



NOTICE OF PUBLIC HEARING

A Public Hearing is scheduled: **October 27, 2021 WEDNESDAY @ 6:30 PM:**
Maupin City Council Meeting **remotely on ZOOM**

COVID-19 Update: Due to federal and state requests to limit public gatherings, the City Council will hold an online video conference meeting that the public can watch and participate in via Zoom at:

<https://us02web.zoom.us/j/84802522147?pwd=SZHSndod2RhY09NRE8xN0J0djRWZz09>

For voice only, instead of a computer, call in from a phone at 1-253-215-8782

(Meeting ID: 886 9674 0794)

1. CONSIDERING ORDINANCE UPDATING AND CODIFYING THE MAUPIN CITY ORDINANCES

The Maupin City Council will conduct a public hearing beginning at 7:00 p.m. on October 27, 2021, remotely on ZOOM. The public hearing will be to receive testimony and presentations regarding potential adoption of a Maupin City Code which would (1) update all ordinances (excepting the Maupin Local Contract Review Ordinances and the Maupin Planning and Zoning Ordinances which shall remain separate); (2) codify the included ordinances and (3) effect a savings clause, continuing ordinances for pending issues and (4) otherwise repeal conflicting and omitted ordinances (other than those excepted) and (5) declare an emergency and adopt the codification under permitted emergency procedures.

Document can be located on the Maupin City web page: www.cityofmaupin.org and at City Hall during business hours.

All interested persons are urged to attend. Written or oral testimony will be received during the public meeting. Written testimony should be mailed to the Maupin City Hall, PO Box 308, Maupin, OR 97037 or emailed to cityrecorder@cityofmaupin.org no later than Thursday October 21, 2021.

City Hall will not be open to the public during the meeting. If you require accommodation, please contact City Hall, Christine Wolfe 541-395-2698 or cityrecorder@cityofmaupin.org

For questions on connecting with Zoom, contact City Manager Kevin Lewis at 1-541-460-8716 or citymanager@cityofmaupin.org

Christine Wolfe
City Recorder
10272021

**MAUPIN
MUNICIPAL
CODE**

**A Codification of the General Ordinances
of the City of Maupin, Oregon**

**Codified and Published by
CODE PUBLISHING COMPANY
Seattle, Washington
2021**

code
PUBLISHING CO.

TM

TABLE OF CONTENTS

Preface	
Title 1	General Provisions
Title 2	Administration and Personnel
Title 3	Revenue and Finance
Title 4	(Reserved)
Title 5	Business Licenses and Regulations
Title 6	Animals
Title 7	(Reserved)
Title 8	Health and Safety
Title 9	Public Peace, Morals and Welfare
Title 10	Vehicles and Traffic
Title 11	Signs
Title 12	Streets, Sidewalks and Public Places
Title 13	Water and Sewers
Title 14	Floodplains
Title 15	Buildings and Construction
Title 16	Environment
Title 17	Subdivisions
Title 18	Land Use and Zoning
Tables	

PREFACE

Citation to the Maupin Municipal Code: This code should be cited as MMC; i.e., "see MMC 5.10.020." A MMC title should be cited MMC Title 5. A MMC chapter should be cited Chapter 5.10 MMC. A MMC section should be cited MMC 5.10.020. Through references should be made as MMC 5.10.010 through 5.10.040. Series of sections should be cited as MMC 5.10.010, 5.10.020, and 5.10.060.

Numbering system: The number of each section of this code consists of three parts, in sequence as follows: Number of title; number of chapter within the title; number of section within the chapter. Thus MMC 5.10.020 is Title 5, Chapter 10, Section 20. The section part of the number (.020) initially consists of three digits. This provides a facility for numbering new sections to be inserted between existing sections already consecutively numbered. In most chapters of the MMC, sections have been numbered by tens (.010, .020, .030, .040, etc.), leaving nine vacant numbers between original sections so that for a time new sections may be inserted without extension of the section number beyond three digits.

Legislation: The legislative source of most sections is enclosed in parentheses at the end of the section. References to enactments are abbreviated; thus "[Ord. 120 § 9, 1976.]" refers to Section 1 of Ordinance No. 120. "Formerly" followed by a MMC citation preserves the record of original codification. A semicolon between enactment citations indicates an amendment of the earlier section.

Codification tables: To convert an enactment (ordinance, resolution, etc.) citation to its MMC number, consult the codification tables. The parenthetical information at the end of each enactment entry indicates where the enactment has been codified. Enactments designated as "Special," "Repealed," or "Not Codified" do not appear in the code.

Errors or omissions: Although considerable care has been used in the production of this code, it is inevitable in so large a work that there will be errors. As users of this code detect such errors, it is requested that a note citing the section involved and the nature of the error be emailed to: cpc@codepublishing.com, so that correction may be made in a subsequent update.

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How to Amend the Code

Code Structure and Organization: The code is organized using a 3-factor decimal numbering system which allows for additions between sections, chapters, and titles, without disturbing existing numbers.

2 . 04 . 050

Title Chapter Section

Typically, there are nine vacant positions between sections; four positions between chapters; and several title numbers are "Reserved" to allow for codification of new material whose subject matter may be unrelated to an existing title.

Enactments of a general or public nature, or one imposing a fine, penalty or forfeiture, are codifiable. Prior to adopting a codifiable enactment, ascertain whether the code already contains provisions on the topic.

Additions: If the proposed enactment will add material not contained in the code, the enactment will specify an "addition"; that is, a new title, chapter, section, or subsection will be added. For example:

Section 1. Chapter 5.20, Taxicab Licenses, is added to read as follows:

—~~α~~—

Section 1. A new title, Title 18, Zoning, is added to read as follows:

A specific subsection can also be added when appropriate:

Section 2. Subsection D is added to Section 5.05.070, to read as follows:

Amendments: If the enactment amends existing code provisions, specify the affected section or chapter numbers in the enactment. This kind of amendment typically adds a section to an existing chapter, or amends an existing section. Set out the entire section or subsection, not just the text (e.g., sentence) that was changed. For example:

Section 1. Section 5.05.030 is amended to read as follows:

—~~α~~—

Section 1. Section 5.05.035, Additional fees, is added to Chapter 5.05 to read as follows:

An enactment can also amend a specific subsection of a code section:

Section 3. Subsection **B** of **Section 5.05.070** is amended to read:

Repeals: Enactments which repeal codified material should specify the code chapter, section, or subsection number. The chapter, section, or subsection numbers will be retained in the code, along with their title, as a record of enactment activity (and as an explanation for gaps in the numbering sequence). The number of the repealed section or chapter can be reused at a later time when desired. For example:

Section 2. Section 5.05.020, License, is repealed.

Renumbering: If the enactment renumbers existing code provisions (either sections or subsections), identify how remaining sections or subsections should be renumbered (or relettered).

Codification Assistance: Code Publishing Company can assist either in specifying code numbers or in providing remedies for other codification related problems free of charge. Please call us at (206) 527-6831.

Title 1

GENERAL PROVISIONS

Chapters:

- 1.01 Code Adoption**
- 1.05 General Provisions**

Chapter 1.01
CODE ADOPTION
(Reserved)

Chapter 1.05
GENERAL PROVISIONS
(Reserved)

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

- 2.10 Planning Commission**
- 2.20 Southern Wasco County Library**
- 2.30 Public Contracting Regulations**

Chapter 2.10**PLANNING COMMISSION**

Sections:

- 2.10.010 Establishment.
- 2.10.020 Membership.
- 2.10.030 Term of office.
- 2.10.040 Qualifications.
- 2.10.050 Vacancies and removal.
- 2.10.060 Presiding members.
- 2.10.070 Secretary.
- 2.10.080 Meetings.
- 2.10.090 Powers and duties.
- 2.10.100 Hearings.
- 2.10.110 Hearing procedure.
- 2.10.120 Appeals.
- 2.10.130 Rules.

2.10.010 Establishment.

There is hereby established a city planning commission for the city of Maupin, Oregon. [Ord. 120 § 1, 1976.]

2.10.020 Membership.

The commission shall consist of five members who are not officials or employees of the city; not more than two members of the commission shall be nonresidents of the city. In order for a nonresident to be eligible to serve as a planning commission member, the nonresident must be a resident of Maupin School District. The mayor, city attorney, city engineer or their designated representatives shall be entitled to sit with the commission and take part in its discussions, but shall not have the right to vote. [Ord. 293 § 1, 2012; Ord. 120 § 2, 1976.]

2.10.030 Term of office.

Members of the planning commission shall be appointed by the city council for a term of four years from January 1st of the year of appointment, except that initial appointments of some members shall be for other specified terms in order to establish an approximately equal expiration of terms each year. [Ord. 120 § 3, 1976.]

2.10.040 Qualifications.

No more than two voting 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 voting members shall be engaged in the same kind of business, trade or profession. [Ord. 120 § 4, 1976.]

2.10.050 Vacancies and removal.

Appointments to fill vacancies shall be for the remainder of the unexpired term. A member may be removed by the city council, after hearing, for misconduct or nonperformance of duty. A member who is absent from three consecutive meetings or is absent from over 20 percent of the commission's meetings in one year, without an excuse as approved by the planning commission, is rebuttably presumed to be in nonperformance of duty; and the city council shall declare the position vacant unless finding otherwise following the hearing. [Ord. 120 § 5, 1976.]

2.10.060 Presiding members.

At its first meeting of each year, the commission shall elect a chairman and vice-chairman to serve one-year terms. [Ord. 120 § 6, 1976.]

2.10.070 Secretary.

The commission shall elect a secretary, who need not be a member of the commission. The secretary shall keep an accurate record of the commission proceedings. [Ord. 120 § 7, 1976.]

2.10.080 Meetings.

A majority of the members of the planning commission shall constitute a quorum. The commission shall meet at least once a month on a regularly scheduled basis to be determined by the commission. Meetings shall be open to the public. Meetings other than at regularly scheduled times may be scheduled at a prior meeting and so noted in the meeting minutes. The chairman upon his own motion may, or at the request of three members of the commission shall, by giving notice to members of the commission, call a previously unannounced special meeting of the commission for a time not earlier than 24 hours after the notice is given. Notice of previously unannounced meeting shall be delivered or telephoned to a newspaper published in the vicinity and, to the extent feasible, provided to interested persons at least 24 hours prior to the meeting. [Ord. 120 § 8, 1976.]

2.10.090 Powers and duties.

The commission shall have the powers and duties which are now or may hereafter be assigned to it by charter, ordinances or resolutions of this city and general laws of this state. [Ord. 120 § 9, 1976.]

2.10.100 Hearings.

Unless otherwise provided by ordinance, hearings which the laws of the state of Oregon and the ordinances of the city require to be held on matters under state law, and the zoning, subdivision, land use planning, land development and building code ordinances of the city, shall be held by the planning commission.

A member of the planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or his spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which he is then serving or has served within the previous two years, or any business with which he is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken. [Ord. 120 § 10, 1976.]

2.10.110 Hearing procedure.

The council shall adopt by resolution a procedure for the conduct of hearings. [Ord. 120 § 11, 1976.]

2.10.120 Appeals.

A party aggrieved by the action of the planning commission at any hearing provided for by this chapter or the laws of the state of Oregon, or any person to whom notice of the hearing was sent as required by state law or the ordinances and resolutions of the city, may appeal from such action to the city council. The city council, on its own motion, may review any action taken by the planning commission taken under state law or any of the ordinances of the city. In accordance with rules adopted by the city council therefor, the city council shall hold a hearing on the action of the planning commission appealed from or reviewed, as set forth in the transcript of the hearing, the written findings of the planning commission and the action taken by the planning commission with respect to the proposed use of land. The city council may amend, rescind or affirm the action of the planning commission. [Ord. 120 § 12, 1976.]

2.10.130 Rules.

The commission may adopt rules governing its business. [Ord. 120 § 13, 1976.]

Chapter 2.20**SOUTHERN WASCO COUNTY LIBRARY**

Sections:

- 2.20.010 Southern Wasco County Library established.
2.20.020 Acceptance of gifts for library purposes.
2.20.030 Internal administrative policies and procedures.
2.20.040 Prohibited actions and penalties.

2.20.010 Southern Wasco County Library established.

(1) A public library is hereby established for the city of Maupin under the provisions of ORS 357.400 to 357.621. The name of the library shall be "Southern Wasco County Library."

(2) The public library shall be financed through the use of appropriations from the Wasco County Library District, 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 specifically for library purposes.

(3) The Southern Wasco County Library shall be the public agency responsible for providing and making freely accessible to all residents in the city of Maupin and persons residing within the boundaries as established by the South Wasco County School District, library and information services suitable to persons of all ages. [Ord. 282 § 1, 2008.]

2.20.020 Acceptance of gifts for library purposes.

Gifts of any real or personal property or funds donated to the library and accepted by the governing body shall be administered in accordance with each gift's terms, and all property or funds shall be held in the name of the city of Maupin. [Ord. 282 § 2, 2008.]

2.20.030 Internal administrative policies and procedures.

The city administrator shall be the fiscal and internal administrative agent for the Southern Wasco County Library and the library shall operate in conformance with city administrative procedures including those pertaining to the following:

- (1) Personnel, including recruitment, selection, classification and pay for library personnel.
- (2) Receipt, disbursement, and accounting for monies.
- (3) Maintenance of general books, cost accounting records, and other financial documents.
- (4) Budget administration.
- (5) Operation and maintenance of equipment and buildings. [Ord. 282 § 3, 2008.]

2.20.040 Prohibited actions and penalties.

(1) It shall be unlawful for any person to willfully or maliciously detain any library materials belonging to the Southern Wasco County Library for 30 days after notice in writing from the library director that the library material is past due. The notice shall bear upon its face a copy of ORS 357.975 and 357.990.

(2) Violation for willful detention of library materials is punishable upon conviction by a fine of not less than \$25.00 nor more than \$250.00. 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. 282 § 4, 2008.]

Chapter 2.30

PUBLIC CONTRACTING REGULATIONS

Sections:

- 2.30.010 *Public contracts — City of Maupin policy.*
- 2.30.020 *Application of public contracting regulations.*
- 2.30.030 *Public contracts — Regulation by council.*
- 2.30.040 *Public contracts — Model rules.*
- 2.30.050 *Public contracts — Authority of purchasing manager.*
- 2.30.060 *Public Contracts — Definitions.*
- 2.30.070 *Public contracts — Procedures for Approval of special solicitation methods and exemptions.*
- 2.30.080 *Public contracts — Solicitation methods for classes of contracts.*
- 2.30.090 *Public contracts — Informal solicitation procedures.*
- 2.30.100 *Public contracts — Use of brand name specifications for public improvements.*
- 2.30.110 *Public contracts — Bid, performance, and payment bonds.*
- 2.30.120 *Public contracts — Electronic advertisement of public improvement contracts.*
- 2.30.130 *Appeal of debarment or prequalification decision.*

Code reviser's note: This Chapter 2.30 has been codified from an unnumbered proposed resolution from April 2021 that will be formally adopted in a future ordinance.

2.30.010 Public contracts — City of Maupin policy.

(1) Short Title. The provisions of this chapter and all rules adopted under this chapter may be cited as the city of Maupin's public contracting regulations.

(2) Purpose of Public Contracting Requirements. It is the policy of the city of Maupin (hereinafter "city") in adopting the public contracting regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

- (a) Promoting impartial and open competition;
- (b) Using solicitation materials that are complete and contain a clear statement of contract specification and requirements; and
- (c) Taking full advantage of evolving procurement methods that suit the contracting needs of the city as they emerge within various industries.

(3) Interpretation of Public Contracting Rules. In furtherance of the purpose of the objectives set forth in subsection (2), it is the city's intent that the city of Maupin's public contracting regulations be interpreted to authorize the full use of all contracting powers and authorities described in Chapters 279A, 279B, and 279C ORS.

2.30.020 Application of public contracting regulations.

In accordance with ORS 279A.025, the city's public contracting regulations and the Oregon Public Contracting Code do not apply to the following classes of contacts.

- (1) Between Governments. Contacts between the city and a public body or agency of the state of Oregon or its political subdivisions, or between the city and an agency of the federal government.
- (2) Grants. A grant contact is an agreement under which the city is either a grantee or a grantor of monies, property, or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets for the purpose of supporting to stimulating a program of activity of the grantee and in

which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions.

(3) Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city is or may become interested.

(4) Real Property. Acquisitions or disposals of real property or interests in real property.

(5) Textbooks. Contracts for the procurement or distribution of textbooks.

(6) Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program.

(7) Finance. Contracts, agreements or other documents entered into, issued or established in connection with:

(a) The incurring of debt by the city, including any associated contracts, agreements, or other documents, regardless of whether the obligations that the contracts, agreements, or other documents establish are general, special, or limited;

(b) The making of program loans and similar extensions or advances of funds, aid or assistance by the city to a public or private person for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law other than for the construction of public works or public improvements.

(c) The investment of funds by the city as authorized by law; or

(d) Banking, money management or other predominantly financial transactions of the city that, by their character, cannot practically be established under in the competitive contractor selection procedures, based upon the findings of the purchasing manager.

(8) Employee Benefits. Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125(4), 243.331, 243.275, 243.291, 243.303, and 243.565.

(9) Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of law.

(10) Federal Law. Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these regulations, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations.

2.30.030 Public contracts — Regulation by council.

Except as expressly delegated under these regulations, the Council reserves to itself the exercise of all of the duties and authority of a contract review board and contracting agency under state law, including, but not limited to, the power and authority to:

(1) Solicitation Methods Applicable to Contracts. Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;

(2) Brand Name Specifications. Exempt the use of brand name specification for public improvement contracts;

(3) Waiver of Performance and Payment Bonds. Approve the partial or complete waiver of the requirements for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;

(4) Electronic Advertisement of Public Improvement Contracts. Authorize the use of electronic advertisements for public improvement contracts in lieu of publication in a newspaper of general circulation;

(5) Appeals of Debarment and Prequalification Decisions. Hear properly filed appeals of the purchasing manager's determination of debarment, or contracting prequalification;

(6) Rulemaking. Adopt contracting rules under ORS 279A.065 and ORS 279A.070 including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services, and public improvements; and

(7) Award. Award all contracts that exceed the authority of the purchasing manager.

2.30.040 Public contracts — Model rules.

The model rules adopted by the attorney general under ORS 279A.065 are adopted as supplemental to this chapter and the public contracting regulations adopted by the city and will apply only to the extent that they do not conflict with the contracting regulations adopted by the city.

2.30.050 Public contracts — Authority of purchasing manager.

(1) General Authority. The city manager shall be the purchasing manager for the city and is hereby authorized to issue all solicitations and to award all city contracts for which the contract price does not exceed \$50,000. Subject to the provisions of this chapter, the purchasing manager may adopt and amend all solicitation materials, contracts, and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the city's contracting needs. The purchasing manager shall hear all solicitation and award protests.

(2) Solicitation Preferences. When possible, the purchasing manager shall use solicitation documents and evaluation criteria that:

(a) Give preference to goods and services that have been manufactured or produced in the state of Oregon if price, fitness, availability, and quality are otherwise equal; and

(b) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for nonrecycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from nonrecycled products.

(3) Delegation of Purchasing Manager's Authority. Any of the responsibilities or authorities of the purchasing manager under this chapter may be delegated and subdelegated by written directive.

(4) Mandatory Review of Rules. Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify its model rules, the purchasing manager shall review the public contracting regulations, other than the model rules, and recommend to the council any modifications required to ensure compliance with statutory changes.

2.30.060 Public Contracts — Definitions.

The following terms used in these regulations shall have the meanings set forth below:

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

"Bid" means a binding, sealed, written offer to provide goods, services or public improvements for a specified price.

"City" means the city of Maupin.

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

"Contract price" means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

"Contract review board" or "local contract review board" means the Council.

"Cooperative procurement" means a procurement conducted by or on behalf of one or more contracting agencies.

"Council" means the common council of the city of Maupin.

"Debarment" means a declaration by the city under ORS 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the city's public contracts for a prescribed period of time.

"Disposal" means any arrangement for the transfer of property by the city under which the city relinquishes ownership.

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

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

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

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

"Invitation to bid" means a publicly advertised request for competitive sealed bids.

"Model rules" means the public contracting rules adopted by the attorney general under ORS 279A.065.

"Offeror" means a person who submits a bid, quote or proposal to enter into a public contract with the city.

"Oregon Public Contracting Code" means Chapters 279A, 279B and 279C ORS.

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

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

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

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

"Public improvement" means a project for construction, reconstruction or major renovation on real property by or for the city. "Public improvement" does not include:

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

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

"Purchasing manager" means the city manager or designee appointed by the city manager to exercise the authority of the purchasing manager under these public contracting regulations.

"Qualified pool" means a pool of vendors who are prequalified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

"Quote" means a price offer made in response to an informal or qualified pool solicitation to provide goods, services, or public improvements.

"Request for proposals" means a publicly advertised request for sealed competitive proposals.

"Services" means and includes all types of services (including construction labor) other than personal services.

"Solicitation" means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the city with respect to a proposed project, procurement or other contracting opportunity. The word "solicitation" also refers to the process by which the city requests, receives and evaluates potential contractors and awards public contracts.

"Solicitation agent" means with respect to a particular solicitation, the city manager or person designated by the city manager to conduct the solicitation and make an award.

"Solicitation documents" mean all informational materials issued by the city for a solicitation, including, but not limited to advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.

"Standards of responsibility" means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:

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

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

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

(d) Qualified legally to contract with the city;

(e) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the solicitation agent concerning responsibility, the solicitation agent shall base the determination of responsibility upon any available information or may find the offeror nonresponsible; and

(f) Not been debarred by the city, and, in the case of public improvement contracts, has not been listed by the construction contractors board as a contractor who is not qualified to hold a public improvement contract.

"Surplus property" means personal property owned by the city, which is no longer needed for use by the department to which such property has been assigned.

2.30.070 Public contracts — Procedures for Approval of special solicitation methods and exemptions.

(1) Authority of Council. In its capacity as contract review board for the city, the council, upon its own initiative, or upon request of the purchasing manager, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

(2) Basis for Approval. The approval of a special solicitation method or exemption competition must be based upon a record before the council that contains the following:

(a) The nature of the contract or class of contracts for which the special solicitation or exemption is requested;

(b) The estimated contract price or cost of the project, if relevant;

(c) Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;

(d) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practically be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;

(e) A description of the proposed alternative contracting methods to be employed;

(f) The estimated date by which it would be necessary to let the contract(s).

In making a determination regarding a special selection method, the Council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make the offers, and such other factors as it may deem appropriate.

(3) Hearing.

(a) The city shall approve the special solicitation or exemption after a public hearing before the council following notice by publication in at least one newspaper of general circulation in the Maupin area.

(b) At the public hearing, the city shall offer an opportunity for any interested party to appear and present comment.

(c) The council will consider the findings and may approve the exemption as proposed or as modified by the council after providing an opportunity for public comment.

(4) Special Requirements for Public Improvement Contracts.

(a) Notification of the public hearing for exemption of a public improvement contract, or class of public improvement contracts, shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing.

(b) The notice shall state that the public hearing is for the purpose of taking comments on the city's draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.

(5) Commencement of Solicitation Prior to Approval. A solicitation may be issued prior to the approval of a special exemption under this section; provided, that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the council approves the exemption. If the council fails to approve a requested exemption, or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or cancelled.

2.30.080 Public contracts — Solicitation methods for classes of contracts.

The following classes of public contracts and the method(s) that are approved for the award of each of the classes are hereby established by the council:

(1) Purchases from Nonprofit Agencies for Disabled Individuals. The city shall give a preference to goods, services, and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of ORS 279.835 through 279.850.

(2) Public Improvement Contracts.

(a) Any Public Improvement. Unless otherwise provided in these regulations or approved for a special exemption, public improvement contracts in any amount may be issued only under an invitation to bid.

(b) Nontransportation Public Improvements Up to \$100,000. Public improvement contracts other than contracts for a highway, bridge or other transportation project for which the estimated contract price does not exceed \$100,000 may be awarded using an informal solicitation for quotes.

(c) Transportation Public Improvements Up to \$50,000. Contracts for which the estimated contract price does not exceed \$50,000 for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes.

