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CHAPTER 30: GOVERNMENT AND ADMINISTRATION

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CITY COUNCIL OPERATION AND PROCEDURE

§ 30.01 ROLES, RESPONSIBILITIES AND RESPECT.

(A) These rules are designed to describe the manner in which City Council members, including the Mayor, should treat one another, city staff, constituents and others they come into contact with in representing the city. While it is understood that there may be times when the Council members may “agree to disagree” on contentious issues, the constant and consistent theme throughout all of these guidelines is “respect.”

(B) Every effort should be made to be cooperative and to respect the contributions made by each individual to the community. All Council members have equal votes. No Council member has more power than any other Council member and all should be treated with equal respect. Council members must recognize that they act collectively as a governing body during properly noticed public meetings.

Members must recognize that they do not have authority to make decisions or take individual actions on behalf of the City Council unless expressly directed to do so by the City Council.
(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.02 AUTHORITY, PURPOSE OF ADOPTION OF RULES.

(A) *Authority.* These rules are adopted pursuant to § 12 of the City Charter of 2011, which allows the Council to exercise all powers necessary or convenient for the conduct of its municipal affairs.

(B) *Purpose.* These rules are adopted for the purpose of providing guidance for Council action, providing fair and open deliberation on all questions before the Council, expediting Council business and ensuring good relations between the Council and the city staff.
(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.03 PRESIDING OFFICER.

(A) *Presiding officer.* The Mayor, or in the absence of the Mayor, the Council President, shall be the presiding officer at all meetings. The Council President shall be elected at the first regular meeting in January of each odd-numbered year. In the case of the absence of the Mayor and the Council President, the City Recorder shall call the meeting to order and the Council shall elect a Chairperson by majority vote.

(B) *Powers and duties.* The presiding officer shall conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion during public hearings. He or she shall vote on all questions before the Council. He or she may second, but not make, a motion for Council action.

(C) *Signing the documents.* The presiding officer shall sign all approved records of proceedings of the Council. He or she shall have no veto power and shall sign all ordinances passed by the Council within three days after their passing. Upon the approval of the Council, he or she shall endorse all bonds for licenses, contracts and proposals. All documents shall be attested to by the City Recorder.
(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.04 MEETINGS.

(A) *Regular meetings.* Regular meetings shall be held on the first and third Monday of each month at 7:00 p.m. in the Council Chambers at City Hall. Regular meetings may be held at a different place by giving appropriate notice at least 24 hours in advance. The Council shall hold a meeting at least twice each month, and in the event that the first or third Monday of the month is a legal holiday, the meetings will be held on the Tuesday immediately following each holiday. The two meetings per month rule may be waived.

(B) *Special meetings.* The Mayor may, at his or her own discretion, or at the request of two members of the Council shall, call a special meeting of the Council for a time not less than 24 hours after notice is given. No general legislation may be considered at a special meeting except that for which the meeting is called. Emergency meetings must meet state statutes for notification and justification.

(C) *Executive sessions.* All meetings shall be held in compliance with current state statutes concerning public meeting laws pertaining to executive sessions. A motion or notice calling for an executive session shall identify the specific statutory authorization. Media representatives will be allowed to attend executive sessions, but the Council may require that certain information shall not be disclosed. Final action on any matter discussed in executive session must be taken at an open meeting. The Mayor shall determine who may be admitted to an executive session according to state law.

(D) *Quorum.* A majority of members of the Council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members, if necessary. Members attending electronically will count toward a quorum.

(E) *Agenda.* Documents to be submitted to the Council shall be delivered to the City Manager or City Recorder no later than 12:00 noon on the third working day preceding a regular meeting and no later than 24 hours prior to a special meeting. Copies of the agenda will be distributed to each Councilor, the Mayor, the City Manager, the City Recorder, the City Attorney and the DHS student representative prior to any regular meeting. In addition, copies of the printed agenda will be made available to the public at the meeting. Agenda items may be added at the request of the Mayor, any Councilor or the City Manager.

(F) *Staff attendance.* Unless excused by the Council, the City Manager, and City Recorder or designee, shall attend all regular meetings and special meetings as requested. In the event a staff member is unable to attend a particular meeting, an alternate may attend. The City Attorney and department heads may also be requested to attend appropriate meetings.

(G) *Minutes.* All meetings shall be recorded, and the recording of all open meetings shall be made available for public examination in the office of the City Recorder. The Recorder shall have written minutes of all open regular and special meetings prepared, which shall be approved by the Council and made available for public inspection. Written minutes shall include the names of all Councilors present or absent; all motions, resolutions, ordinances and measures proposed and their disposition; the results of all votes, with the name of each dissenting Councilor, unless the vote is unanimous; the substance of the discussion; and any matter and reference to any documents discussed. Minutes shall be signed by the presiding officer. While all meetings are recorded, the City Recorder is authorized to recycle recordings after a two-year period has elapsed, or as allowed by state law.

(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.05 DUTIES AND PRIVILEGES OF COUNCILORS.

(A) *Attendance at meetings.* Members are expected to attend all meetings.

(1) Members unable to attend shall notify the presiding officer in advance of the meeting of their reason for absence. In the event a member is absent from a meeting, the presiding officer shall determine whether the absence will be excused, with concurrence of the Council. No member may leave during a meeting without the consent of the presiding officer.

(2) Attendance by electronic means is allowed, but not to preside the meeting.

(3) The presiding officer may compel attendance by any reasonable means.

(B) *Seating arrangement.* Members shall occupy seats in the Council Chamber assigned to them by the Mayor. New Councilors will occupy the seats of the individuals they replaced unless instructed otherwise.

(C) *Right to speak.* Members shall have the right to speak on any matter properly before the Council and shall not be interrupted unless called to order by the presiding officer, or unless another member raises a point of order or personal privilege.

(D) *Dissents and protests.* Any member shall have the right to express dissent from or protest against any ordinance or resolution and have the reasons therefor entered in the minutes in summary form.

(E) *Right of appeal.* Any Councilor may appeal a ruling of the presiding officer and the ruling may be overruled by majority vote.

(F) *Decorum; practice civility and decorum in discussions and debate.* During Council meetings, Council members shall preserve order and decorum and shall neither by conversation nor by otherwise delay or interrupt the proceedings. Councilors shall confine their remarks to the question under debate and avoid all personal attacks and indecorous language. Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as Council may “agree to disagree” on contentious issues. Council members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff or the public.

(G) *Personal privilege.* A Councilor may interrupt another Councilor and address the Council on a question of personal privilege in cases where the member’s integrity, character or motives are questioned, if the presiding officer recognizes the privilege. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Council, board or commission members, their opinions and actions.

(H) *Ethics.* Councilors shall review and observe the requirements of the State Ethics Law (current O.R.S.) dealing with use of public office for private financial gain. Councilors shall give public notice of any potential conflict of interest and the notice will be reported in the meeting minutes. In addition

to matters of financial interest, Councilors shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims and transactions coming before the Council.

(1) This general obligation includes the duty to refrain from:

(a) Disclosing confidential information or making use of special knowledge or information before it is made available to the general public;

(b) Making decisions involving business associates, customers, clients and competitors;

(c) Repented violations of Council rules;

(d) Appointing relatives, clients or employees to boards and committees;

(e) Requesting preferential treatment for themselves, relatives, associates, clients, coworkers or friends;

(f) Seeking employment of relatives with the city;

(g) Actions benefitting special interest groups at the expense of the city as a whole;

(h) Expressing an opinion, which is contrary to the official position of the Council, without stating that the opinion is theirs alone; and

(i) Attempting to influence, except in Council meetings, the Manager in the appointment, discipline or removal of personnel.

(2) In general, Councilors shall conduct themselves so as to bring credit upon the government of the city by respecting the rule of law, ensuring non-discriminatory delivery of public services, keeping informed concerning the matters coming before the Council and abiding by all decisions of the Council, whether or not the member voted on the prevailing side.

(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.06 VOTING.

(A) *Requirement.* Except as the City Charter otherwise provides, the concurrence of majority of the members of the Council shall be necessary to decide any question before the Council. Each Councilor must vote on all questions before the Council decides unless the member has a conflict of interest, which might disqualify the member from voting.

(B) *Statement of the question.* Immediately prior to the vote, the presiding officer shall restate the question. Following the vote, the presiding officer shall announce whether the question carried or was defeated. The presiding officer may also publicly state the effect of a vote for the benefit of the audience.

(C) *Roll call vote.* At request of any Councilor, or the Mayor, any question shall be voted on by roll call. The Mayor shall instruct the City Recorder to call the roll.

(D) *Tie vote.* In the case of a tie vote on any proposal, the proposal shall be considered failed.

(E) *Changing vote.* A Councilor may change his or her vote only if the action is taken immediately following the last vote cast and prior to the time that the result of the vote is announced.

(F) *Motion to reconsider.* A motion to reconsider any action may be made only at the same meeting where the action was taken by a Councilor on the prevailing side of the question. Any Councilor may make a new motion on the same question at any subsequent meeting.

(G) *Record of votes.* Unless the vote is unanimous, the vote shall be entered in the minutes. (Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.07 ORDINANCES AND RESOLUTIONS.

(A) *Preparation and introduction.* All ordinances shall be prepared under the supervision of the City Attorney and shall be approved as to form by the City Attorney. Ordinances and resolutions may be introduced by the Mayor, a member of the Council, the City Manager, the City Attorney or any department head.

(B) *Distribution of copies.* Whenever possible, copies of a proposed ordinance or resolution shall be made available for public inspection one week prior to the first meeting they are to be considered. The City Recorder shall make sufficient copies for distribution with the agenda packets and for posting for public inspection at the time the ordinance or resolution is considered.

(C) *Reading of resolutions and ordinances.*

(1) Resolutions shall be adopted by a majority vote of the Council.

(2) Ordinances are normally adopted over the course of two meetings. The ordinance is read by title only as the first reading at the first meeting for which it appears on the agenda. It will again be read by title only as a second reading at the second meeting for which it appears on the agenda. Then a motion to adopt with a quorum of positive responses is necessary to adopt the ordinance.

(a) The Council may adopt an ordinance at a single meeting by the express unanimous votes of all Council members present, provided the ordinance is read first in full and then by title, or it may be read twice by title only if no Council member present at the reading requests that the ordinance be read in full, and at least two business days before the reading:

1. A copy of the ordinance is provided for each Council member;

2. Copies of the ordinance are available for public inspection in the office of the custodian of public records; and

3. Notice of their availability is given by written notice posted at City Hall.

(b) An ordinance read by title only has no legal effect if it differs substantially from the version that was distributed prior to the reading unless each section so differing is read fully and distinctly in open Council meeting before the Council adopts the ordinance. Upon the adoption of an ordinance, the ayes and nays of the Council members present shall be entered in the record of Council proceedings. Within three business days of adoption of an ordinance, the Mayor shall sign it and the custodian of city records shall endorse it with its date of adoption and endorser's name and title of office.

(D) *When ordinances and resolutions take effect.* An ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. However, an ordinance may provide a later time for it to take effect; and in case of emergency, it may take effect immediately. The nature of emergency shall be entered into the minutes. Resolutions shall be effective upon adoption.

(E) *Notice of ordinance.* All ordinances shall be posted for ten working days after the date of adoption in a conspicuous place in City Hall.

(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.08 PROCEDURE AT MEETINGS.

(A) *Order of business.*

(1) All regular meetings shall have the following order of business:

- (a) Call to order and pledge of allegiance;
- (b) Public hearing (if any);
- (c) Approval of City Council minutes;
- (d) Accept minutes of board, commissions and committees;
- (e) Reports of boards, commissions, committees and DHS student;
- (f) Department report;
- (g) Old business;
- (h) New business;
- (i) Matters of private citizens;

- (j) Announcements; and
- (k) Adjournment.

(2) The order of business may be changed by the presiding officer or upon majority vote of the remaining Councilors.

(B) *Discussion of business.*

(1) The right to discuss the business before the Council is reserved exclusively for Councilors, the Mayor, the City Manager, the City Attorney, the City Recorder and the DHS student representative with the following exceptions:

- (a) Public hearings;
- (b) Employee complaints; and
- (c) Matters of private citizens on the agenda.

(2) The presiding officer may recognize any individual for discussion of any matter before the Council.

(C) *Motion procedure.* When a motion is moved and seconded, it shall be stated by the presiding officer for debate. A motion once made may not be withdrawn by the mover without the consent of the Councilor seconding it and the approval of the presiding officer. The presiding officer may rule an improper motion out of order or, if the question involves two or more propositions, divide it into two separate questions. No Councilor shall be allowed to speak more than once on a particular question until every other Councilor has had an opportunity to do so.

(D) *Motions to postpone or table.* A motion to postpone may be debated and amended and may specify a time when the question will be considered. A motion to table precludes all amendments or debate and if the motion prevails, consideration of the question may be resumed only upon the motion of a member voting with the majority.

(E) *Motions to recess or adjourn.* A motion for recess shall provide a time not to exceed 15 minutes, and shall always be in order and is not debatable.

- (1) A motion to adjourn shall be in order at any time except:
 - (a) When repeated without intervening discussion;
 - (b) When made to interrupt another member;
 - (c) When the previous question has been called for; or

(d) When a vote is being taken.

(2) A motion to adjourn is debatable only as to time of adjournment. When the meeting agenda includes one or more public hearings scheduled, meetings may be adjourned no later than 11:00 p.m. If there are not public hearings scheduled, meetings may be adjourned no later than 10:00 p.m. However, the adjournment time may be extended by majority vote.

(F) *Point of order.* Any member may raise a point of order at any time and the presiding officer shall determine all points of order, subject to the right of any Councilor to appeal the decision to the full Council.

(G) *Procedure in absence of rule.* In the absence of a rule to govern a point or procedure, reference shall be made to accepted practice in parliamentary bodies. Disputes involving procedural matters shall be settled by references to *Robert's Rules of Order, Revised*.

(H) *Effect and suspension of rules.* The rules in this section are procedural only and the failure to strictly observe them shall not invalidate any action taken. Any rule contained in this section may be temporarily suspended at any meeting by majority vote of the whole Council.

(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.09 COMMUNICATION WITH COUNCIL.

(A) *Oral communication.* Comments from persons other than the Mayor, the Council, the City Manager, the City Attorney and the City Recorder will be entertained only during the part of the agenda where public comments are permitted or at the discretion of the presiding officer. The person addressing the Council shall first ask to be recognized, then give his or her name and address for the record. All remarks shall be directed to the whole Council and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent or slanderous. The order in which audience comments are received is left to the discretion of the presiding officer, subject to these rules. The presiding officer may request that a spokesperson be selected for a group of persons wishing to speak.

(B) *Written communications.* Written communications addressed to the Council shall be forwarded to the Council by submission to the City Manager prior to the meeting to be placed with the agenda materials or by submission to the presiding officer during the meeting. The presiding officer shall announce the submission of any written communications and reference shall be entered in the minutes.

