CITY OF TANGENT, OREGON

CODE OF ORDINANCE

TANGENT, OREGON

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1.01 Code Adoption

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1.01.010 Code Adoption

The Tangent Municipal Code, as compiled from the ordinances of the City of Tangent, Oregon, is hereby adopted as the official code of the City of Tangent, Oregon. (Ord. 2011-01, Ord. 2023-04)

1.01.020 Title; Citation; Reference

This code shall be known as the “Tangent Municipal Code” and it shall be sufficient to refer to this code as the “Tangent Municipal Code” in any prosecution for the violation of any provisions thereof or in any proceeding at law or equity. It shall also be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction of or repeal of the “Tangent Municipal Code.” Further reference may be had to the titles, chapters, sections and subsections of the “Tangent Municipal Code” and such reference shall apply to that numbered title, chapter, section or subsection as it appears in that code. (Ord. 2011-01)

1.01.030 Contents

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City of Tangent, Oregon.

1.01.040 Reference Applies to Amendments

Whenever a reference is made to this code as the “Tangent Municipal Code” or to any portion thereof, or to any ordinances of the City of Tangent, Oregon that reference shall apply to all amendments, corrections and additions heretofore, now, or hereafter made. (Ord. 2011-01)

1.01.050 Codification Authority

This code consists of all of the regulatory and penal ordinances and certain of the administrative ordinances codified pursuant to O.R.S. 221.928. (Ord. 2011-01)

1.01.070 Title, Chapter and Section Headings

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 2011-01)

1.01.080 Reference to Specific Ordinances

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but the reference shall be construed to apply to the corresponding provisions contained within the code.

1.01.090 Effect of Code on Past Actions and Obligations

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the ordinance codified in this chapter, nor be construed as a waiver of any license, fee or penalty at the effective date due and unpaid under the ordinances, nor be construed as affecting any of the provisions of the ordinances relating to the collection of any license, fee or penalty, or the penal provisions of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance; and all rights and obligations thereunder appertaining shall continue in full force and effect.

1.01.100 Constitutionality

If any section, division, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, that decision shall not affect the validity of the remaining portions of this code. The Council declares that it would have passed this code, and each section, division, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, divisions, sentences, clauses or phrases has been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

1.01.110 Effective Date

The Tangent Municipal Code shall become effective on May 9, 2011. (Ord. 2011-01)

1.01.120 Severability

If any section, subsection, sentence, clause, phrase, part or portion of this code is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code. The Tangent City Council hereby declares that it would have adopted this code and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional. (Ord. 2011-01)

1.01.130 Use of Brackets

Whenever a section of this code contains a blank line surrounded by brackets, [ ], it shall denote a fee, charge, fine, or like monetary notation which shall be separately set by motion or resolution of the City Council. (Ord. 2011-01)

Disclaimer: The City Office has the official version of the Tangent Municipal Code. Users should contact the City Office for ordinances passed subsequent to the ordinance cited above.

Chapter 1.04

1.04 General Provisions

Sections:

1.04.010 Definitions

Unless the context otherwise requires, the following words and phrases where used in the ordinances of the City of Tangent shall have the meaning and construction given in this section:

(1) “Code” means the “Tangent Municipal Code.”

(2) “City” means the City of Tangent.

(3) “City Administrator” “City Coordinator”, or “City Recorder” means the same position, and is the person responsible as appointed by the City Council.

(4) “Common Council” means the City Council of the City of Tangent.

(5) “County” means the County of Linn.

(6) “Person” means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or the manager, lessee, agent, servant, officer or employee of any of them.

(7) “State” means the State of Oregon.

(8) “Oath” includes affirmation.

(9) Number. The singular number includes the plural, and the plural includes the singular.

(10) Tenses. The present tense includes the past and future tenses, and the future tense includes the present tense.

(11) “Shall”, “May”. Shall is mandatory, and may is permissive.

(12) Title of Office. The use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City of Tangent.

(13) “Owner” when pertaining to a building or land includes any part owner, joint owner, contract purchaser, tenant in common, or joint tenant of the whole or part of such building or land.

(14) “Street” includes all streets, highways, public roads, county roads, avenues, lanes, alleys, courts, places, squares, curbs, sidewalk, parkways, or other public ways in Tangent which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

(15) “Tenant or occupant” when pertaining to a building or land includes any person who occupies the whole or part of such building or land, whether alone or with others.

(16) “Goods” includes wares and merchandise.

(17) “Operate” or “engage in” includes carry on, keep, conduct, maintain or cause to be kept or maintained.

(18) “Across” includes along, in or upon.

(19) “Sale” includes any sale, exchange, barter or offer for sale.

(20) “Ex officio” means by virtue of office.

1.04.020 Title of Office

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city.

1.04.030 Interpretation of Language

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.

1.04.040 Grammatical Interpretation

The following grammatical rules shall apply in the ordinances of the city unless it is apparent from the context that a different construction is intended:

(1) Gender. Each gender includes the masculine, feminine and neuter genders.

(2) Singular and Plural. The singular number includes the plural and the plural includes the singular.

(3) Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

1.04.050 Acts by Agents

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, that requirement shall be construed to include all acts performed by an authorized agent.

1.04.060 Prohibited Acts Include Causing and Permitting

Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, siding, abetting, suffering or concealing the fact of the act or omission.

1.04.070 Computation of Time

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

1.04.080 Construction

(1) The provisions of the ordinances of the city, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice.

(2) The rules of statutory construction contained in O.R.S. Chapter 174 are adopted and by this reference made a part of this code.

1.04.090 Repeal Shall Not Revive Any Ordinance

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby.

TITLE 2 ADMINISTRATIVE AND PERSONNEL

Chapter 2.04

2.04 Council

Sections:

2.04.010 Rules for Procedures

The order of business of the City Council shall be as follows:

(1) Pledge of allegiance;

(2) Miscellaneous correspondence;

(3) Citizens comments;

(4) Consent calendar;

(5) Minutes and financial reports;

(6) Unfinished business;

(7) Public hearings at advertised time;

(8) New business;

(9) Adjournment.

The agenda shall be flexible to accommodate visitors. (Ord. 1982-04)

2.04.020 Voting

Voting shall be conducted in accordance with the most recent edition of Roberts Rules of Order.

2.04.030 Numbering of Council Positions

The four City Council positions provided for under the Tangent City Charter shall be numbered as Council positions one through four, with terms of four years, with the first two numbered positions ending two years prior to the second two numbered positions. (Ord. 1986-12)

2.04.040 Future Descriptions

The aforesaid numbering pattern shall be used with reference to all future descriptions of Council positions. (Ord. 1986-12)

2.04.050 Regular Council Meetings

All regular meetings of the City Council and Mayor shall be held on the second Monday of each month. The usual place of meeting shall be City Hall, provided that in any condition that renders the meeting place unfit to conduct any regular meeting of the Council, the meeting may be moved, with at least three (3) days public notice of the moved location site. 24 hour notice in the event of emergency situation. (Ord. 2021-03)

Chapter 2.08

2.08 Nomination and Election of Officers

Sections:

2.08.010 Minimum Requirements for Nomination

A certificate of nomination for a candidate is sufficient if it bears signatures of at least 25 voters of the city, including the nominee, and if the certificate of nomination is filed with the City Recorder not earlier than August 1 and not later than 5:00 p.m. on August 30 in the year of the election. The signature of the candidate to the statement that he or she will accept the office if elected shall be counted as one of the 25 signatures. If more than one certificate of nomination is filed for a candidate, the aggregate number of voters signing certificates of nomination for the candidate determines whether the minimum requirement as been satisfied. (Ord. 1976-02, Ord. 1980-3)

2.08.020 Certification of Nominees

Promptly upon the passing of the deadline for accepting certificates of nomination, the City Recorder shall complete the work of reviewing the certificates for sufficiency, and not later than September 2 in the year of the election the City Recorder shall file with the County Clerk of Linn County, Oregon, a certification of the names of all those persons duly nominated. That certification shall be, generally, in the following form: I certify that I am the City Recorder of the City of Tangent, Oregon. I further certify that the following persons have been duly nominated for the office of City Council member to be filled at the general election to be held this year: (List here the names of all nominees). The County Clerk of Linn County, Oregon, is requested to furnish ballots for that election. (Signed) City Recorder, City of Tangent, Oregon. (Ord. 1976-02)

Chapter 2.12

2.12 Municipal Court

Sections:

2.12.010 Municipal Court

There is hereby created in the City of Tangent a Municipal Court, which shall have jurisdiction to enforce the ordinances of the City of Tangent and such other laws and statutes as provided for under the statutes of the State of Oregon to the full extent possible. (Ord. 2002-05)

2.12.020 Municipal Judge

The office of Municipal Judge of the Municipal Court of the City of Tangent is hereby created. The holder of the office shall be selected by the Council to serve at the pleasure of the Council. The Council may elect to select a Justice of the Peace from Linn County to serve as the Municipal Judge under O.R.S.51.035. (Ord. 2002-05)

2.12.030 Time for Holding Court

The Municipal Judge shall establish by appropriate order a regular time for holding court session. In addition to the regular time established by order of the court, Municipal Court may be held at such other times as the Judge deems necessary for the protective rights of a person charged with violations. (Ord. 2002-05)

2.12.040 Conduct of Trial

Trials shall be conducted as herein provided and all matters not specifically provided for herein shall be governed by the applicable statutes of the state for justice of the peace courts and shall include applicable statutes of the state regarding the introduction or admission of evidence. (Ord. 2002-05)

2.12.050 Power of the Judge

The Judge shall have all inherent and statutory powers and duties of a justice of the peace within the jurisdictional limits of the city. The Judge may, by order, designate a Clerk of the Court with authority to accept bail in accordance with a minimum bail schedule established by the Court. The Judge shall be responsible for the keeping of such dockets and accounts necessary to property record all proceedings of the Municipal Court. In criminal cases in Municipal Court, the cost and disbursements shall be added to the fine, penalty or sentence imposed provided the Court, at its discretion in justifiable cases, may on behalf of the city, waive payment of all or part of the costs and disbursements. (Ord. 2002-05)

2.12.060 Severability

If any phrase, clause, paragraph, subsection, section or part of this ordinance be declared void by any court of competent jurisdiction, such declaration shall not affect the remainder of this ordinance. (Ord. 2002-05)

Chapter 2.15

2.15 Civil Enforcement Ordinance

Sections:

2.15.010 Purpose and Applicability

This chapter provides a process for enforcing the requirements of the Tangent Zoning Ordinance, Land Division Ordinance, Nuisance Ordinance, Dangerous Buildings Ordinance and all other ordinances, regulations, permits, licenses or approvals issued by the city pursuant to the city's permitting or regulatory authority. Where any city ordinance provides its own or a different enforcement procedure or remedy, those procedures and remedies shall be in addition to those provided in this chapter. The civil process set forth in this chapter is designed to provide prompt notice to property owners and other interested parties that appear to be in violation of the city's legal requirements and regulations and to guarantee those accused of an infraction the right to an evidentiary hearing on the alleged infraction. The process is designed to provide a measure of certainty to the citizens of Tangent that violations will be addressed promptly and decisively and to ensure that the due process rights of those accused of infractions are protected. This chapter shall not apply to criminal matters and shall not result in the imposition of criminal sanctions. Unless indicated otherwise the Oregon Rules of Civil Procedure shall be applicable and may be used in any civil enforcement action under this chapter. (Ord. 2011-04)

2.15.020 Definitions

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

(1) "Civil infraction" means the violation or failure to comply with any provision of the Tangent Zoning Ordinance, Land Division Ordinance, Nuisance Ordinance and any other ordinance adopted by the city that imposes legal obligations or regulations on people, property or activities. Civil infraction also includes any violation or failure to comply with any provision or requirement of any permit, order, license or approval granted by an authorized city official, the city council or other decision maker. (Ord. 2011-04)

(2) “Code” means, collectively, the Tangent Zoning Ordinance, Land Division Ordinance, Nuisance Ordinance and any other ordinance adopted by the city that imposes legal obligations, regulations or prohibitions on people, property or activities plus any other regulation adopted or administered by the City of Tangent. “Code” also means any codification of ordinances that the city may adopt and from time to time amend. (Ord. 2011- 04)

(3) “Court” means any of the following: Tangent Municipal Court, Justice Court, Linn County Circuit Court, or the Tangent City Council sitting in a judicial capacity and reviewing a civil infraction under this chapter. (Ord. 2011-04)

(4) “Officer” means a sworn peace officer or any person appointed by the mayor and authorized to administer and enforce the city’s code, including, but not limited to, the city coordinator, city recorder, city planner and the city attorney. (Ord. 2011-04)

(5) “Permit” means permit, order, license or approval granted by an authorized city official, the city council or other governmental decision maker plus any other permit or approval administered or enforced by the City of Tangent. (Ord. 2011-04)

(6) “Person” means any individual, corporation, property owner, limited liability corporation, partnership, unincorporated association, local government, government agency or other legal entity. (Ord. 2011-04)

(7) “Respondent” means any person, corporation, limited liability corporation, partnership, unincorporated association, or other legal entity alleged to have committed a civil infraction and the owner of any property on which a civil infraction is alleged to have occurred. (Ord. 2011-04)

2.15.030 Enforcement Requirements and Civil Infractions

(1) No person shall engage in, or cause to occur, any use, development, construction, reconstruction, alteration, or maintenance of any property, building, structure or vehicle, or alter or use any land in violation of the Code, state law or any city-issued permit. No person shall engage in any use of property, or allow a use of property under their ownership or control, that is prohibited by the Code, state law or otherwise not allowed by a city-issued permit. No person shall fail to pay any charge due the city when such failure to pay is made a civil infraction. (Ord. 2011-04)

(2) No permit for the construction, occupation or use of a property, building, structure or business shall be issued if such property, building, structure or business or proposed use, and the land upon which it is proposed to be located, is in violation with any applicable provisions of the Code or state law. (Ord. 2011-04)

(3) Failure to obtain a permit or other approval, where one is required by the Code, shall constitute a nuisance and a civil infraction. Violation of any provision of the Code or a city- issued permit enforced under this chapter may constitute grounds for revocation, nonrenewal or denial of a permit issued by the city. (Ord. 2011-04)

(4) Any violation of the Code, state law or a city-issued permit that is actionable under this chapter shall constitute a civil infraction and a nuisance. Each day of violation shall constitute a separate civil infraction that can give rise to a separate citation, conviction and fine. (Ord. 2011-04)

2.15.040 Citation for Civil Infractions

(1) Basis for the Citation: Upon a determination by an Officer that one or more civil infractions have occurred, the Officer shall issue a citation to the person or other entity who the Officer has probable cause to believe is responsible for the activity or failure to act that is deemed to be the civil infraction. The person or entity that committed the alleged violation shall be responsible for the civil infraction. In addition, if the person who committed the alleged violation is on property owned by another, with the property owner's permission, the property owner shall be jointly and severally responsible for the violation. (Ord. 2011-04)

(2) Service of the Citation: The Officer shall serve the citation on the respondent(s) by any of the following methods reasonably calculated to actually reach the respondent:

(A) Personal service, or

(B) Certified first class mail, return receipt requested, to the respondent's last known mailing address or

(C) Any means provided in Rule 7 of the Oregon Rules of Civil Procedure reasonably calculated to apprize the respondent(s) of the violation, or

(D) Where a respondent avoids or eludes service or is otherwise not locatable for service, the City is entitled to use alternative service in the form of any of the following: posting the property, publication in a local newspaper, first class mail to the property. (Ord. 2011-04)

2.15.050 Contents of the Civil Infraction Citation

(1) The citation for a civil infraction shall include at least the following information:

(A) The name and address of the respondent(s);

(B) The time, date and place the civil infraction was alleged to have occurred;

(C) A statement describing the civil infraction(s) alleged to have occurred with a reference to the pertinent Code references or other commonly understood reference to the law, ordinance or permit alleged to have been violated.

(D) A summons indicating the time, date and place for entering a plea in court, at which time the respondent(s) shall appear and enter a plea responding to the charge(s) alleged in the citation.

(E) A certification that the Officer issuing the citation has reasonable grounds to believe, and does believe, that the respondent(s) committed the civil infraction contrary to law. This certificate shall be deemed equivalent to a sworn complaint. (Ord. 2011-04)

(2) A uniform traffic citation and complaint shall be deemed an acceptable form for any civil infraction citation under this chapter. (Ord. 2011-04)

2.15.060 Judicial Proceeding and Procedures

(1) Jurisdiction for civil infractions filed and processed under this chapter shall be in any of the following venues: Tangent Municipal Court, Justice Court, Linn County Circuit Court, or the City Council sitting in a judicial capacity. The municipal court and city council may adopt, and amend from time to time, procedural rules governing their proceedings. The city recorder shall serve as the Clerk to Municipal Court or the City Council in proceedings under this chapter. (Ord. 2011-04)

(2) Unless an applicable provision of Oregon Rules of Civil Procedure provides otherwise, the following procedures shall be followed in proceedings initiated under this chapter:

(A) The respondent(s) shall appear in Court at the time and date indicated in the citation for entering a plea, at which time the respondent(s) shall state whether the respondent(s) committed or did not commit the infraction(s) alleged. The respondent(s) may enter a plea by mail prior to the arraignment date indicated in the citation so long as the written plea is actually received by the court before the stated time of the arraignment.

(B) If a respondent enters a plea of having committed the infraction, no contest, fails to appear or otherwise timely enter a plea, the court shall find that the respondent committed the infraction as alleged and shall enter an order directing the respondent to abate, correct or otherwise remedy the violation, and the court shall impose a civil penalty in accordance with this chapter.

(C) If a respondent timely enters a plea of having not committed the infraction, the court shall schedule the matter for hearing.

(D) At the hearing, the citing Officer shall present the case and evidence in support of the citation. The respondent shall be afforded an opportunity to review and rebut the Officer's evidence, cross-examine the Officer's witnesses, and present testimony, evidence and witnesses in support of respondent's case. Any party may be represented by an attorney, but the city shall not be responsible for providing any respondent with legal representation.

(E) The Court shall enter an order in favor of the city if the Officer proves by a preponderance of the evidence that the respondent committed the infraction, in which case the Court shall enter an order directing the respondent to abate, correct or otherwise remedy the violation by a time certain, and the court shall impose a civil penalty in accordance with this Chapter.

(F) The Court shall retain jurisdiction over the matter until the violation is fully remedied, abated or otherwise corrected in compliance with the Court's order and the applicable requirements of the Code, state law or city-issued permit.

(G) Civil Inspection Warrants. At any time the City may seek, and the Court shall grant, a civil inspection warrant allowing entry onto private property for purposes of inspecting the property to determine compliance with the Code, state law or a city-issued permit. The warrant shall be issued upon oath or affirmation of a responsible city Officer seeking access to private property, including the interior of enclosed spaces and buildings, and shall allow inspection of the private property between 8:00 a.m. and 7:00 p.m., with reasonable advance notice to the owner or occupant. Any such warrant shall allow access and the ability to inspect by any responsible and suitably qualified officer, inspector, state or local official. The results of any such inspection shall be submitted as a written report to the Court.

(H) Civil Contempt Proceedings. In the event that a respondent fails or refuses to comply with any order issued by the Court in a civil enforcement proceeding under this chapter, the City may seek a contempt citation that the respondent be held in contempt of court and shall be subject to any sanction imposed by the Court including monetary fine and/or incarceration. (Ord. 2011-04)

2.15.070 Nuisance Abatement by the City and Cost Recovery

(1) Nuisance and abatement order. Upon a finding that a respondent committed a civil infraction, the Court shall declare the civil infraction to be a nuisance, and if the violation still exists, the court shall order the respondent to abate, correct or otherwise remedy the nuisance. In the event the respondent fails to so abate or remedy the nuisance within the time provided for in the Court's order, the Officer, without further proceedings, may take any action the Officer deems to be reasonably necessary to abate or remedy the nuisance in compliance with the Court's order, or the Officer may seek a contempt order from Court against respondent for failing to comply with the Court's order. (Ord. 2011-04)

(2) Summary abatement by the City in emergency situations. With or without the respondent first having appeared, the Officer may seek, and the court may order, the summary abatement of the activity alleged in the civil infraction citation upon a finding that:

(A) An imminent and substantial threat to the public health, safety or welfare exists by virtue of the alleged action or inaction; and

(B) Immediate abatement of the activity or nuisance is necessary to prevent a threatened harm to the public health, safety or welfare. (Ord. 2011-04)

(3) Upon the issuance of a summary abatement order under this section, the Officer may, without further notice or proceedings, take whatever steps are necessary to abate, correct or remedy the nuisance that is the basis for the citation. The City may seek cost recovery against the respondent(s) for all of the Officer's expenses incurred in undertaking a summary abatement action. (Ord. 2011-04)

(4) Recovery of the City's Enforcement Prosecution and Abatement Costs: Following entry of an order against a respondent under this chapter, the City may petition the Court to recover from respondent(s) all of its reasonable costs associated with bringing and prosecuting a civil enforcement action under this chapter and for any abatement action that may be necessary if the respondent(s) fail to abate the violation. Reasonable costs include the City's attorney, administrative and staff time, inspection costs, contractor costs, materials and

equipment, service and administrative expenses, the cost of work to demolish, remove, correct or otherwise abate the nuisance, and any associated disposal costs. The City shall file with the court and serve on respondent(s) a sworn statement of its costs incurred in the action. The Court shall review the sworn statement and any objections thereto, and shall issue an order awarding the City its reasonable costs incurred in the enforcement and abatement action, payable by the respondent(s). Any such award of costs pursuant to this chapter shall accrue interest at the rate of 9% per year until paid and may be recorded as a municipal assessment lien and foreclosed as provided in Section 2.15.090. (Ord. 2011-04)

2.15.080 Civil Penalties

(1) Upon determination by the Court that one or more respondents committed a civil infraction under this chapter, the Court shall impose a civil penalty up to $500 per violation. (Ord. 2011-04)

(2) Each day that a violation is found to exist shall constitute a separate citable and sanctionable civil infraction. (Ord. 2011-04)

(3) Any civil penalties awarded by the Court pursuant to this chapter shall accrue interest at the rate of 9% per year until paid and may be recorded as a municipal assessment lien and foreclosed as provided in Section 2.15.090. (Ord. 2011-04)

(4) The remedies and penalties provided in this chapter are in addition to, and not in lieu of, any other remedy or penalties provided by law, including, but not limited to revocation or nonrenewal of a permit or license, injunction, a city-initiated land use proceeding, abatement or civil damages as provided by the Code or state law in any court or agency of competent jurisdiction. (Ord. 2011-04)

2.15.090 Recordation of Assessment Lien and Foreclosure

Any judgment awarding the city its abatement costs, fines and/or penalties against a respondent pursuant this chapter may be recorded at any time after issuance without further notice or proceedings, in the city's lien docket and/or the Linn County real property deed records as a municipal assessment lien against the respondent(s) real property. The City's lien shall have priority ahead of all other liens except as prohibited by any applicable law. The City's lien may be foreclosed as a municipal assessment lien pursuant to ORS 223.505 to 223.595 or through any other legal process. This section shall apply to any judgment, award of costs, fines or penalties or associated lien that exists on the day of adoption of this 2011 ordinance. (Ord. 2011-04)

Chapter 2.16

2.16 Planning Commission and Citizen Involvement Committee

Sections:

2.16.010 Establishment

There is established a combined Planning and Citizen Involvement Commission which shall act as the Planning, Land Use and the Citizen Involvement Advisory Committee. These responsibilities will assist the governing body with the development of all land use planning documents and the Citizen Involvement Program. (Ord. 2007-01)

2.16.020 State and Local Law Adopted (Powers and Authority)

(1) The following provision of Oregon Revised Statutes (O.R.S.) and Oregon Administrative Regulations (OAR) are incorporated by reference and made a part of this code as though fully set forth herein: O.R.S. 227.010 through O.R.S. 227.170, 227.175, 227.180, and OAR 660-015-0000(1) and as amended hereafter.

(2) Duties assigned by any section of the City of Tangent Land Use Development Code and the Citizens Involvement Program are also incorporated herein by reference and as amended hereafter.

(3) No other powers are authorized unless specifically provided for by amendment to this ordinance/code. (Ord. 2007-01)

2.16.030 Membership Regulations

(1) The Commission shall consist of five members; all are voting members and are appointed by the Council as vacancies occur and at the last regular meeting of the year for the filling of expiring terms.

(2) The voting members shall not be officials or employees of the city.

(3) The Council person designee shall be assigned as primary liaison to the Planning Commission. The Council member will be a member of the audience and available when requested to do so, to take part in discussions, offer policy advice and interpretation, communicating priorities and other information between the Council and Planning Commission.

(4) The Commission will select a member to serve as liaison to the City Council. The liaison may participate in Council discussions when land use issues are being discussed, but shall not have a vote.

(5) The concurrence of three voting members of the Commission shall be necessary to decide any question before the Commission.

(6) A quorum of any three members can conduct a work session.

(7) In the absence of a P & CIC quorum and the City Council is required to make a decision in a timely manner, the P & CIC members (1 or 2) may sit in on the deliberations, but will have no vote.

(8) Commission members shall receive no compensation.

(9) Member relationships to the Mayor and/or City Council and within the Commission will comply with the spirit and intent of Section 17 of the Tangent Charter of 1982. (Ord. 2007-01)

2.16.040 Terms of Office

The term of a Commissioner will be three years if the appointment is made to fill a regularly scheduled expiration of a term. In the event of a term becoming vacant prior to the term ending date, the position appointment will be for the balance of that term only. (Ord. 2007-01, Ord. 2022-04)

2.16.050 Member Roles

The general role of the P&CI Commission shall cover, but not be limited to:

(1) Use of judgment as it applies to state law and community values as expressed in the Tangent Vision and/or public meetings to the land use planning process.

(2) Education of the general public about land use planning, always stating the city’s policy first if a member is not in agreement.

(3) Perform the various duties and responsibilities as provided by state and local law (Section 2.16.020):

(A) A continuing review of and submission of written recommendations for improvement of the Comprehensive Plan and all related documents (in the plan or referenced to the plan) as they relate to land use planning.

(B) Provides recommendations as to the content of other documents, ordinances and resolutions that may directly affect implementation of land use planning policies or decisions. Project plans shall be submitted for Council approval of each project and any necessary budget.

(C) The Commission shall suggest in its program of work on its own accord or at the request of the Council studies that relate to land use planning. The Commission may appoint short term (not to exceed one year) study committees (no more than three members) to assist in these studies once approved. (Ord. 2007-01)

2.16.060 Vacancies and Removal

(1) A position shall be deemed vacant upon the incumbent's death, resignation (subject to a three working day reconsideration period),Council removal (after a hearing for just cause), abandonment of the position, or relocation out of the area.

(2) A member who is absent for three consecutive meetings, or for 25% of any period of six months without an acceptable excuse by the members of the Commission shall be considered to be in nonperformance or abandonment of the position of duty, unless found otherwise by the hearing. (Ord. 2007-01)

2.16.070 Presiding Members and Other Designations

At its first meeting of each calendar year, the Commission shall elect a chairperson and vice-chairperson to serve for a term that ends with the first meeting of the next year. (Ord. 2007-01)

2.16.080 Staff Services

(1) The City Administrator shall provide for the necessary administrative support needed by the Commission in its normal course of business. Both written (in summary form) and tape recorded records Commission proceedings will be provided.

(2) Contracted staffing (City Attorney, Planner and Engineer) will be consulted and their expert advice will be included in any recommendation(s) to the Council. (Ord. 2007-01)

2.16.090 Meetings

(1) Three voting members of the Commission shall constitute a quorum for decision making. A regular meeting will be held once a month. A work session

can be held by any three members. Any two voting members can request and be granted a special meeting in compliance with the Oregon Open Meetings Law.

(2) All meetings held by the Commission will be open to the public. The Commission will have no authority to hold “executive” or other private meetings.

(3) In the absence of a Commission quorum, the City Council shall render any necessary decision. The available Commission members shall sit with the Council and offer suggestions, advice and information, but will have no voting authority.

(4) The Council and the Commission shall schedule at least one joint meeting no later than March 31 and October 31, to make a report of its current year’s accomplishments, present the current year’s work program and budget requests, etc. The Council shall make known its priorities and a joint program of work will be agreed to.

(5) Approval of, and accomplishment of, the previous year’s and current year’s program of work shall be a condition of performance. (Ord. 2007-01)

2.16.100 Powers and Duties

(1) The Commission’s primary duty is to maintain the Comprehensive Plan by recommendation(s) so it is available and in effect for the city’s business at all times, and perform all duties required by the City’s Citizen Involvement Program as defined in Goal One of the Comprehensive Plan.

(2) The Commission shall have the powers and duties which are or may be assigned to it by the Council, existing ordinances or resolutions of this city and general laws of the State or Linn County. The Council will resolve any conflicts of Commission powers and duties. (Ord. 2007-01)

2.16.110 Recommendations to Council

All recommendations to the Council will be in writing and indicate any alternatives that were considered in the process of arriving at the recommendation(s) put forth. (Ord. 2007-01)

2.16.120 Expenses

The Commission shall have no authority to make expenditures or other monetary agreements on behalf of the city, or to obligate the city for the payment of any sum of money without an approved budget for that purpose. The Council shall approve all grant applications for the city. (Ord. 2007-01)

2.16.130 Conformity with the Law

This ordinance shall not substitute for, or eliminate the necessity for conformity with all laws or rules of the United States or the State of Oregon or their agencies, or in any applicable ordinance rule or regulation of Linn County.

Chapter 2.20

2.20 Parks and Recreation

Sections:

2.20.010 Park Rules

(1) The following rules shall control behavior in, and public use of, all City-owned parks ("City Parks") in the City of Tangent.

(A) All City Parks are closed from dusk until dawn every day, and no person shall use or occupy any Park between the hours of Twelve midnight and 5 a.m. No person shall enter, occupy or use a City Park in a motor vehicle between dusk and dawn except during special occasions or events, which must be authorized through a special permit issued by the City.

(B) No person shall bring into any City Park any motorized or mechanical equipment without written approval of the Park and Recreation Committee.

(C) All people who enter, occupy and otherwise use a City Park shall do so at the person's own risk.

(D) No person shall set, start or maintain a fire in any City Park except in contained cooking stoves or barbeques. All fires shall be attended at all times and shall be completely extinguished before leaving the park.

(E) No person shall in any manner pursue, kill, injure, hunt, or molest any bird or other animal in any City park.

(F) No person shall permit any dog to run at large within any City Park and all dogs shall be kept on a leash at all times.

(G) Owners of dogs or other animals damaging or destroying City Park property, fixtures or equipment therein shall be liable for the full value of any property, fixture or equipment damaged or destroyed.

(H) No person shall operate, stop, park or leave standing a motor vehicle including trailers and motorcycle in any place in a City Park except on roads and parking areas.

(I) No person shall deposit, discard or dispose of any garbage, bottles, broken glass, tin cans, or paper, litter, or waste materials of any kind in a City Park except in receptacles provided therefor.

(J) No person shall deposit, discard or dispose of household garbage, rubbish, or trash in a City Park or any waste receptacle in a City Park.

(K) No person shall urinate or defecate in a City Park except in a bathroom facility provided for the purpose.

(L) No person shall pick, mutilate, dig or remove from the park any plant or in any way deface or mutilate, burn, destroy, defile or remove any railing, building, seat, fence, park facility, or decorative item, or any other structure or fixture in a City Park or remove from a City Park any logs or wood, without specific permission from the City.

(M) No person shall dig excavate, blast, quarry, or remove any soil, rock, stones, or other substance from a City Park, nor shall any person shall assist in such removal.

(N) No person shall post or erect any signs, markers or inscriptions of any type in a City Park without a specific permit from the City.

(O) No person shall operate a concession, either fixed or mobile, or engage in the business of selling or peddling any goods, including food or drinks, in a City Park without a specific written permit from the City.

(P) No person shall, cause or engage in any activity in a City Park that constitutes or cause a nuisance or offence under state law or any City regulation. Drunken and/or disorderly conduct shall be deemed a public nuisance and shall be cause for expulsion from any City Park.

(Q) Any group, organization or person who desires to hold an event in a City Park that is expected or does attract 50 or more people, shall obtain a permit from the City before the event. As condition of issuance of such a permit, the City may require the organizer to furnish insurance, clean-up and garbage disposal services, security or medical service personnel.

(R) All ordinances of the City of Tangent shall apply to and be in full force and effect within City Parks.

(2) The City shall contract with the Linn County Sheriff’s Department for the enforcement of the City’s park rules.
(Ord. 2006-06, Ord. 2016-03, Ord 2016-09)

2.20.020 Parks Master Plan

(1) The city is authorized under O.R.S. 223.297 to 223.314 to adopt certain capital improvement plans and that such plans may include a capital improvement plan relating to parks and recreational needs of the city.

(2) The city has adopted a system for imposing improvement fees by way of system development charges related to those certain improvements described in officially adopted capital improvement plans.

(3) There is a need for parks and recreational opportunities for the city's residents now and in the future, and those needs have been specified in a Parks Master Plan.

(4) The Parks Master Plan is adopted by Ordinance as Exhibit A. (Ord. 2011-02)

2.20.030 Memorial Flag Site

(1) A portion of Pioneer Park shall be set aside for a permanent Memorial for Veterans.

(2) Funds will be appropriated annually for maintenance of this park.

(3) The US Flag will be flown 24 hours a day, seven days a week.

(4) The US Flag will be illuminated at night. (Ord. 2016-03)

2.20.040 Inspection and maintenance of parks

(1) The City shall make an inspection of all City Parks twice a yar in the spring and fall.

(2) The City shall create and maintain record of City Park inspections

(3) Maintenance of the parks shall be done as funds allow. Any maintenance of the park shall be reviewed by the City Council for the City of Tangent and may be authorized as City funding allows depending upon the funding available competition City needs. If maintenance cannot be done due to lack of funds, the council may consider less expensive measures, full or partial park closure. (Ord. 2016-03, Ord. 2016-09)

Chapter 2.30

2.30 Public Records Request Procedures

Sections:

2.30.010 Purpose and Policy

(1) The city adopts the policy and procedures for accepting, processing and responding to public records requests under O.R.S. 192.410 to 192.505 set forth in Exhibit A attached hereto and incorporated herein by this reference. Public record requests shall be submitted to the city on a form similar to the form set forth in Exhibit B attached hereto and incorporated herein by this reference.

(2) This chapter is adopted to implement the requirements and authority of O.R.S. 192.410 to 192.505, Oregon's Public Records Act. It is the city's policy that all documents, including hard copy, video, audio, magnetic, CD ROM and electronic format, that are submitted to it or are in its possession are public documents. Some of these documents are exempt from disclosure pursuant to statutory disclosure exemptions, e.g. O.R.S. 192.501 and 192.502. The City Council may adopt, in which case all elected and appointed city officials shall follow, a records retention policy consistent with applicable state law. The City Council may also, by resolution, adopt a detailed fee schedule establishing the costs and rates for responding to public records request. This chapter shall be administered and interpreted in a manner consistent with Oregon's Public Records Act. (Ord. 2009-03)

(3) The city shall establish by resolution, and may from time to time amend, a schedule of administrative fees that it will charge to public records requestors to reimburse the city for its actual or average reasonable cost associated with processing an responding to public records requests. (Ord. 2009-03)

(4) The city shall establish by resolution, and may from time to time amend, a schedule of administrative fees that it will charge parties whenever checks received in payment of city billing statements for the production of public records, city utilities, park use fees, stormwater fees and the like are returned, dishonored, refused (NSF) and reissued; whenever checks for payment of city billing statements are stopped or received late. (Ord. 2009-03)

(5) This chapter and the fee schedules it authorizes are immediately necessary to assure a clear and immediate revision of fees authorized herein. For that reason, an emergency is declared, and this ordinance shall take effect upon passage. (Ord. 2009-03)

2.30.020 Definitions

(1) For purposes of this chapter, the definitions set forth in O.R.S. 192.410 are adopted and incorporated herein by this reference except as specifically provided in this section.

(2) Notwithstanding O.R.S. 192.410, the following definitions shall apply to the City of Tangent and this chapter.

(A) "City" means the City of Tangent, Oregon.

(B) "Custodian" means the City Clerk/Recorder, City Administrator or City Coordinator or other employee of the City of Tangent who has access to public records, for the City of Tangent.

(C) "Exempt documents" means any document or part thereof that is exempt from public disclosure pursuant to any of the provisions of O.R.S. 192.501 or 192.503.

(D) "Person" includes any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly.

(E) "Public record" includes any writing that exists and is in the city's possession that contains information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics. "Public record" does not include any writing that does not relate to the conduct of the public's business and that is contained on a privately owned computer.

(F) "Requestor" is a person who has made a written request to the city to inspect and/or copy public documents.

(G) "Writing" means handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. (Ord. 2009-03)

2.30.030 Right to Inspect Public Records; Notice to City Attorney

(1) Every person has a right to inspect any public record in the possession of the city, except for the exempt documents or exempt portions thereof described in O.R.S. 192.501 to 192.505. To inspect and/or obtain copies of a non-exempt public record in the city's possession, the requestor must submit a request in

writing to the Custodian describing with particularity the document or documents sought. The request should specify whether the requestor wishes to inspect or obtain copies or both, and should include complete contact information so that the Custodian can respond. All public records requests become public records upon submission to the city.

(2) If a person who is a party to a civil judicial proceeding to which the city is a party, or who has filed a notice under O.R.S. 30.275(5)(a) asks to inspect or copy a public record that the person knows relates to the proceeding or notice, the person must submit the request in writing to the Custodian and, at the same time, to the City Attorney. (Ord. 2009-03)

2.30.040 City Obligation to Maintain Public Records and Make Them Available for Inspection and Copying

The Custodian shall maintain the public records of the city in hard-copy, machine readable or electronic form and retain those records for so long as required to do so by state law. The Custodian shall furnish proper and reasonable opportunities for inspection and examination of public records at city hall during usual business hours. If a public record is maintained in machine readable or electronic form, the Custodian shall furnish proper and reasonable opportunity to assure access to the document. The city will not open its files to public inspection, but will make specific requested documents available for inspection and copying if desired. Likewise, the city will not allow its original documents to leave the custodian's control. If copies are desired, the city will have the originals duplicated and provide the copies at the city's cost. If any public record contains material that is not exempt under O.R.S. 192.501 and 192.502, as well as material that is exempt from disclosure, the city shall separate the exempt and nonexempt material and make the nonexempt material available for examination upon request. (Ord. 2009-03)

2.30.050 City Response to a Public Records Request, Cost Estimate and Charge for City Costs

(1) Within seven days of receipt of a written request, the Custodian or City Attorney shall respond to the public records request by either providing the requested documents or an estimate of the amount of time it will take an estimate of the cost to search, compile and make available the requested documents for review.

(2) If the requested documents are not provided in the city's initial response, the city's first written response will include an estimate of the cost and time involved in making the requested documents available. The city may incur and charge a fee of up to $25 without prior approval by the requestor. However, when the fee is estimated exceed $25, the city will first provide the requestor with a written estimate of the cost and defer any further response until the requestor confirms that the requestor wants the city to proceed with making the public

record available. The city may require the requestor to pay the estimated response costs prior to beginning any work to compile or make available the requested public records.

(3) The city may establish and charge requestors a fee reasonably calculated to cover the city's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request. The city shall be entitled to recover the administrative costs associated with searching, retrieving, compiling, summarizing, redacting, duplicating and shipping public records in response to a request. The city's recoverable administrative costs include the cost of time spent by the custodian responding to the request and time spent by the City Attorney reviewing the public records for exemptions under O.R.S. 192.501 and 192.502, redacting information that is exempt from disclosure or segregating the public records into exempt and nonexempt records. The city shall not include or recover from a requestor the cost of time spent by the City Attorney determining the application of the provisions of O.R.S. 192.410 to 192.505. (Ord. 2009-03)

Chapter 2.40

2.40 Rules of Decorum

Sections:

2.40.010 Purpose of Rules of Decorum

(1) To ensure that meetings of the Council are conducted in a way that allows the business of the City to be effectively undertaken.

(2) To ensure that members of the public who attend Council meetings can be heard in a fair, impartial manner.

(3) To ensure that Council meetings are conducted in a way which is open to all viewpoints and which is protected of the content of each speaker's speech and expression, yet is free from abusive, distracting or intimidating behavior.

(4) To ensure that these Rules of Decorum are understood by persons attending Council meetings.

(5) To ban egregious, inappropriate and obstructive behavior at Council meetings.

2.40.020 Rules for the Council Members

While the Council is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the rules of the Council. All members of the Council shall accord the utmost courtesy to each other, to city employees and to public persons appearing before the Council and shall:

(1) Obey the orders of the Council and/or its presiding officer;

(2) Confine questions and remarks to the issues before the Council.

(3) Not defame, intimidate, make personal affronts, make threats of violence, or use profanity.