(d) City-Funded Privately Constructed Public Improvements. The city may contribute funding to a privately constructed public improvement project, without subjecting the project to competitive solicitation requirements if all of the following conditions are met with respect to the entire public improvement project:

(i) The city's contribution to the project may not exceed 25 percent of the total cost of the project;

(ii) The city must comply with all applicable laws concerning the reporting of the project to the Bureau of Labor and Industries as a public works project;

(iii) The general contractor for the project must agree in writing to comply with all applicable laws concerning reporting and payment of prevailing wages for the project;

(iv) The funds contributed to the project may not provide a pecuniary benefit to the owner of the development for which the project is being constructed, other than benefits that are shared by all members of the community;

(v) The performance of the general contractor and the payment of labor for the project must be secured by performance and payment bonds or other cash-equivalent security that is acceptable to the Purchasing Manager to protect the city against defective performance and claims for payment; and

(vi) The contract for construction of the project must be amended, as necessary, to require the general contractor to maintain adequate workers compensation and liability insurance and to protect and provide indemnification to the city for all claims for payment, injury or property damage arising from or related to the construction of the project.

(3) Personal Services Contracts.

(a) Personal services contracts may be awarded by the city based upon the following criteria that is applicable to the services to be rendered and any additional criteria deemed appropriate by the purchasing manager:

(i) Total cost to the city for delivery of services;

(ii) Expertise of the contractor in the required area of specialty;

(iii) References regarding prior work done by the contractor;

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

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

(vi) Availability to perform the assignment and familiarity with the area in which the specific work is located;

(vii) Timeliness of delivery of service;

() Experience in working with the city;

(viii) Knowledge of city's needs and desires related to the contract.

(b) If the purchasing agent has insufficient information to determine if the proposed personal services contractor meets the criteria, the personal services contract may be awarded by any of the following methods:

(i) Any Personal Services Contract. Personal services contracts in any amount may be awarded under a publicly advertised request for competitive sealed proposals.

(ii) Personal Service Contracts Not Exceeding \$150,000. Contracts for personal services for which estimated contract price does not exceed \$150,000 may be awarded using an informal solicitation for proposals.

(iii) \$75,000 Award from Qualified Pool. Contracts for personal services for which the estimated contract price does not exceed \$75,000 may be awarded by direct appointment without competition from a qualified pool.

(iv) Personal Service Contracts Not Exceeding \$20,000 Per Year. Contracts for which the solicitation agent estimates that payments will not exceed \$20,000 in any fiscal year or \$150,000 over the full term, including optional renewals, may be awarded under any method deemed in the city's best interest by the solicitation agent, including by direct appointment.

(v) Personal Service Contracts for Continuation of Work. Contracts for the continuation of work by a contractor who performed preliminary studies analysis or planning for the work under a prior contract may be awarded without competition if the prior contract was awarded under a competitive process and the solicitation agent determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

(4) Hybrid Contracts. The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.

(a) Design/Build and CM/GC Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals. The determination to construct a project using a design/build or construction man-

ager/general contractor construction method must be approved by the council or designee, upon application of the solicitation agent, in which the solicitation agent submits facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the city.

(b) Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification in this section, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the city's public contracting regulations.

(5) Contracts for Goods and Services.

(a) Any Procurement. The procurement of goods or services, or goods and services in any amount may be made under either an invitation to bid or a request for proposals.

(b) Procurements Up to \$150,000. The procurement of goods or services, or goods and services for which the estimated contract price does not exceed \$150,000 may be made under an informal solicitation for either quotes or proposals.

(6) Contracts Subject to Award at Solicitation Agent's Discretion. The following classes of contracts may be awarded in any manner which the solicitation agent deems appropriate to the city's needs, including by direct appointment or purchase. Except where otherwise provided the solicitation agent shall make a record of the method of award.

(a) Advertising. Contracts for the placing of notice or advertisements in any medium.

(b) Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with the public contracting regulations.

(c) Animals. Contracts for the purchase of animals.

(d) Contracts Up to \$10,000. Contracts of any type for which the contract price does not exceed \$10,000 without a record of the method of award.

(e) Copyrighted Materials — Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.

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

(g) Government Regulated Items. Contracts for the purchase of items for which prices or selection suppliers are regulated by a governmental authority.

(h) Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135, and 414.145.

(i) Nonowned Property. Contracts or arrangements for the sale or other disposal (including transfer to the city) of abandoned property or other personal property not owned by the city.

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

(k) Specialty Goods for Resale. Contracts for the purchase of specialty goods by city for resale to consumers.

(l) Sponsor Agreements. Sponsorship agreements, under which the city receives a gift or donation in exchange for recognition of the donor.

(m) Structures. Contracts for the disposal of structures located on city-owned property.

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

(o) Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and nonrenewable, or recently expired, contract, other than a contract for public improvements.

(p) Temporary Use of City-Owned Property. The city may negotiate and enter into a license, permit, or other contract for the temporary use of city-owned property without using a competitive selection process if:

(i) The contract results from an unsolicited proposal to the city based on the unique attributes of the property or the unique needs of the proposer;

(ii) The proposed use of the property is consistent with the city's use of the property and the public interest; and

(i) The city reserves the right to terminate the contract without penalty, in the event that the city determines that the contract is no longer consistent with the city's present or planned use of the property, or the public interest.

(q) Used Property. A solicitation agent, for procurements up to \$20,000, and the purchasing manager, for procurements in excess of \$20,000 may contract for the purchase of used property by negotiation if such property is suitable for the city's needs and can be purchased for a lower cost than substantially similarly new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city. The purchasing manager shall record the findings that support the purchase.

(r) Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications; services, and other utilities.

(7) Contracts Required by Emergency Circumstances.

(a) In General. When an official with authority to enter into a contract on behalf of the city 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 or council approval, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(b) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, (i) 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 city and the public, and (ii) notify the council of the facts and circumstances surrounding the emergency execution of the contract.

(c) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the council 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 council 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 council may waive the requirement for all or a portion of required performance and payment bonds.

(8) Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration ("GSA") as provided in this subsection.

(a) The procurement must be made in accordance with procedures established by GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the purchasing manager. The solicitation agent shall provide the purchasing manager with a copy of the letter, memorandum or other documentation from GSA establishing permission to the city to purchase under the federal program.

(b) The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.

(c) The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the city.

(d) If a single purchased of goods or services exceeds \$150,000, the solicitation agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the city. This subsection does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes.

(9) Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.

(10) Surplus Property.

(a) General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the solicitation agent that the method of disposal is in the best interest of the city. Factors that may be considered by the solicitation agent include costs of sale, administrative costs, and public benefits to the city. The solicitation agent shall maintain a record of the reason for the disposal method selected, and the manner of disposal, including the name of the person to whom the surplus property was transferred.

(i) Governments. Without competition, by transfer or sale to another city department or public agency.

(ii) Auction. By publicly advertised auction to the highest bidder.

(iii) Bids. By public advertised invitation to bid.

(iv) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.

(v) Fixed Price Sale. The solicitation agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.

(vi) Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.

(vii) Donation. By donation to any organization operating within or providing service to residents of the city which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(b) Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500.00, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.

(c) Personal-Use Items. An item (or indivisible set) of specialized and personal use, other than police officer's handguns, with a current value of less than \$100.00 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the purchasing manager.

(d) Police Officers' Handguns. Upon honorable retirement from service with the city, a police officer may purchase the handgun that she or he was using at the time of retirement. The purchase price shall be the fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the city at least 30 days prior to his or her expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer the city shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who shall have up to 30 days from the date of retirement to purchase the handgun for the appraised fair market value.

(e) Restriction on Sale to City Employees. City employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.

(f) Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the city shall make, execute and deliver, a bill of sale signed on behalf of the city, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

(11) Concession Agreements.

(a) General. No part of a concession agreement shall contain or constitute a waiver of any generally applicable rules, code provisions or requirements of the city concerning regulation, registration, licensing, inspection, or permit requirements for any construction, rental or business activity.

(b) Classes of Contracts Eligible for Award Without Competition. The following concession agreements may be awarded by any method deemed appropriate by the solicitation agent, including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process:

(i) Contracts Under \$10,000. Contracts under which the solicitation agent estimates that receipts by the city will not exceed \$10,000 in any fiscal year and \$50,000 in the aggregate.

(ii) Single Event Concessions. Concessions to sell or promote food, beverages, merchandise or services at a single public event shall be awarded based on any method determined by the purchasing manager to provide a fair opportunity to all persons desiring to operate a concession, but in which the promotion of the public interest and success of the event shall be of predominant importance.

(c) Competitive Award. Concession agreements solicited by the city for the use of designated public premises for a term greater than a single event shall be awarded as follows:

(i) Small Concessions. For concession agreements for which the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less, the purchasing manager has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed \$500,000, the solicitation agent may, but shall not be required to, reissue the solicitation as a request for proposals.

(ii) Major Concessions. Concession agreements for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed \$500,000 annually shall be awarded using a request for proposals.

2.30.090 Public contracts — Informal solicitation procedures.

The city may use the following procedure for informal solicitations in lieu of the procedures set forth in the model rules:

(1) Informally Solicited Quotes and Proposals.

(a) Solicitation of Offers. When authorized by these regulations, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the solicitation agent, or in any other manner which the solicitation agent deems suitable for obtaining competitive quotes or proposals. The solicitation agent shall deliver or otherwise make available to potential offerors, a written scope of work, a description of how quotes or proposals are to be submitted and description of the criteria for award for these solicitations that exceed \$25,000.

(b) Award. The solicitation agent shall attempt to obtain a minimum of three written quotes or proposals before making an award. If the award is made solely on the basis of price, the solicitation agent shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than, or in addition to, price, the solicitation agent shall award the contract to the responsible offeror that will best serve the interest of the city, based on the criteria for award.

(c) Records. A written record of all persons solicited and offers received shall be maintained. If three offers cannot be obtained, a lesser number will suffice; provided, that a written record is made of the effort to obtain the quotes.

(2) Qualified Pools.

(a) General. To create a qualified pool, the purchasing manager may invite prospective contractors to submit their qualifications to the city for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects including personal services, and public improvements.

(b) Advertisement. The invitation to participate in a qualified pool shall be advertised in the manner provided for advertisements of invitations to bid and requests for proposals by publication in at least one newspaper of general statewide circulation. If qualification will be for a term that exceeds one year or allows open entry on a continuous basis, the invitation to participate in the pool must be re-published at least once per year and shall be posted at the city's main office and on its website.

(c) Contents of Solicitation. Requests for participation in a qualified pool shall describe the scope of goods or services or projects for which the pool will be maintained, and the minimum qualifications for par-

ticipation in the pool, which may include, but shall not be limited to qualifications related to financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the city.

(d) Contract. The operation of each qualified pool may be governed by the provisions of a pool contract to which the city and all pool participants are parties. The contract shall contain all terms required by the city, including, without limitation, terms related to price, performance, business registration or licensure, continuing education, insurance, and requirements for the submission, on an annual or other periodic basis, of evidence of continuing qualification. The qualified pool contract shall describe the selection procedures that the city may use to issue contract job orders. The selection procedures shall be objective and open to all pool participants and afford all participants the opportunity to compete for or receive job awards. Unless expressly provided in the contract, participation in a qualified pool will not entitle participant to the award of any city contract.

(e) Use of Qualified Pools. Subject to the provisions of these regulations concerning methods of solicitation for classes of contracts, the solicitation agent shall award all contracts for goods or services of the type for which a qualified pool is created from among the pool's participants, unless the solicitation agent determines that best interests of the city require solicitation by public advertisement, in which case, pool participants shall be notified of the solicitation and invited to submit competitive proposals.

(f) Amendment and Termination. The purchasing manager may discontinue a qualified pool at any time, or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.

(g) Protest of Failure to Qualify. The purchasing manager shall notify any applicant who fails to qualify for participation in a pool that it may appeal a qualified pool decision to the council in the manner described in this section.

2.30.100 Public contracts — Use of brand name specifications for public improvements.

(1) In General. Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:

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

(b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the city; or

(c) There is only one manufacturer or seller of the product of the quality required; or

(d) Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.

(2) Authority of Purchasing Manager. The purchasing manager shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of subsection (1) of this section.

(3) Brand Name or Equivalent. Nothing in this section prohibits the city from using a "brand name or equivalent" specification, from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the city, or from establishing a qualified product list.

2.30.110 Public contracts — Bid, performance, and payment bonds.

(1) Solicitation Agent May Require Bonds. The solicitation agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.

(2) Bid Security. Except as otherwise exempted, the solicitations for all contracts that include the construction of a public improvement and for which the estimated contract price will exceed \$75,000 shall require bid security. Bid security for a request for proposal may be based on the city's estimated contract price.

(3) Performance Bonds.

(a) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.

(b) Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications, and conditions of the contract. The performance bond must be solely for the protection of the city and any public agency that is providing funding for the project for which the contract was awarded.

(c) Cash-in-Lieu. The purchasing manager may permit the successful offeror to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond.

(4) Payment Bonds.

(a) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.

(b) Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS 279C.600.

(5) Design/Build Contracts. If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim, or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.

(6) Construction Manager/General Contractor Contracts. If the public improvement contract is with a single person to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by subsection (1) of this section upon execution of an amendment establishing the guaranteed maximum price. The city shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

(7) Surety — Obligation. Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the city or to the public agency or agencies for whose benefit the bond is issued, as specified in solicitation documents, and shall be in a form approved by the purchasing manager.

(8) Emergencies. In case of emergency, or when the interest or property of the city probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of subsection (7) of this section, unless the council requires otherwise.

2.30.120 Public contracts — Electronic advertisement of public improvement contracts.

In lieu of publication in a newspaper of general circulation in the city metropolitan area, the advertisement for an invitation to bid or request for proposals for a contract involving a public improvement may be published electronically by posting on the city's website; provided, that the following conditions are met:

(1) The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and

(2) The solicitation agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the city metropolitan area and will provide cost savings for the city, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the city metropolitan area in encouraging meaningful competition.

2.30.130 Appeal of debarment or prequalification decision.

(1) Right to Hearing. Any person who has been debarred from competing for city contracts or for whom prequalification has been denied, revoked or revised may appeal the city's decision to the council as provided in this section.

(2) Filing of Appeal. The person must file a written notice of appeal with the city's purchasing manager within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.

(3) Notification of Council. Immediately upon receipt of such notice of appeal, the purchasing manager shall notify the council of the appeal.

(4) Hearing. The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:

(a) Promptly upon receipt of notice of appeal, the city shall notify the appellant of the time and place of the hearing;

(b) The council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the purchasing manager; and

(c) At the hearing, the council shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.

(5) Decision. The council shall set forth in writing the reasons for the decision.

(6) Costs. The council may allocate the council's costs for the hearing between the appellant and the city. The allocation shall be based upon facts found by the council and stated in the council's decision that, in the council's opinion, warrant such allocation of costs. If the council does not allocate costs, the costs shall be paid as by the appellant, if the decision is upheld, or by the city, if the decision is overturned.

(7) Judicial Review. The decision of the council may be reviewed only upon a petition in the circuit court of Wasco County filed within 15 days after the date of the council's decision.

Title 3

REVENUE AND FINANCE

Chapters:

- 3.10** **Systems Development Charges**
- 3.20** **Electric Utility Tax**
- 3.30** **Transient Lodging Tax**
- 3.40** **Park Use Rates**

Chapter 3.10**SYSTEMS DEVELOPMENT CHARGES**

Sections:

- 3.10.010 Purpose.
- 3.10.020 Scope.
- 3.10.030 Definitions.
- 3.10.040 Systems development charge established.
- 3.10.050 Methodology.
- 3.10.060 Authorized expenditures.
- 3.10.070 Expenditures restrictions.
- 3.10.080 Capital Improvement Plan.
- 3.10.090 Collection of charges.
- 3.10.100 Credits.
- 3.10.110 Segregation and use of revenue.
- 3.10.120 Appeal procedures.
- 3.10.130 Prohibited connections.
- 3.10.140 Penalty.
- 3.10.150 Construction.

3.10.010 Purpose.

The purpose of this systems development charge is to impose an equitable share of the costs of capital improvements for water, wastewater and parks upon developments that create the need for or increase the demands on facilities systems. [Ord. 288 § 1, 2010.]

3.10.020 Scope.

The systems development charge imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development. [Ord. 288 § 2, 2010.]

3.10.030 Definitions.

For purposes of this chapter, the following shall mean:

"Capital improvements" means facilities or assets used for:

- (a) Water, supply, treatment, and distribution;
- (b) Wastewater collection, transmission, treatment, and disposal;
- (c) Parks and recreation, including but not limited to neighborhood parks, community parks, open space and natural areas, trail systems, buildings, courts, play fields and other like facilities.

"Combined fee" means the sum of the improvement fee and reimbursement fee.

"Developer" means any person or organization responsible for a development.

"Development" means conducting a building operation, making a physical change in the use or appearance of a structure or land, dividing land into more than three parcels and creating or terminating a right of access.

"Improvement fee" means a fee for costs associated with capital improvements to be constructed after the date that SDC fees are adopted pursuant to MMC 3.10.040.

"Owner" means the owner or owners of record title or the purchaser or purchasers under a recorded sale agreement, and other persons having an interest of record in the described real property.

"Parcel of land" means a lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under MMC Title 18.

"Qualified public improvement" means a capital improvement that is:

- (a) Required as a condition of development approval;
- (b) Identified in the Capital Improvement Plan adopted pursuant to MMC 3.10.080; and
- (c) Located in whole or in part on or contiguous to a parcel of land that is the subject of a development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

"Reimbursement fee" means a fee for costs associated with capital improvements constructed prior to or under construction on the date the fee is adopted pursuant to MMC 3.10.040.

"Systems development charge" means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at any of the times specified in MMC 3.10.090. "Systems development charge" does not include connection or hook-up fees, such fees designed by the city only to reimburse the city for actual or average costs for such connections, or fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. [Ord. 288 § 3, 2010.]

3.10.040 Systems development charge established.

- (1) Systems development charges shall be established and may be revised by resolution of the council.
- (2) Unless otherwise exempted by the provisions of this chapter or other local or state law, a systems development charge is hereby imposed upon all developers of parcels of land within the city, within the city's urban growth boundary, or lands outside of the city boundaries that connect to or otherwise use the water, wastewater or parks facilities of the city of Maupin. [Ord. 288 § 4, 2010.]

3.10.050 Methodology.

(1) The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements and other relevant factors identified by the council. The methodology shall promote the objective that future system users shall contribute no more than an equitable share of the cost of the then-existing facilities.

(2) The methodology to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

(3) The methodology used to establish either an improvement fee or a reimbursement fee shall be contained in the Systems Development Charges Methodology Report adopted prior to establishing the fee. [Ord. 288 § 5, 2010.]

3.10.060 Authorized expenditures.

(1) Reimbursement fees shall be applied only to capital improvements associated with the systems for which for which the fees are assessed, including expenditures relating to repayment of bonded debt for said improvements.

(2) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of bonded debt for said improvements.

(a) An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities capable of serving new development.

(b) The portion of the capital improvements funded by improvement fees must be related to demands created by new development.

(c) A capital improvement being funded wholly or in part from revenues derived from improvement fees shall be included in the Capital Improvement Plan adopted by the city pursuant to MMC 3.10.080.

(3) Notwithstanding subsections (1) and (2) of this section, systems development charge revenues may be expended on the direct cost of complying with the provisions of this chapter, including the cost associated with the development of the fee establishing methodologies and providing an annual accounting of systems

development charge revenues and expenditures and cost of properly administering, collecting and accounting for systems development charges. [Ord. 288 § 6, 2010.]

3.10.070 Expenditures restrictions.

(1) Systems development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(2) Systems development charges shall not be expended for the costs of the operation or routine maintenance of capital improvements and facilities. [Ord. 288 § 7, 2010.]

3.10.080 Capital Improvement Plan.

The council shall adopt a Capital Improvement Plan that:

(1) Identifies existing conditions, including deficiencies, and projected needs of the public facility system(s);

(2) Lists the capacity increasing capital improvements that may be funded with improvement fee revenues;

(3) Lists estimated costs and anticipated time frames and/or relative priorities for construction of each improvement; and

(4) Describes the process for modifying the plan. [Ord. 288 § 8, 2010.]

3.10.090 Collection of charges.

(1) The systems development charge is payable upon issuance of a building permit for:

(a) New construction;

(b) Construction of additions or remodels to existing buildings that constitute the addition of a dwelling unit, as defined by the state Uniform Building Code; or when the totality of development after the initial permit increases the footprint by 30 percent.

(2) If no building, public works, development or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

(3) If development is commenced or connection is made to the water or sanitary sewer system without appropriate permit, the systems development charge is immediately payable upon the earliest date that a permit was required. The charge shall be separate from any fine or penalty which might be assessed for such an illegal connection.

(4) The city recorder shall collect the applicable systems development charge when a permit that allows building or development of a parcel is issued or when a connection to the system is made.

(5) The city recorder shall not issue such permit or allow such connection until the charge has been paid in full. [Ord. 288 § 9, 2010.]

3.10.100 Credits.

(1) As used in this section and in the definition of "qualified public improvement" in MMC 3.10.030, the word "contiguous" means in a public way, which abuts.

(2) A credit shall be given for the cost of constructing a qualified public improvement associated with a development. If a developer is required to construct a qualified public improvement or portion thereof as a condition of permit approval, a credit shall be given only for the cost of the portion not located on or wholly contiguous to the subject property, unless the on-site portion also clearly benefits other properties beyond the proportional impact and benefit to the developer's property.

(3) In situations where the amount of credit exceeds the amount of the systems development charge associated with a specific development, the excess credit may be transferred to another phase of the original development, or it may be transferred to another development by the same developer, but may not be transferred to another developer or other development not controlled by the original developer.

(4) Credit shall not be transferred from one type of system improvement to another system, such as water to parks. [Ord. 288 § 10, 2010.]

3.10.110 Segregation and use of revenue.

(1) All funds derived from a particular type of systems development charge are to be segregated by accounting practices from all other funds of the city. That portion of the systems development charge calculated and collected on account of a specific facility system shall be used and expended for no purpose other than those set forth in MMC 3.10.060.

(2) The city recorder shall provide the city council with an annual accounting, based on the city's fiscal year, showing the total amount of revenues collected for each type of facility system and the projects and amount of funding allocated for construction from each account. [Ord. 288 § 11, 2010.]

3.10.120 Appeal procedures.

(1) A person challenging the propriety of an expenditure of systems development charge revenues may appeal the decision or the expenditure to the city council by filing a written appeal request. The city recorder shall forward the appeal to the council with a report describing the appealed decision or expenditure. An appeal must be made within two years of the date of the alleged improper expenditure.

(2) Appeals of any other decision required or permitted to be made by the city recorder under this chapter must be filed within 10 working days of the date of decision.

(3) After providing notice to the appellant of the date and time of consideration of the appeal, the council shall determine whether the recorder's decision or the expenditure is in accordance with this chapter and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decision. If the council determines that there has been an improper expenditure of systems development revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

(4) A legal action challenging the methodology adopting a specific systems development charge pursuant to MMC 3.10.050 shall be filed within 60 days of the date of adoption. [Ord. 288 § 12, 2010.]

3.10.130 Prohibited connections.

No person may connect to a water or sewer system of the city unless the appropriate systems development charge has been paid or the lien or installment payment agreement has been applied for and approved. [Ord. 288 § 13, 2010.]

3.10.140 Penalty.

Violation of Section 16 of this chapter is punishable by a fine not to exceed \$500.00 [Ord. 288 § 14, 2010.]

3.10.150 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made part of this chapter. [Ord. 288 § 15, 2010.]

Chapter 3.20**ELECTRIC UTILITY TAX**

Sections:

- 3.20.010 Purpose — Authority.
- 3.20.020 Definitions.
- 3.20.030 Levy of tax.
- 3.20.040 Payment due.
- 3.20.050 Recordkeeping.
- 3.20.060 Right of entry and inspection of records.
- 3.20.070 Refund.
- 3.20.080 Delinquency.
- 3.20.090 Violations.
- 3.20.100 Deductions.
- 3.20.110 Penalty.