(C) *Public hearings.* Public hearings include all items on the agenda on which the public has a right to be heard by law. The order of presentation of testimony at public hearings is as follows:

(1) Staff report;

(2) Out of meeting disclosures and conflict of interest disclosures;

- (3) Statement of applicant (may be omitted if the applicant is the city);
- (4) Public statements in opposition;
- (5) Public statements in favor;
- (6) Public statements in general;
- (7) Council questions and comments; and
- (8) Applicant's final remarks.

(D) *Remainder of hearing.* Following the presentation of testimony, the presiding officer will open the floor for a motion to close the public hearing. Once the motion has been seconded and passed by majority vote of the Council members present, the presiding officer shall ask for discussion among the Councilors. At this point no further testimony or evidence will be accepted without the approval of the presiding officer. All public hearings shall be conducted in a fair and open manner; however, the presiding officer may set and enforce reasonable time limits for speakers.

(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.10 MISCELLANEOUS.

(A) *Council-staff relations.* Councilors shall respect the separation between policy-making and administration by:

(1) Positive interaction with all staff and sharing of questions and concerns with department heads is welcomed. In order to not disrupt staff operations, Councilors are requested to address all inquiries and requests for information from staff, which will take staff more than 30 minutes to comply, to the City Manager and allow sufficient time for response. At the discretion of the Manager, inquiries may be forwarded to the full Council for consideration;

(2) Limiting individual contacts with employees so as not to influence staff decisions or recommendations or undermine the authority of supervisors or prevent the full Council from consideration;

(3) Honoring the confidentiality of discussions with the City Attorney;

(4) Attempting to work together with the staff as a team in a spirit of mutual confidence and support; or

(5) Recognizing outstanding employee service.

(B) *Complaints.* Complaints concerning city policies shall be addressed to and heard by the Council. Complaints concerning actions of city boards shall be referred to the particular body for

comment. All complaints with respect to the management of the city or the actions of any city employee shall be referred to the City Manager for action. The Manager may be requested to provide the Council a written report of the resolution of the complaint. In all instances deemed appropriate by the Council, the Council may investigate or cause to be investigated, through a formal hearing or otherwise, administration of any department.

(C) *Committee appointments.* Appointments to all boards, commissions and committees shall be made in accordance with applicable state law and city ordinance. In the absence of a law or ordinance, appointments shall be made by the Mayor with the concurrence of the Council. The following rules shall govern all appointments:

(1) All boards, commissions and committees shall be balanced, insofar as possible, between the different economic, social geographic, racial, sex and age groups in the city;

(2) Insofar as practicable, all boards, commissions and committees shall contain a variety of philosophies among the different members;

(3) Individuals possessing a special area of expertise that would be of direct benefit to a board, commission or committee should be given special consideration;

(4) Individuals being considered must be willing to dedicate, at a minimum, two nights per month to the board, commission or committee on which they serve;

(5) Any individual or group is encouraged to submit an application for consideration to the Mayor, Council members or City Manager;

(6) Reappointments to a board, commission or committee must reapply and shall be considered in accordance with these guidelines, together with the type of service the individual has already given to the city and his or her stated willingness to continue;

(7) Appointees must comply with all ordinances, bylaws, charter provisions, or state or federal laws concerning the board, commission or committee on which they serve; and

(8) No individual should be considered for appointment to a position on any board, commission or committee where a conflict of interest may result.

(9) (a) No appointee shall be appointed a member on more than one Board, Commission, or Committee at a time.

(b) Should a vacancy exist for longer than 90 days, any qualified person may apply and be accepted to fill that vacancy regardless if they already sit on a citizen Board, Commission or Committee.

(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013; Ord. 18-679, passed 6-4-2018)

§ 30.11 MODIFICATION OF COUNCIL RULES.

The Council shall review its rules at least once every four years. Amendments shall be adopted by a majority vote. The Council has an obligation to be clear and simple in its procedures and consideration of the questions coming before it. The Council rules are not intended to replace or supersede any applicable federal or state laws or regulations, city ordinance or policies, or provisions of the City Charter.

(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

ADMINISTRATION**§ 30.25 CITY MANAGER; ADDITIONAL DUTIES.**

(A) Any and all rights, powers and duties belonging to, assigned to or delegated to the City Administrator under any existing city ordinances are hereby assigned, delegated and prescribed as duties to be performed by the City Manager pursuant to the 2011 City Charter; and further, wherever the term "City Administrator" is called for or prescribed to be used in a document, the term "City Manager" shall be used in place thereof and recognized as fully effective in place thereof.

(B) The matters contained herein concern the public welfare and safety and it is necessary that this section take effect concurrent with the 2011 City Charter. This section shall become effective January 1, 2011.

(Ord. 651, passed 12-20-2010)

CHAPTER 31: CITY DEPARTMENTS AND ORGANIZATIONS

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Cross-reference:

Park Board, see Ch. 93

CONTRACT REVIEW BOARD**§ 31.001 FINDINGS.**

(A) The 2003 State Legislature adopted HB 2341 (2003 Oregon Laws, Chapter 794) (“the Public Contracting Code”). O.R.S. Chapters 279A, 279B and 279C together constitute the Public Contracting Code. In accordance with HB 2341, the Attorney General adopted model rules (“the model rules”) to implement the Public Contracting Code. The Public Contracting Code allows the city to adopt contracting rules in areas not covered by the Public Contracting Code or the model rules.

(B) O.R.S. 279B.085 and 279C.355 authorize a contracting agency, upon adoption of appropriate findings, to establish special selection, evaluation and award procedures for, or exempt from competition, the award of a specific contract or classes of contracts.

(C) The classes of contracts identified in § 31.003 should be exempt from the competitive procurement requirements of the Public Contracting Code because strict compliance with competitive procurement requirements will result in useless expense without furthering the public policy of encouraging competition.

(D) The classes of public improvement contracts identified in § 31.003 should be exempt from the competitive bidding requirements of the Public Contracting Code because:

(1) It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts;

(2) The awarding of public improvement contracts under the exemption will result in substantial cost savings to the contracting agency or, if the contracts are for public improvements described in O.R.S. 279A.050(3)(b), to the contracting agency or the public;

(3) The informal solicitation procedure for these classes of contracts requires the contracting agency to solicit at least three written price quotes. The awarding of the contracts will take price into consideration among other factors;

(4) The informal solicitation process provides the following benefits:

(a) Reduction in staff time;

(b) Reduced bidding expenditure;

(c) Elimination of bid bond requirement and small cost of quote preparation as compared to bid preparation will result in lower quotes; and

(d) Flexibility in timing of solicitations will allow solicitation to be made during construction season when projects can be used as fill-in projects for otherwise busy contractors. This should result in lower pricing from contractors.

(5) The process requires competition because the award considers price among other factors. The size of the job makes it unlikely that contractors from outside the area would submit bids if the job was advertised;

(6) If the lowest price quote is not selected, the reasons for the award based on other factors must be recorded. This prevents selection based on favoritism. Willingness of any particular contractor to submit a quote will depend on the contractor's schedule at the time of the solicitation. It is unlikely that the same contractor will be able to submit a quote for every solicitation. The ability of the contracting agency to obtain quotes for projects with short lead times will depend on the schedules of contractors and therefore the contracting agency will not be able to obtain quotes from the same contractors over and over again; and

(7) Section 132 of Chapter 794, Oregon Laws, 2003 created this class of contracts as a special award class under the State Public Contracting Code; however, the class expires on June 30, 2009. By adopting this classification as a Contract Review Board exemption, the statutory classification will be protected from automatic repeal.

(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.002 ADOPTION OF RULES.

The following (hereinafter “these rules”) shall be public contracting rules for the city. Except as provided within these rules, public contracting by the city shall be governed by the Public Contracting Code and the model rules. The City Council is the city’s Contract Review Board (Board). Except as otherwise provided in these rules, the powers and duties of the Contract Review Board will be exercised by the City Council and the powers and duties given or assigned to contracting agencies will be exercised by the City Council. The City Council may, through formal action, from time to time delegate its powers to conduct certain procurements to various members of its staff.

(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.003 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All words and phrases not defined herein shall have the meanings ascribed to them in the Public Contracting Code or in the model rules.

CONTRACTING AGENCY. The city and includes any person authorized by the City Council to conduct a procurement on behalf of the city.

PERSONAL SERVICES CONTRACT. A contract for services that require specialized technical, artistic, creative, professional or communication skills or talent, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the service depends on attributes that are unique to the service provider, other than contracts for an architect, engineer, land surveyor or provider of related services as defined in O.R.S. 279C.100. Contracts for personal services include but are not limited to the following contracts or classes of contracts:

- (1) Accountants and auditors;
- (2) Appraisers;
- (3) Computer consultants;
- (4) Lawyers;
- (5) Insurance consultants;
- (6) Training consultants;
- (7) Investigators; and

- (8) Management system consultants.

(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.004 EXEMPTIONS FROM COMPETITIVE PROCUREMENT.

The following contracts and classes of contracts are exempt from the competitive procurement requirements of the Public Contracting Code and the model rules and may be awarded as provided herein, or otherwise in any manner which the contracting agency deems appropriate, including by direct appointment or purchase.

(A) *Contracts up to \$5,000.* Any procurement of goods or services or any combination thereof not exceeding \$5,000 may be awarded in any manner deemed practical or convenient by the contracting agency, including by direct selection or award. Staff of the contracting agency are authorized to conduct procurements on behalf of the contracting agency for goods or services or combinations thereof not exceeding \$1,000. Additional procurements shall be approved by the City Council. Procurements shall not be artificially divided or fragmented so as to constitute a smaller procurement than specified in this section.

(B) *Equipment repair.* Contracts for equipment repair or overhauling may be awarded without competition, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

(C) *Sole source contracts.* Contracts for goods or services which are available from a single source may be awarded without competition.

(D) *Renewals.* Contracts that are being renewed in accordance with their terms are not considered to be newly awarded contracts and are not subject to competitive procurement procedures.

(E) *Temporary extensions or renewals.* Contracts for the temporary extension or renewal of a single period of one year or less of an expiring and non-renewable or recently expired contract, other than a contract for public improvements, are not subject to competitive procurement procedures.

(F) *Contracts required by emergency circumstances.*

(1) *In general.* When an official with authority to enter into a contract on behalf of the contracting agency determines that immediate execution of a contract within the official's authority is necessary to prevent substantial damage or injury to persons or property, the official may execute the contract without competitive selection and award, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(2) *Reporting.* An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, document the nature of the emergency, the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of the contracting agency and the public; and notify the City Council of the facts and circumstances surrounding the emergency execution of the contract.

(3) *Emergency public improvement contracts.* A public improvement contract may only be awarded under emergency circumstances if the contracting agency has made a written declaration of emergency. Any public improvement contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the contracting agency grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the contracting agency may waive the requirement for all or a portion of required performance and payment bonds.

(G) *State law exemptions.* There shall be an exemption for any other contract or class of contracts exempted by the Public Contracting Code or the model rules.

(H) *Other exemptions adopted in future.* There shall be an exemption for any other contract or class of contracts expressly exempted from competitive procurement requirements pursuant to procedures permitted by the Public Contracting Code or the model rules.

(I) *Public improvements.* Public improvement contracts estimated by the contracting agency 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, may be awarded by competitive quotes under the following procedures.

(1) The contracting agency shall informally solicit at least three price quotes from prospective contractors. If three prospective contractors are not available, then fewer quotes may be solicited, and the contracting agency shall maintain records of the attempts to obtain quotes.

(2) The contracting agency shall award the contract to the prospective contractor whose quote will best serve the interests of the contracting agency, taking into account price and other applicable factors, such as experience, specific expertise, past record of performance and conduct, availability, familiarity with local area and access to local resources, project understanding, contractor capacity and contractor responsibility. If the contract is not awarded on the basis of the lowest price, the contracting agency shall make a written record of the basis for the award.

(3) A procurement may not be artificially divided or fragmented to qualify for the informal contract award procedures provided by this section.

(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.005 PERSONAL SERVICES CONTRACTS RULES.

Personal services contracts (other than a personal services contract for an architect, engineer, land surveyor or provider of related services) are subject to the rules established by this section.

(A) All personal services contracts shall contain all contract provisions mandated by state law. These provisions may be incorporated in the personal services contract by reference to state law, unless state law provides otherwise. The attorney for the contracting agency when requested will prepare model contract provisions for use in personal services contracts.

(B) The following procedures shall be observed in the selection of personal services contractors.

(1) For personal services contracts involving an anticipated fee of \$20,000 or less per annum, the contracting agency may negotiate a contract for those services with any qualified contractor the contracting agency selects.

(2) For personal services contracts involving an anticipated fee of more than \$20,000 per annum, the contracting agency shall solicit prospective contractors who shall appear to have at least minimum qualifications for the proposed assignment, notify each prospective contractor in reasonable detail of the proposed assignment and determine the prospective contractor's interest and ability to perform the proposed assignment.

(3) The contracting agency may arrange for any or all interested prospective contractors to be interviewed for the assignment by an appropriate employee or by an interview committee.

(4) Following a review of the qualifications and interview, where conducted, of the interested prospective contractors, the contracting agency shall select the prospective contractor and shall prepare a personal services contract.

(C) Some or all of the following criteria shall be considered in the evaluation and selection of a personal services contractor:

(1) Experience in the type of work to be performed;

(2) Familiarity with the local area and access to local resources;

(3) Capacity and capability to perform the work, including any specialized services within the time limitations for the work;

(4) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules and contract administration, where applicable; and

(5) Any other factors relevant to the particular contract.

(D) The above provisions regarding selection procedures and criteria do not apply to renewals, amendments or modifications of existing personal services contracts.

(E) The selection procedures described in this section may be waived by the contracting agency at its discretion where an emergency exists that could not have been reasonably foreseen and requires a prompt execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the selection procedures.

(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.006 DISPOSITION OF SURPLUS PERSONAL PROPERTY.

Disposition of surplus personal property may be made, at the discretion of the contracting agency, under provisions of the Public Contracting Code or the model rules or under the provisions of this section.

(A) Surplus property is property owned by the contracting agency, such as office furniture, computers, equipment and vehicles, but excluding real property, that the contracting agency determines is surplus and no longer useful to the contracting agency.

(B) Surplus property may be sold or disposed of in any manner deemed appropriate by the contracting agency, including but not limited to the informal solicitation of bids, or through an auction, including an online auction, or the contracting agency may authorize the property to be donated, or to be destroyed. The contracting agency has the discretion whether or not to advertise the sale of surplus property in a newspaper of general circulation.

(C) All proceeds of sale shall be paid to the contracting agency's General Fund.

(D) All personal property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind, including but not limited to warranties of title or fitness for any purpose. Upon receiving payment for the personal property from the purchaser, a person or company conducting the sale shall execute an appropriate bill of sale, which shall recite that the sale is without warranty, as provided in this division (D).