2.40.030 Rules for the Speaker

The public shall be allowed to speak during the period of the meeting designated for such purposes. Speakers must stand and provide their name, address and organization, if any. Speakers must be recognized by the presiding officer and shall ensure the below rules are followed:

(1) The speaker shall conduct himself/herself in a professional and respectful manner.

(2) All remarks shall be directed to the Council and not to City staff or the public in attendance.

(3) The speaker shall not defame, intimidate, make personal affronts, make threats of violence, or use profanity.

2.40.040 Rules for the Public

Members of the public in the audience shall not engage in any of the following activities during a Council meeting:

(1) Shouting, unruly behavior, distracting side conversations, or speaking out;

(2) Clapping while another person is addressing the Council;

(3) Defamation, intimidation, personal affronts, threats of violence or profanity; or

(4) Any behavior that disrupts the orderly conduct of the meeting.

2.40.050 Enforcement of Rules of Decorum

(1) The presiding officer requests that a person who is violating a rule cease the violation.

(2) If the violation continues, the presiding officer warns the person that s/he may be required to leave the meeting room if the violation continues.

(3) If the person does not cease the violation and the presiding officer declares the person out of order, the presiding officer shall provide instructions to the City Manager and/or designee(s) to facilitate removal of such person from the meeting room.

Chapter 2.50

2.50 Park and Recreation Commission

Sections:

2.50.010 Establishment

There is established a Park and Recreation Commission which shall act as the Park, Recreation and leisure time service advisory committee. These responsibilities will assist the governing body with the development and maintaining park and recreation land. (Ord. 2022-08)

2.50.020 Local Law Adopted

No other powers are authorized unless specifically provided for by amendment to this ordinance/code.

2.50.030 Membership Regulation

(1) The Commission shall consist of five members; all are voting members and are appointed by the Council as vacancies occur and at the last regular meeting of the year for the filling of expiring terms.

(A) One seat shall be reserved for an elected official serving on the City Council and be the primary liaison.

(2) The voting members shall not be employees of the city.

(3) Members shall be appointed at large from within the City Limits and/or Urban Growth Boundary.

(4) The concurrence of three members of the Commission shall be necessary to decide any questions before the Commission.

(5) A quorum of any three members can conduct a work session.

(6) Commission members shall receive no compensation.

(7) Member relationship to the Mayor and/or City Council and within the Commission will comply with the spirit and intent of Section 17 of the Tangent Charter of 1982.

2.50.040 Terms in Office

The term of a Commissioner will be three years if the appointment is made to fill a regularly scheduled expiration of a term. In the event of a term becoming vacant prior to the term ending date, the position appointment will be for the balance of that term only.

2.50.050 Member Role

The general role of the Park and Recreation Commission shall cover, but not be limited to:

(1) To keep the City Council informed on the status and progress of parks and recreation matters.

(2) To recommend a sound fiscal plan to achieve recreation goals.

(3) To recommend an adequate system of current and future recreation areas and facilities.

(4) To assist in providing stability and continuity to general operations.

(5) To evaluate the services of the parks and recreation system in relation to its objectives.

(6) To recommend policies, plans, and standards for approval of the City Council.

(7) Interpret the policies and functions of the Parks and Recreation Commission to the public.

(9) Prepare a hardscape and maintenance plan for each existing park.

(10) Carry out such other tasks as may be delegated from the City Council.

2.50.060 Vacancies and Removal

(1) A position shall be deemed vacant upon the incumbent’s death, resignation (subject to a three working day reconsideration period), Council removal (after a hearing for just cause), abandonment of the position, or relocation out of the city limits.

(2) A member who is absent for three consecutive meetings, or for 50% of any period of twenty-four months without .an acceptable excuse by the members of the Commission shall be considered to be in nonperformance or abandonment of the position of duty, unless found otherwise by the hearing.

(3) A member who fails to attend a meeting in person at least two meetings in a twelve-month span.

2.50.070 Meetings

(1) Three voting members of the Commission shall constitute a quorum for decision making. A regular meeting will be bimonthly. A work session can be held by any three members. Any two voting members can request and be granted a special meeting in compliance with the Oregon Open Meetings Law.

(2) All meetings held by the Commission will be open to the public. The Commission will have no authority to hold “executive” or other private meetings.

(3) In the absence of a Commission quorum, the City Council shall render any necessary decision. The available Commission members shall sit with the Council and offer suggestions, advice and information, but will have no voting authority.

(4) The Council and the Commission shall schedule at least one joint meeting no later than March 31 and October 31, to make a report of its current year’s accomplishments, present the current year’s work program and budget requests, etc. The Council shall make known its priorities and a joint program of work will be agreed to.

(5) Approval of, and accomplishment of, the previous year’s and current year’s program of work shall be a condition of performance.

2.50.080 Recommendations to the Council

All recommendations to the Council will be in writing and indicate any alternatives that were considered in the process of arriving at the recommendation(s) put forth.

2.50.090 Expenses

The Commission shall have no authority to make expenditures or other monetary agreements on behalf of the city, or to obligate the city for the payment of any sum of money without an approved budget for that purpose. The Council shall approve all grant applications for the city.

2.50.100 Conformity with the Law

This ordinance shall not substitute for or eliminate the necessity for conformity with all laws or rules of the United States or the State of Oregon or their agencies, or in any applicable ordinance rule or regulation of Linn County.

Chapter 2.66

2.66 Procurement

Sections:

2.66.010 Title

The provisions of this ordinance and all rules adopted under this ordinance may be cited as the City of Tangent's "Public Contracting Regulations". (Ord. 2005-08)

2.66.012 Policy

(1) Purpose of Public Contracting Regulations. These regulations are promulgated by the Council as the local contract review City Council ("City Council"), as the governing body and local contract review City Council of the City of Tangent; for the purpose of establishing the rules and procedures for contracts entered into by the City of Tangent. It is the policy of the city in adopting the public contracting regulations to utilize public contracting practices and methods that maximizes 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 specifications and requirements; and

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

(2) Interpretation of public contracting rules. In furtherance of the purpose of the objectives set forth in subsection (1), it is the city's intent that the City of Tangent's public contracting regulations be interpreted to authorize the full use of all contracting powers and authorities described in O.R.S. Chapters 279A, 279B, and 279C. (Ord. 2005-08)

2.66.015 Application of Public Contracting Regulations

(1) In accordance with O.R.S. 279A.025 the city's public contracting regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts:

(A) Between Governments. Contracts between the city and other cities, special districts, the state or any subdivision of the state, counties or an agency of the federal government.

(B) Grants, but not the expenditure of grant funds.

(C) 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.

(D) Real Property. Acquisition or disposal of real property or interests in real property.

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

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

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

(i) 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;

(ii) The making of program loans and similar extensions or advances of funds, aid of 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;

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

(iv) Other predominantly financial transactions of the city that, by their character, cannot practically be established under the competitive contractor selection procedures, as determined by the City Administrator.

(H) Employee Benefits. Contracts for employee benefit plans as provided in O.R.S. 243.105(1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565.

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

(J) Contracts Exempt Under Federal Law. Except as otherwise expressly provided in O.R.S. 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. (Ord. 2005-08)

2.66.020 Authority of City 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 a contracting agency under state law, including, but not limited to:

(1) Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;

(2) Exempt the use of brand name specifications for public improvement contracts;

(3) Approve the partial or complete waiver of the requirement 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 contracts;

(5) Hear properly filed appeals of the City Administrator’s determination of debarment, or concerning prequalification;

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

(7) Award all contracts that exceed the authority of the City Administrator. (Ord. 2005-08)

2.66.025 Authority of City Administrator

(1) General Authority.

(A) Solicitation Agent. The City Administrator is designated as the solicitation agent for all city contracts and concession agreements. The solicitation agent may award individual contracts, for which the contract price does not exceed $50,000, without additional authorization of the City Council; provided there is a current fiscal year budget appropriation; or supplemental budgetary authority from the City Council, with respect to the contract, is approved. For all other contracts the solicitation agent shall conduct the solicitation and make a recommendation to the City Council. The solicitation agent shall award all concession that can be awarded under an informal solicitation or by direct appointment, and shall have authority to award all purchases of surplus property.

(B) Execution and Delivery. The City Administrator has the authority to execute and deliver on behalf of the city all contracts that the City Administrator has the power to award, and all amendments to such contracts. All other contracts and amendments shall be executed by the officer designated by the City Council or designee.

(C) Promulgation of Forms and Materials. Subject to the provisions of this ordinance, the City Administrator 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 City Administrator shall hear all solicitation and award protests.

(2) Delegation of City Administrator's Authority. Any responsibilities or authorities of the solicitation agent or the City Administrator under this ordinance may be delegated and sub-delegated by Council resolution.

(3) Solicitation Preferences. When possible, the City Administrator 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 non-recycled 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 non-recycled products.

(4) Purchasing from City Officials. The City Administrator shall not make any purchase of goods and services from any city official, or any business with which a city employee is associated; except when the purchase is expressly authorized by the City Council; or during a state of emergency. In any situation in which the City Administrator believes that a purchase would cause an appearance of impropriety, regardless of whether the purchase is prohibited by this or any other public contracting code provision, the City Administrator may forward the proposed purchase to the City Council for approval.

(5) Mandatory Review of Rules. Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify the Model Rules, the City Administrator and City Attorney shall review the public contracting regulations, other than the Model Rules, and recommend to the City Council any modifications required to ensure compliance with statutory changes.
(Ord. 2005-08)

2.66.027 Model Rules

The Model Rules adopted by the Attorney General under O.R.S. 279A.065, do not apply to the contracts of the city; except when the City Administrator deems they are necessary to supplement this Ordinance, and then they will apply only to the extent that they do not conflict with the contracting regulations adopted by City Council.

2.66.030 Definitions

(1) “Addendum or Addenda.” Additions or deletions to, material changes in or general interest explanations of the city’s solicitation documents.

(2) “Affected Person.” A person whose ability to participate in a procurement is adversely affected by the city.

(3) “Authorized Representative.” The owner of a sole proprietorship, a partner in a firm or partnership or a person authorized to bind by a corporation’s City Council of directors.

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

(5) “Bid.” A binding, sealed, written offer to purchase surplus property, or provide goods, services or public improvements for a specified price or prices.

(6) “Bid or Proposal Bond/Bid or Proposal Security.” A means of securing execution of an awarded contract.

(7) “Bidder.” An offeror who submits a bid in response to the city’s invitation to bid.

(8) “Closing.” The closing of a solicitation is the end of the period in which bids or proposals may be submitted. The closing date and time must be specified in the solicitation documents.

(9) “City.” City of Tangent, Oregon.

(10) “Concession Agreement.” A contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, goods or services, specified by the City Administrator, 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 A concession agreement does not include a mere rental agreement, license, lease or permit for the use of the premises.

(11) “Conduct Disqualification.” A disqualification pursuant to O.R.S. 279C.440.

(12) “Contract.” See definition for “Public Contract.”

(13) “Contract Price.” The total amount paid or to be paid under a contract, including bonuses, incentives, contingency amounts, approved alternatives, and any fully executed change orders or amendments; if the contractor fully performs under the contract; or the maximum not-to-exceed amount of payments specified in the contract; or the unit price for goods or services or personal services set forth in the contract.

(14) “Contracting Agency.” A public body authorized by law to conduct a procurement and includes persons delegated by the public body to conduct procurements on the public body’s behalf. (O.R.S. 279A.010(B))

(15) “Contractor.” The person with whom the city executes a public contract.

(16) “Cooperative Procurement.” A procurement conducted by or on behalf of one or more contracting agencies.

(17) “Debarment.” A declaration by the Council or City Administrator under O.R.S. 279B.130 or O.R.S. 279C.440 that prohibits a potential contractor from competing for the city’s public contracts for a prescribed period of time.

(18) “Disposal.” Any arrangement for the transfer of property by the city under which the city relinquishes ownership.

(19) “Emergency.” Circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health,

welfare or safety; and requires prompt execution of a contract to remedy the condition.

(20) “Energy Savings Performance Contract.” A contract with a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.

(21) “Findings.” 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.

(22) “Goods and services/goods or services.” Any item or combination of supplies, equipment, materials and services other than personal services designated under O.R.S. 279A.055, or other personal property, including tangible, intangible and intellectual property and rights and licenses in relation thereto.

(23) “Grant contract.” An agreement under which the city is either a grantee or a grantor of money, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets, for the purpose of supporting or stimulating a program or 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 grant conditions. The making or receiving of a grant is not a public contract subject to the Oregon Public Contracting Code; however, the expenditure of any grant received by the city is subject to these regulations and the expenditure of grants made by the city to construct a public improvement or public works project is subject to these public contracting regulations.

(24) “Informal Solicitation.” A solicitation made in accordance with the city’s public contracting regulations in which the solicitation agent attempts to obtain at least three written quotes or proposals.

(25) “Invitation to Bid.” A publicly advertised request for competitive sealed bids.

(26) “Model Rules.” The public contracting rules adopted by the Attorney General under O.R.S. 279A.065.

(27) “Nonresident Bidder” A bidder who is not a resident bidder as defined in this section.

(28) “Offeror.” A person who submits a bid, quote or proposal to enter into a public contract with the city.

(29) “Opening.” The date, time and place announced in the solicitation document for the public opening of written, sealed offers.

(30) “Oregon Public Contracting Code.” O.R.S. Chapters 279A, 279B and 279C.

(31) “Owner.” The City of Tangent, acting through its legally constituted City Council.

(32) “Person.” A natural person or any other private or governmental entity having the legal capacity to enter into a binding contract.

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

(34) “Personal Services.” The services or type of services performed under a personal services contract.

(35) “Procurement.” The act of purchasing, selling, leasing, renting or other acquisition or disposal by the city of goods, services, public improvements, public works and personal property and personal services. Procurement includes each function and procedure undertaken or required to be undertaken by the city to enter into a contract, administer a contract and obtain the performance of a contract under the State Public Contracting Code.

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

(37) “Public Contract.” A sale or other disposal, or a purchase, lease, rental or other acquisition, by the city of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. Public contract does not include grants.

(38) “Public Contract Amendment.” Any change or modification of any term or condition of a contract or any addition or deletion of any term or provision of a contract. Amendments include, but are not limited to change directives, change orders, and any addition, deletion or modification that affects the nature, quantity, degree, or scope of the goods or services or improvements to be provided under a contract or the time of performance or price or that affects any provision concerning the rights or obligations of a party.

(39) “Public Improvement.” A project for construction, reconstruction or major renovation (a renovation that exceeds $50,000) 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 improvement.

(40) “Qualified Pool.” A pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

(41) “Quote.” A price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

(42) “Request for Proposals.” A publicly advertised request for sealed competitive proposals.

(43) “Resident Bidder.” A bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a Aresident bidder@ under this subsection.

(44) “Sole Source.” A sole contract with a vendor who is the only responsible source for the goods, services, or personal services required by the city.

(45) “Solicitation.” 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 Asolicitation@ also refers to the process by which the city requests, receives, and evaluates potential contracts and awards public contracts.

(46) “Solicitation Agent.” With respect to a particular solicitation or contract the staff member charged with the responsibility for conducting the solicitation and making an award, or making a recommendation on award to the City Council.

(47) “Solicitation Documents.” 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.

(48) “Standards of Responsibility.” 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 subsection;

(C) 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 subsection;

(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 non-responsible; and

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

(49) “Surplus Property.” Personal property owned by the city which is no longer needed for use by the city. (Ord. 2005-08)

2.66.040 Transportation Contracts that Exceed $50,000 and All Other Public Improvement Contracts Exceeding $100,000

Except as otherwise provided for in this ordinance, public improvement contracts that exceed $100,000 and transportation project exceeding $50,000, shall use either the competitive bidding or the competitive proposal processes set forth in O.R.S. Chapter 279C and implementing administrative rules. (Ord. 2005-08)

2.66.050 Personal Services Contracts

Personal services contracts are subject to the regulations established by this section. Procedures for the screening and selection of persons to perform personal services:

(1) Any Personal Services Contract. Personal services contracts in any amount may be awarded under a publicly advertised request for proposals in accordance with O.R.S. 279B.060.

(2) Discretionary Award. The following contracts may be awarded under any method deemed in the city's best interest by the City Administrator, including by direct appointment; subject to approval by the City Council when required by this ordinance:

(A) Contracts for which the solicitation agent estimates that payments will not exceed $20,000 in any fiscal year;

(B) Contracts for legal services for the city; and

(C) City engineering contracts.

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

(4) Personal Service Contracts for Continuation of Work. Contracts of not more than $200,000 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 City Administrator determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

(5) $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. (Ord. 2005-08)

2.66.060 Public Contract Exemptions and Process for Approval of Special Solicitation Methods

(1) Authority of the City Council. In its capacity as contract review board for the city, the City Council upon its own initiative, or upon request of the city administrator, 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 an exemption from competition or special solicitation methods must be based upon a record before the City Council that includes 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 that identify the characteristics of the class (such as specialty goods or services; response time, etc.);

(D) 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;

(E) 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 practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;

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

(G) The estimated date by which it would be necessary to let the contract(s). In making a determination regarding a special selection method, the City Council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.

(3) Hearing.

(A) Notice. The city shall approve the special solicitation or exemption after a public hearing before the City Council following notice by publication in at least one newspaper of general circulation in the city. The notice shall be published at least seven days prior to the hearing. The notice shall state that the purpose of the hearing is to consider findings in support of, as applicable:

(i) A special procurement for a single contract or classes of contracts under O.R.S. 279B.085; or

(ii) An exemption from competitive bidding for a single contract or class of contracts under O.R.S. 279C.335

The notice shall describe how copies of the draft findings may be obtained for review prior to the hearing and state that persons who wish to comment on or protest the considered action may appear and present testimony at the hearing.

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

(C) The City Council will consider the findings and may approve the special solicitation or exemption as proposed or as modified by the City Council after providing an opportunity for public comment.

(D) If the City Council approves the special procurement(s) or exemption(s) at the public meeting of the City Council following the hearing, or at a subsequent public meeting of the City Council, no published notice of the approval shall be required.

(4) Public Improvement Contract Exemption Special Requirements.

(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 City Council approves the exemption. If the City 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 canceled. (Ord. 2005-08)

2.66.070 Solicitation Methods for Classes of Public Contracts

The city may encourage meaningful competition through a variety of solicitation methods. The solicitation agent shall choose the solicitation method that is most likely to encourage offers representing optimal value to the city. 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 City Council. However, nothing in this section may be construed as prohibiting the city from conducting a procurement under competitive bidding or competitive proposal procedures.

(1) Small Procurements - Direct Purchase or Appointment. 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 purchase or appointment.

(A) Contracts Up to $5,000. Contracts of any type for which the contract price does not exceed $5,000, may be awarded as a small

procurement. Notwithstanding any other rules or policies of the city, a contract awarded as a small procurement may be amended or re-negotiated without additional competition, with prior approval of the City Administrator if it is advantageous to the city; but the cumulative amendments shall not increase the total contract price to greater than $6,000. A procurement may not be artificially divided or fragmented, so as to constitute a small procurement under this section.

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

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

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

(E) Small Concessions. Concession for which the City Administrator estimates that receipts by the city will not exceed $5,000 in any fiscal year and $50,000 in the aggregate 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.

(F) 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.

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

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

(I) Insurance. Insurance and service contracts as provided for under O.R.S. 414.115, 414.125, 414.135 and 414.145.

(J) Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the city.

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

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

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

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

(O) 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.

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

(Q) 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

(iii) 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.

(R) Used Property. The City Administrator, for procurements up to $50,000 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. There shall be a written record of the purchase.

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

(T) Hazardous Material Removal and Oil Clean-Up. The city may acquire services to remove or clean up hazardous material or oil from any

vendor when ordered to do so by the Oregon Department of Environmental Quality pursuant to its authority under O.R.S. Chapter 466.

(2) The following classes of contracts may be awarded using the informal solicitation procedures in Section 2.66.090 of these regulations. A procurement may not be artificially divided or fragmented, so as to constitute an intermediate procurement under this section.

(A) Public Improvement Contracts.

(i) Non-Transportation. 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 exceeds $5,000, but does not exceed $100,000, may be awarded using an informal solicitation for quotes. Contracts in excess of $100,000, unless approved for a special exemption, shall be issued in accordance with the provisions of O.R.S. 279C;

(ii) Transportation. Public Improvements up to $50,000. Contracts for which the estimated contract price exceeds $5,000, but does not exceed $50,000, for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes. Contracts in excess of $50,000, unless approved for a special exemption, shall be issued in accordance with the provisions of O.R.S. 279C;

(iii) Requests for a price quotation for a public works projects estimated to exceed $25,000 shall include the Bureau of Labor and Industries (BOLI) provisions regarding the prevailing wage.

(iv) If the estimated cost is less than $25,000 but all price quotations equal or exceed $25,000 then the solicitation shall be cancelled and a new request for written price quotations containing the BOLI provisions regarding prevailing wages, shall be included.

(v) Use of Existing Contractors. When a public improvement is in need of minor alteration, repair or maintenance at or near the site of work being performed by another city contractor, the city may hire that contractor to perform the work provided:

(a) The contractor was hired through a competitive selection process permitted by these regulations:

(b) The solicitation agent first obtains a price quotation from the contractor that is competitive and reasonable or based on unit prices in the current contract;

(c) Any prevailing wage requirements are complied with; and

(d) A change order is issued for the work.

(B) Contracts for Goods and Services Exceeding $5,000. The procurement of goods or services, for which the estimated contract price exceeds $5,000, but not exceeding $150,000, may be awarded under an informal solicitation for either quotes or proposals. Public contracts for good or services in excess of $150,000 shall be let in accordance with the provisions of O.R.S. 279B.

(C) Intermediate and Major Concessions. For Concession Agreements for which receipts by the city exceed $5,000 in a fiscal year or $50,000 in the aggregate, and the concessionaire's projected annual gross revenues are estimated to be $500,000 or less; the City Administrator 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. Major 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.

(3) 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 may be approved by the City Council if 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 11, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the city's public contracting regulations.

(4) The city shall purchase goods, services and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of O.R.S. 279.835 through 279.850.

(5) Emergency Procurements.

(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 a substantial risk of loss, damage or interruption of services; or a substantial threat to property, public health, welfare or safety, the official may execute the contract without competitive selection and award or city approval; but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(B) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the City Administrator or City Council has made a written declaration of emergency. Any public improvement contract awarded under emergency conditions must be awarded within 60 days following the declaration of an emergency, unless the City Council grants an extension of the emergency period. All such contracts, whether or not signed by the contractor, shall be deemed to contain a termination for convenience clause permitting the city to immediately terminate the contract at its discretion and, unless the contract was void, the city shall pay the contractor only for work performed prior to the date of termination plus the contractor's unavoidable costs incurred as a result of the termination. In no event will the city pay for anticipated lost profits or consequential damages as a result of the termination. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the City Administrator or City Council may waive the requirement for all or a portion of required performance and payment bonds.

(C) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, document the nature of the emergency; and for good or services contracts, describe the method used for the 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 notify the City Council of the facts and circumstances surrounding the emergency execution of the contract.

(6) Surplus Property.

(A) Disposal of Property with Minimal Value. Surplus property which has a value of less than $500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the estimated value of the item and the manner of disposal.

(B) 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 manner of disposal, including the name of the person to whom the surplus property was transferred.

(i) By publicly advertised auction to the highest bidder.

(ii) By public advertised invitation to bid.

(iii) By donation to any non-profit cause or organization operating within or providing a service to residents of the city.

(iv) Without competition, by transfer or sale to another public agency.

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

(vii) By trade-in, in conjunction with acquisition of other price-based item under procurement. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.

(C) 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.

(D) 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 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 City Administrator.

(E) 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.

(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 by the City Administrator, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

(7) Federal and State 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") and/or the Oregon Department of Administrative Services ("DAS") as provided in this subsection.

(A) The procurement must be made in accordance with procedures established by GSA or DAS for procurements by local governments, and under purchase orders or contracts submitted to and approved by the City Administrator with a copy of the letter, memorandum or other documentation from GSA establishing permission to the city or 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 or DAS.

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

(D) If a single purchase 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 or DAS 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 enforcements purposes.

(8) Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code, O.R.S. 279A.200 - 279A.225.

(9) Report to City Council on Non-Bid Public Projects.

(A) Upon completion of and final payment for any public improvement contract, or class of public improvement contracts described in O.R.S. 279A.050 (3) (b), in excess of $100,000; for which the city did not use the competitive bidding process, city staff shall prepare and deliver to the City Council an evaluation of the public improvement project, or class of public improvement contracts. The evaluation shall include but not be limited to the following matters:

(i) The actual project cost as compared with original project estimates;

(ii) The amount of any guaranteed maximum price;

(iii) The number of project change orders issued by the owner;

(iv) A narrative description of successes and failures during the design, engineering and construction of the project; and

(v) An objective assessment of the use of the alternative contracting process as compared to the findings required by O.R.S. 279C.335.

(B) Evaluations required by this section must be made available for public inspection, and be completed within 30 days of the date the contracting agency accepts:

(i) The public improvement project; or

(ii) The last public improvement project if the project falls within a class of public improvement contracts. (Ord. 2005-08)

2.66.080 Sole Sources

(1) Determination of Sole Source. A determination of sole source may be made by the City Administrator based upon written findings that demonstrate that the contractor is a sole source, and that alternative goods, services or personal services would be unsatisfactory for the city’s needs based on factors that may include any of the following:

(A) A record that no qualified vendors responded to a notice issued in accordance with subsection B;

(B) A written statement from a manufacturer established as a sole source that the product is only available to the city from a single point of sale;

(C) Written evidence that the contract is for a patented product and that the proposed vendor is the exclusive holder of a right to sell the product;

(D) Records of research that demonstrate that only one suitable source for the goods or service exists and that alternate goods or services do not meet the city's requirements, including, without limitation, that efficient utilization of existing goods requires the acquisition of compatible goods or services; or

(E) A statement that the goods or services are for use in a pilot or experimental project.

(2) Manner of Notice. The record that a contractor is a sole source may be established if no qualified alternative sources responded to a public notice of the city's requirements. The notice shall be published at least five business days before contract execution and shall:

(A) Describe the goods, services, or personal services sought;

(B) State the estimated amount of the contract;

(C) Request statements of ability to provide the identified goods, services or personal services from vendors who are qualified to compete for the contract; and

(D) State that if no responses are received from qualified vendors within the time period specified in the notice, the purchasing manager will proceed with a sole-source award.

(3) Method of Selection. Sole source contracts may be awarded pursuant to direct negotiation with the sole source contractor, without competitive solicitation. (Ord. 2005-08)

2.66.090 Informal Solicitation Procedures and Qualified Pools

When authorized by these regulations the city may use the following procedures for informal solicitations, and a contract may be awarded using the informal solicitation procedures described in this section.

(1) Record of Contract Requirements and Evaluation Criteria. The solicitation agent shall make a written record of the contract requirements and criteria upon which the award will be based before conducting the solicitation. This record shall be used to provide all potential offerors with the same information concerning the contract requirements and the manner in which their offers will be evaluated.

(2) Contact with Potential Offerors. The solicitation agent request for quotes or proposals may be by general or limited distribution to a certain group of vendors, by direct inquiry to persons selected by the solicitation agent, or in any other manner that the solicitation agent deems suitable for obtaining a sufficient number of competitive quotes or proposals.

(3) Number of Offers. The solicitation agent shall attempt to obtain at least three responsive quotes or proposals from offerors who are qualified to perform the contract unless three offers cannot be reasonably obtained. If fewer than three quotes or proposals are reasonably available, fewer will suffice, but the solicitation agent shall make a record of the efforts made to obtain the offers. (O.R.S. 279B.070; § 133, Chapter 794, Oregon Laws 2003)

(4) When Written Solicitation Required. The request for offers and the receipt of offers shall be made in writing in the following cases:

(A) Contracts for Goods, Services or Personal Services. If the estimated contract price will exceed $75,000, the solicitation agent shall request written quotes or proposals using a written description of contract requirements and award criteria.

(B) Contracts for Public Improvements. The solicitation agent shall request written quotes for all public improvement contracts, and shall present the description of contract requirements and award criteria using written materials unless the information can be given by other means in a conference or oral presentation at which all potential offerors are present and have an opportunity to ask questions. Notwithstanding the foregoing sentence, when soliciting quotes for a public works project, the solicitation agent must deliver all written materials, including written copies of the prevailing wage rates required by the Bureau of Labor and Industries.

(5) Basis for Award. Selection of contractors for goods, services and personal services shall be based on the quote or proposal that is most advantageous to the city. The selection criteria for public improvement contracts shall be based on quotes but may include a consideration of, and ranking of other factors in addition to, price, such as experience, specific expertise, availability, project understanding, contractor capacity, responsibility and similar factors. The solicitation agent shall make a written record of all offerors, the prices quoted and, if the award was made on a basis other than price, a record of the evaluation of each offer and the basis for award.

(6) Discussions and Negotiations. The solicitation agent may discuss the solicitation requirements for any type of informal solicitation with potential offerors and may discuss a quote or proposal with an offeror to clarify its quote or proposal or to effect modifications that will make the quote or proposal responsive to the solicitation requirements. Except for solicitations involving

public improvements, after all initial quotes have been received and recorded, the solicitation agent may negotiate with an offeror to effect modifications that will make the quote or proposal more advantageous to the city. The solicitation agent may not disclose the price offer or terms of one offeror to another during discussions prior to contract award.

(7) Amendment. A contract awarded using an informal solicitation may be amended only as provided in these regulations.

(8) Qualified Pools.

(A) Purpose of Qualified Pools. In lieu of prequalification on a contract-by-contract basis, the city may establish qualified pools that can be used on a continuous basis for the selection of contractors when direct appointment or informal solicitation is otherwise authorized by these regulations.

(B) Creation of Qualified Pool. To create a qualified pool, the City Administrator 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.

(C) Advertisement. The invitation to participate in a qualified pool shall be advertised, at the discretion of the solicitation agent, by publication in a newspaper of general circulation in the Tangent area, by electronic publication as permitted in these regulations or by any other method that the solicitation agent deems desirable to develop a sufficient pool of qualified vendors. The advertisement shall be made at the time of initial formation and whenever the qualified pool contract is subject to re-opening or renewal. If the pool is open to entry at any time, and is continuously advertised on the city's website, no additional advertisement shall be required.

(D) Qualification for Participation. A qualified pool shall be open for entry not less than once in each three years. Standards for participation in a qualified pool may include the applicant's financial stability, contracts with manufactures 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. The city may also require, as a condition to participation, that the applicant furnish additional materials such as proof of licensure, insurance, insurance endorsements to protect the interests of the city, material concerning performance and fidelity bonds, and that the applicant agree to the terms and conditions of participation in the qualified pool. The

qualifications for participation in each qualified pool shall be set forth in writing, but may be changed at any time, provided that all participants are notified of the change.

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

(F) Use of Qualified Pools. The solicitation agent may use a qualified pool to make direct appointments as authorized in these regulations or to obtain quotes or proposals for an informal solicitation, but shall not be limited to selection from a qualified pool. Participation in a qualified pool shall not entitle any participant to the award of a city contract.

(G) Amendment and Termination. The solicitation agent 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.

(H) Protest of Failure to Qualify. The solicitation agent shall notify any applicant who fails to qualify for participation in a pool that it may appeal the solicitation agent's decision to the City Administrator in the manner described in Section 2.66.120. (Ord. 2005-08)

2.66.095 Requirements for Invitations to Bid and Requests for Proposals

Unless otherwise provided in these regulations, all formal bids and proposals made to the city shall:

(1) Be in writing;

(2) Be filed with the solicitation agent before the closing. Any offer received after the closing is late. An offeror's request for withdrawal or modification of an offer received after the closing is late. The city shall not consider late offers or late modification of an offer or late withdrawal of an offer;

(3) Be opened publicly by the city at the date, time and place designated in the solicitation. (Ord. 2005-08)

2.66.097 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 make, 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 City Administrator. The City Administrator shall have authority to determine whether an exemption for the use of specific brand name specification should be granted by recording findings that support the exemption based on the provisions of Section 2.66.097 (1)

(3) Brand Name of Equivalent. Nothing in this Section 2.66.097 prohibits the city from using a Abrand 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. (Ord. 2005-08)

2.66.100 Bid, Performance and Payment Bonds

(1) Solicitation Agency 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 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, 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 City Administrator may permit the successful offer 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 $100,000 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 O.R.S. 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 the solicitation documents, and shall be in a form approved by the City Administrator.

(8) Emergencies. In cases 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 Section 2.66.060(5), unless the City Council requires otherwise. (Ord. 2005-08)

2.66.110 Electronic Advertisement of Public Contracts

In lieu of publication in a newspaper of general circulation in the city area, the advertisement for an invitation to bid or request for proposals for any type of public contract 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 project 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 area and will provide costs 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 area in encouraging meaningful competition. (Ord. 2005-08)

2.66.120 Protests and Appeals

(1) Protests of Solicitation Procedures.

(A) Protests Generally. A prospective offeror for a public contract may file a protest with the city if the prospective offeror believes that the procurement process is contrary to law or that a solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name. If a prospective offeror fails to timely file such a protest, the prospective offeror may not challenge the contract for any of the foregoing reasons in any future legal or administrative proceeding.

(B) Exception of Special Procurements. The procedures for a contract-specific special procurement approved by the City Council may not be protested, challenged or reviewed unless the approval of the special procurement by the City Council has been invalidated by a reviewing circuit court under O.R.S. 279B.400.

(C) Time for Submission of Protest. Protests of a Solicitation shall only be considered when presented to the City Administrator in writing in accordance with the following timelines.

(i) Protests shall be submitted in writing, not less than five days prior to the solicitation closing unless the solicitation period is shorter than seven days, in which case the solicitation documents shall recite another protest deadline that allows a period of at least one business day after the issue date of the solicitation to submit protest; and

(ii) Protests not asserted or not properly asserted within these timelines shall be deemed waived by the protester.

(D) Identification of Protest. It is the protester's responsibility to ensure that the protest is received by the city within the stated timelines. The protest should be delivered in an envelope that is clearly marked with the protester's name and sufficient information to identify the solicitation being protested, identified as a protest, and directed to the person identified in the solicitation documents for receipt of protests. Faxed protests may not be accepted.

(E) Eligibility for Consideration. The City Administrator shall consider the protest if the protest is timely filed and contains the following:

(i) Sufficient information to identify the solicitation that is the subject of the protest;

(ii) The grounds that demonstrate how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name;

(iii) Evidence or supporting documentation that supports the grounds on which the protest is based; and

(iv) The relief sought.

(F) Form of Decision. If the protest is timely submitted and contains the required information, the City Administrator shall consider the protest and issue a decision in writing. Otherwise, the City Administrator shall promptly notify the prospective protesting offeror that the protest is untimely or that the protest failed to meet the requirements of Section 2.66.120(1)(A) and gives the reasons for the failure.

(G) Time of Decision. The decision of the City Administrator shall be the final determination of the city on the protest.

(H) Finality of Decision. The decision of the City Administrator shall be the final determination of the city on the protest.

(I) Delay of Solicitation Closing. If the city receives a protest from an offeror in accordance with Section 2.66.120(1)(A), the City Administrator may in his or her discretion extend the date of solicitation closing if the City Administrator determines an extension is necessary to consider the protest and, if necessary, to issue addenda to the solicitation documents or otherwise cancel the solicitation.

(2) Protest of competitive range decisions and contract awards.

(A) Delay of Evaluation or Award. The City Administrator will not proceed with a subsequent tier or evaluation, or award a contract under an invitation to bid or request for proposals, until the period of time for filing a protest of competitive range determination, or award, as applicable, has expired, and the City Administrator has responded to all timely filed protests of aggrieved offerors.

(B) Definition of Aggrieved Offeror. An offeror is an aggrieved offeror only if the person is one to whom a notice of selection of a competitive tier or notice of intent to award has been, or should have been, sent and such person has been erroneously denied the award of a contract, or has been erroneously eliminated from competition because:

(i) All higher-ranked offers were non-responsive or all higher-ranked offerors clearly failed to meet the standards of responsibility;

(ii) The evaluation of offers was not conducted in accordance with the criteria or processes described in the solicitation documents;

(iii) The evaluator abused its discretion in disqualifying the protestor’s offer as non-responsive or as failing to meet the standards of responsibility; or

(iv) The evaluation of offers or subsequent determination of award was otherwise made in violation of the Oregon Public Contracting Code or these regulations.

(C) Filing of Protests. Unless a longer or shorter time period is provided in the solicitation documents, an aggrieved offeror shall have five days after the date of issuance of the notice of intent to award, and three days, if mailed, or 72 hours, if issued electronically after a notice of competitive range determination, to submit to the City Administrator a written protest of the matter described in the award. The written protest must specify the grounds upon which the protest is based, demonstrate the basis for the

protestor's status as an aggrieved offeror, and include an electronic or postal address at which the protestor will receive the City Administrator's response. Notwithstanding the foregoing, the period of protest may not be shorter than five days after the date of notice of award, unless the City Administrator determines that the immediate execution of a contract is necessary to avoid a loss of funding for the contract or that further delay in execution will result in injury, property damage or other serious adverse consequences.

(D) Authority to Resolve Protests. The City Administrator shall consider a written protest and issue a written decision on the protest. The City Administrator may not consider a protest that is filed in an untimely manner or that fails to allege facts that would support a finding that the protestor is an aggrieved offeror. The decision of the City Administrator shall be the final decision of the city on the protest.

(E) Delay of Award; Cancellation of Solicitation. If the city receives a protest from an offeror in accordance with Section 2.66.097(2) the City Administrator shall not submit the contract for execution until the protest is resolved. In addition, the City Administrator shall have discretion to delay or cancel an award or a solicitation in response to a protest, regardless of the final decision on the protest and may, but shall not be required to, reissue the solicitation, if the City Administrator determines that such action best serves the city's interests.

(3) Appeal of Debarment or Prequalification Decision.

(A) 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 City Council as provided in Section 2.66.097.

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

(C) Notification of City Council. Immediately upon receipt of such notice of appeal, the City Administrator shall notify the City Council of the appeal.

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

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

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

(iii) At the hearing, the City 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.

(E) Decision. The City Council shall set forth in writing the reasons for the decision.

(F) Costs. The City Council may allocate the City Council's costs for the hearing between the appellant and the city. The allocation shall be based upon facts found by the City Council and stated in the City Council's decision that, in the City Council's opinion, warrant such allocation of costs. If the City 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. (Ord. 2005-08)

2.66.130 Public Contract Amendments

(1) Writing and Signature Requirements. No amendment will be binding on the city unless set forth in writing and signed by an official who is duly authorized to bind the city in the manner described by the amendment.

(2) Amendments that Increase Price. Except in connection with a contract renewal or extension, no contract may be amended to increase the contract price unless the increase is directly related to an increase in the quantity or types of goods or services to be provided, a betterment in the quality of goods or materials to be provided, or to compensate the contractor for delays occurring after the execution of the contract for which the city is responsible. Amendments that increase the contract price are further limited as follows:

(A) Price Established by Contract. Amendments that increase the quantity of goods or services to be provided under the contract and for which unit prices were established in the original contract (for example, by weight, volume, itemized equipment price lists, or hourly fees) shall be permitted without limitation.

(B) Price Not Established by Contract. Amendments that increase the contract price and that are not described in Section 2.66.080(1)(A) may not, in the aggregate, increase the total amount to be paid under the contract by more than10% of the original contract price unless approved in advance by the City Council.

(C) Contracts Issued under Price-Based Solicitation. Except in an emergency, or under a waiver approved by the City Council, a contract awarded under a solicitation method based on contract price may not be amended if the resulting contract price would exceed either of:

(i) The limitations on amendment under Section 2.66.080(1)(A) and (B) as applicable; or

(ii) 125% of the maximum contract price for the class of contracts under which the solicitation was conducted.

(iii) The time of performance under a contract, or the term of an expiring contract, may not be extended by amendment except as provided in the original contract or on a temporary basis as provided in Section 2.66.060. (Ord. 2005-08)

Chapter 2.70

2.70 Setting of Fees for Certain Planning and Land Use Regulatory Matters

Sections:

2.70.010 Title

This chapter shall be called the Setting of Fees for Certain Planning and Land Use Regulatory Matters.