3.20.010 Purpose — Authority.

The provisions of this chapter shall be deemed an exercise of the power of the city of Maupin, Wasco County, Oregon, to license for revenue. [Ord. 170 § 1, 1986.]

3.20.020 Definitions.

In construing the provisions of this chapter, save when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

"Electric light and power business" means the business of operating a plant or system for the sale of electrical energy.

"Gross operating revenue" means the revenue accruing from the performance of said public service business transacted within the corporate limits of the city of Maupin, except therefrom any revenue accruing from the operation of the Mountain Fir Mill in Maupin, and shall more specifically be construed to mean the gross operating revenue required to be credited by the taxpayer to the taxpayer's operations within the city of Maupin. Unless otherwise provided in this chapter, there shall be no deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery cost, taxes, or other expense.

"Person" means company, corporation, co-partnership, co-operative or individual. [Ord. 170 § 2, 1986.]

3.20.030 Levy of tax.

From and after July 1, 1986, following the taking effect of the ordinance codified in this chapter, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging, within the said city of Maupin, in the electric light and power supply business.

Such tax shall be levied and payable for calendar monthly periods, the tax for each such monthly period to be equal to one-twelfth of the basic amount found by multiplying the gross operating revenue of said business during the calendar year next preceding, less the deductions from gross operating revenue specified in MMC 3.20.100, by the rate of three percent. [Ord. 170 § 3, 1986.]

3.20.040 Payment due.

The tax imposed hereunder shall be payable on or before the last day of each monthly period to the treasurer of the city of Maupin. The taxpayer, on or before the last day of the first monthly period of 1986 during which the ordinance codified in this chapter applies, and thereafter on or before the last day of February of each year, shall make out a return setting forth the gross operating revenue of the business for the next preceding whole

calendar year, sign and transmit the same to the treasurer of the city of Maupin, together with a payment of the tax as computed in M_MC 3.20.030 for the monthly period then being completed. [Ord. 170 § 4, 1986.]

3.20.050 Recordkeeping.

It shall be the duty of each taxpayer taxed upon taxpayer's gross operating revenue to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of gross operating revenue, which account shall always be open to the inspection of the city treasurer or his authorized agent and members of the city commission, and from which said officer or his agent may verify the return made by the taxpayer. [Ord. 170 § 5, 1986.]

3.20.060 Right of entry and inspection of records.

If any taxpayer fails to make said return, or if the city treasurer is dissatisfied as to the correctness of the return of any taxpayer, said officer or his agent may enter the premises of said taxpayer at any reasonable time for the purpose of inspecting taxpayer's books or records of account to ascertain the amount of the tax or to determine the correctness of such statement as the case may be and may examine any person under oath, administered by said officer or his agent, touching the matters inquired into, may fix a time and place for an investigation of the correctness of the return, and may issue a subpoena to the taxpayer or any other person, to attend upon such investigation, and there testify under oath administered by said officer or his agent, in regard to the matters inquired into and by subpoena require taxpayer or any person to produce for inspection such books, records, and papers as may be necessary. [Ord. 170 § 6, 1986.]

3.20.070 Refund.

If the city treasurer, upon investigation, or upon checking returns, finds that the tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount overpaid by a warrant upon the general fund. If the city treasurer finds that the tax paid is less than required, he shall send a statement to the taxpayer showing the balance due, and taxpayer shall within 10 days pay the amount shown thereon. [Ord. 170 § 7, 1986.]

3.20.080 Delinquency.

If any taxpayer fails to make said return to pay the tax therefor within 10 days after the same shall become due, the city treasurer shall ascertain the amount of the tax due and shall notify such taxpayer thereof, and such taxpayer shall be liable therefor in any suit or action by the city for collection thereof. The city treasurer shall also notify the city attorney, in writing, of the name of such delinquent taxpayer and the amount due from such taxpayer, and said officer shall, with the assistance of the city treasurer, collect the same by any appropriate means or by suit or action in the name of said city. [Ord. 170 § 8, 1986.]

3.20.090 Violations.

It shall be unlawful for any person or corporation liable to tax hereunder to fail or refuse to make return or pay the tax when due, or for any person to make any false or fraudulent return or false statement or representation in, or in connection with, any such return or to allow or to abet another in any attempt to evade payment of the tax or fail to appear and testify in response to subpoena issued in pursuance hereto, or to testify falsely upon any investigation of the correctness of a return, or in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter. [Ord. 170 § 9, 1986.]

3.20.100 Deductions.

There shall be expected and deducted from the total gross operating revenue upon which the tax is computed so much thereof as is derived from transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents, and any amounts paid by the taxpayer to the United States, state of Oregon, or the city of Maupin as excise, occupational or business taxes levied or imposed upon the sale or distribution of property or services in said city of Maupin.

Nothing in this chapter shall be construed as requiring a license or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the constitution or the laws of the United States, or which would not be consistent with the constitution or laws of the state of Oregon. [Ord. 170 § 11, 1986.]

3.20.110 Penalty.

Any person violating or failing to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the city treasurer pursuant thereto shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$100.00. [Ord. 170 § 12, 1986.]

Chapter 3.30

TRANSIENT LODGING TAX

Sections:

- 3.30.010 Title.
- 3.30.020 Definitions.
- 3.30.030 Imposition of tax.
- 3.30.040 Exemptions.
- 3.30.050 Disposition of revenue — Adjustment.
- 3.30.060 Collection of revenues and use of revenues.
- 3.30.070 Administration of chapter.
- 3.30.080 Registration of operator — Form and contents — Execution — Certification of authority.
- 3.30.090 Collection of fee by operator.
- 3.30.100 Quarterly reporting and payment — Extension.
- 3.30.110 Operator required to keep records.
- 3.30.120 Records exempt from disclosure.
- 3.30.130 Refunds.
- 3.30.140 Delinquency.
- 3.30.150 Sanctions.
- 3.30.160 Petition for redetermination.
- 3.30.170 Term of ordinance.
- 3.30.180 Amendments.
- 3.30.190 General provisions.

3.30.010 Title.

This chapter shall be known as the "Maupin Transient Lodging Tax Ordinance." [Ord. 295 § 1, 2013.]

3.30.020 Definitions.

As used in this chapter the following terms and definitions shall apply unless the context requires otherwise:

"Accrual accounting" means a system of accounting which the operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.

"Administrator" means the person designated as such by the city.

"Cash accounting" means a system whereby the operator does not enter the rent due from a transient on the records until rent is paid.

"City" means the city of Maupin, Oregon, a municipal corporation located in Wasco County, Oregon.

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for 30 consecutive calendar days or less, for dwelling, lodging, or sleeping purposes. "Hotel" includes any hotel, inn, tourist home or tourist house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, bed and breakfast, space in mobile home or trailer or similar structure or portions thereof so occupied for a hotel/sleeping facility, provided such occupancy is for 30 consecutive calendar days or less.

"Occupancy" means the use or possession, or the right to the use or possession of a lodging facility for sleeping purposes, or any room or rooms or space in a hotel or RV as defined in this section.

"Operator" means the person who is the proprietor of the hotel/sleeping facilities in any capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same

duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

"Person" means any 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 any other group or combination that act as a unit in occupying a hotel/sleeping facility.

"Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel/sleeping facility valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction. "Rent" excludes, however, the sale of any goods, services and commodities, other than the furnishing of rooms or room or space in a hotel/sleeping facility.

"Rent package plan" means a plan where a single rate or charge is made for the total of food and rent. The amount applicable to rent for determination of a transient lodging tax under this chapter shall be the same charge made for rent when consideration is not made part of a package plan.

"RV" means any motorized bus or van equipped with a hotel/sleeping facility usable for transient occupancy, parked at any designated RV or camping facility.

"Tax" means either the tax payable by the transient, or the aggregate amount of taxes due by an operator during the period for which collections must be reported. Tax includes the taxes imposed under MMC 3.30.030.

"Tax administrator" means the city recorder of the city of Maupin.

"Tourism" means the business of attracting tourists and providing services and accommodations to those persons who are traveling for recreational or cultural purposes.

"Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel/sleeping facility for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel/sleeping facility shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel/sleeping facility shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this section may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such months, shall not be deemed a transient. [Ord. 295 § 2, 2013.]

3.30.030 Imposition of tax.

(1) Transient Lodging Tax. For the privilege of occupancy in any hotel or hotel/sleeping facility, tent sites and/or RV parking site, on and after the effective date of the ordinance codified in this chapter, each transient shall pay a fee in the amount of six percent of the rent charged by the operator. It is noted that the state of Oregon already has implemented a one percent tax and this fee is in addition to that fee.

(2) Payment of Fee by Transient.

(a) The fees imposed pursuant to this chapter constitute a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city.

(b) The transient shall pay the fees to the operator of the hotel/sleeping facility at the time the rent is paid.

(c) If rent is paid in installments, the transient shall pay a proportionate share of the fee to the operator with each installment.

(3) Payment of Fee by Operator. The fee collected or accrued by the operator constitutes a debt owing by the operator to the city. [Ord. 295 § 3, 2013.]

3.30.040 Exemptions.

No fee imposed under this chapter shall be imposed upon:

- (1) Time Period. Any occupant who pays for lodging on a monthly basis, irrespective of the number of days in such months.
- (2) Minimum Rent. Any occupant whose rent or cash equivalent thereof is less than \$5.00 per day.
- (3) Care Facilities. Any occupant whose rent is paid for a hospital room or to a medical clinic or home or assisted living facility. [Ord. 295 § 4, 2013.]

3.30.050 Disposition of revenue — Adjustment.

(1) Adjustment of Fees. Any adjustment of fees, penalties or interest that is necessary to correct a mistake or error in collection or distribution may be made by the administrator at a subsequent collection or disbursement or by the procedure set forth in MMC 3.30.160. [Ord. 295 § 5, 2013.]

3.30.060 Collection of revenues and use of revenues.

The transient lodging tax collected pursuant to this chapter shall be disbursed and retained as follows:

DISBURSEMENT & RETENTION	%
Retained by the Operator for Administrative Expenses	2%
Retained by City of Maupin for Administrative Expenses	2%
Placed in City of Maupin General Fund	6%
Placed in City of Maupin Dedicated Tourism Fund	90%
Total Transient Lodging Tax	100%

[Ord. 295 § 6, 2013.]

3.30.070 Administration of chapter.

(1) Appoint Tax Administrator. The city council shall appoint the city recorder the tax administrator of this chapter. [Ord. 295 § 7, 2013.]

3.30.080 Registration of operator — Form and contents — Execution — Certification of authority.

(1) Registration Required. Every person engaging in, or about to engage in, business as an operator of a hotel/sleeping facility in the city limits shall register with the administrator on a form provided by the administrator.

(2) Period for Registration.

(a) Operators engaged in business at the time this chapter is adopted must register within 30 calendar days from the effective date of the ordinance codified in this chapter.

(b) Operators commencing business after this chapter is adopted must register within 15 calendar days after commencing business.

(c) The privilege of registering after the date of commencing business shall not relieve any person from the obligation of payment or collection of the transient lodging tax from the date of commencing business regardless of the date of registration.

(3) Information Required. The operator shall set forth on the registration form the name under which he or she transacts or intends to transact business, the location of the place or places of business, and such other information to facilitate the collection of the fee as the administrator may require. The operator shall sign the registration.

(4) Certification. The administrator shall use his or her best efforts to issue, within 10 days of receiving the registration form, a Certificate of Transient Occupancy Registration to the registrant to collect the fee from the occupant, together with a duplicate thereof for each additional place of business of each registrant.

(5) Contents of Certificate. At a minimum, the certificate shall state the following information:

- (a) The name of the operator;
- (b) The address of the hotel/sleeping facility;
- (c) The date upon which the certificate was issued; and
- (d) The following statement:

This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the city of Maupin Transient Lodging Tax Ordinance by registration with the administrator for the purpose of collecting from transients the lodging tax imposed by the city of Maupin and remitting said tax to the administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel/sleeping facility without strictly complying with all state and local laws. This certificate does not constitute a permit.

(6) Display and Transfer of Certificate.

(a) Each certificate and duplicate shall be prominently displayed in the hotel/sleeping facility to which it is applicable so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(b) No operator may assign or transfer the hotel/sleeping facilities certificate, but shall surrender it immediately to the administrator upon the cessation of business at the named location or upon its sale or transfer. [Ord. 295 § 8, 2013.]

3.30.090 Collection of fee by operator.

(1) Operator to Collect Fee From Transient. Unless otherwise exempted by this chapter, every operator shall collect the tax from the transient at the time the transient pays the rent.

(2) Waiving Fee Prohibited. Operators may not advertise or allow that any part of the fee will be assumed or absorbed by the operator, or that it will not be added to the rent or, if added, that any part of it will be refunded, except in the manner provided by this chapter. [Ord. 295 § 9, 2013.]

3.30.100 Quarterly reporting and payment — Extension.

(1) Report and Payment. All rents paid to the operator shall be reported and paid to the city of Maupin at the same time operator reports and pays the state. Operator shall use the appropriate form supplied for reporting the amount of the tax collected.

(2) Returns to Be Signed. Returns shall be signed by the operator required to file the return or by his or her authorized agent. Operator will fill out state forms and mail to the state.

(3) Information Required. Returns required under this section shall contain such information as the administrator deems necessary for the proper administration of this chapter.

(4) Remittance. The operator liable for filing the return required under this section shall deliver the return together with the tax due to the city of Maupin, along with a copy of the Oregon state return. Delivery must be in person or by first class mail.

(5) Other Reporting and Payment Periods. For the purpose of the administration, payment, or collection of the taxes imposed under this chapter, the administrator may, upon written request, permit or require returns or payments on other than a quarterly basis; however, no operator may change the reporting system required under this section without the prior written authorization of the administrator.

(6) Extension. The administrator may, upon written request received on or before the due date of the return or fee, for good cause satisfactory to the administrator, extend the time for filing the return or paying the tax for a period not to exceed 10 days.

(7) No Exceptions . A report and a tax return are required for each reporting period even though there may be no rents due or payable to the hotel/sleeping of the operator during the preceding month, nor any fees due.

If officially closed during the winter season, a report may be filed at the end of the lodging season reporting the months the hotel/sleeping facility will be closed.

(8) Failure to File Reports. If an operator fails to make a report of the information required by this section within the time and manner prescribed, the administrator may contact the Oregon State Department of Revenue to determine the tax due on the rents, as provided for by this chapter.

(9) Special Determination and Collection — Operator Delay.

(a) The administrator may make a special determination of the tax amount and may make that amount due and payable immediately; provided, that:

(i) The administrator reasonably believes that delay may jeopardize either the collection of any amount of any tax, or the determination of that tax amount; and

(ii) The purpose of the collection is noted on the special determination.

(b) The administrator shall serve notice of the special determination to the operator in person or, if by first class mail, at the operator's last known address as shown on the administrator's records.

(c) The operator shall pay the determined amount to the administrator immediately upon receiving notice of the special determination.

(d) After making the required payment, but within 14 days of receiving notice of the special determination, the operator may appeal the decision by filing a petition for redetermination with the administrator, pursuant to MMC 3.30.160. [Ord. 295 § 10, 2013.]

3.30.110 Operator required to keep records.

(1) Separate Accounting. Every operator shall account for such fees separately in the hotel/sleeping records.

(2) Recordkeeping. Every operator shall be liable for the reporting or payment of the fee imposed under this chapter and shall keep such records, receipts, and other pertinent documents in such form required by the administrator.

(3) Three-Year Minimum — Exception. Every operator shall maintain said records for not less than three years. [Ord. 295 § 11, 2013.]

3.30.120 Records exempt from disclosure.

(1) Policy. Pursuant to ORS 192.502(16) and except as provided by subsection (2) of this section, no city of Maupin employee or agent, and no employee or agent of cities participating by ordinance or resolution under this chapter, may disclose the records, reports, and returns required by this chapter to be submitted to or inspected by the city to allow it to determine the amount of any transient tax payable or the amount of such taxes paid, to the extent that such information is in a form that would permit identification of the individual concern or enterprise.

(2) Authorized Use.

(a) Nothing in this section shall limit the use which the city may make of such information for regulatory purposes, or the admissibility of such information in any enforcement proceedings.

(b) In the event that the payment or delivery of taxes imposed under this chapter is delinquent by more than 60 days, the city shall disclose, upon the request of any person, the following information:

(i) The identity of the individual concern or enterprise that is delinquent more than 60 days in the payment or delivery of the fees;

(ii) The period for which the fees are delinquent; and

(viii) The actual or estimated amount of the delinquency. [Ord. 295 § 12, 2013.]

3.30.130 Refunds.

(1) Operator's Fee Refunds. Whenever an operator has paid the amount of any fee, penalty, or interest more than once, or the administrator has erroneously or illegally collected or received it under this chapter, it shall be refunded; provided, that the operator first files a petition for redetermination and refund with the administrator, pursuant to MMC 3.30.160. In addition to any other requirements imposed by this chapter, the

petitioner shall state the specific reason upon which the claim is founded and file the petition within three years from the date of overpayment.

(2) Transient Fee Refunds. Whenever the tax required by this chapter has been collected by the operator, and deposited by the operator with the administrator, and it is later alleged or determined that the tax was mistakenly collected or received by the administrator, it may be refunded by the administrator to the transient; provided, that the transient, or the administrator or other person acting in the transient's behalf, first files a petition for redetermination and refund with the administrator, pursuant to MMC 3.30.160. In addition to any other requirements imposed by this chapter, the petitioner shall state the specific reason upon which the claim is made and shall file a petition within three years from the date of the overpayment for reimbursement. [Ord. 295 § 13, 2013.]

3.30.140 Delinquency.

Unless an operator obtains an extension pursuant to MMC 3.30.100(6), the operator becomes delinquent with respect to this chapter any time the operator fails:

(1) Improper Reporting. To submit his or her reports completely and accurately, on time or as otherwise required by this chapter; or

(2) Improper Payment. To remit his or her fee payment fully, on time, or as otherwise required by this chapter. [Ord. 295 § 14, 2013.]

3.30.150 Sanctions.

An operator who is delinquent may be subject to one or more of the following sanctions:

(1) Inadequate or Late Payments. If an operator is delinquent in making fee payments, the administrator may assess interest payments on the outstanding fee accounts at a rate of 18 percent per annum from the date due until the date of payment.

(2) Notice and Payment. Once the administrator determines that an operator is delinquent and has caused the sanctions to be imposed by MMC 3.30.140(1) and (2), the administrator shall give that operator written notice of the delinquency.

(a) The notice may be served personally or by mail, and if by mail, the notice shall be sent by certified mail and addressed to the operator at the last known address as it appears in the records of the administrator. In case of service by mail or any notice required by this chapter, the service is complete at the time of postmark by the United States Postal Service.

(b) Except in the case of fraud, or intent to evade the provisions of this chapter, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.

(c) The amount stated in the determination shall become due and payable immediately upon receipt of notice. Such determination shall become final unless the operator files a petition for redetermination pursuant to MMC 3.30.160.

(3) Court Action to Collect Delinquent Amounts. At any time within three years after any fee or any amount of fee required to be collected becomes due and payable or at any time within three years after final determination, the administrator may bring an action in the Oregon State Circuit Court in the name of the city of Maupin to collect the amount delinquent, together with penalties and interest. [Ord. 295 § 15, 2013.]

3.30.160 Petition for redetermination.

(1) Petition for Redetermination. Any operator who receives a notice of determination or delinquency may petition the administrator for redetermination. The petitioner shall request a hearing in writing on the matter before the Maupin city council.

(2) Requirements for Filing. The petition for redetermination allowed under this section must be received by the administrator no more than 14 days after the administrator serves the notice of delinquency or determination. It must be on a form supplied by the administrator or it must state substantially the same information.

No petition for redetermination shall be heard for any purpose unless the operator has first paid the disputed fees and interest due and payable on the account.

(3) **Hearing.** In the event of a hearing, the administrator shall give the petitioner no less than 10 days' written notice of the time and place of the hearing. The city council will hold a denovo hearing and may continue the hearing as necessary.

(4) **Redetermination.** After reconsidering the administrator's determination, the city council shall prepare a decision in writing and shall serve notice of this decision to the petitioner by first class mail within 10 days of the hearing date. Service shall be complete at the time of postmark by the United States Postal Service.

(5) **Amount of Fee Determination Subject to Change.** Based on the facts presented at the redetermination hearing, the city council may increase or decrease the amount of delinquency of determination. If an increase is established, it shall be due and payable immediately after the decision is made. If a decrease is established, the administrator shall refund the amount or credit it to the operator, or the hotel/sleeping assignees or executors.

(6) **Redetermination Is Final — Appeal.** The decision of the city council upon a petition for redetermination shall be final. [Ord. 295 § 16, 2013.]

3.30.170 Term of ordinance.

The ordinance codified in this chapter shall be in force until terminated or repealed by majority vote of the city council. [Ord. 295 § 17, 2013.]

3.30.180 Amendments.

Amendments to this chapter shall only be made by majority vote of the city council. [Ord. 295 § 18, 2013.]

3.30.190 General provisions.

(1) The remittance form and other provisions of collection shall be established similar to that which is established for the similar state tax.

(2) The tourism fund, wherein 90 percent of the taxes collected pursuant to this chapter shall be placed, is a dedicated fund which must be used in the manner prescribed by statute and by this chapter. [Ord. 295 § 19, 2013.]

Chapter 3.40**PARK USE RATES**

Sections:

3.40.010 Park use rates.

3.40.020 Penalty.

3.40.010 Park use rates.

The city council shall, from time to time, establish rates for the use of the Maupin city park by resolution, which rates shall be effective as of the date of adoption of the resolution unless otherwise specified in the resolution. [Ord. 139 § 1, 1978.]

3.40.020 Penalty.

Failure to pay the rates, now or hereafter established by the city council by resolution, is punishable by fine not to exceed \$100.00. [Ord. 139 § 2, 1978.]

Title 4
(RESERVED)

Title 5

BUSINESS LICENSES AND REGULATIONS

Chapters:

- 5.10 Social Games Licensing and Regulations**
- 5.20 Prohibitions on Marijuana**

Chapter 5.10**SOCIAL GAMES LICENSING AND REGULATIONS**

Sections:

- 5.10.010 Social games permitted.
- 5.10.020 Definitions.
- 5.10.030 License required for social games.
- 5.10.040 Application requirements.
- 5.10.050 Licenses granted.
- 5.10.060 License fee and renewal.
- 5.10.070 License not transferable.
- 5.10.080 Responsibility of licensee.
- 5.10.090 License suspension.
- 5.10.100 Appeals.
- 5.10.110 Revocation.
- 5.10.120 Penalties.
- 5.10.130 Nonprofit organizations.

5.10.010 Social games permitted.

Social games as defined and authorized under ORS 167.117, other than lotteries, between players in a private business, in a private club, or in a place of public accommodation where no house player, house bank, or house odds exist, and there is no house income from the operation of the social games, are hereby authorized subject to the regulations below provided. [Ord. 278 § 1, 2007.]

5.10.020 Definitions.

"House" means the owner or owners of a business, private club, or place of public accommodation where one or more social games occur.

"Nonprofit organization" means any persons or entities organized and existing for charitable, benevolent, eleemosynary, humane, philanthropic, educational, civic, or other nonprofit purposes. The fact that an organization does not qualify for charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes, pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a nonprofit organization.

"Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom, other than personal gambling winnings, and without otherwise rendering any material assistance to the house, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants is a person who does not otherwise render material assistance to the establishment, conduct, or operation thereof by performing, with or without fee remuneration, acts directed toward the arrangement or facilitation of the game, permitting the use of premises therefor and supplying cards or other equipment used therein.

"Residential establishments" includes retirement centers, nursing homes, or other residential dwellings or facilities.

"Social gaming organizer" means a person who organizes the social games or Texas Hold'em and/or Omaha Tournaments who is not the house and is not an employee, representative, agent, director, officer, shareholder, partner, or member of the house. [Ord. 278 § 2, 2007.]

5.10.030 License required for social games.

(1) A social gaming license shall not be required for social games conducted in residential establishments or by nonprofit organizations.