(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.007 NEGOTIATIONS.

If bids or quotes are solicited for a public improvement contract, and all bids or quotes exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the project budget under the following procedures.

(A) Negotiations will begin with the lowest responsive and responsible bidder or proposer. If negotiations are not successful, then the contracting agency may begin negotiations with the second lowest responsive, responsible bidder or proposer, and so on.

(B) Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.

(C) A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation or bid documents.

(D) The contracting agency will adhere to the provisions of O.R.S. 279C.340 in applying this section.

(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

CITY PLANNING COMMISSION**§ 31.020 ESTABLISHMENT.**

There is hereby created a City Planning Commission for this city.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.021 MEMBERS; TERMS; QUALIFICATIONS; VACANCIES; REMOVAL.

The City Planning Commission shall consist of seven members, not less than six of whom shall be residents of the city. Not more than one of the members may be a resident of the urban growth area outside the city. Members of the Planning Commission shall be appointed by the City Council for a term of four years. No member shall be an employee or officer of the city, but the City Building Inspector and City Manager shall be entitled to sit with the Commission, take part in its discussion, but shall not have the right to vote. A member may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. Any vacancy shall be filled by the City Council for the unexpired term of the predecessor in office. No more than two members shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 427, passed 9-19-1988; Ord. 442, passed 9-5-1989; Ord. 651, passed 12-20-2010)

§ 31.022 OFFICERS.

The City Planning Commission, at its first meeting, shall elect a President and a Vice President, who shall be members appointed by the City Council, and who shall hold office during the pleasure of the Commission.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.023 COMPENSATION.

Members of the City Planning Commission shall receive no compensation. The City Planning Commission shall elect a Secretary, who need not be a member of the Commission. The Secretary shall keep an accurate record of all proceedings of the Commission, and the Commission shall, on October 1 of each year, make and file with the City Council a report of all of the transactions of the Commission.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.024 QUORUM.

A majority of the Planning Commission shall constitute a quorum. The City Planning Commission may make and alter rules and regulations for its government and procedure consistent with the laws of the state and with the City Charter and ordinances, and shall meet at least once a month at times and places as may be fixed by the Commission. Special meetings may be called at any time by the President or by three members by written notice served upon each member of the Commission at least 24 hours before the time specified for the proposed meeting.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.025 EMPLOYMENT OF STAFF.

The City Planning Commission shall have power and authority to employ consulting advice on municipal problems, a Secretary and any clerks as may be necessary, and to pay for their services and for any other expenses as the Commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the Commission, out of funds as are theretofore placed at the disposal of the Commission by the City Council.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.026 POWERS AND DUTIES GENERALLY.

It shall be the duty of the City Planning Commission, and it shall have the power, except as otherwise provided by law, to recommend and make suggestions to the City Council and to all other public authorities concerning the laying out, widening, extending, parking and locating of streets, sidewalks and boulevards, the establishment of setback lines, the relief of traffic congestion, the betterment of housing and sanitation conditions and the establishment of zones and districts limiting the use, height, area and bulk of buildings and structures; to recommend to the City Council and all other public authorities plans for the regulation of the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with the future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service to all public utilities and transportation facilities; to do and perform any and all other acts and things necessary or proper to carry out the provisions of this subchapter; and, in general, to study and to propose any measures as may be advisable for the promotion of the public interest, health, moral, safety, comfort, convenience and welfare of the city and of the area within the urban growth boundary.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.027 REVIEW OF PLANS.

All maps, plats and replats of land laid out in building lots and the streets, alleys or other portions of the same intended to be dedicated for public use or for the use of purchasers or owners of lots fronting

thereon and located within the city limits, and all plans or plats for vacating or laying out, widening, extending, parking and locating streets or plans for public buildings shall first be submitted to the City Planning Commission by the City Engineer or other proper municipal officer; and a report thereon from the Commission secured in writing before approval shall be given by the proper municipal official. (1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.028 APPROVAL OF PLANS.

All plans, plats or replats of land laid out in lots or plats within the city, including streets, alleys and other portions of the same intended to be dedicated land to public use outside the limits of the city but within the urban growth boundary shall first be submitted to the Planning Commission and approved by it before they shall be recorded.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.029 AMENDMENT OF ZONING AND LAND USE REGULATIONS.

The authority to establish, amend or repeal zoning and land use regulations as provided for in § 31.026, and as enumerated in the zoning ordinance and the subdivision ordinance, shall rest with the City Council.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.030 RECOMMENDATION ON LOCATION OF STRUCTURES.

The City Planning Commission may make recommendations to any person, copartnership, corporation or public authority with reference to the location of buildings, structures or works to be erected, constructed or altered by or for the person, copartnership, corporation or public authority; provided, however, the recommendation shall not have the force or effect of a law or ordinance, except when so prescribed by the laws of the state or by public authority having charge of the construction, placing or designing of buildings or other structures and improvements may call upon the City Planning Commission for a report thereon.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.031 GIFTS, BEQUESTS AND THE LIKE.

The City Council may receive gifts, bequests or devises of property to carry out any of the purposes of this act, and shall have control and disposition over the same.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.032 ADDITIONAL AUTHORITY.

The City Planning Commission shall also have all the powers which are now or may hereafter be given to it under the general laws of the state.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.033 RECOMMENDATIONS IN WRITING.

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

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.034 EXPENDITURE OF FUNDS.

The City Planning Commission shall have no authority to make any expenditure on behalf of the city or to obligate the city for the payment of any sums of money except as herein provided, and then only after the City Council of the city shall have first authorized the expenditures for that purpose from time to time by appropriate ordinance (or resolution), which ordinance (or resolution) shall provide the administration method by which funds shall be drawn and expended.

(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

URBAN RENEWAL AGENCY AND PLAN**§ 31.045 DESIGNATION.**

(A) Based upon the findings marked Exhibit A, attached to Ordinance 623 and incorporated by reference as fully set forth herein, the City Council of this city, hereinafter referred to as the city, hereby finds and declares that blighted areas, as defined in O.R.S. 457.010, exist within the city.

(B) The City Council declares and recognizes that there is a need for an Urban Renewal Agency to function within the city.

(C) Pursuant to O.R.S. 457.045(3), all of the rights, powers, duties, privileges and immunities granted to and vested in an Urban Renewal Agency by the laws of this state shall be exercised by and vested in the City Council of this city; provided, however, that any act of the governing body acting as the Urban Renewal Agency shall be and shall be considered the act of the Urban Renewal Agency only and not of the City Council.

(D) The corporate name of the agency provided by this section shall be and the agency shall be known as “The Urban Renewal Agency of the City of Winston.”

(E) The term of office of each member of the Urban Renewal Agency shall be concurrent with each member’s individual term of office as a member of the City Council.
(Ord. 623, passed 10-23-2006)

§ 31.046 URBAN RENEWAL PLAN.

(A) *Findings.*

(1) The area described in the City Urban Renewal Plan is blighted.

(2) Rehabilitation and redevelopment is necessary to protect the public health, safety or welfare of the city.

(3) The City Urban Renewal Plan conforms to the city’s Comprehensive Plan as a whole and provides an outline for accomplishing the projects that the City Urban Renewal Plan proposes.

(4) Provisions have been made to house displaced persons within their financial means and in accordance with state statutes.

(5) No real property has been identified for acquisition at this time, and therefore no findings of necessity have been made at this time.

(6) The adoption and carrying out of the Urban Renewal Plan is economically sound and feasible.

(7) The city shall assume and complete any activities prescribed it by the Urban Renewal Plan.

(8) The City Council hereby incorporates by reference the City Urban Renewal Plan, attached to Ordinance 624 as Exhibit A, as support for its above-mentioned findings.

(9) The City Council further relies on the report on the City Urban Renewal Plan, attached to Ordinance 624 as Exhibit B, which is incorporated by reference, the report of the Planning Commission, the public hearing and the entire record before the City Council in this matter.

(B) *Conclusions.* The City Council hereby adopts and approves the City Urban Renewal Plan, pursuant to the provisions of O.R.S. Chapter 457, and directs the City Recorder to publish notice of the adoption of this section in accordance with the requirements of O.R.S. 457.115.
(Ord. 624, passed 12-18-2006; Ord. 670, passed 6-1-2015)

TRAFFIC AND PUBLIC SAFETY COMMITTEE**§ 31.060 ESTABLISHMENT.**

There is hereby created and established a Traffic and Public Safety Committee. (1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.061 MEMBERSHIP.

The Committee shall consist of four voting members of the community at large and a generally non-voting Chair, also from the community at large, who may vote only in the event of a tie and is selected by the voting members. The Committee shall also consist of non-voting ex officio members, which may include the City Manager, Chief of Police, Superintendent of Public Works, City Attorney, Municipal Judge, Superintendent of Schools and any other individuals as the voting members may direct. A City Councilor shall be selected by the City Council to serve as a non-voting liaison to the Committee. All voting members and the Chair shall be appointed by the Mayor with confirmation by the City Council. The Chief of Police shall serve as Secretary to the Committee.

(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 651, passed 12-20-2010; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019; Ord. 21-695, passed 3-15-2021)

§ 31.062 TERM.

(A) The initial term of the members shall be as follows: Chairperson for two years; two members for three years; and two members for two years.

(B) Thereafter, all terms shall be for three years. All terms shall expire on December 31 of the appropriate year.

(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.063 QUORUM; RULES, REGULATIONS AND PROCEDURES.

Three voting members of the Committee shall constitute a quorum. The Committee shall make any rules, regulations and procedures as it deems necessary; but all the rules, regulations and procedures shall be consistent with the laws of this state, the City Charter and city ordinances. The Committee shall meet as needed.

(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.064 COMPENSATION.

Voting members of the Committee shall receive no compensation for services rendered, but may be reimbursed for any incidental expenditures approved by the Mayor and City Council.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.065 POWERS AND DUTIES.

(A) In general, the Committee shall act in an advisory capacity to the City Council and the City Manager in the creation, development and implementation of official traffic safety activities.

(B) In addition, the powers and duties of the Committee shall include but not be limited to the following:

(1) To serve in a liaison capacity between the city and the State Traffic Safety Committee in developing the statewide highway program and in meeting the National Highway Safety Program standards;

(2) To develop and recommend coordinated traffic safety programs;

(3) To recommend traffic safety priorities for the city;

(4) To review and recommend project applications for funding;

(5) To provide research and information to the city;

(6) To promote public acceptance of city traffic programs;

(7) To foster public knowledge and support of traffic law enforcement and traffic engineering problems and needs;

(8) To cooperate with the public and private school systems in promoting traffic safety education programs;

(9) To make recommendations to the City Council, as the road authority, concerning the restrictions on highway use, grounds, procedures and penalties as specified in O.R.S. 810.030, as amended; and

(10) The city's Traffic and Public Safety Committee shall be responsible for ruling on Public Safety Fee appeals per § 35.116(A), (B), (C), (D), (E) and (G).
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 651, passed 12-20-2010; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.066 REPORTS.

The Committee shall submit copies of its minutes to the City Council, and shall in February of each year make and file an annual report of its activities with the City Council, and any other reports as from time to time may be requested of it by the City Council.

(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.067 LIFE.

The Committee shall continue in existence for as long as the Public Safety Fee is in place.

(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

POLICE DEPARTMENT**§ 31.080 CRIMINAL RECORD CHECKS.**

(A) In order for the city government to operate effectively, persons selected for employment or as a public service volunteer with the city must have the highest degree of public trust and confidence.

(B) All city employees and public service volunteers represent the city to its citizens. Many city employees and volunteers have responsibilities to regulate and maintain public health and safety. Some city employees have the ability and authority to bind the city contractually, have access to public lands and property, and possess access to privileged and proprietary information submitted to the city in confidence.

(C) There is a need to protect youths from harmful or dangerous encounters and to that end a review of the criminal records of those who volunteer with youth in the city is necessary and appropriate.

(D) Tow truck drivers interact with the public in stressful situations (accidents, disabled vehicles and the like) in which they can be taken advantage of by the tow truck driver. Therefore, it is necessary and appropriate that the tow truck driver's criminal record history is reviewed.

(E) Liquor license applicants are required to apply to the city for recommendation to the State Liquor Control Commission (OLCC) in their licensing process. It is necessary and appropriate that these applicants' criminal record history is reviewed in the city's recommendation process.

(F) All applicants for employment and appointed volunteers with the city will be required to authorize the city to conduct a criminal offender information check through the OSP LEDS system.

(G) A member of the Police Department trained and authorized to perform criminal history checks through the LEDS system will conduct the check on the prospective employee or volunteer and orally report to the Human Resources Department that the applicant's records indicates "no criminal record" or "criminal record." If the applicant's record is reported as "criminal record," the city will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section. Human Resources will make the written criminal history record available to the appropriate official for his or her consideration in making the selection.

(H) The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of OAR 166-200-0090 for a period of three years and thereafter will be destroyed. The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel files of that employee or volunteer. Access to confidential personnel files is limited to only authorized persons who have an official need to access the files that is sanctioned by law or regulation.

(I) Nonprofit organizations serving youth in the community, including but not limited to youth baseball, youth basketball, youth soccer and youth football organizations, may request that the Police Department perform criminal history checks. Subject to workload priorities and staff availability, the Police Department may perform criminal record checks on the prospective youth volunteers. The Police Department shall confirm only if a criminal record exists, without any detail of the record. The youth volunteer organization may request criminal record history directly with the State Police pursuant to state statute and administrative rule.

(J) Criminal history checks of contracted tow truck drivers and liquor and other license applicants shall be performed by the Police Department.
(Ord. 630, passed 4-2-2007)

POLICE RESERVE

§ 31.095 ESTABLISHMENT.

There shall be established in the city a volunteer police reserve for the city, as hereinafter noted.
(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960)

§ 31.096 AUTHORITY OF COUNCIL.

The City Council of this city shall have full power and control of the police reserve.
(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960)

§ 31.097 CHIEF OF POLICE.

The Chief of Police shall have general supervision and control of the police reserve subject to the ultimate control of the City Council.

(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960; Ord. 397, passed 4-6-1987)

§ 31.098 QUALIFICATIONS FOR POLICE RESERVE.

The police reserve of the city shall consist of persons over the age of 21 years, of good moral character; and qualifications shall be as they as may be adopted by resolution covering the qualification of the officers. General rules and regulations as to the application and qualification of the police reserve, hours of work, method of pay, if any, and other provisions covering the control of the body shall be as promulgated by the Chief of Police and approved by resolution of the City Council. Each person who shall apply for and be accepted as a police reserve officer of the city shall, before assuming any duties, take and subscribe the following oath of office:

I, _____, being first duly sworn on oath, say that I will support the laws and Constitution of the United States of America, and the Constitution and laws of the State of Oregon; and that I will, to the best of my ability, support and enforce and carry out, when on duty as a police reserve officer of the City of Winston, all ordinances of the City of Winston to the best of my ability, so help me, God.

