to school among Joseph students	10	10	13	13	8	8	9	71

1 Infrastructure-related cost estimates do not include right-of-way or easement acquisitions. All cost estimates include an additional 20% for contingency and 35% for design, engineering, mobilization and construction management (beyond the original project cost)

2 This project does not include roadway resurfacing. Resurfacing needed on approximately 9.5 blocks to improve riding conditions for bicyclists.

(Ord. passed 6- -2009)

CHAPTER 72: TRAFFIC AND PARKING

Section

- 72.01 Definitions
- 72.02 Parking in a roadway
- 72.03 U-turns
- 72.04 Parking in certain spaces; limited hours
- 72.05 Violations

- 72.99 Penalty

§ 72.01 DEFINITIONS.

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

MOTOR VEHICLE. Every self-propelled vehicle, and vehicle designed for self-propulsion.

PARK or PARKING. The standing of a vehicle whether or not occupied.

ROADWAY. The portion of a street, alley or highway improved, designated or ordinarily used for vehicular traffic, exclusive of the shoulder thereof.
(Ord. 96-06, passed 11-5-1996)

§ 72.02 PARKING IN A ROADWAY.

A person who stops, parks or leaves standing any motor vehicle, whether attended or not, wholly or partially upon the traveled portion of any roadway within the city, when it is practicable to stop, park or leave his or her motor vehicle standing off the traveled portion of said roadway, commits the offense of unlawfully parking in a roadway.

(Ord. 96-06, passed 11-5-1996) Penalty, see § 72.99

§ 72.03 U-TURNS.

A driver commits the offense of making an illegal U-turn if he or she turns his or her vehicle so as to proceed in an opposite direction:

(A) Within an intersection which is controlled by signs prohibiting U-turns; or

(B) Upon a highway, street or roads within the incorporated limits of the city between intersections. (Ord. 96-06, passed 11-5-1996) Penalty, see § 72.99

§ 72.04 PARKING IN CERTAIN SPACES; LIMITED HOURS.

(A) *Parking from opposite lane.* It shall be unlawful for any driver to park his or her vehicle by turning to the left across the opposite lane of traffic on any highway, street or road within the incorporated limits of the city. This chapter shall not prohibit turning left into the parking in any off-street parking facility.

(B) *Leaving on-street parking spaces.* It shall be unlawful for any driver to leave an on-street parking space, travel across the immediate lane of traffic and into the opposite lane of traffic, for the purpose of proceeding in the opposite direction from which he or she was parked, within the incorporated limits of the city.

(C) *Parking during hours prohibited by posted.* It shall be unlawful to park a vehicle on any street or roadway within the city during hours specifically posted.

(D) *Parking in spaces marked to prohibit.* It shall be unlawful to park in any space marked as to prohibit parking for any reason.

(E) *Parking along Main Street before and during parades.* It shall be unlawful to park along parade route for one hour before start of parades until after completion of parades during organized public celebrations.

(F) *Parking in limited hour spaces.* It shall be unlawful to park in any posted parking space longer than the designated length of time allowed. (Ord. 96-06, passed 11-5-1996) Penalty, see § 72.99

§ 72.05 VIOLATIONS.

The City Council hereby elects to adopt, and does adopt, the statutes of the state as they pertain to all traffic crimes, offenses, infractions and violations, and the procedures for the handling thereof, and

the statutes of the state pertaining to all criminal acts, the prosecution thereof and the procedures outlined in said statutes for the handling thereof.

(Ord. 94-08, passed 12-16-1994) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) Penalties for violation of this chapter shall be set by resolution by the City Council or as defined by Motor Vehicle Code of the state.

(B) Any person or persons who shall violate provisions pertaining to traffic and criminal violations, penalties shall be set by state statute or by resolution by the City Council.

(Ord. 94-08, passed 12-16-1994; Ord. 96-06, passed 11-5-1996)

CHAPTER 73: RECREATIONAL VEHICLES

Section

Toy Vehicles

- 73.01 Prohibited riding areas
- 73.02 Duty to yield
- 73.03 Duty to obey traffic-control devices
- 73.04 Prohibited riding times
- 73.05 Helmets

Snowmobiles

- 73.20 Definition
- 73.21 Designated routes
- 73.22 Minimum age of drivers
- 73.23 Operation offenses
- 73.24 Equipment
- 73.25 Operation regulations

- 73.99 Penalty

TOY VEHICLES

§ 73.01 PROHIBITED RIDING AREAS.

(A) No bicycle, skateboard, roller skates, in-line skates or any similar type of device shall be ridden on a sidewalk in the following areas:

- (1) Main Street between Alder Street and Third Street; and
- (2) Around the Joseph Community Center whenever the building is in use.

(B) There shall not be any ramps or jumps or any other similar devices placed on public property at any time.

(Ord. 94-10, passed 12-16-1994) Penalty, see § 73.99

§ 73.02 DUTY TO YIELD.

Any person riding bicycles, skateboards, roller skates, in-line skates or any similar device shall yield the right-of-way to pedestrians and shall yield the right-of-way to motor vehicles when approaching an intersection or driveway.

(Ord. 94-10, passed 12-16-1994) Penalty, see § 73.99

§ 73.03 DUTY TO OBEY TRAFFIC-CONTROL DEVICES.

Any person riding bicycles, skateboards, roller skates, in-line skates or any similar device upon a public street shall obey all traffic-control devices.

(Ord. 94-10, passed 12-16-1994) Penalty, see § 73.99

§ 73.04 PROHIBITED RIDING TIMES.

No person shall ride a bicycle, skateboard, roller skates, in-line skates or similar device unless equipped with lighting that meets the described requirements.

(A) The lighting equipment must be used during limited visibility conditions.

(B) The lighting visible from the front of equipment must show a white light a distance of at least 500 feet to the bicycle, skateboard and the like.

(C) The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as to be visible from distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on motor vehicles.

(Ord. 94-10, passed 12-16-1994) Penalty, see § 73.99

§ 73.05 HELMETS.

As per § 2, Ch. 408, Oregon Law 1993, any person under the age of 15 years shall be required to wear a bicycle helmet when riding a bicycle within the city limits. The helmet must meet safety requirements set the above mentioned state law.

(Ord. 94-10, passed 12-16-1994) Penalty, see § 73.99

SNOWMOBILES**§ 73.20 DEFINITION.**

The term ***SNOWMOBILES*** shall mean every self-propelled device upon a combination of skis, skids/tracks or endless belts, in and upon which any person or property is or may be transported or drawn upon snow or snow-covered surface areas, and expressly includes devices known as ***SNOWMOBILES*** or ***SKIMOBILES***.

(Ord. 86-1, passed 1-7-1986)

§ 73.21 DESIGNATED ROUTES.

(A) Snowmobiles, as herein defined, shall be allowed upon certain designated routes. Such routes have been set forth in that certain map attached as Exhibit A1 to the ordinance codified herein and by reference made a part of this subchapter as though fully set forth herein.

(B) Such routes may be changed by proper resolution of the Council at any regular meeting without formal amendment to this subchapter.

(Ord. 86-1, passed 1-7-1986)

§ 73.22 MINIMUM AGE OF DRIVERS.

No person under the age of 16 years of age shall drive or operate a snowmobile in the city.

(Ord. 86-1, passed 1-7-1986) Penalty, see § 73.99

§ 73.23 OPERATION OFFENSES.

(A) It shall be unlawful for any person to knowingly permit, allow or encourage the operation or driving of a snowmobile by a person under the age of 16 years of age.

(B) No snowmobile shall be operated in the city by any person unless such snowmobile has been licensed by the state.

(C) No snowmobile shall be operated by a person without a valid operators license or certification.

(D) No snowmobiles shall be permitted upon the main street of the city, which is a state highway, except for the purpose of crossing at posted points.

(Ord. 86-1, passed 1-7-1986) Penalty, see § 73.99

§ 73.24 EQUIPMENT.

No snowmobile shall be operated in the city unless it is equipped with the following:

(A) At least one and not more than two headlamps sufficient to render clearly discernable persons and vehicles at a distance of 250 feet ahead;

(B) Tail lamps, which when lighted, shall emit a red light plainly visible at a distance of 250 feet to the rear;

(C) At least one brake which may be operated by hand or foot, which activates a brake light that is clearly visible at a distance of 250 feet to the rear;

(D) A muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke; and no person shall use a muffler cut out, by pass or similar device; and

(E) All snowmobiles operated in the city shall be equipped with a mast or antenna displaying a red or red-orange fluorescent flag or pennant a minimum of six feet above the ground. Such flag or pennant shall be either rectangular or triangular in shape with the leading edge being a minimum of six inches and the length a minimum of 12 inches.

(Ord. 86-1, passed 1-7-1986) Penalty, see § 73.99

§ 73.25 OPERATION REGULATIONS.

(A) It shall be unlawful to drive, operate or park a snowmobile on any sidewalk in the city.

(B) No snowmobile shall be operated at a speed in excess of 25 mph in the city.

(C) No snowmobile shall carry passengers or weights in excess of the capacity recommended by the manufacturer thereof.

(D) No sled, toboggan, trailer or any other device shall be towed by a snowmobile, except by means of a rigid tow bar connecting the same to such device.

(E) No person shall be towed behind a snowmobile unless that person is a passenger in an approved snowmobile trailer designed for passengers.

(F) It shall be unlawful to drive or operate a snowmobile while under the influence of intoxicating liquor or a controlled substance.

(G) All snowmobiles shall come to a full stop at all controlled intersections.

(H) All snowmobiles on the streets of the city shall be operated in single file on the extreme right hand side of the street.

(I) No snowmobile shall be operated within the city limits after 10:00 p.m., except for the purpose of going directly to or from the place of residence of the operator of such snowmobile or to its place of storage.

(J) No person shall operate a snowmobile carelessly and heedlessly, or without due caution and circumspection and at a speed or in a manner as to endanger or be likely to endanger any person or property.

(Ord. 86-1, passed 1-7-1986) Penalty, see § 73.99

§ 73.99 PENALTY.

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

(B) Any person or persons who shall violate any of the provisions of §§ 73.01 through 73.05 of this chapter and is under the age of 16 years shall be referred to the County Juvenile Department, those 16 of age or over shall be punishable by penalties or fines set by resolution by the City Council or by state statute.

(C) Any person convicted of a violation of §§ 73.20 through 73.25 of this chapter shall be punished by a fine not to exceed \$50.

(Ord. 86-1, passed 1-7-1986; Ord. 94-10, passed 12-16-1994)

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Restricted parking

SCHEDULE I. RESTRICTED PARKING.

(A) No person shall stop, park or leave standing any motor vehicle, whether attended or not, wholly or partially upon the traveled portion of Main Street from Wallowa Avenue South to Second Street from 4:00 a.m. to 6:00 a.m.

(B) The provisions of division (A) above shall not apply during the Week of Chief Joseph Days.

(C) A person who violated this schedule commits a Class C traffic infraction, as defined in ORS 163.610, and is subject to the penalty provided for such infraction as defined in ORS 153.615. (Ord. 85-2, passed 7-2-1985)

<i>Recommended Pedestrian and Bicycle Projects</i>					
<i>Project</i>	<i>Segment</i>	<i>Description</i>	<i>Lead Agency</i>	<i>Priority (Tier 1, 2, 3)</i>	<i>Planning Level Cost Opinion¹</i>
Intersection Improvements					
Intersections in vicinity of Joseph Elementary School	N/A	Install high-visibility crosswalks and advanced warning signs	Joseph	Tier 3	\$49,600
E Eighth Street at S College Street	N/A	Install crosswalks and advanced warning signs on E Eighth Street	ODOT	Tier 3	\$5,900
Sidewalks					
N Park Street	W McCully Avenue to W Wallowa Avenue	Construct sidewalk on east side of street	Joseph	Tier 1	\$57,800
S Main Street	Eighth Street to Tenth Street	Construct sidewalks on both sides of street	Joseph	Tier 3	\$212,400
S Main Street/E Eighth Street	Fourth Street to S College Street	Construct sidewalks on both sides of each roadway where they currently do not exist	Joseph, ODOT	Tier 2	\$382,300
Lake Street	E Third Street to E Wallowa Avenue	Construct sidewalks on both sides of street where they currently do not exist	Joseph	Tier 3	\$401,800
College Street	E Third Street to E Wallowa Avenue	Construct sidewalks on both sides of street where they currently do not exist	Joseph	Tier 3	\$260,900
East Street	E First Street to E Wallowa Avenue	Construct sidewalks on both sides of street	Joseph	Tier 3	\$251,100
W Wallowa Avenue	N Russell Street to N Main Street	Construct sidewalk on north side of street	Joseph, Wallowa County	Tier 2	\$290,200
W Wallowa Avenue	N Park Street to N Main Street	Construct sidewalk on south side of street	Joseph, Wallowa County	Tier 2	\$241,100
E Wallowa Avenue	N Main Street to N East Street	Construct sidewalks on both sides of street where they currently do not exist	Joseph, ODOT	Tier 3	\$211,600
W Joseph Avenue	N Mill Street to N Main Street	Construct sidewalks on both sides of street	Joseph	Tier 3	\$67,400

<i>Recommended Pedestrian and Bicycle Projects</i>					
<i>Project</i>	<i>Segment</i>	<i>Description</i>	<i>Lead Agency</i>	<i>Priority (Tier 1, 2, 3)</i>	<i>Planning Level Cost Opinion¹</i>
E Joseph Avenue	N Lake Street to N East Street	Construct sidewalks on both sides of street	Joseph	Tier 3	\$160,100
W.E. Williams Avenue	Lake Street to East Street	Construct sidewalk on north side of street	Joseph	Tier 3	\$81,600
W McCully Avenue	N Park Street to W Main Street	Construct sidewalk on north side of street	Joseph	Tier 1	\$139,800
W McCully Avenue	Mill Street to Main Street	Construct sidewalk on south side of street	Joseph	Tier 3	\$33,700
W First Street	S Mill Street to S Main Street	Complete sidewalk gaps on north side of street	Joseph	Tier 3	\$33,700
E First Street	S Main Street to S East Street	Construct sidewalks on both sides of street where they currently do not exist	Joseph	Tier 2	\$119,300
E Second Street	S Main Street to S East Street	Construct sidewalks on both sides of street	Joseph	Tier 3	\$119,300
W Fourth Street	Joseph City Park to S Main Street	Construct sidewalk on north side of street	Joseph	Tier 2	\$82,300
Shared Use Paths					
Wallowa Union Railroad Path Feasibility Study	Joseph to Enterprise	Conduct a study to determine the feasibility of developing a shared use path on or along the Wallowa Union Railroad corridor between Joseph and Enterprise	Joseph, Enterprise, Wallowa County, Wallowa Union Railroad	Tier 1	\$30,000
Wallowa River Path Feasibility Study	Joseph City Park to Wallowa Lake	Building on the previous Wallowa Land Trust study, develop a study to determine the feasibility of developing a soft surface or paved path along Wallowa River between Joseph City Park and Wallowa Lake	Joseph, Wallowa County	Tier 1	\$15,000
Soft Surface Trails					
Joseph Middle/High School Trail	N/A	Reconstruct perimeter trail surrounding the Joseph Middle/High School campus	Joseph	Tier 3	\$100,800
Bike Lanes					
S Main Street/E Eighth Street	S College Street to Third Street	Widen shoulders to provide bike lanes	ODOT	Tier 2	\$167,900

<i>Recommended Pedestrian and Bicycle Projects</i>					
<i>Project</i>	<i>Segment</i>	<i>Description</i>	<i>Lead Agency</i>	<i>Priority (Tier 1, 2, 3)</i>	<i>Planning Level Cost Opinion¹</i>
Wallowa Avenue	N Russell Street to N East Street	Widen shoulders to provide bike lanes	Wallowa County, ODOT	Tier 3	\$100,400
Shoulder Bikeways					
Oregon 82/N Main Street	Daggett Street to north city limits	Construct shoulder bikeways	Joseph, ODOT	Tier 3	\$116,300
Airport Lane/Hurricane Cr. Road	West city limits to N Russell Street	Construct shoulder bikeways	Joseph, Wallowa County	Tier 2	\$93,000
E Wallowa Avenue/Imnaha Highway	N East Street to east city limits	Construct shoulder bikeways	Joseph, ODOT	Tier 3	\$279,000
Bicycle Boulevards					
Westside Bicycle Boulevard	S Main Street at E Fourth Street to N Main Street at E Fourth Street	Develop a "Level 3" Bicycle Boulevard along Fourth Street between Lake and Mill, along Mill between Fourth and Alder, and along Alder between Mill and Lake	Joseph, ODOT	Tier 3	\$18,600
Eastside Bicycle Boulevard	S Main Street southern terminus to N Main Street at Daggett Street	Develop a "Level 3" Bicycle Boulevard along Main Street between its southern terminus and Eleventh, along Eleventh Street between Main and College, along College Street between Eleventh and Seventh, along Seventh Street between College and Lake, along Lake Street between Seventh and Daggett and along Daggett Street between Lake and Main	Joseph, ODOT	Tier 1	\$19,200
Other Projects					
Wayfinding signage plan	N/A	Develop a citywide pedestrian and bicycle Wayfinding Signage Plan identifying: appropriate sign locations, destinations to be highlighted on each sign, approximate distance and walking/riding time to each destination	Joseph	Tier 3	\$7,000
Warning signage	N/A	Install signage (e.g., "BIKES ON ROADWAY") on major roads to alert motorists to the presence bicyclists on the roadway	Wallowa County, ODOT	Tier 2	\$5,600

<i>Recommended Pedestrian and Bicycle Projects</i>					
<i>Project</i>	<i>Segment</i>	<i>Description</i>	<i>Lead Agency</i>	<i>Priority (Tier 1, 2, 3)</i>	<i>Planning Level Cost Opinion¹</i>
Safe routes to schools plan	N/A	Develop a Safe Routes to School Plan for Joseph Elementary, Middle and High schools outlining engineering, education, encouragement, enforcement and evaluation measures to increase walking and bicycling to school among Joseph students	Joseph	Tier 2	\$15,000
Programmatic Elements					
Bike/pedestrian education, encouragement, enforcement, evaluation measures	N/A	Implement programmatic measures relating to education, encouragement, enforcement and evaluation (see § 71.060)	Joseph	Tier 1	Varies
¹ Infrastructure-related cost opinions do not include right-of-way or easement acquisitions. All cost opinions include an additional 20% for contingency and 35% for design, engineering, mobilization and construction management (beyond the original project cost) ² This project does not include roadway resurfacing. Resurfacing needed on approximately 9.5 blocks to improve riding conditions for bicyclists					

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. FIRE PREVENTION AND PROTECTION**
- 91. HEALTH AND SANITATION; NUISANCES**
- 92. ANIMAL CONTROL**
- 93. PARKS, RECREATION AND LEISURE**

CHAPTER 90: FIRE PREVENTION AND PROTECTION

Section

Open Burning

- 90.01 Policy
- 90.02 Definitions
- 90.03 Burning regulations
- 90.04 Exemptions
- 90.05 Prohibited materials
- 90.06 Responsibility

- 90.99 Penalty

OPEN BURNING

§ 90.01 POLICY.

In order to restore and maintain the quality of the air resources and be consistent with the overall public welfare, it is the policy of the city:

- (A) To prohibit open burning of materials which can pollute and degrade air quality;
- (B) To encourage the development and use of alternative disposal methods, including recycling; and
- (C) To prohibit the use of burn barrels within the city limits.

(Ord. 2006-02, passed 11-2-2006)

§ 90.02 DEFINITIONS.

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

Joseph - General Regulations

AGRICULTURAL WASTE. Any waste material generated or used by an agricultural operation that uses, or intends to use, land primarily for the purpose of harvesting and selling crops.

OPEN BURNING. Burning in open outdoor fires, burning in incinerators which do not meet the emission limitations specified for solid and infectious waste incinerators in OAR 340-264, § 0.180, and any other outdoor burning when combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

RESPONSIBLE PERSON. A person who is reasonably capable of extinguishing an open burning fire or accidental secondary fire and who will be held responsible for any resulting damage.

UNCONFINED BURNING PILE. A pile of combustible materials which is not confined to an incinerator.

(Ord. 2006-02, passed 11-2-2006)

§ 90.03 BURNING REGULATIONS.

(A) No person shall cause, allow to be initiated or allow to be maintained any open burning of any materials, except those listed under § 90.04 of this chapter, within the city.

(B) Allowable open burning of unconfined burning piles shall be limited to the hours of 6:00 a.m. to 7:00 p.m. All open burning of unconfined burning piles are to be completely extinguished outside of this prescribed time limit. In addition, the state's Fire Marshal or the city's Fire Chief may further restrict burning hours or restrict all burning considered hazardous to the fire safety of the community and/or when atmospheric ventilation cannot reasonably remove the smoke.

(Ord. 2006-02, passed 11-2-2006) Penalty, see § 90.99

§ 90.04 EXEMPTIONS.

The following types of open burning are allowed within the city:

(A) Burning of wood or wood products for the purpose of providing heat in wood-burning stoves or fireplaces;

(B) Fires for recreational or ceremonial purposes;

(C) The operation of any barbeque equipment;

(D) The burning of dry yard debris and agricultural waste. Unconfined burning piles shall be located in an area free of combustible materials surrounding the burning pile and the area shall be of sufficient

size so as to prevent the kindling of any secondary fire. All unconfined burning piles shall be constantly supervised. Suppression equipment, including water, shovels, rakes or any such items shall be required for the extinguishing of the unconfined burning piles or any additional secondary fire and shall be readily available during burning; and

(E) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty.

(Ord. 2006-02, passed 11-2-2006)

§ 90.05 PROHIBITED MATERIALS.

(A) There shall be no open burning of materials which are expressly prohibited by law and/or which emit dense or toxic smoke or noxious odors.

(B) Material prohibited from being burned shall include, but not be limited to, the materials outlined in OAR 340, div. 264:

(1) Any wet garbage or any household rubbish or paper products;

(2) Plastic of any kind;

(3) Wire insulation;

(4) Automobile parts;

(5) Asphalt, petroleum products or petroleum treated products;

(6) Any rubber product;

(7) Animal remains or animal or vegetable matter resulting from the handling, preparation, cooking or service of food;

(8) Any other material which normally emits dense smoke or noxious odors;

(9) Painted wood or plywood or any wood products containing resin or adhesives;

(10) Treated wood products; and

(11) Wet grass.

(Ord. 2006-02, passed 11-2-2006) Penalty, see § 90.99

§ 90.06 RESPONSIBILITY.

(A) Open burning of unconfined burning piles, as described in § 90.04(D) of this chapter, shall be conducted only by a responsible person or a person directly supervised by a responsible person. Prior to conducting open burning, the responsible person shall obtain a permit from City Hall at no cost. Permits will not be issued during a closed burning season.

(B) The responsible person in charge of conducting open burning shall be on duty at the site until the fire is fully extinguished, and will be held liable for all damage resulting from the burning and will be subject to any penalties for the violation of this subchapter or the regulations of the state.

(Ord. 2006-02, passed 11-2-2006) Penalty, see § 90.99

§ 90.99 PENALTY.

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

(B) (1) A person in violation of any provision of §§ 90.01 through 90.06 of this chapter or any order issued under the authority of §§ 90.01 through 90.06 of this chapter shall be cited in writing and fined in an amount not to exceed \$500. Each day the violation shall continue shall be deemed a separate offense.

(2) The Fire Chief or law enforcement officer may immediately order the extinguishment of the fire and may immediately issue a citation for the violation, and the Fire Chief or law enforcement officer may enter upon the premises upon which said open burning is maintained and extinguish the same at the violator's expense.

(Ord. 2006-02, passed 11-2-2006)

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

Section

Nuisances; Abatement

- 91.01 Definitions
- 91.02 Animals as nuisances
- 91.03 Nuisances affecting public health
- 91.04 Nuisances affecting public safety
- 91.05 Nuisances affecting public peace
- 91.06 Abatement responsibility; cost
- 91.07 Unenumerated nuisances
- 91.08 Abatement procedures

Hazards

- 91.20 Creation prohibited
- 91.21 Order to abate hazard
- 91.22 Hearing on abatement
- 91.23 Abatement by city
- 91.24 Construction and purpose

- 91.99 Penalty

NUISANCES; ABATEMENT

§ 91.01 DEFINITIONS.

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

CITY SUPERINTENDENT OF PUBLIC WORKS. The City Superintendent or any duly authorized agent.

PERSON. Any actual person or persons, firm or firms, corporation or corporations or other legal entity.

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.

PERSON RESPONSIBLE. The person responsible for abating a nuisance shall include:

- (1) The owner;
- (2) The person in charge of property, as defined herein; and
- (3) The person who caused to come into or continue in existence a nuisance as defined in this subchapter or another ordinance of the city.

PUBLIC PLACE. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.
(Ord. 94-09, passed 12-16-1994)

§ 91.02 ANIMALS AS NUISANCES.

(A) *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 to the public. If the animal is exposed to the public, it may be taken into custody by the county and disposed of in accordance with the procedures provided by § 92.01 of this chapter for the impoundment of dogs.

(B) *Removal of carcasses.* No person shall permit an animal carcass owned or controlled by him or her to remain upon public property, or to be exposed on private property, for a period of time longer than necessary to remove or dispose of the carcass.

(C) *Animals at large.* Except for household pets, no owner or person in charge of an animal shall permit the animal to be at large. Animals at large may be taken into custody by the county and disposed of in accordance with the procedures provided by § 92.01 of this code of ordinances for the impoundment of dogs.

(D) *Animals affecting public peace.* Refer to § 91.05(C) of this chapter.
(Ord. 94-09, passed 12-16-1994) Penalty, see § 91.99

§ 91.03 NUISANCES AFFECTING PUBLIC HEALTH.

(A) No person shall cause or permit on property owned or controlled by him or her a nuisance affecting public health.

(B) The following are nuisances affecting public health and may be abated as provided in this subchapter:

(1) *Privies*. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Health Division regulations;

(2) *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;

(3) *Stagnant water*. Stagnant water which affords a breeding place for mosquitoes and other insect pests;

(4) *Water pollution*. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial waste or other substances placed in or near the water in a manner that will cause harmful material to pollute the water;

(5) *Food*. Decayed or unwholesome food which is offered for human consumption;

(6) *Odor*. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition;

(7) *Surface drainage*. Drainage of liquid wastes from private premises;

(8) *Cesspools*. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor;

(9) *Slaughter houses and the like*. A slaughter house, tannery or pigsty; and

(10) *Emissions*. The emission of noxious fumes or gases, including burning of garbage. (Ord. 94-09, passed 12-16-1994) Penalty, see § 91.99

§ 91.04 NUISANCES AFFECTING PUBLIC SAFETY.

(A) *Creating a hazard*. A person shall create a hazard by:

(1) Maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or

(2) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of depth of four feet or more and a top width of 12 inches or more, and failing to or refusing to cover or fence it with protective construction.

(B) *Attractive nuisances.*

(1) No owner or person in charge of property shall permit thereon:

(a) Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children;

(b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children; and/or

(c) An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

(2) This division (B) shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

(C) *Snow and ice.* No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

(1) Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen; and/or

(2) Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

(D) *Hazardous or noxious vegetation.* No owner or person in charge of property shall permit weeds or noxious vegetation to grow upon his or her 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 noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard or in the case of weeds or noxious vegetation, from maturing or from going to seed.

(E) *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.

(F) *Trees.*

(1) No owner or person in charge of property that abuts upon a street or public sidewalk shall permit trees or bushes on his or her property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his or her premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than ten feet above the roadway.

(2) No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

(G) *Fences.*

(1) No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.

(2) No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

(H) *Surface waters; drainage.*

(1) No owner or person in charge of a building or structure shall permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

(2) The owner or person in charge of property shall install and maintain in proper state of repair adequate drainpipes or drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk.

(I) *Dangerous buildings.* Refer to §§ 150.01 through 150.06 of this code of ordinances. (Ord. 94-09, passed 12-16-1994) Penalty, see § 91.99

§ 91.05 NUISANCES AFFECTING PUBLIC PEACE.

(A) *Radio and television interference.*

(1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(2) This section does not apply to devices licensed approved and operated under the rules and regulations of the Federal Communications Commission.

(B) *Junk.*

(1) No person shall keep any junk outdoors on any street, lot or premises, or in a building that is not entirely enclosed, except doors or gates used for ingress and egress or screened from public view with a fence not less than six feet high.

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(2) The term **JUNK**, as used in this division (B), includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

(3) This section shall apply to junk kept in a duly licensed junk yard or automobile wrecking house.

(C) *Animals.*

(1) When any livestock, poultry or domestic animals bellow, neigh, bark, bray, bleat, crow or make any other noise and thereby annoy, molest or disturb any of the inhabitants of the city, the keeping and maintaining of the poultry, livestock, and domestic animals is declared to be a nuisance. For the purpose of this division (C), the owner, the person in charge of, or in whose custody said poultry, livestock or domestic animals, or either of them are kept, shall be deemed and conclusively presumed to be maintaining a nuisance.

(2) Dog control shall be dealt with specifically by § 92.01 of this code of ordinances.

(3) The keeping of domestic livestock and wild animals within the city shall be regulated by §§ 92.15 through 92.25 of this code of ordinances.

(Ord. 94-09, passed 12-16-1994) Penalty, see § 91.99

§ 91.06 ABATEMENT RESPONSIBILITY; COST.

(A) *Abatement by responsible person.*

(1) Within ten days after the posting and mailing of such notice, as provided in § 91.08(A) of this chapter, the person responsible shall remove the nuisance or show that no nuisance exists.

(2) A person responsible, protesting that no nuisance exists, shall file with the City Superintendent a written statement which shall specify the basis for so protesting.

(3) 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.

(4) If the Council determines that a nuisance does in fact exist, the person responsible shall, within ten days after the Council determination, abate the nuisance.

(B) *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.

(C) *Abatement by the city.*

(1) If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.

(2) 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.

(3) The City Superintendent shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include therein a charge of \$10 or 10% of those expenses (whichever is the greater) for administrative overhead.

(D) *Assessment of costs.*

(1) The City Superintendent shall send to the person responsible a notice by registered or certified mail stating:

(a) The total cost of abatement, including the administrative overhead;

(b) The cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice; and

(c) If the person responsible objects to the cost of the abatement as indicated, he or she may file a notice of objection with the city not more than ten days from the date of the notice.

(2) Upon the expiration of ten 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.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the Council, shall be made by resolution and shall thereupon be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

(4) (a) The lien shall be enforced in the same manner as liens for street improvements are enforced and residents shall bear interest at the rate set by the Council by resolution.

(b) The interest shall commence to run from the date of the entry of the lien in the lien docket.

(5) 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. 94-09, passed 12-16-1994)

§ 91.07 UNENUMERATED NUISANCES.

(A) The acts, conditions or objects specifically enumerated and defined herein are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in § 91.06 of this chapter.