(2) Except as provided in subsection (1) of this section, the house and the social gaming organizer, if any, shall each be required to obtain a social gaming license, prior to organizing, conducting, or hosting social games. [Ord. 278 § 3, 2007.]

5.10.040 Application requirements.

Before a social gaming license may be granted, an applicant must submit an application for a license to the city recorder and sign a written consent for an investigation to be made thereon. A completed application form must include the complete identification information of all of the owner(s) of the house and, if the owner of the house is a corporation or limited liability company, all shareholders or members who own more than a 20 percent interest therein, all managers, directors, and partners or officers, as well as the local manager of the house. The same information shall be provided for any social gaming organizer. [Ord. 278 § 4, 2007.]

5.10.050 Licenses granted.

The social gaming license shall be granted if:

(1) The applicant has not:

(a) Been previously convicted of a felony involving moral turpitude, including, but not limited to, fraud, forgery, theft, burglary, illegal drugs, and crimes against persons, such as robbery, sex offenses or assaults; or

(b) Been convicted of five misdemeanors in the last five years; or one misdemeanor for any of the offenses identified in subsection (1)(a) of this section, if they were prosecuted or settled as a misdemeanor offense; or

(c) Been convicted of or forfeited bail for any crime involving gambling;

(2) The application for the license contains no false or misleading information; and

(3) The applicant pays to the city the annual license fee provided in MMC 5.10.060. [Ord. 278 § 5, 2007.]

5.10.060 License fee and renewal.

The annual social gaming license fee shall be set by resolution and the license shall be renewed annually not later than July 1st of each year. [Ord. 278 § 6, 2007.]

5.10.070 License not transferable.

No license shall be assigned or transferred. [Ord. 278 § 7, 2007.]

5.10.080 Responsibility of licensee.

(1) It shall be the responsibility of the licensee to ensure that:

(a) No form of unlawful gambling is permitted upon the licensed premises.

(b) Social games are conducted consistent with the provisions of state and federal laws, city ordinances, and this section.

(c) There shall not be a house bank, house odds, or house income from the operation of a social game.

(d) Only players who gamble at a social game of chance on equal terms with the other participants shall be permitted to play.

(e) All social games shall be open to public inspection during all hours of operation.

(f) The playing of all social games shall be so arranged as to provide equal access and visibility to any interested party.

(g) No person under the age of 18 years shall be permitted to participate in a social game.

(h) No participant in a social game shall be charged a price for any consumer goods which is higher or lower than the price charged nonparticipants.

(i) The room or enclosure where the social games take place shall be open to free and immediate access by law enforcement officers at all times social games are being conducted. Doors leading into the room or enclosure shall remain unlocked during all hours of operation.

(j) No tournament may charge a player a total "buy in" fee greater than \$1,000 in a 24-hour period. No other winnings or compensation to the players is permitted, other than the "buy in" fee. [Ord. 278 § 8, 2007.]

5.10.090 License suspension.

(1) A social gaming license may temporarily be suspended if the house or social gaming organizer licensee:

- (a) Is convicted of a disqualifying offense; or
- (b) Violates any provision of this chapter. [Ord. 278 § 10, 2007.]

5.10.100 Appeals.

Appeals from the temporary suspension may be made by the license holder to the city council, if the notice of appeal is filed with the city recorder within 10 days of notice of temporary suspension. If no appeal is filed, the suspension shall remain in effect. A temporary suspension shall continue until it is either reversed or made permanent by the city council. [Ord. 278 § 11, 2007.]

5.10.110 Revocation.

Permanent revocation may be made only by the city council, and such revocation shall take place at a city council meeting only after the licensee has been served notice at least 10 days prior to the meeting. Such notice shall include the time and date of the meeting, the grounds upon which the permanent revocation is sought, and it shall inform the licensee that the licensee shall have the right to appear at a public hearing, introduce evidence, be represented by legal counsel at licensee's expense, and cross examine evidence against the licensee. Notice shall be deemed to have been received by the licensee if the city recorder mails such notice to the address listed by the licensee on his application for the license. [Ord. 278 § 12, 2007.]

5.10.120 Penalties.

Violation of or failure to comply with any provision of this chapter is punishable, upon conviction, by a fine not to exceed \$500.00. Each game conducted in violation of this chapter shall constitute a separate violation. [Ord. 278 § 13, 2007.]

5.10.130 Nonprofit organizations.

Nonprofit organizations, as defined in ORS 167.117(4)(d), may operate social games in accordance with all state statutes and are not required to obtain a social gaming license from the city. The regulation of nonprofit gaming for fund-raising is the responsibility of the Department of Justice, and those organizations which desire to utilize bingo, raffle, and/or Monte Carlo gaming as fundraisers shall obtain a charitable gaming license from the Department of Justice. [Ord. 278 § 14, 2007.]

Chapter 5.20**PROHIBITIONS ON MARIJUANA**

Sections:

- 5.20.010 Prohibition on medical marijuana processors or medical marijuana dispensaries.
- 5.20.020 Prohibition on recreational marijuana businesses.
- 5.20.030 Prohibition on the sale of marijuana retail products.

5.20.010 Prohibition on medical marijuana processors or medical marijuana dispensaries.

(1) Definitions.

"Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

"Marijuana processing site" means an entity registered with the Oregon Health Authority to process marijuana.

"Medical marijuana dispensary" means an entity registered with the Oregon Health Authority to transfer marijuana.

(2) Ban Declared. As described in Section 134 of House Bill 3400 (2015), the city of Maupin hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the city:

- (a) Medical marijuana processing sites;
- (b) Medical marijuana dispensaries;

(3) Exception. The prohibition set out in this chapter does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in Subsections 6 or 7 of Section 134, 136, or 137 of House Bill 3400 (2015). [Ord. 299 §§ 1 — 3, 2015.]

5.20.020 Prohibition on recreational marijuana businesses.

(1) Definitions.

"Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

"Marijuana processor" means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

"Marijuana producer" means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

"Marijuana retailer" means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

"Marijuana wholesaler" means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

(2) Ban Declared. As described in Section 134 of House Bill 3400 (2015), the city of Maupin hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the city:

- (a) Marijuana processing sites;
- (b) Marijuana producers;
- (c) Marijuana processors;
- (d) Marijuana wholesalers;
- (e) Marijuana retailers.

(3) Exception. The prohibition set out in this chapter does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in Subsections 6 or 7 of Section 134, 136, or 137 of House Bill 3400 (2015). [Ord. 300 §§ 1 — 3, 2015.]

5.20.030 Prohibition on the sale of marijuana retail products.

(1) Ban Declared. The city of Maupin hereby prohibits the sale of limited marijuana retail product in any area subject to the jurisdiction of city of Maupin as described in Section 2 of Senate Bill 460 (2015).

(2) Duration of Ban. The ban imposed by the ordinance codified in this section will be effective until December 31, 2016, or until the Legislature ends sales of limited marijuana retail product by medical marijuana dispensaries, whichever comes later.

(3) Enforcement. Violations of this ordinance shall be enforceable by state laws relating to criminal commercial controlled substances activity and shall further be considered a nuisance subject to the Maupin Nuisance Abatement Ordinance. [Ord. 301 §§ 1 — 3, 2015.]

Title 6
ANIMALS
(Reserved)

Title 7
(RESERVED)

Title 8
HEALTH AND SAFETY

Chapters:
8.10 Noise Control

Chapter 8.10**NOISE CONTROL**

Sections:

- 8.10.010 Purpose.
- 8.10.020 Scope.
- 8.10.030 Definitions.
- 8.10.040 General prohibition.
- 8.10.050 Noises prohibited.
- 8.10.060 Exemptions.
- 8.10.070 Enforcement.
- 8.10.080 Penalties.

8.10.010 Purpose.

This chapter enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights. [Ord. 280, 2007.]

8.10.020 Scope.

This chapter applies to the control of all sound originating within the jurisdictional limits of the city. [Ord. 280, 2007.]

8.10.030 Definitions.

"City" means the city of Maupin, Oregon.

"City recorder" means the city recorder of city or the city recorder's designee.

"Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

"Emergency work" means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

"Noise sensitive area" includes, but is not limited to, real property normally used for sleeping, or normally used as a school, church, hospital or public library.

"Person" means any individual, firm, association, partnership, joint venture, or corporation.

"Plainly audible" means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

"Public space" means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

"Residential area" means any real property which contains a structure or building in which one or more persons reside; provided, that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the city's zoning ordinance. [Ord. 280 § 1, 2007.]

8.10.040 General prohibition.

(1) No person shall make, continue, or cause to be made or continued:

- (a) Any unreasonably loud or raucous noise; or
- (b) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the city; or
- (c) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate; or

(d) As to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business; or

(e) As to detrimentally or adversely affect such residences or places of business.

(2) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:

(a) The proximity of the sound to sleeping facilities, whether residential or commercial;

(b) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;

(c) The time of day or night the sound occurs;

(d) The duration of the sound; and

(e) Whether the sound is recurrent, intermittent, or constant. [Ord. 280 § 2, 2007.]

8.10.050 Noises prohibited.

The following acts, unless exempted as provided below, are declared to be per se violations of this chapter. This enumeration does not constitute an exclusive list:

(1) Unreasonable Noises. The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building.

(a) The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this section.

(2) Vehicle Horns, Signaling Devices, and Similar Devices. The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the city, for more than 10 consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this section.

(3) Nonemergency Signaling Devices. Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place for more than 10 consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the city for traffic control are exempt from the operation of this section.

(4) Emergency Signaling Devices. The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (4)(a) and (4)(b) of this section.

(a) Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(b) The sounding of the city noon alarm is exempt from the operation of this section.

(5) Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial or industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multifamily or single-family dwellings.

(6) Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices. The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:

(a) Within or adjacent to residential or noise-sensitive areas;

(b) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.

(c) This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the city.

(7) Yelling, Shouting, and Similar Activities. Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing or other factors not based on content.

(8) Animals and Birds. Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird.

(9) Loading or Unloading Merchandise, Materials, Equipment. The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

(10) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this chapter.

(11) Blowers, and Similar Devices. In residential or noise sensitive areas, between the hours of 7:00 p.m. and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids; provided, that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

(12) Noise Sensitive Areas — Schools, Courts, Churches, Hospitals, and Similar Institutions. The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided, that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

(13) Commercial Establishments Adjacent to Residential Property. Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible at a distance of five feet from any residential property.

(14) Construction or Repair of Buildings, Excavation of Streets and Highways. The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 7:00 a.m. and 7:00 p.m., on weekdays. In cases of emergency, construction or repair noises are exempt from this section. In nonemergency situations, the city recorder may issue a permit, upon application, if the city recorder determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7:00 p.m. and 7:00 a.m. will not be impaired, and if the city recorder further determines that loss or inconvenience would otherwise result. The permit shall grant permission in nonemergency cases for a period of not more than three days. The permit may be renewed once for a period of three days or less. [Ord. 280 § 5, 2007.]

8.10.060 Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in MMC 8.10.040 and are in addition to the exemptions specifically set forth in MMC 8.10.050:

- (1) Motor vehicles on traffic ways of the city; provided, that the noise is not unreasonable as the same is described in this chapter.
- (2) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.
- (3) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger; provided, that the use of such sirens, whistles or bells is reasonably necessary and appropriately used.
- (4) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- (5) Repairs or excavations of bridges, streets or highways by or on behalf of the city, the state, or the federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.
- (6) Outdoor School and Playground Activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events.
- (7) Other Outdoor Events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events; provided, that a permit has been obtained from the appropriate permitting authority. [Ord. 280 § 6, 2007.]

8.10.070 Enforcement.

The following individuals shall enforce this chapter:

- (1) The city recorder will have primary responsibility for the enforcement of the noise regulations contained in this chapter.
- (2) Nothing in this chapter shall prevent the city recorder from obtaining voluntary compliance by way of warning, notice or education. [Ord. 280 § 7, 2007.]

8.10.080 Penalties.

A person who violates a provision of this chapter is guilty of an infraction which is punishable by a fine not to exceed \$500.00. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately. [Ord. 280 § 8, 2007.]

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

9.10

Nuisances and Abatement



Chapter 9.10**NUISANCES AND ABATEMENT**

Sections:

Article I. Nuisances Enumerated

- 9.10.010 Definitions.
- 9.10.020 Dangerous animals.
- 9.10.030 Removal of carcasses.
- 9.10.040 Animals or fowl at large.
- 9.10.050 Nuisances affecting public health.
- 9.10.060 Creating a hazard.
- 9.10.070 Attractive nuisances.
- 9.10.080 Snow and ice.
- 9.10.090 Noxious vegetation.
- 9.10.100 Scattering rubbish.
- 9.10.110 Trees.
- 9.10.120 Fences.
- 9.10.130 Surface waters and drainage.
- 9.10.140 Radio and television interference.
- 9.10.150 Junk.
- 9.10.160 Other specific nuisances prohibited.
- 9.10.170 Vehicle storage and repair.

Article II. Nuisance Control and Abatement

- 9.10.180 Title.
- 9.10.190 Definitions.
- 9.10.200 Purpose.
- 9.10.210 Administration — Enforcement.
- 9.10.220 Administration — Rules and regulations.
- 9.10.230 Notice procedure.
- 9.10.240 Emergency inspections — Authority.
- 9.10.250 Nuisances not enumerated.
- 9.10.260 Routine inspections and abatement — General procedures.
- 9.10.270 Abatement — Emergency situations.
- 9.10.280 Appeal and hearing procedures — General requirements.
- 9.10.290 Appeal and hearing procedures — Review of decision.
- 9.10.300 Abatement by owner — Required.
- 9.10.310 Abatement by city — Assessments.
- 9.10.320 Waiver of assessments — Conditions.
- 9.10.330 Waiver of assessments — Application procedures.
- 9.10.340 Liens against property.
- 9.10.350 Summary abatement.

Article I. Nuisances Enumerated**9.10.010 Definitions.**

"Person" means a natural person, firm, partnership, association or corporation.

"Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.

Person Responsible. The person responsible for abating a nuisance shall include:

- (a) The owner.
- (b) The person in charge of property, as defined in this section.
- (c) The person who caused to come into or continue in existence a nuisance as defined in this chapter or another ordinance of this city.

"Public place" means a building, way, place or accommodation, whether publicly or privately owned, open and available to the general public. [Ord. 117 § 1, 1977.]

9.10.020 Dangerous animals.

No owner or person in charge of an animal shall permit an animal which is dangerous to the public health or safety to be exposed in public. If the animal is exposed in public, it may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of dogs; except that before the animal is released by the city, the municipal judge must find that proper precautions will be taken to insure the public health and safety. [Ord. 117 § 2, 1977.]

9.10.030 Removal of carcasses.

No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass. [Ord. 117 § 3, 1977.]

9.10.040 Animals or fowl at large.

Except for household pets, no owner or person in charge of an animal or fowl shall permit the animal or fowl to be at large. Animals or fowls at large may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of dogs. [Ord. 117 § 4, 1977.]

9.10.050 Nuisances affecting public health.

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

- (1) Privies. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Health Division regulations.
- (2) Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.
- (3) Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.
- (4) Water Pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
- (5) Food. Decayed or unwholesome food which is offered for human consumption.
- (6) Odor. Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.
- (7) Surface Drainage. Drainage of liquid wastes from private premises.
- (8) Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.
- (9) Slaughterhouses, etc. Slaughterhouses, tanneries or pigsties. [Ord. 117 § 11, 1977.]

9.10.060 Creating a hazard.

No person shall create a hazard by maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside. [Ord. 117 § 15, 1977.]

9.10.070 Attractive nuisances.

(1) No owner or person in charge of property shall permit thereon:

(a) Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.

(b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.

(c) An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

(2) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. [Ord. 117 § 16, 1977.]

9.10.080 Snow and ice.

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

(1) Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen.

(2) Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed unless the ice is covered with sand, ashes or other suitable material to assure safe travel. [Ord. 117 § 17, 1977.]

9.10.090 Noxious vegetation.

No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard or, in the case of weeds or other noxious vegetation, from maturing or from going to seed. [Ord. 117 § 18, 1977.]

9.10.100 Scattering rubbish.

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way. [Ord. 117 § 19, 1977.]

9.10.110 Trees.

(1) No owner or person in charge of property that abuts upon a street or public sidewalk shall permit trees or bushes on his property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 10 feet above the roadway.

(2) No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property. [Ord. 117 § 20, 1977.]

9.10.120 Fences.

(1) No owner or person in charge of property shall construct or maintain a barbed wire fence thereon, or permit barbed wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.

(2) No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person. [Ord. 117 § 21, 1977.]

9.10.130 Surface waters and drainage.

(1) No owner or person in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

(2) The owner or person in charge of property shall install and maintain in proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. [Ord. 117 § 22, 1977.]

9.10.140 Radio and television interference.

(1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(2) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission. [Ord. 117 § 31, 1977.]

9.10.150 Junk.

(1) No person shall keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.

(2) The term "junk" as used in this section includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

(3) This section shall not apply to junk kept in a duly licensed junkyard or automobile wrecking house. [Ord. 117 § 32, 1977.]

9.10.160 Other specific nuisances prohibited.

(1) It is unlawful for any person to maintain or allow to exist the following elements, practices or conditions on any property, including unoccupied structures, or within public road rights-of-way adjacent to that property, which shall be nuisances:

(a) A pond or pool of stagnant water which emits an obnoxious odor or is a source of vector breeding or otherwise presents a threat to the public health, safety and welfare;

(b) An animal carcass not buried or destroyed within 24 hours after death;

(c) Accumulation, collection or storage of solid waste in a building, vehicle, trailer, open or closed receptacle, or in any other manner whatsoever other than in sealed approved garbage receptacles unless prior approval has been received by the nuisance abatement officer or unless the person is licensed by lawful authority to operate a business specifically for those purposes; additionally, any solid waste must be removed from the property of any owner at least monthly;

(d) An abandoned, discarded or unattended icebox, refrigerator or other container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside;

(e) Any property, whether vacant or improved building, residence, structure or accumulation of any materials which may attract or harbor vectors or rodents;

(f) Any explosive or radioactive substance, unless the possession is authorized by law;

(g) Any accumulation of dirt, sand, gravel, pieces or chunks of concrete or other similar inorganic material, which is unsightly and reduces the aesthetic appearance of the neighborhood;

(h) An open pit, well, quarry, cistern, excavation or other hole of a depth of four feet or more and a top width of six inches or more without reasonable safeguards or barriers to prevent them from being accessible to children and domestic animals;

(i) Dead or decaying trees and tree limbs that present a safety hazard to the public or to abutting property owners;

(j) Any abandoned vehicle upon private or public property; however, a vehicle being restored and covered with an approved vehicle cover may be exempt;

(k) Any vehicle or personal property parked or stored in such a way as to obstruct the flow of traffic on a public right-of-way or the movement of pedestrians on a public sidewalk or create a substantial safety hazard;

(l) Signs, hedges, shrubbery, natural growth or other obstructions at or near intersections which hinder the view necessary for the safe operation of vehicles;

(m) Obstruction to public sidewalks or roadways by trees, bushes, roots, other natural growth, soil or solid waste;

(n) Excavation which endangers the lateral support or causes cracking, settling or other damage to streets, sidewalks or other public property;

(o) Any building or structure which is either vacant or under construction, which is not locked or otherwise secured by barriers or other devices to prevent them from being accessible to children;

(pXi) Uncontrolled or uncultivated growth of poison oak, poison ivy and/or tansy ragwort,

(ii) Weeds, brush, grasses and other vegetation of six or more inches in height which are within 30 feet of any structure, or

(iii) Any uncultivated growth of vegetation which offers active vector or rodent harborage, contributes noxious pollens to the atmosphere and/or constitutes a fire hazard or unreasonably interferes with the use and enjoyment of abutting public or private property. This prohibition specifically excepts and excludes uncontrolled or uncultivated vegetation growth on public land which is specifically planned for the purpose of providing native wildlife habitat;

(q) All buildings or structures which have any or all of the following defects shall be deemed "dangerous or unfit buildings or structures" and shall therefore be designated as nuisances subject to abatement under this chapter:

(i) Those which have parts thereof which are so attached that they may fall and injure members of the public or property;

(ii) Those which because of their condition are unsafe or unsanitary, or dangerous to the health, safety or general welfare of the people of this city;

(r) Any structure that is contaminated by toxic chemicals or that is in a condition that renders the structure unsafe. Where a governmental agency authorized by law to make the determination that a structure is unfit for use due to hazardous conditions on the property makes such a determination, there is a rebuttable presumption that the structure is a nuisance in violation of this chapter;

(s) Maintaining an occupied travel trailer, motor home, camper, or vehicle or trailer modified for sleeping at any location other than a recreational vehicle park licensed under the provisions of the state and local law, except as follows: vacation trailers and motor homes may be used by visitors of the residents, and shall be allowed on the residents' lot for a period of time not to exceed 14 days in any consecutive six-month period. Unless located, as provided by law, in a recreational vehicle park licensed under the provisions of the state and local law, no travel trailer, motor home, camper, or vehicle or trailer modified for sleeping shall be connected to electricity, water, sewer or any other utilities for a period of more than 14 days in any consecutive six-month period;

(t) Connection of any electric, water, sewer, gas, or telephone line from any source to a motor home, travel trailer, camper or utility trailer if any portion of such line between the connection at the termination and the point of connection at the source extends over, across, or under any public street, sidewalk, alley, or other public right-of-way or portion thereof;

(u) Placement in a public right-of-way or on a public sidewalk of a newsstand, dispensing machine or any similar device intended for dispensing materials, including, but not limited to, newspapers, magazines, and advertising publications;

(v) Creating, causing, or maintaining any condition or use which violates the provisions of the city of Maupin zoning ordinance, comprehensive plan, subdivision ordinance or any other ordinance of the city of Maupin;

(w) Maintaining loud fowl or animals within the city of Maupin;

(x) No owner or person in charge of an animal shall permit an animal which is dangerous to the public health or safety to be exposed in public;

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

(z) No person shall keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress. [Ord. 298 § 1, 2015; Ord. 297 § 1.070, 2014.]

9.10.170 Vehicle storage and repair.

Unless the practice or condition occurs as part of a lawfully established nonconforming use, or nonconforming development pursuant to MMC Title 18, every person shall comply with MMC Title 18 insofar as it provides that every person shall maintain the following elements, practices or conditions on any property:

(1) Within residential neighborhoods, no commercial vehicle which exceeds 8,000 pounds gross weight, 21 feet in length or eight feet in height shall be parked in the street unless it is a vehicle that is routinely on standby and necessary to use under emergency circumstances. Commercial rafting busses and trailers are exempt from May 1st through October 1st of each year.

(2) Within residential neighborhoods, service, repair or storage of vehicles not owned and properly registered with the state of Oregon to a resident of the site is prohibited. A vehicle registered to a resident of the site may be serviced and repaired if it can be completed in a reasonable time set by the nuisance abatement officer and the owner. [Ord. 297 § 1.075, 2014.]

Article II. Nuisance Control and Abatement

9.10.180 Title.

This article shall be known as the "City of Maupin Nuisance Control Ordinance," and may be so pleaded and referred to and shall apply within the jurisdictional limits of the city. [Ord. 297 § 1.010, 2014.]

9.10.190 Definitions.

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

"Abandoned vehicle" means any vehicle which reasonably appears to be inoperative, wrecked, discarded, displays expired vehicle registration plates, has no vehicle registration plates displayed, or is totally or partially dismantled.

"Council" means the city council of the city of Maupin.

"Excessive noise" shall have the definition(s) as provided by Chapter 8.10 MMC.

"Explosive" means a chemical compound, mixture or device that is used or intended to be used for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitro jelly, but excluding fireworks as defined by state law, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

"Garbage" means all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

"Hearings officer" means that person appointed by the council to preside at hearings held pursuant to this chapter.

"Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.

"Junk" includes all old motor vehicles unregistered, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, plastics, paper, lumber, wood or other waste or discarded material.

"Liquid waste" means waste oil, septic tank pumping, liquid industrial wastes or other similar material.