(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960; Ord. 441, passed 9-5-1989)

ECONOMIC DEVELOPMENT BOARD**§ 31.125 ESTABLISHMENT.**

There is hereby created and established an Economic Development Board.
(Ord. 21-696, passed 4-5-2021)

§ 31.126 MEMBERSHIP.

(A) *Members.* The Board shall consist of six voting members of the community at large and a generally non-voting Chair, also from the community at large, who may vote only in the event of a tie and is selected by the voting members. The Board shall also consist of non-voting ex officio members such as the City Manager and any other individuals as the voting members may direct. A City Councilor shall be selected by the City Council to serve as a non-voting liaison to the Board. All voting members and the Chair shall be appointed by the Mayor with confirmation by the City Council.

(B) *Unexcused absences.* In the event of three consecutive absences from the regularly scheduled meetings of the City Economic Development Board, the Mayor shall declare that position vacant and may fill the position as per division (A) of this section.
(Ord. 21-696, passed 4-5-2021)

§ 31.127 TERMS.

The initial terms of the members shall be as follows: Chair for two years, beginning with the first meeting in January of even-numbered years; three members for one year; three members for two years. Thereafter, all terms shall be for three years. All terms, except the Chair, shall expire on January 31 of the appropriate year.
(Ord. 21-696, passed 4-5-2021)

§ 31.128 QUORUM; RULES, REGULATIONS AND PROCEDURES.

Four voting members of the Economic Development Board shall constitute a quorum. The Board shall make rules, regulations, and procedures as it deems necessary, but all the rules, regulations and procedures shall be consistent with the laws of the state of Oregon, the City Charter and city ordinances. The Board shall meet at least once per month on the second Wednesday of the month at 12:00 noon or as otherwise determined by the Board and approved by the Council.
(Ord. 21-696, passed 4-5-2021)

§ 31.129 COMPENSATION.

Members of the Board shall receive no compensation for services rendered but may be reimbursed for any incidental expenditures approved by the Mayor and City Council.
(Ord. 21-696, passed 4-5-2021)

§ 31.130 POWERS AND DUTIES.

In general, the Board shall act in an advisory capacity to the City Council and the City Manager in developing and implementing economic and tourism initiatives and activities.

(A) To review activities and funding potential from the city’s Urban Renewal Agency.

(B) Make recommendations on requests from citizens or businesses for tourism grants from the city’s Transient Room Tax funds.

(C) Track new economic development within the city.

(D) Review and make recommendations to City Council on economic development grants.

(E) Look for economic development activities to support the business community.

(F) Look for economic development opportunities such as potential new businesses.

(G) Work with other economic development partner agencies for the betterment of the Douglas County and State of Oregon economic base.

(Ord. 21-696, passed 4-5-2021)

§ 31.131 REPORTS.

The Board shall submit copies of its minutes to the City Council and shall, in June of each year, make and file an annual report of its activities to the City Council; and any other reports as from time to time may be requested of it by the City Council. The format of all reports to City Council shall be made at the discretion of the Economic Development Board.

(Ord. 21-696, passed 4-5-2021)

§ 31.132 LIFE OF BOARD.

The Economic Development Board shall continue in existence as long as directed to do so by the Mayor and City Council.

(Ord. 21-696, passed 4-5-2021)

§ 31.133 RULES AND REGULATIONS.

To be developed by the Economic Development Board and approved by the City Council.

(Ord. 21-696, passed 4-5-2021)

WINSTON PUBLIC LIBRARY AND LIBRARY BOARD

§ 31.140 WINSTON PUBLIC LIBRARY ESTABLISHED.

(A) A public library is hereby established for the City of Winston Public Library under the provisions of O.R.S. 357.400 to 357.621.

(B) The public library shall be financed through the use of general fund monies, revenue obtained from the operation of the library, grants, gifts, donations and bequests received and designated to be used for library purposes, and any tax levies that may be authorized by the electors.

(C) The Friends of the Winston Library shall be the public agency responsible for providing and making freely accessible to all residents in the city library and information services suitable to persons of all ages.

(Ord. 20-685, passed 4-20-2020)

§ 31.141 LIBRARY BOARD.

(A) The Friends of the Winston Library Public Library Board is hereby created. The Board shall consist of five members to be nominated by the Mayor from a list of candidates submitted by the Friends of the Winston Library and appointed and confirmed by the City Council.

(B) The term of office of the Board members shall be two years and their terms shall commence on July 1 in the year of their appointment. The terms of office shall be staggered so that the terms of not more than two Board members will expire in the same year. Of the first five Board members appointed, two members shall initially hold office for one year, two members for two years, and one for three years. At the expiration of the term of any members of such Board, the City Council shall appoint a new member or may reappoint a member for a term of three years. If a vacancy occurs during a term of office, the governing body shall appoint a new member for the unexpired term.

(C) Members of the Board shall receive no compensation for their services but may be reimbursed for expenses incurred in the performance of their duties.

(Ord. 20-685, passed 4-20-2020)

§ 31.142 BOARD ORGANIZATION.

(A) The Library Board shall elect a Chairperson from its members.

(B) The Library Board shall elect a Library Board Secretary from its members who shall keep the record of its actions.

(C) The Library Board shall elect a Library Treasurer from its members who shall keep the financial records of the library.

(D) The Board may establish and amend rules and regulations for its government and procedure consistent with the laws of the State of Oregon and with the charter, ordinances, resolutions, and regulations of the City of Winston.

(E) The Board shall meet at least ten times each year and at such other times as it may provide by its rules.

(Ord. 20-685, passed 4-20-2020)

§ 31.143 LIBRARY BOARD GENERAL POWERS.

(A) In accordance with the Friends of the Winston Library's "Library Operations Agreement" with the city, the Library Board shall have powers and duties as follows:

(1) The Library Board shall make rules and policies for the efficient and effective operation of the library, its services and programs.

(2) The Library Board Treasurer shall create an annual budget.

(3) The Library Board shall determine the acceptance, use, or expenditure of any real or personal property or funds donated to the library under § 31.144, or make recommendations for the purchase, control, or disposal, of real and personal property necessary for the purposes of the library as indicated in the provisions of (City and County IGA).

(4) The Library Board shall make recommendations for the selection of sites for public library buildings or for location of library facilities.

(5) When the city agrees to fund activities or purchases, the Library Board shall review and recommend to the City Council terms for contracts and working relationships with private and public agencies regarding library services.

(6) The Library Board shall approve an annual report to the State Library and to the City Council submitted in a timely manner on a form supplied by the State Library.

(7) The Library Board shall develop and recommend to the City Council long-range plans for library service, consistent with city priorities and with state, regional and national goals for libraries. (Ord. 20-685, passed 4-20-2020)

§ 31.144 ACCEPTANCE OF GIFTS FOR LIBRARY PURPOSES.

Gifts of any real or personal property or fund donated to the library and accepted by the governing body shall be administered in accordance with each gift's terms, and all property or fund shall be held in the name of the Friends of the Winston Library.

(Ord. 20-685, passed 4-20-2020)

§ 31.145 INTERNAL ADMINISTRATIVE POLICIES AND PROCEDURES.

(A) The Friends of the Winston Library shall be the fiscal and internal administrative agent for the Winston Public Library and the library shall operate in conformance with city administrative procedures including those pertaining to the following:

(1) Receipt, disbursement, and accounting for monies.

- (2) Maintenance of general books, cost accounting records, and other financial documents.
- (3) Budget administration.

(B) The City Manager shall be the fiscal and internal administrative agent for the Winston Public Library Space within the Winston Community Center and the library shall operate in conformance with city administrative procedures for operation and maintenance of city owned furniture, equipment and within the library.

(Ord. 20-685, passed 4-20-2020)

§ 31.146 PROHIBITED ACTIONS AND PENALTIES.

(A) It shall be unlawful for any person to willfully or maliciously detain any library materials belonging to the Winston Public Library for 30 days after notice in writing from the library staff that the library material is past due. The notice shall bear upon its face a copy of O.R.S. 357.975 and 357.990.

(B) Violation for willful detention of library materials is punishable upon conviction by a fine of not less than \$25 nor more than \$250. Such conviction and payment of the fine shall not be construed to constitute payment for library material, nor shall a person convicted under this section be thereby relieved of any obligation to return such material to the library.

(Ord. 20-685, passed 4-20-2020)

CHAPTER 32: CITY POLICIES

Section

Personal Property Disposition

- 32.01 Custody of property
- 32.02 Disposition of property
- 32.03 Sale procedure
- 32.04 Certification of title
- 32.05 Dangerous or perishable property
- 32.06 Scope

Public Records

- 32.20 Adoption of City Records Management Manual and Retention Schedule

PERSONAL PROPERTY DISPOSITION

§ 32.01 CUSTODY OF PROPERTY.

Whenever any personal property other than motor vehicles is taken into custody of any department by reason of seizure, abandonment or for any other reason, the personal property shall be turned over to and held by the Police Department at the expense and risk of the owner or person lawfully entitled to possession thereof.

(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

§ 32.02 DISPOSITION OF PROPERTY.

(A) *Surrender to true owner.* Within 60 days after the property is taken into possession, except when confiscated or held as evidence, the owner or person lawfully entitled to possession may reclaim the same upon application to the Police Department, submission of satisfactory proof of ownership or right to possession, and payment of charges and expenses, if any, incurred in the storage, preservation and custody of the property.

(B) *Rights and duties of finders.* In the event the value of found property is \$25 or more as determined by the Chief of Police, disposition of the property shall be in the manner prescribed by state law. If the value of found property is less than \$25 as determined by the Chief of Police, it may be returned to the finder if, following the posting of notice for 30 days as prescribed in division (C) of this section, the property remains unclaimed.

(C) *Posting of notice.* Prior to disposition of found property as provided for herein, the Chief of Police shall cause to be posted in at least three public places within the city a notice stating the general description of the property, a brief explanation of how the property came into the possession of the Police Department, notice of the city's intent to dispose of the property if unclaimed by its rightful owner within 30 days of the date of posting of the notice and instructions for making application to the Police Department to claim the property.

(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975; Ord. 447, passed 10-2-1989; Ord. 561, passed 11-2-1998)

§ 32.03 SALE PROCEDURE.

(A) At any time after the 30-day period, the Chief of Police shall cause to be sold at a public sale any unclaimed property and any property which has been confiscated and not ordered destroyed, except property held as evidence and except for firearms. In the case of firearms the Chief of Police shall cause the same to be appraised by a licensed gun dealer and placed on display in an authorized firearms dealership for sale by sealed bid in the manner prescribed by this section. Notice of the sale shall be given once by posting a notice of sale in six public places within the city at least ten days before the date of sale, giving the time and place of sale and generally describing the property to be sold and, in the case of firearms, describing the minimum bid acceptable which shall be equal to the appraised value. All sealed bids for firearms shall be delivered by the bidder to the firearms dealer prior to the time of sale. Bids shall be opened and read aloud at the time and place stated in the notice and in the presence of the Chief of Police or his or her designee. Upon the sale of a firearm in the manner prescribed by this section, the firearms dealer shall be paid a consignment fee equal to 15% of the sale price of the firearm.

(B) Except for the sale of firearms as provided for above, all sales of property shall be for cash to the first person meeting the terms of the sale; provided, however, that any person appearing at or prior to the sale and proving ownership and the right to possession thereto shall be entitled to reclaim the property upon the payment of charges and expenses incurred by the city in storage, preservation, appraisal and custody of the property and the costs of advertising the same for sale. Any buyer or bidder at the sale of a firearm shall comply with all state and federal laws concerning purchase thereof.

(C) If, at the time of sale, no offer meeting the terms of the sale is made or, in the case of a firearm, all bids are for less than the appraised value, the Chief of Police may suspend the sale of the property and the property shall become the property of the city as compensation for the costs incurred, or the property may be held for sale at a future date or, if of no use or value to the city, the property shall be disposed of in a manner as the City Manager directs.

(D) Proceeds of a sale shall be first applied to the payment of the costs of sale and the expense incurred in the preservation, storage, appraisal and custody of the property and the balance, if any, shall be credited to the General Fund of the city.

(E) Sales shall be without the right of redemption.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975; Ord. 243, passed 4-17-1978; Ord. 447, passed 10-2-1989; Ord. 651, passed 12-20-2010)

§ 32.04 CERTIFICATION OF TITLE.

At the time of the payment of the purchase price, the Chief of Police shall execute a certificate of sale in duplicate, the original to be delivered to the purchaser and a copy to be kept on file in the office of the City Recorder, which certificate shall contain the date of sale, the consideration paid, a brief description of the property and a stipulation that the city does not warrant the condition or title of property other than the return of the purchase price in case the title is for any reason invalid.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

§ 32.05 DANGEROUS OR PERISHABLE PROPERTY.

Any property coming into the possession of the Chief of Police which he or she determines to be dangerous or perishable may be disposed of immediately, without notice, in a manner as he or she determines to be in the public interest.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

§ 32.06 SCOPE.

This subchapter shall apply to all personal property, except motor vehicles, now or hereafter in custody of the city.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

PUBLIC RECORDS

§ 32.20 ADOPTION OF CITY RECORDS MANAGEMENT MANUAL AND RETENTION SCHEDULE.

The city adopts the following by reference and each is incorporated and made part of this section:

(A) The 1991-1992 City Records Management Manual prepared in cooperation by the State Archives Division of the Office of Secretary of State of Oregon and the State Association of Municipal Recorders; and

(B) The 1992 City Records Retention Schedule as produced by State Archives Division of the Office of Secretary of State of Oregon in cooperation with the State Association of Municipal Recorders. (1993 Code, Comp. No. 1-15) (Ord. 481, passed 11-19-1992)

CHAPTER 33: ELECTION PROCEDURES

Section

Initiative and Referendum

- 33.01 Definitions
- 33.02 Complete procedure
- 33.03 Initiative proposal
- 33.04 Referendum procedure
- 33.05 Time for referring measure by petition
- 33.06 Time for referral by Council
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- 33.21 Designating and numbering measures
- 33.22 Election notice
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- 33.25 Proclamation of election results
- 33.26 Effective date of measures
- 33.27 Conflicting measures
- 33.28 Unlawful acts

- 33.99 Penalty

INITIATIVE AND REFERENDUM**§ 33.01 DEFINITIONS.**

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

CITY ELECTIONS OFFICER. The City Recorder for the city.

ELECTOR. A person who is qualified to vote in the city.

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

MEASURE. A legislative enactment by the Council that is not necessary for the immediate preservation of the public peace, health and safety; a part of that enactment; or a proposed legislative enactment for the city. The term includes municipal ordinance, a charter amendment or any other legislative enactment within the power of the city to adopt.

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

PROSPECTIVE PETITION. The information, except the ballot title information, signatures and other identification of petition signers, required to be contained in a completed petition.

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

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

WRITE. To write, type or print.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.02 COMPLETE PROCEDURE.