(B) In addition to the nuisances specifically enumerated within this subchapter, every other thing, substance or act which is determined by the Council or its designee to be injurious or detrimental to the public health, safety, welfare or peace of the city is declared a nuisance and may be abated as provided in this subchapter.
(Ord. 94-09, passed 12-16-1994)

§ 91.08 ABATEMENT PROCEDURES.

(A) *Notice.*

(1) Upon determination by the Council that a nuisance exists, the Council shall cause a notice to be posted on the premises or the site of the nuisance, directing the person responsible to abate the nuisance.

(2) At the time of posting, the city shall send a copy of the notice by registered or certified mail to the person responsible at his or her last known address.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which the nuisance exists;

(b) A direction to abate the nuisance within ten days from the date of the notice;

(c) A description of the nuisance;

(d) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged to the person responsible;

(e) A statement that failure to abate a nuisance may warrant imposition of a fine and or jail sentence; and

(f) A statement that the person responsible may protest the order to abate by giving notice to the city within ten days from the date of the notice.

(4) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.

(5) 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.

(B) *Summary abatement.* The procedure provided by this subchapter is not exclusive, but is in addition to procedure provided by other ordinances; and the Chief of the Fire Department, the Chief of Police or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.
(Ord. 94-09, passed 12-16-1994)

HAZARDS

§ 91.20 CREATION PROHIBITED.

(A) Except as authorized by the City Council, an owner or lawful occupant of land shall not allow:

(1) Any water to overflow, seep or otherwise discharge from that land onto a public road under city jurisdiction including, but not limited to, water that is passing over the land, diverted from the land by an obstruction on the land, flowing from the land because of rainfall or discharged from an irrigation sprinkler or other device; and/or

(2) Any structure, tree, drainage way, soil deposit, logs and poles or any other natural or human-made thing on that land to present a danger to or create a hazard for the public traveling on a public road or facilities within the right-of-way of the public road or upon any property owned by the city, by obstructing, hanging over or otherwise encroaching or threatening to encroach in any manner on a public road that is under city jurisdiction, or upon any other property owned by the city.

(B) A person is not in violation of this section if there is no reasonable method for the person to control, stop or remove the cause of the violation.

(Ord. 84-3, passed 9-11-1984) Penalty, see § 91.99

§ 91.21 ORDER TO ABATE HAZARD.

(A) A city official may order a person who is in violation of § 91.20 of this chapter to remove, divert or otherwise discontinue the violation.

(B) An order issued under this section shall be in writing and:

(1) Describe the nature and location of the violation;

(2) Direct the person to abate the violation within a specified period of time;

(3) Explain the procedures the city official may follow if he or she deems such violation to constitute an emergency; and

(4) Explain that a hearing may be held under § 91.22 of this chapter if the violation is not abated.

(Ord. 84-3, passed 9-11-1984)

§ 91.22 HEARING ON ABATEMENT.

(A) If a hearing is requested, the city official shall establish a place, date and time for the hearing. The hearing will be held if the violation is not abated before the date of the hearing.

(B) Notice of such hearing shall include the following:

(1) The order described in § 91.21 of this chapter shall be included as part of the notice of hearing. Notice shall be given by personal service, posting or publication in a manner most likely to notify the person of the proceeding. Such notice shall contain a short plain statement of the subject matter of the proceeding, the matter asserted, an explanation of how more detailed information about the proceeding may be obtained and the time and place the hearing will take place; and

(2) Such notice shall be served upon the owner of the land that is the source of the violation and any persons lawfully occupying that land during the time of the violation if known.

(C) At the hearing, the City Council shall determine the person responsible, for the violation and shall order that person to abate the violation with a time fixed by the Council, which time shall be not less than ten days.

(Ord. 84-3, passed 9-11-1984)

§ 91.23 ABATEMENT BY CITY.

A city road official may abate a violation of § 91.20 of this chapter at any time if any of the following occur:

(A) The period of time established for abatement of the violation after hearing passes and the person ordered to abate the violation has not done so within that time;

(B) If a reasonable attempt to provide service has been made and no owner or lawful occupant of the property has been located and served;

(C) If a city road official determines that the violation creates a substantial risk of damage, injury or other emergency condition that requires abatement without delay and without notice or hearing; and

(D) Any of the property described in § 91.20(A)(2) of this chapter which remains upon city property for a period of more than 30 days shall be conclusively presumed abandoned, with title thereto vesting in the city. The city shall thereupon be authorized to remove, destroy, sell or otherwise dispose of the same.

(Ord. 84-3, passed 9-11-1984)

§ 91.24 CONSTRUCTION AND PURPOSE.

The provisions of this subchapter are in addition to other remedies provided the city for willful trespass upon city property.

(Ord. 84-3, passed 9-11-1984)

§ 91.99 PENALTY.

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

(B) (1) Any person or persons who shall be convicted of being the author or keeper of a nuisance, or otherwise guilty of a violation of any of the provisions of §§ 91.01 through 91.08 of this chapter, shall be punished by penalties as set by resolution by the City Council.

(2) (a) Each day's violation of a provision of §§ 91.01 through 91.08 of this chapter constitutes a separate offense.

(b) The abatement of a nuisance is not a penalty for violating §§ 91.01 through 91.08 of this chapter, 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 days of the date of notice to abate or, if a written protest has been filed, then abatement within ten days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under division (B)(1) above.

(Ord. 94-09, passed 12-16-1994)

CHAPTER 92: ANIMAL CONTROL

Section

General Provisions

92.01 Dogs as nuisances

Domestic Livestock and Wild Animals

92.15 Definitions
92.16 Compliance required
92.17 Fencing and enclosures
92.18 Animals permitted without permit
92.19 Stallions
92.20 Swine
92.21 Goats
92.22 Permits
92.23 Carrying capacity
92.24 Nuisance
92.25 State statutes adopted

92.99 Penalty

Cross-reference:

Nuisances affecting public health, see § 91.03

Nuisances affecting public safety, see § 91.04

Zoning, see Ch. 156

GENERAL PROVISIONS

§ 92.01 DOGS AS NUISANCES.

(A) *Dog nuisance; impoundment.*

(1) No person owning or having the control, custody or possession of a dog shall allow the dog to be a nuisance.

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(2) A dog is a nuisance if it:

- (a) Trespasses on private property;
- (b) Disturbs any person by frequent or long continued noise;
- (c) Injures or kills any animal, or destroys or damages any other property not owned or possessed by the person in charge of the dog;
- (d) Bites a person or shows a propensity to do so;
- (e) Habitually chases vehicles or people;
- (f) Is a female in heat running at large; and/or
- (g) A diseased animal.

(3) A dog that is a nuisance may be impounded by a police officer or Animal Control Officer and he or she may enter onto private property exclusive of dwellings, houses (and other buildings) to do so.

(4) (a) Any officer or citizen wanting to a dog impounded under this section shall safely keep such dog until such time as the dog can be picked up by the County Animal Control Officer.

(b) The disposition of such dog shall thereafter be governed by the applicable county ordinances.

(5) The City Council is hereby authorized to execute an agreement with the county providing for the employment of an Animal Control Officer for the city and for the delivery and disposal of dogs impounded under the provisions of this section and under the terms of the applicable ordinance of the county, including the reimbursement to the county of necessary expenses required for maintenance of the county pound.

(B) *Right to kill a dog.* The County Sheriff or his or her appointed Deputy shall have the right to kill immediately any dog whether licensed or not, while off the premises of its owner or out of control of its owner; provided, such action is required to prevent harm or damage to any person, animal or property.

(C) *Licenses.* All owners of dogs within the limits of the city shall be required to license their dogs with the county as provided in the county ordinance.

(Ord. 94-07, passed 12-16-1994) Penalty, see § 92.99

DOMESTIC LIVESTOCK AND WILD ANIMALS

§ 92.15 DEFINITIONS.

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

CITY LOT. One platted city lot or an area of at least 5,850 square feet.

DOMESTIC LIVESTOCK. Includes cattle, pigs, horses, sheep, goats, mules, donkeys, chickens, turkeys, geese, ducks, rabbits and any other animal customarily domesticated and maintained in the customary practice of animal husbandry in the area, but shall exclude dogs, cats and other household pets.

WILD ANIMALS. All animals not customarily domesticated, nor maintained in the customary practice of animal husbandry in the area, but shall exclude dogs, cats and household pets not having the ability to seriously injure a person.

(Ord. 95-05, passed 9-5-1995)

§ 92.16 COMPLIANCE REQUIRED.

(A) No person shall keep or maintain domestic livestock or wild animals within the city, except in compliance with the terms and conditions of this subchapter.

(B) This subchapter will not apply to animals in transit kept less than five days.

(Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.17 FENCING AND ENCLOSURES.

All domestic livestock or wild animals shall be kept within an enclosure fenced, in a manner adequate to contain animals being kept, from all dwelling units and the yards surrounding the same. It shall be the responsibility of the owner of such domestic livestock or of wild animals. All fences shall be constructed in compliance with § 91.04(G) of this chapter.

(Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.18 ANIMALS PERMITTED WITHOUT PERMIT.

The following domestic livestock may be kept and maintained within the city in accordance with the numerical limitations and other restrictions in this section without the necessity of obtaining a permit therefor.

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(A) *Sheep and goats.* No sheep or goat may be kept within an enclosed pasture less than one-fourth a city lot in size and there shall be provided a minimum of 1,463 square feet per ewe and lamb or adult sheep and a minimum of 1,463 square feet per nanny and kid or adult goat. For purposes of this restriction, after weaning, a lamb or kid shall be considered an adult animal.

(B) *Cattle.* One city lot of enclosed pasture per cow and calf or adult cow shall be provided. For purposes of this restriction, a calf shall be considered an adult upon weaning.

(C) *Horses, mules and donkeys.* One city lot of enclosed pasture shall be provided for each mare and foal or adult horse, for each adult mule, for each jenny and foal or adult donkey. For purposes of this restriction, a foal shall be considered an adult upon weaning or attaining the age of six months, whichever first occurs.

(D) *Poultry and fowl.* No person shall keep in excess of 25 chickens, two turkeys, two geese or three ducks within a lot in the city and, further, the aggregate number of chickens, turkeys, geese and ducks shall not exceed 25. Said poultry and fowl shall be kept within an enclosure and sited so as not to cause avoidable irritation due to noise or odor to owners of adjacent dwellings. Animal wastes in connection therewith shall be regularly removed so as to avoid the creation of obnoxious odors. Shelter in the form of a chicken house or hutch shall be provided. No turkeys, geese, ducks or chickens shall be allowed to roam freely outside of said enclosure and said enclosure shall be separated from all dwelling units and yards surrounding the same.

(E) *Rabbits.* Four rabbits, including no more than two females with litters, are allowed per family in the city, and said rabbits shall be kept within an enclosure under the same standards as specified in division (D) above.

(F) *Bees.* The keeping of bees is permitted during the winter season when they are dormant, but is prohibited during the period of the year when bees are active.
(Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.19 STALLIONS.

No stallion shall be kept within the city without the owner thereof having obtained a permit from the city authorizing the keeping of said stallion.
(Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.20 SWINE.

No person shall keep swine within the city without a permit issued as per § 92.22 of this chapter.
(Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.21 GOATS.

Any person or persons shall be permitted to keep one milking goat without reference to the area restrictions, specified in § 92.18 of this chapter, upon furnishing to the city a statement from duly licensed doctor that the milk of such goat is necessary for health purposes. Said goat shall be kept in such a fashion as not to subject adjacent dwellings to offensive odor or noise and said goat shall either be kept within an enclosure or otherwise restrained from leaving the lot or parcel where said goat shall be kept. (Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.22 PERMITS.

(A) No person shall maintain wild animals or domestic livestock, other than those authorized without permit by § 92.18 of this chapter, without first obtaining a permit from the City Council. Upon receipt of an application, the City Recorder shall notify all adjacent landowners by first class mail not less than seven days prior to hearing of said application by the Council.

(B) No person shall, maintain domestic livestock permitted by § 92.18 of this chapter violating the fencing, enclosure, area and numerical restrictions specified in § 92.18 of this chapter without obtaining a permit from the City Council.

(C) (1) The City Council shall deny a permit application if the domestic livestock or wild animals cannot be kept as humanely, and with no greater impact, due to odor, noise or unsightly conditions, as domestic livestock kept in the numbers and pursuant to the restriction of § 92.18 of this chapter.

(2) No permit shall be issued if keeping the animals within the city would endanger the public health and safety.

(D) The Council may authorize keeping of animals in number greater or areas smaller than that specified in § 92.18 of this chapter agreed provisions for keeping the animals are appropriate meet the standards specified in this section protect the public peace, health, safety, Council may impose conditions appropriate public peace, health, safety and welfare the purposes of this subchapter, including the following:

- (1) Minimum area for such animals;
- (2) Fencing standards or provisions;
- (3) Shelter provision, if appropriate; or

(4) Limitation upon the number of days which such animals may be kept.

(Ord. 95-05, passed 9-5-1995)

§ 92.23 CARRYING CAPACITY.

No person shall keep or maintain domestic livestock or wild animals within the city if the carrying capacity of the pasture upon which they are situated is exceeded. It shall be prima facie evidence that the carrying capacity is being exceeded if the vegetative cover of the pasture is not being maintained. (Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.24 NUISANCE.

All domestic livestock and wild animals shall be kept in such a manner as will comply with §§ 91.02(A), (B) and (C), 91.03 and 91.05(C) of this code of ordinances. (Ord. 95-05, passed 9-5-1995) Penalty, see § 92.99

§ 92.25 STATE STATUTES ADOPTED.

ORS 167.345 and 167.355 and the penalties specified therein, as those sections currently exist and as the same are, from time to time, amended are hereby adopted by the city. (Ord. 95-05, passed 9-5-1995)

§ 92.99 PENALTY.

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

(B) Penalties for any person owning or having control, custody or possession of a dog which is a nuisance and in violation of § 92.01 of this chapter shall be set by resolution by the City Council.

(C) (1) If any animal is kept within the city in violation of §§ 92.15 through 92.25 of this chapter, the city may, ten days from the giving of notice demanding, the animal be removed, obtain an injunction requiring removal of said animal.

(2) The penalties for violation of §§ 92.15 through 92.25 of this chapter shall be set by resolution by the City Council. (Ord. 94-07, passed 12-16-1994; Ord. 95-05, passed 9-5-1995)

CHAPTER 93: PARKS, RECREATION AND LEISURE

Section

Library

- 93.01 Library Board; membership; terms; vacancies
- 93.02 Organization; officers
- 93.03 Duties

City Parks

- 93.15 Adoption of rules and regulations
- 93.16 Prohibitions and restrictions
- 93.17 Enforcement

- 93.99 Penalty

LIBRARY

§ 93.01 LIBRARY BOARD; MEMBERSHIP; TERMS; VACANCIES.

(A) *Library Board membership; terms; vacancy.*

- (1) The City Library is to be governed by a board consisting of seven members.
- (2) Initially, one member shall hold office for one year, two for two years, two for three years and two for four years, from July 1 in the year of their appointment.
- (3) At the end of these terms, each member will serve for four-year terms.

(B) *Limitation of terms.* No person shall hold appointments as a member for more than two full consecutive terms, but any person may be appointed again to the Board after an interval of one year. (Ord. 94-06, passed 12-16-1994)

§ 93.02 ORGANIZATION; OFFICERS.

The Library Board shall each year between September 1 and October 31 hold an organizational meeting at which time a Chairperson, Vice Chairperson and Secretary shall be elected, or the librarian shall serve as Secretary to the Library Board and take minutes of its meetings.
(Ord. 94-06, passed 12-16-1994)

§ 93.03 DUTIES.

The Library Board shall submit for approval to the City Council:

(A) A recommendation for librarian when needed;

(B) Rules and policies for the governance of the library;

(C) An annual budget request;

(D) Requests for all expenditures from the Library Fund or the Library Building Fund;

(E) Requests for acceptance, use or expenditure of any real or personal property or funds donated to the library, or purchase, control or disposal of real and personal property necessary for the purposes of the library; except that, each donation shall be administered in accordance with its terms and all property or funds shall be held in the name of the city;

(F) Sites for public library buildings or for location of library facilities;

(G) Entrance into contracts; and

(H) Such other activities as the City Council may assign.

(Ord. 94-06, passed 12-16-1994)

CITY PARKS**§ 93.15 ADOPTION OF RULES AND REGULATIONS.**

The following rules and regulations are hereby adopted for the regulation and use of municipal parks in and for the city and shall be observed at all times by all persons using any city park or park facilities.
(Ord. 81-4, passed 6-2-1981)

§ 93.16 PROHIBITIONS AND RESTRICTIONS.

(A) No fires or campstoves shall be allowed, except in the following designated areas:

(1) Park campstoves or fireplaces provided for such purposes;

(2) Portable stoves in picnic areas, if such stoves are in proper working order; and

(3) No fire shall be left unattended and every fire shall be extinguished before its user leaves the park area.

(B) No person shall:

(1) Hunt, pursue, trap, kill, injure, molest or disturb the habitat of any bird or animal;

(2) Discharge any firearm, pellet gun, bow and arrow, slingshot or other weapon capable of injuring any person, bird or animal; or

(3) Possess any loaded firearm in any park area.

(C) Flowers, shrubs, foliage, trees or plant life or products of any type shall not be picked, cut, mutilated or removed from any park area without written permission from the City Council.

(D) No person shall mutilate, deface, damage or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder or other structure or facility of any kind in a park area.

(E) No person shall, except under special regulations of the City Council dig up, deface or remove any dirt, stones, rock or other substance whatever, make any excavation, quarry any stone or lay or set off any blast, or roll any stones or other objects, or cause or assist in doing any of the said things within a park area.

(F) No person shall, except in designated area, erect signs, markers or inscriptions of any type within a park area without permission from the City Council.

(G) No person in a park area may:

(1) Operate a concession, either fixed or mobile;

(2) Solicit, sell or offer for sale, peddle, hawk or vend any goods, wares, merchandise, food, liquids or services;

(3) Advertise any goods or services by any means whatsoever; or

(4) Distribute any circulars, notices, leaflets, pamphlets or written or printed information of any kind, without written permission from the City Council.

(H) Motor vehicles including cars, trucks, motorcycles or mopeds shall be operated only on roads and parking areas constructed or designated for motor vehicle use. No motor vehicle shall be operated on any trail or in any part of a park area not constructed or designated for motor vehicle use, or on any road or trail where signs have been placed or erected by authority of the City Council prohibiting the driving of motor vehicles. Automobiles, or other vehicles shall be parked only in designated parking areas.

(I) No dog, cat or other animal of any kind shall be brought into or kept in a park area unless confined, or in a vehicle, or on a leash. The authority of the city park employee includes the authority to undertake any measures (including removal of the animal from the park area) deemed by the park employee necessary to prevent interference by the animal with the safety, comfort and well-being of the park area users or the appearance or sanitary condition of the park area. No animals, other than seeing-eye dogs, shall be allowed in any building.

(J) No bottles, cans, ashes, waste, paper, garbage, sewage or other rubbish or refuse shall be left in a park area, except in the receptacles designated for that purpose.

(K) No person shall set up or use a public address system in a park area without the written permission of the City Council.

(L) No person shall ride, drive, lead or keep a saddle horse or other animal in any park area. No horse or other animal shall be hitched to any tree shrub in such a manner that may cause damage to such a tree or shrub.

(M) No person shall wash any clothing or other materials, or clean any fish in a pond, stream or river in the park area.

(N) No person shall use abusive, threatening, boisterous, vile, obscene or indecent language or gestures in a park area. Public demonstrations, public disturbances or riotous behavior or indecent exposure will not be allowed in any city park area.

(O) No overnight camping will be permitted unless authorized in writing by the City Council.

(P) No person shall operate any motor vehicle within a park area at a speed in excess of ten mph in the entire park area unless specifically designated otherwise.

(Q) No person shall operate or use any noise producing machine, vehicle, device or instrument in such a manner that is disturbing to other park area visitors.

(R) Except as authorized in writing by the City Council, no person, other than law enforcement officers or authorized city personnel, shall enter or remain in any park area from 10:00 p.m. until 8:00 a.m.

(Ord. 81-4, passed 6-2-1981) Penalty, see § 93.99

§ 93.17 ENFORCEMENT.

All city park employees or Council members in charge of city parks or any park area are authorized and directed to enforce by all lawful means full compliance by the public with the foregoing rules and regulations.

(Ord. 81-4, passed 6-2-1981)

§ 93.99 PENALTY.

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

(B) Any person found to be violating any of the park rules and regulations, per §§ 93.15 through 93.17 of this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500, or by imprisonment in the county jail for not more than six months, or both.

(Ord. 81-4, passed 6-2-1981)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. MARIJUANA BUSINESSES

111. PEDDLERS AND OTHER SOLICITORS

112. SOCIAL GAMES

CHAPTER 110: MARIJUANA BUSINESSES

Section

- 110.01 Definitions
- 110.02 Ban declared
- 110.03 Exception
- 110.04 Application
- 110.05 Notice of OHA and to OLCC

§ 110.01 DEFINITIONS.

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

MARIJUANA. The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

MARIJUANA PROCESSING SITE. An entity registered with the state's Health Authority to process marijuana.

MARIJUANA PROCESSOR. An entity licensed by the state's Liquor Control Commission to process marijuana.

MARIJUANA PRODUCER. An entity licensed by the state's Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

MARIJUANA RETAILER. An entity licensed by the state's Liquor Control Commission to sell marijuana items to a consumer in the state.

MARIJUANA WHOLESALE. An entity licensed by the state's Liquor Control Commission to purchase items in the state for resale to a person other than a consumer.

MEDICAL MARIJUANA DISPENSARY. An entity registered with the state's Health Authority to transfer marijuana.

(Ord. 2015-02, passed 12-3-2015)

§ 110.02 BAN DECLARED.

As provided in § 133 of House Bill 3400 (2015), the city hereby prohibits the establishment of the following in the area subject to the jurisdiction of the city (select desired options from the list below):

- (A) Marijuana processing sites required to be registered under § 85, Ch. 614, Oregon Laws 2015;
- (B) Medical marijuana dispensaries required to be registered under ORS 475.314;
- (C) Marijuana producers required to be licensed under § 19, Ch. 1, Oregon Laws 2015;
- (D) Marijuana processors required to be licensed under § 20, Ch. 1, Oregon Laws 2015;
- (E) Marijuana wholesalers required to be licensed under § 21, Ch. 1, Oregon Laws 2015; and
- (F) Marijuana retailers required to be licensed under § 22, Ch. 1, Oregon Laws 2015.

(Ord. 2015-02, passed 12-3-2015)

§ 110.03 EXCEPTION.

The prohibition set out in this chapter does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of §§ 133, 136 or 137 of House Bill 3400 (2015).

(Ord. 2015-02, passed 12-3-2015)

§ 110.04 APPLICATION.

The ban imposed under this chapter applies to any city decision, action and/or recommendation, including, without limitation, the issuance of building permits, land use permits, business and regulatory licenses and/or any other form of approval. This ban extends to any OHA decision acting under ORS 475.314, as amended, or § 85, Ch. 614, Oregon Laws 2015. This ban extends to any OLCC decision acting under §§ 19, 20, 21 or 22, Ch. 1, Oregon Laws 2015.

(Ord. 2015-02, passed 12-3-2015)

§ 110.05 NOTICE OF OHA AND TO OLCC.

The City Administrator or City Attorney will notify OHA of city's adoption of this chapter and provide the text of this chapter to OHA in a form and manner prescribed by OHA. The City Administrator or City Attorney will notify OLCC of city's adoption of this chapter and provide the text of this chapter to OLCC in a form and manner prescribed by OLCC.

(Ord. 2015-02, passed 12-3-2015)

CHAPTER 111: PEDDLERS AND OTHER SOLICITORS

Section

- 111.01 License required
- 111.02 Definitions
- 111.03 Exceptions to application of chapter
- 111.04 License applications
- 111.05 Religious and charitable organizations; exemptions
- 111.06 Flea markets
- 111.07 Investigation and issuance; fees
- 111.08 Use of streets
- 111.09 Exhibition of license
- 111.10 Duty of police to enforce
- 111.11 ...missing material...
- 111.12 ...missing material...
- 111.13 Appeals
- 111.14 Reapplication
- 111.15 License duration

§ 111.01 LICENSE REQUIRED.

It shall be unlawful for any peddler, canvasser, solicitor or transient merchant, as defined in § 111.02 of this chapter, to engage in any such business within the city without first obtaining a license therefor in compliance with the provisions of this chapter.

(Ord. 95-04, passed 9-5-1995) Penalty, see § 10.99

§ 111.02 DEFINITIONS.

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

CANVASSER or **SOLICITOR**. Any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, which includes magazines, books, periodicals or personal property of any nature whatsoever for future delivery, or for service to be performed in the

future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he or she is collecting advance payments on such orders. Such definition shall include any person who, for himself or herself, or for another person, firm or corporation, hires, leases uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery from persons other than dealers in such articles.

FLEA MARKET. An assembly of transient merchants convened under the sponsorship of a person or organization to offer a variety of goods or services for sale to the public in an indoor or outdoor bazaar.

PEDDLER.

(1) Any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, trailer, railroad car or other vehicle of conveyance, and it is further provided that one who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a **PEDDLER**, subject to the provisions of this chapter.

(2) The word **PEDDLER** shall include the words **HAWKER** and **HUCKSTER**.

(3) It shall not include vendors of milk, bakery products, groceries or ice who distribute their products to regular customers on established routes at wholesale for the purpose of resale.

PERSON. Includes the singular and the plural and shall also mean and include any person, firm, corporation, association, club, co-partnership, society or any other organization.

TRANSIENT MERCHANT. Any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said city, and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad box car, boat or public room in hotels, lodging houses, apartments or shops, or any street, alley or other place within the city for the exhibition and sale of such goods, wares and merchandise, either privately or at a public auction; provided that, such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only from dealers in such articles. The persons or firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by

conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(Ord. 95-04, passed 9-5-1995)

§ 111.03 EXCEPTIONS TO APPLICATION OF CHAPTER.

The terms of this chapter shall not be held to include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor to the act of resident merchants or their employees in delivering such goods and performing services in a regular course of business, nor shall the terms of this chapter be held to include or apply to any producer or his or her employee selling agricultural or farm products produced from the soil of the county by said producer or his or her employee, nor shall the same apply to the selling of nursery products by the producer thereof from the soil of the county. Nothing contained in this chapter shall be held to prohibit any sale required by statute or by order of any court or to prevent any person conducting a bona fide auction sale pursuant to law. The licensing provisions of this chapter shall not apply to a transient merchant engaged in the sale of goods or services at flea market licensed under the provisions of § 111.06 of this chapter.

(Ord. 95-04, passed 9-5-1995)

§ 111.04 LICENSE APPLICATIONS.

(A) Applicants for a license under this chapter must file with the City Recorder a sworn application in writing on a form to be furnished by the City Recorder which shall give the following information:

- (1) Name and physical description of applicant;
- (2) Complete permanent home and local address of the applicant and in the case of transient merchants, the local address from which proposed sales will be made;
- (3) A brief description of the nature of the business and the goods or services to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said applications are filed, and the proposed method of delivery;
- (7) Two recent photographs of the applicant which pictures shall be approximately two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

(8) The names of at least two property owners of the county, who will certify as to the applicant's good character and business respectability or in lieu of the names of references such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor; and

(10) The last cities or towns, not to exceed three, where applicant carried on business immediately preceding date of application and the addresses, if any, from which such business was conducted in those municipalities.

(B) At the time of filing the application, a fee of \$5 shall be paid to the City Recorder to cover the cost of investigation of the facts stated therein.

(C) In lieu of an application being filed by each person, the employer of several persons may file applications for such permits for all persons employed by him or her and, upon satisfactory proof being furnished of the matters herein before set forth, such licenses or permits shall be issued to the employer for such number of persons as shall be named in the application, and such application shall set forth the names of all persons to be covered by such license; provided, however, that, the employer may make substitutions and may have the City Recorder transfer such permits or licenses from one person employed by him or her to another so employed without paying any additional fee upon furnishing the above information as to each individual in his or her employ.

(D) An applicant must have a tax identification number.
(Ord. 95-04, passed 9-5-1995)

§ 111.05 RELIGIOUS AND CHARITABLE ORGANIZATIONS; EXEMPTION.

(A) Any organization, society, association or corporation desiring to solicit or have solicited in its name, money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office of business buildings, by house to house canvass, or in public places for a charitable, religious, educational or philanthropic purpose shall be exempt from the provision of §§ 111.04, 111.07(B) and 111.08 of this chapter; provided, there is filed a sworn application in writing on a form to be furnished by the City Recorder which shall give the following information:

(1) Name and purpose of the cause for which permit is sought;

(2) Names and addresses of the officers and directors of the organization, together with a tax-exempt I.D. number;

(3) Period during which solicitation is to be carried on; and

(4) Whether or not any commissions, fees, wages or emoluments are to be expended in connection therewith.

(B) Upon being satisfied that such organization, society, association or corporation is a religious, charitable, patriotic, educational or philanthropic organization, the City Recorder shall issue a permit without charge to such organization, association, society, or corporation to solicit in the city. Such organization, association, society or corporation shall furnish all of its members, agents or representatives conducting solicitation credentials in writing stating the name of the organization, name of agent and purpose of solicitation.

(Ord. 95-04, passed 9-5-1995)

§ 111.06 FLEA MARKETS.

(A) Any person or organization conducting a flea market upon public or private property with the city shall first obtain a license to do so. Application for a flea market license shall be made in the manner provided for a transient merchant license by § 111.04 of this chapter. The application shall be endorsed as application for a license to operate a flea market. The fee shall be for each stand or merchant.

(B) Any person or organization licensed to conduct a flea market shall comply with all of the terms of this chapter pertaining to transient merchants. In addition, the licensee shall maintain a record, which contains the following information each person offering goods or services for sale at the licensed flea market:

(1) The name of the person offering goods for sale;

(2) The complete residence address of the person offering goods for sale;

(3) A general description of the goods or services offered for sale;

(4) The source of the goods offered for sale; and

(5) The birth date or vehicle operator's license number of the person offering goods or services for sale.

(C) Records maintained under division (B) above shall be exhibited to any law enforcement officer upon demand and without the requirement for a search warrant.

(D) The premises upon which any market is conducted shall be open to inspection by Fire Department personnel and law enforcement officers at all times the market is in operation without the requirement for a search warrant.

(E) Application and the licensing fees for organizations granted an exemption from licensing by § 111.05 of this chapter may be waived by the City Recorder, in the same manner as provided by § 111.05 of this chapter.

(Ord. 95-04, passed 9-5-1995)

§ 111.07 INVESTIGATION AND ISSUANCE; FEES.

(A) (1) Upon receipt of each application, it shall be referred to a deputy sheriff, who shall immediately institute such investigation of the applicant's business and moral character as he or she deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this section within 30 days after it has been filed by the applicant with the City Recorder.

(2) If, as a result of such investigation, the applicant's character and business responsibility is found to be unsatisfactory, a Deputy Sheriff shall endorse on such application his or her disapproval and his or her reasons for the same, and return the said application to the City Recorder, who shall notify the applicant that his or her application is disapproved and no license will be issued.