"Nuisance" means any unsafe, annoying, unpleasant or obnoxious condition or practice causing or capable of causing an unreasonable threat to the public health, safety and welfare in the circumstances and includes anything defined as a nuisance in MMC Title 18 or other ordinances of the city of Maupin.

"Nuisance abatement officer" means the individual appointed for that purpose by city council of the city of Maupin or that officer's authorized representative.

"Owner" means any person having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.

"Person" means any natural person, association, trust, partnership, firm or corporation.

"Personal property" means any tangible item including, but not limited to, vehicles, trailers, boats, recreational equipment, structures, carts, tables, racks, and similar items. Personal property shall not include trash or recycling containers placed in the public right-of-way for pick up.

"Radioactive substance" means a substance which omits radiation in the form of gamma rays, X-rays, alpha particles, beta particles, neutrons, protons, high-speed electrons or other nuclear particles, but radiation does not include sound waves, radio waves, visible light, infrared light or ultra-violet light.

"Reasonable time" means not to exceed time agreed upon with nuisance abatement officer and it doesn't affect others and does not create a safety, health or environmental hazard.

"Right-of-way" means a public or private area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, streets, sidewalks, bike paths, alleys and walkways. A public right-of-way is a right-of-way that is dedicated or deeded to the public for public use and under the control of a public agency.

"Rodent" means a mouse or rat.

"Rubbish" means glass, metal, paper, wood, plastics or other nonputrescible solid waste.

"Sewage sludge" means residual waste of sewage treatment plants, consisting of digested organic waste and indigestible solids.

"Sidewalk" means that portion of a public right-of-way, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

"Solid waste" means all putrescible and nonputrescible wastes, whether in solid or liquid form, except wastes produced by the human body, liquid-carried industrial waste or sewage, or sewage hauled as an incidental part of septic tank or cesspool cleaning service, and includes garbage, rubbish, ashes, fill dirt, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solids and semisolid waste, dead animals and other discarded solid materials.

"Vector" means any insect organism, including but not limited to flies, fleas, lice, ticks, fly maggots and mosquito larvae, capable of bearing or carrying a disease transmittable to human beings.

"Vehicle" means any device which is designed or used for transporting people, goods or property upon a public street or roadway, including but not limited to a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks. [Ord. 297 § 1.020, 2014.]

9.10.200 Purpose.

The council has determined it necessary to establish and maintain a program for the effective control and abatement of nuisances which constitute a hazard or menace to the health, safety and welfare of the people of the city and this chapter shall be liberally construed to effectuate that purpose. [Ord. 297 § 1.030, 2014.]

9.10.210 Administration — Enforcement.

(1) The nuisance abatement officer (NAO) shall be responsible for the administration and enforcement of this chapter.

(2) The nuisance abatement officer shall have authority to administer oaths, certify all official acts, issue citations, subpoena and require the attendance of witnesses and production of relevant documents at hearings before the hearing officer and take testimony of any person by deposition. [Ord. 297 § 1.040, 2014.]

9.10.220 Administration — Rules and regulations.

The nuisance abatement officer may adopt rules necessary for the administration and enforcement of this chapter. [Ord. 297 § 1.050, 2014.]

9.10.230 Notice procedure.

If a violation has been determined by the NAO and contact with the violator has occurred a notice should be sent containing the following:

- (1) Notices of violations shall be in writing in a letter, summons or citation.
- (2) Notice of violation provided in accordance with MMC 9.10.260 may be placed at the location of the violation or mailed to the property owner, property manager, and/or the tenant. If mailed, the notice may be sent by regular postpaid mail.
- (3) Notice of a violation provided in accordance with MMC 9.10.270 may be affixed to the property or mailed to the property owner. If mailed, it shall be mailed certified or registered mail, return receipt requested, or signature confirmation.
- (4) Summons, citations, and notices of city abatement, liens and penalties shall be mailed certified or registered mail, return receipt requested, or signature confirmation, or personally delivered to the property owner.
- (5) A mailed notice shall be presumed to have been received on the seventh mail delivery day after mailing. [Ord. 297 § 1.060, 2014.]

9.10.240 Emergency inspections — Authority.

- (1) When an emergency exists, the nuisance abatement officer shall obtain the consent of the owner or a warrant from any court of competent jurisdiction before entering private property or a private building.
- (2) As used in this section, an emergency exists when the nuisance abatement officer has reasonable cause to believe that a nuisance constitutes an immediate and active danger to the public health, safety and welfare. [Ord. 297 § 1.080, 2014.]

9.10.250 Nuisances not enumerated.

In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance in this chapter. [Ord. 297 § 1.085, 2014.]

9.10.260 Routine inspections and abatement — General procedures.

- (1) An investigation may be conducted whenever the nuisance abatement officer observes a violation or receives a written and signed complaint that a nuisance exists or if he observes a serious safety or health violation.
- (2) Whenever it appears to the nuisance abatement officer that there is reasonable cause to believe that a nuisance exists, the nuisance abatement officer shall provide written notice to the owner of the existence of the nuisance. Repeat nuisance violations are subject to immediate abatement within a reasonable time set by the NAO and property owner.
- (3) Notice of the nuisance shall demand abatement within 10 days from the date of the written notice or such time as may be set by the nuisance abatement officer to protect the public health, safety and welfare.
- (4) The notice of a nuisance that is not subject to immediate abatement shall contain:
 - (a) A description of the real property by street address or otherwise on which the nuisance exists;
 - (b) A description of the nature of the nuisance;
 - (c) The action necessary to abate the nuisance;
 - (d) The time within which the nuisance must be abated;

(e) A statement that unless the nuisance is abated, the city may abate the nuisance and the cost of abatement shall be a lien against the property as provided by law;

(f) A statement that the owner may request a hearing to contest whether a nuisance exists or to contest the imposition of any lien for city abatement of the nuisance by writing to the nuisance abatement officer within 15 days of the date of the notice.

(5) The notice of a nuisance that is subject to immediate abatement under MMC 9.10.270 shall contain:

(a) The information in subsections (4)(a) through (4)(f) of this section;

(b) A statement that the nuisance shall be abated immediately, which means as soon as possible and no later than the time line established by the NAO and the property owner;

(c) After the notice of the nuisance was affixed to the property or mailed to the owner, a statement that the owner may request a hearing to contest the finding of a nuisance; provided, that the hearing will occur after the nuisance has been abated. [Ord. 297 § 1.090, 2014.]

9.10.270 Abatement — Emergency situations.

(1) In an emergency, the nuisance abatement officer may order immediate abatement of a nuisance. The nuisance abatement officer shall give notice of the requirement for immediate abatement to the owner.

(2) In an emergency, the nuisance abatement officer may proceed with immediate abatement of the nuisance. The nuisance abatement officer shall then immediately send written notice of abatement to the owner of the property. [Ord. 297 § 1.100, 2014.]

9.10.280 Appeal and hearing procedures — General requirements.

(1) Any person receiving a notice may request a hearing by writing the nuisance abatement officer within 15 days of the date of notice. A hearing request does not stay the requirement to immediately abate a nuisance.

(2) The nuisance abatement officer shall, upon receipt of a request for a hearing, promptly notify the hearings officer who shall set a time and place for the hearing at the earliest possible time and shall promptly notify the person requesting the hearing as to the time and place for the hearing. Notice may be by any means of giving actual notice. Notice may also be given to such persons as the hearings officer may determine to be interested persons.

(3) The person requesting the hearing and the nuisance abatement officer may make argument, submit testimony, cross-examine witnesses and submit rebuttal evidence on the pertinent issues. Any person may be represented by counsel.

(4) If requested by either party, all hearings shall be recorded in a manner which will allow for written transcription to be made and all materials submitted at the hearing shall be retained by the hearings officer for a period of two years.

(5) Failure of the persons requesting the hearing to appear at the hearing shall constitute a waiver of the right to a hearing.

(6) After the hearing, the hearings officer shall issue and mail a copy of the order determining the question within 15 days from the date of the hearing, or any continuance thereof not to exceed 15 days from the date of the hearing, to the person requesting the hearing and the nuisance abatement officer.

(7) If the hearings officer finds the nuisance to exist, the order shall set a date for abatement to be accomplished by the owner or affirm the abatement was proper if the nuisance has already been abated.

(8) If the hearings officer determines that anything removed no longer constitutes a nuisance or can be released upon such condition as the hearings officer may prescribe that will eliminate the nuisance, the person requesting the hearing may claim it upon paying the expense incurred in its removal and storage. [Ord. 297 § 1.110, 2014.]

9.10.290 Appeal and hearing procedures — Review of decision.

Review of any action of the hearings officer taken under this chapter and the rules adopted under them shall be taken solely and exclusively to the members of city of Maupin city council (without any member of

council who acted as hearings officer), sitting as an appellate body. Notice of appeal must be filed with the city recorder not later than 15 days after the date of the decision of the hearings officer or the right to appeal shall be lost. Notice of appeal does not stay the requirement to immediately abate a nuisance. Review of any action of the city council of the city of Maupin, sitting as an appellate body, shall be by writ of review in the manner set forth in ORS 34.010 through 34.102. [Ord. 297 § 1.120, 2014.]

9.10.300 Abatement by owner — Required.

(1) Failure of the owner to abate the nuisance within the time set by the hearings officer shall be a violation of this chapter.

(2) If a nuisance is not abated within 15 days of the initial written notice for abatement, unless a request for a hearing is made, or if a nuisance is not abated within the time set by the hearings officer, the NAO shall impose abatement charges at the rate of the cost to city to abate plus 20 percent administration fees. The NAO shall provide notice of the imposition of any abatement and administrative charges to the owner. [Ord. 297 § 1.130, 2014.]

9.10.310 Abatement by city — Assessments.

If an owner fails to abate a nuisance as required under this chapter, the nuisance abatement officer may cause abatement of the nuisance and/or file charges against the owner for violation of nuisance mandates, as provided by law. If the city abates the nuisance, an accurate record of the abatement costs shall be kept and shall include a surcharge of 20 percent of the cost of the abatement for administrative overhead. A billing for the amount of the costs, and notice that those costs may be imposed as a lien should payment not be timely received, shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be due to the city of Maupin recorder within 15 days from the date of the billing. [Ord. 297 § 1.140, 2014.]

9.10.320 Waiver of assessments — Conditions.

The cost of abating a nuisance and administrative costs imposed by the nuisance abatement officer may be waived for low income, elderly or disabled persons, if upon timely application it appears to the nuisance abatement officer that the following conditions are met:

(1) The owner is disabled or over 65 years of age, and had an income during the preceding calendar year from all sources of less than the established federal standards for poverty level.

(2) The owner is living on the property from which the nuisance is to be abated. [Ord. 297 § 1.150, 2014.]

9.10.330 Waiver of assessments — Application procedures.

Application for waiver of nuisance abatement costs shall be filed with the nuisance abatement officer, in writing, within 10 days from the date of notice of the amount of cost of abatement or within 10 days of the date of the notice of the imposition of the enforcement penalty. The nuisance abatement officer may require the owner to supply additional information as evidence that the applicant qualifies for a waiver. An application for waiver of nuisance assessment costs or enforcement penalties must be submitted for each cost of abatement notice or each enforcement penalty notice sent to the applicant. [Ord. 297 § 1.160, 2014.]

9.10.340 Liens against property.

(1) The nuisance abatement officer shall file a lien against the property if payment is not made or waived.

(2) The lien provided for in subsection (1) of this section shall be given priority over all liens except those for taxes and assessments and shall include interest at the legal rate accruing from the date billing is sent to the owner of the property.

(3) The lien provided for in subsection (1) of this section shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments. [Ord. 297 § 1.170, 2014.]

9.10.350 Summary abatement.

The nuisance abatement officer may proceed summarily to abate a nuisance which poses imminent danger to human life or property. [Ord. 297 § 1.180, 2014.]

Title 10
VEHICLES AND TRAFFIC
(Reserved)

Title 11
SIGNS

Chapters:
11.10 Sign Regulations



Chapter 11.10**SIGN REGULATIONS**

Sections:

11.10.010	Purpose.
11.10.020	Definitions.
11.10.030	Administration.
11.10.040	Exempt signs.
11.10.050	Prohibited signs.
11.10.060	Permitted internally illuminated signs.
11.10.070	Required signs.
11.10.080	Regulation by zone.
11.10.090	Special provisions.
11.10.100	Quality standards.
11.10.110	Conformance.
11.10.120	Complaint procedure.
11.10.130	Civil penalty — Confiscation.
11.10.140	Variances.

11.10.010 Purpose.

The purpose of this chapter is to regulate the construction, placement, dimensions, design and maintenance of signs within the city of Maupin, in order to meet the following objectives:

- (1) To promote public health, safety and welfare.
- (2) To provide sign users with clear guidelines for the erection and maintenance of signs.
- (3) To allow for a variety of sign types and sizes, while avoiding sign clutter.
- (4) To meet the reasonable requirements of sign users for visibility and clarity in display of sign content.
- (5) To promote the dissemination of information necessary or useful to the public.
- (6) To promote the orderly, efficient and safe flow of traffic by providing for adequate and appropriate directional and traffic control signage.
- (7) To enhance livability, support property values and avoid blight or public nuisance associated with signs that are poorly designed, constructed or installed, or are inadequately maintained.
- (8) To ensure the protection of free speech rights guaranteed under the state and federal constitutions. [Ord. 276 § 1, 2007.]

11.10.020 Definitions.

Disclaimer: Any identification of signs by type in this chapter is intended to be for illustrative purposes only, and is not intended to identify an exclusive list of sign types to which a particular provision of this chapter applies. Identification of common uses is intended solely to signify common usages in order to provide guidance to regulators and the public regarding the intent and application of this chapter. This chapter is not designed to regulate content of any sign.

(1) Terms.

"Applicant" means any person or business, as defined herein, requesting action on a sign permit application.

"Awning" means a shelter supported entirely from the exterior wall of a building and composed of non-rigid materials (cloth, sheet metal roofing, etc.) except for supporting framework.

"Bulletin board" means any display surface designed to display smaller flyers, cards and similar pages and which is not intended to be legible from more than four feet away.

"Business" means any legal entity, including an individual or association of individuals, and all of the activities carried on thereby, including, but not limited to, service, commercial, industrial, fraternal, benevolent, educational or government uses.

"Business complex" means two or more businesses occupying the same premises, and sharing a common entry.

"Business enterprise" means multiple businesses, under common ownership, operating on single premises, or on adjoining premises.

"Canopy" means a permanent, roofed but unsided structure which may be free-standing or partially attached to a building for the purpose of providing shelter.

"Curtilage" means the grounds and accessory structures immediately surrounding a structure, affiliated with its use, and commonly identified therewith.

"Display surface" means the area used for the purpose of displaying a message and associated graphics. The display surface does not include foundations, supports or other structural elements which do not serve as a portion of the sign's display area.

"Eave" means the lowest horizontal line of any roof.

"Erect" means to construct, place, affix or otherwise install.

"Frontage, building" means that facade of a building which faces and is parallel to, or most nearly parallel to, the public street which provides the primary direct vehicular access to the building.

"Frontage, street" means a lot line fronting a public street.

"Grade" means the finished ground level, or surface, immediately below the highest point of a sign.

"Height" means the vertical distance between the highest point of a free-standing sign or sign structure and the grade below it.

"Integrated signage plan" means a coordinated signage scheme applied by multiple occupants to a single premises, or in the context of a business enterprise, as defined herein.

Oregon Electrical Specialty Code. Based on the 2005 National Electrical Code as published by the National Fire Protection Association. Among other things, the new electrical code:

(a) Corrects references to other codes and publications.

(b) Updates and clarifies amendments to meet current statutory requirements.

(c) Requires the installation of a ground-fault circuit interrupter receptacle (GFCI) on the exterior of each dwelling unit of a multifamily dwelling when the dwelling is at grade level and has an individual exterior entrance.

"Premises" means the structure, or portion of a structure, and the curtilage thereof, owned, occupied or operated by the applicant. The premises may or may not include the entire tax lot, or lots, on which the structure is located. See MMC 11.10.090, Special provisions.

"Sidewalk" means an area along the perimeter of a public right-of-way, intended for pedestrian use, whether paved or not.

Sign Area, Blank Wall Signs/Window Signs. The sign area includes all surface generally bounding any lettering or other display.

Sign Area, Other Signs. The area of a sign face enclosed in a frame shall be determined based on display surface.

Uniform Building Code. Part of a series of electrical and contractor codes. Addresses administrative, fire and life safety, and field inspection provisions; structural engineering design; and material, testing and installation standards.

Uniform Sign Code. Part of a series of electrical and contractor codes. Dedicated to the development of better sign regulation, its requirements pertain to all signs and sign construction attached to buildings.

"Vision clearance area" means an area required under the terms of the development standards of the zoning ordinance to be kept free from obstructions.

"Window" means openings in exterior walls of a structure, occupied by either a fixed or operable pane(s) of glass or similar transparent material(s), whether contained in a frame or not.

(2) Sign — General Definitions.

(a) "Sign" means any object, device or display used or intended to convey any message.

(b) Exceptions. The following items are hereby exempted from the definition of "signs," and are therefore exempt from the operation of this chapter:

(i) Works of art not identifying an existing product, business or service, and erected or created solely to depict regional historical events or times and cultural icons.

(ii) Flags or other symbols of nations, an organization of nations, states, counties, municipalities, fraternal, religious, civic or similar organizations.

(ii) Signs not oriented so as to attract the general public's attention, such as signs located within the interior of a structure and not displayed in a window.

(3) Sign Types.

"Addressing" means signs displaying the street address of a building.

"Banner" means a flag, bunting or other flexible sign characteristically hung on a building, or otherwise suspended down or along its face, or across any public streets of the city. The banner may or may not include copy or other graphic symbols.

"Bench sign" means any sign painted on or otherwise attached to a bench or other seat placed in a public right-of-way, on public property, or otherwise meant to be seen by the public.

"Billboard" means a sign structure subject to the provisions of the Oregon Motorist Information Act of 1971, and erected for the purpose of displaying advertising which promotes the interests of someone other than the owner or occupant of the premises on which it is placed.

"Blank wall" means signs painted directly on a wall, rooftop, or similar surface, and not surrounded by an applied frame or border.

"Building directory" means signs of the type usually seen advising of the name, address, number, location or similar information regarding the occupants of a building or buildings.

"Changing image" means signs which automatically alter their image or text message through any means, whether mechanical, electrical, electronic or otherwise. These include signs which incorporate flashing or sequentially illuminated lights, electronic display of text, video, computer generated graphics, moving structural components, or any other means resulting in automated alteration of text or image, or the simulation of motion.

"Directional" means signs not legible from a public right-of-way or an adjoining property.

"Flexible sign" means a windsock, flag, pennant, streamer or banner, or similar sign or structure constructed of cloth, canvas or similar material, and hung from the building, or sign, which serves to identify the premises or the business, or to attract attention thereto, whether or not graphics or ad copy are included thereon.

"Ground-mounted sign" means a permanently mounted sign which is not attached to any structure or building.

"Home occupation" means signs which identify a place of business contained in a residence, located within a residential zone.

"Illegal sign" means any sign erected or established after the adoption of the ordinance codified in this chapter that has not been permitted.

"Illuminated" means any sign illuminated through the use of internal or integral electrical, chemical or other systems. This includes neon signs. Signs illuminated by remotely placed external lighting are not included in this category.

"Incidental" means signs not exceeding three square feet in area, and intended primarily for the convenience or safety of the public. These may include signs identifying public facilities such as restrooms or telephones, building addresses, hours of operation, building entrances, directions, parking, building directories, etc.

"Inflatable" means signs designed to be inflated, with air or other gas. They are commonly referred to as balloon signs.

"Institutional" means signs which identify public buildings, churches, schools or similar facilities generally used for public gatherings.

"Integral" means signs made as an integral part of the construction of a building.

"Marquee" means a canopy or other covering structure projecting from and attached to a building, which contains signage as an integral element of the covering material.

"Motor vehicle directional sign" means a sign identifying motor vehicle entrances or exits to or from the premises on which the sign is located.

Mural. See "Painted wall decorations and wall graphics."

"Nonconforming sign" means a sign which was legally erected prior to the adoption of the ordinance codified in this chapter which does not conform to the provisions contained herein.

"Painted wall decorations and wall graphics" means murals or displays painted or placed directly onto a wall, fence, or similar structure.

"Permanent" means any sign not meeting the definition of a temporary sign.

"Portable" means any sign not meeting the anchorage requirements of the Uniform Sign Code, or any sign which is not permanently affixed to a building or other immobile means of support, and which is designed and intended to be self-supporting and easily movable. Examples of these include A-frame or sandwich board signs, free standing real estate or yard signs and vehicle mounted signs other than those affixed directly to and integrated with the body of the vehicle.

"Projecting" means a sign which extends perpendicularly, or nearly so, from the face of the building to which it is attached.

"Roof" means any sign located on or above the roof of a building, excluding those mounted on a mansard style roof, canopy, fascia, or parapet wall extending above the roof or eave line.

"Temporary, event" means temporary signs, whose duration of use is determined by the occurrence of an identifiable event on a known date. These may include notices of such events as a theatrical performance, garage sales, elections, and city-wide events.

"Temporary, general" means any sign intended to be displayed for a limited period of time, the duration of which may be determined by identification of a specified date or period, the completion of a project or the occurrence of an event.

"Temporary, project" means a temporary sign, whose duration of use is linked to the completion of an identified project. These may include signs related to a construction project, sale of property, or similar projects.

"Temporary, seasonal" means temporary signs intended to be displayed for a specific, identifiable and recurring period, on an annual, or similar, periodic basis. These may include holiday sign displays, banners, flags, bunting, supplemental signage erected for the summer recreational season, and similarly seasonal reasons.

"Wall sign" means a sign painted or otherwise affixed to the face of a building, roof overhang, facade or gable end, in a plane parallel to such face and extending not more than 12 inches therefrom. [Ord. 276 § 2, 2007.]

11.10.030 Administration.

(1) Authority. The zoning ordinance administrator (ZOA) is empowered to administer and enforce this chapter. Except as otherwise provided herein, the procedures outlined or identified in the Maupin zoning ordinance shall be used in the administration of this chapter.

(2) Permitting Process.

(a) Application. Applications for sign permits shall be submitted to the ZOA and shall include the following:

(i) Face view elevation of proposed sign.

(ii) Elevation showing proposed installation.

(iv) Plan view showing location of proposed installation in relation to the building and property boundary lines.

(iv) If requested, engineering drawing and specifications, or other documentation showing compliance with the anchorage requirements of the Uniform Sign Code, construction and installation requirements of the Uniform Building Code and Oregon Electrical Specialty Code, where applicable.

(v) The ZOA has the option to refer sign applications to the city planning commission for any reason.

(b) Processing. Completed applications shall be processed and notice of the ZOA's decision given in no less than five business days. The city shall give notice to the applicant in no less than five business days if their application package is incomplete.

(c) Notice. Notices shall be made in writing, and shall be mailed to the applicant at the address provided, within the identified period.

(d) Interpretation. Where a provision of this chapter is less restrictive than another ordinance or requirement of the city or state, the requirement which is more restrictive shall govern.

(e) Appeal. Appeal of decisions shall follow the procedures outlined in the zoning ordinance. [Ord. 276 § 3, 2007.]

11.10.040 Exempt signs.

The following signs will not be included in the calculation of allowable sign area, and are exempt from permitting requirements. Unless otherwise provided, however, they must still comply with the remaining provisions of this chapter.

- (1) Signs displaying time and temperature.
- (2) Incidental signs and building directory signs, as defined herein.
- (3) Symbols of products sold on the premises which are displayed in a window, except alcoholic beverage signs, which are regulated by the Oregon Liquor Control Commission.
- (4) Commemorative signs not exceeding two square feet in area.
- (5) Directional signs.
- (6) Motor vehicle directional signs, not to exceed four square feet, and having no more than 50 percent of their display area used for business identification.
- (7) Signs not legible from a public right-of-way or public or private property.
- (8) Certain Temporary Signs.
 - (a) Event signs, not to exceed 32 square feet in area, which may be placed up to three weeks prior to the event they refer to, and must be removed within one week after occurrence of that event.
 - (b) City-wide event signs, such as signs for River Fest and Community Garage Sale, not to exceed 32 square feet in area, which may be placed up to 12 weeks prior to the event they refer to, and must be removed within one week after occurrence of that event.
 - (c) Project signs, not to exceed 32 square feet in area, which may be placed for the duration of the project, not to exceed 18 months, and must be removed within one week after its conclusion.
 - (d) Seasonal signs erected or placed in accordance with the standards, and subject to the time constraints, set forth in MMC 11.10.080. [Ord. 276 § 4, 2007.]