This subchapter provides a complete procedure for the electors to exercise initiative and referendum powers.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.03 INITIATIVE PROPOSAL.

An initiative measure shall be proposed by filing with the city elections officer a completed petition that meets the requirements of this subchapter and orders the measure to be submitted to the electors. (1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.04 REFERENDUM PROCEDURE.

A measure shall be referred by:

(A) Filing with the City Elections Officer a completed referendum petition that meets the requirements of this subchapter; or

(B) Submission of the measure to the electors by the Council. (1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.05 TIME FOR REFERRING MEASURE BY PETITION.

A completed referendum petition for a measure, including the required signatures, must be filed with the City Elections Officer within 30 days after the Council enacts the measure. (1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.06 TIME FOR REFERRAL BY COUNCIL.

The Council may refer a measure only at the session at which it enacts the measure. (1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.07 PROSPECTIVE PETITION.

(A) A prospective petition shall be in the form prescribed by the Secretary of State.

(B) Prior to its circulation, a copy of the prospective petition shall be deposited with the City Elections Officer with a correct copy of the measure and a signed statement on the face of the petition stating the name and address of the person or persons, not to exceed three, under whose authority and sponsorship the petition was prepared and is to be circulated or, if the sponsor is an organization, its name and address and the name and address of each of the principal officers of the organization. (1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.08 ELECTIONS OFFICER DUTIES.

When a copy of a prospective petition is deposited with the City Elections Officer, the officer shall:

(A) Check the form for compliance with § 33.07;

(B) Advise the person depositing it whether it complies with § 33.07 and, if it does not, how to make it comply;

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

(D) Stamp the date and time on the prospective petition, if it complies with § 33.07, and send a copy to the City Attorney for preparation of the ballot title.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.09 BALLOT TITLE PREPARATION.

(A) The ballot title for a measure ordered by the Council or proposed to be ordered by petition shall be prepared and in the hands of the City Elections Officer within ten working days after the Council orders the submission or after a copy of the prospective petition is deposited with the Officer.

(B) When the Council orders submission of a measure to the electors or when a prospective petition is deposited with the City Elections Officer, the Officer shall send a copy of the measure to the City Attorney, who shall prepare the ballot title and return it to the Officer. If the city has no attorney or the City Attorney is unable to prepare the ballot title within the time required, the Officer shall prepare the ballot title.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.10 CAPTIONS AND STATEMENT.

The ballot title shall consist of:

(A) A caption not exceeding ten words which identifies the subject matter of the measure;

(B) A question not exceeding 20 words that plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(C) A concise and impartial statement, not exceeding 75 words, that summarizes the measure.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.11 BALLOT TITLE APPEALS.

An elector who is dissatisfied with the ballot title may, within five days after it is prepared and deposited with the City Elections Officer, appeal to the Council by a written appeal deposited with the Officer asking for a different ballot title for the measure and stating why the title is unsatisfactory. Within five business days after deposit of the appeal with the Officer, the Council shall provide the appellant a hearing and either approve the title or prescribe another ballot title for the measure. (1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.12 PETITION REQUIREMENTS.

Prior to circulation, a petition must:

(A) Be in the form prescribed by the Secretary of State; a sample of the form is available in the office of the City Elections Officer;

(B) Contain the name and address of the sponsor or sponsors of the petition; and

(C) Have written in the foot margin of each signature sheet and on the cover:

(1) On an initiative petition, the caption that is part of the ballot title. The cover sheet shall contain the entire ballot title; or

(2) On a referendum petition, the number and title, if any, of the measure to be referred and the date it was enacted by the Council.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.13 NUMBER OF SIGNATURES.

The number of signatures required for an initiative petition is 15% of the number of votes cast for all candidates for Mayor at the election for the Office of Mayor immediately preceding the deposit of the prospective petition with the City Elections Officer.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.14 ATTACHMENT OF MEASURE TO SHEETS.

A signature on a petition sheet shall not be counted unless a copy of the measure to which the petition refers is attached to the sheet at the time of signing and filing.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.15 SIGNATURE LIMITS.

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

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.16 VERIFICATION OF SIGNATURES.

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

(B) No signature upon an initiative petition shall be counted unless a completed petition is offered for filing with the City Elections Officer within 100 days of the date of the signature.

(C) After a petition is submitted for signature verification, no elector who signed the petition may remove the signature of the elector from the petition.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.17 CERTIFICATION OF SIGNATURES.

Within ten days after a petition is offered for filing with the City Elections Officer, the Officer shall verify the number and genuineness of the signatures and the voting qualifications of the persons who signed the petition by reference to the registration books in the office of the County Clerk. If a sufficient number of electors signs the petition, the Officer shall certify and file the petition. If the Officer determines that there is an insufficient number of signatures, the petition shall be returned to the person who offered the petition for filing.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.18 PRESENTATION TO THE COUNCIL.

At the next regular meeting of the Council after the proposal of a completed initiative measure, the City Elections Officer shall present the measure to the Council.

(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.19 SUBMISSION TO ELECTORS.

(A) The City Elections Officer shall cause a Charter or Charter amendment proposed by the initiative, and any other initiative measure not adopted within 30 days after its filing, to be submitted to the electors at the time provided by § 33.20.

(B) The Council may call an emergency election for a measure and set the date for it as provided by O.R.S. 221.230.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.20 VOTING ON MEASURES.

(A) Except as provided by division (B) below or unless an earlier special election is approved by the Council, the time for voting on a measure shall be the next available regular election date more than 90 days after the verification and filing of a petition by the City Elections Officer.

(B) The Council may call an emergency election for a measure and set the date for it as provided by O.R.S. 221.230.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.21 DESIGNATING AND NUMBERING MEASURES.

Measures shall appear on a ballot by ballot title only, and initiative measures shall be distinguished from referred measures. The sequence of measures to be voted on shall be the sequence in which the respective measures are ordered to be submitted to the electors.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.22 ELECTION NOTICE.

The City Elections Officer shall give notice of all elections in accordance with the requirements of the City Charter.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.23 INFORMATION TO COUNTY CLERK.

When a measure is to be voted on at an election, the City Elections Officer shall furnish a certified copy of the ballot title and the number of each measure to be voted on to the County Clerk in accordance with the time limits established by state law.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.24 ELECTION RETURNS.

The votes on a measure shall be counted, canvassed and returned by the County Clerk as provided by law.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.25 PROCLAMATION OF ELECTION RESULTS.

(A) Immediately after completion of the canvass of the votes on a measure, the Mayor shall issue a proclamation:

- (1) Stating the vote on the measure;
- (2) Declaring whether the vote shows a majority to be in favor of it; and
- (3) If a majority of the electors favor the measure, declaring it to be effective from the date of the vote.

(B) The proclamation shall be filed with the measure.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.26 EFFECTIVE DATE OF MEASURES.

(A) A measure submitted to the electors shall take effect when approved by a majority of the electors voting on it, unless it specifies a later effective date.

(B) A measure adopted by the Council but subject to a pending referendum for which a completed petition has been timely filed shall have no effect unless and until it is approved by a majority of the electors voting upon it.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.27 CONFLICTING MEASURES.

When conflicting measures are approved by the electors at an election, the one receiving the greater number of affirmative votes shall be paramount.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.28 UNLAWFUL ACTS.

- (A) No person other than a registered elector shall sign a petition.
- (B) No person shall sign a petition with a name not his or her own.
- (C) No person shall knowingly sign a petition more than once.
- (D) No person shall knowingly circulate, file or attempt to file with the Elections Officer a petition that contains a signature signed in violation of this subchapter.

(E) No person shall procure or attempt to procure a signature on a petition by fraud.

(F) No person shall knowingly make a false statement concerning a petition.

(G) No person shall make a document required or provided for by this subchapter that contains a false statement.

(H) No Officer shall willfully violate a provision of this subchapter.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989) Penalty, see § 33.99

§ 33.99 PENALTY.

Violations of a provision of § 33.28 is punishable by fine not to exceed \$500.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

CHAPTER 34: JUSTICE PROVISIONS

Section

Juries and Jury Trials

- 34.01 Number of jurors
- 34.02 Right to trial by jury
- 34.03 Qualifications of jurors
- 34.04 Jury list and selection
- 34.05 Additional jurors
- 34.06 Verdicts
- 34.07 Jury fees
- 34.08 Court costs
- 34.09 Attorney fees

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JURIES AND JURY TRIALS

§ 34.01 NUMBER OF JURORS.

A trial jury in the Municipal Court of this city shall consist of six persons sworn to try the cause for which they are called, selected and drawn as provided in this subchapter.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.02 RIGHT TO TRIAL BY JURY.

In all cases and prosecutions for any crime or offense defined and made punishable by the Charter or ordinances of the city, and triable before the Municipal Judge of this city, where a sentence of imprisonment is authorized, the defendant shall be entitled to be tried by a jury if he or she shall demand a jury; provided, however, that the demand for a jury trial must be made not less than ten days before the time fixed for the trial of the cause.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.03 QUALIFICATIONS OF JURORS.

To be qualified as a juror in the Municipal Court of the city, the prospective juror must have the qualifications prescribed in O.R.S. Chapter 10 and, in addition, must be an inhabitant and registered voter within the city at the time that he or she is summoned.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989) Penalty, see § 34.99

§ 34.04 JURY LIST AND SELECTION.

In all cases where the defendant has the right of trial by jury and has made the demand for the same within the time limitations set forth in § 34.02 above, the juries shall be selected from the latest tax roll and registration books used at the last city election in the same manner in which juries are selected for Circuit Courts as provided in O.R.S. Chapter 10.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.05 ADDITIONAL JURORS.

If there is an immediate need for additional jurors, the Municipal Judge shall direct the Chief of Police or any police officer of the city to summon a sufficient number of eligible persons to meet that need from the body of freeholders of the city. Those persons shall be summoned as directed by the Municipal Judge.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.06 VERDICTS.

All six of the jurors sworn to try the cause must concur to render a verdict.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.07 JURY FEES.

(A) The jury fee shall be \$10 per day per juror if the person is chosen to serve as a juror on a trial. If the person shows up for jury duty but is not chosen to serve as a juror on a trial, he or she shall receive \$5. In no event shall the jury fee exceed that provided by O.R.S. 10.061 in relation to justice courts.

(B) Where provision is made for the payment of jury fees by the defendant as a deposit to ensure a jury trial, and where the defendant is found not guilty, the deposit shall be returned to the defendant.

(C) The deposit required by the Municipal City or Recorder's Court to ensure the right of trial by jury, under the Charter of the city shall not be greater than that provided by O.R.S. 10.061 in relation

to justice court for payment for each juror sworn multiplied by the number of jurors constituting a jury under the terms of the charter.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.08 COURT COSTS.

(A) Whenever the Judge of the Municipal Court of the city imposes a fine, including a fine imposed and thereafter suspended, or orders a bail forfeiture as a penalty for violation of an ordinance of the city including a violation of state law punishable in Municipal Court, an assessment in addition to the fine or bail forfeiture shall be collected as court costs in an amount equal to the Board on Police Standards and Training Assessment which is provided for in O.R.S. 137.015. There may also be assessed a city jail assessment.

(B) No costs shall be assessed in cases pertaining to violations of motor vehicle parking regulations and city ordinances unless a warrant is issued to enforce the defendant's appearance, or unless trial is had thereon under a plea of not guilty. These court costs shall be separate and distinct from jurors' fees or from any fine or other penalties imposed by the Court. The Court in its discretion, in justifiable cases, may, on behalf of the city, waive payment of all or any part of the costs or not impose the costs or any part thereof.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.09 ATTORNEY FEES.

Commencing on the effective date of this subchapter, the maximum compensation to be paid to any court-appointed attorney for any one case shall not exceed \$300 per case.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.99 PENALTY.

If a person duly summoned to attend the Municipal Court as a juror fails to attend as required or to give a valid excuse thereafter, he or she may be summarily fined by the Municipal Judge in an amount not to exceed \$10.

(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

CHAPTER 35: FINANCES; FEES AND TAXES

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TRANSPORTATION UTILITY FEE**§ 35.001 DECLARATION OF PURPOSE.**

There is hereby created a transportation utility fee for the purpose of providing funds for the maintenance and repair of local streets under the jurisdiction of the city. The Council hereby finds, determines and declares the necessity of providing maintenance and upkeep of the city's local streets and related facilities within the right-of-way as a comprehensive transportation utility, with maintenance to include without limitation the following activities: cost of administering the transportation utility fee, patching, crack sealing, seal coating, pavement overlays including minor widening, repairing and installing sidewalks or curb cuts, replacing and installing signs, striping streets, repairing and installing signals, rebasing or placing additional road base on local streets, and other activities as are necessary in order that local streets may be properly maintained to safeguard the health, safety and welfare of the city and its inhabitants. The Council further finds that transportation facilities, including public transit, dial-a-ride, handicap access, and pedestrian and bicycle facilities are an essential part of the transportation network within the city and that a portion of these funds may also be used to cover the costs of public transit, dial-a-ride and the construction of pedestrian and bicycle facilities either within or adjacent to existing public streets, or off of public streets.

(Ord. 636, passed 12-15-2008)

§ 35.002 ESTABLISHMENT.

(A) The City Council hereby establishes a transportation utility fee to be paid by the responsible party (whether owners or occupants). The fee shall be established in amounts which will provide sufficient funds to properly maintain local streets throughout the city. Residential occupants shall be charged a set fee assigned to each residential sewer account within the city. Commercial occupants shall be charged a fee based upon traffic generation and developed use of the premises. The transportation utility fee shall not be charged during any period when the premises is not receiving city sewer service, or is proven to be vacant and not generating traffic.

(B) City Council may from time to time, by resolution, change the fees based upon revised estimates of the cost of properly maintaining local streets, revised categories of developed use, revised traffic generation or trip length factors or other relevant factors.

(C) Collection of the fee for previously unimproved premises shall commence at the time of connection to the city sewer system.

(D) The transportation utility fee imposed by the city is classified as not subject to the limits of § 11b of Article XI of the State Constitution. The transportation utility fee does not in any way create an in rem obligation in respect of property. The obligation to pay the fee is a personal obligation of the responsible party.

(Ord. 636, passed 12-15-2008)

§ 35.003 FEE DEDICATED.

All fees collected pursuant to this subchapter shall be paid into the Transportation Utility Fee Fund. The revenues shall be used for the purposes of the operation, administration and maintenance of the local transportation network in the city. It shall not be necessary that the operations, administration and maintenance expenditures from the Street Fund specifically relate to any particular property from which the fees for those purposes were collected. To the extent that the fees collected are insufficient to properly maintain or repair local streets, the cost of the same shall be paid from any other city funds as may be determined by the City Council, but the City Council may order the reimbursement to that fund if additional fees are thereafter collected.

(Ord. 636, passed 12-15-2008)

§ 35.004 CITY TO MAINTAIN LOCAL STREETS; EXCEPTIONS.