2.70.020 Fees and Charges Listed

- The following fees and charges shall be set by the City Council and adjusted in accordance with Chapter 2.77 from time to time:
- Administrative review for siting of dwelling in EFU Amendment Comp Plan Map
- Amendment Zoning Map Annexation
- Authorization of similar use Appeal of staff determination Commission Decision
- Comp Plan Text Change Conditional Use Permits
- Appeal of Council or Planning Determining Status of a Non-Conforming Use or Change of Use Final Subdivision Plan
- Final Major Partition Map Historic Structure Application Interpretation Fee
- Lot Line adjustment Lot Line consolidation
- Planned Unit Development Pre-application conference PUD Amendment
- Right of way permit
- Site Plan Review (+ cost of development) Street/Alley Vacation Report
- Tentative Major Partition Map
- Tentative Subdivision Plan Variance
- Zoning ordinance text change Interim Measure 37

(Ord. 2007-04)

2.70.030 Deposit Required

The deposit shall be paid at the time of application. Upon final action on the application, including resolution of all appeals to the final review authority of the city, the city will either reimburse or bill the applicant in the amount of the difference between the deposit on file and the actual costs incurred by the city in the course of its investigation, review and final action upon the application. Upon the filing of an appeal of the initial decision, the applicant shall pay a second deposit in the same amount within seven days of the

filing of the appeal or the initial decision, if for approval, shall be void. Except for purposes of appeal to the Council, no decision shall take effect until all application costs billed to the applicant have been paid. (Ord. 1985-02)

2.70.033 Deposit Refunded

Any excess amounts not expended shall within 60 days completion of the conditions of approval or denial of the application, be refunded to the applicant. (Ord. 2004-04)

2.70.035 Obligation to Pay for Full Cost of Application

City staff and consultant shall keep their time spent on each application and the City Administrator is authorized and directed to require each applicant for any of the services set forth above to agree that, as a condition of receipt of the application, any cost above those set forth in this ordinance shall be due and payable to the city within 15 days of notice thereof and late fees will be charged in accordance with city policy if payment has not been received on the due date. The city shall bill monthly for actual time incurred by the Planner, Engineer, and/or Attorney on each application and add 2 of the overhead cost on the first billing and the other half on the final billing or after six months if the billing is still active; and the city shall adjust these fees as an interim to a more formal study annually to reflect the Portland CPI percentage change as of January 1 of each year. (Ord. 2004-04)

2.70.040 Delinquent Payments, Penalty

(1) In the event of failure to pay any fees or charges imposed by this ordinance within 30 days of the billing date, interest shall accrue on the unpaid balance at a rate of one and one-half percent (1.12%) per month until paid. (Ord. 1990-02)

(2) In the event of failure to pay any fees or charges imposed by this ordinance within 30 days of the final resolution of the application, the City Council may direct the City Recorder to enter a lien for the amount due on the City Lien Docket. Such lien shall have priority over all existing liens and be collectible in the manner provided by O.R.S. 223.205 to 223.290, or as otherwise provided by City Ordinance or State Law. (Ord. 1990-02)

2.70.050 Severance

If any portion of this chapter is held unlawful or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate district and independent portion to be severed, and the remainder of the ordinance shall continue to be in effect.

Chapter 2.77

2.77 Setting of Fees and Cost of Living Increases

Sections:

2.77.010 Title

This ordinance shall be known as ANNUAL COLA (Cost of Living) Ordinance.
(Ord. 2008-01)

2.77.020 COLA Review with CPI (Consumer Price Index)

An Annual COLA Review using the Western Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for West-B/C, published by the United States Department of Labor, Bureau of Labor Statistics will be included as an agenda item at a regular council meeting held in the spring of each year, with any changes resulting therefrom to be Effective July 1st. At the Annual Cola Review, the Council review revenues and expenditures to determine whether:

(1) The COLA formula reflects actual cost increases experienced by the city;

(2) Whether new fees, charges or expenditures adopted during the prior year should be adopted through the application of COLA formulas; and

(3) COLA formulas based on particular indices are appropriate.

If at the Annual Review the Council determines that a particular fee, charge or expenditure is not appropriately modified by an adjustment, the Council may remove the particular fee, charge or expenditure from the list of fees, charges or expenditures to which the COLA is applied. Otherwise, the fees, charges or expenditures identified in this ordinance and amendments thereto shall automatically adjust each July 1, and the adjusted fees, charges, or expenditures identified in this ordinance and amendments thereto shall be used for budgeting purposes for the next fiscal year.
(Ord. 2005-06, Ord. 2008-01, Ord. 2018-01)

2.77.030 Procedure

In the event a fee, charge or expenditure is enacted in the period prior to each Annual COLA Review, the COLA adjustment for that particular fee, user charge or expenditure will be based on the same measure as applied other fees, charges, or expenditures unless taken from the list by the City Council as not appropriate for a COLA adjustment. (Ord. 2008-01)

2.77.040 Amendments

The following ordinances and resolutions are hereby amended by the provisions of this ordinance to allow for the use of a COLA index to adjust fees:

(1) Resolution No. 2004-06, Adoption of Wastewater User Charge;

(2) Resolution No. 2004-07, Establishing a Stormwater Utility User Charge;

(3) Resolution No. 2004-15, Creating a Park Maintenance and Restoration Fee;

(4) Resolution No. 2004-19, Adoption of a Sewer Connection Fee;

(5) Ordinance No. 2004-04, Setting out Land Use Fees/Deposits;

(6) Resolution No. 2004-16, Creating a Wastewater Systems Development Charge;

(7) Resolution No. 1991-14, Establishing a Transportation and Drainage System Development Charge; and

(8) Resolution No. 1994-15, Establishing a System Development Charge for Capital Improvements Relating to Parks.

The following ordinance is hereby repealed in its entirety: Ordinance 2005-02. (Ord. 2008-01)

2.77.050 Fees, Charges and Expenditures Affected

The following fees, charges and expenditures are affected by this chapter:

(1) Fees/Charges:

(A) Wastewater use charges;

(B) Stormwater utility user charges;

(C) Parks maintenance and restoration fees;

(D) Sewer connection fees;

(E) Land use fees/deposits;

(F) Wastewater system development charges;

(G) Transportation system development charges;

(H) Drainage system development charges;

(I) Parks capital development system development charges; and

(2) Expenditures: Employee salary adjustments.

2.77.060 Severance

If any portion, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid through an as-applied or facial challenge, such a decision shall not affect the validity of the remaining portions of this Ordinance or the Tangent Municipal Code. (Ord. 2008-01, Ord. 2018-01)

Chapter 2.88

2.88 Initiative and Referendum Procedures

Sections:

2.88.010 Initiative and Referendum Procedures

(1) The City of Tangent shall refer city tax measures to the voters of the city for their approval or rejection; and

(2) The City of Tangent shall refer city general obligation bond measures to the voters of the City of Tangent for their approval or rejection; and

(3) It is further ordained by the City Council of the City of Tangent: That if and when a city tax base is adopted, matters dealing with such city tax base shall be exempt from the provisions of this ordinance and shall be governed by state law; and

(4) The provisions of this ordinance do not extend to licensing, regulatory or administrative fees imposed by the City of Tangent. (Ord. 1989-08)

Chapter 2.99

2.99 Private Property Compensation Claims

Sections:

2.99.010 Purpose

The purpose of this ordinance is to:

(1) Create a process for the evaluation of claims for regulatory takings filed pursuant to the provisions of Ballot Measure 37 (2004-01).

(2) Enable persons with claims for compensation based on a reduction in real property value an adequate and fair opportunity to present and resolve them in a timely, efficient, and consistent manner. (Ord. 2006-10)

2.99.020 Definitions

For the purpose of this section the following terms, phrases, words and their derivations shall have the meaning given in this section. If not defined there, the words shall be given their common and ordinary meaning:

(1) “Affected property” is private real property or an interest in private real property claimed to be reduced in value because of a land use regulation.

(2) “Claim” means a written demand for compensation required to be made by an owner of real property under Ballot Measure 37.

(3) “Family member” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the affected property, an estate of any

of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the affected property.

(4) “Land use” means a physical improvement on real property related to use of the land or an activity which is conducted on real property such as residential use, commercial use, industrial use, community service use, farm use or forest use.

(5) “Land use regulation” includes:

(A) Any statute regulating the use of land or any interest therein;

(B) Administrative rules and goals of the Land Conservation and Development Commission;

(C) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

(D) Statutes and administrative rules regulating farming and forest practices; and/or

(E) Any intergovernmental agreement or urban growth boundary agreement that affects the use of land.

(6) “Owner” is the present owner of the affected property or the holder of any interest therein.

(7) “Public Entity” shall include the state, a metropolitan service district, a city or a county. (Ord. 2006-10)

2.99.030 Compensation

(1) The city hereby establishes a process for an owner to receive compensation for the reduction in value of affected property as a result of the enactment, application or enforcement by the city of land use regulations, if those land use regulations were adopted after the owner acquired the affected property and those land use regulations are not exempt regulations as that term is used in Section 2.99.110, below. (Ord. 2006-10)

(2) A claim filed pursuant to this section shall be considered ripe for submission when a claimant produces evidence of a land use decision that denies or conditions an approval for a use on the subject property, or citation or denial of building permit or other approval that meets the test of this section for validity of a claim. The simple existence of a current land use regulation, without some affirmative enforcement thereof by the city, is not sufficient to satisfy this application requirement. (Ord. 2006-10)

2.99.040 Notice of Claim

(1) Notice of claim for just compensation under this section must be a written communication from the owner of an affected property filed with the City Administrator. The notice of claim must include:

(A) Name, address and telephone number of person(s) filing claim.

(B) Names and addresses of all property owners and all persons who hold a security interest in the affected property. If the property owner claims a right to compensation based on ownership of the property by one or more of the persons listed in Section 2.99.020(3), above, then the claim shall include a statement that identifies the relationship(s) and the date(s) of ownership.

(C) Legal description and street address of affected property including contiguous units of property under the same ownership.

(D) Copy of the deed(s) transferring the subject property to the claimant.

(E) Preliminary title report, dated not more than 30 days before the date the claim is filed, from a title insurance company licensed in Oregon showing the current ownership interests in the property.

(F) Citation to the city land use regulation enacted, applied or enforced that the property owner claims is the cause of the reduction in value of the affected property; including the date the regulation was adopted, applied or enforced on the affected property.

(G) Identification of the proposed use(s) that have been restricted by the adopted regulation described in subsection (1)(E).

(H) Amount the property owner claims as a reduction in value of the affected property as a result of the enactment, application or enforcement of the identified land use regulation with respect to the proposed use of the property, supported by a written appraisal by a qualified appraiser. The appraisal must include a determination of the fair market value of the property prior to the enactment, application or enforcement of the identified land use regulation, an estimate of the fair market value of the property after the enactment, application or enforcement of the identified land use regulation, and an estimate of the fair market value of the property if the identified land use regulation is not applied to the affected property. If more than one regulation is the basis for the claimed reduction in value, the appraisal must include an estimate of the percentage of the reduction in value that is attributable to each identified regulation.

(I) Statements explaining why the property owner believes the identified regulation is not an exempt regulation as provided for in Section 2.99.110 below.

(J) Any exempt regulation, known to the claimant that may apply to the affected property, whether or not those exempt regulations affect the fair market value.

(K) A list of other public entities that may be subject to claims based on the same regulation, if known.

(L) A statement by the claimant identifying the preferred resolution of the claim (e.g., whether the claimant prefers compensation, waiver or modification of the regulation).

(M) Copies of any leases or covenants, conditions and restrictions (CC&Rs) that apply to the property.

(2) A notice of claim must be accompanied by a fee to be paid in advance of acceptance for filing to cover the costs of completeness review and application processing. The fee shall be established by the Council in accordance with the Annual Cost of Living Increase, Chapter 2.77. If the city's costs in reviewing the claim is less than the fee amount, then the balance shall be refunded to the claimant. Additional costs incurred by the city in reviewing the claim will be billed to the claimant. Failure to pay any additional costs will result in a lien being placed upon the property for which the claim was filed. The application fee shall be refunded when an appellate body enters a final judgment in favor of the claimant.

(3) Claims for compensation from land use regulations enacted prior to November 2, 2004 must be made within two years of November 2, 2004, or the date the city applies the land use regulation as an approval criterion to an application submitted by the owner of the affected property, whichever is later. For claims arising from land use regulations enacted after November 4, 2004, a notice of claim must be made within two years of the enactment of the land use regulation, or the date the owner of the affected property submits a land use application in which the identified land use regulation is an approval criterion, whichever is later. (Ord. 2006-10)

2.99.050 Continuation Request

The claimant may request a continuation to obtain any and all information necessary to obtain a completed notice of claim. The continuance must be requested in writing and shall be granted for no longer than 180 days. (Ord. 2006-10)

2.99.060 Claims Review Procedures

Claims shall be processed as follows:

(1) Upon submission of a claim form, the City Administrator will date-stamp the claim and verify that the claim fee has been submitted. The City Administrator will then review the claim and evaluate whether the claim is complete. After reviewing the claim, the City Administrator may request additional information or materials where useful to address claims criteria, including appraisals; market studies; feasibility studies; environmental assessments or similar studies relating to the property.

(2) After the City Administrator concludes that the claimant has provided adequate information to support the claim, the Administrator shall schedule a hearing before the City Council, where the Council shall make the final determination as to the validity of the claim and the remedy to be provided. Notice of the hearing shall be provided to owners of property located within 250 feet of the affected property and to the Department of Land Conservation and Development, if the claim involves a property that also has a claim pending before the Land Conservation and Development Commission. At the hearing, the Council will consider testimony from interested persons as to whether the claim is valid and whether the Council should waive or modify the identified land use regulation or compensate the owner.

(3) A decision to award compensation or waive the applicable land use regulations shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property.

(4) None of the claims review procedures described in this section shall preclude the city from entering into an alternative dispute resolution process to resolve the claim. If the city enters into a settlement agreement regarding the claim, the settlement agreement shall be subject to notice and hearing as provided in Section 2.99.060(2) above. Testimony at the hearing shall be limited to the merits of the settlement agreement. (Ord. 2006-10)

2.99.070 Joinder of Parties and Related Causes of Action

(1) If the City Administrator determines that other public entities may be liable in whole or in part for the reduction in value claimed, the City Council may

authorize the joinder of those public entities in order to resolve the claim pending before the city.

(2) Owners of property affected by a claim for waiver or modification of a land use regulation, other than claimant, may file an action in circuit court against the claimant if a city decision to waive or modify a land use regulation has the effect of reducing property values. If the owners of property affected by the waiver or modification prevail in the action, then those owners are entitled to recover attorney's fees and costs. (Ord. 2006-10)

2.99.080 Payment of Compensation

Approval to pay compensation under this section does not constitute an appropriation to pay compensation. Action to appropriate payment for compensation must be taken pursuant to state budget law and applicable City of Tangent ordinances.
(Ord. 2006-10)

2.99.090 Record Keeping

(1) The city shall keep a central record of all claims made hereunder and the disposition thereof. Specific notation shall be made on the comprehensive plan and zone maps of the existence and extent of any waiver or modification granted under this chapter. The city shall provide basic information on the filing and disposition of all claims at any central repository established to track Measure 37 claims.

(2) In the event a claim is determined to be valid, and the remedy granted is waiver or modification of a land use regulation, the Linn County Tax Assessor shall be notified of the change in use. (Ord. 2006-10)

2.99.100 Status of Property after Approval

Status of property after approval of waiver or modification of land use regulation(s). The grant of a waiver or a modification to a land use regulation pursuant to this section shall not permit use of the property inconsistent with the terms of the waiver or modification. A waiver or modification of a land use regulation shall be treated as a nonconforming use after the property is transferred to a new property owner. (Ord. 2006-10)

2.99.110 Exemptions

The provisions of this chapter do not apply to land use regulations that:

(1) Restrict or prohibit activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of finding compensation under this ordinance.

(2) Restrict or prohibit activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulation, solid or hazardous waste regulations, and pollution control regulations.

(3) Are enacted to comply with federal law.

(4) Restrict or prohibit the use of property for the purpose of selling pornography or performing nude dancing. However, nothing in this subsection is intended to affect or alter rights provided by the Oregon or United States Constitutions.

(5) Were enacted prior to the date of acquisition of the affected property by the owner or a family member of the owner who owned the affected property prior to acquisition or inheritance by the owner, whichever occurred first. (Ord. 2006-10)

2.99.120 Venue

The venue for all claims arising out of Ballot Measure 37 against the city shall be in the Circuit Court for the State of Oregon for Linn County. (Ord. 2006-10)

2.99.130 Severance

If any portion of this ordinance is determined to be unlawful or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. If, however, the ordinance is declared unconstitutional in its entirety, then the provisions of this ordinance shall have no further effect as of the date the court enters its final judgment. (Ord. 2006-10)

2.99.140 Repealer

Resolution 2004-28," A Resolution Establishing Interim Measure 37 Claims Processing Procedures" is hereby repealed.

TITLE 3 REVENUE AND FINANCE

3.05 Utilities

3.30 Interfund Loans

3.35 Sewer Reserve Fund

Chapter 3.05

3.05 Utilities

Sections:

3.05.010 Purpose, Policy and Scope

An ordinance relating to utilities, providing a penalty and stating an effective date. (Ord.1973-02)

3.05.015 Definitions

As used in this ordinance.

(1) “Bridge” includes a structure erected within the city to facilitate the crossing of a river, stream, ditch, ravine or other place, but does not include a culvert.

(2) “City” means the City of Tangent, Oregon and the area within its boundaries as extended in the future.

(3) “Council” means the legislative body of the city.

(4) “Facilities” includes all communication facilities located on, over or under any street, bridge or public place within the city.

(5) “Public Place” includes any city-owned park, place or grounds within the city that is open to the public but does not include a street or bridge.

(6) “Street” includes a street, alley, avenue, road, boulevard thoroughfare or public highway within the city, but does not include a bridge.

(7) “Utility” means every public utility as defined in O.R.S. 757.005 as amended and any person doing a cable television business. (Ord. 1983-04)

3.05.017 Tax Levied

A tax is levied upon the business of every utility engaged in business in the City of Tangent. As used in this ordinance, “utility” mean a public utility as defined in O.R.S. 757.005 as amended and any person doing a cable television business.
(Ord. 1973-03, Ord. 1983-05)

3.05.018 Gross Revenue Defined

As used in this ordinance “gross revenue” means revenues received by utilities from operations within the city less net uncollectibles. Gross revenues of gas and electric utilities shall include revenues from the user, rental or lease of operating facilities of the utility other than residential-type space and water heating equipment. Gross revenues shall not include proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stocks, sales at wholesale by one public utility to another when the utility purchasing the service is not the ultimate consumer, revenue from joint pole use or revenue paid directly by the United States of America or any of its agencies. Gross revenues of telephone utilities means revenues derived from exchange access services as defined in O.R.S. 403.105 less net uncollectibles and revenue paid directly by the United State of America or any of its agencies. (Ord. 1988-12, Ord. 1990-03)

3.05.019 Rate

The tax imposed under this ordinance shall be at the rate of 5% of gross revenue within the City of Tangent of gas, telephone and electrical utilities until June 30, 1990. After

June 30, 1990, the rate shall be 5.5% of gross revenues for telephone utilities and 5% of gross revenues for gas and electrical utilities.
(Ord. 1973-03, Ord. 1988-06, Ord. 1990-03)

3.05.021 Reporting, Payment

On the 20th day of each month each utility doing a utility business within the City of Tangent during the preceding month shall report to the City Recorder upon forms provided or approved by the City Recorder the amount of tax imposed under this ordinance for that preceding month. The City Council may require the inclusion in such reports of such detailed information as it determines in its discretion to be reasonably necessary to verify the accuracy and completeness of the report and to assist the Council in the management and budgeting of city finances. Each monthly report required by this section shall be accompanied by payment in full of the utility tax for the preceding month. Each monthly report required by this section shall be signed by an officer of the reporting utility who shall certify under oath that he is the officer responsible for the accuracy and completeness of the report and that the report is accurate and complete to the best of his knowledge. (Ord. 1973-03, Ord. 1974-04)

3.05.022 Audit

The City Council or its designated representatives shall have complete access after reasonable notice to all records relating to utility business within the City of Tangent whenever those records are kept for the purpose of auditing whether the true and complete amount of revenue and tax have been reported and paid. Whenever an audit shows that less than the true and complete revenue and tax have been reported and paid, the reasonable cost of the audit shall be borne by the person engaged in the business of providing utility service who failed to report or pay the true and complete revenue or tax. (Ord. 1973-03, Ord. 1974-04)

3.05.023 Delinquent Tax, Interest

Whenever a utility subject to tax under this ordinance pays any amount of tax after the due date as provided in this ordinance, the unpaid tax shall bear interest at the rate of 1% per month from the due date until paid and if the failure to pay is on account of a willful attempt to avoid payment of tax, there shall be assessed, in addition to the tax and interest, a penalty of 25% of the unpaid tax. (Ord. 1973-03, Ord. 1974-04)

3.05.025 Crediting of Revenues

All revenues from the tax provided by this ordinance shall be deposited in and credited to the general fund of the city. (Ord. 1973-03, Ord. 1974-04)

3.05.030 Use of Bridges and Public Places

No utility may use or occupy any bridge or public place unless it has first obtained the permission of the city for that use or occupation and unless the utility complies with any special conditions the city desires to impose on such use or occupation. (Ord. 1974-03)

3.05.040 Existing Facilities

All facilities maintained by a utility within the city on the effective date of this ordinance shall be deemed to be permitted and consented to by the City of Tangent and the location of those facilities is approved, all subject to the rights of the city as provided in this ordinance. (Ord. 1974-03)

3.05.050 Public Works and Improvements; City's Prior Right

The city reserves the right to:

(1) Construct, install, maintain and operate any public improvement, work or facility;

(2) Do any work that the city may find desirable on, over or under any street, bridge or public place; and

(3) Vacate, alter or close any street, bridge or public place; and the right of the city to do so is prior and superior to the permission to use and occupy public streets and places under this ordinance. (Ord. 1974-03)

3.05.060 Safety Standards and Work Specifications

(1) All facilities of a utility shall at all times be maintained in a safe, substantial and workmanlike manner.

(2) The location, construction, extension, installation, maintenance, removal and relocation of the facilities of the utility shall conform to:

(A) The requirements of state and federal statutes and regulations adopted pursuant thereto, in force at the time of such work;

(B) Such reasonable specifications, in force at the time of such work, as the city may from time to time adopt to supplement state and federal statutes and regulations and which are not consistent therewith.

(3) For the purpose of carrying out subsections (l) and (2) of this section, the city may provide such specifications relating thereto as may be necessary or convenient for public safety or the orderly development of the city. The city may amend and add to such specifications from time to time. (Ord. 1974-03)

3.05.070 Control of Construction

(1) The city reserve the right to reasonably determine the location of any construction, extension or relocation of any of the service facilities of the utility and the utility shall not continue with any construction, extension or relocation of any of its service facilities upon notification by resolution of the Council that the city disapproves of the location.

(2) If required by the Council, the utility shall file with the city maps showing the location of any construction, extension or relocation of any of the service facilities of the utility and shall obtain from the city approval of the location and plans prior to commencement of the work. The city may require the utility to obtain the city's consent before commencing the construction, extension or relocation of any of its service facilities. (Ord. 1974-03)

3.05.080 Street Excavations and Restorations

(1) Subject to the provisions of this ordinance, the utility may make necessary excavations for the purpose of installing, maintaining and operating its facilities. Except in emergencies, prior to making an excavation in the traveled portion of any street, bridge or public place and when required by the city, in any untraveled portion of any street, bridge or any public place, the utility shall obtain from the city approval of the excavation and of its location.

(2) Except as provided in subsection (3) of this section, when any excavation is made by the utility, the utility shall promptly restore the affected portion of the street, bridge or public place to the same condition in which it was prior to the excavation. The restoration shall be done in strict compliance with the city specifications, requirements and regulations in effect at the time of such restoration. If the utility fails to restore promptly the affected portion of a street, bridge or public place to the same condition in which it was prior to the excavation, the city may make the restoration and the cost of making the restoration, including the cost of inspection, supervision and administration, shall be paid by the utility.

(3) The city may require that any excavation made by the utility on any street, bridge or public place be filled and the surface replaced by the city and that the reasonable cost thereof, including the cost of inspection, supervision and administration, shall be paid the utility. (Ord. 1974-03)

3.05.090 Location and Relocation of Facilities

(1) All facilities of the utility shall be placed so that they do not interfere unreasonably with the use by the city and the public of the streets, bridges and public places and in accordance with any specifications adopted by the city governing the location of facilities.

(2) The Council may by resolution require the utility to move or relocate any of its facilities whenever:

(A) The movement or relocation is for the public convenience or necessity.

(B) The Council finds the movement or relocations necessary for the construction, installation or maintenance of any public work or improvement, including works, improvements by state and other public

agencies. Public work of improvement as her used shall not include utility facilities to be owned, constructed, installed or maintained by any public body or agency for retail distribution.

(3) The utility shall bear the expense of any movement or relocation of its facilities required pursuant to this section. If the utility fails to comply with any requirement of the Council made pursuant to this section, within a reasonable time designated by the Council, the city may remove or relocate the facilities at the expense of the utility. (Ord. 1974-03)

3.05.100 Rearrangement of Facilities to Permit Moving of Buildings and Other Objects

(1) Upon 15 days notice in writing from any person desiring to move a building or other object, the utility shall temporarily raise, lower or remove its facilities upon any street, bridge or public place within the city when necessary to permit the person to move the building or other object across or along the street, ridge of public place. The raising, lowering or removal of the facilities of the utility shall be in accordance with all applicable ordinances and regulations of the city.

(2) The notice required by subsection (1) of this section shall bear the approval of such official as the Council shall designate, shall detail the route of movement of the building or other object and shall provide that the actual expense incurred by the utility in making the temporary rearrangement of its facilities, including the cost of the utility of any interruption of service to its customers caused thereby, will be borne by the person giving the notice.

(3) The utility, before making the temporary rearrangement of its facilities, may require the person desiring the temporary rearrangement to deposit cash or adequate security, at the option of the person, to secure payment of the costs of rearrangement as estimated by the utility. If the amount of the deposit based on the estimated cost of rearrangement is disputed, it shall be determined by such officials as the Council shall designate. (Ord. 1974-03)

3.05.110 Joint Use

(1) If, in the judgment of the Council, it is impractical or undesirable to permit erection of aerial supports or construction of underground conduit systems by any other utility which has the authority at the time to construct or maintain aerial supports or conduit systems on, over or under the streets, bridges or public places, the Council may require the utility to afford to such other utility the right to use such facilities of the utility, in common with the utility, as the Council finds reasonably available and practicable.

(2) If, in the judgment of the Council it is impracticable or undesirable to permit erection of aerial supports or construction of underground conduit systems

by the utility where another utility has authority at the time to construct or maintain aerial supports or conduit systems on, over or under the streets, bridges or public places, the Council may require the utility to use such facilities of the other utility, in common with the other utility, as the Council finds practicable and consistent with the legal rights of the other utility.

(3) The utility and the other utility shall use such facilities in common under such terms and conditions as they may agree upon, including terms and conditions relating to the sharing of costs incident to the common use. If the utility and other utility fail to agree upon terms and conditions within a reasonable time, the facilities shall be used in common under such terms and conditions as the Council determines to be just and reasonable. In fixing such terms and conditions, the Council may require each user to install and maintain standards, devices and equipment reasonably necessary to protect the equipment of the other users from damage and public from injury arising from such joint use.

(4) Joint use shall not be required under this section if it will result in any substantial detriment to the service to be rendered by the owner or other users or if it can be had only under conditions that violate the safety requirements of state or federal law or regulations adopted pursuant thereto or applicable safety codes which the utilities are required by law to follow. (Ord. 1974-03)

3.05.120 Trimming of Trees

(1) With the prior consent of the Council, a utility may, at its own expense, trim trees which overhang the streets, bridges and public places in the manner and to the extent necessary to provide adequate clearance and safety for its facilities. All trimming shall be carried on in strict conformity with any regulations heretofore or hereafter established by the city.

(2) The Council may require that any tree trimming necessary to provide adequate clearance and safety for the facilities of the utility be performed by the city and that the cost thereof, including the cost of inspection, supervision and administration shall be paid by the utility. (Ord. 1974-03)

3.05.130 Use of Facilities by City of Tangent

(1) As a condition to the use, installation and maintenance of structures and installations upon, within or under streets and public places by a utility, the city shall have the right and privilege to install or affix and maintain wires and equipment for municipal purposes upon the structures and installations, including underground conduits, of the utility. For the purposes of this section, the term “municipal purposes” means all municipal purposes except telephone communications service to the public and includes, but is not limited to, the use of structure and installations for:

(A) Municipal fire, police and water department wires and equipment;

(B) Municipal interdepartmental telephone, telegraph and traffic signal systems; and

(C) Municipal fire alarm and police and traffic signals, signs and equipment.

(2) The city shall install, affix, maintain and operate its wires and equipment at its own expense in accordance with the requirements of state and federal law and regulations adopted pursuant thereto and in accordance with good engineering practice and safety standards. The wires and equipment of the city shall be subject to interference by the utility only when necessary for the maintenance, operation or repair of the facilities of the utility.

(3) The city shall install, affix, maintain and operate its wires and equipment in such a manner as not to impose any undue additional expense upon the utility, or unduly interfere with the safe and convenient use and maintenance by the utility of its structures and installations. (Ord. 1974-07)

3.05.140 Reserved for Expansion (Ord. 1974-03 § 13 1974)

3.05.150 Supplying Maps upon Request

The utility shall maintain on file, at an office in Oregon, maps and operational data pertaining to its operations in the city. The city may inspect the maps and data at any time during business hours. If requested so to do, the utility shall furnish to the city, without charge and within a reasonable item, maps showing the location of the service facilities of the utility in specified areas of the city. (Ord. 1974-03)

3.05.160 Indemnification: Defense of Suits Against the City

(1) A utility shall indemnify, protect and save the city, its offices, employees and agents harmless against any claim for injury or damage and all loss, liability, cost or expense, including court costs and attorney's fees, growing out of or resulting, directly or indirectly, from the occupation or use of the streets, bridges and public places by the utility under this franchise, regardless of any actual or claimed concurring, contributing or joint negligence of the city or its officers, employees or agents. However, if the claim, loss, liability, cost or expense is the result of the sole negligence of the city, the utility not being guilty of concurring or joint negligence, this subsection shall not require the utility to indemnify, protect and save the city or its officers, employees and agents harmless.

(2) If any action is brought against the city for any claim or loss growing out of or resulting, directly or indirectly, from the occupation and use of the streets, bridges and public places by the utility, the city may notify the utility and require it to appear and defend the action along or with the city. If the utility is required to appear and defend the action and fails so to do, the city may permit judgment to be entered by default or confess judgment against the city without trail and the

utility shall full indemnify the city or satisfy the judgment promptly. The liability of the city and the amount of the damages shall not be questioned by the utility when called upon to indemnify the city or satisfy the judgment.

(3) Subsection (1) of this section does not apply where the utility has been required to surrender control over an excavation in a street, bridge or public place and the city has assumed the responsibility of restoring the excavation and has taken over control thereof, unless the utility is guilty of concurring, contributing or joint negligence. (Ord. 1974-03)

3.05.170 Termination of Utility's Use

Upon the willful failure of a utility, after 30 days notice and demand in writing to perform promptly and completely each and every term, condition or obligation imposed upon the utility under this ordinance, the Council may, at its option and in its sole discretion, by ordinance or resolution, terminate the utility's use of part or all of the streets, bridges and public places of the city. (Ord. 1973-02)

3.05.180 Penalty

Willful violation of any provision of this ordinance by a utility shall be punished, upon conviction, by a fine not to exceed $500. (Ord. 1974-03)

3.05.185 Severability

If any part of this ordinance is held unconstitutional, the remaining parts shall remain in full force and effect. (Ord. 1973-03, Ord. 1974-04)

3.05.187 Amendments

The City of Tangent recognizes that changes in this ordinance may have a substantial effect upon utility operations within the City of Tangent. Except in an emergency where immediate action is required to protect the health or safety of persons or property in imminent danger, this ordinance shall be amended only after public hearing and upon consultation with representatives of each utility whose operations within the City of Tangent may be affected by such an amendment. (Ord. 1974-03)

3.05.188 Utilities in Compliance

At the time this amendatory ordinance is enacted, Pacific Northwest Bell Telephone Company, Pacific Power & Light Company and Northwest Natural Gas Company are utilities operating within the City of Tangent in compliance with this ordinance, fully authorized and permitted to use public streets and ways within the City of Tangent in the manner regulated in this ordinance. Each of those named utilities has permission to conduct its operations within the City of Tangent without time limitation so long as the utility continues to be in compliance with all applicable ordinances of the City of Tangent. The City Council of the City of Tangent may terminate permission to a utility to conduct its operations within the City of Tangent on account of willful failure of a utility to

perform promptly and completely each and every term, condition or obligation imposed upon that utility by any ordinance of the City of Tangent applicable to utilities, but such termination shall be ordered only under the following procedure:

(1) The City Council shall give 30 days written notice to the utility specifying each term, condition or obligation of an ordinance allegedly violated by the utility.

(2) If the Council in its reasonable discretion determines that the utility has corrected the alleged violation or violations, then these proceedings shall be terminated, but if the Council in its reasonable discretion determines that the utility has failed to correct one or more alleged violations, then the City Council shall set a public hearing at which representatives of the utility and all interested persons may be heard. Upon such public hearing, the Council in its reasonable discretion may determine that the utility continues to violate an ordinance in one or more of the ways specified in the original notice and the Council may set a deadline for compliance with the ordinance, taking into account the nature and seriousness of the violation, the expenditure and time required to correct the violation and the health, safety, convenience and general welfare of the public. For reasonable cause the Council from time to time may extend the deadline but if the Council determines that one or more violations continue after a deadline for correction set by the Council and that extension or postponement of the deadline for compliance would be unreasonable, then the Council may order that the utility shall suspend its operations within the City of Tangent until reasonable conditions specified by the Council are fulfilled or may order the utility to terminate its operations within the City of Tangent. (Ord. 1974-03)

3.05.189 Exempt from Requirement to Refer Tax Measure to Voters

This ordinance is exempt from the requirements of Ordinance No. 89-08 referring tax measures to the voters. (Ord. 1990-03)

3.05.190 Effective Date

This ordinance applies to all revenues collected and received by a utility engaging in business in the City of Tangent on or after February 1, 1974. Upon each occasion when land is annexed to the City of Tangent on or after February 1, 1974, revenues derived within the annexed area shall first be subject to tax during the first monthly billing period for utility service which commences after the annexation proceeding is completed by filing the abstract of annexation with the Secretary of State.
(Ord. 1973-03, Ord. 1974-04)

Chapter 3.30

3.30 Interfund Loans

Sections:

3.30.010 Purpose and Title

The purpose of this chapter is to authorize the use of interfund loans for the purpose of providing funding for maintenance and improvements/restoration needed by the city to provide services deemed necessary by the Council. This ordinance shall be known as the Interfund Loan Ordinance. (Ord. 2004-07)

3.30.020 Definitions and Conditions

For the purpose of this ordinance, these words and terms mean as follows:

(1) “Capital Loan.” This term means any interfund loan, or portion thereof, made for the purpose of financing the design, acquisition, construction, installation or improvement of real or personal property and not for the purpose of paying operating expenses. The term of a capital loan shall not exceed five years or any sunset condition on the funds used to pay off the loan.

(2) “Commingling of Funds.” This term means that funds can be merged in a bank account along with other city funds, but the funds are segregated in budget and accounting records in enough detail to identify the exact balance at the end of each accounting period.

(3) “Interfund Authorization.” Shall mean O.R.S. 294.460 and the provisions set forth for use of these loans.

(4) “Interest Rate.” The rate of interest shall be the rate of return on moneys invested in the local government investment pool immediately prior to adoption of the loan resolution, unless the Council specifically establishes another interest rate, as provided for in O.R.S. 294.460.

(5) “Operating Loan.” This term shall mean any interfund loan, or portion thereof, that is not a capital loan, including any loan, or portion thereof, made for the purpose of paying operating expenses. The term of an operating loan shall be one year. In the event that the loan is not paid back by the budget year end, it shall be budgeted as a requirement in the ensuing year’s budget period. (Ord. 2004-07)

3.30.030 Method of Authorization

All loans shall be authorized by a resolution approved by the City Council. The resolution will clearly state the purpose and type of the loan, the principal amount of the loan, the funds providing the loan, the fund receiving the loan, along with the interest rate and payment schedule. (Ord. 2004-07)

Chapter 3.35

3.35 Sewer Reserve Fund

Sections:

3.35.010 Sewer Reserve Fund Established

There is hereby established within the City of Tangent a separate fund for the purposes of accumulating reserves for future expenditures for the Sewer Fund in relation to sewer operations. This reserve fund shall be known as the Sewer Reserve Fund. The funds in the Sewer Reserve Fund shall be used to hold the various types of reserve and accumulation funds which the City of Tangent, as a municipal corporation, is allowed, permitted or mandated to so maintain under any order, resolution ordinance, statute, intergovernmental agreement or budgetary practice using generally accepted accounting principles and procedures in relation to sewer needs. The Sewer Reserve Fund may be the depository for any of such reserves or accumulations, whether presently existing or to be enacted or required in the future, including, but not limited to, financial reserve funds, special reserve funds, working capital and capital improvement funds, project financing funds, debt service funds, intergovernmental service funds and miscellaneous budgetary fund balances not otherwise specifically designated in relation to sewer needs. (Ord. 2009-01)

3.35.020 Minimum Criteria for Sewer Reserve Fund

The Sewer Reserve Fund shall have at least the following minimum criteria:

(1) The appropriation or appropriations to be charged in order to provide the initial money for financing said separate fund shall be the amount of 1/2 of the accumulated depreciation plus one year of operating expenses; plus $2 per sewer account collected each month;

(2) The object or purpose of said separate fund is to provide for the replacement of materials for the function of the sewer operations, including any pipes, tanks or systems that are needed to keep the sewer operational or if there is a need to replace any of the above to make the sewer system fully functional;

(3) The City Council shall have the responsibility and ability to spend funds from this reserve for any expenses that is over and above the normal yearly expenses that have been provided for in the sewer fund;

(4) The amounts to be included in the Sewer Reserve Fund shall include 1/2 of the accumulated depreciation that is determined to be $275,635, plus one year

of expenditures for the year 2009, which is $218,067, plus $2 collected each month from each sewer account, plus interest. (Ord. 2009-01)

3.35.030 Fund Balances

Subject to any contrary provisions contained in the city's charter, resolutions, ordinances or in any state law relating to municipal corporations, when the necessity for maintaining a separate reserve fund has ceased and a balance remains in the Sewer Reserve Fund, the City Council shall so declare by ordinance or other appropriate order and upon such declaration the reserve fund balance shall be transferred to the City's Sewer Fund unless other provisions have been made.

Chapter 3.40

3.40 Street Reserve Fund

Sections:

3.40.010 Street Reserve Fund Established

There is hereby established within the City of Tangent a separate fund for the purposes of accumulating reserves for future expenditures for the Street Fund in relation to sidewalks and pedestrian paths. This reserve fund shall be known as the Street Reserve Fund. The Street Reserve Fund shall be used to hold the various types of reserve and accumulation funds which the City of Tangent, as a municipal corporation, is allowed, permitted or mandated to so maintain under any order, resolution, ordinance, statute, intergovernmental agreement or budgetary practice using generally accepted accounting principles and procedures. The Street Reserve Fund may be the depository for any of such reserves or accumulations, whether presently existing or to be enacted or required in the future, including, but not limited to, financial reserve funds, special reserve funds, working capital and capital improvement funds, project financing funds, debt service funds, intergovernmental service funds and miscellaneous budgetary fund balances not otherwise specifically designated. (Ord. 2009-02)

3.40.020 Minimum Criteria for Separate Fund

Minimum Criteria for Separate Funds. The Street Reserve Fund shall have at least the following minimum criteria:

(1) The appropriation or appropriations to be charged in order to provide the initial money for financing, which shall be 1% of the amount received from the state from the gas tax that is allocated to cities based on their current population.

(2) The object or purpose of a separate Street Reserve Fund is to provide for sidewalks, bike and pedestrian paths.

(3) The City Council shall have the responsibility and ability to spend funds from this reserve for any expenses that are related directly for sidewalks, bike and pedestrians paths.

(4) The amounts to be included in the Street Reserve Fund shall be1% of the amount received from the gas tax, starting in July of 2009, plus interest. (Ord. 2009-02)

3.40.030 Fund Balances

Subject to any contrary provisions contained in the city's charter, resolutions, ordinances or in any state law relating to municipal corporations, when the necessity for maintaining a separate reserve fund has ceased and a balance remains in the Street Reserve Fund, the City Council shall so declare by ordinance or other appropriate order and upon such declaration the reserve fund balance shall be transferred to the City's Street Fund unless other provisions have been made.

Chapter 3.50

3.50 User Charges for Maintenance or Improvements

Sections:

3.50.005 Purpose

(1) To provide funds for the protection and/or maintenance and orderly development of the resources of city parks and recreation needs, the protection of properties from flood hazards; open spaces; scenic and historical areas; natural resources; the preservation for surface and subsurface water quality; to insure adequate facilities to Tangent residents for their recreational needs; improved public services and facilities; transportation systems; and the orderly outward expansion and growth of the city.