11.10.050 Prohibited signs.

The following signs are prohibited as permanent signs:

- (1) Signs mounted or painted directly on a vehicle or trailer, which vehicle or trailer acts primarily or substantially as a display mechanism or support structure for the sign(s), rather than as a mode of transportation.
- (2) Inflatable signs, except as seasonal signage.
- (3) Banners, except as provided herein.
- (4) Signs that rotate, reflect and focus, flash, blink, fluctuate, or have chaser or strobe lighting effects.
- (5) Internally illuminated signs, except as provided herein. [Ord. 276 § 5, 2007.]

11.10.060 Permitted internally illuminated signs.

Internally illuminated signs shall be allowed only as follows:

(1) When such signs are designed with opaque or shaded translucent backgrounds and translucent light colored letters and symbols. No clear background or white background internally illuminated signs are permitted; and additionally

(2) When the manner in which the sign is constructed and placed is such that the light of the sign shall be shaded, shielded or directed so that the light intensity or glare shall not adversely affect surrounding or facing premises, or adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas, or adversely affect safe vision of pedestrians on a public right-of-way. Glare and intense lighting of signs shall not shine on, or directly reflect into, residential structures. [Ord. 276 § 6, 2007.]

11.10.070 Required signs.

Street numbers shall be posted on every premises. Numbering shall not be smaller than three inches in height, and shall be reasonably visible from a public right-of-way or the primary access to the property. Compliance with this requirement is mandatory by July 1, 2007. [Ord. 276 § 7, 2007.]

11.10.080 Regulation by zone.

(1) General Commercial, Recreational Commercial and Industrial Zones.

(a) Sign Face Area. Allowed sign face area shall be determined based on the least restrictive of the following formulas:

(i) At a minimum, each applicant shall be allowed 32 square feet of sign area. The maximum allowable area shall be 100 square feet per premises in General Commercial zones and 150 square feet per premises in the Recreational Commercial and Industrial zones. For purposes of determining sign face area, only one side of a double sided sign shall be considered. In no event shall any individual sign exceed 50 square feet in area in a General Commercial zone, or 80 square feet in a Recreational Commercial or Industrial zone.

(ii) Street Frontage. One square foot of sign area shall be allowed per lineal foot that the premises fronts on a public right-of-way. Premises on corners may count both street frontages up to the maximum allowed square footage.

(b) Seasonal Signage. Between May 15th and September 15th, temporary supplemental signage of up to 50 square feet shall be allowed for each premises, in the form of banners, flags, decorative bunting or any other signage otherwise permitted under this chapter.

(2) Residential and Open Space Zones.

(a) Sign Face Area.

(i) Except as provided herein, signs on residential properties and in Open Space zones shall not exceed six square feet in area, and no more than two per premises shall be displayed simultaneously.

(ii) Temporary event signs up to six square feet each (e.g., elections signs) may be displayed up to 60 days prior to the event. No more than five may be simultaneously displayed on a given property.

(iii) Temporary signs may be erected in a residential development prior to the substantial completion of the project. The sign area for signs in an undeveloped residential development shall be approved under the criteria set forth in subsection (1) of this section.

(iv) A residential development shall be considered substantially complete once 95 percent of the developable home sites have been sold to end users. An end user is defined as a person or entity not affiliated with the developer, who purchased the property for their personal use or investment.

(v) Signs in Residential Zones. Signs on residential properties shall not exceed six square feet in area, and no more than two per premises shall be displayed simultaneously.

(vi) Community Entry Signs. Permanent signs announcing the entry to a subdivision may be allowed in a residential zone. They shall be considered as a sign in a commercial zone and shall be processed under the criteria set forth in subsection (1) of this section. [Ord. 276 § 8, 2007.]

11.10.090 Special provisions.

(1) Signs on School Property. Generally, sign applications for signs on school district properties shall be processed under the criteria set forth in MMC 11.10.100. Athletic scoreboards may exceed the maximum allowed sign size, up to a maximum size of 200 square feet per sign. Scoreboards shall not be included in the calculation of total allowable square footage.

(2) Business Complexes and Business Enterprises.

(a) Entitlement to signage is based on the premises, not the identity or relationship of the applicants.

(i) Business complexes shall require an integrated signage plan. The premises shall be allowed 32 square feet of signage per occupant, up to the maximum allowed under this chapter for the premises.

(ii) Business enterprises shall require an integrated signage plan. Sign area shall be determined by the amount of signage allowed per premises.

(b) Allocation of Sign Area.

(i) Multiple Occupants. The allocation of allowable sign face area for each occupant in a multiple occupant premises may be determined by agreement between the occupants. Such agreement shall be submitted to the city in writing, signed by the parties to be bound. In the absence of such agreement, the allocation shall be made between occupants based on the ratio between the square footage occupied by the applicant and the total square footage of the premises.

(ii) Transfer of Signage Rights. Signage rights may be transferred between applicants occupying a single premises, in accordance with the provisions of subsection (2)(b)(i) of this section, but not between premises.

(3) Conditional Uses. Signage permitted under a conditional use application shall be as allowed under the terms of that application, but in no event more than would otherwise be allowed for a use permitted outright in that zone. [Ord. 276 § 9, 2007.]

11.10.100 Quality standards.

This chapter is constructed to provide local business owners and others every opportunity to make maximum use of desired and permitted signs during the brief tourist season and meet the community's desire to live in a city free of sign clutter. Quality standards have been tightened and loosened accordingly.

(1) Design and Construction.

(a) All signs shall be designed and fabricated in accordance with the standards of a professional designer, or sign manufacturer, actively engaged in the business of design and/or sign fabrication. Homemade signs and signs built with a kit will be approved using this criterion.

(b) Frames and supports shall be constructed to meet the requirements of the Uniform Building Code.

(c) Display Area. Sign display areas shall be constructed of materials commonly used by professional sign makers. Construction grade materials commonly used for building construction may be used for construction of frames and supports, but shall not be used for display purposes.

(d) Electrical systems shall be constructed to meet the requirements of the Oregon Electrical Specialty Code.

(2) Installation and Management.

(a) Placement.

(i) No sign shall be placed in a public right-of-way, in any location which impedes foot or vehicular traffic, or within a vision clearance area as defined in the development standards of the zoning ordinance.

(ii) Overhead signs shall be placed a minimum of seven feet above sidewalks. Signs extending to within six inches of a curb, measured horizontally, must be a minimum of 14 feet above street grade.

(iii) No sign shall be placed more than 35 feet above grade, measured at the highest point of a sign or sign structure.

(b) Installation. All signs shall be installed to meet the standards required by the Uniform Building Code and Oregon Electrical Specialty Code, as applicable.

(c) Maintenance. All signs together with all their supports, braces, guys and anchors shall be kept in good repair and be maintained in a safe condition. All signs and the site on which they are located shall be

maintained in a neat, clean and attractive condition. Signs shall be kept free from deterioration, including, without limitation, peeling or chipping paint. The display surfaces, trims, frames and supports of all signs shall be kept neatly painted or otherwise neatly maintained, as applicable.

(d) Removal.

(i) Permanent signs shall be removed within three months after termination of the operation for which they were erected (e.g., upon closure of business).

(ii) Temporary and seasonal signs shall be removed within one week after occurrence of the event, completion of the project or conclusion of the season for which they were erected. [Ord. 276 § 10, 2007.]

11.10.110 Conformance.

(1) No sign shall be erected unless it conforms to the provisions of this chapter. Unless a sign is specifically exempted under, or required by the terms of this chapter, a sign permit must be obtained from the city recorder or ZOA prior to the placement of a sign within the city limits. The application shall include such information as is identified in MMC 11.10.030, and shall be made on forms to be provided by the city.

(2) Nonconforming signs shall either be removed from the premises or brought into compliance by April 1, 2010. [Ord. 276 § 11, 2007.]

11.10.120 Complaint procedure.

Complaints from members of the public shall be made in writing to the city recorder or code enforcement officer. [Ord. 276 § 12, 2007.]

11.10.130 Civil penalty — Confiscation.

(1) A civil penalty of \$100.00 for an ongoing violation may be imposed by the city's code enforcement officer and the offending sign may be removed and/or confiscated as provided hereafter.

(2) Signs erected or maintained in violation of the provisions of this chapter are subject to removal and confiscation by the city at the business and/or property owner's expense for costs of removal and liability, if any.

(a) Permanent signs are subject to removal and confiscation after 10 days' written notice, subject to appeal rights as identified herein.

(b) Temporary signs are subject to removal and confiscation without notice. [Ord. 276 § 13, 2007.]

11.10.140 Variances.

The standards and procedures for granting a variance shall be as defined in the zoning ordinance. [Ord. 276 § 14, 2007.]

Title 12
STREETS, SIDEWALKS AND PUBLIC PLACES
(Reserved)

Title 13

WATER AND SEWERS

Chapters:

- | | |
|--------------|--------------------------|
| 13.10 | Water System |
| 13.20 | Sewer System |
| 13.30 | Cross-Connections |

Chapter 13.10
WATER SYSTEM

Sections:

- 13.10.010 New wells prohibited.
- 13.10.020 Duties of water superintendent.
- 13.10.030 Records.
- 13.10.040 Application for service.
- 13.10.050 Connection charge.
- 13.10.060 Connection to city mains.
- 13.10.070 Service lines.
- 13.10.080 Separate service.
- 13.10.090 Unauthorized turn-on.
- 13.10.100 Application for turn-on.
- 13.10.110 Resale of water.
- 13.10.120 Multiple service.
- 13.10.130 Defective faucets or fixtures.
- 13.10.140 Right of access.
- 13.10.150 Discontinuance of water service.
- 13.10.160 Temporary discontinuance.
- 13.10.170 Water use charges.
- 13.10.180 Delinquency — Shutoff — Liens.
- 13.10.190 Collections.
- 13.10.200 Unauthorized turn-on.
- 13.10.210 Tampering with water system.
- 13.10.220 Pollution of water supply.
- 13.10.230 Hindering water superintendent.
- 13.10.240 Penalties, general.
- 13.10.250 Penalty, violation during fire.
- 13.10.260 Water shutoff for violation.
- 13.10.270 Turn-on charge.
- 13.10.280 Classification.

13.10.010 New wells prohibited.

At the adoption of the ordinance codified in this section, there shall be no new wells for domestic water or irrigation purposes established in the corporate city limits of Maupin. [Ord. 271 § 1, 2006.]

13.10.020 Duties of water superintendent.

It shall be the duty of the water superintendent to attend to the pumping plant, machinery and distributing system of the city water works, and to superintend the tapping of the city water mains and the installation of water connections and to read meters and report all meter readings to the city recorder, and to send water samples to the State Public Health Division as required by state regulations; and to perform such other duties as the city council may from time to time require. [Ord. 211 § 1, 1993.]

13.10.030 Records.

The city recorder shall keep a correct record of all water system users and a correct account of charges and payments between the city and each person served by the city water system. [Ord. 211 § 2, 1993.]

13.10.040 Application for service.

Application for the installation or alteration of a service connection from the city water system shall be made at the office of the city recorder. [Ord. 211 § 3, 1993.]

13.10.050 Connection charge.

Connections to mains may be obtained by petition to the city council accompanied by the hook-up fee as established by resolution of the city council, plus the actual costs of labor and materials. [Ord. 211 § 4, 1993.]

13.10.060 Connection to city mains.

The city will furnish, install, maintain and connect the service line from the main to the parking strip upon payment of the charges established pursuant to MMC 13.10.050. No connection to or disconnection from the city mains or alteration in this portion of the service shall be made by any person but the water superintendent or a duly authorized city employee. [Ord. 211 § 5, 1993.]

13.10.070 Service lines.

The service line between the building and the parking strip shall be constructed and maintained by and at the expense of the water system user or other person(s) responsible for the property, who shall protect such service line from freezing and who shall be responsible for all damages resulting from leaks or breaks in such line. All service lines shall conform to the plumbing regulations of this city and of the state of Oregon. [Ord. 211 § 6, 1993.]

13.10.080 Separate service.

Whenever a service connection supplies more than one building or premises, all subsidiary service connections must, wherever physically possible, be arranged so that the supply to each separate building or premises may be controlled by a separate stopcock. Hereafter, in new construction, whenever physically possible, each unit served shall have a separate service connection. [Ord. 211 § 7, 1993.]

13.10.090 Unauthorized turn-on.

No water from the city water supply shall be turned on for service into any premises by any person but the water superintendent or a duly authorized city employee. [Ord. 211 § 8, 1993.]

13.10.100 Application for turn-on.

Application to have water turned on shall be made in writing to the city recorder by the water system user to be served, and shall contain an agreement by the applicant to abide by and accept all the provisions of this chapter as conditions governing the use of the city water supply by the applicant. [Ord. 211 § 9, 1993.]

13.10.110 Resale of water.

No water shall be resold or distributed by the recipient thereof from the city supply to any premises other than those for which application has been made. [Ord. 211 § 10, 1993.]

13.10.120 Multiple service.

Where water is supplied through one service connection to several water system users in separate buildings or to several separate tenants in a multiple-unit building, each such separate water system user shall apply for water service and shall pay the minimum rate per month. The water and sewer committee, at its discretion, may decline to furnish water until separate service connections are provided for each separate water system user. [Ord. 211 § 11, 1993.]

13.10.130 Defective faucets or fixtures.

Water will not be furnished where there are leaky or defective faucets, closets or other fixtures, or where there are closets or urinals without self-closing valves, or tanks without self-closing float valves; and when such may be discovered, the water may be shut off. [Ord. 211 § 12, 1993.]

13.10.140 Right of access.

The water superintendent and members of the water and sewer committee may have free access at reasonable hours of the day to all parts of buildings and premises for the purpose of inspecting the conditions of the pipes and fixtures and the manner in which the water is used. [Ord. 211 § 13, 1993.]

13.10.150 Discontinuance of water service.

(1) Whenever any city water system user wishes to have their water service discontinued for a period of not less than 30 days, the user shall apply in writing to the city recorder and pay their account balance in full. Water service will be turned off and turned on again at no charge to the user and any unbilled charges for water service will be prorated, based upon the actual days of service provided during the billing cycle.

(2) In the event a city water system user wishes to have their water service discontinued for a period of less than 30 days, the user shall apply in writing to the city recorder, pay their account balance in full and pay a disconnection charge. Any unbilled charges for sewer service will be prorated, based upon the actual days of service provided during the billing cycle. A reconnection charge must be paid before service will be resumed.

(3) Water service will not be discontinued without written notice and receipt of payment as prescribed in this section. [Ord. 211 § 14, 1993.]

13.10.160 Temporary discontinuance.

The water may be shut off from the mains without notice for repairs and other necessary purposes, and the city will not be responsible for any consequent damages; but whenever it is practical in such cases the water superintendent shall give at least 12 hours' notice before the water is shut off from the mains. [Ord. 211 § 15, 1993.]

13.10.170 Water use charges.

Charges for water used shall be as established by the city council by resolution. [Ord. 211 § 16, 1993.]

13.10.180 Delinquency — Shutoff — Liens.

(1) Charges shall be due and payable at the office of the city recorder on or before the first day of each month.

(2) Unpaid water system service charges due from users of the water system shall become delinquent 30 days from the date of mailing or delivery of notice thereof and shall be subject to a delinquency charge as established by city council resolution.

(3) If such charges are not paid within 40 days of the due dates thereof, the city, at its option, and after due notice to the user may discontinue water services to the premises served. Water shall not be returned to service until the user pays their account balance in full and pays disconnection and reconnection charges as established by city council resolution. Upon receipt of these payments, the user's water service will be restored by the city during regular working hours. Written notice of discontinuing water service for nonpayment of charges will be given to the user by regular mail, or by posting a notice on the premises at least 10 days in advance of the shutoff. The notice will state that if the charges are disputed, the water system user may request an informal conference with the mayor or his/her designee to discuss the charges. Such request must be received no later than two days prior to the scheduled shutoff date.

(4) The city may require security (cash) deposits prior to providing, or to continue providing, water service to any user. The amount of the security deposit may not be less than two months minimum billing charges. In lieu of a deposit, the city may accept a signed agreement from the property owner (whether the user or not) stating that they will be ultimately liable for any and all charges for services provided to the premises, and that the city may use a lien as one method for securing payment if the charges are not paid. However, the city may not require a property owner to sign such an agreement. If the property owner elects to authorize the use of a lien on real property to secure payment of charges in lieu of a security deposit, all water charges shall be a lien against the premises served from and after the date of billing. The entry of charges on the city's ledgers or other records pertaining to its lien shall be made accessible for inspection by anyone interested in ascertaining

the amount of such charges against the property. Whenever a bill for services remains unpaid, the lien hereby created may be foreclosed in the manner provided for by ORS 223.505 to 223.650, or in any other manner provided by law or city ordinance. Such lien and delinquent water charges and fees shall draw interest at the rate of eight percent per annum until paid. [Ord. 211 § 17, 1993.]

13.10.190 Collections.

The city may use such means of collection of water liens, rates, charges, or connection fees as are provided by the laws of the state of Oregon or as are authorized by the charter or city ordinances. The city may also use an action at law in the name of the city for collection of water liens, rates, charges, or connection fees. [Ord. 211 § 18, 1993.]

13.10.200 Unauthorized turn-on.

After the water has been shut off by the city, if it should be turned on by any person but the water superintendent or a duly authorized employee, it will be disconnected and it will not be reconnected until the cost of disconnecting and reconnecting in addition to all charges and arrearages due have been paid. [Ord. 211 § 19, 1993.]

13.10.210 Tampering with water system.

It shall be unlawful for any person not authorized by the water superintendent to tamper with, alter or injure any part of the city pumping plant, machinery, distributing system, or any meter. [Ord. 211 § 20, 1993.]

13.10.220 Pollution of water supply.

It shall be unlawful for any person to throw, place or deposit any article or substance in or near the city water supply system whereby the water therein may be obstructed or rendered impure. [Ord. 211 § 21, 1993.]

13.10.230 Hindering water superintendent.

It shall be unlawful for any person to hinder, interfere with or obstruct the water superintendent in the performance of his duties. [Ord. 211 § 22, 1993.]

13.10.240 Penalties, general.

Any person violating any of the foregoing provisions of this chapter shall, upon conviction thereof, be punished by a fine of not less than \$25.00, or more than \$100.00, or by imprisonment in the city jail for not more than 50 days, or by both such fine and imprisonment. [Ord. 211 § 23, 1993.]

13.10.250 Penalty, violation during fire.

All faucets to be turned off during fire except by order of the fire chief. Violation of this section punishable by fine of not less than \$5.00 or more than \$50.00. [Ord. 211 § 24, 1993.]

13.10.260 Water shutoff for violation.

If any person fails to comply with the rules and regulations for the use of the city water supply set out in this chapter, the water may be shut off from the premises. In such case, the water shall not be turned on again until such person complies with the rules and regulations of this chapter and until all charges and arrearages due have been paid. [Ord. 211 § 25, 1993.]

13.10.270 Turn-on charge.

A charge as established by city council by resolution, payable in advance, shall be made for turning on the water in all cases where turn-off was required because of failure to comply with the provisions of this chapter. [Ord. 211 § 26, 1993.]

13.10.280 Classification.

The city council determines that the charges imposed by this chapter are not taxes subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution. [Ord. 211 § 29, 1993.]

Chapter 13.20
SEWER SYSTEM

Sections:

Article I. Connection

- 13.20.010 Definition.
- 13.20.020 Connections required.
- 13.20.030 Sewer permits.
- 13.20.040 Applications.
- 13.20.050 Permit issuance.
- 13.20.060 Inspection.
- 13.20.070 Excavations.
- 13.20.080 Connection charges.

Article II. Sewer Service

- 13.20.090 Assessment of charges.
- 13.20.100 Sewer service charges.
- 13.20.110 Delinquent charges — Liens.
- 13.20.120 Collections.
- 13.20.130 Discontinuance of sewer service.
- 13.20.140 Disposition of funds.

Article III. Sewer System Operation

- 13.20.150 Drainage into sewers.
- 13.20.160 Prohibited discharges.
- 13.20.170 Industrial users.
- 13.20.180 Right of entry — Liability.
- 13.20.190 Maintenance and damage responsibility.
- 13.20.200 Violation and penalty.
- 13.20.210 Disorderly conduct.
- 13.20.220 Classification.

Article I. Connection

13.20.010 Definition.

The words "sewerage system" as used in this chapter mean the system of sanitary sewers of the city of Maupin, Oregon. [Ord. 210 § 1, 1993.]

13.20.020 Connections required.

All improved premises which are located within 50 feet of a sewer line must be connected to the sewerage system. If an improved premises is within 50 feet of a sewer line and is not connected to the sewerage system, the city will notify in writing those occupying the premises to connect to the public sewer the building or buildings situated on said property. It shall be the duty of the occupant or other person(s) responsible for such property to make application, pay the fees as hereafter prescribed, and complete said sewer connection within 30 days from the date of said notice, unless for good and sufficient reason the city, in writing, extends the time for the completion of such connection. [Ord. 210 § 2, 1993.]

13.20.030 Sewer permits.

No person, firm or corporation shall make or alter any sewer connection to the sanitary sewer system or to a storm drain of the city of Maupin without making application and securing a permit therefor. [Ord. 210 § 3, 1993.]

13.20.040 Applications.

Application for sewer connection shall be made in writing in the form prescribed by officials of said city. [Ord. 210 § 4, 1993.]

13.20.050 Permit issuance.

If the application is approved and the fees paid as provided, the city shall issue a sewer connection permit specifying the location where said connection shall be made. [Ord. 210 § 5, 1993.]

13.20.060 Inspection.

The city shall be given reasonable notice of not less than 72 hours to allow inspection of a sewer connection before completion, and while the connections are still uncovered. All work is to be done in accordance with the specifications contained in the permit, which specifications shall require the use of the same type of sewer pipe that is used in the laterals or ABS DWV Schedule 40 or PVC DWV Schedule 40, Transite, or PVC SDR 33.5, or cast iron pipe. The manner of the connection shall meet all inspection and other requirements of the state of Oregon, and all work shall be performed in the manner required by Oregon state law. [Ord. 210 § 6, 1993.]

13.20.070 Excavations.

Installation of sewer connections must conform with the provisions of any ordinances and other applicable laws regulating excavation in or under streets or alleys. [Ord. 210 § 7, 1993.]

13.20.080 Connection charges.

(1) The fee for connection to such system shall be established by city council by resolution, and shall be in addition to the actual costs for labor and materials. Fees for connections to the system shall be paid in advance. Actual costs for labor and materials shall be due within 30 days of the date of connection.

(2) Connections made outside the corporate limits of the city may be made by those occupying the premises or who are otherwise responsible for the premises. The fee for such connection shall be twice the rate that applies to connections within the city as set forth above.

(3) Connections may be made to vacant lots within the city at the same rates as for residential construction therein. Connections may be made to vacant lots outside the corporate limits of the city at twice the rate for residential connections within the city. If a building to be served by the sewerage system of the city is constructed upon a lot within three years from the time that a connection is made and paid in full, no additional connection fee shall be made. If the time of completion of construction of a building upon a lot exceeds three years from the date that the connection is made, an additional connection charge of \$50.00 per year will be made for each year from the time of completion of construction and the time that sewer service is provided for the building. [Ord. 210 § 8, 1993.]

Article II. Sewer Service**13.20.090 Assessment of charges.**

Users of the sewerage system shall pay charges and rates for use of such system, as established by the city council by resolution. The obligation to pay sewer service charges arises when a person responsible uses sewer services. It is presumed that sewer services are used whenever there is an improved premises connection to the system. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's water utility charges shall pay the sewer service charges

set by city council resolution. If there is no water service to the property or if water service is discontinued, the sewer service charges shall be paid by the person(s) having the right to occupy the property. [Ord. 210 § 9, 1993.]