(3) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Deputy Sheriff shall endorse on the application his or her approval and return the application the City Recorder who shall, upon payment of the prescribed license fee, deliver to the applicant his or her license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, canvasser or solicitor or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued. The Recorder shall keep a permanent record of all licenses issued.

(B) (1) The license fees shall be established by the Council by resolution and may, in like manner, be amended or altered from time to time:

(a) Less than \$50 investment: exempt from fee;

(b) Peddlers, canvassers, solicitors: an annual fee from date of issuance in the amount of \$110 shall be charged and payable to the city for all applicants; and

(c) Transient merchants:

1. Commercial food concessionaires who wish to set up a business under this chapter: an annual fee from date of issuance in the amount of \$210 shall be charged and payable to the city for all applicants; and

2. All other concessionaires who wish to set up a business under this chapter: an annual fee from date of issuance in the amount of \$110 shall be charged and payable to the city for all applicants.

(2) The Council may prescribe separate fees for an applicant who owns property within the county which is on the tax rolls of the county who is an agent or representative of a person, firm or corporation who owns property located within the county and which is on the tax rolls of the county.

(3) The Council may prescribe separate fees for an applicant who does not own property described in division (B)(2) above or who does not act as a agent or representative for any person, firm or corporation owning property as described in division (B)(2) above and separate fees for such a person who makes sales upon any street or within the street area with or without the use of any vehicle.

(4) None of the license fees provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he or she may apply to the City Council for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair to such commerce. Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume of business and such other information as the City Council may deem necessary in order to determine the extent, if any, of undue burden on such commerce. The City Council shall then conduct an investigation comparing the applicant's business with other businesses of like nature and shall make findings of fact from which it shall determine whether the fee fixed by this chapter is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and non-discriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the City Recorder shall have the power to use any method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as established by the Council.

(5) Where the employer takes out the license or permit, he or she shall pay a fee equal to one-half the fee that would be required for the same number of persons under the above provisions of this chapter; provided that, fee shall not be less than \$10.

(Ord. 95-04, passed 9-5-1995)

§ 111.08 USE OF STREETS.

No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a Deputy Sheriff or peace officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

(Ord. 95-04, passed 9-5-1995)

§ 111.09 EXHIBITION OF LICENSE.

Licensees are required to exhibit their certificates of license at the request of any citizen.
(Ord. 95-04, passed 9-5-1995)

§ 111.10 DUTY OF POLICE TO ENFORCE.

It shall be the duty of the Deputy Sheriff or city police, as the case may be, to require any peddler, solicitor, canvasser or transient merchant who is not known by such officer to be duly **...missing material...**
(Ord. 95-04, passed 9-5-1995)

§ 111.11 ...MISSING MATERIAL...

(Ord. 95-04, passed 9-5-1995)

§ 111.12 ...MISSING MATERIAL...

(Ord. 95-04, passed 9-5-1995)

§ 111.13 APPEALS.

(A) Any person aggrieved by the action of the City Recorder in the denial of a permit or license as provided in § 111.07(A) of this chapter or in the action of the City Recorder in the assessing of the fee as provided in § 111.07(B) of this chapter shall have the right to appeal to the City Council.

(B) Such appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal.

(C) The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in § 111.12(B) of this chapter for notice of hearing on revocation.
(Ord. 95-04, passed 9-5-1995)

§ 111.14 REAPPLICATION.

No licensee whose license has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous revocation.
(Ord. 95-04, passed 9-5-1995)

§ 111.15 LICENSE DURATION.

All annual licenses issued under the provisions of this chapter shall expire on June 30 in the fiscal year issued and those other than annual licenses shall expire on the dates specified on the face of the license. No investigation fee shall be required and none of the above information need be furnished on applications for renewals of existing licenses.

(Ord. 95-04, passed 9-5-1995)

CHAPTER 112: SOCIAL GAMES

Section

- 112.01 Adoption of state statutes
- 112.02 License required
- 112.03 Revocation of license
- 112.04 Violation

§ 112.01 ADOPTION OF STATE STATUTES.

The city hereby adopts the provisions of state statutes and elects thereby to allow social games, as defined by the statutes, to be played in private businesses, private clubs and places of public accommodation.

(Ord. 94-13, passed 12-16-1994)

§ 112.02 LICENSE REQUIRED.

(A) Each private business, private club or place of public accommodation wishing to allow such social games to be played upon its premises shall first obtain from the City Recorder a license authorizing such social games, and shall pay the city a fee set by resolution.

(B) A license shall be prominently displayed in the licensee's place of business.

(C) Such license shall be issued for a period of 12 months from the date of issue and may be renewed annually on the anniversary date thereof upon payment of the applicable fee.

(Ord. 94-13, passed 12-16-1994)

§ 112.03 REVOCATION OF LICENSE.

Any license issued pursuant to this chapter may be revoked by the City Council for failure of the applicant to pay the license fee, as herein provided, upon the anniversary date thereof; and such license may be revoked upon conviction of the licensee, its owner, operator, manager or employee of any violation of the gambling laws of the state.

(Ord. 94-13, passed 12-16-1994)

§ 112.04 VIOLATION.

The penalties for violation of this chapter shall be set by resolution by the City Council.
(Ord. 94-13, passed 12-16-1994)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Crime of hatred
- 130.02 Noise control
- 130.03 Firearms and weapons; discharge

- 130.99 Penalty

§ 130.01 CRIME OF HATRED.

The City Council hereby condemns and denounces crimes of hatred and any other such crimes, and will provide cooperation to police authorities to capture and punish those responsible. Furthermore, the city will not tolerate any such crimes against its citizens.

(Res. 2008-16, passed 7-10-2008)

§ 130.02 NOISE CONTROL.

(A) *Findings.* Certain activities essential to the economic social and health environment of the citizens of the city necessarily require the production of sounds that may offend, disrupt, intrude or otherwise create hardship among the citizenry. The time or manner of sound may constitute a hazard to the health, safety, welfare and quality of life of residents of the city.

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

EXTERNAL NOISE. Noise caused outside the premises (such as, but not limited to, voices and automobile noise).

INTERNAL NOISE. Noise within the premises (such as, but not limited to, music from bands or loud radios).

(C) *Policy.* The Council has determined it necessary to control and abate noises which unreasonably annoy, disturb, injure or endanger the comfort, repose, health, peace, safety and welfare of the people of the city. Therefore, the following shall apply.

Joseph - General Offenses

(1) *Residential Zone*. No person may produce or permit to be produced, noise as described in policy, between the hours of 10:00 p.m. and 7:00 a.m.

(2) *Commercial Zone*. No person may produce, or permit to be produced, noise, as described in policy, between the hours of 11:00 p.m. and 7:00 a.m.

(D) *Exemptions*. The following are exempted from this policy:

(1) Emergency services;

(2) Public works equipment; and

(3) Garbage collection.

(Ord. 2002-03, passed 9-3-2002) Penalty, see § 130.99

§ 130.03 FIREARMS AND WEAPONS; DISCHARGE.

(A) *Discharge of weapons*.

(1) It is unlawful for any person to discharge or fire a weapon within the incorporated limits of the city, except under agreement or special regulations of the Common Council.

(2) For the purpose of this division (A), **WEAPONS** means any instrument with the ability of discharging a projectile, including, but not limited to, firearms, pellet guns, BB guns, bow and arrows and slingshots, and with the capability of injuring any person or property.

(3) Nothing in this division (A) is designed to prohibit a person from the lawful protection of himself or herself or the lawful protection of his or her property, family or others by use of such weapons.

(B) *Carrying firearms in liquor establishments*.

(1) No person within the corporate limits of the city shall possess, carry or have within his or her control a firearm (whether loaded or unloaded) while on the premises of any business or establishment which sell or dispense liquor or alcoholic beverages to the public.

(2) Nothing in this division (B) shall prohibit law enforcement officers or the owner (or his or her employees or agents) of such business or establishment selling or dispensing liquor or alcoholic beverage from carrying, possessing or having located on such premises a firearm...missing text...
(Ord. 81-5, passed - -) Penalty, see § 130.99

§ 130.99 PENALTY.

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

(B) A first offense for a violation of § 130.02 of this chapter shall be punished by a fine not to exceed \$50. Any repeat violation by the same individual shall be \$250.

(C) (1) Violations of § 130.03(A) of this chapter shall be punishable as a Class B misdemeanor, as defined in the revised statutes for the state.

(2) Violations of § 130.03(B) of this chapter shall be punishable as a Class A misdemeanor, as defined in the revised statutes for the state.

(Ord. 81-5, passed - -; Ord. 2002-03, passed 9-3-2002; Res. 2002-13, passed 9-3-2002)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS; CONSTRUCTION**
- 151. STREETS AND SIDEWALKS; SIGNS**
- 152. ANNEXATIONS POLICY AND PROCEDURE**
- 153. FLOOD DAMAGE PREVENTION**
- 154. SUBDIVISIONS**
- 155. LAND USE PLAN**
- 156. ZONING**
- 157. COMPREHENSIVE PLAN**

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

Dangerous Buildings and Structures

- 150.01 Definitions
- 150.02 Notice
- 150.03 Hearing
- 150.04 Abatement
- 150.05 Assessment
- 150.06 Declaration of nuisance

- 150.99 Penalty

DANGEROUS BUILDINGS AND STRUCTURES

§ 150.01 DEFINITIONS.

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

DANGEROUS BUILDING.

(1) Any building or other structure which, for the want of proper repairs or by reason of age and dilapidated condition or by reason of poorly installed electrical wiring or equipment, defective chimney, defective heating apparatus or for any other cause or reason is especially liable to fire and which building or structure is so situated or occupied as to endanger any other building or property or human life.

(2) Said term shall also mean and include any building or structure containing any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind, especially liable to cause fire or danger to the safety of such premises or to human life.

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(3) Said term shall also mean and include any building or structure which shall be kept or maintained or shall be in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases.

(4) Said term shall also mean and include any building or structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse thereof.

PERSON. Any person or persons, firm or firms, corporation or corporations.
(Ord. 94-14, passed 12-16-1994)

§ 150.02 NOTICE.

Whenever the Mayor, Police, City Attorney, Fire Chief, Health Officer or any Council member shall find or be of the opinion that there is a dangerous building in the city, it shall be the duty of such person to report the same to the City Council. Thereupon, the City Council shall, within a reasonable time, fix a time and place for a public hearing thereon. Notice shall be mailed to the owner on record of the premises whereon said building is located, by the City Recorder, notifying said owner in general terms that a hearing will be held concerning said property and the time and place thereof.

(Ord. 94-14, passed 12-16-1994)

§ 150.03 HEARING.

(A) At said time and place, as specified by notice, or at such other time or times, or place or places, as the Council may adjourn to, said hearing shall be held, and the Council shall determine by resolution whether or not said building is dangerous. The Council may, as a part of said hearing, inspect said building and be considered by it in determining whether or not said building is dangerous. At said hearing, the owner or other person interested in said property or building shall have the right to be heard, if such owner or person requests the same.

(B) (1) Ten days' notice of any such hearing shall be given by publication in some newspaper circulated in the city, or by posting notices thereof in three public places in said city, and if the last mentioned notice be published or given as herein required, no irregularity or failure to mail notices shall invalidate the proceedings.

(2) At such hearing, the Council shall have the power to order any building declared to be dangerous, removed or abated if, in its judgment, such removal or abatement is necessary in order to remove said dangerous condition or if the Council shall have the power to order said building made safe.

(Ord. 94-14, passed 12-16-1994)

§ 150.04 ABATEMENT.

(A) Notice of said findings and of any orders made by the Council, including the time period in which the owner of said building or structure must bring the same into compliance, shall be given to the owner of said building or structure, his or her agent or other person controlling the same.

(B) If said orders are not obeyed and said building or structure not rendered safe within the time specified in said order, then the Council shall have the power and duty to order said building or structure removed or made safe at the expense of the owner of the property on which the same may be situated.

(C) In the event that the Council must order the work to be done on said building or structure, the Council must specify with convenient certainty the work to be done and shall file a statement thereof with the Recorder, and shall advertise for bids for the doing of said work in the manner provided for advertising for bids and, thereafter, said bids shall be received, opened and contract let.

(Ord. 94-14, passed 12-16-1994)

§ 150.05 ASSESSMENT.

(A) The Council shall ascertain and determine the probable cost of said work, plus administrative costs, and assess the same against the property upon which said building is situated. Said assessment shall be declared as provided by ordinance, and it shall be entered in the docket of city liens and shall, thereupon, be and become a lien against said property.

(B) The creation of said lien and the collection and enforcement of said cost shall all be done and performed in substantially the same manner as in the case of the cost of sidewalks or street improvements, but irregularities or informalities in the procedure shall be disregarded.

(Ord. 94-14, passed 12-16-1994)

§ 150.06 DECLARATION OF NUISANCE.

Every building or part thereof which shall hereafter be found by the Council to be a dangerous building is hereby declared to be a public nuisance, and the same may be abated either summarily or the procedure hereinabove specified may be followed, or a suit for abatement thereof may be brought by the city in the Circuit Court of the county.

(Ord. 94-14, passed 12-16-1994)

§ 150.99 PENALTY.

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

(B) Any person who shall be the owner of, or shall be in possession of, or in responsible charge of any dangerous building within the city, and who shall permit any such building to be or remain dangerous or fail to respond within ten days after receipt of notice, as provided herein, shall be guilty of a violation of §§ 150.01 through 150.06 of this chapter and shall, upon conviction, be fined or imprisoned or both as set by resolution.

(Ord. 94-14, passed 12-16-1994)

CHAPTER 151: STREETS AND SIDEWALKS; SIGNS

Section

Sidewalk and Sign Policy

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SIDEWALK AND SIGN POLICY**§ 151.01 PURPOSE.**

(A) Regulations governing signs are established: to ensure the safe construction, erection and maintenance of signs; to protect the safety, property and welfare of the public; and to provide uniform standards for all sign users and commercial or business use of sidewalks.

(B) The city encourages a clean and orderly appearance to buildings and property and a western motif, whenever possible.

(Ord. 2018-04, passed 9-23-2019)

§ 151.02 DEFINITIONS.

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

ABANDONED SIGN. Any sign which advertises or represents an activity, business, product or service which has been discontinued.

AWNING. A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for supporting framework.

CANOPY. A non-movable roof-like structure attached to a building.

SIGN. A device, structure or fixture which incorporates graphics, symbols or written copy visible to the public that is intended to communicate information.

(1) ***BENCH SIGN.*** Any sign located on any part of the surface of a bench or seat located in or adjacent to the public right-of-way.

(2) **ILLUMINATED SIGN.** Any sign internally illuminated in any manner by an artificial light source.

(3) **NON-CONFORMING SIGN.** Any sign that does not meet the standards of this subchapter.

(4) **OVERHANGING SIGN.** A sign that directly or indirectly extends from a building or other structure or improvement on private property, over a public right-of-way or public property, including without limitation intended, signs hanging from awnings or canopies which extend over a public right-of-way and signs extending from the front of a building over a public sidewalk.

(5) **PORTABLE SIGN.** A sign that is capable of being moved easily and is not affixed to the ground or a structure.

(Ord. 2018-04, passed 9-23-2019)

§ 151.03 INSTALLATION.

(A) The installation of all signs shall be in compliance with the state's Structural Code in effect at time of installation.

(B) No signs shall be located in such a way as to prevent free ingress from any door, window or fire escape as required by law.

(Ord. 2018-04, passed 9-23-2019) Penalty, see § 151.99

§ 151.04 MAINTENANCE.

All signs, including their supports, braces, guys and anchors shall be kept in good repair and be maintained in a safe condition. Signs shall be kept free of corrosion, peeling or faded paint and other surface deterioration. Illuminated signs shall function properly.

(Ord. 2018-04, passed 9-23-2019)

§ 151.05 PROHIBITED SIGNS.

The following signs are prohibited:

(A) Any sign that obstructs the clear vision of any motor vehicle operator;

(B) Any sign that interferes with, misleads, disrupts or confuses any motor vehicle operator, such as signs that contain the words "stop", "look" or "danger";

(C) Any sign that impedes travel on any pedestrian or vehicular travel surface;

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(D) (1) Any sign with flashing, moving or animated lights, letters or visuals, except athletic score boards. Exception: signs that flash or move will be allowed on auxiliary (side) streets and businesses that set back at least ten feet from the adjoining public right-of-way, (for example in shops in malls); provided, the signs are turned off not later than the earlier of the close of business or 9:00 p.m. and do not operate on any day when the use described on the sign is inoperative.

(2) Lights must be directed to face the Commercial Zone and backed so that they do not encroach the Residential Zone. These signs must comply with exception of division (A) above.

(E) Portable signs within the public right-of-way.

(1) No signs shall be placed within the public right-of-way, except:

(a) One freestanding sandwich board sign shall be permitted in the public right-of-way to advertise community interest events sponsored by public or non-profit entities, during the period which begins six hours before the applicable event begins and ends at the conclusion of the event or if the event continues for more than one day, at the conclusion of the portion of the event conducted each day;

(b) One freestanding sandwich board sign shall be permitted in the public right-of-way to advertise a lawful use conducted in a building immediately adjacent to such a portion of the public right-of-way, during any period of time the use is actual in operation.

(2) Despite any other provisions of divisions (E)(1)(a) and (E)(1)(b) above to the contrary:

(a) No sign shall be placed or maintained in the public right-of-way between the period beginning one-half hour before sunset and one-half hour after sunrise;

(b) No sign shall be placed or maintained in the public right-of-way if there will remain less than five feet of unobstructed width in the immediately adjacent public sidewalk, or if the sign will obstruct any fire hydrant, access ramp or other site specific public improvement of any nature;

(c) No sign placed or maintained under divisions (E)(1)(a) and (E)(1)(b) above shall be more than 48 inches from the highest surface of the public right-of-way to the highest point of the sign, nor be more than 36 inches wide; and

(d) No sign shall be permitted under divisions (E)(1)(a) and (E)(1)(b) above unless professionally prepared.

(F) Abandoned signs must be removed within 60 days of closure or relocation of business. Exception: a sign in compliance with this subchapter in every other manner may remain in place if the business name is for sale along with the business at the signage location;

(G) No bench signs shall be permitted in any public right-of-way, except on benches authorized by the city in writing. Authorization to place a bench within any public right-of-way shall be month-to-month and shall never be authorized if placement of the bench would leave less than five feet if unobstructed width on the immediately adjacent public sidewalk. Any authorization granted under this division (G) shall be limited to a specific location;

(H) Signs which extend above the lowest point of the roof of the building to which they are attached. Exception: signs may extend above the lowest point of the roof of the building to which they are attached so long as the highest point of the sign does not exceed the lessor of:

(1) The maximum building height permitted under Ch. 156 of this code of ordinances or other governing law; or

(2) Sixteen inches above the lowest point of the roof of the building to which the sign is attached.

(I) Overhanging signs which are less than eight feet vertically from the surface of the public right-of-way or which extend more than six feet over the public right-of-way. Exceptions are:

(1) Commemorative plaques are allowed on city-sanctioned artwork;

(2) Lawful uses conducted in building fronting auxiliary streets (those streets which are not state highway and which are oriented in an east-westerly fashion) are allowed one overhanging sign that meets all of the following requirements:

(a) The sign is safely and securely attached to structure (or other foundation) located outside the public right-of-way;

(b) The sign is not supported by any vertical supports located within the public right-of-way;

(c) The sign has a minimum vertical clearance of seven feet over the public right-of-way or walkway;

(d) The sign does not block the visibility of traffic control signs to motorists;

(e) The sign does not extend (overhang) more than six feet into the public right-of-way;

(f) No more than 18 square feet of any otherwise allowable perpendicular sign shall extend (overhang) the public right-of-way; and

(g) The sign is the only overhanging sign for the business at the signage location.

(3) Lawful uses conducted in building adjoining the state right-of-way, may erect and maintain a freestanding sign in any space between the property line and the adjoining public sidewalk, which shall not overhang the sidewalk, nor be closer than 12 inches from the perimeter of the public sidewalk closest to the property line; and

(4) The city may revoke the authorization to erect and maintain a sign under division (I)(3) above on any reasonable grounds on 60 days' prior notice to the owner of the applicable building. (Ord. 2018-04, passed 9-23-2019)

§ 151.06 OTHER PROHIBITIONS.

(A) Merchandise for sale, including, but not restricted or limited to, tables, chairs and benches shall be allowed as long as the minimum of five feet of unobstructed walkway is maintained. Merchandise must be displayed and sold in a manner which shall ensure five feet of unobstructed public sidewalk is maintained at all times. Any display or sale of merchandise which directly or indirectly reduces the unobstructed portion of the public sidewalk to less than five feet must immediately suspend operations for so long as such effect continues. The provisions of this division (A) shall be applicable solely within the Commercial Zone. Merchandise must abut owner's property line. All aforementioned items shall be stable and safe. All such items must be removed at the end of each business day.

(B) No permanent items shall be placed in the public right-of-way. Exceptions: benches are allowed as long as they conform to § 151.05(G) of this chapter.

(C) Banners, windsocks, "open" flags, federal, state and county flags may be displayed; provided that, exception:

(1) No part of the flag or its support structure hangs less than seven feet above the public walkway;

(2) It is no closer than four feet to a vertical line extended from the curb or edge of the traveled portion of the public right-of-way; and

(3) All flags, banners, windsocks and the like must be taken down at the close of each business day. Unless lights are provided and proper "flag etiquette" is observed for the federal, state and county flags.

(D) Flower or plant containers, decorative items and seasonal decorations are allowed; provided that:

(1) The item is attached to or abuts the business property displaying the item; and

(2) The item allows a minimum of five feet of unobstructed right-of-way.

(E) No signs shall be placed in the planter boxes.

(F) All umbrella or shade-like devices is prohibited on all sidewalks, public walkways and flowerboxes at all times. This does not pertain to awnings permanently attached to buildings.
(Ord. 2018-04, passed 9-23-2019)

§ 151.07 DAMAGE AND INJURY; RESPONSIBILITY.

(A) Each person and entity which places or maintains a sign, improvement, merchandise or other item authorized by this subchapter, shall:

(1) Be solely responsible for the safety of all persons and property which might be injured, killed or damaged as a result of thereof;

(2) Be solely responsible for the compliance with all applicable law (including all codes); and

(3) Indemnify, defend and hold the city, its councilors and employees harmless from all liabilities, damages, costs and expenses, including reasonable attorneys' fees, incurred by the city and arising out of any such sign, improvement, merchandise or other item.

(B) A certificate evidencing such insurance coverage shall be provided to the City Recorder prior to the placement of any sign, bench, table, chair or merchandise within a public right-of-way.
(Ord. 2018-04, passed 9-23-2019)

§ 151.08 PERMIT REQUIREMENTS; APPLICATIONS AND FEES.

(A) Any person who complies with the provisions of this subchapter and is issued a permit hereunder is authorized to place personal property or merchandise upon the sidewalk pursuant to the permit terms and conditions. Each permit shall be effective for one year, starting July 1 of each year and is subject to annual renewal and immediate revocation if any of the terms and conditions of the permit is breached.

(B) The use of a sidewalk is the sidewalk area found directly in front of an establishment and remains within the width of the business itself.

(C) A permit is required for any/all sidewalk use or operations. Furthermore, the use of the sidewalk to display merchandise is a privilege and not a right. Any person who violates the conditions of this subchapter and/or the permit shall be subject to having said permit revoked. Should a violation occur, notice shall be given to the permittee and a hearing held with notice by the City Council with respect to the violations(s).

(D) Anyone desiring to place personal property or merchandise upon the sidewalk must apply for a permit at City Hall on forms provided by the City Administrator. Such application shall include, but not be limited to, the following information:

(1) Name, address, telephone number and form of business of the applicant;

(2) The written consent of the property owner owning the real property immediately adjacent to the sidewalk area subject to the application; and

(3) A copy of the applicant's commercial general liability insurance from one or more U.S. domiciled insurance companies licensed to do business in the state which provides coverage for bodily injury, personal injury and property damage liability in the amount of at least \$1,000,000 for each occurrence and \$2,000,000 in the aggregate and naming the city, its councilors and employees as an additional insured.

(E) Such annual permit is not transferrable or assumable.

(F) Permit fees shall be annual and be determined by the City Council and shall be set forth by Council resolution.

(Ord. 2018-04, passed 9-23-2019)

§ 151.09 VIOLATIONS.

(A) Any person who violates the provisions of this subchapter shall be guilty of a violation.

(B) If a person violates the provisions of this subchapter ("violator"), the city shall mail written notice briefly describing the violation ("notice of violation") to the last mailing address of the violator known to the city by first class mail and the violator shall have ten days after the date such notice is mailed ("cure period"), to cure the violation; provided, however, that, there shall be no requirement the city mail notice of violation and there shall be no grace period if either:

(1) The violation is deemed by the city to create a hazard to human life or safety or if the sign, merchandise or other use of the sidewalks or public walkways violates this ordinance is located within any public right-of-way or public property; or

(2) The violator was given notice by the city during the preceding 12 months of the same or any similar violation of this subchapter.

(C) If a sign is erected or maintained or if merchandise is displayed or other use is in violation of this subchapter, then the city shall have the right, but not the obligation to remove the sign erected or maintained or merchandise displayed or other use in violation of this subchapter after the expiration of any applicable cure period.

(D) Each day a sign erected or maintained or merchandise is displayed in violation of this subchapter shall be a separate violation.

(E) Each violator shall in addition to any fine which may be imposed for each day a violation of this subchapter occurs, shall be liable for payment of all costs, expenses and liabilities incurred by the city arising out of such violation, including the City Attorney's fees.
(Ord. 2018-04, passed 9-23-2019)

STREET STANDARDS

§ 151.20 CONSTRUCTION; REQUIREMENTS.

(A) (1) Excavate, remove all vegetation, scarify to minimum depth of 12 inches and compact the sub-grade to a non-yielding condition.

(2) A visual inspection by the city will need to be performed prior to completing additional work; this inspection includes the witnessing of moving load deflection test that is performed by the contractor.

(3) In saturated sub-grade areas or other areas where the soil type is generally top soil or silt (without native cobbles or gravel), a geotextile fabric may need to be installed before placing the aggregate base rock. Use Mirafi HP270 or Mirafi 600x or approved equal geotextile fabric.

(B) (1) Eight inches of compacted one and one-half inches minus dense graded aggregate base rock.

(2) A five-gallon sample of one and one-half inch base rock shall be delivered to the city for visual inspection and rejection/approval prior to the installation of the base rock.

(3) If the rock installed differs from the rock in the five-gallon sample, the city may request the installed rock be removed and replaced at the sole expense of the contractor.

(C) (1) Four inches of compacted three-fourths inch minus dense graded aggregate gravel base.

(2) A five-gallon of three-fourths inch gravel base shall be delivered to the city for visual inspection and rejection/approval prior to the installation of the base rock.

(3) If the rock installed differs from the rock in the five-gallon sample, the city may request the installed rock be removed and replaced at the sole expense of the contractor.

(D) (1) Four inches of one-half inch dense minor hot mix asphalt (MHMAC) meeting ODOT Standard Specification § 00744.

(2) Install in two lifts of two inches each (a base course and the wearing surface).

(3) The contractor shall hire a testing company to provide compaction tests for the asphalt during installation.

(4) Minimum compaction shall be 91 % for the base course and 92 % for the wearing course.

(5) The contractor shall deliver test results within 24 hours of placing the asphalt.

(6) Asphalt failing the compaction test may be requested to be removed and replaced at the sole expense of the contractor.

(E) Slope and crown to be determined by the geography of the existing street or terrain.

(F) Minimum roadway surface shall be 24 feet (two 12-foot travel lanes) with a two-foot gravel shoulder on each side (28 feet total width). Additional width may be needed for parallel parking, diagonal parking, bike lanes or paths depending on the location of the roadway.

(G) (1) Sidewalks may be necessary to install as determined by city staff. Sidewalks shall be a minimum of five-foot wide and include ADA ramps (including truncated domes) at side street intersections.

(2) ADA considerations shall be made where the sidewalk crosses a driveway in order to maintain a minimum of 36 inches wide accessible route across the driveway.

(Res. 2012-05, passed 3-1-2012)

§ 151.21 TESTING REQUIREMENTS.

(A) (1) Each compacted layer will be observed for deflection or reaction under moving loaded equipment to verify that no soft or pumping areas remain in any layer or foundation soil.

(2) Correct any such areas.

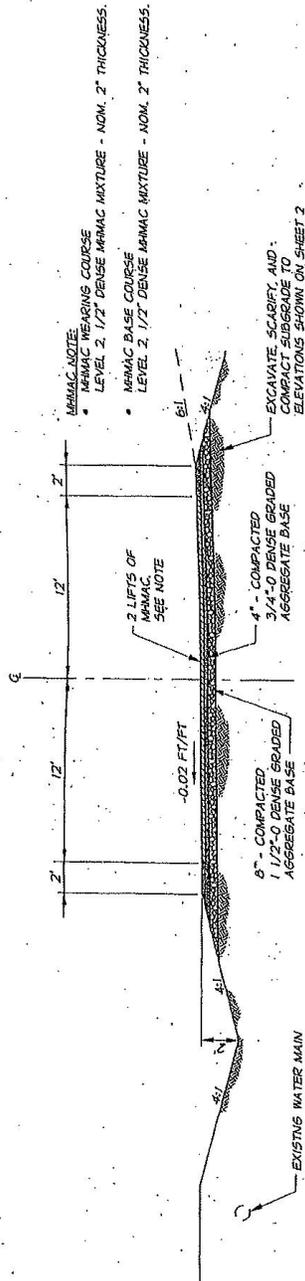
(3) Equipment to be used for testing will be large heavy equipment loaded to maximum GVW.

(B) (1) If the city feels that the aggregate layers are inadequately compacted or inadequately tested or not witnessed, the city may order actual tests including a proctor lab sample to determine the maximum compactable density of the material in addition to nuclear gauge compaction tests of the area in question.

(2) The cost of the ordered tests will be the responsibility of the contractor.

(Res. 2012-05, passed 3-1-2012)

§ 151.22 TYPICAL STREET SECTION.



TYPICAL STREET SECTION

LEGEND

EXISTING	PROPOSED
R/W LINE	DITCH CENTERLINE
FENCE	CATCH LINE
EDGE OF GRAVEL	EDGE OF AC PAVEMENT
WATER LINE	PROPOSED ASPHALT
UNDERGROUND POWER	PROPOSED SIGN
EDGE OF AC PAVEMENT	
ASPHALT	
BUILDING	
CATCH BASIN	
WATER VALVE	
POWER POLE	
CONTROL POINT	
CENTERLINE MONUMENT	
WATER METER	
FIRE HYDRANT	
SIGN	
TRANSFORMER	

(Res. 2012-05, passed 3-1-2012)

SIDEWALKS**§ 151.35 DEFINITIONS.**

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

CITY SUPERINTENDENT OF PUBLIC WORKS. The City Superintendent or any other duly authorized agent.

PERSON. Any actual person or persons, firm or firms, corporation or corporations or other legal entity.