(2) The Council resolves and ordains that the city establish, as determined by need, through the use of resolutions, the following fees and or user charges. City Ordinance 2002-01, having been voted on the citizens of Tangent and approved by that vote, adopted the Comprehensive Plan as of June 20, 2002 which includes requirements to fund the accomplishment of those goals and policies, specifically Goal 11, Policy's 9, 21, 22, 25 and 26 and that by the powers vested by the Tangent Charter of 1982; Section 10, Where Powers Vested; authorize the Council to seek and place into effect such sources of revenue as determined by need, through the use of additional ordinances and/or resolutions, the following fees and or user charges: (Ord. 2004-01, 2004-16)

3.50.010 Parks and Recreation Fee User Charge

A Parks and Recreation Fee/User Charge for the maintenance and/or improvement of the city parks facilities. (Ord. 2004-01)

3.50.020 Stormwater Fee User Charge

A Stormwater Fee/User Charge for the maintenance and/or improvement of the city's drainageways as identified by a map attached to the enabling ordinances and resolutions. (Ord. 2004-01, 2004-16)

3.50.030 Street Fee/User Charge

A Street Fee/User Charge for the maintenance and/or improvement of the city's administered streets and alleyways. These funds can also be used as matching funds for additional improvements of state and county roads and highways. (Ord. 2004-01)

3.50.040 Limitation, Adjustment

(1) The city may assess these sources of revenue no more than 10% for administrative purposes. Project design and administration shall be considered a direct cost and can be charged to these funds.

(2) At the city's discretion, fees may be adjusted or proportioned for specific users based on individual impact to the resource.

(3) Appeal procedures will also be placed in effect at the time a fee is implemented.

(4) The Council, prior to the implementation and/or increase of any of these fees will hold public hearings, in accordance with the laws of the State of Oregon.

(5) The right of entry onto private property, for the purpose of administering work association with the aforementioned fees is hereby granted to the city and/or its representatives. (Ord. 2004-01)

3.50.045 Consolidated Billing, Unpaid Charges, Penalties and Lien Authority, Allocation of Partial Payment.

(1) Consolidated Billing for all User Fees and Charges. The city may use a single consolidated billing system for all user charges and fees provided for and imposed by this Chapter 3.50 along with user charges authorized and imposed under Chapter 5.50 (Sewer Regulations). The City shall send the consolidated billing statement to the property owner's most recent address plus any additional addresses specifically requested by the property owner.

(2) Past-Due and Unpaid Bills. All bills for user charges, fees and penalties under Chapters 3.50 and 5.50 shall be due and payable in full within 20 calendar days of when the city sends a written bill to the property owner. The city shall be entitled to impose a late charge on all bills that remain unpaid 20 days after issuance in an amount established by the Council until paid as well as fees and charges incurred by the City to collect the bills, including administrative and postage costs and any other cost incurred by the City. The City may engage a collection agency to collect any delinquent bill or unpaid portion of any bill.

(3) Allocation of Partial Payments. Whenever the City receives partial payment(s) of a consolidated bill for user charges and fees, including penalties, it shall allocate payment first to the Parks and Recreation Fee User Charge,

second to the Stormwater Fee User Charge, third to the Street Fee/User Charge and fourth to the Sewer Fee User Charge until the bill is fully paid.

(4) Right to Lien. The city may record all bills that remain unpaid 90 days after issuance as a lien against title to the service property. Such liens for city bills shall be senior to all other liens and encumbrances on the service property, unless otherwise provided by state law. The city shall provide written notice at least 14 days prior to recordation of such a lien to the current/most recent address and addressee provided by the property owner. The notice shall state the pay-off amount of the bill and a clear statement that if the past-due amount of the bill is not paid in full, the amount will be recorded as a lien against title to the service property.

3.50.050 Severability Clause

If any portion, sentence, clause or phrase of this chapter is for any reason held invalid or unconstitutional by a court or any agency of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter. (Ord. 2004-16)

Chapter 3.70

3.70 Marijuana Tax

Sections:

3.70.010 Purpose

For the purposes of this chapter, every person who sells medical marijuana, recreational marijuana or marijuana-infused products in the City of Tangent is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of medical marijuana, recreational marijuana and marijuana-infused products.

3.70.020 Definitions

The following words and phrases as used in this chapter have the following meanings, unless the context clearly indicates a different meaning:

(1) "Gross Taxable Sales" means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter :

(2) "Manager" means the City Manager of the City of Tangent.

(3) Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation

of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(4) "Oregon Medical Marijuana Program" means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.

(5) "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

(6) "Purchase or Sale" means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.

(7) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

(8) "Retail sale" means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.

(9) "Seller" means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

(10) "Tax" means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

(11) "Taxpayer" means any person obligated to account to the City Manager for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

3.70.030 Levy of Tax

(1) Every seller exercising the taxable privilege of selling marijuana, or marijuana-infused products as defined in this chapter is subject to and must pay a tax for exercising that privilege. This tax is in addition to any other taxes or fees required by the City.

(2) The amount of tax levied is as follows:

(A) Zero percent (0%) of the gross sale amount paid to the seller of marijuana and marijuana infused products by a person who is a registry identification cardholder.

(B) Three percent (3%) of the gross sale amount paid to the seller of marijuana and marijuana infused products by persons who are purchasing marijuana and marijuana - infused products but are not doing so under the provisions of the Oregon Medical Marijuana Program.

3.70.040 Deductions

The following deductions shall be allowed against sales received by the seller of marijuana:

(1) Refunds of sales actually returned to any purchaser;

(2) Any adjustments in sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana and does not include any adjustments for other services furnished by a seller.

3.70.050 Seller Responsible for Payment of Tax

(1). Every seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Manager, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Manager may establish shorter reporting periods for any seller if the seller or Manager deems it necessary to ensure collection of the tax. The Manager may require further information in the return relevant to payment of the tax. A return is not considered filed until it is actually received by the Manager.

(2) At the time the return is filed, the seller must remit to the Manager the full amount of the tax collected. Payments received by the Manager for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

(3) The City will apply non - designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.

(4) If the Manager, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Manager may order such a change. The

Manager may establish shorter reporting periods for any seller if the Manager deems it necessary in order to ensure collection of the tax. The Manager also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to this chapter for the City's account until the seller makes payment to the Manager. A separate trust bank account is not required in order to comply with this provision.

(5) Every seller required to remit the tax imposed by this chapter is entitled to retain 4% percent of all taxes due to the City to defray the costs of bookkeeping and remittance. Every seller must keep and preserve in an accounting format established by the Manager records of all sales made by the seller and such other books or accounts as the Manager may be require. Every seller must keep and preserve for a period of three years all such books, invoices and other records. The Manager has the right to inspect all such records at all reasonable times.

3.70.060 Penalties and Interest

(1) Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.

(2) If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400.

(3) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.

(4) Taxes, interest and penalties transferred to the City of Tangent by the Oregon Department of Revenue will be distributed to the City's General Fund.

(5) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the City of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the City of Tangent under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.
(Ord. 2017-02)

3.70.070 Failure to Report and Remit Tax – Determination of Tax by Manager

(1) If any seller fails to make any report of the tax required by this chapter within the time provided in this chapter, the Manager will proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Manager procures such facts and information upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Manager will determine and assess against such seller the tax, interest and penalties provided for by this chapter.

(2) If the Manager makes a determination as outlined in subsection A, the Manager must give notice to the seller of the amount assessed. The notice must be personally served on the seller or deposited in the United States mail, postage prepaid, addressed to the seller at the last known place of address.

(3) The seller may appeal the determination as provided in Section 3.70.080. If no appeal is timely filed, the Manager's determination is final and the amount assessed is immediately due and payable.

3.70.080 Appeal

(1) Any seller aggrieved by any decision of the Manager with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the City Council.

(2) The seller must file the written notice of appeal within 10 days of the City's serving or mailing of the determination of tax due.

(3) The Council's decision is final subject only to judicial review pursuant to ORS 34.01 O et seq. The City will serve the findings upon the appellant in the same manner as that used to give notice for a tax determination in TMC 3.70.070. Any amount found to be due is immediately due and payable upon the service of notice. (Ord. 2016-10)

3.70.090 Refunds

(1) The City may refund to the seller any tax, interest or penalty amount under any of the following circumstances:

(A) the seller has overpaid the correct amount of tax, interest or penalty; or

(B) the seller has paid more than once for the correct amount owed; or

(C) the City has erroneously collected or received any tax, interest or penalties.

(2) The City may not issue a refund under this subsection unless the seller provides to the Manager a written claim under penalty of perjury stating the

specific grounds upon which the claim is founded and on forms furnished by the Manager. The seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a refund.

(3) The Manager has 21 calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Manager will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.

(4) If the Manager determines the claim is valid, the claimant may either claim a refund or take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City. The claimant must notify the Manager of the claimant's choice no later than 14 days following the date the Manager mailed the determination and the claimant must do so in a manner prescribed by the Manager.

(5) If the claimant does not notify the Manager of claimant's choice within the 14-day period and the claimant is still in business, the City will grant a credit against the tax liability for the next reporting period. If the claimant is no longer in business, the City will mail a refund check to claimant at the address provided in the claim form.

(6) The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Manager acknowledges the claim's validity.

3.70.100 Actions to Collect

Any tax required to be paid by any seller under the provisions of this chapter is a debt owed by the seller to the City. Any tax collected by a seller that has not been paid to the City is a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter is liable to an action brought in the name of the City of Tangent for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of $50 or 50% of the outstanding tax, penalties and interest owing. (Ord. 2016-10)

3.70.110 Violation Infraction

(1) In addition to the penalties provided in section 3.70.060, a violation of this chapter is a civil infraction that may be prosecuted under TMC Chapter 2.15 (Civil Enforcement). It is a violation of this chapter for any seller or other person to:

(A) Fail or refuse to comply as required herein, including the payment of the full tax due;

(B) Fail or refuse to furnish any return required to be made;

(C) Fail or refuse to permit inspection of records;

(D) Fail or refuse to furnish a supplemental return or other data required by the Manager;

(E) Render a false or fraudulent return or claim; or

(F) Fail, refuse or neglect to remit the tax to the city by the due date.

(2) The remedies provided by this section are not exclusive and do not prevent the City from exercising any other remedy available under the law.

(3) The remedies provided by this section do not limit the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

3.70.120 Confidentiality

Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. However, nothing in this section prohibits any of the following:

(1) The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or

(2) The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or

(3) Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Manager or an appeal from the Manager for amount due the City under this chapter; or

(4) The disclosure of information when such disclosure of conditionally exempt information is ordered by the District Attorney or Circuit Court under the Oregon Public Records Act; or

(5) The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds $5,000. The City Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

3.70.130 Audit of Books, Records, or Persons

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the City limits and be open at any time during regular business hours for examination by the Manager or an authorized agent of the Manager. If any seller refuses to voluntarily furnish any of the foregoing information when requested, the Manager may immediately seek a subpoena from the Tangent Municipal Court or Circuit Court to require that the seller or the seller's representative attend a hearing or produce any such books, accounts and records for examination. (Ord. 2016-10)

3.70.140 Forms and Regulations

The Manager is authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of marijuana tax including the following:

(1) A form of report on sales and purchases to be supplied to all vendors;

(2) The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter. (Ord. 2016-10)

TITLE 5 SEWER REGULATIONS

Chapter 5.10

5.10 Purpose and Short Title

5.10 Purpose and Short Title

(1) To protect the waters within and adjacent to the city from pollution, to promote and protect the public health, safety and general welfare of the citizens of Tangent and to avoid the creation of public nuisances, the city has established, constructed and operates a public sanitary sewage system for collection, treatment and disposal of wastewater.

(2) To carry out its authorized function of sewage collection, treatment and disposal, it is necessary and in the public interest that the city establish connection fees and charges for sewerage service in amounts sufficient to pay the expenses of operating and maintaining such facilities, to provide for replacement, to provide for any necessary payment of debt obligations incurred, and to provide a margin for reserves.

(3) The city has entered into a grant agreement with the Environmental Protection Agency for construction of sewage collection and treatment facilities, in which the city has agreed that the costs of operating and maintaining the sewage collection and treatment works shall be distributed among all users of the collection and treatment works in general proportion to each user's contribution to the total wastewater loading of the sewerage system. This chapter, in part, implements that agreement.

(4) This chapter shall be known as the City’s Sewer Ordinance.

Chapter 5.20

5.20 Definitions and Rules of Interpretation

5.20 Definitions and Rules of Interpretation

The following definitions and rules of interpretation shall control in the administration, interpretation and enforcement of this chapter.

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

(A) “ASTM Specifications” means the Standard Specifications or Methods of the American Society for Testing Materials of the serial designation indicated by the number.

(B) “BOD” or “Biochemical Oxygen Demand” mean the quantity of oxygen used in the biochemical oxidation of organic matter under a standard laboratory procedure in five days at 20□C, expressed in milligrams per liter (mg/l).

(C) “Building Drain” means the part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste and other drainage pipes within or adjoining the building or structure and conveys the same to the building sewer which begins at a point five feet outside the established line of the building structure, including any structural projection except eaves.

(D) “Building Sewer” means the part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to the public sewer, individual sewage disposal system or other point of disposal.

(E) “Charter” means the Tangent City Charter of 1982, as may be amended from time to time.

(F) “City” means the City of Tangent, Oregon.

(G) “City Engineer” means the person or firm that serves as the city’s engineer of record or the person or firm designated by the Mayor to serve as the engineer of record for purposes of overseeing the city’s public sewer system.

(H) “Code” means the Tangent Municipal Code as it may be amended from time to time.

(I) “Collection and Treatment Works” means all of the city’s facilities for collecting, pumping, treating and disposing of sanitary sewage.

(J) “Commercial User” means any premises used for commercial or business purposes but not premises used for industrial purposes or solely residential purposes.

(K) “County” means Linn County, Oregon.

(L) “Domestic Waste” means any wastewater from a residential dwelling.

(M) “FOG” means fats, oils and/or grease.

(N) “Garbage” means solid wastes including, but not limited to, organic or animal wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(O) “Gross Revenue” means any revenue earned within city limits (after adjustment for the write-off of uncollectible accounts) from services provided by public utilities, as that term is defined in this ordinance, including:

(i) User charges imposed on wastewater or stormwater utility, disposal services and/or treatment services;

(ii) Revenue received for the use, rental or lease of operating facilities; and

(iii) Bancroft bond payments.

(P) “Gross Revenue” does NOT include:

(i) Proceeds from the sale of bonds other than Bancroft bonds; or

(ii) Indebtedness or interest income from investment of reserves or other revenue or income generated from business activities that are unrelated to the provision of public utility services within city limits.

(iii) That portion of the sewer fee that is charged for the Sewer Reserve Fund (Ord. 2014-01)

(Q) “Industrial Waste” means the liquid waste from industrial processes as distinct from sanitary sewage.

(R) “Natural Outlet” means any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(S) “Operation and Maintenance” means city activities required to ensure the dependable and economical function of the collection and treatment works. “Maintenance” includes activities to preserve the

functional integrity and efficiency of equipment and structures, including, but not limited to, preventative maintenance, corrective maintenance and replacement of equipment. “Operation@ includes control of the unit processes and equipment that make up the collection and treatment works. This includes keeping financial and personnel management records, laboratory control, process control, safety and emergency operation planning, employment of attorneys and consultants, payment of court costs and payment of any costs or fees reasonably associated with any of the above.

(T) “Person” means any individual, firm, company, association, society, corporation or group.

(U) “pH” is the measure of the acidity or alkalinity of the wastewater, as that term is defined in this code. Neutral water, for example, has a pH of seven and a hydrogen ion concentration of ten to the seventh power. As used in this code, “pH” shall mean the negative logarithm (base 10) of the hydrogen ion concentration. Such concentration shall be deemed to be the weight of hydrogen ions (in moles) per liter of solution. (Ord.1986-05)

(V) “Public Sewer” means a sewer in which all owners of abutting properties have equal right and which is controlled by public authority. The public sewer includes all appurtenances downstream of and including the septic tank. The public sewer shall end at a point six feet on the sewer piping upstream of the septic tank.

(W) “Public Utility” includes municipally owned and/or operated businesses that treat or dispose of wastewater (sewage) and/or stormwater (drainage).

(X) “Replacement” means obtaining and installing equipment, accessories, or appurtenances that are necessary during the design or useful life, whichever is longer, of the collection and treatment works to maintain the capacity and performance for which the works were designed and constructed.

(Y) “Sanitary Sewer” means a sewer that carries sewage and to which storm, surface and ground waters are not intentionally admitted.

(Z) “Service Area” means all land, properties and/or lots within the corporate limits of the City of Tangent, plus any additional land served by the city’s sewer collection system, plus any land where any part or equipment of the city’s sewer system is located. The limits of the city’s service area for the provision of sewer service is the city’s corporate limit, unless service is specifically allowed outside of the city limits by order of the City Council.

(AA) “Service Connection” means the portion of the public sewer downstream of the building sewer, including the septic tank system and effluent piping to where it connects to the street sewer.

(BB) “Sewage” means water-carried human wastes, including kitchen, bath and laundry wastes from residences, business buildings, institutions and industrial establishments, or other places together with such industrial waste, ground, surface and storm waters as may be present.

(CC) “Sewage Treatment Facility” is any arrangement of devices and structures used for treating sewage.

(DD) “Sewer” is a pipe or conduit for carrying sewage.

(EE) “Sewer Mainline” means a common public sewer located in public right-of-way or easement for transmission of sewage from the building sewer to a sewage treatment facility.

(FF) “Sewerage Works” means all city-owned facilities for collecting, pumping, treating and disposing of sewage.

(GG) “State” means the State of Oregon.

(HH) “STEP System” means the type of septic tank effluent system, requiring a pump that is owned, operated and maintained by the city. The system is usually installed on private property under a permit of entry, i.e. easement, to the city. It is required as a condition for service to pretreat sewage and pressurize septic tank effluent for delivery to a public sewer.

(II) “Storm Sewer” means a pipe or conduit that carries storm and surface waters and drainage, but excluded sewage and industrial wastes (Ord. 1986-05)

(JJ) “Street Sewer” means a common sewer owned by the city or a public sewer.

(KK) “Suspended Solids” means solids that either float on the surface or are in suspension in water, sewage, or other liquids and are removable by the laboratory filtering.

(LL) “UGB” or “Urban Growth Boundary” means the city’s urban growth boundary as described in the city’s Comprehensive Plan.

(MM) “User” means every person using any part of the city’s public collection and treatment works.

(NN) “User Charge” means a charge levied on users of the collection and treatment works, paid by a user for the user's proportionate share of the cost of operation and maintenance, including replacement, of those

works under 33 U.S.C. §§ 1284(B)(1)(a) and 204(b)(1)(A) of the Clean Water Act.

(OO) “Wastewater@ means sewage or those liquids or water-carried pollutants, including any groundwater, surface water and stormwater that may be present whether treated or untreated, that is contributed into or permitted to enter the publicly owned treatment works.

(PP) “Watercourse” means a channel in which water flows. (Ord. 1986-02)

(2) Rules of Interpretation. The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders. Words in the singular shall include the plural, and words in the plural shall include the singular. The use of a verb in the present tense shall include the future, if applicable.

Chapter 5.30

5.30 Connection to Public Sewer Required under Certain Circumstances

5.30 Connection to Public Sewer Required under Certain Circumstances

(1) The owner of lands located within Tangent's service area that makes application for a subdivision, partition or other development shall, at the owner's expense, extend the public sewer system to serve the land proposed for division or development, provided there is a city sewer main within 500 feet of the property and city permits such a connection. The public sewer system extension shall be in accordance with the City of Tangent's design and construction standards and include a STEP system and shall be subject to review and approval by the City Engineer, or the company authorized representative responsible for operating the sewer system.

(2) The owner of lands located within Tangent's service area undertaking new residential or nonresidential construction, shall connect to the public sewer system when the city permits such connection.

(3) For existing development within Tangent's service area where an on-site septic system is operating properly, the owner shall be required to connect to the public sewer system when any one of the following events occurs:

(A) The owner is required or chooses to repair, modify or replace the on-site system, or the existing on-site septic system has failed; or

(B) Whenever the owner proposes a land division, development or applies for new construction that in any way affects the on-site sewage system.

(4) Every building not connected to a public sewer, or not required by law to be connected to a public sewer, shall be connected to a permitted and properly functioning on-site septic system.

(5) It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the city, or in any areas under the jurisdiction of the city, sewerage or garbage.

(6) It shall be unlawful to discharge to any natural outlet within the city, or any area under the jurisdiction of the city, any sewage, industrial wastes, or garbage, except where suitable and permitted treatment has been provided in accordance with the provisions of this subchapter.

(7) Private disposal facilities restricted. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool or other on-site sewage disposal facility intended or used for the disposal of sewage within the corporate limits of the city, or in any area under the jurisdiction of the city.

(8) Right of rejection; pretreatment. The city reserves the right to reject any application for sewer service of any property owner upon whose property industrial or commercial activities create a waste of unusual strength, character or volume. Each application for the discharge of commercial or industrial waste shall be reviewed and decided by the City Engineer. If the City Engineer denies the request or requires pretreatment, the owner/applicant may appeal that determination to the City Council. The City Engineer shall classify those wastes and may impose pretreatment conditions to ensure that city sewerage treatment facilities operate efficiently. Where pretreatment facilities are required, the owner shall install and continuously maintain those facilities at the owner's expense for efficient operation of city sewerage treatment facilities. The owner shall also install an inspection and sampling manhole and make it available to the City Engineer for routine examination and testing at any time. (Ord. 1986-02)

Chapter 5.40

5.40 Extra-Territorial Sewer Extensions and Connections

5.40 Extra-Territorial Sewer Extensions and Connections

The city shall not allow an extension of the sewer system or provide sewer service to land outside of the UGB except for the circumstances described in this section. Any sewer service provided to land outside the city's UGB shall not constitute a commitment of those areas or surrounding undeveloped land to urban use. In exchange for allowing an extra-territorial extension of the city's sewer system, the city may require the benefitted property owner to execute and record an irrevocable commitment to annex upon demand by the city.

(1) The city's sewer system may be extended to serve areas designated as health hazards according to state law.

(2) The city's sewer system may be extended to serve developments that existed prior to January 1, 1986, are located within the city limits and where the development to be connected is within 1,000 feet of a sewer line, provided that the provision of sewer service does not impair the city's ability to provide sewer service to land within the UGB. Any such sewer service outside the UGB shall be sized to serve only the pre-existing development and no more. Upon application of the property owner or authorized agent, the City Council shall determine whether a development meets the requirements of this section. The City Council shall provide a duly noticed evidentiary hearing on the matter and render a written decision based on the record explaining whether the proposal meets the requirements of this section. The City Council's decision shall be final.

Chapter 5.50

5.50 Sewer System Responsibility

5.50 Sewer System Responsibility

The city shall own and be responsible for the maintenance and operation of the public sewer system within public rights-of-way, public easements and on all public property. The responsibility for the maintenance and operation of the nonpublic sewer system within private property (a side sewer) shall be the property owner's. In particular, a property owner is responsible for the cost of side sewer maintenance and repair in all of the following instances:

(1) Whenever there is a break, blockage or obstruction in the side sewer on private property, including the building plumbing.

(2) Whenever there is a blockage located within the public right-of-way or public easement that is caused by one or more of the following reasons:

(A) Roots from trees or shrubs located outside public right of way or easements;

(B) The side sewer or mainline is blocked by any material, object or sewage contents originating from private property;

(C) The side sewer within the public right-of-way or easement is blocked by debris originating from a break in the side sewer on private property; or

(D) Investigation reveals that the source of blockage originated from private property including adjacent private properties.

(3) A properly functioning backwater valve shall be required in any building containing a basement, except in those situations that would not require a backwater valve as described in the edition of the building code most recently adopted by the city. The city shall not be liable for damage due to wastewater backing up into a building where a properly functioning backwater valve has not been installed. The city shall not be liable for damage due to wastewater backing up into a building where a backwater valve has been installed but has not been properly maintained or repaired.

Chapter 5.60

5.60 Private Sewage Disposal

5.60 Private Sewage Disposal

(1) Where a public sanitary sewer is not available or service is not provided, a building sewer may be connected to a private on-site septic disposal system that complies with all applicable state statutes and the administrative rules of the State Department of Environmental Quality and Environmental Quality Commission.

(2) At such time as a public sewer becomes available to a property served by a private on-site septic disposal system, the building owner shall apply to connect the building to the public sewer in compliance with this chapter, and any on-site septic disposal system shall be decommissioned in accordance with all applicable state and county requirements.

(3) The provisions of the section shall be in addition to and not in place of the requirements of any other applicable requirements.

Chapter 5.70

5.70 Service Connections, Construction and Installation

5.70 Service Connections, Construction and Installation

No person shall connect to the public sewer system without first obtaining a written permit from the city.

(1) Only the city or its authorized representatives may uncover, make connections with or opening into, use, alter or disturb any public sewer or appurtenances thereto. The city may contract with others to tap and install public sewers under the supervision of designated persons.

(2) Three types of building sewer connections and permits are authorized under this code:

(A) For residential service;

(B) For commercial service; and

(C) For service to establishments producing industrial wastes.

For all sewer permits, the property owner or the owner's agent shall make application for a sewer connection or any alteration to an existing connection on a form furnished by the city for a sewer permit. The permit applications shall be supplemented by any plans, specifications, or other information required by the City Engineer. The city shall install the STEP system, including connection to the street sewer, as required by this chapter. The owner shall be responsible for payment of all permit and inspection fees as established by Council resolution. Before the permit is issued, the applicant shall pay the inspection fee and the city's cost of labor, materials and overhead to install the STEP system, as estimated by the City Engineer, or the city authorized representative responsible for operating the sewer system. The owner of the property shall be responsible for the installation of the step system according to the requirements of this ordinance up to the point of connection to the existing sewer mainline designated for connection. The owner's responsibility shall include the necessary excavation of the existing mainline in order to provide the City with adequate room to complete the connection to the mainline. The city shall be responsible for making the connection to the street sewer mainline as required by this chapter. Upon completion of the connection, the owner shall be responsible for all backfilling and surface restoration of the sewer lateral and mainline connection work. All work within the public right-of-way shall be completed per the City of Tangent Public Works Design Standards.

(3) The STEP system shall be located on the property to be served by the sewer connection, and the owner shall provide to the city an easement (a permit of entry) to construct, operate and maintain the system prior to installation of the

STEP system. In all cases, the property shall be the responsible to keep clean, operational and to maintain the building sewer from the building to the point of connection with the public sewer.

(4) All costs and expenses associated with the installation and connection of the STEP system shall be paid by the owner. The owner shall indemnify the city from any loss or damage directly or indirectly caused by the installation.

(5) For all new buildings, a separate and independent building sewer shall be constructed for and from every building to a STEP system. Where necessary for existing buildings, the City Engineer may allow two or more buildings to share a single STEP system, so long as the City Engineer reviews and approves the proposal and it meets all design guidelines and other requirements imposed by the City Engineer. Applicable fees and charges shall be paid for each separate and individual building.

(6) Building sewers and building drains shall conform to the Uniform Plumbing Code.

(7) Building drains serving buildings with basements shall, when ever possible, be brought from the building at an elevation below the basement floor.

(8) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by that drain shall be lifted by a pump approved by the City Engineer, and shall be discharged to the building sewer.

(9) No person shall make connection of roof downspouts, exterior foundation drains, yard drains or other sources of surface runoff or groundwater to a building sewer or drain that is connected directly or indirectly to a public sewer.

(10) The applicant for the STEP system construction permit shall notify the city at least 2 weeks prior to the need for that sewer connection so that the city has sufficient time to review all plans, verify compliance with the design requirements and to arrange for the mainline connection work.

(11) The materials, excavation and installation of the STEP system by the owner shall be in accordance with the plans and specifications of the city. Individual electrical and pump needs shall be determined for each STEP service connection. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved. Pipe laying and backfill shall be performed in accordance with regulations of the Uniform Plumbing Code.

(12) All joints and connections shall be made gastight and watertight.

(13) For existing buildings, the applicant for connection to the public sewer shall notify the city when the building sewer is ready for inspection, testing and connection to the public sewer. After final approval of the building sewer by the

city, the final connection to the public sewer may be made. All building sewers shall be required to pass a low-pressure air test conducted in accordance with procedures established by the city. The property owner shall have the option of having the air test conducted either by the contractor of that person's choice (under observation by the city's representative) or by the city's representative. In either case the cost of the air test (and necessary subsequent tests until the installation passes) shall be borne by the property owner. All city costs for these tests shall be billed to the property owner and paid within 30 days. A separate and independent sewer shall be provided for and from every building. Two or more buildings may share a single sewerage system, subject to design guidelines from and subsequent approval by the City Engineer. The owner/applicant shall pay all applicable fees and charges for each separate and individual building.

(14) When any work has been inspected or tested and the results are not satisfactory, a written notice to that effect shall be given instructing the owner of the premises, or the agent of the owner, to repair the building sewer or other work authorized by the permit in accordance with the rules and regulations of the city.

(15) No statement contained in this section shall be construed to exempt the applicant from obtaining any additional permits and meeting any additional requirements as set forth by the city, county, state or other appropriate public body having jurisdiction. (Ord. 1986-02)

Chapter 5.80

5.80 Use of Public Sewers, Discharge Restrictions

5.80 Use of Public Sewers, Discharge Restrictions

(1) No person shall construct any structure or appurtenances within five feet of a septic tank without prior approval of the city.

(2) Parking or driving a vehicle over septic tanks on private property is prohibited except with permission as granted by the city in those cases in which the STEP system has been designed for such loads.

(3) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water to any sanitary sewer. Stormwater and all similar drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet. Industrial cooling water or unpolluted process water may be discharged, upon approval of the appropriate state and local authority, to a storm sewer or natural outlet.

(4) Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following water or wastes to any public sewer:

(A) Any liquid or vapor having a temperature higher than 150°F;

(B) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(C) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood or any other solid or viscous substance capable of causing obstructions to the flow in sewers or other interferences with the proper operation of the sewerage works;

(D) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

(E) Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewerage works;

(F) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle that material in septic tank sludge removal or dewatering;

(G) Any noxious or malodorous gas or substance capable of creating a public nuisance;

(H) Any substance in excess of specified categorical standards as may be established by the Environmental Protection Agency and State Department of Environmental Quality under their respective pretreatment programs; or

(I) Polar and nonpolar FOG in amounts that cause a visible sheen on the discharge or in the public sewer system; build-up of grease in any public sewer facility or which accumulations either alone or in combination with other discharges cause obstructions of the public sewer system.

(5) FOG, Grit and Sand Pretreatment. The City Engineer, in his or her sole discretion, may require all persons who generate wastes containing FOG, sand or grit to install pre-treatment facilities to remove FOG, sand and grit from the waste stream.

(A) FOG Generators and Pretreatment. Property owners who operate restaurants, cafes, lunch counters, cafeterias, bars or clubs; or hotel, hospital, factory or school kitchens; or gas stations or automotive service facilities; or other establishments that serve or prepare food where FOG may be introduced to the sewer system shall have pretreatment facilities to prevent the discharge of fat, oil or grease waste into the city's sewer system. The City Engineer, at his sole discretion, may require any discharger identified by repeated maintenance problems, to provide an appropriate FOG control plan approved and implemented prior to the renewal or issuance of a business license. A temporary license may be approved for a period of six months to facilitate the establishment of a grease interceptor or FOG control plan. Take-out food establishments or other establishments that prepare food, but do not cook in oil or grease, and who serve food only in disposable containers, may be exempted from this requirement, provided their discharges do not violate any limitation or requirement of this chapter. The FOG removal systems shall meet city requirements. Dischargers shall maintain their grease removal system in a manner that will prevent fat, oil or grease waste from being discharged into the sewer system. All FOG pretreatment facilities shall be installed, maintained and operated by the discharger at his own expense. The facilities shall be kept in continuous operation at all times and shall be maintained to provide efficient operation. Dischargers may not add emulsifying agents exclusively for the purposes of emulsifying polar or nonsolid FOG. A service contractor qualified to perform cleaning is required for interceptors. All material removed shall be disposed of in accordance with all applicable city, county, state and federal regulations.

(B) Sand and Grit Generators and Pretreatment. Sanitary sewer customers that discharge amounts of sand and/or grit that damage, affect the hydraulic efficiency of or increase maintenance requirements of the

public sanitary sewer system shall install a sand and/or grit removal device. Installation shall be completed within six months from notification unless otherwise agreed upon by the city. Continued maintenance of the device shall be the responsibility of the property owner. All sand and grit removal facilities shall be installed, maintained and operated by the discharger at his own expense. The facilities shall be kept in continuous operation at all times and shall be maintained to provide efficient operation. Dischargers may not use high volume flushing to push sand and grit from their facilities into the public sewer system. A service contractor qualified to perform cleaning is required for cleaning and removing of the particles that have settled out of the service line. All material removed shall be disposed of in accordance with all applicable city, county, state and federal regulations.

(6) No person shall discharge or allow the discharge from their property into the public sewers any of the following waters or wastes:

(A) Having a five-day biochemical oxygen demand greater than 300 milligrams per liter;

(B) Potentially containing any quantity of substances having the characteristics described in subsection (4) above;

(C) Containing more than 350 milligrams per liter of suspended solids; or

(D) Having an average daily flow greater than 2% of the average daily residential sewage flow of the city, subject to the review and approval of the City Engineer. Where necessary in the opinion of the City Engineer, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary. Plans, specifications and any other pertinent information relating to the proposed preliminary treatment facilities shall be submitted for the approval of the City Engineer, and no construction of the facilities shall be commenced until those approvals are obtained in writing.

(i) When required by the City Engineer, the owner of any property served, carrying industrial wastes, shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. This manhole, when required, shall be accessible at all times.

(ii) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in effective operation satisfactory to the city, by the owner at the owner’s expense.

(iii) All measurements, test and analyses of the characteristics of waters and wastes to which reference is made above shall be determined in accordance with the latest edition of the Standard Methods for the Examination of Water and Sewage, and shall be determined at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the screened pump vault assembly from which septic tank effluent is pumped into the public sewer.

(iv) No statement contained in this section 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 special terms, including but not limited to payment therefore by the industrial concern. (Ord. 1986-02)

Chapter 5.90

5.90 Obligation to Protect Sewer System from Damage and Unlawful Discharges

5.90 Obligation to Protect Sewer System from Damage and Unlawful Discharges

All persons owning property in the city are responsible for maintaining and protecting the public and non-public (or side sewer) located on or adjacent to their property. No person shall break, damage, destroy, uncover, deface or tamper with any structure, facility, appurtenance or equipment which is a part of the sanitary sewerage system of the city. No person shall allow any trees or shrubs to grow on or near to any public or non-public sewer facilities so that roots grow into or interfere with the function of any public or non-public sewer facilities. No person shall discharge or allow to be discharged into the public or non-public sewer system any of the materials listed or described in Section 5.080.

Chapter 5.100

5.100 City Inspectors, Right of Entry

5.100 City Inspectors, Right of Entry

Duly authorized employees or representatives of the city bearing proper credentials and identification shall be permitted to enter upon all properties connected to the city sewer system for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of the Federal and State Constitution and of this subchapter at those times and during those hours that the City Council shall approve. The owners of property connected to the sewer system shall make their properties safe, open and available to city inspectors, upon reasonable notice, for purposes of inspecting, maintaining and repairing the public and non-public sewer facilities and for purposes of verifying and enforcing compliance with this chapter.

Chapter 5.110

5.110 City Engineer Determination Regarding Repair Replacement of Existing Step System or Portion Thereof

5.110 City Engineer Determination Regarding Repair Replacement of Existing Step System or Portion Thereof

(1) Whenever in the judgment of the City Engineer any portion of the STEP system for a property functions poorly so that the system is inadequate to process wastewater properly or so that water or wastes are discharged in a STEP system in violation of Section 5.060(D) or (F) of this chapter, or presents a danger to public health or safety, the City Engineer shall:

(A) Give notice of such determination of deficiency by registered or certified mail to the property owner of record and by posting such notice on the property which is the subject of such determination (i.e. the Asubject property@), provided, however, that the failure to receive such letter shall not prevent action by the city if the address shown on the latest tax rolls is used;

(B) Include in such notice the record owner of the property, a description of the portion of the STEP system which is inadequate or presents a danger to public health or safety, a property description by tax lot or street address, or both, the basis for the determination of the deficiency by the City Engineer, a deadline for correction of the deficiency; and

(C) Provide the property owner with information regarding an opportunity to have the City Council review the determination of the City Engineer by filing notice of the request for review with the City Recorder not more than ten days following the mailing and positing of such notice.

(2) If a timely request for review is filed from the determination of the City Engineer, the City Recorder shall set a hearing before the City Council on the same not more than 30 days from the date of receipt of such request. The City Recorder shall give notice of such hearing, including the date, time and place thereof, to the person seeking review, to other persons having an interest of record in the subject of property and to the City Council. The Council shall then proceed to hear and decide the Engineer's determination on the matter within 45 days of the filing of the request and may affirm, reverse, modify or remand that determination.

(3) If the determination of the City Engineer that a STEP system, or portion thereof, is inadequate or represents a danger to public health or safety is not appealed, the replacement of all or a portion of the STEP system identified shall be corrected by the date set forth in the notice or such other date as the Council may determine.

(4) If the determination of the City Engineer is appealed and affirmed or modified by the City Council, the City Engineer shall set a date for correction of the identified deficiency by replacement of the system or portion thereof. Within 30 days of the giving of notice of such date of replacement, the property owner shall either replace the system or portion thereof, or shall furnish the City Recorder with a letter of credit or similar undertaking approved by the City Attorney, guaranteeing that such system will be replaced within 180 days of the City Council Action.

(5) All works to correct a deficiency shall be subject to the approval of the City Engineer, who shall require that all improvements be designed and installed under the supervision of a registered professional engineer. If the deficiency is not corrected, the Engineer may request the City Council to hold a hearing on the withdrawal of a certificate of occupancy for any structure served by the STEP system. The Council shall give notice and hold a hearing consistent with subsections (1) and (2) above and shall have such other powers to abate a nuisance as are provided by state law and the ordinances of the city.

(6) If the City Engineer and the property owner have agreed upon an alternative date, that alternative date shall be given in writing to the City Council and shall be the date of replacement unless the City Council determines otherwise.

(7) For good reason, the City Council may extend any deadline with respect to the replacement of the STEP system or any portion thereof under this section, consistent with the public health and safety.

(8) If the City Council determines that correction of the deficiency requires immediate action for public health and safety reason, the Council shall give the notice provided in subsection (1)(A) above with as much notice as is possible to balance the general ten- day period for the same and the need to act quickly to resolve health and safety concerns. The Council may require action by the property in such case in less than 30 days provided for in subsection (2) above and may determine that a 180-day period for correction is inconsistent with such concerns. In such cases the Council shall enter findings to justify its decision. If the property owner fails to correct the deficiencies within the time provided, the City Council may withdraw authorization for occupancy of the subject property.

(9) Except as provided in subsection (8), if the property owner fails to enter into an agreement with the City Engineer or fails to replace the system or portion thereof found inadequate by the City Engineer or City Council as appropriate within the 180-day period or an authorized extension thereof, City Council may withdraw authorization for occupancy of the subject property.

(10) The city may replace the system or portion thereof determined by it or the City Engineer to be inadequate under subsection (8) or (9) above, and shall take

all steps necessary for reimbursement. The City Attorney may undertake a civil action in advance of such replacement to assure that the cost of the same are paid. The City Engineer shall oversee such replacement and shall do all things necessary to assure such replacement on behalf of the city. The cost of such a replacement, as well as the reasonable cost of the materials and services of city staff and consultants in connection with such replacement, shall be borne by the property owner of the subject property. If suit is brought to enforce payment of those costs, the prevailing party shall be entitled to attorney fees and costs. (Ord. 2001-01)

Chapter 5.120

5.120 Violations and Enforcement

5.120 Violations and Enforcement

(1) Notice of violation. Any person found to be in violation of any provision of this chapter may be served written notice by the city stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Notice shall be sent by registered or certified mail, by personal delivery or by posting the property at which the violation has occurred.

(2) Liability for damages. Any person violating any of the provisions of this chapter shall be liable to the city for all expenses, losses, or damages incurred by the city as a result of that violation, including, but not limited to, the city's reasonable costs, attorneys fees, witness fees, repair and inspection costs in addition to any civil penalties provided under Section 50.170(2)(B).

(3) Injunctive relief; remedies not exclusive. In addition to the remedies provided above and in Section 50.170(2)(B), the city may, as an alternative or in addition to other remedies that are legally available for enforcing this chapter, institute injunctive, mandamus, abatement, or other appropriate proceedings to prevent, enjoin, abate, or remove the violation.