13.20.100 Sewer service charges.

(1) New sewer system users shall pay for the first month of service proportionately to the time served during the month.

(2) Charges shall be due and payable at the office of the city recorder on or before the first day of each month.

(3) The monthly charges for use of the sewer system shall be added to the water bill of each water user of the city water system. Sewer system users who are not water users from the city water system shall be billed separately by the city recorder for use of the sewerage system.

(4) The charges for sewer service provided sewer system users outside the corporate limits of the city of Maupin shall be twice those charged like sewer system users within such limits.

(5) The sewer system user charges established shall, at a minimum, be reviewed biennially and revised periodically to reflect actual costs of operation, maintenance, replacement and financing of the treatment works and to maintain the equitability of the user charges with respect to proportional distribution of the costs of operation and maintenance in proportion to each user's contribution to the total wastewater loading of the treatment works. [Ord. 210 § 10, 1993.]

13.20.110 Delinquent charges — Liens.

(1) Unpaid sewerage system service charges due from users of the sewerage system shall become delinquent 30 days from the date of mailing or delivery of notice thereof and shall be subject to a delinquency charge as established by city council resolution.

(2) If such charges are not paid within 40 days of the due dates thereof, the city, at its option, and after due notice to the user may discontinue water services to the premises served. Water shall not be returned to service until the user pays their account balance in full and pays disconnection and reconnection charges as established by city council resolution. Upon receipt of these payments, the user's water service will be restored by the city during regular working hours. Written notice of discontinuing water service for nonpayment of charges will be given to the user by regular mail, or by posting a notice on the premises at least 10 days in advance of the shutoff. The notice will state that if the charges are disputed, the sewer system user may request an informal conference with the mayor or his/her designee to discuss the charges. Such request must be received no later than two days prior to the scheduled shutoff date.

(3) The city may require security (cash) deposits prior to providing, or to continue providing, sewer service to any user. The amount of the security deposit may not be less than two months minimum billing charges. In lieu of a deposit, the city may accept a signed agreement from the property owner (whether the user or not) stating that they will be ultimately liable for any and all charges for services provided to the premises, and that the city may use a lien on the property as one method for securing payment if the charges are not paid. However, the city may not require a property owner to sign such an agreement. If the property owner elects to authorize the use of a lien on real property to secure payment of charges in lieu of a security deposit, all sewer charges shall be a lien against the premises served from and after the date of billing. The entry of charges on the city's ledgers or other records pertaining to its lien shall be made accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for services remains unpaid, the lien hereby created may be foreclosed in the manner provided for by ORS 223.505 to 223.650, or in any other manner provided by law or city ordinance. Such lien and delinquent sewer charges and fees shall draw interest at the rate of eight percent per annum until paid. [Ord. 210 § 11, 1993.]

13.20.120 Collections.

The city may use such means of collection of sewer liens, rates, charges, or connection fees as are provided by the laws of the state of Oregon or as are authorized by the charter or city ordinances. The city may also use

an action at law in the name of the city for collection of sewer liens, rates, charges, or connection fees. [Ord. 210 § 12, 1993.]

13.20.130 Discontinuance of sewer service.

(1) Whenever any city water system user wishes to have their sewer service discontinued for a period of more than 30 days, the user shall apply in writing to the city recorder and pay their account balance in full. Water service will be turned off and turned on again at no charge to the user and any unbilled charges for sewer service will be prorated, based upon the actual days of service provided during the billing cycle.

(2) In the event a city water system user wishes to have their sewer service discontinued for a period of 30 days or less, the user shall apply in writing to the city recorder, pay their account balance in full and pay a disconnection charge. Any unbilled charges for sewer service will be prorated, based upon the actual days of service provided during the billing cycle. A reconnection charge must be paid before service will be resumed.

(3) Sewer service will not be discontinued without written notice and receipt of payment as prescribed in this chapter. [Ord. 210 § 13, 1993.]

13.20.140 Disposition of funds.

All payments and collection of sewer service charges under this chapter shall be deposited in the operation and maintenance account of the sewer revenue account established by ordinance of the city and shall be used exclusively for the operation, maintenance and repair of the sewerage system of the city. Such account also may be used to pay reasonable administration costs and expenses of collection of the charges and connection fees imposed by this chapter. [Ord. 210 § 14, 1993.]

Article III. Sewer System Operation

13.20.150 Drainage into sewers.

Neither temporary nor permanent drainage of excavation into the sanitary sewer system shall be permitted. Drainage from roofs, storm sewers or storm drains shall not be permitted into the sanitary sewer system, and no such connection shall be permitted. [Ord. 210 § 15, 1993.]

13.20.160 Prohibited discharges.

(1) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the city superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the city superintendent, to a storm sewer, combined sewer, or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l or CN in the wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction of the flow in sewers, or other interference with proper flow in sewers, or other interference with proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags,

feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(4) Discharges Subject to Approval. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the city superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the city superintendent will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment process, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).

(b) Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees F (zero and 65 degrees C).

(c) Any garbage that has not been properly shredded.

The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city superintendent.

(d) Any waters or wastes containing strong acid from pickling wastes, or concentrated iron, chromium, copper, zinc and similar objectionable toxic substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the city superintendent for such materials.

(e) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the city superintendent, as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction of such discharge to the receiving waters.

(f) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city superintendent in compliance with applicable state or federal regulations.

(g) Any waters or wastes having a pH in excess of 9.5.

(h) Materials which exert or cause:

(i) Unusual concentrations of inert suspended solids (such as, but not limited to, fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(iv) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluence cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(5) Restricted Discharges. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (4) of this section, and which in the judgment of the city superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city superintendent may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (10) of this section. If the city superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(6) Interceptors. Grease, oil and sand interceptors shall be provided when, in the opinion of the city superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(7) Preliminary Inspection. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the user of the sewerage system at his expense.

(8) Industrial Wastes. When required by the city superintendent, those using any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city superintendent. The manhole shall be installed by the user at his expense and shall be maintained by him so as to be safe and accessible at all times.

(9) Sampling of Wastes. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.)

(0) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern. [Ord. 210 § 16, 1993.]

13.20.170 Industrial users.

(1) All industrial users shall be required to pay that portion of the federal assistance grant under PL 92-500 allocable to the treatment of waste from such users.

(2) The system for industrial cost recovery shall be implemented and maintained according to the following requirements:

(a) Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay its share of the total federal grant amount divided by the recovery period.

(b) The industrial cost recovery period shall be equal to 30 years or the useful life of the treatment works, whichever is less.

(c) Payments shall be made by industrial users no less often than annually. The first payment by an industrial user shall be made not later than one year after such user begins use of the treatment works.

(d) An industrial user's share shall be based on all factors which significantly influence the cost of the treatment works, such as strength, volume and flow rate characteristics. As a minimum, an industry's share shall be based on its flow versus treatment works capacity except in unusual cases.

(e) An industrial user's share shall be adjusted when there is a substantial change in the strength, volume or flow rate characteristics of the user's wastes, or if there is an expansion or upgrading of the treatment works.

(f) An industrial user's share shall not include any portion of the federal grant amount allocable to unused or unreserved capacity.

(g) An industrial user's share shall include any firm commitment to the city of increased use by such users.

(h) An industrial user's share shall not include an interest component.

(3) This requirement applies only to those features of wastewater treatment and transportation facilities which have been constructed with federal assistance administered by the U.S. Environmental Protection Agency under PL 92-500. [Ord. 210 § 17, 1993.]

13.20.180 Right of entry — Liability.

(1) The city superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The city superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) While performing the necessary work on private properties referred to in subsection (1) of this section, the city superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in MMC 13.20.160(8).

(3) The city superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. [Ord. 210 § 18, 1993.]

13.20.190 Maintenance and damage responsibility.

The sewer system user shall be responsible for the maintenance of the private sewer line from the public sewer connection to the premises served. The city shall not be liable for any damage resulting from the failure of a private sewer or of fixtures or appurtenances attached thereto. [Ord. 210 § 19, 1993.]

13.20.200 Violation and penalty.

It shall be unlawful and a misdemeanor for any person, firm, association or corporation without authority from the city of Maupin to open any manhole or sewage lift station or to enter into, or interfere or tamper with any sewer, manhole, sewage lift station, or city property at the sewage treatment plant or to break or violate any rules or regulations adopted by resolution or ordinance of the city council prohibiting the depositing in, or disposal of damaging substances through, the city sewerage system. Any person or persons found guilty of such offense or pleading guilty thereto may be punished by a fine not to exceed \$300.00; and any firm, association or corporation found guilty of any such offense may be punished by a fine not to exceed \$300.00. [Ord. 210 § 20, 1993.]

13.20.210 Disorderly conduct.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. [Ord. 210 § 21, 1993.]

13.20.220 Classification.

The city council determines that the charges imposed by this chapter are not taxes subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution. [Ord. 210 § 24, 1993.]

Chapter 13.30**CROSS-CONNECTIONS**

Sections:

- 13.30.010 Designation.
- 13.30.020 Purpose.
- 13.30.030 Definitions.
- 13.30.040 Application and responsibilities.
- 13.30.050 Cross-connections prohibited.
- 13.30.060 Backflow prevention device installation.
- 13.30.070 Type of backflow prevention device required and location.
- 13.30.080 Location and installation of backflow device.
- 13.30.090 Preexisting backflow prevention device.
- 13.30.100 Testing requirements.
- 13.30.110 General provisions.
- 13.30.120 Enforcement.
- 13.30.130 Penalties.

13.30.010 Designation.

This chapter shall be referred to and may be designated and cited as the "Maupin Cross-Connection Control Ordinance." [Ord. 225 § 1, 1995.]

13.30.020 Purpose.

The purpose of this chapter shall be to protect the water supply of the city of Maupin from contamination or pollution due to existing or potential cross-connections by establishing appropriate regulations and controls relating thereto, including the installation and proper maintenance of approved backflow and/or siphonage devices. [Ord. 225 § 2, 1995.]

13.30.030 Definitions.

"Approved backflow prevention device" means a device to counteract back pressures and/or prevent back siphonage. Such devices must be approved by the Oregon State Public Health Division.

"Auxiliary supply" means any water source or system other than the city's water systems that may be available to a particular building or the premises.

"Backflow" means a flow in other than the intended direction of flow of any substance, foreign liquid, gas or otherwise, other than potable water provided by the city, into the city's water system.

"City water system" means the city of Maupin water system and East Maupin water system which shall include its wells, pumping stations, reservoirs, supply, trunk or feeder lines, service lines, meters and all other appurtenances, devices lines and things necessary to the operation of the system and to supply water service to individual property or premises and shall include the city's potable water with which the systems are supplied.

"Cross-connection" means any actual or potential connection or structural arrangement, whereby the city's water systems are connected directly or indirectly with any other water source or system, public or private, through which it is possible to introduce into any part of the city's system any other source of water, potable or otherwise, or an industrial fluid, gas or substance other than the city's potable water with which the system is supplied, including any connection with sewer, drain, conduit, swimming pool, storage reservoir, plumbing fixture, swamp cooler or other device through which it is possible to introduce into any part of the water system contaminated water, sewage or other material of unknown or unsafe quality which may be capable of imparting contamination to the city's water systems as a result of backflow or otherwise, bypass arrangements,

jumper connections, removable sections, swivel or changeover devices or other temporary or permanent devices through which, or because of which, backflow may occur.

"Director of public works" shall include and mean the superintendent of the city water bureau. [Ord. 225 § 3, 1995.]

13.30.040 Application and responsibilities.

This chapter applies throughout the city of Maupin and to every premises and property served by the city water systems. It applies to any premises water system, public or private. Every owner or occupant of any concerned premises is responsible for compliance with its terms and shall be responsible for any damages incurred as a result of failure to comply with the terms and provisions contained herein. All new water connections shall be required to install an approved backflow prevention device. Water connections pre-existing to the passage of this chapter shall be exempt until such time as required by the city or state. [Ord. 225 § 4, 1995.]

13.30.050 Cross-connections prohibited.

Unless provided specifically herein or specifically approved in writing by the Maupin city council, all cross-connections, whether or not they are controlled by automatic devices such as check valves or by hand operated mechanisms such as gate valves or stopcocks, are prohibited. [Ord. 225 § 5, 1995.]

13.30.060 Backflow prevention device installation.

The owner of each property or premises serviced and/or furnished water by the city of Maupin shall be required to install a backflow prevention device under the following circumstances:

- (1) There is upon said premises an auxiliary water supply which is or can be connected to the city's service or supply systems (including individual premises' service plumbing);
- (2) There is piping or equipment for conveying other than potable city water and that piping or equipment is under pressure and installed and operated in a manner that could cause a cross-connection;
- (3) There is intricate plumbing which makes it impractical to ascertain whether or not cross-connections exist;
- (4) The concerned premises have restricted entry so that inspections for cross-connections cannot be made with sufficient frequency or with sufficient short notice to assure that cross-connections do not exist;
- (5) There is fire line or irrigation service or domestic service larger than two inches;
- (6) The premises have a repeated history of cross-connections being established or reestablished;
- (7) The served premises from time to time may have materials of a toxic or hazardous nature which are handled so that if back siphonage should occur a serious health hazard may result;
- (8) Premises with the following or similar installation must have a backflow device installed: hot tubs, swamp coolers, darkrooms, swimming pools, solar systems, other uses specified by a certified cross-connections specialist representing the city;
- (9) Premises on which any substance is handled under pressure so as to permit entry into the public water system, or where a cross-connection could be reasonably expected to occur; this includes the handling of process waters and cooling waters. Such type of facilities include dry cleaners/laundromats, medical clinics, laboratories, car washes, petroleum processing or storage plants, food preparation facilities, other facilities specified by the city's certified cross-connections specialist.
- (0) Backflow prevention devices shall be required on domestic services two inches or smaller if the building is more than two stories or higher than 32 feet above the water main. One- or two-story buildings which exceed 32 feet in height may be exempted upon determination by the city that no backflow hazard exists. [Ord. 225 § 6, 1995.]

13.30.070 Type of backflow prevention device required and location.

(1) The type of backflow prevention device required shall be commensurate with the degree of hazard that exists and must meet at all times the standards of the Oregon State Public Health Division; all backflow pre-

vention devices required under this section shall be of a type and model approved by the Oregon State Public Health Division.

(2) A reduced pressure principle backflow prevention device shall be installed where the water supply may be contaminated by a substance that could cause health or system hazard. This type of device will also be required in any premises where entry is restricted by the water user. A reduced pressure principle backflow will be required at the point of connection between the city water system and any other water system which does not have a cross-connection program.

(3) A double-check valve assembly pressure vacuum breaker or a reduced pressure principle backflow device assembly shall be installed where it is possible to interject a substance that may be objectionable, but not hazardous, into the water system. [Ord. 225 § 7, 1995.]

13.30.080 Location and installation of backflow device.

(1) The city may specify the location and method of installation of a backflow prevention device. The control or elimination of cross-connection shall be in accordance with manuals of standard practice pertaining to cross-connections control approved by the city, and any requirements set forth by the United States Environmental Protection Agency as authorized by the "Safe Drinking Water Act" (PL 93-523) and other applicable legislation, rules and regulations of the United States, the state of Oregon and concerned agencies.

(2) Any installation, corrective measure, disconnection or other change to a backflow prevention device shall be at the sole expense of the owner. The cost of any change required in the city's system outside the property concerned, or between the meter and the supply line or distribution system, or any charges for cutoffs or disconnection, shall be at the expense of the owner of the concerned property and shall be paid in accordance with the city's practice and procedure, and may, if not paid, be collected through legal process or any other appropriate manner approved by law. [Ord. 225 § 8, 1995.]

13.30.090 Preexisting backflow prevention device.

Any backflow prevention device installed before the effective date of the ordinance codified in this chapter, not an approved device as hereinabove set forth, shall be permitted to remain in service if:

- (1) The device is properly maintained; and
- (2) The type of device is commensurate with the degree of hazard, such determination to be made by the city water bureau; and
- (3) The device is tested annually as required herein; and
- (4) The device performs satisfactorily.

If a backflow device does not meet the standards of the Oregon State Public Health Division as hereinabove set forth, the device must be replaced if it is removed or requires more than minimum maintenance. [Ord. 225 § 9, 1995.]

13.30.100 Testing requirements.

(1) Any backflow prevention device which may be required to be installed under this chapter for the protection of the city's water supply shall be tested before its use in the city and annually thereafter, unless a more frequent testing is required. All tests required to be performed under this section must be performed by a tester certified by the state of Oregon or otherwise approved by the city and written result of such test furnished to the city.

(2) Any backflow prevention device which may be required by the city or state to be installed on property for the protection of a water supply shall be tested at the time of installation and anytime the device is moved or relocated (immediately after relocating or moving). The property owner must forward the results of such testing to the city within 10 days of the date of installation or relocation.

(3) The property owner must order and cause to be performed a test of each backflow prevention device annually on or within 30 days after the anniversary date of the initial testing. The city may require more frequent testing in order to assure the device is properly functioning in those installations which represent a serious health hazard as determined by the city or the state Public Health Division.

(4) If the city has not received the results of such test within 30 days of the anniversary date for annual testing or within 10 days of the date of installation of the device, as the case may be, or the date of the city's discovery that a device was installed without appropriate test as applicable, the city may order such test and bill the property owner for the cost thereof if the device is for protection of a fire service or for a commercial use; if the device is for protection of a domestic service, the city may deny or discontinue water service until satisfactory proof is furnished that the device has been tested and is functioning properly.

(5) If the results of a test required by the city as herein set forth indicates that repairs are necessary, such repairs must be undertaken and a new test taken, and the results thereof forwarded to the city within 30 days of the date of the test, indicating the defect was repaired. [Ord. 225 § 10, 1995.]

13.30.110 General provisions.

(1) Any person operating any mobile apparatus which uses the city's water system or water from any premises within the city must provide for backflow prevention and the provisions herein set forth are applicable.

(2) All plumbing within buildings served by the city shall be so installed and all plumbing fixtures so constructed as to prevent pollution of the city's water supply by back siphonage or cross-connections. Water service to any premises known or found to have such defects and hazards shall be disconnected and not restored until such defects and hazards have been eliminated. [Ord. 225 § 11, 1995.]

13.30.120 Enforcement.

(1) The public works superintendent of the city or his duly authorized representative of the state of Oregon Public Health Division shall have the right without being deemed guilty of trespass or an unlawful act to check the premises of customers for cross-connections (physical connections), physical connections with other water supplies, and the general condition of water lines and service facilities, at any reasonable time. Any such connection prohibited thereby shall be removed by the customer immediately after written notice by the city, and if not so removed, the city shall remove or discontinue any connection it may have for servicing the property.

(2) The superintendent of public works will designate city cross-connections specialists and institute, with the approval of the city council, such additional rules and regulations necessary to carry the provisions of this chapter into effect. [Ord. 225 § 12, 1995.]

13.30.130 Penalties.

Violation of any provision of this chapter, including maintenance of a cross-connection which is prohibited hereby or failure to provide and maintain an approved backflow device or failure to adhere to the backflow device testing schedule herein set forth, is punishable upon conviction by a fine not to exceed \$500.00 per violation. Each day that such violation continues shall be considered a separate offense. [Ord. 225 § 13, 1995.]

Title 14

FLOODPLAINS

Chapters:

14.10 Floodplains Management — General Provisions

14.20 Flood Hazard Reduction Standards

Chapter 14.10**FLOODPLAINS MANAGEMENT — GENERAL PROVISIONS**

Sections:

Article I. Statutory Authorization — Findings — Purpose

- 14.10.010 Statutory authorization.
- 14.10.020 Findings of fact.
- 14.10.030 Statement of purpose.
- 14.10.040 Methods of reducing flood losses.

Article II. Definitions

- 14.10.050 Definitions.

Article III. General Provisions

- 14.10.060 Lands to which this title applies.
- 14.10.070 Basis for establishing the areas of special flood hazard.
- 14.10.080 Penalties for noncompliance.
- 14.10.090 Abrogation and greater restrictions.
- 14.10.100 Interpretation.
- 14.10.110 Warning and disclaimer of liability.

Article IV. Administration

- 14.10.120 Establishment of development permit.
- 14.10.130 Designation of the Maupin city planning commission.
- 14.10.140 Duties and responsibilities of the planning commission.
- 14.10.150 Variance procedure.

Article I. Statutory Authorization — Findings — Purpose**14.10.010 Statutory authorization.**

The Legislature of the state of Oregon has in statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. [Ord. 172 § 1.1, 1987.]

14.10.020 Findings of fact.

(1) The flood hazard areas of city of Maupin are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. [Ord. 172 § 1.2, 1987.]

14.10.030 Statement of purpose.

It is the purpose of this title to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
 - (2) To minimize expenditure of public money and costly flood control projects;
 - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) To minimize prolonged business interruptions;
 - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
 - (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
 - (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- [Ord. 172 § 1.3, 1987.]

14.10.040 Methods of reducing flood losses.

In order to accomplish its purposes, this title includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas. [Ord. 172 § 1.4, 1987.]

Article II. Definitions**14.10.050 Definitions.**

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

"Appeal" means a request for a review of the governing body interpretation of any provision of this title or a request for a variance.

"Area of shallow flooding" means a designated "AO" or "AH Zone" on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. "AO" is characterized as sheet flow and "AH" indicates ponding.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters "A" or "V."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters "A" or "V."

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title found at MMC 14.20.020(1)(b).

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

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this title.

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

"Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (b) Any alteration of a structure listed on the National Register of Historic Places or a state Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this title which permits construction in a manner that would otherwise be prohibited by this title. [Ord. 172 § 2, 1987.]

Article III. General Provisions

14.10.060 Lands to which this title applies.

This title shall apply to all areas of special flood hazards within the jurisdiction of (local unit) city of Maupin. [Ord. 172 § 3.1, 1987.]

14.10.070 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration on flood insurance maps dated September 24, 1984, is hereby adopted by reference and declared to be a part of this title. The flood insurance rate map is on file at city of Maupin City Hall. [Ord. 172 § 3.2, 1987.]

14.10.080 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this title and other applicable regulations. Violation of the provisions of this title by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this title or fails to comply with any of its requirements shall upon conviction thereof be fined not more than or imprisoned for not more than days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Maupin from taking such other lawful action as is necessary to prevent or remedy any violation. [Ord. 172 § 3.3, 1987.]

14.10.090 Abrogation and greater restrictions.

This title is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this title and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 172 § 3.4, 1987.]

14.10.100 Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. [Ord. 172 § 3.5, 1987.]

14.10.110 Warning and disclaimer of liability.

The degree of flood protection required by this title is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This title does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This title shall not create liability on the part of city of Maupin, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this title or any administrative decision lawfully made hereunder. [Ord. 172 § 3.6, 1987.]

Article IV. Administration

14.10.120 Establishment of development permit.

(1) Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in MMC 14.10.070. The permit shall be for all structures including manufactured homes, as set forth in MMC 14.10.050, Definitions, and for all development including fill and other activities, also as set forth in MMC 14.10.050, Definitions.

(2) Application for Development Permit. Application for a development permit shall be made on forms furnished by the city of Maupin planning commission and may include but not be limited to: plans in duplicate

drawn to scale showing the nature, location, dimensions, and elevations of the area in question and existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (a) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in MMC 14.20.020(2); and
- (d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. [Ord. 172 § 4.1, 1987.]

14.10.130 Designation of the Maupin city planning commission.

The planning commission is hereby appointed to administer and implement this title by granting or denying development permit applications in accordance with its provisions. [Ord. 172 § 4.2, 1987.]

14.10.140 Duties and responsibilities of the planning commission.

Duties of the planning commission shall include, but not be limited to:

- (1) Permit Review.
 - (a) Review all development permits to determine that the permit requirements of this title have been satisfied.
 - (b) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
- (2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with MMC 14.10.070, Basis for establishing the areas of special flood hazard, the planning commission obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer MMC 14.20.020, Specific standards.
- (3) Information to Be Obtained and Maintained.
 - (a) Where base flood elevation data is provided through the flood insurance study or required as in subsection (2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - (b) For all new or substantially improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level); and
 - (ii) Maintain the floodproofing certifications required in Section 4.1(3).
 - (c) Maintain for public inspection all records pertaining to the provisions of this title.
- (4) Alteration of Watercourses.
 - (a) Notify adjacent communities and the state coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (5) Interpretation of FIRM Boundaries. Make interpretations where needed as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in MMC 14.10.150. [Ord. 172 § 4.3, 1987.]