The city shall maintain all accepted local streets within city-owned land, city rights-of-way and city easements and maintain other accepted local streets within or adjacent to the city. These local streets specifically exclude private streets and streets not yet accepted by the city for maintenance.

(Ord. 636, passed 12-15-2008)

§ 35.005 BILLING AND COLLECTION OF FEE.

(A) The responsible party for any improved premises within the city shall pay a transportation utility fee according to the rate set forth in the ordinance in Exhibit C attached to Ordinance 636, which is hereby adopted by reference as if set out in full herein. Commercial rates are based on the formula set forth in the ordinance in Exhibit B attached to Ordinance 636, which is hereby adopted by reference as if set out in full herein. Unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the city, the person paying the city's sewer bill shall pay the transportation utility fee. When the bill remains unpaid by the name of record on the utility bill then the property owner becomes responsible for the bill. The obligation to pay the transportation utility fee is personal to the responsible party.

(B) Transportation utility fees shall be billed monthly by the City Manager and shall become due and payable in accordance with the rules and regulations pertaining to the collection of sewer service fees. If there is not city sewer service to the improved premises, an annual bill shall be rendered and shall become due and payable within 90 days of issuance. Monthly transportation utility fees for new development shall commence at the time of connection to the city sewer system. Areas annexed to the city or under contract to annex shall become subject to the transportation utility fee, if there is a building on the property being annexed, on the date of annexation or the date of the annexation contract, whichever comes first, as long as there is a hookup to city sewer. When that is not the case, then the applicant shall be required to connect to the city sewer system as soon as reasonably possible, but no later than one year from the date of annexation.

(C) Fee implementation shall be adopted by City Council through the budget process.
(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.006 ENFORCEMENT.

Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the city. The City Manager is hereby empowered and directed to enforce this provision against delinquent users. The employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection, repair and enforcement of the provisions of this subchapter.

(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.007 ADMINISTRATIVE REVIEW; APPEALS.

(A) Any user or occupant who disputes the amount of the fee, or disputes any determination made by or on behalf of the city pursuant to and by the authority of this chapter may petition the City Council for a hearing on a revision or modification of the fee or determination. Petitions may be filed only once in connection with any fee or determination, except upon a showing of changed circumstances sufficient to justify the filing of the additional petition.

(B) The petitions shall be in writing, filed with the City Manager, and the facts and figures shall be submitted in writing or orally at a hearing scheduled by the City Council. The petitioner shall have the burden of proof.

(C) Within 60 days of filing of the petition, City Council shall make findings of fact based on all relevant information, shall make a determination based upon the findings and, if appropriate, modify the fee or determination accordingly. This determination by the City Council shall be considered a final order.

(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.008 NOTICE OF DECISION.

Every decision or determination of the City Council shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within a reasonable time from the date of the action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this chapter.

(Ord. 636, passed 12-15-2008)

§ 35.009 DISPOSITION OF FEES AND CHARGES.

The fees paid and collected by virtue of this subchapter shall not be used for general or other governmental propriety purposes of the city, except to pay for an equitable share of the city's accounting, management and other governing costs, incident to operation of the transportation utility fee program. Otherwise the fees and charges shall be used solely to pay for the cost of operation, administration, maintenance, repair, improvement, renewal, replacement and reconstruction of city transportation network related facilities.

(Ord. 636, passed 12-15-2008)

§ 35.010 DEFINITIONS.

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

CHARGEABLE DAILY TRIP-END. A figure that represents adjustments of the Institute of Transportation Engineers trip generation rates to:

- (1) Remove passby trips from various nonresidential uses; and
- (2) Multiply trip generation rates by a trip length ratio to better estimate usage.

IMPROVED PREMISES. Structures, landscaping paved areas and any area which has been altered such that runoff from the site is greater than that which could have historically been expected.

RESPONSIBLE PARTY. The person or persons who by usage, occupancy or contractual arrangement are responsible to pay the utility bill for an improved premises.

TRIP-END. A trip to or from an origin or destination. A **TRIP-END** is the standard unit of measure for trip generation and can be measured as one pass by a traffic counter. Two **TRIP-ENDS** are involved in a simple round trip. Round trips with multiple stops include passby trips at the destinations between the beginning and end of the trip.

(Ord. 636, passed 12-15-2008)

§ 35.011 METHODOLOGY.

(A) The City Manager may, upon appropriate findings, recalculate a nonresidential utility fee based on a demonstration of a permanent change in transportation system use.

(B) Any adjustment shall take effect in the month following the completion of the demonstration of permanent change.

(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.012 EXEMPTIONS.

The City Council may, by resolution, exempt any class of user when it determines that the public interest deems it necessary or that the contribution to street use by that class is insignificant.
(Ord. 636, passed 12-15-2008)

§ 35.013 EFFECTIVE DATE.

This subchapter takes effect on January 14, 2009.
(Ord. 636, passed 12-15-2008)

STORM DRAIN UTILITY FEE

§ 35.025 PURPOSE.

(A) There is hereby created a storm drain utility fee for the purpose of providing funds for the maintenance and expansion of the storm drain system, including but not limited to local streets and related facilities under the jurisdiction of the city. The Council hereby finds, determines and declares the necessity of providing operation, maintenance and improvement of the city's storm drains and related assets and facilities operating within the city as a comprehensive storm drain utility. Operation, maintenance and expansion includes activities as are necessary in order that storm drains and related facilities may be properly operated and maintained to safeguard the health, safety and welfare of the city and its inhabitants and visitors.

(B) The Council further finds that natural streams and wetlands are an integral part of the storm drain system.
(Ord. 637, passed 12-15-2008)

§ 35.026 DEFINITIONS.

Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter.

COMMERCIAL OR INDUSTRIAL UNIT. Any building or facility used other than as a dwelling unit.

DEVELOPMENT. Any constructed change to improved or unimproved property, including but not limited to buildings or other structures, private storm drain facilities, mining, dredging, filling, grading, paving, excavation or drilling operations.

EQUIVALENT RESIDENTIAL UNIT (ERU). An area which is estimated to place approximately equal demand on the public storm drain facilities as a single-family dwelling unit. One ***ERU*** shall be equal to 3,000 square feet of impervious surface.

IMPERVIOUS SURFACES. Those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Examples of ***IMPERVIOUS SURFACES*** include but are not limited to rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

IMPROVED PROPERTY. Any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. This condition shall be determined by the City Superintendent of Public Works.

MOBILE HOME PARK. A defined area under unified ownership or control in which mobile homes are situated and used for human habitation; or in which spaces are improved, designed or offered for those purposes.

MULTIPLE-FAMILY UNIT (MFU). A building or facility under unified ownership and control and consisting of more than one dwelling unit, with each unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.

OPEN DRAINAGEWAY. A natural or constructed path, ditch or channel which has the specific function of transmitting natural stream water or storm water from a point of higher elevation to a point of lower elevation.

RESPONSIBLE PARTY. The owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of an improvement on the property.

RETENTION SYSTEM. A system which is intended to discharge surface water either partially or completely to groundwater.

RUNOFF CONTROL. Any measure approved by the City Superintendent of Public Works that reduces storm water runoff from land surfaces on which development exists.

SINGLE-FAMILY UNIT (SFU). The part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family and where the units are sold and deeded as individual units. A ***SFU*** is presumed to have 3,000 square feet of impervious surface area for purposes of this subchapter. The term ***SFU*** shall be inclusive of those units identified as detached single-family residences, unit ownership (such as townhouses, pad lots and the like), and condominiums and the like.

STORM DRAIN FACILITIES. Any structure(s) or configuration of the ground that is used or by its location becomes a place where storm water flows or is accumulated, including but not limited to pipes, sewers, gutters, manholes, catch basins, ponds, open drainageways and their appurtenances.

STORM WATER. Water from precipitation, surface or subterranean water from any source, drainage and non-septic waste water.
(Ord. 637, passed 12-15-2008)

§ 35.027 STORM DRAIN UTILITY POLICY.

(A) Pursuant to the general laws of this state and the powers granted in the Charter of the city, the Council of the city does hereby declare its intention to acquire, own, construct, equip, operate and maintain within and without the city limits of this city open drainage ways, underground storm drains, equipment and appurtenances necessary, useful or convenient for a storm drainage system; and also including maintenance, extension and reconstruction of the present storm drain system of the city.

(B) The improvement of both public and private storm drain facilities through or adjacent to a new development shall be the responsibility of the developer. These improvements shall comply with all applicable city ordinances, policies and standards.

(C) No portion of this subchapter or statement herein or subsequent Council interpretation or policies shall relieve the property owner of assessments levied against his or her property for public facility improvement projects.

(D) It is the policy of the city to participate in improvements to storm drain facilities when authorized by the City Council. To be considered for approval by Council, a facility must:

- (1) Be public;
- (2) Be a major benefit to the community;
- (3) Be located or on a city property, city right-of-way or city easement;
- (4) If a piped system, be a design equivalent to a 24-inch diameter circular concrete pipe; and
- (5) (a) Be identified as a project in the Master Plan; or
 - (b) Be a rehabilitation and/or replacement of exiting public storm drain facilities.

(E) The city shall manage public storm drain facilities located on city-owned property, city right-of-way and city easements. Public facilities to be managed by the city include but are not limited to:

- (1) Open drainage serving a drainage basin of at least 100 acres;

(2) A piped drainage system and its related appurtenances which has been designed and constructed expressly for use by the general public and accepted by the city;

(3) Roadside drainage ditches along unimproved city streets; and

(4) Flood control facilities (levees, dikes, overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins and the like) that have been designed and constructed expressly for use by the general public and accepted by the city.

(F) Storm drain facilities not maintained by the city include but are not limited to;

(1) Facilities not located on city-owned property, city right-of-way or a city easement;

(2) Private parking lot storm drains;

(3) Roof, footing and area drains;

(4) Drains not designed and constructed for use by the general public;

(5) Drainage swales which collect storm water from a basin less than 100 acres; and

(6) Driveway and access drive culverts.

(Ord. 637, passed 12-15-2008)

§ 35.028 ESTABLISHMENT OF A STORM DRAIN UTILITY FEE.

(A) The responsible party for any improved premises within the city or within any area under contract to be annexed to the city shall be charged monthly for storm drain service, maintenance, operation and extension at the rate established herein. Unless another responsible party has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's sewer utility charges shall pay the storm drain utility fees. If there is no sewer service to the property, the storm drain utility fees shall be paid by the person(s) having the right to occupy the property. The City Council has determined that property not used for single-family dwelling purposes is furnished service in proportion to the amount of the property's impervious surface, and that for each 3,000 square feet of impervious surface, the property is furnished service equivalent to that furnished a single-family unit and that the minimum service charge shall be that established for a single-family unit. The following rates are hereby established for all properties located within the city:

<i>Type</i>	<i>Charge Per Month per ERU to Nearest Whole No. of ERUs</i>	<i>No. of ERUs to be Charged for Type and Location of Development</i>
(1) Single-family unit	\$1.50	1
(2) Multiple-family unit	\$1.50	Determine by measurement*
(3) Commercial and industrial unit	\$1.50	Determine by measurement*
(4) Improved premises or lots	\$1.50	Determine by measurement*
(5) Mobile home parks	\$1.50	6 ERUs per acre for total area
* When determined by measurement, the total square footage of impervious area will be divided by 3,000 sf to determine the number of ERUs.		

(B) City Council may from time to time, by resolution, change the fees based upon revised estimates of the cost of properly maintaining local storm drain infrastructure.

(C) Collection of the fee for previously unimproved premises shall commence at the time of connection to the city sewer system.

(D) The storm drain utility fee imposed by the city is classified as not subject to the limits of § 11b of Article XI of the State Constitution. The storm drain utility fee does not in any way create an in rem obligation in respect of property. The obligation to pay the fee is a personal obligation of the responsible party.

(E) Fee implementation shall be adopted by City Council through the budget process. (Ord. 637, passed 12-15-2008)

§ 35.029 CREDIT FOR RUNOFF MEASURES.

(A) Upon application, a responsible party may seek a reduction or elimination of the monthly charge for storm drainage service and/or the systems development charge for storm drainage. Upon submission of appropriate evidence, the City Superintendent of Public Works shall consider the application. The applicant must show to the City Superintendent of Public Works' satisfaction;

(1) The amount of permanent reduction to the runoff for the property due to the approved retention system; and/or

(2) The amount of storm water being discharged directly from the property into Lookingglass Creek or the South Umpqua River.

(B) Any reduction or elimination given shall continue until the property is further developed or until the City Superintendent of Public Works determines the property no longer qualifies for the reduction or elimination granted. Upon further development of the property another application may be made by a responsible party. Any applicant aggrieved by the City Superintendent of Public Works' decision may appeal to the City Council by filing with the City Manager written request for review as provided in § 35.033.

(Ord. 637, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.030 NEW DEVELOPMENT AND ANNEXATIONS.

Monthly storm drain utility fees for new development will commence upon connection to the sewer system, completion, occupancy or use of the improvements, whichever comes first. Areas that are annexed to the city or under contract to annex shall become subject to the storm drain utility fee on the date of annexation or the date of the annexation contract, whichever comes first.

(Ord. 637, passed 12-15-2008)

§ 35.031 FEE DEDICATED.

All fees collected for the purposes specified in this chapter shall be paid into the storm drain utility account and accounted for by dedicated line items, including but not limited to storm drain maintenance and storm drain construction. These revenues shall be used for the purposes of the management, maintenance, extension and construction of public storm drain facilities.

(Ord. 637, passed 12-15-2008)

§ 35.032 ENFORCEMENT.

Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the city. In addition to any other remedies or penalties provided by this or any other ordinance in the city, a delinquent notice with the charges specific to the responsible party's property shall be sent to the County Assessor's office. The City Manager is hereby empowered and directed to enforce this provision against the delinquent users. The employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection, repair and enforcement of the provisions of this subchapter.

(Ord. 637, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.033 ADMINISTRATIVE REVIEW; APPEALS.

(A) Any user or occupant who disputes the amount of the fee, or disputes any determination made by or on behalf of the city pursuant to and by the authority of this chapter, may petition the City Council for a hearing on a revision or modification of the fee or determination. The petitions may be filed only

once in connection with any fee or determination, except upon a showing of changed circumstances sufficient to justify the filing of the additional petition.

(B) The petitions shall be in writing, filed with the City Manager, and the facts and figures shall be submitted in writing or orally at a hearing scheduled by the City Council. The petitioner shall have the burden of proof.

(C) Within 60 days of filing of the petition, City Council shall make findings of fact based on all relevant information, shall make a determination based upon the findings and, if appropriate, modify the fee or determination accordingly. This determination by the City Council shall be considered a final order.

(Ord. 637, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.034 NOTICE OF DECISION.

Every decision or determination of the City Council shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within a reasonable time from the date of the action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this chapter.

(Ord. 637, passed 12-15-2008)

§ 35.035 EFFECTIVE DATE.