(4) Collection and lien. Any penalty, together with fees, costs, or expenses incurred in enforcing this chapter, shall constitute a debt due the city and a lien on the property on which the violation has occurred. The city shall, by registered or certified mail, send written notice of the lien to the property owner and provide an opportunity for hearing objections to the lien before entering it on the city lien docket. If no written request for a hearing is received within seven days of the mailing of the notice, or if after the hearing the Council determines the lien shall attach, the City Recorder shall enter the lien on the city lien docket. The lien shall have priority over all existing liens on the property and shall be collectible in the manner provided by O.R.S. 223.205 to 223.290 or as otherwise provided by city ordinance or state law. Upon entry in the city lien docket, the lien shall bear compound interest at a rate of 1.5% per month. An error in the name of the true owner or description of the property, or the failure of the owner to receive notice of the lien, shall not render the lien void, but the same shall be a valid and existing lien against the property. Corrections may be made by reentry in the city lien docket, but the original date of entry shall be the effective date of the lien. The city shall be entitled to recover its reasonable costs against the violator, including attorney, expert and witness fees, repair, inspection and collection costs incurred in connection with collection of any amount due as a result of violations of this chapter.

(5) Hearing. The person in violation may request a hearing by mailing or delivering a written request for a hearing within seven days of the mailing of the notice of violation. The City Council shall hold a public hearing on the matter at a special meeting, provided that the person in violation has at least seven days' notice.

(6) Review. Decisions of the City Council under this chapter may be reviewable by the Circuit Court of the state for the county, solely and exclusively under the provision of O.R.S. 34.010 to 34.100. (Ord. 1986-02, Ord. 1990-01)

Chapter 5.130

5.130 Sewer Rates and Charges

5.130 Sewer Rates and Charges

The city imposes two separate charges for connection to and use of the city's sewer system. First, the city imposes a connection charge at the time of connection to the sewer system. Second, the city imposes a monthly user fee for use of the sewer system. The City Council sets and, from time to time, amends the amounts of these fees. In addition, all new development is subject to payment of a sewer System Development Charge (SDC), as provided for under Chapter 13.20.

(1) Connection charge. For property within the city's sewer system service area, the property owner shall pay a one-time connection charge, based on the connection cost estimated by the City Engineer, in advance of service installation and connection to the sewer system. Upon completion of the connection, the actual final connection cost will be determined, and if this amount is greater than the original estimate, the applicant will be billed for the balance. If the actual connection cost is less than what was estimated and paid, the overpayment will be refunded to the applicant. The actual cost of an installation shall include all labor, equipment and material, plus a 15% charge for overhead. The service installation work must be performed by a city approved licensed and bonded contractor. Property owner installations are not allowed. The city's cost will be based on the time and materials required to inspect and approve the service installation and other equipment or infrastructure if applicable, and ensure adequate roadway restoration.

(2) Monthly sewer user fees. The city shall impose the following monthly sewer charges on every property connected to the city sewer system and bill them on a monthly basis, regardless of whether the sewer service is used. All monthly sewer charges may be modified as necessary to respond to changes in the city's cost of operation and maintenance of the sewer system, materials, supplies, services and any other changes in the city's cost of operating the system.

(A) Rate-based monthly user charge. There shall be established classes of users such that all members of a class shall pay a flat charge for a minimum volume of wastewater discharged from each residence, facility or other source. Should the City Engineer determine that a user's wastewater contribution does not conform to the volume or strength assumptions for the class assigned to that customer, the City Engineer, in his or her sole discretion, may reassign the user a more appropriate classification based on the actual volume and/or strength of the waste discharged from the property.

(B) Monthly flat charge (flat rate). In addition to a volume based monthly sewer user fee that is based on actual or estimated use, the city may also impose a flat monthly charge to pay for fixed costs associated with maintaining and operating the city's sewer system that is unrelated to the volume of customer use of the system. The City Council shall establish, and amend from time to time, the monthly flat charge by resolution.

(3) Billing Methods. The schedule of sewer rates shall be as set forth in the rate schedules established by the City Council. One bill for each property connected to the sewer system shall be dated and sent to each property owner, or his or her designee, each month. In the case of rental properties, the owner shall be responsible for payment of the sewer bill and shall always be the primary recipient of the sewer bill. Any request for service by a non-owner tenant must include the contact information and consent of the property owner, with a fee of $35.00. The owner is responsible for ensuring payment of sewer bills from a rental property. So long as a property is connected to the city sewer system, it will be billed for sewer service. There is no turn-off or vacation rate for vacant properties. During a vacancy the owner is responsible for the monthly ready-to-serve charges.

(4) Termination of service and disconnection from the city system. In the event the city terminates sewer service to a property for late or non-payment, the city will disconnect the property from the city's sewer system. From that point forward, as the cost of maintaining the account, the city will impose a monthly administrative fee that is lower than the monthly ready to serve charge that would otherwise apply to a property that is connected to the system. At such time as the owner desires to reconnect the property to the city sewer system, the owner must make application as for a new sewer service connection, and will be required to pay a reconnection charge for reconnecting any property to the city sewer system.

Chapter 5.140

5.140 Charges Constitute Lien

5.140 Charges Constitute Lien

All charges for sewer connections, service and repairs and all service charges provided in this chapter, or as may be hereafter amended together with penalties and compound interest of 10% per year thereon, shall be a lien upon the property with which such connections are made or to which such sewage service is rendered. Past-due sewer charges will be included with property tax statements and a property tax lien pursuant to O.R.S. 454.225. Except for general taxes and local special assessments, sewer liens shall be superior to all other liens and encumbrances and may be enforced in the manner provided by law.

Chapter 5.150

5.150 Administration of Sewer Service and Billing

5.150 Administration of Sewer Service and Billing

(1) Application for Service Connection. Any property in the city's service area is eligible for a sewer service connection. To apply, the owner of the service property, or someone with written authorization from the property owner, shall complete an application and submit it to city hall. The application shall be on a form provided by the city and include the information and statements described in this section. All applications for sewer service shall be made at city hall by the owner or an authorized agent of the owner of the service property. All representations of the applicant shall be binding upon the property owner. To apply, the owner of the service property, or someone with written authorization from the property owner, shall complete an application on forms provided by the city and submit at least the following information:

(A) Mailing address and other contact information for the owner of the service property;

(B) A street address for the service property to be connected to the city's sewer system and provided with sewer services;

(C) A description of the use of the service property, e.g., single-family residential, commercial, industrial, etc. The description should be specific enough to allow the City Engineer to determine the nature and volume of sewerage waste that will be discharged from the service property.

(D) A statement of whether or not the service property will be occupied by the property owner;

(E) If the applicant is someone other than the record owner of the property, a written statement from the record owner of the service property authorizing the applicant or agent to apply for sewer service, that the property owner shall comply with all requirements imposed by the city related to sewer service and that the owner shall be responsible for all bills, fees, charges and penalties charged by the city in connection with the provision of sewer service;

(F) A statement that the owner and agent shall comply with all of the city's rules, regulations and other requirements for sewer service, including prompt payment of all bills and acknowledgment that the city has the right to terminate service for nonpayment of bills in accordance with this chapter, and that the city shall not be responsible for any direct or indirect damage that may result from shutting off sewer service.

(G) A signed consent allowing the transfer of any claim for past due bills incurred by a tenant or renter of the property to the property owner.

(2) Responsibility for Service Extensions and Connections. The City Engineer shall review all applications for sewer service and determine if the proposed service property is within the city's service area, and any special design or construction requirements before the property can be connected to the city's sewer system. The City Engineer shall coordinate with the property owner for the extension of the sewer system infrastructure to the service property, and connection of sewer service.

(A) If sewer mains of sufficient size or capacity are in the public right-of-way adjacent to the service property, the city shall allow the property owner to construct a service lateral and connection to the public sewer main according to the requirements, specifications and procedures set forth in the sewer plan or applicable city regulations. The property owner shall provide engineered design drawings for all such connections to the City Engineer, consistent with the city's design standards for sewer system improvements. Work in the public right-of-way requires a right-of-way permit from the city.

(B) If sewer mains of sufficient size and capacity are not within the public right-of-way adjacent to the service property, the property owner shall be responsible for extending sewer mains to the service property through easements dedicated to the city or within the public right-of-way and across the service property.

(3) Responsibility for Bills Associated with Sewer Service.

(A) Responsibility for Fees, Charges, Penalties, etc. At all times and under all circumstances, the owner of the service property shall be responsible for all sewer service charges, fees, rates, penalties and related amounts charged by the city in connection with the provision of sewer to the service property owned by the property owner. When applying to connect, establish or reestablish service to the city's sewer system, all owners of real property shall provide written consent for the city to transfer a claim for delinquent service charges from any tenant to the owner. A claim for delinquent service charges incurred by a tenant of the property other than the owner may be transferred to the owner of the property that is served by the city's sewer system. The city will send bills, notices and other communication to other addresses and addressees upon the written request of the property owner; however, the owner shall remain liable for all sewer service charges. The city reserves the right to charge the property owner an administrative fee for the city's costs associated with setting up the renter's account and duplicate billing each

month. The city shall be entitled to seek payment for past-due bills from the property owner and pursue all available remedies against the property owner for nonpayment of those bills.

(B) Responsibility to Maintain Current Mailing Address. The owner of the service property shall provide, and be responsible for maintaining at all times, a current mailing address to which the city will send all bills, notices and other communications related to sewer service. All bills, notices and other communications from the city related to the provision of sewer to the service property shall be sent to the property owner's most recent address. Regardless of where the property owner directs the city to send all bills, notices and other communications related to sewer service, the property owner shall remain ultimately responsible to the city for payment of all bills, fees, charges, penalties etc. associated with the provision of sewer services to the service property.

(C) When Payment on Sewer Bills Is Due. All sewer service charges, fees, penalties and other bills shall be due and payable in full within 20 days of when the city sends a written bill. All bills that remain unpaid after 20 days of being sent shall accrue a late fee penalty in an amount established by City Council.

(D) Allocation of Partial Payments of Consolidated Bills. Whenever the City receives partial payment(s) of a consolidated bill for user charges and fees that includes sewer user charges, the City shall allocate payment first to the Parks and Recreation Fee User Charge, second to the Stormwater Fee User Charge, third to the Street Fee/User Charge and fourth to the Sewer Fee User Charge until the consolidated bill is fully paid.

(4) City’s Remedies for Past-Due Bills, Service Termination and Right to Lien. The city shall send all bills, notices and other communications related to sewer service of the service property to the property owner’s most recent address plus any additional addresses specifically requested by the property owner.

(A) Past-Due and Unpaid Bills. All bills related to sewer service are due and payable in full 20 days after issuance of the bill by the city. The city shall be entitled to impose a late charge on all bills that remain unpaid 20 days after issuance in an amount established by the Council until paid as well as fees and charges incurred by the City to collect the bills, including administrative and postage costs and any other cost incurred by the City.

(B) Right to Lien. The city may record all bills that remain unpaid 60 days after issuance as a lien against title to the service property. Such liens for city sewer bills shall be senior to all other liens and encumbrances on the service property, unless otherwise provided by state law. The city shall provide written notice at least 14 days prior to

recordation of such a lien to the current/most recent address and addressee provided by the property owner. The notice shall state the pay-off amount of the bill and a clear statement that if the past-due amount of the bill is not paid in full, the amount will be recorded as a lien against title to the service property.

(C) Service Termination. Subject to applicable state laws, the city has the right to terminate or deny resumption of sewer service to a service property if there is a past-due bill that remains unpaid more than 60 days after the date the city issues the bill. After the city terminates sewer service to a property, the property shall not be assessed the normal monthly sewer service charge, but will be assessed a lower monthly administrative fee for maintaining the account.

(D) Emergency Interruption of Sewer Service. In case of an emergency, the need to make repairs on the sewer system, or whenever the public health or safety so demands, the City Engineer may temporarily suspend sewer service. Before suspending or limiting sewer system use, the City Engineer shall notify, insofar as practicable, all affected sewer consumers. The city shall not be responsible for any damage resulting from any such interruption, change, or failure of the sewer system or service.

(E) Resumption of Sewer Service after Past-Due Amounts Are Paid. Subject to applicable state laws, the city may refuse sewer or water service or the resumption of sewer or water service to any service property for which there is a past-due or unpaid sewer bill or a history of non-payment or late payment of sewer bills for the property. The city may allow resumption of sewer or water service or a new connection for any property so long as the city and owner agrees to a repayment plan for all past-due sewer bills, including late fees and penalties. Such a repayment plan may also include the requirement that the owner deposit with the city a financial guarantee in a form and amount sufficient to cover the anticipated cost of six months of sewer bills. The city shall be entitled to draw upon the financial guarantee in the event of subsequent non-payment or late payment of sewer bills.

(5) Sewer Service Connection and Payment of System Development Charges. The city has adopted authority pursuant to O.R.S. Chapter 223 to impose system development charges (ASDCs@) related to the city's sewer system as provided in TMC Chapter 13.20 (System Development Charges). Sewer SDCs are normally due and payable at the time a new connection to the city's sewer system is permitted or actually connected. However, a property owner may request early payment of sewer SDCs prior to actual use of sewer services at the property. In the event that the city approves early payment of SDCs, the property owner shall be responsible for payment of the normal

monthly sewer bills associated with the service property beginning as of the date of connection or payment of SDCs, whichever occurs first, regardless of whether sewer services are actually used.

Chapter 5.160

5.160 Severability

5.160 Severability

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed as a separate, distinct and independent provision and that holding shall not affect the validity of the remaining portions of this chapter. (Ord. 1986-02)

Chapter 5.170

5.170 Penalty

5.170 Penalty

(1) General.

(A) Any person violating any provision of this title for which no other specific penalty is provided shall, upon conviction, be punished by a fine not to exceed $500, subject to the following subsection (1)(B).

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

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

(2) Sewerage System Use and Regulations.

(A) Any person who shall continue the violation of any provision of Sections 50.010 through 50.110 beyond the time limit provided pursuant to Section 50.120(A) of this code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined $500 for each day the violation is permitted to exist and continue.

(B) Alternatively, any person who shall continue the violation beyond the time limit provided pursuant to Section 50.120(A) of this code shall be subject to a civil penalty of $500. Each 24-hour period the violation continues shall constitute a separate violation subject to a $500 civil penalty. (Ord. 1986-02, Ord. 1990-01)

TITLE 6 BUSINESS LICENSES AND REGULATIONS

6.10 Food Service

6.10.010 State and Local Regulations Apply

Chapter 6.10

6.10 Food Service

Sections:

6.10.010 State and Local Regulations Apply

Every food service establishment in the City of Tangent shall comply with all applicable state, county, and local regulations, including but not limited to O.A.R. Chapter 333, Div. 150.

TITLE 7 PUBLIC PEACE, MORALS AND SAFETY

7.10 Curfew

7.20 Public Nuisances

7.30 Keeping Livestock

Chapter 7.10

7.10 Curfew

Sections

7.10.010 Purpose

(1) It appearing to the Council that there has been an increase in crimes and vandalism in the City of Tangent; and

(2) It appearing to the Council that there has been an increase in children under the age of 18 in streets, parks, and other public places during the hours of 10:00 p.m. and 5:00 a.m. during which time there is no school or public activity occurring; and

(3) It appearing to the Council that some of these crimes and vandalism are attributable to children under the age of 18; and

(4) It appearing to the Council that the city does not have its own police force, but relies on county and state law enforcement agencies; and

(5) It appearing to the Council that the Linn County Sheriff=s Department has indicated that a curfew would be a good way to control crimes and vandalism by minors. (Ord. 1991-03)

7.10.020 Description

(1) It further appears to the Council that setting a curfew would be the least burdensome way to control this increase in crimes and vandalism; it is therefore ordained that it shall be unlawful for any minor under the age of 18 years to be in or upon any street, park or other public place between the hours specified in Section 7.10.010, unless exempted under division (2) of this section. For minors under the age of 18, the curfew is between 10:00 p.m. and 5:00 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled for general student attendance in the city, the curfew is between 11:00 p.m. and 5:00 a.m. of the following morning.

(2) This section does not apply to a minor who is:

(A) Accompanied by the minor's parent or guardian;

(B) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(C) In a motor vehicle involved in interstate travel;

(D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(E) Involved in an emergency;

(F) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(G) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(H) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(I) Married or had been married or had disabilities of minority removed in accordance with state law. (Ord. 1991-03)

7.10.030 Enforcement

It is further ordained, that any peace officer having reasonable grounds to believe a minor has violated this ordinance may take said minor into temporary custody. The person taking temporary custody of a minor under this chapter shall, as soon as practicable, notify the parents, guardian or other person having care or custody of the minor. If the minor is in violation of this ordinance, the minor shall be cited to appear in the Linn County Juvenile Court during regular court hours and may be released to the custody of the minor=s parents, guardian or other person having care or custody of the minor as soon as the citation has been served upon the minor except in the flowing cases:

(1) Where it appears that the welfare of the minor or others may be endangered by the minor=s release; or

(2) Where the Linn County Juvenile Court otherwise orders. (Ord. 1991-03)

Chapter 7.20

7.20 Public Nuisances

Sections:

7.20.010 Purpose and Applicability

This Chapter is designed to establish basic standards for the maintenance and upkeep of private and public property throughout the City of Tangent to protect public health, safety and welfare and to help ensure that activities on one property do not disturb or impact significantly the use or enjoyment of neighboring properties. The owners and all persons using and in control of property within the City shall adhere to these standards, and any violation may be processed as a civil infraction under the City's Civil Enforcement Chapter, Tangent Municipal Code Chapter 2.15. (Ord. 2011-05)

7.20.020 Definitions

(1) "Ordinances" means all ordinances adopted by the Tangent City Council and any state law adopted therein by reference as these provisions now exist or may from time to time be amended or supplemented, and any codification of city ordinances that may be adopted.

(2) "Junk" means discarded, broken or disabled material including, but not limited to furniture, appliances, toys, tires, machinery or other equipment and any other item that is inoperable or otherwise unusable.

(3) "Litter" means discarded waste materials, including but not limited to paper wrappings, packaging materials, discarded or used bottles, cans and other containers.

(4) "Nuisance" means any condition or use of property that annoys, injures or endangers the safety, health, comfort or repose of the public, unlawfully interferes with, obstructs or tends to obstruct or render dangerous for passage a public park, sidewalk, street or alley. Any violation of a substantive requirement of any Tangent Municipal Code, ordinance or any permit or approval issued by the City of Tangent constitutes a nuisance.

(5) “Owner” means any person with an ownership interest in real property, as shown on the Linn County real property records or the most recent property tax records, and any person in possession or control of real property such as a renter, lessee, guest, invitee or other tenant.

(6) “Person” means any individual, corporation, limited liability corporation, partnership, unincorporated association, local government, government agency or other legal entity.

(7) “Property” means land and any improvements located thereon.

(8) “Trash” means waste food products, household garbage, discarded furniture, mattresses, inoperable or unused appliances, tires and the like. (Ord. 2011-05)

7.20.030 Duty to Maintain Property

The following conditions are declared to be nuisances that jeopardize the health, safety and welfare of the residents of Tangent. No person shall engage in any of the following activities, nor shall any owner, resident or user of any real property or improvements, including a vacant lot, maintain or allow to be maintained, any of the following conditions visible from any public right-of-way or from any other property:

(1) The accumulation of junk, trash, litter, discarded lumber, salvage materials or other similar materials;

(2) Attractive nuisances dangerous to children, including but not limited to abandoned, broken or neglected equipment, machinery, refrigerators and freezers, excavations, wells or shafts, and any unguarded machinery;

(3) Broken or discarded furniture, equipment, furnishings or shopping carts;

(4) Dead, decayed, diseased or hazardous trees, or any other vegetation that presents a hazard or danger to the public;

(5) Trees, hedges or other vegetation, signs or other obstructions that prevent drivers or pedestrians from having a clear view of traffic signs and other control devices or that obstruct the clear vision area (intersection sight distance) for vehicles stopped and waiting to enter traffic from a side street or driveway;

(6) Limbs of trees that are less than eight feet above the surface of any sidewalk, street or public right-of-way;

(7) Wires, except clotheslines, which are strung less than 15 feet above the surface of the ground;

(8) Any sign or graffiti, not in compliance with the City’s adopted sign regulations, on the exterior of any building, fence or other structure;

(9) Vehicle parts or other articles of personal property which are discarded or left in a state of disrepair, repair or partial construction;

(10) Except for commercially cultivated agricultural crops, any accumulation of growing or cut and piled grass, weeds, brambles, branches, berry vines, or other vegetation, whether or not such accumulation or growth of vegetation constitutes a fire hazard under Section 7.20.035 or otherwise.

(11) Hanging signs, awnings, A-frame signs and other similar structures in or over the public right of way, streets or sidewalks without permit, or which are situated in a manner that endangers public safety, or constructed and maintained in violation of applicable city requirements;

(12) Vehicles, boats, trailers, or parts thereof, that are inoperable due to lack of legal requirements, have no currently valid license or registration, safety equipment or the like, or are not capable of being safely operated or driven in the manner for which they were designed, or have been on the same parcel of private property for 30 days or longer. This section shall not apply to vehicles enclosed or stored within a building with walls and a roof that are completely screened from public view.

(13) Inhabiting a recreational vehicle or travel trailer in violation of TMC 1.130(7) of the Tangent Development Code or chapter 11.50 of the TMC. (Ord. 2011-05)

7.20.035 Duty to Keep Property Free of Flammable Debris During Fire Hazard Season

(1) Weeds and Debris to be Removed – Nuisance. The owner and occupant of property, if different entities, shall be jointly and severally responsible for keeping property within the City free of dead trees, bushes, brush, vegetation, ladder fuels and all other flammable debris that could cause, spread or fuel a fire, whether dry or wet. Except for commercially cultivated agricultural crops, between May 1 and September 30 of each year, the owner and occupant of property shall keep cut and remove from the property they own or use all dead bushes, dead trees, stumps, dry brush, dry vegetation, ladder fuels and any other material that could cause, spread or fuel fire. The owner and occupant of property shall cut and maintain the grass and vegetation on the property they own or use at a maximum height of 10 inches between May 1 and September 30 each year. Failure to comply with these requirements shall be deemed to be a nuisance and a fire hazard.

(2) Obligation to Maintain Weeds and Remove Debris from Abutting Right-of-Way. All of the requirements of this section shall apply to private property and the abutting vegetated public right-of-way out to the edge of the vehicle travel surface. Private property owners and occupants shall be jointly and severally

responsible for keeping the vegetated portion of the public right-of-way abutting the private property free of dead trees, bushes, brush, vegetation, grass and weeds taller than 10 inches, ladder fuels and all other flammable debris that could cause, spread or fuel a fire. This requirement applies between May 1 and September 30 of each year and during any officially announced period of fire hazard.

(3) Notice to Remove Brush, Grass and Flammable Debris. If any owner or user of property in the City fails to timely and fully comply with the requirements of this section, the City shall cause to be served upon the owner and user, if different entities, written notice of violation requiring the removal of all dead bushes, dead trees, stumps, dry brush, dry vegetation, ladder fuels and any other material that could cause, spread or fuel fire within 10 days. Service of this notice shall be by certified First Class U.S. mail to the address indicated on the most recent property tax records maintained by Linn County and by delivery to the property. If the owner or user of the property cannot be found within the City, notice to the property shall be posted in a conspicuous place on the property. Service shall be deemed valid and accomplished on the date of mailing and/or posting on the property.

(4) City Right to Abate. The owner or user of the property shall respond to the notice provided pursuant to this section within 10 days of service by cutting the vegetation and bringing the condition of the property into compliance with the requirements of this section. If, after the expiration of the 10-day period, the owner and user have failed to fully comply with the requirements of this section and the notice issued by the City pursuant to subsection C, the City shall without further notice order the immediate abatement of the nuisance and authorize the City to abate the nuisance and generally to bring the property into conformance with the requirements of this section. The City’s costs of abatement, including all reasonable administrative costs and attorney fees, shall be assessed on the property owner. Notice of the assessment, including an itemization of all of the City’s costs, shall be served on the owner and user, if different entities, in the manner described in subsection C. The owner and user, if different shall be jointly and severally liable for these costs. The owner may appeal and contest the reasonableness of the City’s assessment by requesting in writing a hearing before the City Council within 10 days of service of the notice of assessment. If either the owner or user timely file an appeal of the City’s assessment, the City Council shall convene a public hearing within 21 days of the appeal notice, take public testimony and determine if the assessment is reasonable. The Council’s decision shall be final. Any unpaid assessment shall be recorded as a lien against the property and may be enforced in the same manner as other municipal assessment liens under state law or the TMC. (Ord. 2011-05)

7.20.040 Nuisances Affecting Health

The following conditions are declared to be nuisances that jeopardize the health, safety and welfare of the residents of Tangent. No person shall engage in any of the following activities, nor shall any owner or resident of any real property or improvements, including a vacant lot, maintain or allow to be maintained, any of the following conditions:

(1) Decayed or unwholesome food offered for sale to the public;

(2) Diseased animals running at large;

(3) Carcasses of animals not buried or destroyed within 24 hours after death;

(4) Accumulation of rubbish, trash, household appliances, tires, manure or refuse of any kind;

(5) Garbage cans or other waste or septic containers that are not flytight;

(6) Dilapidation or state of filthiness or uncleanness of any dwelling or other structure that endangers health or life, violates the Dangerous Building Code or attracts, harbors or permits entrance by rats, mice or other rodents;

(7) Smoke, noxious fumes, smells, gas, soot or cinders produced on a property, that are not contained or filtered, and are allowed to leave the property;

(8) Pollution or contamination of any public stream, river, lake, storm sewer or other surface water body with soil, sediments or dust or the contamination of any public or private street, road or storm water drainage facility with dirt, dust or mud from any construction, earth moving, vegetation removal or development activity.

(9) The discharge to, or contamination of, any surface water, stream, well, ditch or public right-of-way by sewage, agricultural or industrial wastes, silt, soil, mud or other pollutants;

(10) The excavation, exposing, destabilization or disturbing of public utility lines or pipes, including sanitary sewer, water, stormwater and the like and the failure to properly cover, stabilize and restore such utility lines or pipes once they have been exposed or otherwise disturbed. The installation or alteration of public utility lines or pipes shall be done in compliance with applicable city requirements after consultation with the City Engineer or other appropriate official, and shall be subject to final inspection to ensure compliance with City requirements.

(11) All other acts, omissions, occupations or uses of property that are deemed by the City Council, the Board of Health or Department of Environmental Quality to be a nuisance or hazard to public health. (Ord. 2011-05)

7.20.050 Nuisances Affecting Peace and Safety

The following conditions are declared to be nuisances that jeopardize the health, safety and welfare of the residents of Tangent. No person shall engage in any of the following activities, nor shall any owner, user or resident of any real property or improvements, including a vacant lot, maintain or allow to be maintained, any of the following conditions:

(1) Maintenance of explosives, flammable liquids, fungicides, insecticides, herbicides, rodenticides, poisons, chemicals or other dangerous substances stored or disposed of in any manner or amount in violation of any applicable law;

(2) Frequent, loud or annoying noises or vibrations made or caused to be made by a person, including but not limited to amplified music, singing or a public address system, motor and engine noise from vehicles, lawn mowers, garden tools or other machinery, horns, sirens and any other noise that can be heard beyond the property on which the noise or vibration originates and which unreasonably disturbs or interferes with the peace, comfort or repose of the owners or inhabitants of neighboring property. Where applicable, proof of violation of the noise level limitations set forth in OAR Chapter 340, Division 35 shall be prima facie evidence of a violation of this section, but proof of a violation may be made by other or additional evidence;

(3) Buildings and alterations to buildings made or erected within fire setback limits as established by applicable requirements of state law, Linn County or the City;

(4) Obstruction to, or within 5 feet of, a fire hydrant or fire standpipe, including fences, poles, trees, bushes or any other vegetation.

(5) Buildings, structures, or parts thereof which are abandoned or allowed to fall into extreme disrepair. Any such structures determined by the city council, in consultation with the fire chief, to be hazardous to public safety or to pose undue risk of fire, substantiate a violation;

(6) Uncut dry grass, ladder fuels including flammable bushes and/or mature trees with branches lower than 8 feet and/or stores of leaf litter or dead needles in the canopy within the area immediately surrounding a building or residential structure. Any such neglected vegetation determined by the city council, in consultation with the fire chief, to pose undue risk of fire, or significantly inhibit the defensibility of a building or habitable structure is a nuisance and a violation. Additionally, a violation of this subsection may be prosecuted as a fire hazard under Section 7.20.035.

(7) Obstructions and excavations affecting the public’s ordinary and safe use of public property or public rights-of-way, including streets, alleys, sidewalks and utility easements, unless specifically permitted by the City;

(8) Telecommunications receiving or transmitting antennas erected or maintained in any manner in violation of any applicable law or regulation;

(9) Use of property abutting a public street or sidewalk or any use of a public street or sidewalk, without first obtaining a permit, that causes large crowds of people to gather and obstruct traffic or the free use of the streets and sidewalks;

(10) The use of any property or improvement that is not allowed by the City's land use regulations, or the failure to obtain a permit or other governmental approval where one is required prior to engaging in a particular use.

(11) The use or conveyance of property that was created in violation of the procedural or substantive requirements of applicable subdivision or partitioning laws. (Ord. 2011-05)

7.20.060 Nuisances Enforcement and Penalty

The violation of any provision of this Chapter is a nuisance and a civil infraction subject to enforcement and prosecution under the City's Civil Enforcement Chapter in addition to any other means of enforcement available to the city before any court or administrative body of competent jurisdiction. Upon a determination that a person has violated any requirement or prohibition of this chapter, that person shall be subject to a fine of up $500 per violation. Each day of violation, event or occurrence may be deemed a separate citable and punishable offense. (Ord. 2011-05)

7.20.070 Liability

The City of Tangent shall not be liable to any person for any loss, injury or damage to persons or property arising from any act, omission, requirement or prohibition of this chapter. Any person, owner or user of property that fails to promptly comply with the requirements or prohibitions of this chapter shall be answerable to any person injured by such a failure for any and all damages recoverable by an action at law. If any claim or legal action is brought against the city arising from a person's actions or failure to act as required by this chapter, the person responsible for the action or failure to act that gave rise to the claim shall be liable to the city for its costs and damages in defending any such claim, including reasonable attorney and witness fees and any penalty or judgment that a court may impose against the city. (Ord. 2011-05)

Chapter 7.30

7.30 Keeping Livestock

Sections:

7.30.010 Purpose and Applicability

(1) The purpose of this chapter is to prevent or curtail nuisance impacts of maintaining livestock in urban areas on urban sized lots by limiting the kinds and numbers of animals to a level appropriate for an urban area such as Tangent. The most stringent limitations apply in the most urban zones with the smallest lot sizes.

(2) Ownership and maintenance of livestock is a Farm Use. Livestock as defined in this chapter, are allowed on every property in the City of Tangent located within the Urban Growth Boundary as prescribed in this chapter, so long as Farm Uses are allowed in the zone corresponding to the property. If Farm Uses are not listed as an allowed use in a property's zone, all livestock regulated in this chapter are prohibited on that property. The livestock number restrictions in Sections 7.30.030 and 040 apply only within the City's Urban Growth Boundary (UGB) and do not apply to portions of the City outside of the UGB. All other sections of this Chapter (Sections 7.30.010, 020, 050 and 060) apply to all areas of the City, including those outside of Tangent's Urban Growth Boundary. (Ord. 2023-01)

7.30.020 Owner Responsibilities

The owner(s) of property where livestock are kept and the users/operators of those properties (collectively "livestock keepers") are jointly and severally responsible for compliance with the requirements of this chapter and are liable for any violations of it.

(1) Requirements and best practice recommendations. All livestock keepers must meet the provisions of this chapter and comply fully with the nuisance prohibitions and requirements set forth in Title 7 and all applicable land use requirements in Title 4.

(B) Nuisance complaints. The keeping of livestock shall not create a nuisance or disturb neighboring residents due to noise, odor, contaminated runoff, trespassing animals, damage or threats to public health. Livestock keepers are required to respond immediately to eliminate or remediate nuisance complaints, including but not limited to: waste removal and general clean-up, capture of escaped animals, noise, and upkeep of the livestock facility, feeding or watering practices that could attract rats.

(C) Contagious diseases. A livestock keeper shall contact a licensed veterinarian to examine any animal believed to have a disease contagious to animals (e.g., bird flu, mange, eczema) or humans (e.g., ringworm, hepatitis, rabies). The animal in question shall be confined in a secure enclosure until it is declared free of the disease by a licensed veterinarian.

(D) Keep livestock on the property. Livestock keepers are responsible for keeping all of their animals on their property and shall not allow them to trespass onto the public right-of-way, other public property or private property.

7.30.030 Backyard Livestock

(1) Chickens and other domestic fowl.

(A) A maximum total of 6 domestic fowl may be kept on any lot where Farm Uses are allowed. This includes chickens, ducks, pigeons and/or other similarly sized domestic fowl but no roosters, guinea fowl or pea fowl. A maximum total of 12 domestic fowl may be kept on any lot that is 20,000 square feet in size or larger where Farm Uses are allowed, but no roosters. In addition to these numbers, up to 4 small domestic fowl under 12 weeks of age are allowed.

(2) A maximum of 6 geese, turkeys, peacocks, emus and/or other larger domestic fowl that have a tendency to be loud and/or aggressive, may be kept on lots 20,000 square feet or greater where Farm Uses are allowed, or that have an approved conditional use.

(3) It is unlawful to have or keep roosters anywhere in the City except for agricultural purposes on lots zoned for Exclusive Farm Use (EFU).

(4) Rabbits. A maximum of 4 rabbits may be kept on any lot where Farm Uses are allowed. Up to 12 rabbits may be kept on lots 20,000 square feet and greater where Farm Uses are allowed. These numbers do not include rabbits under 12 weeks of age that are the offspring of a resident female rabbit.

(5) Miniature goats and miniature sheep. Miniature goats and miniature sheep are varieties that do not exceed 100 pounds adult weight. Goats and sheep larger than 100 pounds adult weight are subject to the limitations in Section 7.30.040.

(A) A maximum of 3 miniature goats and/or miniature sheep may be kept on any lot where Farm Uses are allowed. Up to 5 miniature goats and/or miniature sheep may be kept on lots 20,000 square feet and greater where Farm Uses are allowed. Nursing offspring that exceed the number allowed may be kept until weaned, but no longer than 12 weeks from birth.

(B) Upon request from the City Manager, animal keepers must produce documentation that their animal is a recognized miniature breed and weights no more than 100 lbs.

(6) Miniature pigs. Miniature pigs are commonly referred to as Miniature Vietnamese, Chinese or Asian Potbelly pigs (sus scrofa vittatus) and grow to an adult weight no greater than 150 pounds and a maximum height of 22 inches at the shoulder.

(A) Up to 2 miniature pigs may be kept on any lot where Farm Uses are allowed.

(B) Upon request from the City Manager, animal keepers must produce documentation that their animal is a recognized miniature breed and weights no more than 150 lbs.

(C) With the exception of Subsection 7.30.030(D)(1), it is unlawful to have or keep any live pigs or swine for a period longer than 3 days.

7.30.040 Larger Livestock

Large Livestock (full-sized horses, cows, llamas) and smaller livestock (goats, sheep, ponies and miniature horses) are allowed only on lots where Farm Uses are allowed.

A. A maximum of 2 smaller sized livestock are allowed on lots 20,000 square feet or greater where Farm Uses are allowed. One additional animal is allowed for each 10,000 square feet above 20,000 square feet.

B. A maximum 5 full-sized large livestock animals are allowed on lots 2 acres or greater that allow farm uses.

7.30.050 Livestock Facility Standards

(1) Required area dedicated to livestock.

(A) Chickens and other domestic fowl. Each fowl over 12 weeks of age must be provided a minimum of 10 square feet of usable shelter or pen area.

(B) Rabbits. Each animal over the age of 12 weeks must be provided a minimum of 4 square feet of usable shelter or pen area. A doe and her litter must be provided at least 7.5 square feet of shelter or pen area.

(C) Miniature goats, sheep and pigs. Each of these animals, other than their young under the age of 12 weeks, must be provided a minimum of 200 square feet of usable shelter or pen area.

(D) Miniature horses and standard size goats and sheep. Each of these animals, other than their young under the age of 6 months, must be provided a minimum of 10,000 square feet of usable shelter or pen area.

(E) Cows, horses and similar large livestock. Each of these animals, other than their young under the age of 6 months, must be provided a minimum of 25,000 square feet of usable shelter or pen area.

(2) General standards. The following standards must be met to ensure the livestock facility is in good repair, capable of being maintained in a clean and sanitary condition, free of vermin, disease, and obnoxious smells.

(A) The health or well-being of the animal must not in any way be endangered by the manner of keeping or confinement;

(B) The livestock facility must be adequately lighted and ventilated;

(C) A replaceable ground cover, appropriate to the type of animal being kept, must be used to reduce smells and flies; and

(D) All food and any materials that attract vectors must be stored in vector-proof containers.

(3) Secure enclosure.

(A) Livestock facilities must be designed and maintained to confine the livestock. Under the livestock keeper’s supervision livestock may be allowed outside of the livestock facility but must stay on the property it is being kept. Livestock may never be allowed to roam at large.

(B) On lots with more than one residential unit, livestock must be confined to the livestock facility at all times.

(C) Adequate safeguards must be made to prevent unauthorized access to the animals by general members of the public.

(4) Health and Sanitation. The keeping or raising of livestock must not create an unsanitary condition resulting in a nuisance as may be determined by the City Council or County Health Department. No livestock keeper shall create or maintain a nuisance by allowing or permitting unusual or excessive:

(A) Noise in violation of TMC 7.20.050(2)

(B) Accumulation of manure

(C) Presence of flies

(D) Presence of rats or other rodents

(E) Production of odors that can be smelled from any near-by property

(F) Accumulation or release off-site of surface water without adequate sanitary drainage in or about any barn, stable, roofed structure, corral, or fenced area.

(5) Setbacks.

(A) Structures in a livestock facility must be located no less than 3 feet from side and rear property lines and at least 10 feet from the front property line. Setbacks shall be greater if so required by the underlying zone.

(B) On lots with more than one residential unit, livestock areas must be located at least 15 feet from the walls of all residential units and any outdoor spaces used for activities such as, but not limited to, seating, playgrounds and recreational fields.

(6) Other development standards. All development and construction associated with a livestock facility shall comply with all applicable building and development code requirements and shall be consistent with any applicable development permit of land use approval.

7.30.060 Violation and Penalty

Violation of any provision of this chapter shall constitute a nuisance to be prosecuted as a civil infraction under TMC Chapter 2.15 (Civil Enforcement) and shall be punishable upon conviction by a fine of not more than $500. Each day that any such violation exists shall constitute a separate violation of this chapter and susceptible of a separate citation and fine.

7.30.070 Severability

The sections and subsections of this chapter are hereby declared severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections.

7.30.080 Secondary use

The keeping and raising of poultry shall be secondary to the principal residential use of the property.

7.30.090 Housing Poultry

Poultry shall be kept in a fenced enclosure at all times. Poultry shall be shut into the chicken house at night (from sunset to sunrise). During daylight hours, adult poultry shall have access to their chicken house and outdoor enclosure adequately fenced to

contain the poultry and prevent access to the poultry by dogs or other predators. Poultry shall be provided with house (also known as a Coop) that:

(1) Is thoroughly ventilated

(2) Does not allowing mice or other rodents to live underneath or within any part of the structure

(3) Is sufficient in size to admit free movement of the poultry

(A) At least 3 square feet per chicken inside the structure

(B) At least 10 square feet per chicken within the enclosed chicken area outside the structure.

(4) Is designed to be easily accessed, cleaned, and maintained by the owners.

TITLE 8 SURFACE WATER

8.05 Flood Damage Prevention

8.10 Adoption of Drainage and Stormwater Management Plan

8.20 Creation of Stormwater Utility

Appendix: Flood Plain Map from Comprehensive Plan

Chapter 8.04

8.05 Flood Damage Prevention

Sections:

8.05.010 Statutory Authority, Findings of Fact, Purpose and Methods

The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the CITY OF TANGENT does ordain as follows:

8.05.015 Findings of Fact

(1) The flood hazard areas of the CITY OF TANGENT are subject to periodic inundation which may result 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 may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

8.05.020 Statement of Purpose

It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;

(6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;

(7) Notify potential buyers that the property is in a special flood hazard area

(8) Notify those who occupy special flood hazard areas that they assume responsibility for their actions

(9) Participate in and maintain eligibility for flood insurance and disaster relief.

8.05.025 Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance includes methods and provisions for:

(1) Restricting or prohibiting development which is 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 development 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 floodplains, 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;

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

8.05.030 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding: A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Below-grade crawl space: Means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

Critical facility: Means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

Development: Any 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 or storage of equipment or materials.

Elevated building: Means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Flood or Flooding:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland or tidal waters.

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

(C) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

Flood elevation study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): See “Flood elevation study”.

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodplain management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination

thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Hazardous material: The Oregon Department of Environmental Quality defines hazardous materials to include any of the following:

(1) Hazardous waste as defined in ORS 466.005;

(2) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under ORS 469.605 and radioactive substances defined in ORS 453.005

(3) Communicable disease agents as regulated by the Health Division under ORS Chapter 431 and 433.010 to 433.045 and 433.106 to 433.990;

(4) Hazardous substances designated by the United States Environmental Protection Agency (EPA) under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;

(5) Substances listed by the United States EPA in section 40 of the Code of Federal Regulations, Part 302 – Table 302.4 (list of Hazardous Substances and Reportable Quantities) and amendments;

(6) Material regulated as a Chemical Agent under ORS 465.550;

(7) Material used as a weapon of mass destruction, or biological weapon;

(8) Pesticide residue;

(9) Dry cleaning solvent as defined by ORS 465.200(9).