14.10.150 Variance procedure.

- (1) Appeal Board.
 - (a) The city council as established by city of Maupin shall hear and decide appeals and requests for variances from the requirements of this title.

(b) The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the planning commission in the enforcement or administration of this title.

(c) Those aggrieved by the decision of the city council, or any taxpayer, may appeal such decision to the appropriate court, as provided in statute.

(d) In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this title, and:

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

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

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

(v) The importance of the services provide by the proposed facility to the community;

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

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

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

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

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

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

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

(e) Upon consideration of the factors of subsection (1)(d) of this section and the purposes of this title, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this title.

(f) The city of Maupin shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(2) Conditions for Variances.

(a) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (1)(d)(i) through (1)(d)(xi) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the state Inventory of Historic Places, without regard to the procedures set forth in this section.

(c) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

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

(xiii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.

(f) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(g) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (2)(a) of this section, and otherwise complies with MMC 14.20.010(1) and (2), General Standards.

(h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. [Ord. 172 § 4.4, 1987.]

Chapter 14.20**FLOOD HAZARD REDUCTION STANDARDS**

Sections:

14.20.010 General standards.

14.20.020 Specific standards.

14.20.010 General standards.

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

(1) Anchoring.

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

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

(2) Construction Materials and Methods.

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

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

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

(3) Utilities.

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

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

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

(4) Subdivision Proposals.

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

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

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

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

(5) Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source (MMC 14.10.140(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. [Ord. 172 § 5.1, 1987.]

14.20.020 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in MMC 14.10.070, Basis for establishing the areas of special flood hazard, or MMC 14.10.140(2), Use of Other Base Flood Data, the following provisions are required:

(1) Residential Construction.

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above base flood level.

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

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

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

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

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

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

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

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in MMC 14.10.140(3)(b).

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section.

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

(3) Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of MMC 14.20.010(1)(b). [Ord. 172 § 5.2, 1987.]

Title 15
BUILDINGS AND CONSTRUCTION
(Reserved)

Title 16
ENVIRONMENT
(Reserved)

Title 17
SUBDIVISIONS
(Reserved)

Title 18
LAND USE AND ZONING
(Reserved)

Tables

	Page
Statutory References	A-1
State Code Citation Table	B-1
Ordinance Table	C-1

Statutory References for Oregon Cities

The statutory references listed below refer the code user to state statutes applicable to Oregon cities. They are current through April 2015.

General Provisions

Boundary changes. ORS 222.005 et seq.
 Charter amendments. ORS 221.210
 City charters. Oregon Const. Art. XI § 2
 Elections. ORS 221.160 - 221.200 and 221.230
 Enforcement of ordinances. ORS 30.315 and 221.315
 Incorporation of cities. ORS 221.005 - 221.106
 Initiative and referendum. ORS 221.210 and 250.255 et seq.
 Ordinances. ORS 221.275 - 221.333
 Procedures for infractions, violations and traffic offenses. ORS Chapter 153

Administration and Personnel

City officers. ORS 221.110 - 221.200
 Emergency management and services. ORS Chapter 401
 Municipal courts. ORS 221.140 and 221.336 - 221.357
 Planning commissions. ORS 227.010 et seq.

Revenue and Finance

Assessments for local improvements. ORS 223.387 - 223.401
 Financial administration. ORS Chapter 294
 Limitations on powers of city to assist corporations. Oregon Const. Art. XI § 9
 Public contracts and purchasing ("Public Contracting Code"). ORS 279.835 - 279.855, ORS Chapters 279A, 279B and 279C

Business Licenses and Regulations

Licensing and taxation. ORS 221.410 et seq.
 Liquor licenses. ORS 471.155 et seq.
 Taxation of liquor prohibited. ORS 473.190

Animals

Animal control. ORS 609.015 et seq.
 Rabies control. ORS 433.340 - 433.390

Health and Safety

Camping by homeless. ORS 203.077 - 203.082

General authority. ORS 221.410 et seq.
 State and local enforcement of health laws. ORS Chapter 431

Public Peace, Morals and Welfare

Curfew. ORS 419C.680
 Firearms regulation. ORS 166.170 et seq.
 General authority. ORS 221.410 et seq.
 Noise control. ORS 467.100
 Obscenity and indecency. ORS 167.060 - 167.100
 Prohibitions on local governments as to crimes involving use of alcohol and drugs. ORS 430.402
 State penal code ("Oregon Criminal Code of 1971"). ORS Chapters 161 - 169

Vehicles and Traffic

Abandoned vehicles. ORS 819.100 - 819.215
 Bicycles. ORS 814.400 et seq.
 Local authority. ORS 801.040
 Oregon vehicle code. ORS Chapters 801 - 826
 Parking offenses. ORS 221.275 - 221.290 and 221.333
 Procedures for traffic infractions. ORS 153.530 et seq.

Streets, Sidewalks and Public Places

City improvements and works. ORS Chapter 223
 City parks, memorials and cemeteries. ORS Chapter 226

Water and Sewers

City sewers and sanitation. ORS Chapter 224
 Municipal utilities. ORS Chapter 225
 System development charges. ORS 223.297 - 223.314

Buildings and Construction

Adoption of codes by reference. ORS 221.330
 Radio antennas. ORS 221.295
 Municipal Regulation. ORS 455.148 et seq.

Municipal Review and inspection. ORS
455.675 et seq.

State building code. ORS Chapter 455

Subdivisions

Subdivisions and partitions. ORS Chapter 92

Zoning

City planning and zoning. ORS Chapter 227

Mobile and manufactured dwelling parks. ORS
446.003 et seq.

State Code Citation Table

This table lists Oregon Revised Statutes and Oregon Administrative Rules sections that are cited in the Maupin Municipal Code. Thus, ORS 10.030 is cited in MMC 1.20.040.

State Citation	Code Section	State Citation	Code Section
ORS 34.010 - ORS 34.102	9.10.290	ORS 279C.800	2.30.020
ORS 167.117	5.10.010	ORS 279C.870	2.30.020
ORS 167.117(4)(d)	5.10.130	ORS 357.400 - ORS 357.621	2.20.010
ORS Chapter 174	3.10.150	ORS 357.975	2.20.040
ORS 192.502(16)	3.30.120	ORS 357.990	2.20.040
ORS 223.297 - ORS 223.314	3.10.120	ORS 414.115	2.30.080
ORS 223.505 - ORS 223.650	13.10.180	ORS 414.125	2.30.080
	13.20.110	ORS 414.135	2.30.080
ORS 243.105(1)	2.30.020	ORS 414.145	2.30.080
ORS 243.125(4)	2.30.020		
ORS 243.275	2.30.020		
ORS 243.291	2.30.020		
ORS 243.303	2.30.020		
ORS 243.331	2.30.020		
ORS 243.565	2.30.020		
ORS 279.835 - ORS 279.850	2.30.080		
ORS Chapter 279A	2.30.010		
	2.30.060		
ORS 279A.025	2.30.020		
ORS 279A.065	2.30.030		
	2.30.040		
	2.30.060		
ORS 279A.070	2.30.030		
ORS Chapter 279B	2.30.010		
	2.30.060		
ORS 279B.130	2.30.060		
ORS Chapter 279C	2.30.010		
	2.30.060		
ORS 279C.440	2.30.060		
ORS 279C.600	2.30.110		

Ordinance Table

This table lists all ordinances after Ordinance 307, and all available ordinances prior to Ordinance 307. If an ordinance is codified, its location in the code is cited by chapter number at the end of the ordinance description. Ordinances are codified if they are general, permanent, and/or include penalty provisions for noncompliance. "Not codified" indicates that the ordinance could have been codified but was not for some reason (e.g., superseded by a later ordinance, codified in a separate publication). "Special" means the ordinance was special in nature or for a specific period of time (e.g., budget, annexation, tax levy).

1	Adopts town seal	38	(Repealed by 115)
2	Adopts town council meeting schedule	39	(Repealed by 115)
3	(Repealed by 115)	40	Street closure (Special)
4	(Repealed by 98A)	41	(Repealed by 115)
5	(Repealed by 115)	42	Establishes town fire limits
6	(Repealed by 115)	43	(Repealed by 115)
7	(Repealed by 115)	44	Amends Ord. 8, finance (Repealed by 115)
8	Compensation of town recorder (Repealed by 115)	45	Electricity franchise (Special)
9	(Repealed by 115)	46	(Repealed by 115)
10	(Repealed by 115)	47	(Repealed by 115)
11	Compensation of town marshal (Repealed by 49)	48	Sidewalk contract (Special)
12	(Repealed by 117)	48	(Repealed by 115)
13	(Repealed by 115)	49	Compensation of town marshal (Repealed by 115)
14	(Repealed by 117)	50	(Missing)
15	(Repealed by 115)	51	(Missing)
16	(Repealed by 117)	52	(Repealed by 105)
17	(Repealed by 117)	53	Street vacation (Special)
18	(Repealed by 113)	54	Water system bond (Special)
19	(Repealed by 117)	55	Amends Ordinance 42, fire limits Passed 3/8/1933 (Repealed by 98A)
20	(Repealed by 115)		
21	(Repealed by 115)	56	(Repealed by 115)
22	(Repealed by 115)	57	(Repealed by 94)
23	(Repealed by 115)	58	(Repealed by 94)
24	Regulates hawkers and peddlers, provides penalties	59	(Repealed by 115)
25	(Repealed by 115)	60	(Repealed by 119)
26	(Repealed by 111)	61	Regulates vending machines and mechanical skill games (Repealed by 209)
27	(Repealed by 115)		
28	(Repealed by 115)	62	(Repealed by 152)
29	(Repealed by 117)	63	Amends Section 4 of Ord. 61, mechanical skill games and vending machines (Repealed by 209)
30	(Repealed by 115)		
31	(Repealed by 115)		
32	(Repealed by 115)	64	(Repealed by 115)
33	(Repealed by 115)	65	(Repealed by 115)
34	(Repealed by 111)	66	(Repealed by 115)
35	(Repealed by 119)	67	Water bond redemption (Special)
36	(Repealed by 115)	68	Amends Ordinance 67, water bond redemption (Special)
37	(Repealed by 115)		

Ordinance Table

69	Amends Ordinance 67, water bond redemption (Special)	98	Annexation (Special)
	Electricity franchise (Special)	98A	(Repealed by 155)
70	(Repealed by 115)	99	Annexation (Special)
	Passed 5/10/1944 (Repealed by 115)	100	Annexation (Special)
71	Requires license for auctioneers and auction houses	101	Annexation (Special)
71	(Repealed by 115)	102	Repeals Ord. 80, dog regulations
72	(Repealed by 115)	103	Sewage treatment plan engineering contract (Special)
72	(Repealed by 115)		Telephone franchise (Special)
72B	(Repealed by 155)	104	(Number not used)
73A	(Repealed by 151)	105	City water supply system (Repealed by 211)
73B	Miscellaneous (Special)	106	Establishes floodplain zone and regulations (Repealed by 172)
74	Alley closure (Special)	107	Grants franchise for garbage collection to Stephen M. Earl (Special)
75	Personal property (Repealed by 125)	108	Designates town council as contract review board (Repealed by 269)
76	(Repealed by 146)	109	Compensation of town marshal (Repealed by 115)
77	Garbage collection franchise (Special)	110	Appoints county sheriff and deputies as deputy town marshals
78	Telephone franchise (Special)	111	General offenses, penalty
79	Cable franchise (Special)	112	Amends Sections 1 and 7 of Ordinance 81B, juries
80	Dog control (Repealed by 102)	113	Establishes curfew for minors and penalty
81	Sewer system bond (Special)	114	Impoundment and disposition of abandoned vehicles
81A	Subsistence allowance for police officers (Repealed by 115)	115	Repealing ordinance (Repealer)
81B	Provides for right to jury trial	116	Prohibits public nudity, establishes penalty
82	(Missing)	117	Defines nuisances, establishes penalty (9.10)
83	(Missing)	118	Prohibits possession of less than one ounce of marijuana, establishes penalty
84	(Repealed by 105)	119	Regulates alcoholic liquor, provides penalty, repeals Ords. 35 and 60
85	(Missing)	120	Establishes town planning commission (2.10)
86	Amends charter (Not codified)	121	(Repealed by 152)
87	Amends charter (Not codified)	122	(Repealed by 151)
87	Sewer system engineering contract (Special)	123	Amends Ordinance 105 Sections 1 and 23, water regulations and rates (Repealed by 211)
88	Amends charter (Not codified)		
88	Sewer system legal services contract (Special)	124	Repeals Section 2 of Ord. 2, council meetings (Repealer)
89	Sewer system bond (Special)		
90	Sewer system bond (Special)		
91	(Repealed by 152)		
92	(Repealed by 152)		
93	(Repealed by 151)		
93	Amends charter (Not adopted)		
94	Establishes gasoline storage rules and penalties		
94A	Grants franchise to Wasco Electric Cooperative, Inc. (Special)		
95	(Repealed by 96)		
96	(Repealed by 151)		
97	(Repealed by 105)		
97A	Zoning ordinance (Repealed by 141)		

125	Custody and disposition of personal property; repeals Ord. 75	162	(Resolution) personnel policy (Not codified)
126	Establishes sewer system rules, fees, penalties (Repealed by 210)	163	Amends Ord. 158, mobile homes (Repealed by 192)
127	(Repealed by 141)	164	Telephone franchise (Repealed)
128	State revenue sharing funds, 1977 — 1978 (Special)	165	Vacation of a certain area of Second St. (Special)
129	Building nuisance abatement	166	Establishing eligibility in the NFIP (Repealed by 172)
130	Not enacted (Not enacted)	167	Alley vacation (Special)
131	Sidewalk construction	168	Controls, regulates unlawful assembly
132	Sidewalk assessment (Special)	169	Amends comprehensive plan and zoning ordinance (Iverson Sticker Mill zone change to industrial) (Special)
133	Sidewalk assessment (Special)	170	Public utilities (3.20)
134	State revenue sharing funds, 1978 —1979 (Special)	171	Vacating Williams Avenue (Special)
135	Adopts comprehensive plan (Special)	172	Flood damage prevention; repeals Ords. 106 and 166 (14.10, 14.20)
136	Amends comprehensive plan (Special)	173	Vacates Deschutes River Heights Subdivision Phase II (Special)
137	Street vacation (Special)	174	Declares the city's election to receive state revenues (Special)
138	Not enacted (Not enacted)	175	Grants garbage collection franchise to Stephen M. Earl (Repealed by 184)
139	Park use rates (3.40)	176	Moratorium for developments requiring increased water usage (Special)
140	Interim financing of sewer improvements (Special)	177	Amends Ord. 158, zoning (Repealed by 192)
141	Zoning ordinance (Superseded by 158)	178	Amends Ord. 157, comprehensive plan (Special)
142	Subdivision ordinance (Repealed by 250)	179	Amends Ord. 175, garbage collection franchise (Repealed by 184)
143	Amends Ord. 140, interim financing of sewer improvements (Special)	180	Amends Ord. 176, development moratorium (Repealed by 190)
144	Volunteer fire department	181	Declares the city's election to receive state revenues for 1988 — 1989 (Special)
145	Initiative and referendum procedures	182	Amends Ord. 157, Kaufmann zone change (Special)
146	Traffic control	183	Amends Ord. 158, Kaufmann zone change (Special)
147	Discarded vehicles	184	Repeals Ord. 175 and 179, garbage collection franchise (Repealed by 218)
148	Sewer regulations (Repealed by 210)	185	Alley vacation (portion between Lots 1 and 2 and Lots 11 and 12 of Block 14) (Special)
149	Sewer system bond (Special)		
150	Amends Sec. 52 of Ord. 117 (Not codified)		
151	Repealing ordinances (Repealer)		
152	Repealing ordinances (Repealer)		
153	Amends Sec. 4 of 153, floodplain regulations (Repealed by 172)		
154	General offenses		
155	Repealing ordinances (Repealer)		
156	Sewer regulations (Repealed by 210)		
157	Adopts comprehensive plan (Repealed by 270)		
158	Zoning ordinance (Repealed by 192)		
159	Sewer rates (Repealed by 210)		
160	Calls special election on new charter (Pending)		
161	Authorizes loan between city funds (Special)		

Ordinance Table

186	Amends Ord. 158, zoning ordinance (Ferguson zone change) (Special)	210	Repeals Ords. 126 and 196 relating to sewer connection, sewer system rules and regulations (13.20)
187	Ferguson zone change (Special)		
188	Rezone (Special)	211	Repeals Ords. 105 and 195 relating to water connection, water system rules and regulations (13.10)
189	Amends comprehensive plan (Special)		
190	Repeals Ord. 180, development moratorium (Repealer)	212	(Vacant)
191	Declares the city's election to receive state revenues (Special)	213	Declaring the city's election to receive state revenues for FY 1994 — 1995 (Special)
192	Repeals and replaces Ord. 158, zoning (Repealed by 249)	214	Rezone (Special)
193	Regulates size and placement of signs (Repealed by 251)	215	Comprehensive plan (Special)
194	Amends Ord. 144, revises number of members of volunteer fire department	216	Rezone (Special)
195	Amends Ord. 105, water supply service (Repealed by 211)	217	Amends comprehensive plan (Special)
196	Amends Ord. 126, sewer system service (Repealed by 210)	218	Repeals Ord. 184, grants franchise to Mel's Sanitary Service (Special)
197	Alley vacation (Special)	219	Rezone (Special)
198	Declares the city's election to receive state revenue sharing for FY 1990 — 1991 (Special)	220	Amends comprehensive plan (Special)
199	Amends Ord. 192, zoning (Repealed by 249)	221	Grants franchise to Maupin Translator District (Repealed by 223)
200	Amends Ord. 157, comprehensive plan (Special)	222	Plat vacation (portion of Deschutes Avenue on Alley, 4 Block 32) (Special)
201	Declares the city's election to receive state revenues for FY 1991 — 1992 (Special)	223	Repeals Ord. 221, grants Maupin Translator District Franchise (Special) (Repealed)
202	Declares application of "fake" or "exhaust" brakes unlawful within city limits	224	Regulates cross-connections to Maupin water system (13.30)
203	Declares the city's election to receive state revenue for FY 1992 — 1993 (Special)	225	Declares city's election to receive state revenues (Special)
204	Repeals Ord. 164, telephone utilities franchise (Repealed by 234)	226	Zone change (Langtry/Schrader — Block 6) (Special)
205	Amends Ord. 192, zoning (Repealed by 249)	227	Comprehensive plan map change (Langtry/Schrader — Block 6) (Special)
	Declares the city's election to receive state revenues for FY 1992 — 1993 (Special)	228	Declares the city's election to receive state revenues (Special)
206	Alley vacation (Special)	229	Calls special election to submit new charter to the voters of the city (Special)
207	Alley vacation (Grant Street and alleys) (Special)	230	Amends Ord. 192, mobile homes on individual lots (Repealed by 249)
208	Rezone (Special)	231	Declares the city's election to receive state revenues (Special)
209	Repeals Ord. 61, music and amusement devices	232	Establishes deputy recorder position
		233	Repeals Ord. 204, franchise (Special)
		234	Declares the city's election to receive state revenues (Special)
		235	Amends Ord. 193, zone change (Koons) (Special)

237	Amends Ord. 157, comprehensive plan change (Koons) (Special)	258	Amends Ord. 250 to delete certain improvement requirements, sidewalks
238	Amends Ord. 192, HD-R and LL-R zones (Repealed by 249)	259	Zone change from Industrial to HD-R (Special)
239	Annexation of certain territories in Urban Growth Boundary Area (Special)	260	Comprehensive plan amendment (Special)
240	Declares the city's election to receive state revenues (Special)	261	Zone map change (Special)
241	Zone change from LL-R to Low Density-Residential (Redside Ranch LLC, VanVactor/Gisler property) (Special)	262	Comprehensive plan map change (Special)
242	Zone change Industrial to Medium Residential (Snodgrass — 207 Blue Rock Rd.) (Special)	263	Partial street vacation, Lincoln Avenue (Special)
243	Comprehensive plan map change from Industrial to MDR (Snodgrass — 207 Blue Rock Rd.) (Special)	264	Rezone (Special)
244	Zone change from RC to MDR (McLucas) (Special)	265	Establishes process for compliance with Measure 37
245	Comprehensive plan map change from RC to MDR (McLucas) (Special)	266	Grants franchise to Maupin Translator District; repeals Ord. 247 (Special)
246	Declares the city's election to receive state revenues (Special)	267	Amends Ord. 249, collection and distribution facilities provisions (Not codified)
247	Maupin Translator District franchise (Repealed by 266)	268	Intergovernmental agreement (Special)
248	Adopts street design standards project of 1999, comprehensive plan addendum (Special)	269	Continues town council as the local contract review board; repeals Ord. 108
249	Adopts revised zoning ordinance for the city, repeals Ord. 192 (Not codified)	270	Comprehensive plan update: repeals Ord. 157 (Special)
250	Adopts revised subdivision ordinance; repeals Ord. 142	271	Prohibits the establishment or drilling of wells for domestic water service and/or irrigation (13.10)
251	Adopts revised sign ordinance; repeals Ord. 193 (Superseded by 276)	272	Adopts a transient lodging tax (Failed)
252	Vacation of a portion of Fifth Street (Special)	273	Amends Ord. 249, zoning (Not codified)
253	Declares the city's election to receive state revenues (Special)	274	Vacates a portion of Slusher Avenue and portion of two alleys in Blocks 42 and 46 (Special)
254	Vacation of a portion of Deschutes Avenue (Special)	275	Rezone (Special)
255	Grants franchise to CenturyTel (Special)	276	Sign regulations (11.10)
256	Declares the city's election to receive state revenue (Special)	277	Amends Ord. 249, rezone (Not codified)
257	Annexation of WRH District Property (Old Gun Club) (Special)	278	Social games regulations, licenses, and fees (5.10)
		279	Amends Ord. 250, subdivisions
		280	Noise regulations (8.10)
		281	Amends Ord. 248, vacation rentals
		282	Establishes Southern Wasco County Library (2.20)
		283	Vacates a portion of Slusher Avenue between Blocks 42 and 46 (Special)
		284	Amends Ord. 218, solid waste franchise (Special)

Ordinance Table

285	Amends Ord. 218, extends franchise term (Special)	307	Amends Ord. 249, conditional uses in the Medium Density Residential Zone (Not codified)
286	Adopts a transient lodging tax (Expired)	308	Rules of construction (Special)
287	Adopts city of Maupin capital improvement plan (Special)	309	Amends comprehensive plan and zoning map (Special)
288	Establishes a systems development charge relating to capital improvements (3.10)		
289	Amends Ord. 218, solid waste management franchise (Special)		
290	Rezone (Special)		
291	Rezone (Special)		
292	Amends Ord. 286, transient lodging tax (Expired)		
293	Amends Ord. 120, planning commission (2.10)		
294	Regulates executive sessions of the common council		
295	Adopts transient lodging tax (3.30)		
296	Declares moratorium on medical marijuana facilities, declares an emergency (Special)		
297	Establishes rules and procedures for abatement of nuisances (9.10)		
298	Amends Ord. 297, abatement of nuisances (9.10)		
299	Declares ban on medical marijuana processing sites and medical marijuana dispensaries (5.20)		
300	Declares ban on recreational marijuana producers, processors, wholesalers, and/or retailers; refers ordinance and declares an emergency (5.20)		
301	Declares ban on the sale of recreational marijuana by medical marijuana dispensaries (5.20)		
302	Telecommunications franchise (Special)		
303	Rezone (Special)		
304	Licenses and regulates marijuana businesses (Not codified)		
305	Amends Ord. 249, vacation rentals (Not codified)		
306	Amends Ord. 249, commercial/residential transition (CRT) zone (Not codified)		