This subchapter takes effect on January 14, 2009.

(Ord. 637, passed 12-15-2008)

LOCAL IMPROVEMENT PROCEDURES

§ 35.050 DEFINITIONS.

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

LOCAL IMPROVEMENT. Any local improvement, including those defined in O.R.S. 223.387, for which an assessment may be made on the property specially benefitted.

LOCAL IMPROVEMENT DISTRICT. The property which is to be assessed for the cost or part of the cost of a local improvement, together with the property on which the local improvement is located.

LOT. A lot, block or parcel of land.

OWNER. The owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of the County Assessor. (1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.051 INITIATION OF LOCAL IMPROVEMENTS; RESOLUTION OF INTENTION.

(A) If the Council considers it necessary to require that improvements be made and paid for in whole or in part by special assessment, or if the owners of three-fourths of the property to benefit specially from an improvement, the Council shall cause plans and specifications for the proposed improvement to be prepared, together with estimates of the cost of the improvements and the probable overall costs thereof. If the Council finds the plans, specifications and estimate of costs satisfactory, the Council shall declare by resolution that it intends to make the local improvement.

(B) The improvement resolution shall describe the general nature, location and extent of the proposed local improvement and of the proposed local improvement district, declare the Council's intent to make the improvement, indicate the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted, set a public hearing on the improvement, and direct that notice be given of the proposed improvement and of the public hearing.

(C) The improvement resolution may include alternative proposals relating to a proposed local improvement. However, all of the information required for a particular local improvement shall be included for each alternative proposal.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.052 NOTICE OF HEARING.

(A) After adoption of the improvement resolution, notice of the proposed improvement and of the public hearing shall be given by one publication not less than ten days prior to the public hearing in a newspaper of general circulation within the city, and by mailing copies of the notice by registered or certified mail to the owner of each lot affected by the proposed improvement, and by posting copies of the notice conspicuously within the limits of the proposed local improvement district.

(B) The notice shall contain the following:

(1) A general description of the proposed improvement and the property to be specially benefitted. The description of property need not be by metes and bounds, but shall be such that an average person can determine from it the general location of the property;

(2) An estimate of the total cost of the improvement and the portion anticipated to be paid for by special assessments;

(3) The time and place of the public hearing;

(4) A statement of a place where preliminary project design and other additional information concerning the improvement is available to the public; and

(5) Any other information the Council may direct to be included.

(C) Any mistake, error, omission or failure with respect to the mailing of notice shall not be jurisdictional or invalidate the local improvement proceedings.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.053 HEARING.

(A) At the time of the public hearing, the Council shall hear and consider testimony, both oral and written, on the proposed local improvement and may continue the hearing as it deems necessary. After the hearing, the Council may order the local improvement to be made. If the Council orders the improvement, it shall, within 90 days after the date of the hearing, provide by resolution for the establishment of the local improvement district and the construction of the improvement.

(B) Proposed action on a public improvement that is not declared by two-thirds of the Council present to be needed at once because of an emergency shall be suspended for six months upon the filing of written remonstrances by owners of a majority of the property to be assessed for the improvement.

(C) Notwithstanding the fact that the proposed improvement was petitioned for by three-fourths of the benefitted property owners, the Council may refuse to proceed with the improvement if it finds the proposed improvement is untimely or not in the best interest of the city.

(D) Following the public hearing, the Council may direct a modification of the proposed local improvement by revising the scope of the improvement, by reducing or enlarging the local improvement district which it deems will be benefitted by the improvement, or by making other modifications as it finds reasonable. If the Council modifies the scope of the improvement so that assessment is likely to be increased substantially on one or more of the lots, or the Council enlarges the local improvement district, or if the Council causes a substantial change in any particulars contained in the improvement resolution, a new improvement resolution shall be adopted, new estimates made and new notices mailed to the owners within the proposed local improvement district. However, no new publication will be required.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.054 CREATION OF LOCAL IMPROVEMENT DISTRICT.

The Council, by resolution, shall provide for the establishment of the local improvement district and the making of the local improvement in substantial conformity with the proposal set forth in the initiating resolution.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.055 MANNER OF DOING WORK.

The local improvement may be made in whole or in part by the city, by another governmental agency, by contract or by combination of the above.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.056 CONSTRUCTION OF IMPROVEMENT; BIDS.

The Council may direct the City Manager to advertise for bids for construction of all or part of the improvement project. If part of the improvement work is to be done under contract, the Council shall proceed in accordance with procedures of §§ 31.01 through 31.07 and state law for public contracting.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989; Ord. 651, passed 12-20-2010)

§ 35.057 COSTS AND EXPENSES.

The costs and expenses of local improvements which may be assessed against the property specially benefitted by the improvement shall include the costs of construction and installation of the improvement; advertising, legal, administrative, engineering and assessment costs; financing costs, including interest charges; the costs of any necessary property, right-of-way or easement acquisition and condemnation proceedings; and any other necessary expenses.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.058 METHOD OF ASSESSMENT; ALTERNATIVE METHODS OF FINANCING.

(A) The Council, in adopting a method of assessment of the costs of any local improvement, may:

(1) Use any just and reasonable method of determining the extent of the local improvement district consistent with the benefits derived;

(2) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefitted; and/or

(3) Authorize payment by the city of all or any part of the costs of a local improvement if, in the opinion of the Council, the topographical or physical conditions, or unusual or excess public travel or use, or other characteristics of the work involved warrants only a partial payment or no payment by the benefitted property of the cost of the local improvement.

(B) Nothing contained in this subchapter precludes the Council from using any other available means of financing local improvements, including federal or state grants-in-aid, sewer fees or charges, revenue or general obligation bonds, or any other legal means of financing. If these other means of

financing local improvements are used, the Council may, in its discretion, levy special assessments, according to the benefits derived, to cover any remaining part of the costs of the local improvement. (1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.059 ASSESSMENT PROCEDURE.

(A) When the estimated cost of an authorized local improvement has been ascertained on the basis of the city's estimate of costs, the award of a contract, or any other basis acceptable to the Council, or after the work has been completed and the actual cost has been determined, the proposed assessment to the respective lots within the local improvement district shall be submitted to the Council in the form of a proposed resolution.

(B) Upon receipt of the proposed assessments, the Council shall, after any modifications, adopt a resolution directing notice of the proposed assessments to be mailed or personally delivered to the owners, or reputed owners of the lots proposed to be assessed. The notice shall contain the following information:

(1) The name of the owner, or reputed owner, the description of the property assessed, the total estimated or actual project cost assessed against the benefitted property, and the amount of the assessment against the described property;

(2) A date and time by which written objections to the proposed assessment, stating specifically the grounds for objection, must be received, and the time and the date of a public hearing at which the Council will consider any objections;

(3) A statement that the assessment in the notice, as it may be modified by the Council, will be levied by the Council after the hearing and will thereafter be charged against the property and will be immediately payable in full or in installments, if applicable; and

(4) A statement, pursuant to O.R.S. 305.583(5), of the Council's intention to characterize the charge and all amounts levied as an assessment for local improvements.

(C) The Council shall hold the public hearing on the proposed assessments to consider written objections and may adopt, correct, modify or revise the proposed assessments. The Council shall determine the amount of assessment to be charged against each lot in the district according to the special and peculiar benefits accruing from the improvement and shall, by ordinance, spread the assessments. (1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989; Ord. 472, passed 2-18-1992)

§ 35.060 NOTICE OF ASSESSMENT.

Within ten days after the effective date of the ordinance levying the assessments, the Recorder shall send, by registered or certified mail to the owner of the assessed property, a notice containing the following information:

(A) The date of the ordinance levying the assessment, the name of the owner of the property assessed, the amount of the specific assessment and a description of the property assessed;

(B) A statement that application may be filed to pay the assessment in installments in accordance with the provisions of this subchapter; and

(C) A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within 30 days of the date of the letter and, if unpaid on that date, will accrue interest and subject the property to foreclosure.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.061 LIEN RECORDS AND FORECLOSURE PROCEEDINGS.

(A) After passage of the assessment ordinance by the Council, the Recorder shall enter in the city lien docket a statement of the amounts assessed on each particular lot or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon entry in the lien docket, the amount entered is a lien and charge on the respective lots, or portions thereof, which have been assessed for the improvement.

(B) All assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state permit.

(C) Thirty days after the date of the letter notifying the owner of the assessment ordinance, interest shall be charged at the current market rate on all amounts not paid, and the city may foreclose or enforce collection of assessment liens in the manner provided by state law.

(D) The city may enter a bid for the property being offered at a foreclosure sale. The city shall be prior to all bids except those made by persons who would be entitled, under state law, to redeem the property.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.062 ERRORS IN ASSESSMENT CALCULATION.

Claimed errors in the calculation of assessments shall be brought to the attention of the Recorder, who shall determine whether there has been an error. If the Recorder finds there has been an error, the Recorder shall recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the Recorder shall make the necessary correction in the city lien docket and send a corrected notice of assessment by registered or certified mail.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.063 INSTALLMENT PAYMENT OF ASSESSMENTS.

The Bancroft Bonding Act (O.R.S. 223.205 to 223.295) shall apply to assessments levied in accordance with this subchapter. Unless otherwise provided in a particular assessment ordinance, the owner of any property assessed for a local improvement in accordance with this subchapter in the sum of \$25 or more, at any time within 30 days after notice of the assessment is first mailed (or within a time as the Council may otherwise establish), may file with the Recorder a written application to pay the whole of the assessment in 20 semi-annual installments, together with interest at the current market rate, or, if any part of the assessment has been paid, the unpaid balance of the assessments in the installments with interest.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.064 FILING OF ORDINANCES.

The Recorder shall file copies of the resolution establishing a local improvement district and the assessment ordinance with the County Clerk. However, failure to file the information shall not invalidate or affect any proceedings in connection with the local improvement district and shall not impose any liability on the city, the Recorder, or any official, officer or employee of the city.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.065 DEFICIT ASSESSMENTS.

If the initial assessment has been made on the basis of estimated cost and, upon the completion of the improvement, the actual cost is found to exceed the estimated cost, the Council may make a deficit or supplemental assessment for the additional cost. Proposed assessments on the respective lots within the local improvement district for the proportionate share of the deficit shall be made, notices sent, a public hearing held and opportunity for objections considered, and determination of the assessment against each particular lot shall be made as in the case of the initial assessment. The deficit or supplemental assessment shall be spread by ordinance. The deficit assessments shall be entered in the city lien docket, notices published and mailed and the collection of the assessment made in accordance with the provisions of this subchapter relating to the original assessment.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.066 REBATES AND CREDITS.

If assessments are made on the basis of estimated costs, and upon completion of the project the cost is found to be less than the estimated cost, the Council shall ascertain and declare the same by ordinance. When declared, the excess amounts shall be entered on the city lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid it or that person's legal representative shall be entitled to payment of the rebate credit. If the property owner had filed an application to pay the assessment by installment, the owner shall be entitled to the refund only when the installments, together

with interest, are fully paid. If the property owner had neither paid the assessment nor filed an application to pay in installments, the amount of the refund shall be deducted from the assessment, and the remainder shall remain a lien on the property until legally satisfied.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.067 ABANDONMENT OF PROCEEDINGS.

The Council may abandon proceedings for local improvements made under this subchapter at any time prior to the final completion of the improvements. If liens have been placed on any property under this procedure, they shall be cancelled, and payments made on the assessments shall be refunded to the person who paid them or to that person's legal representative.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.068 CURATIVE PROVISIONS.

(A) An improvement assessment shall not be rendered invalid by reason of:

(1) Failure to have all the required information in any project report;

(2) Failure to have all required information in the improvement resolution, assessment ordinance, lien docket or notices required to be published and mailed;

(3) Failure to list the name of or mail notice to an owner of property as required by this subchapter; or

(4) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining.

(B) The Council shall have authority to remedy and correct all matters by suitable action and proceedings.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.069 REASSESSMENTS.

When an assessment, deficit assessment or reassessment for any local improvement has been set aside, annulled, declared or rendered void, or its enforcement refused by a court having jurisdiction, or when the Council doubts the validity of all or any part of the assessment, the Council may make a new assessment or reassessment in the manner provided by state law.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.070 REMEDIES.

Subject to the curative provisions of § 35.068 and the rights of the city to reassess pursuant to § 35.069, proceedings for writs of review and other appropriate or legal relief may be filed as provided by state law.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.071 SEGREGATION OF LIENS.

(A) When the ownership of any portion of a tract of real property, less than the entire tract, is transferred, any liens against the property in favor of the city shall, upon request of the owner of any portion of the tract, be segregated as provided by this section.

(B) Applications for the segregation of liens shall be made to the Recorder, describing the tract to be segregated and the names of the owners of the respective tracts. A certificate of the County Assessor shall be furnished showing the assessed valuation of the various tracts of land concerned as of January 1 of the year in which the segregation is requested, if available, and if not available, as of January 1 of the preceding year.

(C) The Recorder shall compute a segregation of the lien against the real property on the same basis as the original was computed and apportioned, and the segregation shall be reflected in the city lien docket. No segregation shall be made unless all parts of the original tract of land after the segregation have a true cash value, as determined from the certificate of the Assessor, of 60% or more of the amount of the lien as to the various tracts concerned.

(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

TRANSIENT ROOM TAX

§ 35.085 DEFINITIONS.

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

ACCRUAL ACCOUNTING. A system of accounting in which the operator enters the rent due from a transient into the record when the rent is earned, whether or not it is paid.

CASH ACCOUNTING. A system of accounting in which the operator does not enter the rent due from a transient into the record until the rent is paid.

HOTEL. A part of a structure that is occupied or designed for occupancy by transients for lodging or sleeping, including a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure, and space for location of a mobile home, trailer or recreation vehicle.

OCCUPANCY. Use or possession of, or the right to use or possess, room or space in a hotel for overnight accommodations.

OPERATOR. A person who is the proprietor of a hotel in any capacity. When an **OPERATOR'S** functions are performed through a managing agent of a type other than an employee, the managing agent shall also be considered an **OPERATOR**. For purposes of this subchapter, compliance by either the **OPERATOR** or the managing agent shall be considered compliance by both.

PERSON. An individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or another group or combination acting as a unit.

RENT. The gross rent, exclusive of other services.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The City Recorder.

TRANSIENT. An individual who occupies or is entitled to occupy space in a hotel for a period of 29 consecutive days or less, counting portions of days as full days. The day a **TRANSIENT** checks out of a hotel shall not be included in determining the 29-day period if the **TRANSIENT** is not charged rent for that day. A person occupying space in a hotel shall be considered a **TRANSIENT** until a period of 29 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy or the tenant actually extends occupancy more than 29 consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a **TRANSIENT**.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.086 TAX IMPOSED.