SIDEWALK. The part of the street right-of-way between the curb lines or the lateral lines of a roadway and the adjacent property line that is intended for the use of pedestrians.
(Ord. 94-16, passed 12-16-1994)

§ 151.36 DUTY TO REPAIR AND CLEAR.

It is the duty of the owner or occupant of the land adjoining a street to maintain in good repair and remove obstructions from the adjacent sidewalk.
(Ord. 94-16, passed 12-16-1994)

§ 151.37 LIABILITY FOR SIDEWALK INJURIES.

(A) The owner of real property is responsible for maintaining the adjacent sidewalk and shall be primarily liable to any person injured because of any negligence of such owner in failing to maintain the sidewalk in good condition.

(B) If the city is required to pay damages for an injury to person or property caused by the failure of a person to perform the duty which this section imposes, that person shall compensate the city for the amount of the damages thus paid. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.
(Ord. 94-16, passed 12-16-1994)

§ 151.38 STANDARDS AND SPECIFICATIONS.

Sidewalks shall be constructed, altered and repaired in accordance with standards and specifications established by the City Council and on file in the City Hall. The width and grade of the sidewalk shall

depend upon the zone and the grade of adjacent property in accordance with the specifications filed in the City Hall.

(Ord. 94-16, passed 12-16-1994)

§ 151.39 SUBMISSION OF PLANS.

No person shall construct, alter or repair a sidewalk without first submitting the plans and specifications for the proposed work to the Superintendent of Public Works and obtaining approval. After determining that the proposed work conforms to the applicable city standards and specifications established hereunder and the city regulations in effect at the time of construction of the sidewalks, the Superintendent of Public Works shall give approval for the proposed work.

(Ord. 94-16, passed 12-16-1994)

§ 151.40 SUPERVISION OF WORK.

The construction, alteration or repair of sidewalks shall be under the supervision of the Superintendent of Public Works who may inspect any material and construction details as, in his or her judgment, may be necessary to insure compliance with applicable standards and specifications.

(Ord. 94-16, passed 12-16-1994)

§ 151.41 REQUIRED REPAIRS.

(A) When the City Council determines that a sidewalk needs repair, it shall direct the City Recorder to issue a notice to the owner of the property abutting said sidewalk.

(B) The notice shall require the owner of the property adjacent to the defective sidewalk to repair the sidewalk within 90 days or agreed upon time after service of the notice. The notice shall also state that if the repair is not made by the owner, the city may repair the sidewalk and the cost of repair will be assessed against the property adjacent to the sidewalk.

(C) (1) The City Recorder shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the defective sidewalk or the notice may be served by registered mail, return receipt requested.

(2) If, after diligent search, the owner is not discovered, the City Recorder shall cause a copy of the notice to be posted in a conspicuous place at each end of the area to be repaired on the property abutting the sidewalk, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.

(D) The person serving notice shall file with the Recorder a statement stating the time, place and manner of service of notice.

(Ord. 94-16, passed 12-16-1994)

§ 151.42 CITY MAY ALTER OR REPAIR; ASSESSMENT.

(A) If repair of the sidewalk is not completed within 90 days or an agreed upon time, after service of the notice to repair, the City Recorder shall cause the Street Department of the city to repair or complete the repair of the sidewalk, the City Superintendent shall submit a report to the City Council. The report shall contain an itemized statement of the cost of repair and the proportionate share of the cost on each lot or parcel of land adjacent to the sidewalk upon which repair has been made.

(B) Upon receipt of the report the City Council shall assess the cost of repairing the sidewalk against the property adjacent to the repaired sidewalk. The assessment shall be a lien against the property and may be collected in the same manner as provided for the collection of street improvement assessments.

(Ord. 94-16, passed 12-16-1994)

§ 151.43 CONSTRUCTION.

(A) The cost of constructing a sidewalk shall be borne by the owner of the property which the sidewalk abuts.

(B) If a property owner petitions the City Council for an order to build the sidewalk on the part of the street abutting the property, the owner agrees to pay cash or make application to pay the cost in installments as provided in the Bancroft Bonding Act (ORS 223.205 to 223.290).

(C) The City Council may order the construction of the requested improvement if, in its judgment, improvement should be made and may order the method of financing to be used.

(Ord. 94-16, passed 12-16-1994)

§ 151.44 PROHIBITED ACTIVITIES OR USES.

(A) Any activity or use which might obstruct or otherwise impede the normal passage of pedestrians on the sidewalk shall be prohibited. Such activities or uses shall include, but not be limited to, the following:

- (1) Parking a motor vehicle on or over any portion of the sidewalk;
- (2) Dumping or depositing or placing any refuse, leaves or snow upon the sidewalk;

(3) The sale or display of merchandise on or near a sidewalk in such a way that the merchandise or prospective buyers might impede or obstruct the passage of pedestrians; and

(4) The use of trees, brush or other plants in such a way that any part of the plant growing on or over the sidewalk might impede or obstruct the passage of pedestrians or interfere with any utility line (sewer, water, telephone, television cable, gas transmission line, electrical line) or with street cleaning, paving or maintenance of the abutting street.

(B) Any activity or use which would impede vision clearance at street intersections or driveways shall be prohibited.

(C) The use of motorized vehicles, horse-drawn vehicles or horses on any sidewalk is prohibited, except where sidewalks must be crossed in order to gain access to a driveway, road, street, alley or parking area. Non-motorized vehicles may be used on the sidewalks for normal passage where the ordinances of the city permit. Any vehicle used on the sidewalk shall not be operated in such a manner as to impede, create a hazard or prevent the normal passage of pedestrians. Motorized wheel chairs and snow removal equipment are not prohibited.

(Ord. 94-16, passed 12-16-1994) Penalty, see § 151.99

§ 151.45 SNOW AND ICE REMOVAL.

No owner or person in charge of property, improved or unimproved, abutting a public sidewalk shall permit:

(A) Snow, to remain on the sidewalk for a period longer than the first two hours of daylight on business days after the snow has fallen;

(B) Ice to remain on the sidewalk for more than two hours, of daylight on business days after ice has formed, unless the ice is covered with sand, ashes or other suitable material to ensure safe travel;

(C) In the event the property owner shall fail to remove any ice or snow from their sidewalks, and the same becomes hazardous in the opinion of the Street Department for the city, the city may remove such snow and ice or cause the same to be removed and charge the cost of removal to the owner of the property abutting said sidewalk; and

(D) (1) In areas where the buildings abut the sidewalk, snow or ice shall be placed on the three-foot area of the sidewalk adjacent to the curb.

(2) No ice or snow shall be placed on the street or in the gutter where it can block run off water or impede traffic.

(Ord. 94-16, passed 12-16-1994) Penalty, see § 151.99

§ 151.46 EXCAVATIONS.

Every person owning, controlling or in possession of any premises abutting a street, which said premises have an excavation therein, shall, at his or her own expense, erect a suitable barricade upon the inner line of the sidewalk in front of such premises.

(Ord. 94-16, passed 12-16-1994)

§ 151.47 SIDEWALKS REQUIRED IN COMMERCIAL ZONES.

(A) (1) Concurrent with the issuance of the building permit, and as a part thereof, for construction of a dwelling or business structure or an addition to a dwelling or business structure, the value of which is \$5,000 or more except for structures within the industrial or Residential Zone, the owner, builder or contractor shall obtain a sidewalk construction permit for the construction of a sidewalk within the dedicated right-of-way for the full frontage on which a sidewalk in good repair does not exist.

(2) The sidewalk construction shall be completed within the building construction period or within one year after the sidewalk permit is issued, whichever is the lesser.

(B) The City Recorder may issue a permit and certificate allowing non-compliance of the provisions of division (A) above to the owner, builder or contractor when, in his or her opinion, the construction of the sidewalk is impractical for one or more of the following reasons:

(1) Sidewalk grades have not and cannot be established for the property in question within a reasonable period of time;

(2) Future installation of public utilities or street paving which would out of necessity cause severe damage to the sidewalk; and

(3) Right-of-way would not be sufficient to accommodate the sidewalk on one or both sides of the street.

(C) If the owner, builder or contractor considers the construction of a sidewalk impractical for any reason other than those listed in division (B) above, the City Council shall recommend whether a permit or certificate of non-compliance shall be or shall not be granted, and the City Council may grant a permit and certificate of non-compliance.

(D) If a sidewalk is not constructed within the time required for these sections, then the city may construct it for the full street frontage in front of the property and proceed with the construction assessment and collection of costs.

(Ord. 94-16, passed 12-16-1994)

EXCAVATIONS

§ 151.60 UNLAWFUL BEHAVIOR.

It shall be unlawful for any person, persons, company or corporation to dig trenches, make excavations or embankments or lay any pipe or wires of any kind in any street, alley, road or public way within the corporate limits of the city without first receiving permission from the City Superintendent or duly authorized agent.

(Ord. 94-12, passed 12-16-1994) Penalty, see § 151.99

§ 151.61 WORK PERFORMED BY LICENSED AND BONDED CONTRACTOR.

The work can be performed only by a licensed and bonded contractor.

(Ord. 94-12, passed 12-16-1994)

§ 151.62 LIABILITY.

Any person or contractor performing any kind of excavation on any street, alley, road or public way within the corporate limits of the city will be held liable for any damage, including, but not limited to, any water or sewer pipes or road or public right-of-way.

(Ord. 94-12, passed 12-16-1994)

§ 151.99 PENALTY.

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

(B) Any person who shall continue any violation of §§ 151.01 through 151.09 of this chapter, beyond the time set, shall be charged with a violation and upon conviction thereof, shall be fined in an amount to be established by resolution of the City Council. Each day the violation shall continue shall be deemed a separate offense.

(C) The penalties for violation of §§ 151.35 through 151.47 of this chapter shall be set by resolution by the City Council.

(D) The penalties for violation of §§ 151.60 through 151.62 of this chapter shall be set by resolution by the City Council.

(Ord. 94-12, passed 12-16-1994; Ord. 94-16, passed 12-16-1994; Ord. 2018-04, passed 9-23-2019)

CHAPTER 152: ANNEXATIONS POLICY AND PROCEDURE

Section

- 152.01 Definitions
- 152.02 Annexation criteria
- 152.03 Annexation process
- 152.04 Other methods of annexation

§ 152.01 DEFINITIONS.

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

ANNEXATION. Annexation of contiguous territory as covered in ORS 222.111 through 222.183.

CITY. The City of Joseph, Oregon.

CITY OF JOSEPH LAND USE PLAN. The fundamental land planning document for the city, adopted, revised and amended by the City Council.

COUNCIL. The Common Council of the city.

JOINT MANAGEMENT AGREEMENT. An agreement between the city and the county for the purpose of facilitating mutual cooperation in the adoption of the city's urban growth boundary and administration of the city's urban growth area.

URBAN GROWTH AREA. Those unincorporated lands within the recognized city urban growth boundary.

URBAN GROWTH BOUNDARY. Both incorporated and unincorporated lands needed to support the growth and development of the city, as recorded in the county's Comprehensive Land Use Plan and associated maps.

(Ord. 2002-02, passed 9-3-2002)

§ 152.02 ANNEXATION CRITERIA.*(A) Eligibility criteria.*

(1) Territory may be annexed only if all of the following criteria are met. A petition to annex land must conform to the provisions of the city's Land Use Plan and its implementing ordinances.

(2) If conflict exists, the Land Use Plan shall take precedence:

(a) The property is contiguous to the existing city limit; and

(b) The property is located within the city's urban growth boundary as established by the city's Land Use Plan.

(B) Timeliness criteria. Territory may be annexed only if all following criteria are met.

(1) An adequate level of urban services and infrastructure is available, or will be made available in a timely manner.

(a) **ADEQUATE LEVEL** means sufficient to support the proposed annexation and conforms to adopted plans and ordinances,

(b) **URBAN SERVICES** means police, fire, library, parks and city provided services.

(c) **INFRASTRUCTURE** means sanitary sewer, water, storm drainage, streets and sidewalks.

(d) **BE MADE AVAILABLE IN A TIMELY MANNER** means that improvements needed for an adequate level of urban services and infrastructure will be provided in a logical, economical and efficient manner. Improvements for needed infrastructure shall be secured by a development agreement or other funding mechanism that will place the economic burden for such improvements on the territory proposed for annexation. This can include grants that fund partnership projects between the city and the particular annexation projects.

(2) The petitioner has provided sufficient planning and engineering data and has completed all necessary studies and reviews required by the city's Land Use Plan and implementing ordinances. It may not be timely to annex property if the appropriateness of the proposed use could be altered by government plans or studies that are underway, or are needed, to update, clarify or provide additional specificity to the plan, background reports and studies.

(3) The City Council may consider, at its discretion, any other factor which affects a particular annexation petition.

(Ord. 2002-02, passed 9-3-2002)

§ 152.03 ANNEXATION PROCESS.

(A) *Application for annexation.* A petition for annexation shall contain the following:

(1) Legal descriptions for all of the land or parcels proposed to be annexed, including all County Assessor's map numbers and tax lot numbers for property to be annexed;

(2) Map of the area affected, demonstrating that the proposed annexation is contiguous to the city;

(3) Names and addresses of all land owners and a list of registered voters within the land proposed to be annexed;

(4) A petition demonstrating majority consent with notarized signatures of all property owners and electors within the land proposed to be annexed;

(5) A filing fee set by resolution of the City Council;

(6) A narrative statement of facts regarding the availability, capacity and status of existing water, sewer, storm drainage, transportation, parks and other city services that would be provided to the land to be annexed;

(7) A narrative statement of facts regarding any increased demand on the city services listed above that would result from the proposed annexation;

(8) If additional facilities are needed and, if so, how such will be financed and when these facilities will be available for use; and

(9) A narrative statement of facts regarding the public need for the uses which are existing or anticipated on the land proposed for annexation.

(B) *City Council review.* The city shall review the petition to determine conformance to the city's Land Use Plan and its implementing ordinances. If the petition is found to be incomplete or incompatible, it shall be returned to the petitioner with an explanation of the deficiencies attached therewith. An application shall not be accepted for filing until the city has deemed it complete.

(C) *Annexation procedures.*

(1) In processing a petition for land annexation, the city shall adhere to the following procedures:

(a) Review and consider any report and recommendation from the county. If none is offered within 45 days, the city can conclude that the county has no objections thereto; and

(b) Notice of petition for annexation and public hearing shall contain a description of the territory proposed to be annexed and date, time and place of public hearing.

1. First class individual notice shall be sent to all property owners within the territory proposed for annexation.

2. Notice shall be published in the official city or county paper at least two weeks prior to the hearing.

(2) In each case, notice shall be posted in at least four public places in the city.

(D) *Public hearing.* Notwithstanding the provisions of ORS 222.125, the City Council shall, in each case, conduct a public hearing on an annexation petition in an impartial manner with all citizens allowed an opportunity to express their view.

(E) *City Council decision.* The City Council's decision on an annexation petition filed pursuant to this chapter shall be in conformance with the criteria set forth in § 152.02 of this chapter. The decision is not final until specific written findings and conclusions are issued, dated and signed by the Council or its delegate. If the Council approves the annexation petition, it shall by ordinance, declare that the petitions territory shall be annexed to the city boundary. At the discretion of the Council, the ordinance declaring the annexation may be referred to the voters of the city.

(Ord. 2002-02, passed 9-3-2002)

§ 152.04 OTHER METHODS OF ANNEXATION.

Unless specifically addressed herein, this chapter shall not limit the ability of the city to annex territory by other means available in state statutes.

(Ord. 2002-02, passed 9-3-2002)

CHAPTER 153: FLOOD DAMAGE PREVENTION

Section

General Provisions

- 153.01 Statutory authorization
- 153.02 Findings of fact
- 153.03 Statement of purpose
- 153.04 Methods of reducing flood losses
- 153.05 Definitions
- 153.06 Lands to which chapter applies
- 153.07 Basis for establishing areas of special flood hazard
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Administration and Enforcement

- 153.25 Development permit
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Flood Hazard Reduction

- 153.40 General standards
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- 153.45 Coastal high hazard areas

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GENERAL PROVISIONS**§ 153.01 STATUTORY AUTHORIZATION.**

The legislature of the state had, in ORS 215.515, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city does ordain as follows.

(Ord. 2000-01, passed 4-4-2000)

§ 153.02 FINDINGS OF FACT.

(A) The flood hazards of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Ord. 2000-01, passed 4-4-2000)

§ 153.03 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 by provisions designed:

(A) To protect human life and health;

(B) To minimize expenditure of public money and costly flood-control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

(F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(G) To ensure that potential buyers are notified that property is in an area of special flood hazard; and

(H) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. 2000-01, passed 4-4-2000)

§ 153.04 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter includes methods and provisions for:

(A) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

(Ord. 2000-01, passed 4-4-2000)

§ 153.05 DEFINITIONS.

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

APPEAL. A request for a review of the interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING. A designed AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from open to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater change of flooding in any given year. Designation on maps always include the letters A or V.

BASE FLOOD. The flood having a 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”.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FACILITY. A facility for which even a slight change of flooding might be too great. **CRITICAL FACILITIES** include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

DEVELOPMENT. Any human-made 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.

ELEVATED BUILDING. For insurance purposes a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings or columns.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park subdivision or which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

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

- (1) The overflow of inland or tidal waters; and/or
- (2) 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.

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 non-elevation design requirements of this chapter found at § 153.41(B) of this chapter.

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 attached to the required utilities. The term **MANUFACTURED HOME** does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two 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.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision or which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Build on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

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 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 state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that the alteration affects the external dimensions of the building.

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

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT.

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

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

(b) For the purposes of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor or other structure part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(2) The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum 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.

WATER DEPENDENT. A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operation.
(Ord. 2000-01, passed 4-4-2000)

§ 153.06 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.
(Ord. 2000-01, passed 4-4-2000)

§ 153.07 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study” for Wallowa County, Oregon and incorporated areas, dated 2-17-1988, and as amended, with accompanying Flood Insurance Maps, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at 201 N. Main, Joseph, Oregon.
(Ord. 2000-01, passed 4-4-2000)

§ 153.08 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.
(Ord. 2000-01, passed 4-4-2000)

§ 153.09 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.

(Ord. 2000-01, passed 4-4-2000)

§ 153.10 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 human-made 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.

(Ord. 2000-01, passed 4-4-2000)

ADMINISTRATION AND ENFORCEMENT**§ 153.25 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 § 153.07 of this chapter. The permit shall be for all structures including manufactured homes, as set forth in § 153.05 of this chapter, and for all development including fill and other activities, also as set forth in § 153.05 of this chapter.

(B) *Application for development permit.* Application for a development permit shall be made on forms furnished by the City Council 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. Specifically, the following information is required:

(1) Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been flood-proofed;

(3) Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in § 153.41(B) of this chapter; and

(4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(Ord. 2000-01, passed 4-4-2000)

§ 153.26 CITY COUNCIL DESIGNATION; DUTIES AND RESPONSIBILITIES.

(A) The City Council is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(B) Duties of the City Council shall include, but not be limited to:

(1) *Permit review.*

(a) Review all development permits to determine that the permit requirements of this chapter have been satisfied;

(b) 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; and

(c) 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 § 153.42(A) of this chapter are met.

(2) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with § 153.07 of this chapter, the local administration shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer §§ 153.41 and 153.42 of this chapter.

(3) *Information to be obtained and maintained.*

(a) Where base flood elevation data is provided through the Flood Insurance Study or required as in division (B)(3)(b) below, 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.

(b) For all new or substantially improved flood-proofed structures:

1. Verify and record the actual elevation (in relation to mean sea level);

2. Maintain the flood-proofing certifications required in § 153.25(B)(3); and

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) *Alteration of watercourses.*

(a) Notify adjacent committees and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration; and

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

(5) *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). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of § 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 C.F.R. parts 59 through 76).
(Ord. 2000-01, passed 4-4-2000)

FLOOD HAZARD REDUCTION

§ 153.40 GENERAL STANDARDS.

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 Areas* 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 and 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 waters.

(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.

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

(E) *Review of building permits.* Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (§ 153.26(B)(2) of this chapter), 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 and the like, where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(Ord. 2000-01, passed 4-4-2000)

§ 153.41 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in §§ 153.07 or 153.26(B)(2) of this chapter, 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 one foot above the 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 flood waters. 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 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 above grade; and

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

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be flood-proofed so that below the base flood level the structure is water-tight 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 design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this division (B) based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in § 153.26(B)(2) of this chapter;

(4) Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in division (A)(2) above; and

(5) Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building flood-proofed to the base flood level will be rated as one foot below.

(C) *Manufactured homes.*

(1) All manufactured homes to be placed or substantially improved within Zones A1-A30, AH and AE on the community's FIRM on sites as follows shall be elevated on a permanent foundation such

that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement:

(a) Outside of a manufactured home park or subdivision;

(b) In a new manufactured home park or subdivision;

(c) In an expansion to an existing manufactured home park or subdivision; or

(d) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood.

(2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park, or subdivision with Zones A1-30, AH and AE on the community’s FIRM that are not subject to the above manufactured home provisions be elevated so that either;

(a) The lowest floor of the manufactured home is elevated one foot above the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(D) *Recreational vehicles.* Recreational vehicles placed on sites within Zones A1-30, AH and AE on the community’s FIRM either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect types utilities and security devices and has no permanently attached additions; or

(3) Meet the requirements of division (C) above and the elevation and anchoring requirements for manufactured homes.

(Ord. 2000-01, passed 4-4-2000)

§ 153.42 FLOODWAYS.

(A) Located within areas of special flood hazard established in § 153.07 of this chapter are areas designated as floodways.

(B) Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

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

(2) If division (B)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this subchapter.
(Ord. 2000-01, passed 4-4-2000)

§ 153.43 ENCROACHMENTS.

The cumulative effects of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevations of the base flood more than one foot at any point.

(Ord. 2000-01, passed 4-4-2000)

§ 153.44 SHALLOW FLOODING AREAS (AO ZONES).

(A) Shallow flooding areas appear on FIRMs as AO Zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident.

(B) Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply.

(1) New construction and substantial improvements of residential structures and manufactured homes within AO Zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).

(2) New construction and substantial improvements of non-residential structures within AO Zones shall either:

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

(b) Together with attendant utility and sanitary facilities, be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable

to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in § 153.41(B)(3) of this chapter.

(3) Require adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(4) Recreational vehicles placed on sites with AO Zones on the community's FIRM either:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect types utilities and security devices, and has no permanently attached additions; or

(c) Meet the requirements above and the elevation and anchoring requirements for manufactured homes.

(Ord. 2000-01, passed 4-4-2000)

§ 153.45 COASTAL HIGH HAZARD AREAS.

Located within areas of special flood hazard established in § 153.07 of this chapter are coastal high hazard areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

(A) All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

(1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and

(2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent change of being equaled or exceeded in any given year (100-year mean recurrence interval).

(B) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of divisions (A)(1) and (A)(2) above;

(C) All new construction shall be located landward of the reach of mean high tide;

(D) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

(1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood.

(2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a 1 % change of being equaled or exceeded in any given year (100-year mean recurrence interval).

(E) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access or storage. Such space shall not be used for human habitation;

(F) Prohibit the use of fill for structural support of buildings;

(G) Prohibit human-made alteration of sand dunes which would increase potential flood damage;

(H) All manufactured homes to be placed or substantially improved within Zones V1-V30, V and VE on the community's FIRM on sites:

(1) Outside of a manufactured home park or subdivision;

(2) In a new manufactured home park or subdivision;

(3) In an expansion to an existing manufactured home park or subdivision; or

(4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; meet the standards of divisions (A) through (H) above and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones VI-30, V and VE on the FIRM meet the requirements of § 153.41(B)(3) of this chapter.

(I) Recreational vehicles placed on sites within Zones V1-30, V and VE on the community's FIRM either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only be quick disconnect type utilities and security devices and has no permanently attached additions; or

(3) Meet the requirements of § 153.25 of this chapter and divisions (A) through (H) above.
(Ord. 2000-01, passed 4-4-2000)

§ 153.99 PENALTY.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.
(Ord. 2000-01, passed 4-4-2000)

CHAPTER 154: SUBDIVISIONS

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GENERAL PROVISIONS**§ 154.001 SHORT TITLE.**

This chapter may be cited as the Joseph Land Division Ordinance (2009) and replaces the “Subdivision and Partitioning Ordinance of the City of Joseph, Wallowa County, Oregon”, adopted by Ord. 76-6.

(Ord. 2009-01, passed - -2009)

§ 154.002 PURPOSE.

In their interpretation and application, the provision of this chapter shall be held to be the minimum requirement adopted for the public health, safety and welfare. It is further provided to carry out the intent of the city’s Comprehensive Land Use Plan and to promote orderly growth, consistent with the purposes of the plan.

(Ord. 2009-01, passed - -2009)

§ 154.003 SCOPE OF REGULATIONS.

All subdivision and partition plats created within the limits of the city shall be approved in accordance with these regulations. A person desiring to subdivide land or desiring to partition land shall submit tentative plans and final documents for approval as required by this chapter and ORS Ch. 92. (Ord. 2009-01, passed - -2009)

§ 154.004 DEFINITIONS.

Definitions used in this chapter are found in § 156.003 of this code of ordinances and include the following statutory definitions specifically related to the land division process.

DECLARANT. The person who files a declaration under ORS 92.075.

DECLARATION. The instrument described in ORS 92.075 by which the subdivision or partition plat was created.

LAWFULLY ESTABLISHED UNIT OF LAND.

(1) A lot or parcel created pursuant to ORS 92.010 to 92.190;

(2) Another unit of land created:

(a) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or

(b) By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.

(3) **LAWFULLY ESTABLISHED UNIT OF LAND** does not mean a unit of land created to establish a separate tax account.

LOT. A single unit of land that is created by a subdivision.

NEGOTIATE. Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including, but not limited to, advertising, solicitation and promotion of the sale of such land.

PARCEL. A single unit of land that is created by a partition.

PARTITION. Either an act of partitioning land or an area or tract of land partitioned.

PARTITION LAND. To divide land to create not more than three parcels of land within a calendar year. ***PARTITIONING*** does not include:

(1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;

(2) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;

(3) The division of land resulting from the recording of a subdivision or condominium plat;

(4) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes; provided that, such road or right of way complies with the applicable comprehensive plan and ORS 215.213(2)(p) to (r) and 215.283(2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

(5) A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

PARTITION PLAT. Includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

PLAT. Includes a final subdivision plat, replat or partition plat.

PROPERTY LINE. The division line between two units of land.

PROPERTY LINE ADJUSTMENT. The relocation or elimination of a common property line between abutting properties.

REPLAT. The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

SALE or ***SELL.*** Includes every disposition or transfer of land or an interest or estate therein.

SUBDIVIDE LAND. To divide land to create four or more lots within a calendar year.

SUBDIVISION. Either an act of subdividing land or an area or a tract of land subdivided.

SUBDIVISION PLAT. Includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

UTILITY EASEMENT. An easement noted on a subdivision plat or partition plat for the purpose of installing or maintaining public or private utility infrastructure for the provision of water, power, heat or telecommunications to the public.

(Ord. 2009-01, passed - -2009)

§ 154.005 VARIANCES.

(A) *Process.* In requesting a variance, the applicant must submit a written statement specifying the reasons and conditions a specific variance should be submitted to the Council before the presentation of the final plat. In granting or denying a variance, the Council shall make a written record of its findings and reasons for supporting or denying the variance. Such findings shall be kept on file as a matter of public record.

(B) *Application.* The Council may authorize conditional variance to requirements of this chapter. A variance may be granted only in the event that all of the following circumstances exist:

(1) Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same vicinity and result from tract size or shape, topography or other circumstances;

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same vicinity possess;

(3) The variance would not be materially detrimental to the purposes of this chapter, or to property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy; and

(4) The variance is the minimum variance which would alleviate the hardship and the hardship was not self-imposed.

(Ord. 2009-01, passed - -2009)

§ 154.006 APPEAL AND REQUEST FOR RECONSIDERATION.

(A) Any person may appeal a decision on a partition made by the Planning Official. The appeal shall be filed with the office of the City Recorder within ten days of the Council's action.

(B) Any person who participated in the review of a land division by the City Council may request reconsideration of the Council's decision. The request for reconsideration shall be filed with the office of the City Recorder within ten days of the Council's action.

(C) If still aggrieved by the Council's action, a person may use the procedures as provided in ORS 34.100.

(Ord. 2009-01, passed - -2009)

§ 154.007 APPLICABILITY.

This chapter shall be applicable to all lands within the corporate limits of the city.

(Ord. 2009-01, passed - -2009)

§ 154.008 PLANNING COMMISSION.

If and when the city considers it desirable to establish a planning commission, as provided in ORS Ch. 227, the referral, recommendatory and subsequent appeal provisions normally attributed to a commission may be transferred from the Council to the Commission in matters relating to the enforcement of this chapter.

(Ord. 2009-01, passed - -2009)

§ 154.009 FEES.

Land division fees shall be adopted by Council resolution and periodically will be amended to cover actual costs of development review.

(Ord. 2009-01, passed - -2009)

TENTATIVE PLANS; FILING PROCEDURES

§ 154.020 SUBMISSION OF TENTATIVE SUBDIVISION PLAN.

Whenever it is proposed to subdivide land, those persons responsible for said subdivision shall prepare and submit, at least five copies of the tentative plan to the Planning Official's office at least 15 days prior to the City Council's regularly scheduled meeting. The tentative plan shall contain such information as indicated below.

(Ord. 2009-01, passed - -2009)

§ 154.021 SCALE.

The tentative plan of a subdivision shall be on a scale of one inch equal 100 feet, or for areas over 100 acres, one inch equal 200 feet.
(Ord. 2009-01, passed - -2009)

§ 154.022 GENERAL INFORMATION.

The following information shall be shown on the tentative plan of a subdivision:

(A) Name of subdivision; the name of any proposed subdivision shall not be the same as or similar to any name used on a recorded plat within the county as required by ORS 92.090 and shall be approved by the Council;

(B) Date, north point and scale of drawing;

(C) An indication of the drawing as a tentative plan;

(D) The township, range and section in which the subdivision is located;

(E) Names and addresses of the owner(s), subdivider and engineer or surveyor responsible for laying out the subdivision;

(F) The location and dimensions of all existing or proposed streets within and adjacent to the proposed subdivision;

(G) The location and design of all proposed pedestrian and bicycle facilities, including accessways;

(H) The location and approximate dimensions of proposed lots and the proposed lot and block numbers;

(I) Proposed sites if any, allocated for purposes other than single-family dwellings;

(J) Location of existing and proposed access point(s) on both sides of the road where applicable;

(K) Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections and other transportation features on both sides of the property;

(L) Number and direction of lanes to be constructed on the driveway, plus striping plans;

(M) All planned transportation features (such as walkways, bikeways, auxiliary lanes, signals and the like);

(N) Parking and internal circulation plans, including walkways and bikeways;

(O) A detailed description of any requested variance and the reason the variance is requested;

(P) The location and design of bicycle parking facilities shall be indicated on the site plan. The development shall include the number and type of bicycle parking facilities required in Ch. 156 of this code of ordinances;

(Q) The location and approximate dimensions of proposed lots and the proposed lot and block numbers;

(R) Proposed sites if any, allocated for purposes other than single-family dwellings;

(S) Existing uses and significant natural features of the property and locations of existing structures to remain on the property after platting;

(T) All parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision or partition, together with the purpose of conditions or limitations of such reservation, if any;

(U) Location of any significant drainage ways or easements in or adjacent to the proposed subdivision; and

(V) Contour lines related to some established bench work or other datum approved by the city. (Ord. 2009-01, passed - -2009)

§ 154.023 SUPPLEMENTAL INFORMATION.