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(A) By an approved state program as determined by the Secretary of the Interior or

(B) Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC): Means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:

(1) Conditional Letter of Map Amendment (CLOMA): A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-cannual-chane) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

(2) Conditional Letter of Map Revision (CLOMR): A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

(3) Conditional Letter of Map Revision based on Fill (CLOMR-F): A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

(4) Letter of Map Amendment (LOMA): An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.

(5) Letter of Map Revision (LOMR): A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

(6) Letter of Map Revision based on Fill (LOMR-F): A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Physical Map Revision (PMR): A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective baes flood elevations, or the special flood hazard area.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the CITY OF TANGENT and includes any subsequent improvements to such structures.

Recreational vehicle: A vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sheet flow area: See "Area of shallow flooding".

Special flood hazard area: See “Area of special flood hazard” for this definition.

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. 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 dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary,

or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Variance: A grant of relief by the CITY OF TANGENT from the terms of a flood plain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Water dependent: Means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of intrinsic nature of its operations.

8.05.035 General Provisions

(1) LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of the CITY OF TANGENT.

(2) BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for FLOOD INSURANCE STUDY, LINN COUNTY, OREGON AND INCORPORATED AREAS, VOLUMES 1 OF 2 and 2 OF 2,

dated December 6, 2016, with accompanying Flood Insurance Rate Maps (FIRMs): 41043CIND0B, 41043C0510G, 41043C0517G, 41043C0528G, 41043C0536G, 41043C0537G,

41043C_NTU_LETTER are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at Tangent City Hall.

(3) COORDINATION WITH STATE OF OREGON SPECIALTY CODES

Pursuant to the requirement established in ORS 455 that the Linn County Building Department, under contractual agreement with the CITY OF TANGENT, administers and enforces the State of Oregon Specialty Codes, the CITY OF TANGENT does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

(4) COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

4.a. COMPLIANCE

All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

4.b. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance 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 Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Tangent from taking such other lawful action as is necessary to prevent or remedy any violation.

(5) ABROGATION AND SEVERABILITY

5.a. ABROGATION

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

5.b. SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

(6) INTERPRETATION

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

(A) Considered as minimum requirements;

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

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

(7) WARNING AND DISCLAIMER OF LIABILITY

7.a. WARNING

The degree of flood protection required by this ordinance 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 ordinance 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.

7.b. DISCLAIMER OF LIABILITY

This ordinance shall not create liability on the part of the CITY OF TANGENT, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

8.05.040 Administration

(1) DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Manager or their designee is hereby appointed as Floodplain Administrator, charged with the duties to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

(2) DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

2.a. PERMIT REVIEW

Review all development permits to determine that:

(A) The permit requirements of this ordinance have been satisfied;

(B) All other required local, state, and federal permits have been obtained and approved.

(C) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in section 8.05.085, FLOODWAYS, are met; and

(D) Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of sections8.05.065; and

(E) Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.

(F) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section 8.05.040 (2.)(e.). of this section.

(G) Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 8.05.055(1.)(a.).

(H) Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.

2.b INFORMATION TO BE OBTAINED AND MAINTAINED

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

(A) Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section 8.05.065.

(B) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections 8.05.085,8.05.040(2.)(a.)(B) are adhered to.

(C) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).

(D) Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.

(E) Maintain all Elevation Certificates (EC) submitted to the CITY OF TANGENT;

(F) Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were flood-proofed for all new or substantially improved flood-proofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section 8.05.065.

(G) Maintain all flood-proofing certificates required under this ordinance;

(H) Record and maintain all variance actions, including justification for their issuance;

(I) Obtain and maintain all hydrologic and hydraulic analyses performed as required under section 8.05.085.

(J) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section 8.05.040(2.)(e.).

(K) Maintain for public inspection all records pertaining to the provisions of this ordinance.

2.c. REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

2.c.1. COMMUNITY BOUNDARY ALTERATIONS

The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's

boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

2.c.2. WATERCOURSE ALTERATIONS

Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

(A) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

(B) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

(C) The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section 8.05.040(2.)(d.). Ensure compliance with all applicable requirements in sections 8.05.040(2.)(c.)(2.), (2.)(d.) and 8.05.055(1.)(a.).

2.d. REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

2.d.1. COMMUNITY REPORTING

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub- Section 65.3.

The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

2.d.2. APPLICANT REPORTING

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

(A) Proposed floodway encroachments that increase the base flood elevation; and

(B) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall Notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR). The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable state and federal laws.

2.e. SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

Conduct Substantial Improvement (SI) (as defined in section 8.05.03) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 8.05.040(2.)(b.). Conduct Substantial Damage (SD) (as defined in section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 8.05.035(2.)) are damaged to the extent that the cost of restoring the structure to its before damaged

condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

8.05.045 Establishment of Development Permit

1. FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 8.05.035(2.). The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 2.0, including fill and other development activities.

2. APPLICATION FOR DEVELOPMENT PERMIT

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(A) In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section 8.05.040(2.)(b.).

(B) Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed.

(C) Certification by a registered professional engineer or architect licensed in the State of Oregon that the flood-proofing methods proposed for any non-residential structure meet the flood-proofing criteria for non-residential structures in section 8.05.080(3.)(c.).

(D) Description of the extent to which any watercourse will be altered or relocated.

(E) Base Flood Elevation data for subdivision proposals or other development when required per sections 8.05.040(2.)(a.) and 8.05.060.

(F) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

(G) The amount and location of any fill or excavation activities proposed.

8.05.050 Variance Procedure

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

(A) Generally, variances may be issued 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, in conformance with the provisions of sections 8.05.050(1)(C) and (E)and 8.05.050(2). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

(B) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(C) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

(D) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

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

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

(E) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(F) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section 8.05.050(1)(B) – (D) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

2. VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section 8.05.040(2.)(b.).

8.05.055 Provisions for Flood Hazard Reduction

In all special flood hazard areas, the following standards shall be adhered to:

1.a. ALTERATION OF WATERCOURSES

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 8.05.040(2.)(c.)(2.) and 8.05.040(2.)(d.).

1.b. ANCHORING

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) All manufactured dwellings shall be anchored per section 8.05.080(3.)(d.).

1.c. 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.

1.d. UTILITIES AND EQUIPMENT

a. WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE DISPOSAL SYSTEMS

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

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

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

b. ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical,

heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities, if replaced as part of a substantial improvement, shall meet all the requirements of this section.

c. TANKS

(1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

(2) Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

8.05.060 Subdivision Proposals & Other Proposed Developments

(A) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.

(B) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

(1) Be consistent with the need to minimize flood damage.

(2) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

(3) Have adequate drainage provided to reduce exposure to flood hazards.

8.05.065 Use of Other Base Flood Data

When Base Flood Elevation data has not been provided in accordance with section 8.05.035(2.) the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer sections 8.05.055 – 8.05.090.

All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section8.05.060.

Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc… where available. The lowest floor elevation requirement shall be at least two feet above the highest adjacent

grade. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

8.05.070 Structures Located in Multiple or Partial Flood Zones

In coordination with the State of Oregon Specialty Codes:

(A) When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

8.05.075 Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters

8.05.080 Specific Standards for Riverine (Including All Non-Coastal) Flood Zones

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 8.05.055 – 8.05.075 of this ordinance.

(1) FLOOD OPENINGS

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

(A) Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;

(B) Be used solely for parking, storage, or building access;

(C) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

(1) A minimum of two openings,

(2) The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,

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

(4) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.

(5) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

(2) GARAGES

(A) Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:

(1) If located within a floodway the proposed garage must comply with the requirements of section 8.05.085.

(2) The floors are at or above grade on not less than one side;

(3) The garage is used solely for parking, building access, and/or storage;

(4) The garage is constructed with flood openings in compliance with section 8.05.080(1.) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

(5) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;

(6) The garage is constructed in compliance with the standards in section 8.05.055 – 8.05.075; and

(7) The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(B) Detached garages must be constructed in compliance with the standards for appurtenant structures in section 8.05.080(3.)(f.) or non-residential structures in section 8.05.080(3.)(c.)depending on the square footage of the garage.

(3) FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS

In addition to the general standards listed in section 8.05.055 – 8.05.075 the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

3.a. BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

3.b. RESIDENTIAL CONSTRUCTION

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE).

(B) Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 8.05.080(1).

3.c NON-RESIDENTIAL CONSTRUCTION

(A) New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall:

(1) Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE); Or, together with attendant utility and sanitary facilities:

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

(3) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(4) 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 section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section 8.05.040(2.)(b.).

Non-residential structures that are elevated, not flood-proofed, shall comply with the standards for enclosed areas below the lowest floor in section 8.05.080(1).

(B) Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building flood-proofed to the base flood level will be rated as one (1) foot below.

3.d. MANUFACTURED DWELLINGS

(A) New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with section 8.05.080(1);

(B) The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;

(C) New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. 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), and;

(D) Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

3.e. RECREATIONAL VEHICLES

Recreational vehicles placed on sites are required to:

(A) Be on the site for fewer than 180 consecutive days; and

(B) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(C) Meet the requirements of section 8.05.080(3.)(d.), including the anchoring and elevation requirements for manufactured dwellings.

3.f. APPURTENANT (ACCESSORY) STRUCTURES

Relief from elevation or flood-proofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

(A) Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section 8.05.085.

(B) Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

(C) In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet.

(D) The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;

(E) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

(F) The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section 8.05.080(1);

(G) Appurtenant structures shall be located and constructed to have low damage potential;

Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed incompliance with section 8.05.055(1.)(1.d.)(c.).

(H) Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

3.g. BELOW-GRADE CRAWL SPACES

(A) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required flood openings stated in section 8.05.080(1). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(B) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

(C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(D) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system

components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(E) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

(F) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(G) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(H) The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

8.05.085 Floodways

Located within the special flood hazard areas established in section 8.05.035(2.) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

(1) Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice and FEMA Region X guidance, that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge;

Or,

(2) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance

Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

Additionally,

(3) If an encroachment proposal resulting in an increase in Base Flood Elevation meets all of the following criteria:

(A) Is for the purpose of fish enhancement;

(B) Does not involve the placement of any structures (as defined in section 8.05.03) within the floodway;

(C) Has a feasibility analysis completed documenting that fish enhancement will be achieved through the proposed project;

(D) Has a maintenance plan in place to ensure that the stream carrying capacity is not impacted by the fish enhancement project;

(E) Has approval by the National Marine Fisheries Service, the State of Oregon Department of Fish and Wildlife, or the equivalent federal or state agency, and

(F) Has evidence to support that no existing structures will be negatively impacted by the proposed activity,

Then a CLOMR may or may not be required by the local jurisdiction prior to issuance of a floodplain development permit.

(B) If the requirements of section 8.05.085(A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section 8.05.055 – 8.05.090.

8.05.090 Standards for Shallow Flooding Areas

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow.

For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(1) STANDARDS FOR AH ZONES

Development within AH Zones must comply with the standards in sections 8.05.055 – 8.05.090.

(2) STANDARDS FOR AO ZONES

In AO zones, the following provisions apply in addition to the requirements in sections

8.05.055 – 8.05.075, and 8.05.090:

(A) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

(B) New construction and substantial improvements of non-residential structures within AO zones shall either:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or

(2) Together with attendant utility and sanitary facilities, be completely flood-proofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 8.05.080(3.)(c.)(A.)(4.)

(C) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

(1) Be on the site for fewer than 180 consecutive days, and

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the elevation requirements of section 8.05.090(A), and the anchoring and other requirements for manufactured dwellings of section 8.05.080(3.)(d.).

(D) In AO zones, new and substantially improved appurtenant structures must comply with the standards in section 8.05.080(3.)(f.).

(E) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section 8.05.080(1.). (Ordinace 2020-01)

Chapter 8.10

8.10 Adoption of Drainage and Stormwater Management Plan

Sections:

8.10.010 Title and adoption

The City of Tangent Drainage and Stormwater Management Plan is on file in the office of the City Coordinator and shall serve as the guiding and governing document regarding drainage and stormwater which was adopted by the city. (Ord. 1992-03, 1992)

Resolution 2009-12 Adopted the Hydrological and Ecological Assessment of North Lake Creek which will be used as the basis for establishing uniform storm drainage design and construction standards along with the Drainage and Stormwater Management Plan on file in the office of the City Coordinator.

Chapter 8.20

8.20 Creation of Stormwater Utility

Sections

8.20.010 Findings

(1) The city provides a valuable public service by providing stormwater drainage facilities on public lands and oversight for privately held stormwater facilities for the collection and disposal of storm water discharged from these lands and right-of-ways within the city. The utility is established and exists so that a means is available for the diversion, collection and/or disposal of storm waters from property in the City of Tangent. The Council determines that this service represents a municipal service in a developed environment and is essential to the public health, safety and welfare of the city and its citizens.

(2) Persons who use and/or benefit from the public stormwater facilities may be charged fees that reflect the cost of management, maintenance, extension and construction of stormwater facilities as a public utility in the city.

(3) The structure of the storm water utility fee is a fee for service and not a charge against property. The utility fee structure shall reflect the actual cost of providing the service and shall not be imposed on the persons not receiving a service. The actual costs may include all costs a utility might incur were the storm water system facilities in private ownership. (Ord. 2004-05)

8.20.020 Definitions

Except where the context otherwise requires, the definitions in this ordinance shall govern.

(1) “Development” shall mean any constructed change to improved or unimproved property including, but not limited to, buildings or other structures, private storm drainage facilities, mining, dredging, filling, grading, paving, excavation or drilling operations. (Ord. 2004-05)

(2) “Impervious Surfaces.” Those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Examples of impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development. (Ord. 2004-05)

(3) “Improved Property” shall mean any area which has been altered such that the runoff from the site is greater than that which could be historically have been expected. Such a condition shall be determined by the City Administrator. (Ord. 2004-05)

(4) “Open Drainageway” shall mean a natural or constructed path, ditch, or channel which has the specific function of transmitting natural stream water or storm water from appoint of higher elevation to a point of lower elevation. (Ord. 2004-05)

(5) “Person Responsible” shall mean the owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of an improvement on the property. (Ord. 2004-05)

(6) “Public Improvement” shall mean projects for construction, reconstruction, or major renovation on real property by or for the city. “Public Improvement” does not include emergency work, minor alteration, ordinary repair or maintenance necessary in order to preserve a public improvement.
(Ord. 2004-05, Ord. 2004-15)

(7) “Runoff Control” shall mean any measure approved by the City Administrator that reduces stormwater runoff from land surfaces on which development exists. (Ord. 2004-05)

(8) “Stormwater” shall mean water from precipitation, surface or subterranean water from any source, drainage and non-septic wastewater. (Ord. 2004-05)

(9) “Stormwater Drainage Facilities” shall mean any structure(s) or configuration of the ground that is used or by its location becomes a place where

stormwater flows or is accumulated including, but not limited to, pipes, sewers, gutters, manholes, catch basins, ponds, open drainage-ways and their appurtenances. (Ord. 2004-05)

(10) “Stormwater Master Plan” shall mean the Drainage and Stormwater Management Plan B City of Tangent; adopted by City Ordinance on September 10, 1992; or as may be amended or revised. (Ord. 2004-05)

8.20.030 Stormwater Policy

(1) Acquire, own, manage, construct, equip, operate and maintain within the city open drainage ways, underground storm drains, equipment and appurtenances necessary, useful or convenient for public storm drain facilities. (Ord. 2004-05)

(2) Manage, maintain and extend existing public storm drainage facilities. (Ord. 2004-05)

(3) Require persons responsible to construct, reconstruct, maintain and extend storm drainage facilities. (Ord. 2004-05)

(4) Require the improvement of both public and private stormwater drainage facilities through or adjacent to a new development. Such improvement shall be the responsibility of the person responsible, as defined above. The improvements shall comply with all applicable city ordinances, policies, standards and Master Plan. (Ord. 2004-05)

(5) It will be the policy of the city to participate in improvements to storm drainage facilities when authorized by the City Administrator. To be considered for approval by the City Administrator, the Administrator must determine that a storm drainage facility:

(A) Be public;

(B) Provide a major benefit to the community;

(C) Be located in or on a city property, right-of-way or city easement;

(D) If a piped system, be a design equivalent to larger than a 24-inch diameter circular concrete pipe; and either

(E) Be identified as a project in the Master Plan; or

(F) Be a rehabilitation and/or replacement of existing public storm drainage facilities. (Ord. 2004-05)

(6) Assure that the city shall maintain public stormwater facilities located on city property, city right-of-way or city easements. Public stormwater facilities managed by the city include, but are not limited to;

(A) Open drainage-ways serving a drainage basin or at least 100 acres, when on city property, city right-of-way, or city easement;

(B) A piped drainage system and related appurtenances which has been designed and constructed expressly for use by the general public and accepted by the City Administrator;

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

(D) Flood control facilities (levees, dikes, overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public and accepted by the City Administrator.
(Ord. 2004-05)

8.20.040 Establishment of a Stormwater Utility

A stormwater utility is hereby created for the purpose of providing funds for the management, maintenance, extension and construction of public storm drainage facilities within the city. The City Council finds, determines and declares the necessity for management, maintenance, extension and construction of city storm drainage facilities for its inhabitants. (Ord. 2004-05)

8.20.050 Establishment of a Stormwater User Charge

(1) The initial Stormwater Utility User Charge is that authorized by Chapter 3.50, and will be established by resolution and amended by the City Council as necessary. The User Charge will reflect the cost of establishing, maintaining, operation and replacement of public storm drainage facilities in the city.

(2) The term “Utility Fee” found anywhere in this Ordinance shall mean User Charge. (Ord. 2004-05, Ord. 2004-15)

8.20.055 Methodology for Determining Who Will Be Subjected to the User Charge

Any person or resident of a property that benefits from the use of the stormwater utility drainage area will be expected to be billed for and pay for that benefit. The stormwater drainage area includes all properties that drain into the declared flood plains area as approved by the city in Ordinance No. 92-03, Codified in Title 8, Chapter 8.10, 1992, and any other drainage way so declared by the City Council in an Ordinance or Resolution. (Ord. 2004-15)

8.20.060 Stormwater Fee B Dedicated

All fees collected through the resolution authorized by this ordinance, and Chapter 3.50, shall be paid into the Stormwater Utility Fund accounts and accounted for by dedicated line items including, but not limited to, Stormwater Maintenance and Storm Drainage Construction. (Ord. 2004-05, Ord. 2004-15)

8.20.065 Late Fee and Interest Charges

(1) A $3 late fee is to be added for each fee that is paid late. Any fee is late if payment is not received by the close of business on the tenth working calendar date from the date of the billing is issue. (Ord. 2004-13)

(2) As the city loses interest on moneys not collected in timely manner, interest at the rate of one and one-half% per month shall be charged for one entire month any day of any month that a billing is delinquent for over 30 days in that month and totals the amount of $100. (Ord. 2004-13)

8.20.066 Imposition of Annual Cost of Living Process

(1) An annual COLA review with consumer price index data from the US Department of Labor, Bureau of Labor Statistics, Portland-Salem will be included as an agenda item at a regular Council meeting held in March of each year. At the annual COLA review, the Council will review revenues and expenditures to determine whether (A) the COLA formula reflects actual cost increases experienced by the city; (B) whether new fees, charges or expenditures adopted during the prior year should be adopted through the application of COLA formulas; and (C) COLA formulas based on particular indices are appropriate. (Ord. 2008-01)

(2) If at the annual review the Council determines that a particular fee, charge or expenditure is not appropriately modified by an adjustment, the Council may remove the particular fee, charge or expenditure from the list of fees, charges or expenditures to which the COLA is applied. Otherwise, the fees, charges or expenditures identified in this ordinance and amendments thereto shall automatically adjust each July 1, and the adjusted fee, charges or expenditures identified in this ordinance and amendments thereto shall be used for budgeting purposed for the next fiscal year. (Ord. 2008-01)

(3) In the event a fee, charge or expenditure is enacted in the period prior to each annual COLA review, the COLA adjustment for that particular fee, user charge or expenditure will be based on the same measure as applied other fees, charges or expenditures unless taken from the list by the City Council as not be appropriate for a COLA adjustment. (Ord. 2008-01)

(4) The Consumer Price Index Data from the US Department of Labor, Bureau of Labor Statistics, Portland-Salem Statistics will be used to calculate adjustments to the following fees, charges and expenditures: Stormwater Utility User Charges. (Ord. 2008-01)

8.20.070 Enforcement

Any fee due which is not paid when considered due may be recovered in an action by the city. In addition to any other remedies or penalties provided by this or any other city

ordinance, employees or agents of the city shall, at all reasonable times, have access to any improved property served by the city for inspection, survey, repair, maintenance, construction or enforcement purposes. Failure to properly inspect, survey, construct, maintain, repair or otherwise ensure that adequate facilities are available to ensure proper drainage of stormwater are defined as nuisances and the city may seek to remedy such nuisances under the city's nuisance ordinance.
(Ord. 2004-05, Ord. 2004-15)

8.20.080 Administrative Review B Appeals

(1) Any user who disputes being charged a user fee may ask in a written request for a re-determination of charge from the City Administrator. If the user can demonstrate that no stormwater runoff from that property enters a utility drainage within the city limits, the City Administrator will make such a determination. A refund of any user charges shall be made to the date of such determination. The City Administrator will also remove that person or property owner from the user charge billing records. There will be no charge for this review.

(2) If the user does not accept the determination made by the City Administrator, they may request a review by the City Council. This request must be in writing, explain why the City Administrator's decision is not acceptable and be made within 30 days of the date of the City Administrator's decision. The user will have the burden of proof. A fee (to be established in the user charge resolution) will be charged for this review.

(3) The City Council shall render a final ruling within 30 calendar days.
(Ord. 2004-05, Ord. 2004-15)

8.20.090 Notice of Decision

Every determination of the Council on an administrative review shall be in writing, and notice shall be mailed to or served upon the petitioner within a reasonable time from the date of such action. Service by certified mail, return receipt requested, shall be the conclusive evidence of service for the purpose of this section.
(Ord. 2004-05, Ord. 2004-15)

8.20.100 Exemptions

The Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary or that the contribution to the storm water utility use by the class to be insignificant. (Ord. 2004-05, Ord. 2004-15)

8.20.110 Conformity with the Law

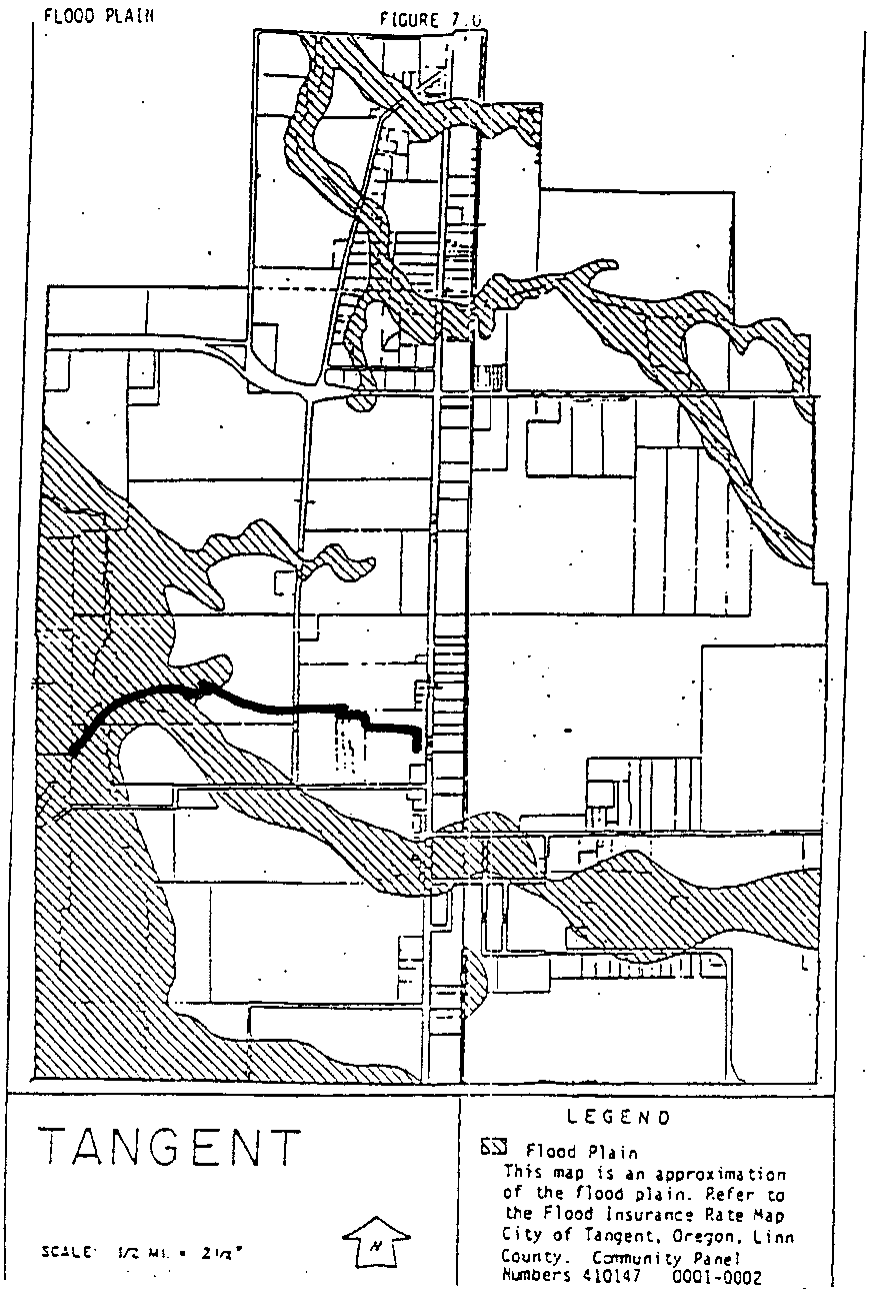
This ordinance shall not substitute for, nor eliminate the necessity for conformity with, any and all law or rules of the United States or the State of Oregon or their agencies, or

any applicable ordinance, rule, or regulation of Linn County.
(Ord. 2004-15, Ord. 2004-05)

8.20.120 Separability

If any section, sub-section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.
(Ord. 2004-05, Ord. 2004-15)

Appendix: Flood Plain Map from Comprehensive Plan



TITLE 9 BUILDING AND CONSTRUCTION

9.30 Fill and Excavation Code

9.40 Dangerous Building, Structures and Properties

9.50 Building Code and Permitting

Chapter 9.30

9.30 Fill and Excavation Code

Sections:

9.30.010 Description

Chapter 850, Fill and Excavation Code of Linn County, (latest revision March 3, 1999) as revised by Schedule A, Revisions to Linn County Fill and Excavation Code for the City of Tangent, is adopted by the city as the standards applicable to all drainage, grading, excavation, and fill projects undertaken by or on behalf of the city, and shall be used as the presumptive basis for all drainage, grading, excavation, or fill projects authorized by the city. The Oregon Structural Specialty Code (OSSC) (2019 Oregon Structural Specialty Code (OSSC) Effective Oct. 1, 2019) establishes the minimum requirements for the construction, reconstruction, alteration and repair of buildings and other structures, as well as the installation of mechanical devices and equipment, and is available for review at City Hall. (Ord. 2007-003, Ord. 2004-11, Ord 2022-01)

Appendix Chapter J, entitled “Grading” of the Oregon Structural Specialty Code is also hereby adopted by this reference and shall further regulate grading, excavation and earthwork construction on private property

Projects that require a site grading permit:

(1) Fill over 50 cubic yards.

(2) Excavation creating a slope over 4 feet high.

(3) Earthwork in a mapped natural resource area (wetland, riparian area, significant vegetation).

(4) Earthwork in a mapped natural hazard area (floodplain, landslide, slope over 15%).

Chapter 9.40

9.40 Dangerous Building, Structures and Properties

Sections:

9.40.010 Dangerous Buildings, Structures and Properties

(40.10.1) Generally. All buildings and other structures in the City of Tangent shall comply with all applicable building and structural specialty codes. No property shall contain any dangerous building or structure as described in this chapter. Any building, structure or property identified and determined to be dangerous by the cities appointed or authorized City Manager, shall be repaired, brought into compliance with any applicable building or structural specialty codes or demolished.

(40.10.2) Definition. A dangerous building, property or structure shall be deemed to exist whenever any property, building, structure or portion thereof meets any of the following criteria to the extent that the life, health, property or safety of the public or an occupant is or could be unreasonably endangered:

(40.10.2.A) High Loads. Whenever the stress in any materials, member or portion of a structure, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose or location.

(40.10.2.B) Weakened or Unstable Structural Members or Appendages.

40.10.2.B.i. Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the State

Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose or location; and/or

40.10.2.B.ii. Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuaries, signs or other appendages or structural members which are supported by, attached to or part of a building, are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the State Building Code and Fire and Life Safety Code.

(40.10.2.C) Buckled or Leaning Walls, Structural Members. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one -third of the base.

(40.10.2.D) Vulnerability to Earthquakes or High Winds.

40.10.2.D.i. Whenever any portion of a structure has wracked, warped, buckled or has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar construction; or

40.10.2.D.ii. Whenever any portion of a building, or any member, appurtenance or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one -half of that specified in the State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the State Building Code and Fire and Life Safety Code for such buildings.

(40.10.2.E) Insufficient Strength or Fire Resistance. Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:

40.10.2.E.i. Has in any non-supporting part, member or portion, with less than 50% of the strength or the fire-resisting characteristics required by law for a newly constructed building of like area, height and occupancy in the same location.

40.10.2.E.ii. Has in any supporting part, member or portion with less than 66% of the strength or the fire-resisting characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

40.10.2.E.iii. This subsection does not apply to strength required to resist seismic loads. For application of seismic requirements see the State Building Code.

(40.10.2.F) Risk of Failure or Collapse.

40.10.2.F.i. Whenever any portion or member or appurtenance thereof is likely to collapse, fail or to become detached or dislodged, with the possibility of injuring people or damaging property.

40.10.2.F.ii. Whenever the structure or any portion thereof, is likely to partially or completely collapse as a result of any cause, including, but not limited to:

40.10.2.F.ii.1) Dilapidation, deterioration or decay;

40.10.2.F.ii.2) Faulty construction;

40.10.2.F.ii.3) The removal, movement or instability of any portion of the ground necessary for structural support of the structure; or

40.10.2.F.ii.4) The deterioration, decay or inadequacy of the foundation.

(40.10.2.G) Excessive Damage or Deterioration. Whenever the structure, exclusive of the foundation:

40.10.2.G.i. Shows 33% or more damage to or deterioration of its supporting members;

40.10.2.G.ii. Shows 50% damage or deterioration of its non-supporting members; or

40.10.2.G.iii. Shows 50% damage or deterioration of its enclosing or outside wall coverings.

(40.10.2.H) Demolition Remnants On-Site. Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure.

(40.10.2.I) Lack of Approved Foundation.

40.10.2.I.i. Where a structure is not placed on an approved foundation and no valid permit exists for a foundation for that structure.

40.10.2.I.ii. For more than 90 days after issuance of a permit for a foundation for a structure, where the structure is not placed on an approved foundation.

(40.10.2.J) Fire Hazard.

40.10.2.J.i. Whenever any structure is a fire hazard as a result of any cause, including but not limited to dilapidated condition, deterioration or damage, inadequate exits, lack of sufficient fire-resistive construction, overgrown vegetation, faulty electric wiring, gas connections, or heating apparatus, storage or keeping of combustibles or any other cause that is determined by the Fire Marshal or City Manager to be a fire hazard.

40.10.2.J.ii. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

40.10.2.J.iii. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(40.10.2.K) Other Hazards to Health, Safety or Public Welfare.

40.10.2.K.i. Whenever, for any reason, the structure, building, property or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

40.10.2.K.ii. Whenever a structure, building or property has any conditions or defects to the extent that life, health, property or safety of the public or its occupants are endangered.

(40.10.2.L) Public Nuisance.

40.10.2.L.i. Whenever any structure, building or property is in such a condition as to constitute a public nuisance as defined in the Tangent Nuisance Ordinance (Ordinance 2007 -03).

40.10.2.L.ii. Whenever the structure, building or property has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become:

40.10.2.L.ii.1) An attractive nuisance;

40.10.2.L.ii.2) A harbor for vagrants or criminals; or

40.10.2.L.ii.3) As to enable people to resort thereto for the purpose of committing unlawful acts.

(40.10.2.M) Drug Lab Property. Is currently listed as unfit for use by the State of Oregon due to toxic contamination resulting from the manufacture of illegal drugs.

(40.10.2.N) Violations of Codes, Laws. Whenever any structure, building or property has been constructed, exists, is used or maintained in violation of any specific requirement or prohibition applicable to the structure or property, including any applicable requirements of the State Building Code or structural specialty codes, land use regulations, Fire and Life Safety Code or any state or city regulation relating to the condition, location or structural integrity of buildings. (Ord 2022-02)

9.40.020 Abatement of Dangerous Buildings, Structures and Properties

Any building, structure or property or portion thereof, that is determined after inspection by the City Manager to be dangerous as defined in this chapter, is hereby declared to be a nuisance and shall be abated by repair, rehabilitation, or demolition in accordance with this chapter. The City Manager, upon making such a determination, may, in addition to commencing abatement proceedings, secure the property to protect the public health, safety and welfare pending repair or demolition. (Ord 2022-02)

9.40.030 Repair or Demolition

The following standards shall be applied by the City Manager and by the City Council on appeal in ordering the repair or demolition of any dangerous building, structure or property:

(40.30.1) Any condition(s) that results in a building, structure or property being declared a dangerous building under this chapter shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair or demolished if required by the City of Tangent.

(40.30.2) Partial demolition of a structure for additions, remodels or other alterations will be processed through application for a City of Tangent Demolition Permit.

(40.30.3) The demolition of buildings must occur in a safe manner and consistent with the terms of the demolition permit issued by the city.

(40.30.4) Adjoining streets and sidewalks may not be littered with solid waste and must be wetted down, if necessary, for dust control and to maintain cleanliness.

(40.30.5) During demolition work, all receptacles, drop boxes, shafts or piping used in such demolition work must be covered in an appropriate manner.

(40.30.6) A foundation that is not intended for use in new construction must be removed and all excavations filled to level with the adjoining grade with approved structural fill material.

(40.30.7) Plans and structural calculations for foundation intended for use in new construction must be submitted to the city and the foundation approved for such use.

(40.30.8) Upon completion of demolition work, the remaining foundations must be barricaded by a fence at least eight feet high until the new construction has progressed sufficiently to negate hazards to the public.

(40.30.9) An owner or person in charge must remove all solid waste from the premises upon which demolition is carried out within seven days from completion of the demolition or a stoppage, if work remains uncompleted, unless the city extends the time in writing due to weather, terrain or other circumstances deemed appropriate.

(40.30.10) If required by the City, the building or structure shall be demolished, subject to issuance of a demolition permit, regardless of whether a building permit was issues or required for its construction.

(40.30.11) The City Manager can waive the requirement for permit for work of a very minor nature when it is determined that no utilities will be affected, there is no danger to the public, and no other department review is required.

(40.30.12) Prior to the issuance of a demolition permit the City Manager shall receive approval from any other affected departments and agencies regarding land use, utilities, and other associated aspects for the structure. (Ord 2022-02)

9.40.040 Notices of Violation and Stop Work Orders

Whenever any work on any building, structure, electrical, gas, mechanical or plumbing system is being done contrary to the provisions of a City-issued building permit, the Building Code, a City-issued land use permit, or the Tangent Development Code, the City Manager may order the work stopped by giving written notice of the violation. The written notice shall be provided to the owner of the property or the owner's agent or to any person doing the work or causing it to be done and shall also post the property. The notice shall state the specific violations and conditions under which work may be resumed. If the City Manager or Building Official determines that an emergency exists or there is an imminent threat of harm to the public generally or individuals, the City Manager or Building Official may order all work stopped without prior written notice by issuing a Stop Work Order. Upon issuance and posting of a Stop Work Order, all work shall immediately cease. (Ord 2022-02)

9.40.050 Periodic Inspections by the Tangent Fires District

As a measure to protect the public health, safety and welfare, the Tangent Fire District is authorized to perform periodic fire/life/safety inspections of commercial and industrial buildings to verify compliance with the applicable Fire Code requirements. The frequency of Tangent Fire District inspections shall be determined by the Tangent Fire

District based upon the potential fire/life/safety hazard posed by activities within each commercial or industrial building, but shall be no more frequent than annually. The Tangent Fire District is authorized to charge the property owner or tenant a reasonable fee for the Tangent Fire District's cost of performing these periodic inspections. (Ord 2022-02)

9.40.060 Order to Vacate

(40.40.1) If the building, structure or property is in such condition as to make it immediately dangerous to the life, limb, property or safety of its occupants or the public, it shall be ordered to be vacated.

(40.40.2) If the City Manager has determined that the building, structure or property must be vacated, the notice and order to vacate shall require that it be vacated within a time certain from the date of the order, as determined by the City Manager to be reasonable.

(40.40.3) Every notice and order to vacate shall, in addition to being served as provided in the Tangent Nuisance Ordinance, be conspicuously posted at the main entrance (e.g., the front door) of the building and shall be in substantially the following form:

DANGEROUS BUILDING - DO NOT OCCUPY

It is a misdemeanor to occupy this building or to remove or deface this notice.

By Order of the City Manager City of Tangent, Linn County

9.40.070 Procedures, Notice and Order

Except as provided in this section, violations of this chapter shall be enforced and processed as nuisances according to the Tangent Nuisance Ordinance (Ordinance No. 2007 -03).

(40.50.1) Notice and Order. Whenever the City Manager determines that a building, structure or property is dangerous, as defined by this chapter, he or she shall provide notice of the violation in the manner prescribed in the Tangent Nuisance Ordinance to anyone with a recorded ownership interest in the property where the dangerous building is located. The City Manager shall be entitled to rely upon the ownership information on the most recent property tax records. Additionally, the City Manager shall provide notice of the violation to anyone occupying or otherwise using the building and/or property, and the City Manager shall post the property with the notice.

(40.50.2) Process and City Council Review. As provided under the Tangent Nuisance Ordinance, the notice issued under subsection (1) shall notify the respondents of the nature of the violation, a description of what aspects of the

building or property constitute a violation of this chapter, what must be done to remedy the violation, that the remedy must be completed within 15 days and that any of the respondents may request a hearing and a determination by the City Council within that 15-day period. All other procedures provided for in the Tangent Nuisance Ordinance, including city cost recovery for abatement, shall apply. (Ord 2022-02)

9.40.080 Temporary Safeguards

Notwithstanding other provisions of this chapter, whenever the City Manager determines, based upon commonly accepted safe practices and principles of structural soundness or methods of construction and repair, that there is imminent danger due to an unsafe condition, the City Manager may without further notice or process employ the necessary labor and materials to perform the required work as expeditiously as possible, including the boarding -up of openings, removal of flammable or other dangerous materials, to render a dangerous building temporarily safe; and may cause such other action to be taken as the City Manager deems necessary to meet such emergency and protect health, safety and welfare. (Ord 2022-02)

9.40.090 Vacated Buildings, Structures and Properties

Upon posting by the City Manager, all vacated buildings, structures and properties shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to adversely affect the public health, safety or welfare. (Ord 2022-02)

9.40.100 Historic Buildings

The provisions of this code shall not be mandatory for structures designated as historic buildings when such buildings or structures are judged by the City Manager to be safe and in the interest of public health, safety and welfare. (Ord. 2009 -05, Ord 2022-02)

9.40.110 Violations, Penalties and Remedies

(1) No person, firm, corporation or other entity however organized shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building or structure in the City, or cause the same to be done, contrary to, or in violation of, this chapter.

(2) All violations of any provision of this chapter shall be subject to an administrative civil penalty not to exceed $500 and shall be processed in accordance with the procedures set forth in this chapter.

(3) Each day that a violation of a provision of this chapter exists constitutes a separate citable violation.

(4) In addition to the above penalties, a condition caused or permitted to exist in violation of this chapter is a public nuisance and may be abated by any of the procedures set forth under any applicable law. The penalties and remedies

provided in this section are not exclusive and are in addition to other penalties and remedies available to the City under any ordinance, statute or law.

(5) The City, Linn County and the Tangent Fire District have joint authority to prosecute or commence civil enforcement actions any violation of the Building Code or the Fire Code. (Ord 2022-02)

Chapter 9.50

9.50 Building Code and Permitting

9.50.010 Building and Fire Codes Adopted, Compliance with State Law Required

(1) Adoption of Building Code and Fire Code by Reference. The City adopts and incorporates by reference each of the specialty codes making up the State Building Code adopted by the Administrator of the Building Codes Division, Department of Consumer and Business Services pursuant to OAR Chapter 918 (collectively the “Building Code”) and the Oregon Fire Code adopted by the state Fire Marshal, Department of State Police pursuant to OAR Chapter 837 (“Fire Code”) as those codes now exist and all subsequent amendments and additions thereto.