A transient shall pay a tax in the amount of 7% of the rent charged for the privilege of occupancy in a hotel in the city. The tax constitutes a debt owed by the transient to the city, and the debt is extinguished only when the tax is remitted by the operator at the time rent is paid. The operator shall enter the tax into the record when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each

installment. In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services or commodities.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985; Ord. 18-677, passed 2-5-2018)

§ 35.087 RULES FOR COLLECTION OF TAX BY OPERATOR.

(A) Every operator renting space for lodging or sleeping shall collect a tax from the occupant. The tax collected or accrued constitutes a debt owed by the operator to the city.

(B) In cases of credit or deferred payment or rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible accounts.

(C) The Tax Administrator shall enforce this subchapter and may adopt rules and regulations necessary for enforcement.

(D) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.088 OPERATOR’S DUTIES.

An operator shall collect the tax when the rent is collected from the transient. The amount of tax shall be stated separately in the operator’s records and on the receipt given by the operator. An operator shall not advertise that the tax will not be added to the rent, that a portion of it will be assumed or absorbed by the operator, or that a portion will be refunded, except in the manner provided by this subchapter.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.089 EXEMPTIONS.

The tax shall not be imposed on:

(A) An occupant staying for more than 29 consecutive days;

(B) A person who rents a private home, vacation cabin or similar facility from an owner who personally rents the facility incidentally to the owner’s personal use; or

(C) A government employee traveling on government business.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.090 OPERATOR'S REGISTRATION FORM.

(A) An operator of a hotel shall register with the Tax Administrator, on a form provided by the Administrator, within 15 days after beginning business or within 30 calendar days after passage of this subchapter.

(B) The registration shall include:

- (1) The name under which the operator transacts or intends to transact business;
- (2) The location of the hotel;
- (3) Any other information the Tax Administrator may require to facilitate collection of the tax;

and

- (4) The signature of the operator.

(C) Failure to register does not relieve the operator from collecting the tax or a person from paying the tax.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.091 CERTIFICATE OF AUTHORITY.

(A) The Tax Administrator shall issue a certificate of authority to the registrant within ten days after registration.

(B) Certificates are nonassignable and nontransferable and shall be surrendered immediately to the Tax Administrator on cessation of business at the location named or when the business is sold or transferred.

(C) Each certificate shall state the place of business to which it applies and shall be prominently displayed.

(D) The certificate shall state:

- (1) The name of the operator;
- (2) The address of the hotel;
- (3) The date when the certificate was issued; and

(4) The following statement: “This Transient Occupancy Registration Certificate signifies that the person named on the certificate has fulfilled the requirements of the Transient Room Tax Ordinance of the city by registering with the Tax Administrator for the purpose of collecting the room tax imposed by the city and remitting the tax to the Tax Administrator.”
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.092 COLLECTIONS, RETURNS AND PAYMENTS.

(A) The taxes collected by an operator are payable to the Tax Administrator on a monthly basis on the tenth day of the following month.

(B) A return showing tax collections for the preceding month shall be filed with the Tax Administrator, in a form prescribed by the Tax Administrator, before the eleventh day of the month following each collection month.

(C) The operator may withhold 5% of the tax to cover the expense of collecting and remitting the tax.

(D) Returns shall show the amount of tax collected or due for the related period. The Tax Administrator may require returns to show the total rentals on which the tax was collected or is due, gross receipts of the operator for the period, a detailed explanation of any discrepancy between the amounts and the amount of rentals exempt.

(E) The operator shall deliver the return and the tax due to the Tax Administrator’s office. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985; Ord. 421, passed 5-2-1988)

§ 35.093 DELINQUENCY PENALTIES.

(A) An operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of 10% of the tax due in addition to the tax.

(B) An operator who has not been granted an extension of time for remittance of tax due and who fails to pay a delinquent remittance before the expiration of 31 days following the date on which the remittance became delinquent shall pay a second delinquency penalty of 15% of the tax due, the amount of the tax and the 10% penalty first imposed.

(C) If the Tax Administrator determines that nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of 25% of the tax shall be added to the penalties stated in divisions (A) and (B) above.

(D) In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay interest at the rate of 0.5% per month, without proration for portions of a month, on the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.

(E) Each penalty imposed and the interest accrued under provisions of this section shall be merged with and become part of the tax required to be paid.

(F) An operator who fails to remit the tax within the required time may petition the City Council for waiver and refund of the penalty or a portion of it. The City Council may, if good cause is shown, direct a refund of the penalty or a portion of it.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.094 DEFICIENCY DETERMINATIONS.

(A) If the Tax Administrator determines the returns are incorrect and that a deficiency exists, the Administrator shall bring this matter to the attention of the City Council for action.

(B) In addition to other penalties provided in this subchapter, intentional violation resulting in a deficiency shall be grounds for revocation of the business license of the operator and shall also give the city the specifically enforceable right to require compliance with this subchapter.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.095 RECORDS REQUIRED FROM OPERATORS; EXAMINATION OF RECORDS.

(A) *Records required from operators.* Every operator shall keep guest records, accounting books and records of room rentals for a period of three years and six months.

(B) *Examination of records.* During normal business hours and after notifying the operator, the Tax Administrator may examine books, papers and accounting records related to room rentals to verify the accuracy of a return or, if no return is made, to determine the amount to be paid.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.096 DISPOSITION AND USE OF TRANSIENT ROOM TAX FUNDS.

(A) All revenues remitted to the city shall be deposited into a special fund known as the Hotel Tax Fund.

(B) The tax revenues received by the city shall be used as follows: 87.8% for tourist promotion; and 12.2% for use in the city's General Fund.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985; Ord. 421, passed 5-2-1988; Ord. 18-677, passed 2-5-2018)

§ 35.097 APPEALS TO THE COUNCIL.

A person aggrieved by the actions of the Tax Administrator may appeal to the City Council.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

PUBLIC SAFETY FEE

§ 35.110 PURPOSE.

(A) The principal purpose of this chapter is to safeguard, facilitate and encourage the health, safety, and welfare of the citizens and businesses of the City of Winston. The Council also finds that a continuous and consistent public safety fee program provides a multitude of economic and social benefits to the public, including, but not limited to:

- (1) Improved response to disaster and emergency situations;
- (2) Increased police protection;
- (3) Prevention of crime;
- (4) Enhanced protection of property;
- (5) Promotion of business and industry; and
- (6) Promotion of community spirit and growth.

(B) It is the intent of this chapter to provide a funding mechanism to help pay for the benefits conferred on city residents and businesses by the provision of an adequate program of public safety; and further to help bring the Police Department vehicles up to acceptable service levels.

(C) The structure of this public safety fee enacted in this chapter is intended to be a surcharge for service within the city limits. However, it is not intended to provide full funding for the Police Department. In the event that public safety fee revenues collected are insufficient to properly operate the Police Department, additional funding may be allocated by the City Council from other non-dedicated city funds provided, however, the City Council may direct the reimbursement to such other non-dedicated city funds if additional police protection surcharge revenues are collected.

(Ord. 19-682, passed 4-15-2019)

§ 35.111 DEFINITIONS.

The following words and phrases, as used within this subchapter, have the following definitions and meanings:

DEVELOPED PROPERTY. A parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

NON-RESIDENTIAL UNIT. A non-residential structure which is used primarily for a business or commercial enterprise and/or which provides facilities for one or more businesses including, but not limited to, permanent provisions for access to the public. Each distinct business facility is considered as a separate non-residential unit.

PERSON. A natural person; unincorporated association; tenancy in common; partnership; corporation; limited liability company; cooperative; trust, any governmental agency, including the State of Oregon but excluding the City of Winston; and other entity in law or fact.

RESIDENTIAL UNIT. A residential structure which provides complete living facilities for one or more persons including, but not limited to, permanent provisions for living, sleeping, and sanitation. A home business in a residential zone will be regarded only as a residential unit, not as a non-residential unit. An ancillary unit on a single-family parcel shall be considered as a separate residential unit. Multi-family residential property consisting of two or more dwelling units, condominium units or individual mobile home units shall have each unit considered as a separate residential unit. Transient lodging shall not be considered as a residential unit.

RESPONSIBLE PARTY. The person owing the public safety fee.
(Ord. 19-682, passed 4-15-2019)

§ 35.112 IMPOSITION OF PUBLIC SAFETY FEE.

(A) There is hereby created a public safety fee to accomplish the above-stated purposes.

(B) The public safety fee is hereby established and shall be assessed to each residential unit and to each non-residential unit on the basis of \$3 per unit per month. Billing shall be as a line item on the city service bill unless otherwise specified below.

(C) Except as the fees may be reduced or eliminated under § 35.116(C), the obligation to pay a public safety fee arises when a responsible party uses or otherwise benefits from police protection services. It is presumed that police protection services are used, and that a benefit arises, whenever the subject real property is a developed property.

(D) All developed properties within the city limits shall be charged the public safety fee.

(E) Undeveloped properties shall not be charged a public safety fee.

(F) Annually, as part of the budget review process, a determination shall be made as to whether a reduction in the fee would be appropriate or not.

(G) The public safety fee rate shall be set only through an ordinance. A schedule of such fees, fines and penalties is kept on file in the offices of the city. Notwithstanding the foregoing, such fee shall not be increased for the first five years following adoption of the public safety fee.

(Ord. 19-682, passed 4-15-2019)

§ 35.113 DEDICATION OF FUNDS.

All public safety fee revenues derived shall be distinctly and clearly noted in both the revenue and expenditure sections of the city budget and shall be used for the replacement of vehicles and other associated police equipment and other costs incidental thereto and for no other purpose in order to help provide for a safe, well-functioning public safety program. The fees paid and collected by virtue of this chapter shall not be used for general or other governmental or proprietary purposes of the city.

(Ord. 19-682, passed 4-15-2019)

§ 35.114 COLLECTION.

(A) Public safety fee shall be collected monthly on the city service bill per § 35.112 (B).

(B) Unless another person responsible has agreed in writing to pay, and a copy of that writing is filed with the city, the person(s) normally responsible for paying the city's sewer utility charges is responsible for paying the public safety fee, if the property is located within the city limits.

(C) In the event a developed property is not served by a domestic water meter or sewer hook-up, or if water and sewer service is discontinued, the public safety fee shall be billed to the persons having the right to occupy the property.

(D) A request for sewer service, a building permit, or the occupancy of an unserved building will automatically initiate appropriate billing for the public safety fee.

(E) There shall be no charge for an undeveloped property until such time as any permits are issued for that property.

(F) The imposition of surcharges shall be calculated on the basis of the number of units supported, without regard to the number of water meters serving that property.

(G) A late charge shall be attached to any public safety fee not received within 30 days of billing. The charge is established under administrative fees by resolution.

(H) Notwithstanding the above, if the public safety fee is not paid for a period of three months, the fee, with any attendant late fees, shall be imposed on the responsible party.
(Ord. 19-682, passed 4-15-2019)

§ 35.115 PROGRAM ADMINISTRATION.

Except as provided below, the City Manager shall be responsible for the administration of the public safety fee.

(A) Fees under this chapter will be collected by the appropriate staff at the city offices.

(B) The City Manager is authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the form of administrative procedures for adoption by the City Council by resolution. Such procedures if adopted by the Council shall be given full force and effect, and unless clearly inconsistent with this chapter shall apply uniformly throughout the city.
(Ord. 19-682, passed 4-15-2019)

§ 35.116 APPEAL PROCEDURE.

(A) A public safety fee may be appealed for change or relief upon filing a written notice of appeal with the City Manager/City Recorder in accordance with the following criteria:

(1) Any responsible party who disputes any interpretation given by the city as to property classification may appeal such interpretation. If the appeal is successful, relief will be granted by reassignment to a more appropriate billing category. In such instances, reimbursement will be given for any overpayment, retroactive to the filing date of the appeal. Factors to be taken into consideration include, but are not limited to:

(a) Availability of more accurate information;

(b) Equity relative to billing classifications assigned to other developments of a similar nature;

(c) Changed circumstances; and

(d) Situations uniquely affecting the party filing the appeal.

(2) Any responsible party may claim a financial hardship. A staff member as directed by personnel policy is authorized to determine financial hardship on a case-by-case situation under guidelines submitted by the Finance Manager to, and approved by, the City Council.

(B) Application for appeal shall state the reason for appeal, with supporting documentation to justify the requested change or relief. An annual review of recognized hardship cases will be conducted to determine validity for continuance.

(C) The city's Public Safety Committee shall be responsible for delegating three members to evaluate and administer the appeal process. If the Public Safety Committee delegates decide information provided through the appeal process justifies a change, the Public Safety Committee delegates may authorize this change retroactive to the date the appeal was filed.

(D) The Public Safety Committee delegates shall make all reasonable attempts to resolve appeals utilizing available existing information, including supporting documentation filed with the appeal, within 30 days of the date the appeal was filed. If, however, more detailed site-specific information is necessary, the delegates may request the applicant provide additional information.

(E) In any event, the Public Safety Committee delegates shall provide a report to the appellant within 90 days of the date the appeal was filed explaining the disposition of the appeal, along with the rationale and supporting documentation for the decision reached.

(F) Decisions of the Public Safety Committee delegates may be further appealed to the City Council, by filing a written notice of appeal with the City Recorder within ten days of receipt of the Public Safety Committee decision, and shall be heard at a public meeting. Upon such further appeal, the City Council shall at its first regular meeting thereafter set a hearing date. The matter shall be heard solely upon the record. In no event shall a final decision be made later than 90 days after the matter was formally appealed to the City Council.

(G) There will be an initial filing fee for an appeal to the Public Safety Committee. An additional fee will be required for further appeal to the City Council. A schedule of fees, fines and penalties is kept on file in the offices of the city. These fees are fully refundable should the appellant adequately justify and secure the requested change or relief based on financial necessity.

(Ord. 19-682, passed 4-15-2019)

§ 35.117 ENFORCEMENT.

(A) In the event funds received from city service billings are inadequate to satisfy in full all of the storm water, sewer, transportation, plant upgrade and public safety fee charges, credit shall be given first to the police protection surcharge, second to the sewer service charges, third to the charges for plant upgrade, fourth to the charges for the storm water fee and fifth to the charges for the transportation fee.

(B) Notwithstanding any provision herein to the contrary, the city may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The city's enforcement rights shall be cumulative.

(Ord. 19-682, passed 4-15-2019)

§ 35.118 ATTORNEY FEES.

In any action pursuant to §§ 35.110 to 35.118, the court may award attorney's fees to the prevailing party.

(Ord. 19-682, passed 4-15-2019)

§ 35.119 ENFORCEMENT PROCEDURES FOR VIOLATIONS.

The City of Winston adopts and incorporates by reference herein the Oregon Revised Statutes regarding procedures for processing violations as described in O.R.S. 153.005 to 153.161. Therefore, the Winston Municipal Code hereby authorizes the City of Winston employees to process violations pursuant to state law per the above listed section.

(Ord. 19-682, passed 4-15-2019)

§ 35.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of §§ 35.085 through 35.097 is punishable by a maximum fine of \$500 and 30 days in the city jail for each violation.

(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)