(A) *Water supply.* A brief statement indicating proposed source of water, estimated pressure and other related water service facilities.

(B) *Sewage disposal.* A brief statement indicating proposed methods of sewage disposal, storm drainage and data pertinent thereto.

(C) *Public utilities.* The location and kind of existing and proposed public utilities in or adjacent to the subdivision.

(D) *Ownership.* A preliminary title report issued by a licensed title company indicating all owners of record may be necessary as determined by the city.

(E) *Additional information.* Such other information as deemed necessary by the city to comply with the intent of this chapter shall be furnished by the subdivider. (Ord. 2009-01, passed - -2009)

§ 154.024 PRELIMINARY REVIEW OF TENTATIVE PLAN.

(A) Upon receipt, the Planning Official shall furnish one copy of a tentative plan and supplementary information to the City Mayor or Manager and such other agencies as are known to be affected, including, but not limited to, irrigation districts, special water districts, fire districts and school districts.

(B) The following access-related criteria for subdivision and site plan review shall be the basis for approval by the city.

(1) All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading.

(2) Access shall be properly placed in relation to sight distance, driveway spacing and other related considerations, including opportunities for joint and cross-access.

(3) The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles and garbage collection.

(4) An internal pedestrian system of sidewalks or paths shall provide connections to parking areas, entrances to the development and open space, recreational and other community facilities associated with the development.

(5) Streets shall have sidewalks on both sides. Pedestrian linkages shall also be provided to the peripheral street system.

(6) The access shall be consistent with the access management standards adopted in the Transportation System Plan.
(Ord. 2009-01, passed - -2009)

§ 154.025 APPROVAL OF TENTATIVE SUBDIVISION PLAN.

(A) Within 40 days from the first meeting of the Council following submission of a tentative plan of a subdivision, the Council shall review the plan and the reports of appropriate officials, agencies and districts. The Council may approve the tentative plan as submitted or as it may be modified in conformance with this chapter. If the Council does not approve the plan, it shall so express its disapproval and its reason therefor in writing to the subdivider.

(B) No plan or map shall be approved unless it complies with ORS Ch. 92. Said approval of the tentative plan shall indicate approval of the final plat; provided, however, that, no substantial changes are made in the subdivision and that the subdivider complies with the requirements of this chapter.
(Ord. 2009-01, passed - -2009)

*FINAL PLAT***§ 154.040 SUBMISSION OF THE SUBDIVISION PLAT.**

(A) Within one year after approval of the tentative plan, the subdivider shall cause the subdivision or any part thereof to be surveyed and a plat prepared in conformance with and indicating the same information as the approved tentative plan.

(B) Extensions may be granted as determined necessary by the City Council.
(Ord. 2009-01, passed - -2009)

§ 154.041 ACTION ON FINAL PLAT.

A subdivision plat, when ready for final approval prior to recording, shall be substantially in accord with the approved tentative plan.

(A) Before approval by the city, the final plat shall indicate the signatures of all persons set out in the dedication, signatures of the mortgagees, if any, the signature of the County Surveyor, the signature of the County Assessor and the seal of the registered professional engineer or registered land surveyor responsible for the laying out of the subdivision.

(B) All signatures must be in black ink.

(C) The plat shall be presented and prepared on such material as required by ORS 92.080.

(D) The final plat, when presented for approval thereof by the city, shall be accompanied by an exact duplicate copy.

(E) The city shall withhold final approval of a plat until a field check of the subdivision has been made as required by ORS 92.100.

(F) If the city does not approve the plat, it shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make corrections.

(G) If the city determines that the plat conforms to all requirements, as specified by this chapter, it shall give its approval; provided, supplemental documents and provisions for required improvements are satisfactory.

(Ord. 2009-01, passed - -2009)

§ 154.042 TIME LIMIT FOR THE RECORDING OF PLAT.

(A) Within 90 days after the date the last required approving signature has been obtained, the subdivider shall record the final plat.

(B) Failure to record within the 90-day period may cause the subdivision to be declared null and void.

(Ord. 2009-01, passed - -2009)

PARTITIONING PROCEDURE

§ 154.055 SUBMISSION REQUIREMENTS.

The following information shall be required when submitting a partitioning plan to the city for review:

(A) North point, scale and date;

(B) Names and addresses of the land owners, mortgagees, if any, the developer and the engineer or surveyor responsible for the surveying and preparation of the description for each parcel involved;

(C) A plan of the proposed partitioning showing parcel dimensions, bearings of all lines, area of each parcel and the names of existing and proposed streets;

(D) Topography, when considered necessary by the city;

(E) Legal description;

(F) A statement regarding contemplated water supply and sewage disposal for each tract; and

(G) Such additional information as the city deems necessary within the intent of this chapter.
(Ord. 2009-01, passed - -2009)

§ 154.056 SUBMISSION AND APPROVAL OF A MINOR PARTITION.

(A) The Planning Official may approve a preliminary partition application when the following criteria are met:

- (1) The proposed parcels conform to the minimum lot size requirements of Ch. 156 of this code of ordinances;
- (2) The proposed parcels conform to the provisions of the Comprehensive Land Use Plan; and
- (3) The proposed parcels conform to the general provisions of this chapter.

(B) It is further provided that the Planning Official may, if considered so necessary, refer the application to the City Council for review.
 (Ord. 2009-01, passed - -2009)

§ 154.057 SERIAL PARTITIONING.

Serial partitioning shall not be permitted in lieu of the subdivision process. The Planning Official or Council may require a master development plan prior to approving a partition.
 (Ord. 2009-01, passed - -2009)

GENERAL REGULATIONS AND DESIGN STANDARDS

§ 154.070 STREETS.

Each lot or parcel approved through the land division process shall abut a public or private street for the required minimum lot frontage for the zoning district where the lots or parcels are located. The location, width and grade of streets shall be considered in their relation to existing streets in the vicinity of the proposed subdivision or partition, to the topographical conditions and to the proposed use of land to be served by the streets and shall be, whenever possible, extension of existing center lines. Streets should intersect at or as near right angles as practicable. These regulations may be modified where the city determines that topography, or the small number of lots or parcels involved or other unusual conditions, justify such modification. If not otherwise indicated in the comprehensive plan or a capital improvement’s plan, streets shall conform to standards of the Transportation System Plan (including the Pedestrian and Bicycle Plan) as summarized below.

<i>Street Standards</i>								
<i>Street Type</i>	<i>Right-of-Way Width</i>	<i>Total Surface Width</i>	<i>Parking Strip Width</i>	<i>Bike Lane</i>	<i>Walkway (Planting Strip)</i>	<i>Curb Return Radius</i>	<i>Maximum Percent of Grade</i>	<i>Minimum Radius of Curvature</i>
Arterial	80'	48'-52'	8' on both sides ³	6' on both sides ⁴	6'-18' ² (7'-8') ³	20'	10%	700'
Collector	66'-72'	32'-34'	7-8' on both sides ³	5' on both sides ⁴	5'-6' (7'-8') ³	20'	12%	500'

<i>Street Standards</i>								
<i>Street Type</i>	<i>Right-of-Way Width</i>	<i>Total Surface Width</i>	<i>Parking Strip Width</i>	<i>Bike Lane</i>	<i>Walkway (Planting Strip)</i>	<i>Curb Return Radius</i>	<i>Maximum Percent of Grade</i>	<i>Minimum Radius of Curvature</i>
Local	47'-51'	25'-28"	7-8' parking on one side ¹	None	5-6' (7-8')	15'	13%	100'
Alley	16'-20'	12'-16'	None	None	None	15'	10%	150'

NOTES TO TABLE:
 For all rights-of-way, one street name sign shall be provided at each intersection for each street.
¹. Parking may be provided on unpaved shoulder that is designated as a planting strip. The minimum sidewalk width on Main Street in downtown Joseph is 10 feet.
². Optional planting strips and appropriate curb extensions may be accommodated within walkways.
³. In physically-constrained areas, a planter strip may be constructed in lieu of on-street parking; conversely, on-street parking may also be constructed in lieu of a planter strip at the city's discretion. Parking may consist of parallel or angled parking in downtown.
⁴. Narrower bike lanes may be allowed under certain circumstances, as explained in the Design Guidelines chapter of the Joseph Bicycle and Pedestrian Plan.
⁵. Standards for cul-de-sacs are addressed in division (K) below.

(A) *Street grades.* No street grade shall be in excess of 8%, unless the Council finds that, because of topographic conditions, a steeper grade is necessary.

(B) *Reserve block.* Reserve blocks controlling the access to public ways or which will not prove taxable for special improvements may be required by the Council, but will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case, unless the land comprising such strips is placed in the name of the city for disposal and dedication for street or road purposes whenever such disposal or dedication has the approval of the Council or such other person as may have jurisdiction.

(C) *Additional right-of-way.* Where topographical requirements necessitate either cuts or fills for the proper grading of the street, additional right-of-way shall be required to allow all cut and fill slopes to be within the rights-of-way.

(D) *Street names.* Except for extensions of existing street, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city and shall be subject to the approval of the Council.

(E) *Street dedication.* If an area or unit of land to be subdivided or partitioned includes a portion of a right-of-way, highway or road, the location of which has been determined by the city, but which has not been acquired by the city, the person subdividing or partitioning said land shall dedicate such right-of-way, highway or road for the purpose or use proposed.

(1) If any lot abuts a street right-of-way that does not conform to the design specifications of this chapter, the owner may be required to dedicate up to one-half of the total right-of-way width required by this chapter.

(2) In no instance shall a subdivider be required to dedicate more than 25% of the total land area of the subdivision.

(F) *Radius at street intersection.* The property line radius at street intersections shall be approved by the Council.

(G) *Two-level streets.* Where it is determined that two-level streets best serve hillside tracts, the right-of-way shall be of sufficient width to provide on each level, space for one sidewalk, plus a minimum width of 20 feet for roadway, curbs and drainage facilities. Between the two street levels and out to the right-of way lines, there shall be space for cut and fill slopes.

(H) *Street improvements.* All plans and specifications for street improvements, including pavement, curbs, sidewalks and surface drainage shall be approved by the Council prior to construction. Approval of the subdivision may be withheld until the Council is satisfied that some or all of the following improvements will be completed:

(1) Clearing and grading to full right-of-way limits;

(2) Storm drainage facilities both within and outside of right-of-way limits if determined to be so necessary by the Council; and

(3) Base and/or pavement materials for streets as required by the Council.

(I) *Connectivity.*

(1) The street system of proposed land divisions shall be designed to connect with existing, proposed and planned streets outside of the subdivision as provided in this section.

(2) Wherever a proposed land division abuts unplatted land or a future development phase of the same development, street stubs shall be provided to provide access to abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the Public Works Director and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.

(J) *Local connectivity.* Minor collector and local residential access streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation.

(1) Connections shall be designed to avoid or minimize through traffic on local streets.

(2) Appropriate design and traffic control, such as four-way stops and traffic calming measures, are the preferred means of discouraging through traffic.

(K) *Cul-de-sacs and accessways.* Cul-de-sacs or permanent dead-end streets are discouraged, but may be used to serve a proposed development plan where topographical, environmental or existing adjacent land use constraints make connecting streets infeasible.

(1) Cul-de-sac lengths in excess of 300 feet are prohibited.

(2) Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other streets or to neighborhood activity centers.

(L) *Corner clearance.*

(1) Corner clearance for connections shall meet or exceed the minimum connection spacing requirements for that roadway.

(2) New connections shall not be permitted within the functional area of an intersection or interchange, as defined by the connection spacing standards of this chapter, unless no other reasonable access to the property is available.

(3) Where no other alternatives exist, the city may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (e.g., right in/out, right in only or right out only) may be required.

(M) *Joint and cross-access.* Where land divisions are proposed in commercial areas, the city shall require cross-access easements and bicycle and pedestrian access as provided in § 156.051 of this code of ordinances.

(N) *Access connection and driveway design.* Access connections and driveway design, where approved through the land division process, shall comply with § 156.051 of this code of ordinances.

(O) *Non-conforming access features.* Legal access connections in place as of (date of adoption) that do not conform with the standards herein are considered non-conforming features. These access connections shall be brought into compliance with applicable standards under the following conditions:

(1) When new access connection permits are requested; or

(2) Change in use or enlargements or improvements that will increase trip generation are requested.

(P) *Accessways.* Accessways, when required through the land division process, shall meet the following standards.

(1) Accessways for pedestrians and bicyclists shall be ten feet wide and located within a 20-foot-wide right-of-way or easement. If the streets within the subdivision are lighted, the accessways

shall also be lighted. Stairs or switchback paths may be used where grades are steep, but shall be designed in a manner to facilitate reasonably direct pedestrian and bicycle access.

(2) Accessways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than 600 feet.

(3) The Planning Official or City Council may determine, based upon evidence in the record, that an accessway is impracticable. Such evidence may include, but is not limited to:

(a) Physical or topographic conditions make an accessway connection impractical. Such conditions include, but are not limited to, freeways, railroads, extremely steep slopes, wetlands or other bodies of water where a connection cannot reasonable be provided;

(b) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future, considering potential for redevelopment; and

(c) Where accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of 5-1-1995 that preclude a required accessway connection.

(Q) *Perimeter street dedication.* If any lot abuts a street right-of-way that does not conform to the design specifications of this chapter, the owner may be required to dedicate up to one-half of the total right-of-way width required by this chapter.

(R) *Pedestrian access and circulation.* Internal pedestrian circulation shall be provided in for all lots and parcels approved through the land division process.

(S) *Shared parking.* Shared parking is required as provided in § 156.051 of this code of ordinances. (Ord. 2009-01, passed - -2009)

§ 154.071 SUBDIVISION BLOCKS.

Subdivision blocks, block lengths and widths shall be determined by giving consideration to the following factors:

(A) The distance and alignment of existing blocks and streets adjacent to or in the general vicinity of a proposed subdivision;

(B) Topography;

(C) Adequate lot size; and

(D) Need for and direction of the flow of through and local traffic; provided, however, that, in no instance shall the block width be more than 300 feet.

(Ord. 2009-01, passed - -2009)

§ 154.072 MID-BLOCK ACCESSWAYS.

Where topographic or other conditions make it necessary or desirable, the Council may require an accessway through a block on a public right-of-way of such width, at such location and of such material or materials as the Council may specify.

(Ord. 2009-01, passed - -2009)

§ 154.073 LOT DIMENSIONS.

All lots and parcels shall conform to minimums established in Ch. 156 of this code of ordinances.

(A) Each proposed lot must be buildable in conformance with the requirements of this chapter and all other applicable regulations.

(B) In cul-de-sacs, the minimum lot or parcel line fronting the turnaround shall be 30 feet and, in no case, shall the lot or parcel width be less than 50 feet at the building line.

(C) If topography, drainage or other conditions justify, the city may require a greater area on , any or all lots or parcels.

(Ord. 2009-01, passed - -2009)

§ 154.074 CURVED FRONT LOT LINES.

When front lot lines are on a curve or arc, the front line distances shall be indicated on the final plat by bearing and chord distance.

(Ord. 2009-01, passed - -2009)

§ 154.075 LOT LINE.

(A) Side lot or parcel lines shall be as close to right angles to the front street line as practicable.

(B) Unless otherwise approved, rear lot lines shall be not less than on-half the width of the front lot lines.

(C) To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed three times its width (or four times its width in rural areas) unless there is a topographical or environmental constraint or an existing human-made feature such as a railroad line.

(Ord. 2009-01, passed - -2009)

§ 154.076 BUILDING LINES ALONG STREETS.

Unless otherwise approved because of some unusual topographic or other conditions, minimum building lines shall be in accordance with setback requirements of the zone in which the subdivision or partition is located.

(Ord. 2009-01, passed - -2009)

§ 154.077 PUBLIC SURVEY MONUMENTS.

Any donation land claim, corner, section corner or other official survey monument within or on the boundary of a proposed subdivision shall be accurately referenced in accordance with ORS Ch. 92.

(Ord. 2009-01, passed - -2009)

§ 154.078 SEWAGE DISPOSAL.

All lots or parcels shall be serviced by the city's sewage system. It shall be the sub-divider's responsibility to furnish and install all material necessary to comply with city requirements on sewage disposal. These infrastructure improvements become the property of the city.

(Ord. 2009-01, passed - -2009)

§ 154.079 WATER SUPPLY.

The subdivider shall be responsible for providing water lines and fire hydrants to each lot or parcel and connecting the subdivision to the city mains, as required by the Council. Adequate water pressure, as determined by the state's Board of Health, will be provided to each lot by the developer.

(Ord. 2009-01, passed - -2009)

§ 154.080 UNDERGROUND FACILITIES.

(A) All permanent utility services to lots in a subdivision shall be provided from underground facilities and no overhead utility service to a subdivision shall be permitted.

(B) The subdivider shall be responsible for complying with the requirements of this section and shall:

(1) Obtain all necessary permits for the placement of all underground facilities;

(2) Make all necessary arrangements with utility companies and other persons or corporations affected by the installation of such underground lines and facilities in accordance with the rules and regulations of the Public Utility Commissioner of the state; and

(3) Underground easement for utilities shall be provided for by the subdivider and set forth on the final plat. Each easement shall be a minimum of ten feet in width and, when possible, centered on a bordering lot line.

(Ord. 2009-01, passed - -2009)

§ 154.081 IMPROVEMENT GUARANTEE.

The Council may, if deemed so necessary, execute an agreement with the subdivider to have any or all of the above improvements provided by the subdivider before the parcels within the proposed subdivision are offered to the general public for sale.

(Ord. 2009-01, passed - -2009)

§ 154.082 FLAG LOT STANDARDS.

(A) Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the state’s highway system or other arterials.

(B) Flag lots may be permitted for residential development when necessary to achieve planning objectives, such as reducing direct access to roadways, providing internal platted lots with access to a residential street or preserving natural or historic resources, under the following conditions.

(1) Flag lot driveways shall be separated by at least twice the minimum frontage requirement of that zoning district.

(2) The flag driveway shall have a minimum width of ten feet and maximum width of 20 feet.

(3) In no instance shall flag lots constitute more than 10% of the total number of building sites in a recorded or unrecorded plat, or three lots or more, whichever is greater.

(4) The lot area occupied by the flag driveway shall not be counted as part of the required minimum lot area of that zoning district.

(5) No more than one flag lot shall be permitted per private right-of-way or access easement. (Ord. 2009-01, passed - -2009)

§ 154.083 REVERSE FRONTAGE.

When a residential subdivision is proposed that would abut an arterial, it shall be designed to provide through lots along the arterial with access from a frontage road or interior local road.

(A) Access rights of these lots to the arterial shall be dedicated to the city and recorded with the deed.

(B) A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on the arterial. The berm or buffer yard shall not be located with the public right-of-way. (Ord. 2009-01, passed - -2009)

§ 154.084 SHARED ACCESS.

Land divisions with frontage on the state highway system shall be designed to have a maximum of two shared access points to and from the highway, regardless of the number of lots or businesses served.

(A) If access off of a secondary street is possible, then access shall not be allowed onto the state highway. If access off of a secondary street is possible in the future, then the land division layout shall allow for conversion of access to that secondary road with a stub-out or reserved right-of-way.

(B) New direct accesses to lots or parcels accommodating individual one- and two-family dwellings shall be prohibited on all state highways, except district-level state highways. (Ord. 2009-01, passed - -2009)

§ 154.085 PEDESTRIAN AND BICYCLE CIRCULATION.

(A) Safe and convenient pedestrian and bicycle access shall be provided within new land divisions. Bicycle access shall provide safe, direct and convenient connections to adjacent streets, as well as residential areas and neighborhood activity centers within one-half mile of the development. Residential developments shall include streets with walkways and accessways.

(B) Bikeways and sidewalks shall be required along all arterials and collectors.

(C) On-site facilities shall be provided that accommodate safe and convenient pedestrian and bicycle access within new subdivisions, multi-family developments, planned development, shopping centers and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers

within one-half mile of the development. Residential developments shall include streets with sidewalks and accessways. Pedestrian circulation through parking lots shall be provided in the form of accessways or other clearly-defined walkways.

(D) Bikeways shall be required along all arterials and collectors. Striped bike lanes or other separated bikeways shall be provided on roadways serving 3,000 vehicle trips per day or greater.

(E) Sidewalks shall be required along both sides of all arterials, collectors and most local streets; except that, sidewalks are not required along controlled access roadways (freeways).

(Ord. 2009-01, passed - -2009)

§ 154.086 RELIEF FROM ACCESS REQUIREMENTS.

(A) The granting of relief from these access standards of this chapter shall be in harmony with the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored. Applicants for relief from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical.

(B) Applicants shall include proof that:

(1) Indirect or restricted access cannot be obtained;

(2) No engineering or construction solutions can be applied to mitigate the condition; and

(3) No alternative access is available from a street with a lower functional classification than the primary roadway.

(Ord. 2009-01, passed - -2009)

§ 154.999 PENALTY.

In addition to penalties provided by state law, a person who violates or fails to comply with the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$500 or by imprisonment for not more than 100 days, or both. A violation of this chapter shall be considered a separate offense for each day the violation continues.

(Ord. 2009-01, passed - -2009)

CHAPTER 155: LAND USE PLAN

Section

155.01 Land Use Plan adopted by reference

§ 155.01 LAND USE PLAN ADOPTED BY REFERENCE.

The city's Land Use Plan, and any and all amendments, is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 78-03, passed 4- -1978; Ord. passed 12- -1986; Ord. 96-04, passed 5- -1996)

CHAPTER 156: ZONING

Section

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GENERAL PROVISIONS

§ 156.001 TITLE.

This chapter shall be known as the “Joseph Zoning Ordinance (2009)”, replacing Ord. 2002-04. (Ord. 2009-01, passed - -2009)

§ 156.002 PURPOSE.

The purpose of this chapter is to encourage appropriate and orderly physical development without diminishing the desirability of the town’s living and recreating space, considering such standards as open

space, desired levels of population density, adequate community facilities and to promote in other ways the public's general health, safety, convenience and welfare. It is also the intent of this chapter to implement the provisions of the city's Comprehensive Land Use Plan and any amendments thereto. The city finds that vacation rental occupancy of dwelling units constitutes a visitor oriented commercial use in the city's residential areas. In order to maintain the residential character and livability of its neighborhoods and to prevent the adverse effects of the vacation rental occupancy of dwelling units on residential neighborhoods, it is necessary to limit and regulate the vacation rental occupancy of dwelling units.

(Ord. 2009-01, passed - -2009; Ord. passed 10-6-2016)

§ 156.003 DEFINITIONS.

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

ACCESS CLASSIFICATION. A ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties and existing level of access control.

ACCESS CONNECTIONS. Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

ACCESS, CROSS. A service drive providing vehicular access between two or more contiguous sites so a motorist, bicyclist or pedestrian need not enter the public street system.

ACCESS FEATURES, NON-CONFORMING. Features of the property access that existed prior to the date of the ordinance adopting and do not conform with the requirements of this chapter.

ACCESS, JOINT OR SHARED. A driveway connecting two or more contiguous sites to the public street system.

ACCESS MANAGEMENT. The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity and speed.

ACCESS, REASONABLE. The minimum number of access connections, direct or indirect, necessary to provide safe access to and from the roadway, as consistent with the purpose and intent of this chapter and any applicable plans and policies of the city.

ACCESS. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

ACCESSIBILITY GUIDELINES (ADAAG). Provides scoping and technical specifications for new construction and alterations undertaken by entities covered by ADA.

ACCESSORY USE or ACCESSORY STRUCTURE. A use or structure incidental and subordinate to the main use of the property, as storage of automobiles in a garage is accessory to residential use of a dwelling. A home occupation is considered an **ACCESSORY USE**.

ACCESSWAY.

(1) A walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park or transit stop.

(2) **ACCESSWAYS** generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses.

(3) **ACCESSWAYS** through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees and lighting.

(4) Where **ACCESSWAYS** cross driveways, they are generally raised, paved or marked in a manner that provides convenient access for pedestrians.

ALLEY. A narrow street which affords only secondary means of access to property.

ANNEXATION. An action commenced by a city through public hearing, the intent of which is to incorporate additional land into legal boundaries of the city.

ATTACHED HOUSE (TOWNHOME OR ROWHOUSE). A dwelling unit located on its own lot which shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 50% of the length of the side of the dwelling. An **ATTACHED HOUSE** does not share common floor/ceilings with other dwelling units. An **ATTACHED HOUSE** is also called a **TOWNHOME, ROWHOUSE, ZERO-LOT LINE DWELLING** or a **COMMON-WALL HOUSE**.

BICYCLE FACILITY. Any facility provided for the benefit of bicycle travel, including bikeways and parking facilities as well as all other roadways not specifically designated for bicycle use.

BICYCLE. A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with two tandem wheels at least 14 inches in diameter. An adult tricycle is considered a **BICYCLE**.

BIKE LANE. A portion of the roadway which has been designated by striping and pavement markings for the preferential or exclusive use of bicyclists.

BIKEWAY. A generic term for any road, street, path or way which in some matter is specifically designated for bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

BIKEWAY, SHOULDER. A type of bikeway where bicyclists travel on a paved shoulder.

BUILDING. A structure, but not an RV or mobile home, built for support, shelter or enclosure of persons, animals, chattels or property of any kind and having a fixed base on or fixed connection to the ground.

CITY. The City of Joseph, Oregon.

CLEARANCE, CORNER. The distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

CLEARANCE, LATERAL. The width required for safe passage as measured in a horizontal plane.

CLEARANCE, VERTICAL. The height required for safe passage as measured in a vertical plane.

COMMERCIAL OUTDOOR USE. A use supporting a commercial activity in a Commercial Zone.

COMMERCIAL. A zone and land use that involves the buying/selling of goods or services.

COMMUNITY BUILDING. A publicly-owned structure, used and operated for the benefit of the general public.

COMMUNITY CENTER. A structure, either public or private non-profit, used primarily as a facility for public purposes and gatherings.

COMPREHENSIVE LAND USE PLAN. The controlling land use document for the city. The **COMPREHENSIVE LAND USE PLAN** includes and is implemented by the city:

- (1) Ch. 152 of this code of ordinances;
- (2) Ch. 156 of this code of ordinances;
- (3) Ch. 70 of this code of ordinances; and
- (4) This chapter.

CONDITIONAL USE. A use specifically identified within a zone that may be allowed, subject to a public hearing and satisfaction of any applicable standards. Generally, **CONDITIONAL USES** should conform to the general use and purpose of the area or zone in which they are located.

COUNCIL. The Common Council of the City of Joseph, Oregon.

CROSSING, MIDBLOCK. A crossing point positioned within a block rather than at an intersection.

CROSSWALK. The part of the roadway at an intersection that is included within the extensions of the lateral lines of the sidewalks on opposite sides of the roadway, measured from the curb line or, in the absence of curbs from the edges of the roadway, or in the absence of a sidewalk on one side of the roadway, the part of the roadway included within the extension of the lateral lines of the sidewalk at right angles to the centerline. Also, any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface.

CURB EXTENSION. A section of sidewalk extending into the roadway at an intersection or midblock crossing that reduces the crossing width for pedestrians and may help reduce traffic speeds.

CURB RAMP, DIAGONAL. Curb ramp positioned at the apex of the curb radius at an intersection, bisecting the corner angle.

CURB RAMP, PARALLEL. Curb ramp design where the sidewalk slopes down on either side of a landing. **PARALLEL CURB RAMPS** require users to turn before entering the street.

CURB RAMP, PERPENDICULAR. Curb ramp design where the ramp path is perpendicular to the edge of the curb.

CURB RAMP. A combined ramp and landing to accomplish a change in level at a curb. This element provides street and sidewalk access to pedestrians using wheelchairs.

DETECTABLE WARNING. Standardized surface feature built in, or applied to, walking surfaces or other elements to warn pedestrians with vision impairments of hazards on a sidewalk and/or landing platform, such as the curb line or drop-off.

DOWNTOWN AREA. The eight block area fronting Main Street (Wallowa Lake Highway 82) from East Maple Street to West Third Street. The east and west boundaries of the **DOWNTOWN AREA** are the alleys that parallel Main Street. The **DOWNTOWN AREA** has curb extensions, diagonal on-street parking and special sidewalk block paving.

DWELLING, MULTI-FAMILY. A building or portion thereof, designed for occupancy by two or more families living independently of each other.

DWELLING, SINGLE-FAMILY. A detached building containing one dwelling unit and designed for occupancy by one family only.

DWELLING UNIT. A living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family, or a congregate residence of ten or less persons.
(UBG 205)

EASEMENT. A grant of one or more property rights by a property owner to or for use by the public or another person or entity.

ELECTRIC FENCE. Any fence with any portion electrified or with electrical insulators.

FEDERAL LAW PROHIBITING DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES. Requires public entities and public accommodations to provide accessible accommodations for people with disabilities.

FENCE. Any human-made structure except a building, constructed of wood, chain link, brick, cement block, berms, wrought iron, decorative metal or other human-made material which serves to enclose a lot or parcel or any material portion of a lot or parcel, including, without limitation, intended and by way of example only, gates, livestock stock panels, arbors and lattice.

HOME OCCUPATION. A lawful occupation carried on by an occupant at their primary residence as an accessory use within the same dwelling or an existing accessory structure, not to exceed one-third of dwelling and which does not constitute a hazard or public nuisance.

HOSTEL. An establishment having beds rented or kept for rent on a daily basis to travelers for a charge or fee paid or to be paid for rental or use of facilities and which are operated, managed or maintained under the sponsorship of a non-profit organization which holds a valid exemption from federal income taxes under the Internal Revenue Code of 1954, as amended.

LANDING. Level area of sidewalk at the top or bottom of a ramp.

LIGHT INDUSTRIAL BUSINESS. A business engaged in manufacturing or repairing of a product. Said business must comply with all state and local codes concerning sound levels, utility and structural guidelines. A qualifying business located in a Commercial Zone may not adversely affect the nature of the commercial and adjoining Residential Zones in any way.

LOT AREA. The total horizontal area within the lot lines of a lot, exclusive of streets and easements of access to other property.

LOT CORNER. A lot abutting on two or more streets, other than an alley, at their intersection.

LOT DEPTH. The average distance measured from the front lot line to the rear lot line.

LOT, FLAG. A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way line.

LOT FRONTAGE. The portion of a lot extending along a street right-of-way line.