(2) Compliance Required. In addition to compliance with all applicable land use and development regulations of the Tangent Development Code, no person shall conduct building or related activities within the city without compliance with all applicable provisions of the Building Code and Fire Code.

(3) Building Permit Application Triggers City Land Use Check. Every building permit application submitted for work within the City shall include a review for land use compliance to verify that the use or change in use contemplated in the building permit application is allowed by, and consistent with, the City’s adopted Development Code. No building permit shall be approved or issued without a City verification on the face of the building permit document that the work contemplated in the building plans and permit application are consistent with the applicable city zoning and Tangent Development Code requirements.

(4) Change in Use and Change in Tenant Triggers Building Code and Fire Code Compliance Check. Every change in use and every change of tenant or ownership of a commercial or industrial structure in the City shall trigger a review by the City to verify that any change in use, tenant or ownership of the structure complies with the land development code. If that verification review indicates a

change in occupancy classification under the Building Code, the owner or tenant shall also obtain a review by Linn County to verify consistency with the Building Code for any such change. A change in use, tenant or ownership may also warrant a review for Fire Code compliance by the Tangent Fire District at the District Fire Chief's discretion. No new use nor a new user may commence occupancy of a commercial or industrial building or operation thereof without first obtaining verification from the City of Tangent that the new use, tenant or occupancy is consistent with the land development code, prior conditions of approval, and, if required, verification from the Building Official and the Tangent Fire District that the new use, tenant and/or occupancy is consistent with the structure's allowed occupancy classification and use designation, and is compliant with the applicable Fire Code requirements. The owner or tenant of such a commercial or industrial structure shall be responsible for payment of the city's applicable fee for this review and any associated inspections. This compliance verification requirement does not apply to residential structures.

(5) City Final Occupancy Permit Required Prior to Final Occupancy. Every new owner, and every new tenant and every applicant for a building permit issued for the construction of improvements for a commercial or industrial building in the City, including tenant improvements, shall obtain a City-issued Final Occupancy Permit before occupancy of the structure or portion of the structure that was the subject of the building permit. Following a change in ownership, a change in tenancy, or issuance of a building permit, no commercial or industrial building, or portion thereof, shall be occupied or used until the owner or tenant has applied for and obtained a City Final Occupancy Permit. The City Final Occupancy Permit shall issue when the applicant demonstrates Building Code and Fire Code compliance, or that these reviews were waived by the over-seeing agencies, and demonstrates that all conditions of development approval have been met or will be met by a verifiable deadline and date certain. The City is authorized to charge the property owner or permit applicant a reasonable fee for the City's cost of performing the verification review and any associated inspections.

9.50.020 Definitions

For purposes of this Chapter 9.50, the following terms shall have the following meanings. Any term used in this Chapter that is not specifically defined in this section shall have its ordinary or dictionary meaning:

(1) "Building Code" means the State Building Code adopted by the Administrator of the Building Codes Division, Department of Consumer and Business Services pursuant to OAR Chapter 918, as amended.

(2) "Building Official" means the Linn County Building Official, or that person's designee.

(3) “Commercial building” means any structure, not including one or two family dwellings, that is intended, permitted or actually used for any commercial occupancy classification under the applicable provisions of the Building Code.

(4) “Final Occupancy Permit” means the permit issued by the City of Tangent prior to occupancy of a structure that was authorized by a city-approved site plan or is under new ownership or tenancy. The Final Occupancy Permit is not a land use permit.

(5) “Fire Code” means the Oregon Fire Code adopted by the state Fire Marshal, Department of State Police pursuant to OAR Chapter 837, as amended.

(6) “Tangent Fire District” means the Chief of the Tangent Rural Fire Protection District or that person’s designee.

(7) “Industrial building” means any structure that is intended, permitted or actually used for any industrial occupancy classification under the applicable provisions of the Building Code.

9.50.030 Administration of the Program

(1) Building Code Program. Linn County is hereby authorized to administer and enforce the Building Code and building permit program on behalf of the City of Tangent. Linn County shall provide for the administration of a plan checking, building permit and inspection program for all structural specialty and building permit matters subject to the Building Code within the City.

(2) Fire Code Program. The Tangent Rural Fire Protection District is hereby authorized to administer and enforce the Fire Code on behalf of the City of Tangent. The Tangent Rural Fire Protection District shall provide for the administration, plan check, inspection and enforcement of the Fire Code within the City.

(3) City Final Occupancy Permit. The City of Tangent shall be responsible for administering its Final Occupancy Permit that the owner or tenant must obtain prior to occupancy of any commercial or industrial building that was the subject of a building permit issued by Linn County or is under new ownership or tenancy.

9.50.040 Right of Entry

Where it is necessary to make an inspection to enforce the provisions of the Building Code or Fire Code, or where the Building Official or Tangent Fire District have reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of the Building Code or Fire Code that makes the structure or premises unsafe, dangerous or hazardous, the Building Official or Tangent Fire District, or their authorized representatives are hereby authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by adopted codes, provided that if such structure or premises be occupied that

credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official or Tangent Fire District shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official or Tangent Fire District shall have recourse to the remedies provided by law to secure entry.

9.50.050 Demolition, Damaged and Dangerous Buildings

lease see Chapter 9.40, DANGEROUS BUILDINGS, STRUCTURES AND PROPERTIES.

9.50.060 Excavation and Grading

Please see Chapter 9.30, FILL AND EXCAVATION CODE.

9.50.070 Notices of Violation and Stop Work Orders

Whenever any work on any building, structure, electrical, gas, mechanical or plumbing system is being done contrary to the provisions of a City-issued building permit, the Building Code, a City-issued land use permit, or the Tangent Development Code, the City Manager or Building Official may order the work stopped by giving written notice of the violation. The written notice shall be provided to the owner of the property or the owner's agent or to any person doing the work or causing it to be done and shall also post the property. The notice shall state the specific violations and conditions under which work may be resumed. If the City Manager or Building Official determines that an emergency exists or there is an imminent threat of harm to the public generally or individuals, the City Manager or Building Official may order all work stopped without prior written notice by issuing a Stop Work Order. Upon issuance and posting of a Stop Work Order, all work shall immediately cease.

9.50.080 Periodic Inspections by the Tangent Fire District

As a measure to protect the public health, safety and welfare, the Tangent Fire District is authorized to perform periodic fire/life/safety inspections of commercial and industrial buildings to verify compliance with the applicable Fire Code requirements. The frequency of Tangent Fire District inspections shall be determined by the Tangent Fire District based upon the potential fire/life/safety hazard posed by activities within each commercial or industrial building, but shall be no more frequent than annually. The Tangent Fire District is authorized to charge the property owner or tenant a reasonable fee for the Tangent Fire District's cost of performing these periodic inspections.

9.50.090 Violations, Penalties and Remedies

(1) No person, firm, corporation or other entity however organized shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building or structure in the City, or cause the same to be done, contrary to, or in violation of, this chapter.

(2) All violations of any provision of this chapter shall be subject to an administrative civil penalty not to exceed $500 and shall be processed in accordance with the procedures set forth in this chapter.

(3) Each day that a violation of a provision of this chapter exists constitutes a separate citable violation.

(4) In addition to the above penalties, a condition caused or permitted to exist in violation of this chapter is a public nuisance and may be abated by any of the procedures set forth under any applicable law. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the City under any ordinance, statute or law.

(5) The City, Linn County and the Tangent Fire District have joint authority to prosecute or commence civil enforcement actions in the event of any violation of the Building Code or the Fire Code.

TITLE 11 STREETS AND SIDEWALKS

Chapter 11.10

11.10 Access Rights

Sections:

11.10.010 Property in Question

The State of Oregon by and through its Department of Transportation, Highway Division, has requested that the city convey its access rights to the following described property:

> A tract of land lying in the George F. Settlemire D.L.C. No. 42, Township 12 South, Range 3 West, W.M., Linn County, Oregon and being that property described in that deed to Evelyn McConnell, recorded April 16, 1981 in MF Volume 286, Page 196 of Linn County Records. (Ord. 1989-07)

11.10.020 Reserved Access Rights

The city will reserve access rights for unrestricted service of the above property and such reserved access rights will consist of a 35-foot access on the east side of the highway at Highway Engineer’s Station 747+73. For consideration in the amount of $50, the city shall convey access rights to the following described property to the State of Oregon, by and through its Department of Transportation, Highway Division:

> A tract of land lying in the George F. Settlemire D.L.C. No. 42, Township 12 South, Range 3 West, W.M., Linn County, Oregon and being that property described in that deed to Evelyn McConnell, recorded April 16, 1981 in MF Volume 286, Page 196 of Linn County Records. (Ord. 1989-07)

Chapter 11.20

11.20 Maintenance of Rights-of-Way

Sections:

11.20.005 Purpose

There are a number of unimproved public right-of-ways and since the maintenance of these public right-of-ways is in the best interest of the citizens of Tangent for safety and health reasons it appears to the Council that the maintenance of these public right-of-ways shall be passed on to the citizens up to and including the half of the street abutting their property since the city does not have the funds to maintain these right-of-ways. (Ord. 1991-04)

11.20.010 Responsibility

It shall be the responsibility of the property owner abutting these right-of-ways to maintain them up to and including the half of the street or public right-of-way abutting their property. (Ord. 1991-04)

11.20.020 Definition of Maintenance

Maintenance of this street or public right-of-way shall include trimming trees, bushes and other vegetation, mowing grass and keeping the area clear of leaves, rubbish and obstructing vegetation, and any other substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property. (Ord. 1991-04)

Chapter 11.40

11.40 Use of Public Rights-of-Way

Sections:

11.40.010 Policy and Purpose of Right-of-Way Regulation

(1) The City of Tangent, in furtherance of the public health, safety and welfare, hereby declares it a matter of public concern and importance to maintain the safety, utility and structural integrity of all public rights-of-way within the city.

(2) The city recognizes that public rights-of-way are obtained, dedicated, maintained and used for the movement of goods and people and the placement of public facilities and utilities. The city declares it a matter of public concern that the public rights-of-way within its borders be protected and use of the rights-of-way regulated so as to protect these important assets for these public purposes.

(3) Toward this end, the city declares that the protection of the public health, safety and welfare requires certain regulations on the use of, and uses within, the public right-of-way so as to protect and maintain these public purposes.

(4) Franchises or functionally equivalent right-of-way use agreements are required in order to establish and ensure a stable, predictable non-discriminatory basis for long-term relations with right-of-way users, and to ensure efficient and safe use of public right-of-ways in the city. (Ord. 2001-04)

11.40.020 Definitions

The terms used in this ordinance have the following meanings:

(1) “Facilities” means structures, equipment, property, poles, pipes, mains, conduits, ducts, pedestals, wires, cable, electronic equipment or similar materials.

(2) “Person” means any individual, firm, association, partnership, corporation, agency or organization of any kind, excluding the City of Tangent.

(3) “Right-of-way” means any property, property interest, bridges, trestles or other structures dedicated to or otherwise acquired by or used by the city, county, or State of Oregon for public transportation purposes.

(4) “User” means any person who owns facilities in the right-of-way that are used to distribute, transmit or collect sewer, water, gas, petroleum products, steam, electricity, telecommunications or other services. (Ord. 2001-04)

11.40.025 Limitation on Structures in the Right of Way

Any use of the public right-of-way, including the placement of permanent facilities, utilities, poles, equipment or other fixtures, shall be subject to the following requirements and limitations.

(1) No permanent fixtures shall be placed in the public right-of-way that obstruct vehicle traffic lanes or reduce the usable width of the widewalk to less that four feet.

(2) Permanent fixtures that obstruct or eliminate one or more on-street parking spaces may be allowed under special circumstances where there is a net benefit to the public, such as dedication of on-street parking spaces to permanent and protected bicycle parking or use by a café or restaurant for outside seating.

(3) No new permanent fixtures of facilities shall be allowed in the public right-of-way without an engineer’s certification that the fixture or facility does not pose and unsafe obstruction in the traffic clear area or safety hazard to vehicles that might leave the travel lane.

(4) No permanent fixtures or other facilities in the public right-of-way shall be taller than 35 feet, including new structures or extensions to existing utility or light poles. (Ord 2017-03)

11.40.030 Rights of Way Permits Required

(1) Any individual, corporation, organization, partnership or similar entity shall apply for and obtain a city-issued Right-of-way Permit before using any public right-of-way, including streets, roads, alleys, bridges, bike lanes and pedestrian paths, within the city limits for any of the following uses:

(A) Transport of goods or passage of one or more vehicles longer than 40 feet singly or as a single unit in combination or 60 feet total for the combination of vehicles including length of load or otherwise oversize according to ORS 818.010.

(B) Transport of goods or passage of one or more vehicles heavier than 34,000 pounds gross vehicle weight unless weight is mitigated by

use of additional axles as prescribed by ORS 818.080 or a route is otherwise identified as weight limited.

(C) Placement of underground or overhead wires, pipes, fiber optic lines, poles, transmitters, receivers, antennas, equipment cabinets or other equipment within, over or under the public right-of-way. These activities may also require a franchise with the City of Tangent for long-term use of the public rights-of-way.

(D) Obstruction of the normal passage of goods and people over the public right-of-way for any period of time by occupying the right-of-way with a stationary object or passage of pedestrians or vehicle(s), whether motorized or non-motorized, moving slower than the posted speed. This includes parades, bicycle or foot races, fairs, festivals and the like, as well as survey work within the right-of-way that may obstruct or slow traffic. These activities may also require a land use or special use permit depending upon the specific proposal.

(E) Any pavement or concrete cutting, excavation, digging, construction, building or physical disturbance of, or within, the right-of-way.

(F) Any new access that connects to a right of way.

(2) Any entity required by this ordinance to obtain a Right-of-way Permit shall apply using forms provided by the city and, as applicable, provide the following information:

(A) The name, address, phone number and other contact information of the person or entity responsible for the permitted use and the same contact information for the person who will be on-site in the city when the requested use is occurring

(B) Detailed description of the use or project proposed, including nature of the use, size, weight, number of vehicles, bicycles, people/pedestrians, the reason for the construction or excavation within the right-of-way, etc.

(C) Specific dates, times, frequency and locations (specific portions of identified rights-of- way) for which the permit is sought and during which the right-of-way will be used, disturbed or affected.

(D) Detailed description of the anticipated impact of the proposed use, including poles and other structures that will need to be moved, reconstructed, reinforced and/or repaired. This should also include a description of the traffic, pedestrian and bicycle safety impacts of the proposed use. For construction or excavation, this includes the exact location, size of excavation, depth, etc., and a detailed description of the utilities that may be affected.

(E) A detailed description of the mitigation measures, including safety measures proposed to maintain public safety, and measures to protect and repair the structural integrity of the right-of-way.

(F) Any other relevant information related to the unique nature of the proposed use or otherwise required by the city for a full evaluation of the proposed use and its impact of the public right-of-way. The City may rely on ORS 818.105 and 818.220 as a framework for identifying relevant information required for a complete application.

(G) All construction plans for work within the right-of-way shall be completed and submitted per the City of Tangent's Public Works Design Standards.

(3) All applicants for a Right-of-way Permit may be required to reimburse the City for all costs it reasonably incurs in evaluating the applicant's proposal, impacts and permit/condition compliance, including review by the city engineer, city planner, city attorney and any other outside consultant

(4) Approval of a Right-of-way Permit, including conditions designed to protect the long-term function, safety and structural integrity of the right-of-way and all utility lines within the right- of-way, shall not be unreasonably withheld. However, where protection of the function, safety and structural integrity of the right-of-way or utility lines within the right-of-way cannot be assured through the imposition of conditions, the permit shall be denied.

(5) All Right-of-way Permit applications shall be reviewed and decided in writing by the city engineer in consultation with the city planner, city attorney, and any affected state, county or federal agencies. The mayor or city engineer may refer any Right-of-way Permit application to the city council for review and decision.

(6) Any decision on a Right-of-way Permit by the city engineer is final unless appealed to the city council. A Right-of-way Permit decision may be appealed to the city council by requesting council review within 14 days of when the city engineer's decision is reduced to writing and signed. Any decision by the city council on a Right-of-way Permit is final. The city's decision on a Right-of-way Permit is not a "land use decision" or "limited land use decision" under ORS chapter 197, nor is it a "permit" under ORS chapter 227.

11.40.040 Franchise requirement

No person shall install, construct, reconstruct, repair, alter or maintain facilities for the distribution, transmission or collection of sewer, water, gas, petroleum products, steam, electricity, telecommunications or other services in, on, over, through or under public right-of-ways in the city without first obtaining a franchise or a functionally equivalent right-of-way use agreement from the city. The franchise that is required under this

section is required in addition to other permits that are required to construct and install facilities, including, but not limited to, street permits, building code permits or land use permits. (Ord. 2001-04)

11.40.050 Authority to Condition Use of the Right-of-Way

(1) Any Right-of-way Permit approved by the city may include reasonable conditions designed to protect the long-term function, safety and structural integrity of the right-of-way, utilities within the right-of-way, and near-by affected land including, but not limited to the following:

(A) Traffic safety measures, flaggers, warning signs, lights and any other measure deemed necessary to protect public safety including limits to time of day or season to limit impacts on pedestrians, vehicular access in the school zone, time-sensitive commerce during harvest, etc.

(B) Reconstruction, rehabilitation, reinforcement and/or repair of any physical element or support structure of, in or near the public right-of-way that may be affected or need to be altered to accommodate the use.

(C) Measures necessary to maintain property operation and integrity of utilities within the right-of-way before, during and after the applicant's use of the right-of-way.

(D) The posting of a financial guarantee, in a form approved by the city attorney in an amount approved by the city engineer, sufficient to reconstruct, rehabilitate or repair any physical element or support structure in or near the public right-of-way following the use.

(E) Indemnification of the City of Tangent for any claim arising from property damage, injury or death resulting from any activity by the permittee.

(F) The temporary movement of poles, utility lines or other existing structures or facilities within or near the public right-of-way that may be affected by the proposed use.

(G) Any other condition or requirement deemed reasonably necessary to protect the long- term function, safety and structural integrity of the right-of-way and utilities within the right-of-way.

(2) As a condition of permit approval, the city may require an applicant to enter a legally binding and enforceable Road Use Agreement that imposes specific requirements and obligations on the permittee to ensure compliance with the permit and to achieve the objectives of this chapter.

(3) Conditions may take the form of conditions required before the use of the public right-of-way can begin, conditions regulating the proposed use of the right-

of-way, and/or conditions to be performed following the use. Conditions shall be performed to the satisfaction of the city engineer or other appropriate responsible city official and shall be completed at the expense of the permit holder. Failure to completely and properly fulfill all conditions of a Right-of-way Permit may result in cancellation of the permit, may be grounds for revocation of all other Right-of-way Permits or denial of future applications, and may be grounds for initiation of civil or criminal enforcement actions in state or municipal court.

(4) The city may issue or amend from time to time seasonal weight restrictions on some city streets as deemed necessary by the city engineer. The city will consult and coordinate with Linn County in these regulations.

(5) In addition to any other available remedy, the city may enforce requirements of a Right-of- way Permit in municipal court or Linn County Circuit Court.

(A) The franchise required under this chapter may contain such terms and conditions as are necessary to protect the public health and safety and to promote the efficient and effective use of the public right-of-way.

(B) The franchise may specify materials to be used, construction methods to be employed, location of items within the right-of-way, and other measures necessary to achieve the purpose of this chapter.

(C) The franchise may require the payment of reasonable compensation for use of the right-of-way, including, but not limited to, one-time charges, recurring charges and the provision of materials and services by the user in return for the use of the right-of-way.
(Ord. 2001-04)

11.40.060 Obligations on the City

(1) In administering this ordinance and exercising regulatory control over the public rights-of- way within its boundaries, the city is not obligated to maintain or repair the public right-of-way or otherwise assume jurisdiction or other obligations that it has not otherwise elected to assume.

(2) Nothing in this chapter authorizes the city to approve a proposed use on private property or land outside of the public right-of-way. A permit applicant is required to seek any additional approvals or permission from private property owners and other affected governmental entities. If excavation is proposed, the applicants shall contact the one-call utility line locate before beginning work. Permit applicants may also be required to obtain a franchise from the city for long-term use of the public right-of-way. Permit applicants may also be required to obtain land use approval, a construction permit, or a special events permit for the requested activity.

11.40.070 Exemptions to the Right-of-Way Permit Requirement

In administering this ordinance and exercising regulatory control over the public right-of-way, the city may exempt the following uses from the permit requirements of this chapter:

(1) Work done by or for the City of Tangent for a specific city project.

(2) Work necessary to respond to an isolated emergency situation, affecting the public health, safety and welfare, that requires an expedited process.

(3) Truck transportation for work done on a project within the city limits on private or public property that requires approval by the city using another review process, such as a land use approval.

11.40.080 Delegation of Authority

Nothing in this chapter limits the city's authority to enter into intergovernmental agreements or otherwise delegate its authority to negotiate, administer or enforce the terms of franchises. (Ord. 2001-04)

Chapter 11.50

11.50 Motor Vehicle Parking

Sections:

11.50.010 City Adopted Parking Regulations Generally

In addition to the provisions of Oregon Revised Statutes prohibiting and controlling motor vehicle parking, no person shall park a motor vehicle within any public right-of-way in the City of Tangent in a place or in a manner or for a time different from or in excess of a place, manner or duration specified by the City Council in a motion duly and regularly made, seconded and passed by the Council.
(Ord. 1975-02, Ord. 2011-06)

11.50.020 Maximum Parking Time Generally

Unless a specific parking restriction or regulation provides otherwise, it shall be unlawful for anyone to park a motor vehicle, including a recreational vehicle as described herein, in the public right- of-way in the same location, or within 200 feet of the same location, for more than 24 consecutive hours. (Ord. 2011-06)

11.50.030 Parking Motor Vehicles Lacking Legal Requirements Prohibited

It shall be unlawful for anyone to park a motor vehicle, including a recreational vehicle as described herein, in the public right-of-way when such vehicle lacks current valid license plates, vehicle registration or insurance. It shall be unlawful for anyone to park a motor vehicle, including a recreational vehicle as described herein, in the public right-of-way when such vehicle is inoperable. (Ord. 2011-06)

11.50.040 Sleeping in a Motor Vehicle Prohibited

It shall be unlawful for anyone to sleep or camp in a motor vehicle parked in the public right-of- way. (Ord. 2011-06)

11.50.050 Inhabiting an RV within the Public Right-of-Way

No person shall camp in or inhabit overnight a recreational vehicle, motor home or travel trailer while such a vehicle is parked in a public right-of-way within the City of Tangent. (Ord. 2011-06)

11.50.060 Violation a Civil Infraction and City Tow Authority in Hazard Situations

Violation of any provision of this Chapter shall be a civil infraction and a nuisance that is subject to prosecution under the City's Civil Enforcement provisions of TMC Chapter 2.15. Any motor vehicle, including a recreational vehicle as described herein, parked in the public right-of-way in such a manner or in a location that it constitutes an hazardous vehicle, as determined by a law enforcement officer or the City Coordinator, shall be subject to immediate tow at the owner's expense, in accordance with the City's tow ordinance, TMC chapter 11.60. (Ord. 2011-06)

Chapter 11.60

11.60 Abandoned and Improperly Parked Vehicles

Sections:

11.60.010 Policy and Definitions

(1) Policy. It is the policy of the City of Tangent that the public right-of-way is to be used for the safe passage of vehicles, pedestrians, bicycles and other means of transporting people and goods and that any stationary vehicles in or along the public right-of-way shall be consistent with these objectives. Vehicles may be parked along the public right-of-way, outside of the travel lanes where it is safe to do so and where not specifically prohibited. However, vehicles may not be abandoned or stored in the public right-of-way, nor may they be parked in the public right-of-way or on city owned or leased property and offered for sale.

(2) Definitions. The following terms shall have the corresponding meanings for purposes of this chapter:

(A) “Abandoned vehicle” means a vehicle that has, or appears to have, been deserted, relinquished or has one or more of the following existing conditions:

(i) The vehicle license plate or registration sticker has expired or has been canceled.

(ii) The vehicle has no license plate.

(iii) The vehicle appears to be inoperative or disabled.

(iv) The vehicle appears to be wrecked, partially dismantled or junked.

(B) “Hazardous vehicle” means a vehicle left in a location or condition such as to constitute an immediate threat to the safety of vehicular or pedestrian traffic.

(C) “Officer” means any public safety or law enforcement officer, code enforcement officer, the City Coordinator or any person authorized or designated by the mayor to enforce the requirements of this chapter.

(D) “Vehicle” means any motorized vehicle or trailer towed by a motorized vehicle, including an automobile, motorcycle, moped, private truck, commercial truck, recreational vehicle, travel trailer, boat trailer, or cargo trailer. (Ord. 2011-06)

11.60.020 Abandoned and Improperly Parked Vehicles Prohibited

(1) No vehicle may be parked, abandoned or left standing upon:

(A) any public right-of-way in the City of Tangent in a place or in a manner or for a time different from or in excess of a place, manner or duration specified by the City Council in a motion duly and regularly made, seconded and passed by the Council.

(B) any public right-of-way with anyone sleeping or camping inside.

(C) any right-of-way of the city, county, or state highway, street or alley or upon any city property for a period in excess of 24 hours.

(D) any right-of-way of any private street or alley or upon any private property used by business licensees, customers, or the public for a period in excess of 24 hours.

(E) any public right-of-way so that, in the opinion of the officer, it constitutes a hazardous vehicle.

(F) any public right-of-way or on property owned or leased by the city and offered for sale.

(G) any private property for a period in excess of five days in a location that is visible from a street or sidewalk adjoining the premises, but only if it is an abandoned vehicle as defined in section 11.60.010.

(2) It is no defense to any act prohibited by this chapter that the vehicle has been moved to a different location within 500 feet.

(3) In addition to any civil enforcement action taken for violation of this code or state law, a vehicle parked, abandoned or left standing in violation of this section may be impounded as provided in this chapter. Violation of any provision of this Chapter shall be a civil infraction and a nuisance that is subject to prosecution under the City’s Civil Enforcement provisions of TMC Chapter 2.15 or by any other lawful means or procedure of prosecution. (Ord. 2011-06)

11.60.030 Impounding Vehicles

In addition to a civil citation issued for violation of this chapter or state law, a vehicle may be impounded as follows:

(1) Without Prior Notice. A vehicle may be towed without prior notice when:

(A) The vehicle is a hazardous vehicle as defined in Section 11.60.010;

(B) The officer reasonably believes that the vehicle is stolen;

(C) The officer reasonably believes that the vehicle or its contents constitute evidence of any offense, if such towing is reasonably necessary to obtain or preserve such evidence;

(D) The vehicle was in possession of a person taken into custody by an officer;

(E) The vehicle is unlawfully parked on a public or private street in a conspicuously restricted space, zone or traffic lane where parking is limited or prohibited to designated classes of vehicles or periods of time, or at any time when the vehicle interferes with the intended use of such space, zone or traffic lane;

(F) The vehicle was in the possession of a person who an officer has probable cause to believe, at or just prior to the time the officer stops the person, has committed any of the following offenses:

(i) Driving while suspended or revoked (ORS 811.175 or 811.182);

(ii) Driving while under the influence of intoxicants (ORS 813.010);

(iii) Operating without driving privileges or in violation of license restrictions (ORS 807.010);

(iv) Driving an uninsured vehicle (ORS 806.010).

(G) The vehicle remained in a city park after park closure.

(2) With Prior Notice. A vehicle may be towed five calendar days (excluding holidays, Saturdays and Sundays) after the date of the notice, as provided by Section 11.60.040 when:

(A) The officer reasonably believes that the vehicle is abandoned;

(B) The vehicle is unlawfully parked pursuant to Section 11.60.020, where there is no reasonable need to immediately remove the vehicle; or

(C) The vehicle is parked on city owned or operated property without express city permission.

(3) A vehicle impounded pursuant to this section shall be taken into custody by an officer and shall be held at the expense of the owner or person entitled to possession of the vehicle. The officer may use the personnel, equipment and facilities of the city for the removal and storage of the vehicle, or may hire a private garage or a towing company for that purpose. (Ord. 2011-06)

11.60.040 Impound Procedure

(1) Pre-Impound Investigation and Notice. After notice under this chapter, the officer may impound a vehicle after completing the following steps:

(A) Make a routine investigation to discover the driver or registered owner and request immediate removal of the vehicle; or

(B) If the registered owner or driver cannot be discovered, make a diligent inquiry as to the name and address of the owner of the vehicle by examining it for license number, I.D. number, make, style and any other information that may help in identifying the owner, and transmit such information to the motor vehicles division of the state in which the vehicle is registered with an inquiry for the name and address of the owner, whenever such vehicle is required by law to be registered with that office;

(C) Place a notice of intent to impound upon the windshield or some other conspicuous part of the vehicle which is easily seen by the passing public, whether or not the owner is identified as set forth above.

(D) The pre-impound notice required by this subsection shall include the following:

(i) the name and badge number of the officer or identification of other city employee issuing the notice;

(ii) that if the vehicle is not removed within the prescribed time limit, the vehicle will be impounded;

(iii) the statute, ordinance or rule violated by the vehicle under which the vehicle will be removed;

(iv) the telephone number and address of the city department that will provide information about where the vehicle will be held in custody if it is towed;

(v) that any person who, at the request of the officer, impounds a vehicle, shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold to satisfy the lien if the charges are not paid;

(vi) that the owner, possessor or person having an interest in the vehicle may request a hearing within five calendar days (excluding holidays, Saturdays and Sundays) from the date of the notice on the validity of the proposed impound and the reasonableness of the lien; and

(vii) that the request for hearing may be made in person, by telephone or in writing to the person so designated in the notice.

(E) If a hearing is timely requested before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with section 8.35.030.

(2) Post-Impound Notice. If a vehicle is taken into custody of the city, the officer shall provide notice by certified mail, return receipt requested, and postage prepaid, within 48 hours of the vehicle's removal (not including holidays, Saturdays or Sundays) to the owners of the vehicle and any lessors or security interest holders as shown on the records of the Department of Motor Vehicles.

(A) The post-impound notice required by this subsection shall include the following:

(i) the statute, ordinance or rule under which the vehicle has been taken into custody or removed on behalf of the city;

(ii) the location where the vehicle may be redeemed by the owner or person entitled to possession;

(iii) that the vehicle is subject to towing and storage charges, and the telephone number and address of the facility that may be contacted for information on the charges that have accrued to the date of the notice and the daily storage charges;

(iv) that the vehicle and its contents are subject to a lien for payment of the towing and storage charges in favor of the facility that towed and is storing the vehicle, and that the vehicle and its contents may be sold at public auction to satisfy the lien if the charges are not paid by the specified date;

(v) that the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession; removal of any conditions required for the police department to release its hold; payment of the administrative fee for processing release of the vehicle; and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority;

(vi) that the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing on the validity of the tow and the reasonableness of the charges, if requested within five calendar days (excluding holidays, Saturdays or Sundays) from the date of the notice, and that the request for hearing may be made in person, by telephone or in writing to the person so designated in the notice; and

(vii) that hearing costs may be assessed against the person requesting the hearing, including court costs and the costs of any witnesses.

(B) Reasonable efforts shall be made to ascertain the name and address of the owner and/or other persons with an interest in the vehicle so that notice may be mailed, if reasonably possible, within 48 hours of impound. However, no notice need be mailed pursuant to this subsection when:

(i) a vehicles does not display license plates or other identifying markings by which the registration or ownership of the vehicle can be determined;

(ii) the identity and address of the vehicle owner is not available from the appropriate motor vehicle licensing and registration authority and when the identity and address of the owner and/or other persons with an interest in the vehicle cannot otherwise be reasonably determined; or

(iii) actual notice of a tow has been given personally to the owner or person entitled to possession. Such actual notice must include all information required under subsection (2)(a) above. Actual notice may be used in lieu of the mailed notice required by subsection (2).

(3) Inventory of Impounded Vehicle. The contents of all vehicles impounded by an officer will be inventoried in accordance with the agency's adopted property inventory procedures. (Ord. 2011-06)

11.60.050 Hearing

(1) Request for Hearing.

(A) Post-Impound Hearing Request. The owners or any lessors or security interest holders as shown on the records of the Department of Transportation must request a hearing within five calendar days (excluding holidays, Saturdays and Sundays) from the date of the notice. The request may be made in person, by telephone or in writing to the person

designated in the notice. Failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing.

(B) Pre-Impound Hearing Request. If the owners or any lessors or security interest holders as shown on the records of the Department of Transportation timely request a hearing before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with this section.

(2) Hearing Procedures.

(A) When timely request for a hearing is made, a hearing shall be held in the Tangent Municipal Court.

(B) The hearing shall be set within 72 hours of receipt of the request and the hearing shall be conducted within four calendar days of receipt of the request for hearing, excluding holidays, Saturdays and Sundays. However, the time within which the hearing is to be set or conducted may be extended at the request or with the consent of the owner or person entitled to request the hearing as provided in this chapter.

(C) At the hearing, the owner or person entitled to request the hearing as provided in this chapter may contest the validity of the impound and the reasonableness of the charges.

(D) The city shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, 807.010, 811.175, 811.182, 813.010, or the relevant portions of the Tangent Municipal Code. The city may present evidence either by testimony of the officer, or by affidavit of any such officer. If the city's evidence is presented only by affidavit and the judge cannot resolve a question by information contained in the affidavit or relevant report, the hearing may be held open for a reasonable time to complete the record.

(3) Decision of the Municipal Court. If the Court finds that:

(A) Impound of the vehicle was proper, the Court:

(i) shall enter an order supporting the impound/removal; and

(ii) shall find that the owner or person entitled to possession is liable for any towing and storage charges resulting from the impound; and

(iii) may find that the owner or person entitled to possession is liable for the costs of the tow hearing, including costs of the Court proceeding and any witnesses.

(B) Impound of the vehicle was improper, the Court shall:

(i) order the vehicle released to the owner or person entitled to possession;

(ii) find that the owner or person entitled to possession is not liable for any towing or storage charges resulting from the impound; and

(iii) order the city to satisfy the towing and storage lien.

(C) Failure to Appear at the Hearing. If the person requesting the hearing does not appear at the scheduled hearing, the Court may enter an order supporting the impound and assessing towing and storage costs, and shall add an assessment for the costs of the Court proceeding and any witnesses who appeared at the time set for hearing. (Ord. 2011-06)

11.60.060 Release of Vehicles

(1) A vehicle which has been impounded under this chapter may be released to a person entitled to lawful possession provided the hold, if any, on the vehicle, has been released and upon compliance with the following:

(A) Submission of proof that a person with valid driving privileges will be operating the vehicle;

(B) Submission of proof of compliance with financial responsibility requirements for the vehicle; and

(C) Payment to the city clerk of an administrative fee sufficient to recover its actual administrative costs for the impoundment.

(2) Notwithstanding subsection (1) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

(3) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (1) or (2) of this section, the city clerk shall authorize the person storing the vehicle to release it upon payment of any accrued towing and storage costs, unless otherwise ordered by the Court;

(4) The council may establish by resolution an administrative fee for processing the release of the vehicle;

(5) Notwithstanding any other provision of law, a city employee has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants. (Ord. 2011-06)

11.60.070 Towing and Storage Liens

A person who, at the request of the officer, takes a vehicle into custody shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold at public auction to satisfy the lien. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS Chapter 87 and shall be foreclosed in the manner provided by law. If the appraised value of the vehicle is $750 or less, the vehicle shall be disposed of in the manner provided in ORS 819.220. (Ord. 2011-06)

TITLE 12 DEVELOPMENT

Chapter 12.01

12.01 Comprehensive Plan

Sections:

12.01.10 Adoption by Reference

The City of Tangent's Comprehensive Plan is hereby adopted by reference and incorporated herein as if set out in full.
(Ord. 1984-01, Ord. 1989-03, Ord. 1989-10, Ord. 1994-05, Ord. 1996-01, Ord. 2007-07, Ord. 2010-03)

Chapter 12.02

12.02 Historic Structures Inventory

Sections:

12.02.10 Historic Structure List

The following is the list of those structures on the Tangent Historic Structure Lit:

(1) Tangent Depot;

(2) Tangent South Methodist Church;

(3) Wetzel/Green House;

(4) Floyd Jenks House; and

(5) Tangent Store. (Ord. 1989-02, 1989)

Chapter 12.03

12.03 Land Development Plan

Sections:

12.03.10 Adoption by Reference

The City of Tangent's Land Development Code also known as the Zoning Ordinance is hereby adopted by reference and incorporated herein as if set out in full.
(Ord. 1975-03, Ord. 1977-01, Ord. 1979-01, Ord. 1981-08, Ord. 1982-02, Ord. 1984-01, Ord. 1988-07, Ord. 1988-08, Ord. 1989-03, Ord. 1994-10, Ord. 1996-01, Ord. 2004-14, Ord. 2010-04)

Chapter 12.04

12.04 Transportation Plan

Sections:

12.04.10 Adoption by Reference

The City of Tangent's Transportation Plan is hereby adopted by reference and incorporated herein as if set out in full. (Ord. 2001-03, Ord. 2002-01, Ord. 2004-14)

TITLE 13 PUBLIC IMPROVEMENTS

13.10 Local Improvements and Special Assessments

13.20 Establishment of System Development Charge for Capital Improvements

Chapter 13.10

13.10 Local Improvements and Special Assessments

Sections:

13.10.010 Initiating Improvements

(1) When the Council considers it necessary to require that improvements to a street, sewer, water, sidewalk, parking, curbing, drain or other public improvement defined in O.R.S. 223.387 be paid for in whole or in part by special assessment according to benefits conferred, the Council shall declare by resolution that it intends to make the improvement and direct the City Engineer to make a survey of the improvement and file a written report with the Recorder.

(2) When owners of two-thirds of the property that will benefit by improvements defined in subsection (1) request by written petition that the Council initiate an improvement, the Council shall declare by resolution that it intends to make the improvement and direct the City Engineer to make a survey of the improvement and file a written report with the Recorder. (1986-01)

13.10.020 Engineer's Report

Unless the Council directs otherwise, the Engineer's report shall contain the following:

(1) A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for payment of the cost;

(2) Plans, specifications and estimates of work to be done. If the proposed project is to be carried out in cooperation with another governmental agency, the Engineer may adopt plans, specifications and estimates of that agency;

(3) An estimate of probable cost of the improvement, including legal, administrative and engineering costs;

(4) An estimate of unit cost of the improvement to the benefitted properties, per square foot, per front foot or another unit of cost;

(5) A recommendation concerning the method of assessment to be used to arrive at a fair apportionment of the whole or a portion of the cost of the improvement to benefitted properties;

(6) A description of each lot, parcel of land, or portion of land to be benefitted, with names of the record owners and, when readily available, names of contract purchasers as shown on books and records of the Linn County Tax Department. To describe each lot or parcel of land under provisions of this section, it shall be sufficient to use the tax account number assigned to the property by the Tax Department or the book and page designations shown on books and records of the Linn County Clerk; and

(7) A recommendation on the rate of interest to be paid on assessments bonded under the Bancroft Bonding Act and O.R.S. Chapter 223.(Ord. 1986-01)

13.10.030 Action on Engineer's Report

After the Engineer's report is filed with the Recorder, the Council may by resolution approve the report, modify the report and approve it as modified, require the Engineer to supply additional or different information for the improvement or abandon the improvement. (Ord. 1986-01)

13.10.040 Resolution and Notice of Hearing

After the Council has approved the Engineer's report as submitted or as modified, the Council shall declare by resolution that it intends to make the improvement and direct the Recorder to give notice of the Council's intent by two publications, one week apart, in a newspaper of general circulation in the city. The notice shall contain the following:

(1) That the report of the Engineer is on file in the Office of the Recorder and is subject to public examination;

(2) That the Council will hold a public hearing on the proposed improvement on a specified date, which shall be not less than ten days after the first publication of notice, at which objections and remonstrances to the improvement will be heard by the Council, and that the improvement will be abandoned or suspended for not less than six months if written remonstrances are filed before or during the hearing by owners of 60% of the property specially benefitted, measured by either area or assessed valuation; and

(3) A description of the property to be benefitted by the improvement, owners of the property as shown on books and records of the Linn County Tax Department, and the Engineer's estimate of total cost of the improvement to be paid by special assessments to benefitted properties. For purposes of this section it shall be sufficient to describe the property to be benefitted by the tax account number assigned to the property and used by the Linn County Tax Department or the book and page designations shown on books and records of the Linn County Clerk. (Ord. 1986-01)

13.10.050 Manner of Doing Work

The Council may provide in the improvement resolution that the construction work may be done in whole or in part by the city, by contract, by another governmental agency or by a combination thereof. (Ord. 1986-01)

13.10.060 Hearing

If written remonstrances are less than the amount required to defeat the proposed improvement as provided in Section 51 of the City Charter, the Council may, by motion, at the time of the hearing or within 60 days thereafter, on the basis of written remonstrances and oral objections, order the improvement carried out in accordance with the resolution or, if the project was initiated by Council motion and not by petition of property owners, abandon the improvement. (Ord. 1986-01)

13.10.070 Calls for Bids

The Council may direct the Recorder to advertise for bids for construction of all or part of the improvement project. If part of the improvement work is to be done under contract bids, the Council shall proceed in accordance with procedures of state law for public contracting. (Ord. 1986-01)

13.10.080 Assessment Method and Alternative Methods of Financing

The Council, in adopting a method of assessing the cost of improvement, may:

(1) Use any just and reasonable method to determine the extent of an improvement district consistent with the benefits derived.