LOT LINE, FRONT. The lot line separating the lot from the street other than an alley. In the case of a corner lot, the **FRONT LINE** is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a **FRONT LOT LINE**.

LOT LINE, REAR. The lot line which is most opposite and most distant from the front lot line. In case of irregular, triangular or other shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE. Any lot line, not a front or rear lot line.

LOT LINE. The property line bounding a lot.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets other than alleys.

LOT WIDTH. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

LOT. A parcel or tract of land.

MAJOR TRAFFIC GENERATORS. A land use that generates more than 400 daily trips as determined by the latest edition of the Institute of Transportation Engineers' *Trip Generation Manual*.

MINIMUM CLEARANCE WIDTH. The narrowest point on a sidewalk or path. A **MINIMUM CLEARANCE WIDTH** is created when obstacles, such as utility poles or tree roots, protrude into the sidewalk and reduce the design width.

MOBILE HOME PARK. A place where four or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any other person for a charge or fee paid or to be paid for rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

MOBILE HOME. A vehicle or structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities and that is intended for permanent human occupancy and is being used for residential purposes. A **MOBILE HOME** shall consist of one of two following classifications.

(1) **DOUBLE-WIDE.** Two separate housing units expressly manufactured to be connected together to form one single-family residence.

(2) **TRIPLE-WIDE.** Three separate housing units expressly manufactured to be connected together to form one single-family residence.

NEIGHBORHOOD ACTIVITY CENTER. An attractor or destination for residents of surrounding residential areas. Includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops and employment areas.

NON-CONFORMING STRUCTURE OR USE. A lawful existing structure or use at the time this chapter or any amendment thereto becomes effective, which does not conform to the requirements of this chapter (or amendment) for the zone in which it is located.

NORMAL OPERATION, MAINTENANCE, REPAIR, AND PRESERVATION ACTIVITIES OF EXISTING TRANSPORTATION FACILITIES.

(1) Installation of culverts, pathways, medians, fencing, guardrails, lighting and similar types of improvements within existing right-of-way;

(2) Projects specifically identified in the Transportation System Plan and Bicycle and Pedestrian Plan as not requiring further land use regulation;

(3) Landscaping as part of a transportation facility;

(4) Emergency measures necessary for the safety and protection of property;

(5) Acquisition of right-of-way for public roads, highways and other transportation improvements designated in the Transportation System Plan and Bicycle and Pedestrian Plan, except for those that are located in exclusive farm use or forest zones; and

(6) Construction of a street or road as part of an approved land division.

ODOT. The Oregon Department of Transportation.

OWNER. An owner of real property as shown by deed or contract and officially recorded in the office of the County Clerk or on the last complete assessment role. An **OWNER** shall also include an authorized agent of owners of real property affected.

PART-TIME RESIDENT. For the purposes of determining eligibility for home occupations, a person is a **PART-TIME RESIDENT** if he or she reside outside the city limits at any time during the term of the home occupation permit.

PEDESTRIAN-ACTUATED TRAFFIC SIGNAL. Push button or other control operated by pedestrians designed to interrupt the prevailing signal cycle to permit pedestrians to cross a signalized intersection or midblock crossing.

PEDESTRIAN FACILITY. A facility provided for the benefit of pedestrian travel, including walkways, crosswalks, signs, signals, illumination and benches.

PEDESTRIAN. A person afoot, in a wheelchair or walking a bicycle.

PERSON. A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or any group or combination action as a unit.

PLANNING OFFICIAL. A city employee or contract employee designated by the City Council to administer this chapter.

PLAT. An exact and detailed map showing the subdivision of land.

PRIMARY RESIDENCE. A dwelling where one actually lives for determination of his or her civil status or other legal purposes because it is actually or legally his or her permanent and principal home. All other similar elements are secondary in size or importance.

PRIMARY. The largest or most substantial element on the property, as in “primary” use, residence, entrance and the like. All other similar elements are secondary in size or importance.

PUBLIC FACILITIES AND SERVICES. Projects, activities and facilities which the city determines to be necessary for the public health, safety and welfare.

REASONABLY DIRECT. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

RECREATIONAL VEHICLE (RV) PARK. A lot which is operated on fee or other basis as a place for the parking or siting of two or more occupied RVs.

RECREATIONAL VEHICLE (RV). A vehicle or similar portable device including trailers, campers, motor homes and the like, originally designed or presently constructed to permit temporary human occupancy for living or sleeping.

REFUGE ISLAND. An island in the center of a road that physically separates the directional flow of traffic and can provide pedestrians with a place of refuge and reduce the crossing distance between safety points.

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.

RIGHT-OF-WAY. Land reserved, used or to be used for a highway, street, alley, walkway, drainage facility or other public purpose.

ROAD, FRONTAGE or SERVICE ROAD. A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street.

ROAD, PRIVATE. Any roadway for vehicular travel which is privately-owned and maintained and which provides the principal means of access to abutting properties.

ROAD, PUBLIC. A road under the jurisdiction of a public body that provides the principal means of access to an abutting property.

ROADWAY CONSTRUCTION OR RECONSTRUCTION. Does not include maintenance and repair of existing roadways, or providing a gravel or paved surface to existing vehicular travel lanes of 24 feet or less within dedicated rights-of-way.

ROADWAY FUNCTIONAL CLASSIFICATION. A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

ROADWAY INTERSECTION FUNCTIONAL AREA. The area beyond the physical intersection of two roads that comprises decision and maneuver distance, plus any required vehicle storage length.

ROADWAY PAVEMENT MARKINGS. Painted or applied lines or legends placed on a roadway surface for regulating, guiding or warning traffic.

ROADWAY, SHARED. A type of bikeway where bicyclists and motor vehicles share the same travel lane.

ROADWAY, SHOULDER. The portion of a roadway that is contiguous to the travel lanes provided for pedestrians, bicyclists, emergency use by vehicles and for lateral support of base and surface courses.

ROADWAY, SIGNED SHARED. A shared roadway which has been designated by signing or directional pavement markings as a preferred route for bicycle use.

SAFE AND CONVENIENT. Bicycle and pedestrian routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.

SETBACK. The distance between a building or other feature of development and a property line. Minimum and maximum **SETBACKS** may be required for front, side and rear yards. Building **SETBACKS** are measured from the foundation nearest the property line to the respective property line. **SETBACKS** for covered decks and porches are measured from the edge of the deck or porch nearest the property line to the property line.

SHARED USE OR MULTI-USE PATH. A path physically separated from motor vehicle traffic by an open space or barrier and either within a roadway right-of-way or within an independent right-of-way, used by bicyclists, pedestrians, joggers, in-line skaters and other non-motorized users.

SIDEWALK. A walkway separated from the roadway with a curb, constructed of a durable, hard and smooth surface, designed for preferential or exclusive use by pedestrians.

SIGN. An identification, description or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution or business.

SIGNIFICANT CHANGE IN TRIP GENERATION. A change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding:

(1) Local: 10% more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under local jurisdiction; or

(2) State: exceeding 25% more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under state jurisdiction.

SOLID FENCE. A fence which does not allow persons on each side of a fence to view substantially all of the scenery on the other side of the fence. Woven wire fences are an example of a fence which is not a **SOLID FENCE**.

STREET, ARTERIAL. Higher volume streets with a minimal number of access points, providing direct routes between cities, districts and neighborhoods; includes sidewalks and bike lanes.

STREET, COLLECTOR. Serves local access needs through connecting local streets to arterial; includes sidewalks and may have on-street parking and bike lanes.

STREET, CUL-DE-SAC or DEAD-END STREET. A short section of residential street intended to serve only adjacent land in residential neighborhoods, typically includes a bulb-shaped turn-around area for emergency vehicles.

STREET, HALF. A portion of the ultimate width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

STREET, MINOR. A street intended primarily for access to abutting properties.

STREET, RESIDENTIAL. Provides access to individual residential or multi-family lots, includes walkways, on-street parking and is designed for very low speeds.

STREET STUB-OUT (STUB-STREET). A portion of a street or cross-access drive used as an extension to an abutting property that may be developed in the future.

STREET. A public or private right-of-way which provides ingress and egress to adjacent properties for vehicular, bicycle, pedestrian, public utilities and other such uses. The term **STREET** shall include such designations as **HIGHWAYS, ROADS, LANE, AVENUE, ALLEY, COURT** or other such similar terms.

STRUCTURAL ALTERATION. A change to the supporting members of structure including foundations, bearing walls or partitions, columns, beams girders or any structural change in the roof or in the exterior walls.

STRUCTURE. Something constructed or built or piece of work artificially built up or composed of parts joined together in some definite manner. **STRUCTURES** with roofs are required to meet standard setbacks.

SUPPORT SYSTEM. Posts, rock jacks or bracing.

TACTILE WARNING. Change in surface condition providing a tactile cue to alert pedestrians with vision impairments of a potential hazardous situation.

TRAVELERS' ACCOMMODATIONS. Any primary residence, which is not a hotel or motel, having rooms, apartments or sleeping facilities rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental or use of facilities excluding hotels and motels in R-1 and R-2 Zones.

USE. The purpose for which land or a structure is designed, arranged or intended or for which it is occupied or maintained.

UTILITY STRUCTURE. A building, plant, works or other property used for the development or transmission of a commodity including such commodities as water, gas, sewer service, electricity, telephone and television.

VACATION HOME RENTAL OCCUPANCY. The use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of time between one and 30 days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property.

VARIANCE. A deviation either from the size or uses allowed within a given zone or area, subject to a public hearing; and, provided that, the resulting use or size generally conforms to the surrounding area or zone.

VIBROTACTILE PEDESTRIAN DEVICE. Device that communicates information about pedestrian timing through a vibrating surface by touch.

VISION IMPAIRMENT. Loss or partial loss of vision.

WALK INTERVAL. Traffic signal phase in which the “WALKING PERSON” (symbolizing “WALK”) signal indication is displayed.

WALKWAY. A transportation facility built for use by pedestrians, including persons in wheelchairs. **WALKWAYS** include sidewalks, paths and paved shoulders.

WAYFINDING. A system of information comprising visual, audible or tactile elements that helps users experience an environment and facilities getting from point A to point B.

WIDE OUTSIDE LANE. A wider than normal curbside travel lane that is provided for ease of bicycle operation where there is insufficient room for a bike lane or shoulder bikeway.

WOVEN WIRE FENCES. A fence constructed almost entirely of wood and/or steel posts, and agricultural woven wire fencing material commonly referred to as “field fence” or “horse fence”.

YARD.

(1) An open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this chapter.

(2) Sidewalks, patios and unroofed decks are so excepted.

YARD, FRONT. A yard between side lots lines and measured horizontally at right angles to the front lot line to the nearest point of a building or other structure.

YARD, REAR. A yard between side lot lines and measured horizontally at right angles to the rear lot line to the nearest point of a building or other structure.

YARD, SIDE STREET. A yard adjacent to a street between the front yard and the rear yard lot line measured horizontally and at right angles from the side lot line to the nearest point of the building or other structure.

YARD, SIDE. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of the building or other structure.
(Ord. 2009-01, passed - -2009; Ord. passed 10-6-2016)

§ 156.004 COMPLIANCE.

(A) A lot or land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this chapter permits.

(B) Penalties enforcing the provisions of this chapter shall be set by resolution of the City Council.
(Ord. 2009-01, passed - -2009)

§ 156.005 RELATIONSHIP TO COMPREHENSIVE LAND USE PLAN.

A permit may be issued and a use allowed only as it conforms to this chapter and as it relates to the city's Comprehensive Land Use Plan, including the Transportation System Plan and the Bicycle and Pedestrian Plan.

(Ord. 2009-01, passed - -2009)

§ 156.006 INTERPRETATION.

Where the conditions imposed by a provision of this chapter are less restrictive than comparable conditions imposed by any other provisions of this chapter or any other ordinance, the provisions which are more restrictive shall govern.

(Ord. 2009-01, passed - -2009)

§ 156.007 APPLICABILITY.

This chapter shall be applicable to all land within the corporate limits of the city.

(Ord. 2009-01, passed - -2009)

ZONES ESTABLISHED**§ 156.020 CLASSIFICATION OF ZONES.**

For purpose of this chapter, the following zones are hereby established:

(A) Select Residential Zone (R-1);

(B) General Residential Zone (R-2);

(C) Commercial Zone (C); and

(D) Industrial Zone (I).

(Ord. 2009-01, passed - -2009)

§ 156.021 LOCATION OF ZONES.

(A) The boundaries for the zones listed in this chapter are indicated on Joseph Zone Map which is hereby adopted by reference.

(B) The boundaries shall be modified in accordance with the provisions of the city's Land Use Plan and with the zoning map amendments which shall be adopted by reference.
(Ord. 2009-01, passed - -2009)

§ 156.022 ZONING MAP.

A zoning map or zoning map amendment adopted by § 156.021 of this chapter by an amendment thereto shall be prepared or modified by authority of the City Council. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the City Recorder as long as this chapter remains in effect.
(Ord. 2009-01, passed - -2009)

§ 156.023 ZONE BOUNDARIES.

Unless otherwise specified, zone boundaries are section lines, subdivision lines, centerlines of street or railroad rights-of-way or such lines extended.
(Ord. 2009-01, passed - -2009)

§ 156.024 ZONING OF ANNEXED AREAS.

Unzoned areas annexed to the city shall be zoned at the time of annexation and shall comply with the provisions and policies of the city's Land Use Plan and this chapter.
(Ord. 2009-01, passed - -2009)

USE ZONES

§ 156.035 R-1, SELECT RESIDENTIAL ZONE.

(A) *Uses permitted outright.* In an R-1 Zone, the following uses and their accessory uses are permitted outright:

- (1) Single-family dwelling. A minimum floor space of 1,000 square feet of living space is required;
- (2) Manufactured homes, placed outside of a manufactured home subdivision; provided, they:

Joseph - Land Usage

- (a) Be multi-sectional (“double wide” or wider) and enclose a floor area of not less than 1,000 square feet;
 - (b) Be placed on an excavated and back-filled foundation, enclosed at the perimeter such that they are not located more than 12 inches above grade;
 - (c) Have a roof with a minimum pitch of three feet in height for each 12 feet in width;
 - (d) Have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the city;
 - (e) Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010; and
 - (f) Not be sited adjacent to any structure listed on the Register of Historic Landmarks and Districts.
- (3) Livestock grazing and crop cultivation including farm, orchard, truck garden or plant nursery;
 - (4) Public park;
 - (5) Temporary RVs; provided that:
 - (a) Prior to its installation, the owner shall obtain a zoning permit for 90 days with 180 days maximum per annum;
 - (b) If not self-contained, the RVs shall be connected, prior to issuance of the permit, to the city’s sewer and water system at the owner’s expense;
 - (c) There shall be no more than one RV allowed per city lot or in addition to an existing single-family dwelling; and
 - (d) The storage of a non-occupied RV does not constitute a use.
 - (6) Two-family (duplex) dwelling; and
 - (7) Permitted transportation uses and facilities, as defined in § 156.003 of this chapter.

(B) *Conditional uses permitted in an R-1 Zone.* In an R-1 Zone, the following uses and their accessory uses are permitted when authorized in accordance with §§ 156.110 through 156.115 of this chapter:

- (1) Church;
- (2) Community building;
- (3) School, public or private;
- (4) Home occupation;
- (5) Vacation rentals.

(a) No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit in the R-1 and R-2 Zones for vacation home rental occupancy, except:

1. A dwelling for which a vacation home rental permit or conditional use permit (CUP) has been issued to the owner of that dwelling;
2. A dwelling which qualified as a short term rental or was issued a conditional use permit (CUP) prior to 1-1-2016 as determined through the short-term rental registration process or conditional use permit process; and
3. A dwelling which has been approved for use as a bed and breakfast establishment.

(b) In the Commercial Zones, the rental of a dwelling, or portion thereof for periods of less than 30 days shall be considered a motel and subject to the requirements of the fee for transient room tax.

(6) Construction, reconstruction or widening of highways, roads, bridges or other transportation projects which are:

(a) Designated in the Transportation System Plan (including the Bicycle and Pedestrian Plan), but for which no site-specific decisions have been made; or

(b) Not otherwise approved as the result of a land division, site development review or conditional use application.

(C) *Dimensional standards in an R-1 Zone.* In an R-1 Zone, the following dimensional standards shall apply.

(1) The front yard shall be a minimum of 15 feet; except that, garages shall be set back from the front line at least 20 feet as measured from the foundation.

(2) Each side yard shall be a minimum of five feet; except that, on the corner lots, the side yard on the street shall be a minimum of ten feet.

(3) The rear yard of the primary structure shall be a minimum of 20 feet. Accessory buildings shall have a rear yard of not less than five feet.

(4) No structure shall be placed less than ten feet from the high water mark of any irrigation ditch or stream.

(5) No structure shall be placed less than ten feet from the high water mark of the Wallowa River.

(6) The minimum lot area shall be 5,850 square feet.

(7) The minimum lot width at the front building line shall be 50 feet.

(8) No building shall exceed the height of 25 feet as measured from the base of the foundation, except church spire or as provided in § 156.093 of this chapter.

(9) All roofing must be non-reflective.

(10) The dimensional standards of this section shall be met in the event of any future partition or lot line adjustment.

(Ord. 2009-01, passed - -2009; Ord. passed 10-6-2016)

§ 156.036 R-2, GENERAL RESIDENTIAL ZONE.

(A) *Uses permitted outright.* In an R-2 Zone, the following uses and their accessory uses are permitted outright:

(1) Any use permitted outright in an R-1 Zone;

(2) Multiple-family dwelling;

(3) Church;

(4) School, public or private; and

(5) Permitted transportation uses and activities, as defined in § 156.003 of this chapter.

(B) *Conditional uses permitted.* In an R-2 Zone, the following uses and their accessory uses are permitted when authorized in accordance with §§ 156.110 through 156.115 of this chapter:

- (1) Government use;
- (2) Hospital, nursing home or residential care facilities as defined by state statutes;
- (3) Recreational vehicle park;
- (4) Utility structure;
- (5) Circus, fair and carnival;
- (6) Home occupation;

(7) Traveler's accommodation. The facility is subject to review during the first three years of the operation after which time a permanent permit for the facility as an accredited travelers' accommodation will be issued. Said accommodation shall also be subject to the following.

(a) Each rental unit have one off-street parking space and the owner's unit have two parking spaces.

(b) Only one ground or wall wood sign of six square feet maximum size with no more than 150 watts of illumination be allowed.

(c) An annual inspection by the county's Health Department shall be required.

(d) All state requirements shall be met.

(8) Construction, reconstruction or widening of highways, roads, bridges or other transportation projects which are:

(a) Designated in the Transportation System Plan (including the Bicycle and Pedestrian Plan), but for which no site-specific decisions have been made; or

(b) Not otherwise approved as the result of a land division, site development review or conditional use application.

(C) *Dimensional standards.* In an R-2 Zone, the following dimensional standards shall apply.

(1) The front yard shall be a minimum of 15 feet; except that, garages shall be set back from the front line at least 20 feet as measured from the foundation.

(2) Each side yard shall be a minimum of five feet; except that, on the corner lots, the side yard on the street shall be a minimum of ten feet.

(3) The rear yard of the primary structure shall be a minimum of 20 feet. The rear yard of an accessory structure shall be not less than five feet.

(4) No structure shall be built less than ten feet from the high water mark of any irrigation ditch or stream.

(5) No structure shall be built less than ten feet from the high water mark of the Wallowa River.

(6) The minimum lot area shall be 5,850 square feet, except that for each dwelling unit over two, the minimum lot area shall be increased 1,000 square feet per additional unit.

(7) The minimum lot width at the front building line shall be 50 feet.

(8) No building shall exceed the height of 25 feet, except a church spire or as provided in § 156.093 of this chapter.

(9) All roofing must be non-reflective.

(10) The dimensional standards of this section shall be met in the event of any future partition or lot line adjustment.

(Ord. 2009-01, passed - -2009)

§ 156.037 C, COMMERCIAL ZONE.

(A) *Uses permitted outright.* In a C Zone, the following uses are permitted outright:

(1) Retail or wholesale establishment;

(2) Eating or drinking establishment;

(3) Financial institution;

(4) Office;

(5) Sign;

(6) Hotel, motel;

(7) Government use;

(8) Community building, community center not including schools or churches;

- (9) Repair and maintenance shops;
- (10) Amusement establishment;
- (11) Second hand store;
- (12) Second floor residential; and
- (13) Permitted transportation uses and activities, as defined in § 156.003 of this chapter.

(B) *Conditional uses.* In a C Zone, the following uses and their accessory uses are permitted when authorized in accordance with §§ 156.110 through 156.115 of this chapter:

- (1) Residential (single- and multiple-family);
- (2) Mini-storage buildings;
- (3) Light industrial business; and
- (4) Construction, reconstruction or widening of highways, roads, bridges or other transportation projects which are:
 - (a) Designated in the Transportation System Plan (including the Bicycle and Pedestrian Plan) but for which no site-specific decisions have been made; or
 - (b) Not otherwise approved as the result of a land division, site development review or conditional use application.

(C) *Dimensional standards.* In a C Zone, all new structures and any alterations, repairs or extensions of an existing structure shall conform to the following standards.

- (1) All roofing must be non-reflective.
 - (2) Height shall not exceed 30 feet as measured from the average elevation of the finished ground level at the center of all walls of a building to the highest point of the structure. This height of 30 feet is restricted to that portion of Highways 82/351 and the alley bordering the lot east or west of the property line. In all other Commercial Zones, the height is restricted to 25 feet as measured from the average elevation of the finished ground level at the center of all walls of a building to the highest point of the structure.
 - (3) There shall be no yard setbacks in a C Zone.
- (Ord. 2009-01, passed - -2009)

§ 156.038 I, INDUSTRIAL ZONE.

(A) *Uses permitted outright.* In an I Zone, the following uses and their accessory uses are permitted outright:

- (1) Repair and maintenance shops;
- (2) Light industry;
- (3) Mini-storage and storage building and warehouses;
- (4) Blacksmith and machine shops;
- (5) Welding shops;
- (6) Manufacturing, processing or treatment plants or other uses which comply with state and federal environmental quality standards;
- (7) Granaries; and
- (8) Permitted transportation uses and activities, as defined in § 156.003 of this chapter.

(B) *Conditional uses allowed.* In the I Zone, the following uses and their accessory uses are permitted when authorized in accordance with §§ 156.110 through 156.115 of this chapter:

- (1) A single-family residential dwelling necessary for the caretakers, watchmen or the owner of the industry existing on the parcel;
- (2) RV parks; and
- (3) Construction, reconstruction or widening of highways, roads, bridges or other transportation projects which are:
 - (a) Designated in the Transportation System Plan (including the Bicycle and Pedestrian Plan), but for which no site-specific decisions have been made; or
 - (b) Not otherwise approved as the result of a land division, site development review or conditional use application.

(C) *Dimensional standards.* In the I Zone, the lot size shall be determined by the anticipated use; providing, it generally conforms to:

- (1) Existing land uses;

(2) The provisions of the city's Land Use Plan; and

(3) The purpose of this chapter.

(Ord. 2009-01, passed - -2009)

SUPPLEMENTAL PROVISIONS

§ 156.050 MINIMUM REQUIREMENTS.

No lot area, yard or other open space existing on or after the effective date of this chapter shall be reduced below the minimum required for it by this chapter, and no lot area, yard or other open space which is required by this chapter for one use shall be used as the required lot area, yard or other open space for another use.

(Ord. 2009-01, passed - -2009)

§ 156.051 ACCESS MANAGEMENT AND CONNECTIVITY.

The purpose of this section is to implement the Transportation System Plan (including the Bicycle and Pedestrian Plan) by managing access to roadways while allowing for the safe and efficient movement of people and goods. The standards in this section are intended to maintain roadway safety, capacity, foster connectivity, be consistent with roadway functional classifications and maintain highway mobility (level of service) standards set forth in the Transportation System Plan.

(A) *General frontage standard.* Except as modified in this section, every lot shall abut a street, other than an alley, for at least 25 feet.

(B) *Applicability.* Except for division (A) above, this section shall apply to arterial and collector streets (as defined in the Transportation System Plan) and to properties that abut such streets.

(C) *Cross-access for major traffic generators required.* This division (C) applies to major traffic generators, as defined in § 156.003 of this chapter, and is intended to minimize traffic congestion from commercial and office development. Adjacent commercial or office properties identified as major traffic generators shall provide a cross-access drive and bicycle and pedestrian access to allow circulation between sites.

(D) *Joint use driveways and cross-access easements required where feasible.* For commercial and offices uses that are not major traffic generators, a system of joint use driveways and cross-access easements to allow circulation between sites shall be established and incorporate the following:

(1) A continuous service drive or cross-access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards;

(2) A design speed of ten mph and a maximum width of 20 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles and loading vehicles;

(3) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive;

(4) A unified access and circulation system plan for coordinated or shared parking areas; and

(5) The city may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make the development of a unified or shared access and circulation system impractical.

(E) *Shared parking.* Shared parking areas shall be permitted as a reduction in required vehicle parking spaces if peak demands do not occur at the same time periods.

(F) *Implementation of cross-easements and shared parking agreements.* Where cross-access easements or shared parking are required and feasible, property owners shall:

(1) Record an easement with the deed allowing cross-access to and from other properties served by the joint use driveways and cross-access or service drive;

(2) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway; and

(3) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

(G) *Reduction in access separation distances.* The city may reduce required separation distance of access points where they prove impractical; provided, all of the following requirements are met:

(1) Joint access driveways and cross-access easements are provided in accordance with this section;

(2) The site plan incorporates a unified access and circulation system in accordance with this section; and

(3) The property owner enters into a written agreement with the city, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

(H) *Driveway and approach standards.* Driveways and their approaches shall meet the following standards.

(1) If the driveway is a one way in or one way out drive, then the driveway shall be a minimum width of ten feet and shall have appropriate signage designating the driveway as a one way connection.

(2) For two-way access, each lane shall have a minimum width of ten feet and a maximum width of 12 feet.

(3) Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers shall be avoided due to the potential for vehicular weaving conflicts.

(4) The length of driveways shall be designed in accordance with the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.

(I) *Non-conforming access features.* Legal access connections in place as of (date of adoption) that do not conform with the standards herein are considered non-conforming features and shall be brought into compliance with applicable standards under the following conditions:

(1) When new access permits are requested; or

(2) Change in use, enlargements or improvements that will increase trip generation to 400 daily trips or above.

(J) *Requirements for consolidated development plans.* This section promotes unified access and circulation systems.

(1) Plans for phased developments, development sites under the same ownership or development sites that have been consolidated for the purposes of development and comprised of more than one building site shall be reviewed as single properties in relation to the access standards of this chapter.

(a) The number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage.

(b) All necessary easements, agreements and stipulations shall be met. This shall also apply to phased development plans.

(c) The owner and all lessees within the affected area are responsible for compliance with the requirements of this chapter and both shall be cited for any violation.

(2) All access must be internalized using the shared circulation system of the principal development or retail center. Driveways shall be designed to avoid queuing across surrounding parking and driving aisles, and pedestrian walkways.

(K) *Access to street of lower classification required.*

(1) Lots that front on more than one street shall be required to locate motor vehicle accesses on the street with the lower functional classification.

(2) New direct accesses to individual one- and two-family dwellings shall be prohibited on all but district-level state highways.
(Ord. 2009-01, passed - -2009)

§ 156.052 CORNER CLEARANCE.

(A) Corner clearance for access connections shall meet or exceed the minimum access connection spacing requirements for that roadway.

(B) New access connections shall not be permitted within the functional area of an intersection as defined by the connection spacing standards of this chapter, unless no other reasonable access to the property is available.

(C) Where no other alternatives exist, the Planning Official may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e., right in/out, right in only or right out only) may be required.
(Ord. 2009-01, passed - -2009)

§ 156.053 COMMERCIAL BUILDING AND PARKING ORIENTATION STANDARDS.

(A) (1) New commercial buildings shall be oriented to the street, near or at the setback line.

(2) A main entrance shall be oriented to the street.

(3) For lots with more than two front yards, the building(s) shall be oriented to the two busiest streets.

(B) Off-street motor vehicle parking for new or expanded commercial development shall not be located between the building and Main Street in the downtown area. Existing downtown off-street parking areas are exempt from this standard.
(Ord. 2009-01, passed - -2009)

§ 156.054 PEDESTRIAN CIRCULATION AND BICYCLE CIRCULATION AND PARKING.

Safe and convenient pedestrian and bicycle access shall be provided within new subdivisions, and within new or expanded multi-family, commercial, industrial, school, park and office developments as set forth in this section.

(A) *Bicycle and pedestrian access.* Bicycle and pedestrian access shall provide safe, direct and convenient connections to adjacent streets, as well as residential areas and neighborhood activity centers within one-half mile of the development.

(1) Residential developments shall include streets with walkways and accessways.

(2) Pedestrian circulation through parking lots shall be provided in the form of accessways or other clearly defined walkways.

(3) Internal pedestrian circulation shall be provided by clustering of buildings, construction of hard surface walkways, landscaping, accessways or similar techniques.

(4) Bikeways shall be required along all arterial and collector streets. Striped bike lanes or other separated bikeways shall be provided on roadways serving 3,000 vehicle trips per day or greater.

(5) Walkways shall be required along both sides of all arterials, collectors and local streets.

(B) *Bicycle parking.* Bicycle parking shall be provided for new multiple family, commercial, office, industrial, park, school and other institutional uses, and to additions to these uses of 1,000 square feet or greater. Bicycle parking is not required for single-family and two-family housing (attached, detached or manufactured housing), home occupations, agriculture or livestock uses. The table below sets forth bicycle parking standards. Where two options are provided, the option resulting in more bike parking shall be used.

<i>Minimum Required Bicycle Parking Spaces</i>			
<i>Use Categories</i>	<i>Specific Uses</i>	<i>Long-Term Spaces (covered or enclosed)</i>	<i>Short-Term Spaces (near-building entrances)</i>
Residential categories			
Household living	Multi-family	1 per 4 units	2, or 1 per 20 units
Group living		2, or 1 per 20 bedrooms	None
	Dormitory	1 per 8 bedrooms	None
Commercial Categories		2, or 1 per 12,000 sq. ft. of floor area	2, or 1 per 5,000 sq. ft. of floor area
	Lodging	2, or 1 per 20 rentable rooms	2, or 1 per 20 rentable rooms

Joseph - Land Usage

<i>Minimum Required Bicycle Parking Spaces</i>			
<i>Use Categories</i>	<i>Specific Uses</i>	<i>Long-Term Spaces (covered or enclosed)</i>	<i>Short-Term Spaces (near-building entrances)</i>
Office		2, or 1 per 10,000 sq. ft. of floor area	2, or 1 per 40,000 sq. ft. of floor area
Commercial outdoor recreation		8, or 1 per 20 auto spaces	None
Major event entertainment		8, or 1 per 40 seats per CU review	None
Industrial Categories			
Manufacturing and production		2, or 1 per 15,000 sq. ft. of floor area	None
Warehouse and freight movement		2, or 1 per 40,000 sq. ft. of floor area	None
Institutional Categories			
Basic utilities	Bus transit center	8	None
Community service		2, or 1 per 10,000 sq. ft. of floor area	2, or 1 per 10,000 sq. ft. of floor area
	Park-and-ride	8, or 5 per acre	None
Schools	Grades 2-5	1 per classroom, or per CU review	1 per classroom, or per CU review
	Grades 6-12	2 per classroom, or per CU review	4 per classroom, or per CU review
Colleges	Excluding dormitories (see "group living" above)	2, or 1 per 20,000 sq. ft. of net building area, or per CU review	2, or 1 per 10,000 sq. ft. of net building area, or per-CU review
Medical centers		2, or 1 per 70,000 sq. ft. of net building area, or per CU review	2, or 1 per 40,000 sq. ft. of net building area, or per CU review
Religious institutions and places of worship		2, or 1 per 4,000 sq. ft. of net building area	2, or 1 per 2,000 sq. ft. of net building area
Daycare		2, or 1 per 10,000 sq. ft. of net building area	None
Other Categories	Determined through site development or conditional use review, as applicable		

(1) *Location and design.* Long-term (e.g., covered) bicycle parking should be incorporated whenever possible into building design. Short-term bicycle parking, when allowed within a public right-of-way, should be coordinated with the design of street furniture, as applicable.

(2) *Visibility and security.* Bicycle parking for customers and visitors of a use shall be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.

(3) *Options for storage.* Long-term bicycle parking requirements for multiple-family uses and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks or other secure storage space inside or outside of the building.

(4) *Lighting.* For security, bicycle parking shall be at least as well-lit as vehicle parking.

(5) *Reserved area.* Areas set aside for bicycle parking shall be clearly-marked and reserved for bicycle parking only.

(6) *Hazard.* Bicycle parking shall not impede or create a hazard for pedestrians. Parking areas shall be located so as not to conflict with vision clearance standards.

(7) *Additional location and design guidance.* The Design Guidelines chapter of the 2009 Joseph Bicycle and Pedestrian Plan provides further guidance on the location and design of short- and long-term bicycle parking facilities.

(Ord. 2009-01, passed - -2009)

§ 156.055 ACCESSORY USES.

An accessory use or structure shall comply with the requirements for a principal use or structure, except as this chapter specifically allows to the contrary. Accessory structures are allowed in all zones. (Ord. 2009-01, passed - -2009)

§ 156.056 SIGNS IN RESIDENTIAL ZONE.

In an R-1 or R-2 Zones, signs are generally regulated and allowed as follows:

(A) One temporary sign pertaining to the lease, rental or sale of the property and not exceeding eight square feet in area;

(B) One temporary sign per tract of land or subdivision advertising the sale of the tract of land or lots and not exceeding 32 square feet in area;

(C) A temporary political sign, not exceeding six square feet in area, purporting to advertise a candidate or issue for a period not to exceed 60 days prior to the date of an election. Said sign must be removed not later than ten days after the date of the election;

(D) Private signs shall not be allowed in any portion of a public right-of-way unless specifically authorized by the city; and

(E) Ch. 151 of this code of ordinances governs signs in the Commercial Zone.
(Ord. 2009-01, passed - -2009)

§ 156.057 FENCES AND INTERSECTION SAFETY.

Fences and walls that are located within yards shall comply with the standards of this section and shall require a permit prior to construction.

(A) *Residential Zone.* In Residential Zones in the city:

(1) No solid fence shall be higher than six feet above the natural ground level at any place; provided, however, that, woven wire fences eight feet in height are allowed; and

(2) Arches and arbors over a gate may be up to eight feet above the natural ground level.

(B) *Commercial and Industrial Zones.* In Commercial and Industrial Zones in the city:

(1) Properties abutting a Residential Zone shall comply with their specific zone;

(2) Any fence abutting alleys must comply with their specific zone; and

(3) Maximum fencing of eight feet in height is allowed. Barbed wire may be allowed between six and eight feet in height, with each strand spaced equally apart and not more than three strands.

(C) *All zones throughout the city.*

(1) No fence or vegetation shall materially obstruct or impair visibility at intersections of public roads, private roads and/or alleys.

(2) Electric fences are prohibited, except electric fences which are located at two feet distance inside an existing woven wire or solid fence.

(3) No fences shall be located on or within any public right-of-way. Any pre-existing fence located on or within a public right-of-way is grand-fathered in as of this date. Any fence after this date shall be removed by and at the sole cost and expense of the owner of the property benefitted by the fence, within 30 days as requested by the city.

(4) No fence shall materially impair access to the city's or any public utilities' infrastructure within a public right-of-way.

(5) If a fence has one surface which is finished and another which is unfinished, the supporting system and unfinished surface shall face the interior of the lot or parcel of the person erecting the fence.

(D) *Building requirements.* As applicable, the construction, repair and replacement of fences shall comply with the Uniform Building Code as administered by the state's Building Codes Department.

(E) *Effective date.*

(1) All fences constructed before the effective date of this section with the exception of unsightly or hazardous fences shall be deemed to be in compliance with this chapter. After the effective date of this section, all further fence construction and replacement shall comply with this section.

(2) The effective date of this section was 4-7-2006.

(F) *Self help remedy.* If any person violates this section, without limiting the other rights and remedies of the city or any affected person, the city may give the person notice of the violation and, if the violation is not cured within 30 days after the date such notice is given, a court hearing will take place, with the sole cost and expenses being that of the property owner.

(Ord. 2009-01, passed - -2009)

§ 156.058 FLOODPLAINS.

No structure constructed, reconstructed or altered shall be located within a floodplain area as identified in the city's Land Use Plan unless adequate flood precaution measures have been taken according to the Department of Housing and Urban Development guidelines.

(Ord. 2009-01, passed - -2009)

§ 156.059 HISTORICALLY SIGNIFICANT BUILDINGS.

(A) The following provisions shall apply to buildings currently listed as being of historical importance in the city's Land Use Plan and future additions to that list.

(B) Uses, alterations or demolition of historical buildings shall be according to the following.

(1) Historical buildings may be used conditionally for purposes not otherwise authorized in the zone in which they are located. Such conditional uses shall be granted only as they will preserve the integrity of the building and historic value and will be subject to review by the Council, following the provisions of §§ 156.110 through 156.115 of this chapter.

(2) Exterior alterations shall be in accordance with the following.

(a) Upon receipt of an application for exterior alteration of a historic structure listed on the significant building list, the Council, at a public hearing, shall review the proposed alteration to determine whether the proposed changes will alter the resource's historical significance. This review shall be based on the criteria for determining historic significance contained in the comprehensive plan.

(b) Exterior alterations as governed by this chapter include any change or alteration of a facade, texture, design, material, fixtures or other treatment.

(c) All application for exterior alteration shall be accompanied by plans and specifications of the proposed alteration. The Council may request additional sketches and other information deemed necessary to make an informed decision.

(d) The Council shall approve the change if the treatment proposed is determined to be harmonious and compatible with the character of the resource. In order to approve the application, the Council shall find the alteration harmonious and compatible with the resource with respect to style, scale, texture, and construction materials and/or find that the alteration will enhance the historical value of the resource. Conditions may be attached to the approval if the Council so deems it necessary to achieve the above objectives. The Council shall disapprove the request if the proposal would reduce the resource's value or historic significance.

(e) Conditions attached to a permit for exterior alterations of a significant historic structure shall be limited to requirements addressing architectural design, surface, texture, materials, fixtures or other facade or surface treatments which are deemed inconsistent with the integrity of the historic values being preserved.

(f) The Council shall not make any recommendations or requirements, except for the purpose of preventing developments out of character with the historic aspects of the resource.

(g) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, or the construction, reconstruction or alteration of such feature which the building inspector shall certify is required by the public safety because of an unsafe condition.

(3) A demolition permit shall be applied for when a historical building is to be destroyed. The permit application shall be reviewed by the City Council in a public hearing. If the permit is tentatively approved, demolition will not commence for a minimum of 90 days in order that an alternative to demolition may be devised. If no alternative is forthcoming at the end of the 90-day period, demolition may proceed.

(Ord. 2009-01, passed - -2009)

§ 156.060 OFF-STREET AUTOMOBILE AND TRUCK PARKING.

(A) The city shall require that off-street parking be provided in connection with the establishment of new uses or the expansion of existing uses. The city shall require the standards of the *Architectural Graphic Standards*, the edition in effect on the effective date of this chapter, adopted by reference. When square feet are specified, the area measured shall be the gross floor area of the building, but shall

exclude any space within a building devoted to the off-street parking or loading. When the number of employees is specified, persons counted shall be those working on premises, including proprietors, during the largest shift at peak season.

(B) New uses shall provide off-street parking as listed in the following examples:

(1) Hotels, motels: one space per guest room;

(2) Retail, wholesale, commercial: one space per 400 square feet floor area, establishment, eating or drinking establishments or financial institutions;

(3) Places of assembly, including churches: one space per 35 square feet of floor area fraternal organizations and used as a meeting room;

(4) Industrial/light industrial: one space per employee;

(5) Institutional uses, including hospitals, nursing homes and rest homes: one space per two beds for patients or residents; and

(6) Multiple-family dwellings: one and one-half spaces per unit.

(Ord. 2009-01, passed - -2009)

§ 156.061 TRANSPORTATION IMPACT STUDY.

(A) *Threshold.* An applicant shall submit a TIS when a proposed land use action affects a transportation facility as set forth below. The following vehicle trip generation thresholds shall determine the level and scope of transportation analysis required for a new or expanded development. The developer shall be required to mitigate impacts attributable to the project. The determination of impact or effect and the scope of the impact study shall be coordinated with the provider of the affected transportation facility.

(1) If a proposed development will generate 400 or more daily trip ends, as defined by the Institute of Transportation Engineers (ITE), *Trip Generation Manual* or trip generation studies of comparable uses prepared by an engineer, then a TIS shall be required. The requirements for the TIS shall be established by the Planning Official in consultation with ODOT.

(2) If a proposed development will generate 100 or more daily trip ends, but less than 400 daily trip ends, then a Transportation Site Review (TSR) shall be required. The requirements of a TSR shall be established by the county's Planning Department or city's Planning Official in consultation with ODOT.

(B) *Special transportation analysis*. Projects that generate less than 100 daily trip ends may also be required to provide traffic analysis when a capacity problem and/or safety concern is caused and/or is adversely impacted by the development. The Planning Official shall determine the scope of this special analysis in consultation with ODOT.

(Ord. 2009-01, passed - -2009)

§ 156.062 HOME OCCUPATIONS.

(A) A home occupation may only be conducted/approved if:

- (1) It is conducted at the primary residence of the applicant;
- (2) It is secondary to the use of the dwelling for dwelling purposes;
- (3) It does not change the residential character of the lot in any manner visible off the property;
- (4) The applicant is not a part-time resident;
- (5) It does not create objectionable noise, noticeable vibration or objectionable odor at the property lines;
- (6) It does not create waste or unsightly conditions visible off the property;
- (7) It does not create interference with radio or television reception in the vicinity;
- (8) It does not have full time employees on the premises who are not residents of the premises;
- (9) It occupies 33% or less of the dwelling floor area not considering basement and garage, No restriction shall be placed on the percentage of the accessory structure used for the home occupation as long as the residential character of the lot is not changed in any manner visible off the property;
- (10) It has sufficient parking for both the residential and specific business use, as defined in this regulation; and
- (11) Does not create a volume of traffic inconsistent with the level of traffic of the street on which it is located.

(B) The applicant must show that his or her intended home occupation cannot be conducted in the Commercial Zone by the following:

- (1) Available space; and/or
- (2) Profit/loss.

(C) The following are examples of permitted home occupations; provided, they do not violate any of the provisions of the previous paragraphs:

- (1) Dressmaking, sewing and tailoring;
- (2) Painting, sculpting or writing;
- (3) Telephone answering;
- (4) Home crafts, such as model making, rug weaving, lapidary work and cabinet making;
- (5) Tutoring or educational activity limited to four students at a time;
- (6) Home cooking and preserving;
- (7) Computer programming or Internet-based business;
- (8) Barber shops and beauty parlors (limited to one chair); and
- (9) Mail order operation.

(D) The following are prohibited as home occupations:

- (1) Any occupation as a part-time resident;
- (2) Animal hospitals;
- (3) Private clubs;
- (4) Repair shops;
- (5) Restaurants;
- (6) Stables or kennels; and
- (7) Automobile repair or paint shops.

(E) The purpose of a home occupation is to provide an incubation period for a business in a cost effective manner with the intent of moving to the Commercial Zone.

(F) Any proposed home occupation that is neither specifically permitted by division (B) above or specifically prohibited by division (C) above shall be considered a conditional use and be granted or denied by the City Council upon consideration of those standards contained in division (A) above.

(G) In determining whether or not to grant a conditional use permit for a home occupation, the City Council will assess the level of public contact, retail sales or customer activity on the premises.
(Ord. 2009-01, passed - -2009)

§ 156.063 FLAG LOTS.

Flag lots may be created to provide access to future development. A flag lot driveway may serve no more than two dwelling units unless Uniform Fire Code (UFC) standards are met for more units. When UFC standards are met, the maximum number of dwellings shall be six. A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots. No fence, structure or other obstacles shall be placed within the drive area.
(Ord. 2009-01, passed - -2009)

MARIJUANA FACILITIES

§ 156.075 PURPOSE.

This subchapter establishes regulations for the siting of medical and recreational marijuana (MRM) facilities as authorized by state law. The purpose of this subchapter is to minimize adverse impacts on adjacent properties, schools and other places where children congregate and other land uses potentially incompatible with such facilities.
(Ord. 2015-01, passed 6-25-2015)

§ 156.076 ALLOWANCE; CONFLICT.

(A) MRM facilities may be allowed, subject to a conditional use permit pursuant to §§ 156.110 through 156.115 of this chapter, in the Commercial Zone (C) and Industrial Zone (I). No MRM facility may be located within the city unless the review authority finds that it satisfies all the requirements of this code and state law.

(B) MRM facilities legally established pursuant to this chapter shall not be found in conflict with the provision of this chapter in the event that a conflicting land use locates in the vicinity of a MRM facility subsequent to the MRM facility obtaining land use approval from the city. When such conflict is found to exist, the MRM facility shall be considered a legal non-conforming use and subject to provisions set forth in §§ 156.090 through 156.095 of this chapter.
(Ord. 2015-01, passed 6-25-2015)

§ 156.077 DEFINITIONS.

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

CAREER SCHOOL. Any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.

MINOR. An individual under the age of 18.

PRE-SCHOOL. A school of instruction attended primarily by pre-kindergarten or age level equivalent (ages 2-5).

PRIMARY SCHOOL. (Also known as **ELEMENTARY SCHOOL.**) A learning institution containing one or any combination of grades kindergarten through eighth grade or age level equivalent.

SECONDARY SCHOOL. A learning institution containing one or any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include ninth grade.

(Ord. 2015-01, passed 6-25-2015)

§ 156.078 STANDARDS FOR FACILITIES.

A MRM facility shall not be located:

(A) At the same address as a registered grow site;

(B) Within 1,000 feet of the real property comprising a:

(1) Public or private preschool, elementary, secondary or career school attended primarily by minors;

(2) Public library;

(3) Public park;

(4) Community recreation facility attended primarily by minors;

(5) Participant sports and recreation facility attended primarily by minors; or

(6) Licensed daycare center.

(C) Within 1,000 feet of another MRM facility.
(Ord. 2015-01, passed 6-25-2015)

EXCEPTIONS

§ 156.090 NON-CONFORMING USES.

(A) (1) A non-conforming use or structure may be continued, but may not be altered or extended.

(2) The extension of a non-conforming use to a portion of a structure which was arranged or designed for the non-conforming use at the time of passage of this chapter is not an enlargement or expansion of a non-conforming use.

(3) Any expansion of a non-conforming use or structure must meet the current standards set forth in this chapter.

(B) If a non-conforming use is discontinued for a period of one year, further use of the property shall conform to this chapter.

(C) (1) If a non-conforming use is replaced by another use or structure, the new use shall conform to this chapter.

(2) For example, single-wide mobile homes in any R-1 Zone may not be replaced by other single-wide mobile homes even though they may be tenant occupied and owned.

(D) If a non-conforming structure or a structure containing a non-conforming use is destroyed by any cause to an extent exceeding 80% of its fair market value as indicated by the records of the County Assessor, a future structure or use on this site shall conform to this chapter.

(E) Nothing contained in this chapter shall require any change in the plans, construction, alteration or designation of use of a structure for which a permit has been issued by the city or state and construction has commenced prior to the adoption of this chapter, providing the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two years from the time the permit is issued.

(Ord. 2009-01, passed - -2009)

§ 156.091 LOT SIZE REQUIREMENTS.

If a property ownership consisting of the entire contiguous land holdings held in a single ownership at the time of passage of this chapter has an area or dimension which does not meet the lot size

requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone; provided that, if there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. The record of ownership as recorded in the office of the County Clerk at the time of passage of this chapter shall be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time the provision of this chapter became applicable to the land concerned.

(Ord. 2009-01, passed - -2009)

§ 156.092 YARD REQUIREMENTS.

The following exceptions to yard requirements are authorized for a lot in any zone:

(A) If there are buildings on both abutting lots which are within 100 feet of the intervening lot and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for intervening lot need not exceed the average depth of the front yards of the abutting lots; and

(B) If there is a building on one abutting lot which is within 100 feet of the lot and this building has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth halfway between the depth of the front yard of the abutting lot and the required front yard depth.

(Ord. 2009-01, passed - -2009)

§ 156.093 BUILDING HEIGHT LIMITATIONS.

Vertical projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles and other similar objects not used for human occupancy are not subject to the building height limitations of this chapter.

(Ord. 2009-01, passed - -2009)

§ 156.094 PROJECTIONS FROM BUILDINGS.

Fixed architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 24 inches into a required yard.

(Ord. 2009-01, passed - -2009)

§ 156.095 ACCESS STANDARDS; MODIFICATIONS.

An applicant may seek relief from the access standards in § 156.051 of this chapter by providing factual evidence that addresses the following criteria:

- (A) The proposed modification is consistent with the stated purpose and intent of § 156.051 of this chapter;
- (B) Unique or special conditions related to the property itself make strict application of the provisions impractical;
- (C) Indirect or restricted access cannot be obtained;
- (D) Every feasible option for meeting access standards has been seriously considered;
- (E) No engineering or construction solution can reasonably be applied to mitigate the condition;
- (F) No reasonable alternative access is available from a street with a lower functional classification than the primary roadway; and
- (G) The need for the modification did not result from an previous action taken by the property owner (i.e., the hardship is not self-imposed).
(Ord. 2009-01, passed - -2009)

CONDITIONAL USES

§ 156.110 AUTHORIZATION TO GRANT OR DENY.

- (A) (1) A conditional use listed in this chapter shall be permitted, altered or denied in accordance with the standards and procedures of this subchapter.
 - (2) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, a change in the use or in lot area or an alteration of structure shall conform with the requirements for conditional use.
 - (3) In judging whether or not a conditional use proposal shall be approved or denied, the Council shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed.
- (B) To approve such use, the Council shall find the following criteria are either met, or are not applicable.
- (1) The proposal will be in compliance with the city's Comprehensive Land Use Plan and applicable provisions of this chapter, including, but not limited to, the applicable dimensional standards

of §§ 156.035 through 156.038 of this chapter and the supplemental provisions of §§ 156.050 through 156.063 of this chapter.

(2) Taking into account location, size, design and operation characteristics, the proposal will have minimal impact on the abutting properties and the surrounding area compared to the impact of the development that is permitted outright.

(3) The location and design of the site and structures for the proposal will be as attractive and as consistent with other developments within the area and the zone as possible.

(4) The proposal will preserve assets of particular interest to the community as may be identified within the Comprehensive Land Use Plan.

(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal and is not motivated solely by such purposes as the alteration of property value or speculative purposes.
(Ord. 2009-01, passed - -2009)

§ 156.111 TRANSPORTATION PROJECTS; ADDITIONAL REVIEW CRITERIA.

The following criteria apply to transportation projects identified as conditional uses in the use zone:

(A) Transportation projects shall comply with the Transportation System Plan and applicable review criteria and standards of this chapter, and shall also be designed to:

(1) Minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources and scenic qualities;

(2) Preserve or improve the safety and function of the facility through access management, traffic calming or other design features;

(3) Include provision for bicycle and pedestrian circulation as consistent with the Comprehensive Land Use Plan, Transportation System Plan (including the Bicycle and Pedestrian Plan) and other applicable requirements of this chapter; and

(4) Be compatible with existing land use and social patterns, including noise generation, safety and zoning.

(B) For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the criteria listed in this section.

(C) If review under this section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.

(Ord. 2009-01, passed - -2009)

§ 156.112 PLACING CONDITIONS ON PERMIT.

(A) In permitting a new conditional use or the alteration of an existing conditional use, the Council may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as whole.

(B) These conditions may include the following:

(1) Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effect as noise, vibration, air pollution, glare and odor;

(2) Establishing a special yard or other open space or lot area or dimension;

(3) Limiting the height, size or location of a building;

(4) Designating the size, number, location and nature of vehicle access points;

(5) Increasing the amount of street dedication, roadway width or improvements within the street right-of-way;

(6) Designating the size, location, screening, draining, surfacing or other improvement of a parking area or truck loading area;

(7) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(8) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(9) Requiring diking, screening, landscaping or other facilities to protect adjacent or nearby property and designating standards for its installation and maintenance;

(10) Designating the size, height, location and materials for a fence;

(11) Protecting and preserving existing trees, vegetation, water resources, fish and wildlife habitat or other significant natural resources;

(12) Requiring dedication of land for streets, transit facilities, walkways, bikeways, paths or accessways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use;

(13) Requiring improvements such as paving, curbing, installation or contribution to traffic signals, construction of walkways, bikeways, accessways, paths or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use; and

(14) Other conditions to permit the development of the city in conformity with the intent and purpose of the Comprehensive Land Use Plan.

(Ord. 2009-01, passed - -2009)

§ 156.113 RECREATIONAL VEHICLES.

In addition to the standards of the zone in which the conditional use is located and the other standards of this chapter and section, an RV park approved as a conditional use shall use the following procedures and meet the following standards.

(A) All RV parks must be registered, operated and maintained as provided in ORS 446.002 to 446.200.

(B) Application shall be made to the City Recorder for establishment of an RV park and shall contain a plot and area plan, legal description of the property, number of units to be established, name of applicant and such other information as required by state law and considered necessary by the Council.

(C) (1) Application shall be accompanied by a non-refundable fee which has been set by the Council by resolution and there shall also be an annual licensing fee of \$25.

(2) Said fees will be used to defray costs of administering the provisions of this chapter.

(Ord. 2009-01, passed - -2009)

§ 156.114 PROCEDURE FOR TAKING ACTION ON APPLICATION.

The procedure for taking action on a conditional use application shall be as follows.

(A) A property owner may initiate a request for a conditional use by filing an application with the City Recorder.

(B) Before the Council may act on a conditional use application, it shall hold a public hearing thereon, following the procedure as established in § 156.006 of this chapter.

(C) Within five days after a decision has been made on a conditional use application, the City Recorder shall provide the applicant with written notice of the decision of the Council.
(Ord. 2009-01, passed - -2009)

§ 156.115 TIME LIMIT ON PERMIT.

(A) Authorization of a conditional use shall be void after one year unless substantial construction pursuant thereto has taken place or unless specifically authorized by the Council for an additional period not to exceed one more year.

(B) Request for extension must be in writing prior to the deadline.
(Ord. 2009-01, passed - -2009)

VARIANCES

§ 156.130 AUTHORIZATION TO GRANT OR DENY.

The Council may authorize variances from the requirements of this chapter where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of this chapter would cause an undue or unnecessary hardship. In granting a variance, the Council may attach conditions which it find necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this chapter. Variances shall not be granted for a use or for a lot size deviation that is specifically allowed as a use or a lot size within another zone.
(Ord. 2009-01, passed - -2009)

§ 156.131 CRITERIA FOR GRANTING A VARIANCE.

A variance may be granted only in the event that all of the following criteria are met.

(A) Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owners of property since the enactment of this chapter had no control.

(B) The variance is necessary for the preservation of a property right of the applicant, substantially the same as owners of the other property in the same zone or vicinity possess.

(C) The variance would not be materially detrimental to the purpose of this chapter or the property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any city plan or policy.

(D) The variance request is the minimum variance which would alleviate the hardship and the hardship was not self-imposed.
(Ord. 2009-01, passed - -2009)

§ 156.132 PROCEDURE FOR TAKING ACTION ON APPLICATION.

The procedures for taking action on a variance application shall be as follows.

(A) A property owner may initiate a request for a variance by filing an application with the City Recorder using forms prescribed pursuant to § 156.163 of this chapter.

(B) Before the Council may act on a variance application, it shall hold a public hearing thereon, following the procedures as established in § 156.165 of this chapter.

(C) Within five days after a decision has been rendered within reference to a variance application, the City Recorder shall provide the applicant with written notice of the decision of the Council.
(Ord. 2009-01, passed - -2009)

§ 156.133 TIME LIMIT ON PERMIT.

(A) Authorization of a variance shall be void after one year unless substantial construction has taken place.

(B) However, the Council may, upon request, extend written authorization for an additional period not to exceed one year.
(Ord. 2009-01, passed - -2009)

AMENDMENTS

§ 156.145 AUTHORIZATION TO INITIATE.

(A) An amendment to the text of this chapter, the Land Use Plan or to the zoning map may be initiated by the Council, the city's Land Use Planning Commission (should one be established), or by application of a property owner.

(B) The request by a property owner for an amendment shall be accomplished by filing a statement of purpose or application with the City Recorder, consistent with ORS 227.220 and 227.240.
(Ord. 2009-01, passed - -2009)

§ 156.146 PUBLIC HEARINGS.

The Council shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall render a decision with 120 days from the date the application has been deemed complete. The decision shall be placed in written form and forwarded to the applicant within five days after the decision is made. The decision may constitute an approval, disapproval or modified approval of the amendment.

(Ord. 2009-01, passed - -2009)

§ 156.147 RECORD OF AMENDMENTS.

The final decision of the Council regarding an amendment to this chapter or zoning map shall be maintained for public inspection in the office of the City Recorder.

(Ord. 2009-01, passed - -2009)

§ 156.148 LIMITATION OF REAPPLICATION.

No application of a property owner for an amendment to the text of this chapter or to the zoning map shall be considered by the Council within a one year period following denial of the request.

(Ord. 2009-01, passed - -2009)

§ 156.149 REVIEW CRITERIA.

This section sets forth criteria for amendments to adopted plans and land use regulations.

(A) An amendment to land use regulations (i.e., the zoning, subdivision or annexation ordinances) must be consistent with the Comprehensive Land Use Plan and Transportation System Plan, including the Bicycle and Pedestrian Plan.

(B) An amendment to the Comprehensive Land Use Plan or Transportation System Plan must be consistent with applicable statewide planning goals and administrative rules.

(C) An amendment to the Comprehensive Land Use Plan or implementing land use regulations which significantly affects a transportation facility shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

(1) Limiting allowed land uses to be consistent with the planned function of the transportation facility;

(2) Amending the Transportation System Plan or Bicycle and Pedestrian Plan to ensure that existing, improved or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or

(3) Altering land use designations, densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(D) A plan or land use regulation amendment significantly affects a transportation facility if it:

(1) Changes the functional classification of an existing or planned transportation facility;

(2) Changes standards implementing a functional classification system;

(3) Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or

(4) Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

(Ord. 2009-01, passed - -2009)

ADMINISTRATION AND ENFORCEMENT

§ 156.160 INTERPRETATION.

Where the conditions imposed by a provision of this chapter are less restrictive than comparable conditions imposed by any other provisions of this chapter or any other ordinance, the provisions which are more restrictive shall govern.

(Ord. 2009-01, passed - -2009)

§ 156.161 ADMINISTRATION.

(A) The Council shall designate a city employee to administer this chapter and Ch. 154 of this code of ordinances. The designate shall be known as the “Planning Official” and shall provide recommendations concerning applications made pursuant to the requirements of this chapter and Ch. 154 of this code of ordinances.

(B) The City Recorder shall have final responsibility for issuing land use permits under this chapter. (Ord. 2009-01, passed - -2009)

§ 156.162 APPEALS.

Final decision of the Council may be appealed in compliance with ORS 197.763; provided that, the appeal is filed within 21 days after the officer has rendered his or her decision. Written notice of the appeal shall be filed with the City Recorder.

(Ord. 2009-01, passed - -2009)

§ 156.163 FORMS OF PETITION, APPLICATION AND APPEAL.

Petitions, applications and appeals provided for in ordinances shall be made on forms prescribed by the city. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; and the sizes and locations on the lot of existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with the purpose of this chapter.

(Ord. 2009-01, passed - -2009)

§ 156.164 FILING FEES.

Fees for applications shall be paid to the City Recorder upon filing an application. Such fees, which shall be set by resolution of the Council, will be used to defray the cost of administering this chapter and shall be non-refundable.

(Ord. 2009-01, passed - -2009)

§ 156.165 PUBLIC HEARINGS.

(A) Each notice of a public hearing authorized by this chapter shall be published in a newspaper of general circulation in the city at least 20 but not more than 30 days prior to the date of the hearing.

(B) In addition, a notice of hearing on a conditional use, a variance or an amendment to a zone boundary shall be mailed to all owners of property within 250 feet of the property for which the variance, conditional use or zoning map amendment has been requested. The notice of hearing shall be at least 20 days prior to the date of the hearing and shall be by regular mail, first class.

(C) Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

(D) The Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decided may be interested in the application being

considered. Upon recessing a hearing, the time and date when the hearing is to be resumed shall be announced.

(Ord. 2009-01, passed - -2009)

§ 156.166 CONSOLIDATED PROCEDURE.

An applicant may apply at one time for all permits or zone changes needed for a development project. The applicant can consolidate any presentations/testimony that would customarily be given separately with respective applications. The consolidated proposal shall be reviewed with respect to the appropriate provisions of this chapter. Although the application can be presented as a consolidated proposal, separate approvals/denials will be given for the various components of the proposal with regard to the permits being requested.

(Ord. 2009-01, passed - -2009)

§ 156.167 TIME LIMIT ON DECISIONS.

The city shall take final action on an application for a permit or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete. The 120-day period may be extended for a reasonable period of time at the request of the applicant. This provision does not apply to Comprehensive Land Use Plan amendments.

(Ord. 2009-01, passed - -2009)

§ 156.168 APPROVAL WITHOUT HEARING.

The City Council or Planning Official may approve or deny an application for a permit other than a conditional use permit or variance without a hearing if the city gives notice of the decision and provides an opportunity for an appeal of the decision to those persons who would have had a right to notice if a hearing had been scheduled or who are adversely affected or aggrieved by the decision. Notice of the decision shall be given in the same manner as notice of the hearing would have been given if a hearing had been held. An appeal shall be heard by the City Council as a de novo hearing.

(Ord. 2009-01, passed - -2009)

§ 156.169 NOTICE REGARDING LAND USE ACTIONS.

(A) Notice shall be sent to ODOT regarding any land use action on or adjacent to a state transportation facility.

(B) Notice shall be sent to the city or county public works department as appropriate, regarding any land use action that potentially affects another jurisdiction's transportation facility. Notice also shall be sent to ODOT.

(C) Upon written request, notice shall be sent to providers of public transit and special interest transportation groups such as truckers, railroad, bicyclists, pedestrians and disabled persons regarding any roadway or other transportation project.

(Ord. 2009-01, passed - -2009)

ZONING AND SITE DEVELOPMENT REVIEW PROCEDURES

§ 156.180 PURPOSE.

The purpose of subchapter is to:

(A) Provide procedures and standards for administration of zoning and site development review permits;

(B) Promote the public health, safety and general welfare by carrying out Comprehensive Land Use Plan and Transportation System Plan policies; and

(C) Provide adequate light and air, prevent overcrowding of land and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management and protection against natural hazards.

(Ord. 2009-01, passed - -2009)

§ 156.181 APPLICABILITY.

Either zoning review or site development review shall be required for all new developments and modifications of existing developments described below. Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings and the like), parking resurfacing and similar maintenance and repair shall be exempt from review.

(A) *Zoning review.* Zoning review is a review conducted by the Planning Official without a public hearing. It is for minor developments, such as single-family homes on existing lots, that do not require a conditional use permit or site development review approval. Zoning review ensures compliance with the basic land use and development standards of the use zone, such as lot area, building setbacks, lot coverage, maximum building height and other provisions of §§ 156.035 through 156.038 of this chapter. Zoning review is required for all of the types of land uses and development listed below. Land uses and developments exceeding the thresholds below require site development review:

- (1) Change in occupancy from one type of land use to a different land use;
- (2) Single-family detached dwelling (including manufactured home on its own lot);

- (3) A single duplex or up to two single-family attached (town home) units not requiring a land division and accessory parking on the same lot;
- (4) Non-residential building additions up to 1,000 square feet or 50% of an existing structure;
- (5) Home occupations;
- (6) Any proposed development that has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with §§ 156.110 through 156.115 of this chapter;
- (7) Temporary uses requiring a permit;
- (8) Accessory structures and accessory parking;
- (9) Development and land uses that are part of a previously approved site development review or conditional use permit application;
- (10) Public improvements required by a condition of development approval (e.g., transportation facilities and improvements, parks, trails and similar improvements, as determined by the Planning Official).

(B) *Site development review.* Site development review is conducted by the Planning Official or City Council (if referred to the Council by the Planning Official) in accordance with this section.

(1) Site development review applies to commercial, industrial, institutional, public and multi-family residential development that is not specifically listed under division (A) above.

(2) Site development review ensures compliance with the land use and development standards in §§ 156.035 through 156.038 of this chapter (e.g., lot area, building setbacks, lot coverage, maximum building height) and the supplemental development standards and public improvement requirements in §§ 156.050 through 156.063 of this chapter.

(Ord. 2009-01, passed - -2009)

§ 156.182 ZONING REVIEW PROCEDURE AND STANDARDS.

(A) When zoning review is required, it shall be conducted prior to issuance of building permits, occupancy permits, business licenses or public improvement permits, as determined by the Planning Official.

(B) An application for zoning review shall be approved only upon meeting all of the following standards:

(1) The proposed land use or development is permitted by the underlying zoning district (§§ 156.035 through 156.038 of this chapter); and

(2) The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district are met (§§ 156.035 through 156.038 of this chapter).

(C) Zoning reviews do not address a project's compliance with applicable building, fire and life safety regulations.

(Ord. 2009-01, passed - -2009)

§ 156.183 APPLICATION REVIEW PROCEDURE.

When site development review is required, it shall be conducted by the Planning Official or City Council (if referred by the Planning Official) after providing notice as set forth in § 156.168 of this chapter and using the application requirements and approval criteria contained in §§ 156.184 and 156.185 of this chapter.

(Ord. 2009-01, passed - -2009)

§ 156.184 APPLICATION SUBMISSION REQUIREMENTS.

(A) The following information is required for site development review application submittal as deemed applicable by the Planning Official.

(B) An applicant for site development review shall provide the following information:

(1) *Site analysis map*. A site analysis map showing:

(a) The applicant's entire property (properties under the same ownership) and the surrounding properties to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent properties and development;

(b) The property boundaries, dimensions and gross area shall be identified;

(c) Topographic contour lines at two-foot intervals for slopes of less than 10% and five-foot intervals for steeper slopes;

(d) Identification of slopes greater than 25%;

(e) The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way and easements on the site and adjoining the site;

(f) Where available and relevant to the proposal, information related to; distances to neighboring constructed access points, median openings, traffic signals, intersections and other transportation features on both sides of the property; the number and direction of lanes to be constructed on the driveway, plus striping plans; planned transportation features (lanes, signals, bikeways, walkways, crosswalks and the like); and trip generation data or appropriate traffic studies;

(g) Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the city, county or state as having a potential for geologic hazards;

(h) Resource areas, including marsh and wetland areas, streams and wildlife habitat identified by the city or any natural resource regulatory agencies as requiring protection;

(i) Site features, including existing structures, pavement, large rock outcroppings, areas having unique views and drainage ways, canals and ditches;

(j) Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;

(k) The location, size and species of trees and other vegetation having a caliper (diameter) of six inches or greater at four feet above grade;

(l) North arrow, scale, names and addresses of all persons listed as owners of the subject property on the most recently recorded deed; and

(m) Name and address of project designer, engineer, surveyor and/or planner, if applicable.

(2) *Proposed site plan.* The site plan shall contain the following information:

(a) The proposed development site, including boundaries, dimensions and gross area;

(b) Features identified on the existing site analysis maps that are proposed to remain on or removed from the site;

(c) The location and dimensions of all proposed public and private streets, drives, rights-of-way and easements;

(d) The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site; and

(e) Setback dimensions for all existing and proposed buildings shall be provided on the site plan.

(3) *Entrances and exits.* The location and dimensions of entrances and exits to the site for vehicular, pedestrian and bicycle access:

(a) The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);

(b) Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties and any bicycle lanes or trails;

(c) Loading and service areas for waste disposal, loading and delivery;

(d) Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture and similar improvements;

(e) Location, type and height of outdoor fencing and lighting;

(f) Location of mail boxes, if known;

(g) Name and address of project designer, if applicable;

(h) Locations of bus stops and other public or private transportation facilities;

(i) Locations, sizes and types of signs; and

(j) Location of utility connections and pipe sizes.

(4) *Architectural drawings.* Architectural drawings showing one or all of the following shall be required for new buildings and major remodels:

(a) Building elevations (as determined by the Planning Official) with building height and width dimensions;

(b) Building floor plans with dimensions and use of rooms;

(c) Building materials, colors and type; and

(d) The name of the architect or designer.

(5) *Preliminary grading plan.* A preliminary grading plan shall be required for development sites of 10,000 square feet or larger. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required by the City Engineer.

(6) *Landscape plan.* The Planning Official may require a landscape plan showing:

- (a) The location and height of existing and proposed fences, buffering or screening materials;
- (b) The location of existing and proposed terraces, retaining walls, decks, patios, shelters and play areas;
- (c) The location, size and species of the existing and proposed plant materials (at time of planting);
- (d) Existing and proposed building and pavement outlines; and
- (e) Specifications for irrigation (may be automatic or other approved method of irrigation) and anticipated planting schedule.

(7) *Sign drawings.* Sign drawings shall be required in conformance with this chapter.

(8) *Deed restrictions.* Copies of all existing and proposed restrictions or covenants, including those for access control.

(9) *Narrative.* Letter or narrative report documenting compliance with the applicable approval criteria contained in § 156.185 of this chapter.

(10) *Traffic impact study.* Traffic Impact Study, when required, shall be prepared in accordance with city and ODOT requirements (§ 156.061 of this chapter).

(11) *Public facilities and services demand.*

(a) The applicant shall work with city staff to assess the impact of the development on the transportation system (including street access, pedestrian ways and bikeways), the drainage system, the parks system, the water system and the sewer system.

(b) For each public facility system and type of impact, improvements shall be identified necessary to meet city standards and to minimize the impact of the development.

(12) *State highway access permit.* A copy of an approved state access permit shall be submitted for any proposal creating a new access or changing an existing access onto a state highway;

(13) *Other information determined by the planning official.* The city may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, environmental features, natural hazards and the like), in conformance with this chapter.

(Ord. 2009-01, passed - -2009)

§ 156.185 APPROVAL CRITERIA.

The Planning Official (or City Council on referral) shall make written findings with respect to all of the following criteria when approving, approving with conditions or denying an application:

(A) The application complies with all of the applicable provisions of the underlying land use district (§§ 156.035 through 156.038 of this chapter);

(B) The application complies with all of the development standards in this chapter, with particular focus on §§ 156.050 through 156.063 of this chapter;

(C) Conditions of approval required as part of any prior land divisions conditional use permits, or variances (or other land use approvals) shall be met;

(D) Conditions of approval require dedication of land for and improvements to public facilities (including, but not limited to, sanitary sewer, water, storm drainage, communication and transportation facilities) that will be impacted by or are inadequate to handle the additional burden caused by the proposed use;

(E) Proposed roads follow the natural topography and preserve natural features of the site as much as possible and planned alignments minimize grading. The road system provides adequate access to buildings for residents, visitors, deliveries, emergency vehicles and garbage collection. Access is properly placed in relation to sight distance, driveway spacing and other related considerations, including opportunities for joint and cross-access and meets the access management standards in the Transportation System Plan;

(F) An internal bicycle and pedestrian system of sidewalks or paths provides connections to parking areas, entrances to the development and open space, recreational and other community facilities associated with the development. Streets shall have sidewalks on both sides and pedestrian linkages shall also be provided to the peripheral street system; and

(G) Any application that involves access to the state's highway system has been reviewed by the state's Department of Transportation for conformance with state access management standards. (Ord. 2009-01, passed - -2009)

§ 156.186 BONDING, ASSURANCES AND EXACTIONS.

(A) *Performance (or "completion") bonds for public improvements.* On all projects where public improvements are required, the city shall require a bond in an amount equal to the contract amount of the public improvements as a condition of site development approval in order to guarantee the public improvements. The city shall be named "obligee" on all bonds.

(B) *Release of performance bonds.* The bond or assurance shall be released at the end of a one-year warranty period, which shall begin when the Planning Official finds the completed project conforms to the site development approval, including all conditions of approval.

(C) *Completion of landscape installation.* Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to 150% of the cost of the landscaping as determined by the Planning Official or a qualified landscape architect is filed with the Planning Official assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the city to complete the installation.

(D) *Dedication of real property; city obligation.* In situations where this chapter requires the dedication of real property to the city, the city shall either:

(1) Include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services; or

(2) Delete the dedication as a condition of approval.
(Ord. 2009-01, passed - -2009)

§ 156.187 DEVELOPMENT IN ACCORDANCE WITH PERMIT APPROVAL; MODIFICATIONS; EXPIRATION.

(A) Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site development review approval) and building permits. Construction of public improvements shall not commence until the city has approved all required public improvement plans (e.g., utilities, streets, public land dedication and the like). The city may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required public improvements), and may require bonding or other assurances for improvements.

(B) Development review and site development review approvals shall be subject to all of the following standards and limitations.

(1) *Modifications to approved plans and developments.* Minor modifications of an approved plan or existing development may be approved by the Planning Official under zoning review. However, major modifications, as determined by the Planning Official, shall be reviewed by the City Council under site development review procedures.

(2) *Approval period.* Zoning review and site development review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:

(a) A public improvement plan or building permit application for the project has not been submitted within one year of approval; or

(b) Construction on the site is in violation of the approved plan.

(3) *Extension.* The Planning Official shall, upon written request by the applicant, grant a written extension of the approval period not to exceed one year; provided that:

(a) No changes are made on the original approved site development review plan;

(b) The applicant can show intent of initiating construction on the site within the one-year extension period;

(c) There have been no changes to the applicable code provisions on which the approval was based. If there have been changes to the applicable code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site development review shall be required; and

(d) The applicant demonstrates that failure to obtain building permits within one year of site design approval was beyond the applicant's control.

(4) *Phased development.* Phasing of development may be approved with the site development review application, subject to the following standards and procedures.

(a) A phasing plan shall be submitted with the site development review application.

(b) The Planning Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review.

(c) Approval of a phased site development review proposal requires satisfaction of all of the following criteria:

1. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;

2. The development and occupancy of any phase dependent on the use of temporary public facilities shall require Planning Commission approval. Temporary facilities shall be approved only upon city receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with **Section 4.3.180**. A temporary public facility is any facility not constructed to the applicable city or district standard, subject to review by the City Engineer;

3. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as part of the approved development proposal; and

4. An application for phasing may be approved after site development review approval as a minor modification.
(Ord. 2009-01, passed - -2009)

CHAPTER 157: COMPREHENSIVE PLAN

Section

157.01 Comprehensive Plan adopted by reference

§ 157.01 COMPREHENSIVE PLAN.

The city's Comprehensive Plan, and any and all amendments, is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 2007-02, passed 7-5-2007)

TABLE OF SPECIAL ORDINANCES

Table

- I. ANNEXATIONS**
- II. BOND ISSUES**
- III. CHARTER AMENDMENTS**
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TABLE I: FRANCHISES AND AGREEMENTS

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
32	10-16-1907	Metes and bounds description
67-3	6-5-1967	Annexing certain territory: Tax Lot #601 (School); Tax Lots #3100, #3200 (School); Tax Lot #100 (Beier); Tax Lot #200 (Payne); Tax Lot #300 (Wiggins); portion of S32, T2S, R45E, WM (Payne-Davis); portion of S29, T2S, R45E, WM (Daggett); portion of S30, T2S, R45E, WM (Russell-Roundy); portion of S31, T2S, R45E, WM (Bright); Tax Lot #100 (Barklow); Tax Lots #100, #400, #600 (Daggett); Tax Lots #200, #500 (Anderson); Tax Lots #300, #700 (Hayes); Tax Lot #800 (Williams); Tax Lot #900 (Hartsock); Tax Lot #1000 (Harvey)
67-4	6-16-1967	Declaring Ord. 67-3
68-3	8-5-1968	Annexing certain territory: a portion of the NE 1/4 of the NW 1/4, S32, T2S, R45E
68-4	9-5-1968	Declaring Ord. 68-3
69-2	- -1969	Metes and bounds description
69-3	1-4-1971	Declaring Ord. 69-2
75-1	5-5-1975	Metes and bounds description
76-1	6-7-1976	Metes and bounds description
76-2	7-5-1976	Declaring Ord. 76-1
78-7	10-2-1978	Amending Ord. 75-1; metes and bounds description

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91-3	4-16-1991	Annexing certain territory: portion of Tax Lot #600 (Daggett/Long); Tax Lot #700 (Samples); Tax Lot #1407 (Wick/Varao); Tax Lot #1700 (Boise Cascade)
91-4	5-7-1991	Annexing certain territory: portion of Tax Lot #600 (Daggett/Long); Tax Lot #700; Tax Lot #1407 (Wick/Varao); Tax Lot #1700 (Boise Cascade)
91-5	11-19-1991	Annexing certain territory: Tax Lot #901; Tax Lot #902
91-6	12-3-1991	Annexing certain territory: Tax Lot #901; Tax Lot #902
92-8	10-6-1992	Annexing certain territory: Tax Lot #2900; Tax Lot #3000; Tax Lot #3100; Tax Lot #3101; Tax Lot #4700
92-9	11-3-1992	Annexing certain territory: Tax Lot #2900; Tax Lot #3000; Tax Lot #3100; Tax Lot #3101; Tax Lot #4700
93-2	7-6-1993	Annexing certain territory: Tax Lot #900
93-3	8-3-1993	Annexing certain territory: Tax Lot #900
95-01	5-2-1995	Annexing certain territory: a tract of land
95-02	4-4-1995	Annexing certain territory: a tract of land
99-01	6-1-1999	Annexing certain territory: one parcel of land
2004-06	8-3-2004	Annexing certain territory: three tracts of land

TABLE II: BOND ISSUES

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
46	5-3-1909	Water system bonds
52	4-4-1910	Water system bonds
142	--	Refunding water bonds
R. 148	2-14-1938	Community Civic Center bonds
169	12- -1950	Water system bonds
167	5-8-1951	Water system bonds
64-5	8-3-1964	Sewer system bonds
66-2	8-8-1966	Sewer system bonds
89-1	10-4-1989	Water system bonds
94-03	4-1-1994	Issuing and selling Water Bond No. 1 to Farmers Home Administration
96-3	2-6-1996	Sewer system bonds

TABLE III: CHARTER AMENDMENTS

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
33	10-10-1907	Setting out a new charter

TABLE IV: FINANCE

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
R. 2002-01	2-19-2002	Closing out the Reserve Account Water
R. 2002-02	2-19-2002	Closing out the Reserve Account Sewer
R. 2002-03	2-19-2002	Closing the Old Street and Bridge Fund
R. 2002-04	2-19-2002	Closing the City Hall Building Fund
R. 2004-04	6-1-2004	Reestablishing the FHA Water Reserve Account
R. 2005-09	10-4-2005	Closing the Fire Equipment Series 94 Fund
R. 2008-07	4-10-2008	Allowing for a special assessment of historic property
R. 2008-14	7-10-2008	Allowing for a special assessment of historic property
R. 2014-03	4-3-2014	Reestablishing the FHA Water Reserve Account
R. 2017-14	9-7-2017	Creating a sweep account between the city's bank accounts
R. 2019-12	8-1-2019	Creating the Marijuana Tax Fund
R. 2019-13	7-11-2019	Creating the County Hotel/Motel Tax Fund

TABLE V: FRANCHISES, CONTRACTS, PERMITS AND THE LIKE

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
94-15	12-16-1994	Granting an exclusive refuse collection franchise to Rahn Sanitary Service, Inc.
96-05	6-4-1996	Granting a non-exclusive communications franchise to Pacificorp
98-02	4-7-1998	Granting a cable television franchise to California Oregon Broadcasting, Inc. (dba Crestview Cable TV)
98-04	1- -1999	Granting a communications franchise to GTE Northwest, Inc.
2005-02	5-26-2005	Adopting a joint management agreement
R. 2009-01	1-8-2009	Approving the transfer of the cable franchise with California Oregon Broadcasting, Inc. (dba Crestview Cable TV)
2010-02	7-1-2010	Granting a communications franchise to Verizon Northwest, Inc.
2016-01	6-2-2016	Amending Ord. 98-02; Crystal Broadband Networks cable franchise agreement
R. 2016-04	6-23-2016	Approving an agreement to the intergovernmental agreement with the Wallowa Union Railroad Authority
R. 2017-11	8-16-2017	Entering into a cross-connection testing agreement with Hurricane Creek Landscape and Design
R. 2017-12	8-16-2017	Entering into a drinking water monitoring agreement with Jake Thompson

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R. 2017-15	9-7-2017	Entering into a copy machine lease agreement with Eagle Office Concepts
R. 2017-22	12-7-2017	Approving a service contract to upgrade City Hall's server and network with The Computer Guy
R. 2017-25	12-7-2017	Approving a payroll service agreement with ADP

TABLE VI: PUBLIC WAYS AND PROPERTY

<i>Ord./Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
183	11-2-1959	Vacating certain property
68-6	11-4-1968	Vacating certain property
69-1	6-27-1969	Vacating certain property
88-2	1-5-1988	Vacating the public road right-of-way traversing that part of the south half of the amended Riverside Addition
93-01	6-1-1993	Vacating a public alley, running north and south in Block 20
95-03	6-6-1995	Vacating a portion of Russell Street, running north and south between Lots 25 and 26
96-01	1-2-1996	Vacating a portion of Ninth Street, running east and west between Main Street and College Street
96-07	9-3-1996	Vacating a public alley, running north and south on Block 26, adjoining Tax Lots #3900, 4000 and 3901, Riverside Addition
96-08	1-7-1997	Creating an Economic Improvement District
97-03	9-16-1997	Creating a Downtown Economic Improvement District
98-03	12-1-1998	Vacating a portion of Alder Street, lying south of Lot 5, Block 18, and north of Lot 1, Block 26, Bellevue Addition
99-04	9-7-1999	Extending the boundaries of the Economic Improvement District

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R. 2002-07	5-7-2002	Approving the petition for the formation of a County Parks and Recreation District
R. 2003-14	11-4-2003	Supporting the designation of Highway 82 (Third Street to Russell Lane) as a special transportation area
R. 2003-18	12-2-2003	Acquiring jurisdiction over Barton Heights Road and Bridge
2004-08	- -2004	Vacating a portion of Russell Street, running north and south between Blocks 14 and 18 and 15 and 17 of the Riverside Addition
R. 2005-01	4-5-2005	Protecting the natural resources and economy of the city
R. 2005-07	7-5-2005	Approving the petition for the formation of a County Parks and Recreation District
2006-02	12-14-2006	Vacating a portion of West Eleventh Street, east from Engleside to the city limits
R. 2010-04	3-4-2010	Approving the order to initiate the formation of the County Fairgrounds Service District
R. 2014-05	5-1-2014	Acknowledging the Art and Cultural District of the city
R. 2017-17	9-7-2017	Consenting to include all territory of the city within the County Library District

PARALLEL REFERENCES

References to Oregon Revised Statutes

References to Resolutions

References to Ordinances

REFERENCES TO OREGON REVISED STATUTES

<i>ORS Cites</i>	<i>Code Section</i>
34.100	154.006
92	154.003; 154.025; 154.077
92.010 to 92.190	154.004
92.075	154.004
92.080	154.041
92.090	154.022
92.100	154.041
153.615	Ch. 74, Schd. I
163.610	Ch. 74, Schd. I
167.345	92.25
167.355	92.25
192.410	10.17
192.502(17)	37.51
192.610 through 192.710	30.03
192.640	30.03
192.650	30.03
192.660	30.03
192.660(2)(b)	30.07
192.670	30.03
197	37.15
197.763	156.162
215.213(2)(p) to (r)	154.004
215.283(2)(q) to (s)	154.004
215.515	153.01
221.515	37.04
222	Charter § 41
222.111 through 222.183	152.01
222.125	152.03
223.205 to 223.290	151.43
223.610	50.077
227	154.008
227.180	156.167

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227.220	156.145
227.240	156.145
243.105(1)	35.15
243.125(4)	35.15
243.221	35.15
243.275	35.15
243.291	35.15
243.303	35.15
243.565	35.15
279.085	35.19
279A	35.02; 35.03
279A.025	35.15
279A.065	35.03; 35.17
279B	35.02; 35.03
279B.055	35.20
279B.060	35.19; 35.20; 35.26
279B.065	35.19; 35.21
279B.075	35.19 35.23
279B.080	35.19; 35.24
279B.085	35.25; 35.26
279B.130	35.03
279B.405	35.20; 35.26
279C	35.02; 35.03
279C.110	35.41
279C.110(2)(l)	35.41
279C.335	35.40
279C.335(1)(a)	35.40
279C.335(2), (3) and (4)	35.40
279C.400 through 279C.410	35.40
279C.440	35.03
366.514	71.101
446.002 to 446.200	156.113
455.010	156.035
646A.622	36.01

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
148	2-14-1938	TSO Table II
-	7-2-1985	38.01
2002-01	2-19-2002	TSO Table IV
2002-02	2-19-2002	TSO Table IV
2002-03	2-19-2002	TSO Table IV
2002-04	2-19-2002	TSO Table IV
2002-07	5-7-2002	TSO Table VI
2002-13	9-3-2002	130.99
2003-01	1-7-2003	33.01—33.16
2003-14	11-4-2003	TSO Table VI
2003-18	12-2-2003	TSO Table VI
2004-04	6-1-2004	TSO Table IV
2005-01	4-5-2005	TSO Table VI
2005-06	7-5-2005	38.01
2005-07	7-5-2005	TSO Table VI
2005-09	10-4-2005	TSO Table IV
2006-12	11-2-2006	38.01
2007-02	2-1-2007	37.56
2007-03	2-1-2007	37.56
2007-10	7-5-2007	38.01
2008-07	4-10-2008	TSO Table IV
2008-14	7-10-2008	TSO Table IV
2008-16	7-10-2008	130.01
2009-01	1-8-2009	TSO Table V
2009-03	5-7-2009	36.01—36.07
2010-04	3-4-2010	TSO Table VI
2010-23	11-4-2010	32.001—32.006; 32.020—32.037; 32.050—32.060; 32.062; 32.075—32.080; 32.095—32.101; 32.115—32.124
2011-02	3-3-2011	37.56
2012-05	3-1-2012	151.20—151.22
2012-14	6-26-2012	38.01
2014-03	4-3-2014	TSO Table IV

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2014-05	5-1-2014	TSO Table VI
2015-04	1-8-2015	38.01
2016-04	6-23-2016	TSO Table V
2017-11	8-16-2017	TSO Table V
2017-12	8-16-2017	TSO Table V
2017-13	9-7-2017	31.02
2017-14	9-7-2017	TSO Table IV
2017-15	9-7-2017	TSO Table V
2017-17	9-7-2017	TSO Table VI
2017-22	12-7-2017	TSO Table V
2017-24	12-7-2017	37.01
2017-25	12-7-2017	TSO Table V
2018-01	1-4-2018	50.074
2018-03	3-1-2018	31.01
2018-09	6-7-2018	32.061
2019-03	3-7-2019	38.01
2019-10	7-11-2019	51.04
2019-11	7-11-2019	38.01
2019-12	8-1-2019	TSO Table IV
2019-13	7-11-2019	TSO Table IV
2019-14	8-1-2019	37.02
2019-15	7-11-2019	37.03
2019-18	9-5-2019	38.01
2019-22	9-23-2019	38.01

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
33	10-10-1907	TSO Table III
32	10-16-1907	TSO Table I
46	5-3-1909	TSO Table II
52	4-4-1910	TSO Table II
142	--	TSO Table II
167	5-8-1951	TSO Table II
169	12- -1950	TSO Table II
183	11-2-1959	TSO Table VI
64-5	8-3-1964	TSO Table II
66-2	8-8-1966	TSO Table II
67-3	6-5-1967	TSO Table I
67-4	6-16-1967	TSO Table I
68-3	8-5-1968	TSO Table I
68-4	9-5-1968	TSO Table I
68-6	11-4-1968	TSO Table VI
69-1	6-27-1969	TSO Table VI
69-2	- -1969	TSO Table I
69-3	1-4-1971	TSO Table I
75-1	5-5-1975	TSO Table I
76-1	6-7-1976	TSO Table I
76-2	7-5-1976	TSO Table I
78-03	4- -1978	155.01
78-7	10-2-1978	TSO Table I
81-4	6-2-1981	93.15—93.17; 93.99
81-5	--	130.03; 130.99
84-3	9-11-1984	91.20—91.24
85-2	7-2-1985	Ch. 74, Schd. I
86-1	1-7-1986	73.20—73.25; 73.99
-	12- -1986	155.01
88-2	1-5-1988	TSO Table VI
89-1	10-4-1989	TSO Table II
90-2	6-5-1990	37.04
91-2	4-2-1991	31.15

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91-3	4-16-1991	TSO Table I
91-4	5-7-1991	TSO Table I
91-5	11-19-1991	TSO Table I
91-6	12-3-1991	TSO Table I
92-8	10-6-1992	TSO Table I
92-9	11-3-1992	TSO Table I
93-01	6-1-1993	TSO Table VI
93-2	7-6-1993	TSO Table I
93-3	8-3-1993	TSO Table I
94-03	4-1-1994	TSO Table II
94-2	5-3-1994	50.001—50.004; 50.015—50.025; 50.040—50.045; 50.060—50.081; 50.999
94-05	12-16-1994	31.30—31.37
94-06	12-16-1994	93.01—93.03
94-07	12-16-1994	92.01; 92.99
94-08	12-16-1994	72.05; 72.99
94-09	12-16-1994	91.01—91.08; 91.99
94-10	12-16-1994	73.01—73.05; 73.99
94-12	12-16-1994	151.60—151.62; 151.99
94-13	12-16-1994	112.01—112.04
94-14	12-16-1994	150.01—150.06; 150.99
94-15	12-16-1994	TSO Table V
94-16	12-16-1994	151.35—151.47; 151.99
95-02	4-4-1995	TSO Table I
95-01	5-2-1995	TSO Table I
95-03	6-6-1995	TSO Table VI
95-04	9-5-1995	111.01—111.15
95-05	9-5-1995	92.15—92.25; 92.99
96-01	1-2-1996	TSO Table VI
96-02	2-6-1996	52.01—52.10
96-3	2-6-1996	TSO Table II
96-04	5- -1996	155.01
96-05	6-4-1996	TSO Table V
96-07	9-3-1996	TSO Table VI
96-06	11-5-1996	72.01—72.04; 72.99
96-08	1-7-1997	TSO Table VI
97-02	6-3-1997	51.01—51.16; 51.99
97-03	9-16-1997	TSO Table VI
98-02	4-7-1998	TSO Table V
98-03	12-1-1998	TSO Table VI
98-04	1- -1999	TSO Table V
99-01	6-1-1999	TSO Table I

References to Ordinances

99-04	9-7-1999	TSO Table VI
2000-01	4-4-2000	153.01—153.10; 153.25; 153.26; 153.40—153.45; 153.99
2002-02	9-3-2002	152.01—152.04
2002-03	9-3-2002	130.02; 130.99
2003-01	2-4-2003	37.35—37.56; 37.99
2004-01	2-3-2004	70.01
2004-06	8-3-2004	TSO Table I
2004-08	- -2004	TSO Table VI
2004-09	12-14-2004	37.15—37.24
2005-02	5-26-2005	TSO Table V
2006-02	11-2-2006	90.01—90.06; 90.99
2006-02	12-14-2006	TSO Table VI
2007-01	4-5-2007	30.01—30.12
2007-02	7-5-2007	155.01
2008-02	7-3-2008	34.01—34.06; 34.99
-	6- -2009	71.001—71.004; 71.015—71.026; 71.040—71.045; 71.060; 71.075—71.087; 71.100—71.104; 71.115—71.124; 71.135—71.144; 71.155
2009-01	- -2009	154.001—154.009; 154.020—154.025; 154.040—154.042; 154.055—154.057; 154.070—154.086; 154.999; 156.001—156.007; 156.020—156.024; 156.035—156.038; 156.050—156.063; 156.090—156.095; 156.110—156.115; 156.130—156.133; 156.145—156.149; 156.160—156.169; 156.180—156.187
2009-01	7-9-2009	70.01
2010-01	7-1-2010	35.01—35.04; 35.15—35.26; 35.40—35.42
2010-02	7-1-2010	TSO Table V
2015-01	6-25-2015	156.075—156.078
2015-02	12-3-2015	110.01—110.05
2016-01	6-2-2016	TSO Table V
-	10-6-2016	156.002; 156.003; 156.035
2019-09	7-11-2019	50.072
2019-04	9-23-2019	151.01—151.09; 151.99