(2) Use any just and reasonable method to apportion the sum to be assessed among the benefitted properties.

(3) Authorize payment by the city of all or part of the cost of an improvement when in the opinion of the Council other means of financing improvements, including federal and state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds or other legal means of finance are determined to be appropriate. If other means of finance are used, the Council may levy special assessments according to benefits derived to cover any remaining cost. (Ord. 1986-01)

13.10.090 Assessment Ordinance

(1) If the Council determines the public improvement shall be made, when the estimated cost is determined on the basis of the contract award or city departmental cost or after the work is done and the cost has been actually determined, the Council shall decide whether the benefitted property shall bear all or a portion of the cost. The Recorder or other persons designated by the Council shall prepare the proposed assessment for each lot within the assessment district and file the assessments in the Recorder's Office. (Ord. 1986-01)

(2) The notice of the proposed assessment shall be mailed to the owner of each lot proposed to be assessed at the address shown on the Linn County Tax Assessor's roll. The notice shall state the amount of assessment proposed on the property and fix a date by which time objections shall be filed with the Recorder and hearing held to consider such objections. An objection shall state the grounds for the objection. (Ord. 1986-01)

(3) At the hearing the Council shall:

(A) Consider objections and may adopt, correct, modify or revise the assessment against each lot in the district according to special and peculiar benefits accruing to it from the improvement; and

(B) By ordinance, spread the assessment. (Ord. 1986-01)

13.10.100 Notice of Assessment

(1) Within ten days after the ordinance levying assessments has been passed, the Recorder shall send a notice of assessment to each owner of assessed property by registered or certified mail and publish notice of the assessment twice in a newspaper of general circulation in the city. The first publication of notice shall be not later than 20 days after the date of the assessment ordinance. (Ord. 1986-01)

(2) The notice of assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment and the date of the assessment ordinance and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner

either makes application to pay the assessment in installments within ten days after the date of the first publication of notice or pays the assessment in full within 30 days after the date of the assessment ordinance. (Ord. 1986-01)

13.10.110 Lien Record and Foreclosure Proceedings

(1) After the assessment ordinance is adopted, the Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, parcel of land or portion of land, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket the amounts shall become liens and charges on the lots, parcels of land or portions of land that have been assessed for improvement. (Ord. 1986-01)

(2) Any lien against the property resulting from such L.I.D. assessment shall be entered in the city lien docket and shall be superior to all other liens. The lien shall be collectible in the manner provided by O.R.S. 223.205 to 223.290 or as otherwise provided by city ordinance. An error in the name of the owner or in the use of the name of the true owner of such property, or in the failure of the owner to receive notice of the assessment, shall not render the assessment or lien void, but the same shall be a valid and existing lien against the property. (Ord. 89-04)

(3) Thirty days after the date of the assessment ordinance, interest shall be charged at the rate of 2% more than the interest rate in Section 13.10.020(7), and the city may foreclose or enforce collection of assessment liens in the manner provided by state law. (Ord. 1986-01)

(4) The city may enter a bid on property being offered at a foreclosure sale. The city bid shall be prior to all bids except those made by persons who would be entitled under state law to redeem the property. (Ord. 1986-01)

13.10.120 Error in Assessment Calculation

Claimed error in the calculation of assessments shall be called to the attention of the Recorder, who shall determine whether there has been an error. If there has been an error, the Recorder shall recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the Recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by registered or certified mail. (Ord. 1986-01)

13.10.130 Supplemental Assessments

If an assessment is made before the total cost of the improvement is determined, and if the amount of the assessment is insufficient to defray expenses of the improvement, the Council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The Council shall set a time for hearing objections to the supplemental assessment and direct the City Recorder to publish one notice of the hearing in a newspaper of general circulation in the city. After the hearing the Council shall make just

and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens as provided by Section 13.10.110. Notice of the supplemental assessment shall be published and mailed, and collection of the assessment shall be made, in accordance with Sections 13.10.110 and 13.10.120. (Ord. 1986-01)

13.10.140 Rebates

On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the Council shall determine the excess and declare it by ordinance. When declared, the excess amounts must be entered in the lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid it or that person's legal representative shall be entitled to payment of the rebate credit. (Ord. 1986-01)

13.10.150 Remedies

Subject to curative provisions of Section 13.10.170 and rights of the city to reassess as provided in Section 13.10.180, proceedings for writs of review and other appropriate equitable or legal relief may be filed as provided by state law. (Ord. 1986-01)

13.10.160 Abandonment of Proceedings

The Council may abandon proceedings for improvements made under Sections 13.10.010 and 13.10.180 at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be canceled, and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative. (Ord. 1986-01)

13.10.170 Curative Provisions

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

(1) Failure of the Engineer's report to contain all information required by Section 13.10.020.

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

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

(4) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining. (Ord. 1986-01)

The Council shall have authority to remedy and correct all matters by suitable action and proceedings. (Ord. 1986-01)

13.10.180 Reassessment

When an assessment, supplemental assessment or reassessment for an improvement made by the city has been set aside, annulled, declared or rendered void or its enforcement restrained by a court of this state or by a federal court having jurisdiction or when the Council doubts the validity of the assessment, supplemental assessment, reassessment or any part of it, the Council may make a reassessment in the manner provided by state law. (Ord. 1986-01)

13.10.190 Owner of Property Responsible for Payment of L.I.D. Charge

(1) The owner of any property subject to an L.I.D. assessment shall be responsible for payment of the L.I.D. charge for that property, notwithstanding the fact that the property may be occupied by a non-owner, if the property is owned by more than one person, each owner shall be jointly and severally liable for payment of the L.I.D. charge.

(2) Change of ownership or occupancy shall not be cause for reducing or eliminating such charge. (Ord. 1989-04)

13.10.200 Billing Shall Be Semi Annual

The billing shall be semi-annual, with payments due on December 17th and June 17th of each year. (Ord. 1989-04)

13.10.210 Delinquent Payment Remedies

(1) L.I.D. charges shall constitute a debt due the city and a lien upon the property served. If this debt is not paid within ten days after it becomes due and payable, it shall be deemed delinquent. In addition, an administrative charge of $10 per account for collection of delinquent accounts shall be assessed from the date of delinquency. This administrative charge shall be added to the account and shall accrue interest in the same manner as all other delinquent charges. The interest rate for delinquent accounts shall be the legal rate of interest set for judgments.

(2) The city shall be entitled to recover attorney fees and costs in the exercise of any remedy in connection with the collection of assessments under this ordinance. (Ord. 1989-04)

13.10.220 Effective Date

This ordinance shall be effective for all billing statements issued on or after June 17, 1989. (Ord. 1989-04)

Chapter 13.20

13.20 Establishment of System Development Charge for Capital Improvements

Sections:

13.20.010 Purpose

The purpose of imposing a system development charge is to charge part of the cost of water, wastewater, drainage, transportation, flood control, parks and recreation facilities upon developments which create or increase the need for these facilities. (Ord. 1991-02))

13.20.020 Scope

The system development charge imposed by this ordinance is in addition to any other tax, assessment, charge or fee imposed on development. (Ord. 1991-02)

13.20.030 Definitions

For purposes of this ordinance, these words and terms mean as follows:

(1) “Capital Improvement.”

(A) A facility or asset used for the following:

(i) Water supply, treatment and distribution;

(ii) Waste water collection, transmission, treatment and disposal;

(iii) Drainage and flood control;

(iv) Transportation including, but not limited to, streets, sidewalks, bicycle paths, streetlights, street trees, public transportation, vehicle parking and bridges; or

(v) Parks and recreation.

(B) The cost of a capital improvement does not include the costs of its operation or routine maintenance.

(2) “Capital Improvement Plan.” A plan that lists capital improvements which may be funded with improvement fee revenues and stating the estimated costs and timing of such improvements. ACapital Improvement Plan@ includes, but is not limited to, any comprehensive capital improvements plan, project-specific plans, such as transportation, parks, sewers, water and the like, that portion of the city comprehensive plan listing approved projects and any modification or successor to these plans.

(3) “Development.” The act of conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels, or creating or terminating a right of access, which act increases the use of or need for a capital improvement.

(4) “Improvement Fee.” A fee for costs associated with capital improvements to be constructed.

(5) “Qualified Public Improvements.” A capital improvement which is:

(A) Required as a condition of residential development approval;

(B) Identified in a capital improvement plan; and

(C) Not located on or contiguous to a parcel of land which is the subject of the residential development approval.

(6) “Reimbursement Fee.” A fee for costs associated with capital improvements already constructed or under construction at the time of the imposition of the fee.

(7) “System Development Charge.” A reimbursement fee, an improvement fee or both assessed or collected at the time of increased usage or demand for a capital improvement, at the time of issuance of a development or building permit, or at the time of connection to the capital improvement. System or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. “System development charge” does not include fees assessed or collected as part of financing a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements imposed by a land use decision. (Ord. 1991-02)

13.20.040 Imposition of System Development Charge

(1) The City Council may establish by resolution a SDC for any capital improvement. (Ord. 1991-02)

(2) When a systems development charge is established, unless otherwise exempted by the provisions of this ordinance or other local or state law, it shall be imposed upon all new development within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the capital improvement. (Ord. 1991-02)

(3) Any resolution establishing a reimbursement fee shall contain a methodology which considers the cost of existing facilities, prior contributions by existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and any other factors deemed relevant by the Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of existing facilities. (Ord. 1991-02)

(4) Any resolution establishing an improvement plan shall contain a methodology which considers the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related. (Ord. 1991-02)

(5) Any resolution establishing an improvement fee shall also provide for a credit against such fee for the construction of a qualified public improvement. Such credit shall not exceed the improvement fee or be transferable from one type of improvement fee to another. The Council may adopt policies regulating the transfer of a credit from one development to another. (Ord. 1991-02)

(6) Any resolution establishing an SDC may also provide for other types of credits against the charge. (Ord. 1991-02)

13.20.045 Imposition of Annual Cost of Living Process

(1) An annual COLA review with consumer price index data from the U.S. Department of Labor, Bureau of Labor Statistics, Portland-Salem will be included as an agenda item at a regular Council meeting held in March of each year. At the annual COLA review, the Council will review revenues and expenditures to determine whether:

(A) The COLA formula reflects actual cost increases experienced by the city;

(B) Whether new fees, charges or expenditures adopted during the prior year should be adopted through the application of COLA formulas; and

(C) COLA formulas based on particular indices are appropriate.

(2) If at the annual review the Council determines that a particular fee, charge or expenditure is not appropriately modified by an adjustment, the Council may remove the particular fee, charge or expenditure from the list of fees, charges or expenditures to which the COLA is applied. Otherwise, the fees, charges or expenditures identified in this ordinance and amendments thereto shall automatically adjust each July 1, and the adjusted fee, charges or expenditures identified in this ordinance and amendments thereto shall be used for budgeting purposed for the next fiscal year. (Ord. 2008-01)

(3) In the event a fee, charge or expenditure is enacted in the period prior to each annual COLA Review, the COLA adjustment for that particular fee, user charge or expenditure will be based on the same measure as applied other fees, charges or expenditures unless taken from the list by the City Council as not be appropriate for a COLA adjustment (Ord. 2008-01)

(4) The consumer price index data from the US Department of Labor, Bureau of Labor Statistics, Portland-Salem Statistics will be used to calculate adjustments to the following fees, charges and expenditures: Wastewater System Development Charges, Transportation System Development Charges, Drainage System Development Charges and Park Capital Development System Development Charges. (Ord. 2008-01)

13.20.050 Authorized Expenditures

(1) Reimbursement fees shall be spent only on capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of debt for the improvement. (Ord. 1991-02)

(2) Improvement fees shall be spent only on capacity-increasing capital improvements, including expenditures relating to repayment of debt for the improvements. An increase in system capacity exists if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees shall be related to current or projected development. (Ord. 1991-02)

(3) Notwithstanding subsections (1) and (2) of this section, SDC revenues may be expended on the direct costs of complying with the provisions of this ordinance and O.R.S. 223.297 to 223.314, including the costs of developing SDC methodologies and providing an annual accounting of system development charge expenditures. (Ord. 1991-02)

13.20.060 Expenditure Restrictions

(1) SDCs 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. (Ord. 1991-02)

(2) SDCs shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 1991-02)

(3) SDCs may be expended only on capital improvements included in a capital improvement plan. (Ord. 1991-02)

13.20.070 Capital Improvement Plan

Tangent's Capital Improvement Plan, as may be amended from time to time, is incorporated herein by this reference and adopted. All projects listed in the Capital Improvement Plan may be funded with SDCs pursuant to Oregon Laws, 1989, Chapter 449, § 6. (Ord. 1991-02)

13.20.080 Payment of System Development Charge

(1) An imposed SDC is due and collectible from the person responsible for or receiving the benefits of the development, upon issuance of:

(A) A building permit;

(B) A development, zoning or land use permit or authorization;

(C) A permit to connect to the water systems; or

(D) A permit to connect to the sewer system. (Ord. 1991-02)

(2) The city shall not issue such permit or allow such connection until the charge has been paid in full or until provision for installment payments has been made pursuant to Section 13.20.090 of this chapter. (Ord. 1991-02)

(3) If development is commenced or connection is made to the water or sewer system without an appropriate permit, the systems development charge is payable upon the earliest date that a permit was required. (Ord. 1991-02)

13.20.090 Installment Payment

(1) When an SDC of $250 or more is due and collectible, the person responsible for or receiving the benefit of the development may apply for payment in installments, in accordance with the State Bancroft Bonding Act. (Ord. 1991-02)

(2) The City Recorder shall provide application forms for installment payments, which shall include security acceptable to the city for the unpaid charge and interest, or a valid consent to lien the affected property and a waiver of all rights to contest the validity of the lien and the classification of the charge as not within the limits imposed under Oregon Constitution, Article XI, § 11b. (Ord. 1991-02)

(3) The City Recorder shall report to the City Council the amount of the SDC, the dates on which the payments are due, the name of the owner and the description of the parcel. (Ord. 1991-02)

(4) The City Recorder shall docket any lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the unpaid SDC, together with interest on the unpaid balance at the legal rate. The lien shall be enforceable in the manner provided in O.R.S. Chapter 223, and shall have priority over all other liens except a mortgage or other purchase money security interest. (Ord. 1991-02)

13.20.100 Exemptions

(1) Structures and uses established and existing on or before the effective date of this ordinance are exempt from an SDC, except water, sewer and drainage system charges, to the extent of the existing structure or use. Structures and uses affected by this subsection shall pay the applicable water, sewer or drainage system charges upon the receipt of a permit to connect to the water, sewer or drainage system. (Ord. 1991-02)

(2) An alteration, addition, replacement or change in non-residential use that does not increase the parcel's or structure's use of the capital improvement. (Ord. 1991-02)

(3) Alterations, additions or repairs that are performed on existing residential units. For purposes of this section, residential units refers to single-family dwellings and duplexes per buildable lot. This exemption does not apply to additions or repairs to existing structures constructed for home occupations. (Ord. 1991-02)

(4) Accessory buildings for residential units. For purposes of this section, residential units refers to single-family dwellings and duplexes per buildable lot. This exemption does not apply to structures constructed for home occupations or structures which increase the use of the capital improvement. (Ord. 1991-02)

13.20.110 Segregation and Use of Revenues

(1) All revenues derived from imposition of an SDC shall be segregated by accounting practices from all other funds of the city and placed into accounts designated for such moneys. (Ord. 1991-02)

(2) The City Recorder shall provide the City Council with an annual accounting for SDCs, showing the total amount of system development charge revenues collected for each system and the projects funded from each account. (Ord. 1991-02)

13.20.120 Appeal Procedure

(1) A person aggrieved by a decision of the city made under Sections 13.20.040 to 13.20.110 of this ordinance or challenging the propriety of an expenditure of SDC revenues may appeal the decision or the expenditure to the City Council. Such appeal shall be commenced by filing a written request with the City Recorder describing with particularity the decision or the expenditure and the basis of the contest. An appeal of an expenditure shall be filed within two years of the date of the alleged improper expenditure. Appeals of any other decision must be filed within ten days of the date of the decision. (Ord. 1991-02)

(2) After providing notice to the appellant, the City Council shall determine whether the decision or the expenditure is in accordance with this ordinance and state law and may affirm, modify or overrule the decision. A public hearing shall be conducted on the appeal. The City Council shall determine the appeal on the basis of the appellant's written statement and any additional evidence the City Council deems relevant. The decision of the City Council shall be in writing. (Ord. 1991-02)

(3) If the City Council determines that there has been an improper expenditure of SDC 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 designated for the systems development charge revenues. The decision of the City Council shall be reviewed only as provided in O.R.S. 34.010 to 34.100. (Ord. 1991-02)

(4) A legal action challenging the methodology adopted by the Council pursuant to Section 13.20.040 of this ordinance shall not be filed later than 60 days after the adoption of the resolution. (Ord. 1991-02)

13.20.130 Prohibited Connection

No person may connect to the water, sewer or drainage systems of the city or initiate development unless the appropriate SDC has been paid or the installment payment method has been applied for and approved. (Ord. 1991-02)

13.20.140 Construction

The rules of statutory construction and severability contained in O.R.S. Chapter 174 are adopted and by this reference made a part of this ordinance, which shall be construed to carry out the provisions of Oregon Laws, 1989, Chapter 449. (Ord. 1991-02)

13.20.150 Repeal

This ordinance supersedes the existing SDC provisions of the City Code. Ordinances 88-11 and 90-04 are repealed. (Ord. 1991-02)

Chapter 13.10

13.30 Capital Improvements

Sections:

13.30.010 Purpose

(1) After reviewing the status of the existing Capital Improvement Plan(s), established and revised by various ordinances over the past 13 years, and being aware of the requirements, definitions and amendments of O.R.S. 223.309: Preparation of plan for capital improvements financed by system development charges, intended by SB 939, as enacted by the 72nd Legislative Session of the State of Oregon. (Ord. 2004-03)

(2) Having begun the revision of the currently existing plans, the Council wishes to formalize parts of that new plan into effect at this time by the inclusion of:

(A) New projects; or

(B) Inclusion by reference to: public facilities plans, master plans or comparable plans that include lists of capital improvements the city intends to fund, in the future, in whole or in part, with revenues from an improvement fee, and the estimated costs, timing and percentage of costs to be funded with revenues from the improvement fee for each improvement, in order to begin the process of creating and/or revising certain system development charges. (Ord. 2004-03)

(3) It is therefore ordained by the City Council of the City of Tangent that the Intermediate System Development Plan for the period 2004 to 2010, also known as the City of Tangent's Five-Year Intermediate Capital Improvement Plan for Budget Years 2004 Through 2009, be adopted and made available for view at the Tangent City Hall during working hours until such time as the Council repeals this ordinance with the passage of a new ordinance. (Ord 2004-03, Ord. 2009-04)

(4) It is ordained by the City Council of the City of Tangent that Ordinance 2004-03, by which the City adopted the Intermediate Capital Improvement Plan, is amended to extend its effective date through June 30, 2011, unless amended prior to that time with the passage of a new ordinance, and all other aspects of Ordinance 2004-03 shall remain unchanged. (Ord. 2010-05)

Chapter 13.50

13.50 Public Works Construction Standards

Sections:

13.50.010 Purpose

It appears to the City Council that there is a need for uniform material and construction standards under which all public works facilities shall be constructed within the city. Since a set of standards has been presented to the Council by the City Engineer for city projects and as the reference part for public works under the City's Subdivision and Partitioning Ordinance, the City's Zoning Ordinance and other ordinances affecting the physical construction of public works facilities with the city. It also appears to the Council that public works construction standards would streamline the administration and construction of public works facilities within the city. (Ord. 1988-10)

13.50.015 Principles of Acceptability

Subdivisions and partitions shall conform with the comprehensive plan and land development code, applicable provisions of other city ordinances, state law and the standards established by this ordinance. Locations and standards related to transportation and community facilities shall be based on the provisions of the adopted comprehensive plan, this ordinance and the city's adopted Public Works Construction Standards. The City Engineer may approve a modification to the Public Works Construction Standards following a recommendation from the Planning Commission and approval by the City Council to allow such modification. (Ord. 1989-06)

13.50.020 Special Conditions

(1) New subdivisions and land partitions under the jurisdiction of the City of Tangent shall comply with the requirements of the city's Subdivision and Partitioning Ordinance, as adopted by the City Council, or as it may be hereafter amended or superseded.

(2) The physical requirements for all public works construction within the city shall comply with these standards, unless the standards are duly modified.

(3) Sections II through IV of these Public Works Standards are set forth to be used in the design of public works facilities in the city. Modifications to these design standards may be approved by the City Engineer following a

recommendation by the Planning Commission and approval by the City Council to allow such modification. (Ord. 1989-06)

13.50.030 Adoption

The publication entitled The City of Tangent Public Works Construction Standards@, a book containing five sections, which by this reference is incorporated herein as if fully set forth, is hereby adopted by the city as the standards applicable to all public works projects undertaken by, or on behalf of, the city and shall be used as the presumptive basis for all the public works authorized by the city. (Ord. 1988-10)

Chapter 13.55

13.55 Public Works Design Standards

Sections:

13.55.010 Purpose

It appears to the Council that there is a need for uniform design standards under which all public work facilities shall be constructed within the city. A set of standards has been presented to the Planning Commission for review and they have approved the standards. It appears to the Council that public works design standards would streamline the administration and construction of public works facilities within the City. (Ord. 1997-02)

13.55.020 Adoption

The publication entitled ACity of Tangent Public Work Design Standards@ a book containing four sections, which is attached as Exhibit A is incorporated herein. (Ord. 1997-03, 2006-12)

Chapter 13.60

13.60 Community Water Systems

Sections

13.60.010 Purpose

The City Council has accepted the Water Feasibility Analysis and Water System Master Plan of August 29, 2001 which had recommendations concerning the establishment of a community water system (CWS). The Council also heard testimony on August 24, 2005 and again on September 1, 2005 at public hearings on the proposed 2005 Comprehensive Plan and the setting of Goals and Policies for a water system. The Council acknowledges that 85% of CWSs are small or very small (EPA) and the Tangent Rural Fire Protection District (TRFPD) first response system is built around the concept of the delivery of water to the scene of the fire, and is compatible with a CWS. The city is aware that CWS may require higher initial installation costs to homebuilders, however, the Council concludes that health factors, including the ability to treat the water, are enhanced. In addition, CWSs create adequate pressure for home sprinkler systems to aid in saving lives and/or reduce damages of a quicker response and cessation of a fire. A series of inter-connectable community water systems is compatible with an integral part of the city's vision for providing safe domestic water supplies and the establishment of a CWS complies with the Safe Water Drinking Act of 1976, being 42 U.S.C. 300f et seq., as amended. The establishment of a CWS in new subdivisions that include 15 or more dwellings will prevent the profusion of shallow individual private water wells that increase exposure of contaminates to the aquifer. Also, individual domestic wells are not monitored for water quality, contaminants or may not provide the volume of water necessary for fire safety use of sprinkler fire suppression systems. (Ord. 2005-09)

13.60.020 Subdivision Application

As of November 14, 2005, any subdivision application that proposes to establish 15 or more residential lots shall not be approved unless and until the applicant has demonstrated that a CWS will be installed to serve each residential lot, and the system that will be installed is designed to be able to connect to other CWS within the city at such time as the city concludes a connected municipal water system is feasible and appropriate. (Ord. 2005-09)

13.60.030 Construction Standards

The CWS shall be constructed and maintained in accordance with applicable federal and state regulation, and in accordance with the standards set forth by the City Engineer. (Ord. 2005-09)

13.60.040 Operation and Maintenance

A CWS developed as required by this ordinance shall be operated and maintained by the developer and/or Home Owners Association until such time as the system is conveyed to the City for operation and maintenance. The by-laws, and/or covenants, conditions and restrictions (CC&Rs) for the subdivision and the managing entity (e.g. developer/home owners' association) shall include a declaration that the CWS, including any easements or rights of entry necessary to maintain it, shall be transferable to the city at the city's discretion. (Ord. 2005-09)

13.60.050 Provision Apply Retroactive

The provisions of this chapter also apply to any subdivisions approved prior to the effective date that include a CWS as a condition of approval. (Ord. 2005-09)

13.60.060 Effective Provision

This chapter being immediately necessary for the health and safety of the residents of the City of Tangent, an emergency is hereby declared and this chapter shall take effect immediately. (Ord. 2005-09)

Chapter 13.65

13.65 Reimbursement for the Construction of Public Improvements

Sections

13.65.010 Definitions

The following words and expressions shall have the following meanings under this chapter:

(1) Over-sized or over-sizing means the design and construction of a public facility that either is sized to physically accommodate more demand than what the proposer's development creates or extends a public facility from its current point of termination to the proposer's property past one or more other properties that are not currently served by the facility. Examples include designing and constructing a sanitary sewer pipe with greater capacity or greater pipe diameter or pump capacity than needed to serve the proposer's development or extending a street or sanitary sewer main from its current terminus to the proposer's property past one or more properties that are not currently served by the street or sewer.

(2) Person means an individual or any legal entity, including the City of Tangent.

(3) Proposer of the District (District Proposer) is the person that proposes a Zone of Benefit and the formation of a Reimbursement District under this Chapter. The Proposer is also the person who finances and/or constructs the public improvement for which the District is formed.

(4) Reimbursement District is the financing district established by the City Council pursuant to this chapter, based on an adopted Zone of Benefit, in which all of the properties within the Zone are specifically or specially benefitted by the public improvement(s) financed and constructed by the District Proposer. Properties in the District pay an additional Zone Connection Charge at the time they connect to or otherwise use the public improvement(s) financed by the Proposer of the District.

(5) Sewer Improvement means a sewer or sewer line improvement conforming to City standards including but not limited to:

(A) Extension of a sewer line to property other than that owned by the person financing the improvement so that sewer service can be provided to that property without further extension of the line; and

(B) Construction of a sewer line larger, deeper, or of greater capacity than necessary to serve the property of the person financing the improvement in order to provide future service to other properties without the need to reconstruct the line, or constructing additional, deeper or parallel lines.

(6) Street Improvement means a street or street improvement conforming to City standards and including but not limited to streets, surface water drainage facilities in conjunction with streets, curbs, gutters, sidewalks, bike and pedestrian pathways, traffic control devices, street trees, lights and signs and public right-of-way or easement acquisition.

(7) Surface Water Management Improvement means a surface water quality or quantity facility conforming with City standards including but not limited to:

(A) Extension of a surface water management line to property other than that owned by the person financing the improvement so that surface water management service can be provided to that property without further extension of the line;

(B) Construction of a surface water management line larger, deeper, or of greater capacity than necessary to serve the property of the person financing the improvement in order to provide future service to other properties without the need to reconstruct the line;

(C) A detention facility with the capacity to serve upstream properties; and

(D) A water quality facility with capacity to serve upstream properties.

(8) Water Improvement means a water or water line improvement conforming with City Standards including but not limited to:

(A) Extension of a water line to property other than that owned by the person financing the improvement so that water service can be provided to that property without further extension of the line; and

(B) Construction of a water line larger, deeper, or of greater capacity than necessary to serve the property of the person financing the improvement in order to provide future service to other properties without

the need to reconstruct the line, or constructing addition, deeper or parallel lines.

(9) Zone of Benefit means the area encompassing all properties that derive a specific or special benefit from the construction of sewer, water, surface water management or street improvements financed in whole or in part by a person without the formation of a local improvement district. A Zone of Benefit may be formed in conjunction with a local improvement district where a person finances a share of the cost of the improvement that is larger than the share that would result from a uniform application of the district assessment formula to property located in the district and owned by the person.

(10) Zone Connection Charge means the charge imposed pursuant to this Chapter 13.65 designed to reimburse a person for the costs of financing a sewer, street, surface water management or water improvement. The Zone Connection Charge is not intended to reduce or replace, and is in addition to, any other existing fees or charges collected by the City.

13.65.020 Purpose and Scope

TMC Chapter 13.65 provides a method to reimburse a person, including the City, that finances the construction of a sewer, water, surface water management or street improvement that in whole or in a part is constructed larger or with greater capacity than needed to serve the Proposer's development. This chapter is intended to be used to allocate the cost of financing public improvements by distributing design and construction costs to the owners of other properties that will benefit from the improvement (the Zone of Benefit) at the time those properties connect to or make use of the improvement so constructed. Formulation of a Zone of Benefit is used to establish a Reimbursement District, and the additional Zone Connection Charge paid by properties within the District at the time those properties connect to or otherwise use the public improvement(s) to reimburse the District Proposer for the cost of over-sizing one or more public improvements with a larger capacity (over-capacity) than needed to server the Proposer's property or development.

13.65.030 Initiation of Proceedings

(1) Any person may apply to the City, propose a Zone of Benefit and request the formation of a Reimbursement District where the Proposer chooses or is required as a condition of permit approval to construct a street, sewer, surface water management or water improvement that includes additional capacity or is over-sized and exceeds the need or demand created by the Proposer's development. Examples include but are not limited to:

(A) Full street improvements instead of half street improvements;

(B) Construction of off-site improvements including sidewalks, pathways or intersection improvements;

(C) Connection or extension of street sections for continuity;

(D) Extension of water, surface water management, or sewer lines.

(E) Over-sizing of water, surface water management, or sewer lines or surface water quality or detention facilities, or transportation facilities if the over-sizing costs are not otherwise reimbursed by the City.

(F) Extending a sanitary sewer pipe from its current terminus to the Proposer's property, past one or more other properties that could benefit from sanitary sewer service but are not currently served.

(2) The application to form a Zone of Benefit and establish a Reimbursement District shall be in writing and shall be accompanied by a processing fee established by resolution of the City Council that is sufficient to cover the City's administrative and notice costs of processing an application pursuant to this Chapter. This fee may be waived at the discretion of the City Council for projects that have a significant public benefit and where the costs to the city of processing the reimbursement district request can be recovered through the district formation and/or other mechanisms. The application shall include the following:

(A) A description of the location, type, size, and cost of the public improvement.

(B) A narrative explaining why the applicant believes all or part of the cost of the improvement is eligible for reimbursement pursuant to this ordinance.

(C) A map showing the properties to be included in the proposed Zone of Benefit, including the City Zoning designation, the square footage or frontage of the property or properties and identification of the properties owned by the applicant, if any.

(D) The cost of the improvements the applicant proposes to construct and the component the applicant proposes for reimbursement under this ordinance. If the application is filed after construction, the application shall include the actual costs of construction as evidenced by a contract, receipts, bids or other similar documents. If the application is filed prior to construction, the application shall include the estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials or other similar evidence satisfactory to the City Engineer.

(E) The date that the City accepted the public improvements or the date that the improvements are estimated to be complete.

(3) An application to form a Zone of Benefit and create a Reimbursement District shall be made no later than three months after completion and acceptance of the street, sewer, surface water management or water

improvements the Proposer seeks to finance through a Zone of Benefit. The City Engineer may waive this deadline if the Proposer demonstrates that the delay was not the Proposer's fault but was caused by unanticipated or unforeseen circumstances or by the

13.65.040 City Engineer's Report

(1) The City engineer shall review a request for the establishment of a Zone of Benefit and determine whether a zone should be established. The City engineer may request the submittal of any other relevant information from the applicant in order to assist in this evaluation. If the Engineer determines that formation of a Zone of Benefit is appropriate, the Engineer shall prepare a written report that:

(A) Explains why the applicant is qualified for reimbursement pursuant to TMC Article 13.65.

(B) Establishes the area of the Zone of Benefit, the zone formation date and the date when the right of reimbursement ends.

(C) Sets forth the actual or estimated cost of the street, water, surface water management or sewer improvements and the portion of the cost eligible for reimbursement pursuant to subsection 2 of this section.

(D) Establishes an equitable methodology for allocating the cost of designing and constructing the improvement among the properties specifically and specially benefited by the improvement within the Zone of Benefit. Where appropriate, the City Engineer's report shall also define a "unit" for applying the reimbursement charge to property that may, with City approval, be partitioned, adjusted or subdivided at some future date. For purposes of this chapter a "unit" shall be when possible an equivalent dwelling unit or other common measure of utility demand and capacity. The methodology should consider the cost of the improvements, prior contributions by property owners, the value of the unused capacity available for use by benefitted properties within the Zone of Benefit, rate making principles employed to finance public improvements, and other factors deemed relevant by the City Engineer. Prior contributions by property owners shall only be considered if the contribution was for the same type of improvement and at the same location.

(E) Establish the reimbursement charge for properties specially or specifically benefitted by the improvement within the zone.

(F) Direct that a certificate of payment and right of reimbursement be issued to the applicant proposing to establish the Zone of Benefit.

(G) Recommend a lifespan for the Reimbursement District, not to exceed 20 years and reasonably calculated to provide a reasonable reimbursement to the Proposer from specially benefitted properties likely to develop and use the facility or improvement thus constructed.

(2) Determining Reasonable Actual Costs. The Proposer of the District shall not be entitled to reimbursement for any costs in excess of reasonable, actual costs. Reimbursable costs, with the limitations described in this section, include the costs of land or easement acquisition, design/engineering, construction, financing and legal services. If the Zone of Benefit is proposed or the Reimbursement District formed before actual/final costs are known, the City Engineer's report may be based on estimated costs. If estimated costs are used, the methodology or the certificate of payment or both shall provide for a recalculation of the cost no later than three months after completion and acceptance of the improvement by the City. The Proposer shall demonstrate actual costs by submitting contracts, invoices or such credible documentation as the City Engineer deems sufficient. Actual costs shall not be deemed reasonable if the City Engineer determines those costs significantly exceed prevailing market rates for similar projects. In that case, the City Engineer may reduce the reimbursable costs to the prevailing market rate for similar projects. In addition, the following costs shall not be eligible for reimbursement:

(A) Costs for that portion of the improvement that benefits or serves the applicant's own property or development.

(B) Costs for improvements that are not dedicated to and accepted by the City as a public improvement.

(C) Costs for a public improvement that are required as condition of development approval needed to serve the applicant's development, except in cases where the nature and degree of the public improvement is disproportionate to the impacts of the development or where the City desires an over-sized or additional improvement beyond that which is roughly proportional to the impacts of the development.

(D) Any cost or portion thereof, not specifically eligible for reimbursement by this section.

(E) Costs for relocation of electrical, telephone, cable television or natural gas utility or other utilities to the extent that such relocation benefits an applicant's property.

(F) Costs for extra work or materials required to correct deficiencies in construction to bring preexisting improvement(s) up to City Standards.

(G) Costs for sanitary sewer, surface water management facilities, water or street improvements that are the minimum size or capacity

needed to meet City standards and serve an applicant's property or development.

(H) Costs for a minor street realignment, except for the cost of right-of-way acquisition beyond the limits of the applicant's frontage along the improved street.

(3) If the City Engineer determines that a Zone of Benefit should not be formed, the Engineer shall prepare a written report explaining why the formation of the Zone of Benefit and Reimbursement District would be inappropriate or does not qualify under this Chapter.

13.65.050 Designation of the Zone of Benefit and Formation of District

(1) Notice of Proposed Formation. Following completion of the City Engineer's Report, notice of the proposed Zone of Benefit and Reimbursement District formation shall be mailed by regular mail to the applicant and to all property owners within the proposed Zone of the Benefit as shown on the most recent property tax assessment roll in the possession of the county assessor's office. Notice shall be deemed effective on the date of mailing to the address shown on the most recent property tax assessment roll and shall be sent no less than 14 days prior to the scheduled public hearing on the proposal. Failure to receive notice by the applicant or any affected property owner shall not invalidate or otherwise affect formation of the Zone of Benefit or any assessments imposed thereunder. The notice shall include the following information:

(A) A statement that a Zone of Benefit has been proposed that includes the property of the person receiving notice.

(B) A brief description of the Zone of Benefit, the street, water, sewer or surface water management improvement to be reimbursed, the amount of the proposed Zone Connection Charge, and the circumstances under which the Charge must be paid.

(C) A copy of the City Engineer's report.

(D) A statement of the time, date and location of the public hearing that will be held before the City Council to determine whether the Zone of Benefit should be established, if so, which properties should be included within the Zone of Benefit, the costs proposed for reimbursement under this ordinance, the estimated Zone Connection Charge proposed for each property within the proposed Zone of Benefit, the methodology, and the circumstances under which the owner of each property in the resulting Reimbursement District would have to pay the Zone Connection Charge.

(E) A statement that any person may submit written comments prior to the close of the record and appear and present testimony to the City Council on the proposal.

(2) Public Hearing. At the scheduled time, the Mayor shall open the public hearing, accept the Engineer's report and any additional comment or explanation from the Engineer, and then take public testimony on the proposed Zone of Benefit and Reimbursement District proposal. The Mayor may impose reasonable time limits on testimony. Following close of the public testimony, the Council shall deliberate and decide the following issues:

(A) Whether to form the Zone of Benefit, and if so, what properties shall be included,

(B) Whether to create the Reimbursement District, and if so, the scope of improvements to be financed through the Reimbursement District and what portion of the cost of those improvements is over-sized relative to the demands of the Proposer's development and therefore eligible for reimbursement,

(C) Adopt a methodology for equitably allocating the eligible improvement costs over all of the properties in the Zone of Benefit,

(D) Setting the Zone Connection Charge for each property within the Zone of Benefit according to the methodology.

(E) Establishing an end date for the Reimbursement District and the obligation to pay the Zone Connection Charge, not to exceed 20 years.

(3) Resolution and written decision. The Council's final decision to form a Reimbursement District shall be in the form of a resolution that incorporates the City Engineer's Report including any modifications made by the City Council and resolves the issues listed in the preceding subsection. The resolution shall be effective for a period not to exceed 20 years from the date signed.

(4) Formation and Notice. The Zone of Benefit shall be deemed established and the Reimbursement District formed on the 14th day following the execution of the Resolution described in Subsection 2. The City shall send notice of the formation by regular mail to the applicant, to all property owners within the proposed District and Zone of Benefit, and to anyone else who requested notice. The notice shall include the following information:

(A) The date of formation of the reimbursement district and Zone of Benefit;

(B) A statement that a copy of the final City engineer's report, Council Resolution, and all supporting documentation are available for inspection and copying at city hall during regular business hours;

(C) The City Recorder's telephone number, from whom copies of all documents associated with the proposal and Reimbursement District formation can be viewed and obtained; and

(D) A short explanation of when property owner within the Zone of Benefit is obligated to pay the Zone Connection Charge and the amount of the charge.

(5) Recordation. The City Recorder shall cause the Resolution approving the Zone of Benefit and creating the Reimbursement District for a period not to exceed 20 years that is filed with the Linn County property deed records for each property in the Zone of Benefit as notice to owners and potential purchasers of property within the district. The recording shall not create a lien, but shall run with title to the land in the event of subsequent sale, purchase or land division. Failure to make such a recording shall not affect the legality of the formation or the obligation to pay the Zone Connection Charge by the owners of all property within the District at such time as the property connects to or otherwise uses the public improvement(s) financed and constructed by the District's Proposer.

13.65.060 Right to Reimbursement

The Council's resolution shall constitute the City's commitment to collect Zone Connection Charges from benefitted properties within the Zone of Benefit, as provided in the City Engineer's report, and to transfer those payments to the person who proposed the District's formation and constructed the public improvement(s) for which the District was formed. The resolution shall constitute a contract right between the City and the proposer who requested formation of the District. The certificate shall at a minimum identify the person receiving the right of reimbursement, the reimbursed amount per unit, the area of the Zone of Benefit, the date of District's formation, and the date upon which the right to reimbursement ends. The requestor's right to reimbursement is assignable and transferrable after written notice is delivered to the City advising the City to whom future payments shall be made.

13.65.070 Obligation to Pay Zone Connection Charge, Penalty

(1) An owner of property within a Reimbursement District established pursuant to this Chapter through formation of a Zone of Benefit shall pay to the City, in addition to any other applicable fees and charges, the Zone Connection Charge established in the adopted City Engineer's written report when any of the following events occur, but no later than 20 years after the Council resolution establishing the Reimbursement District:

(A) The property owner receives approval for a development permit to subdivide or partition property located within the zone, or

(B) A use of property is expanded to create additional "units," as that term is defined in the Engineer's report for establishment of the Zone of Benefit. The term "unit" is not limited to residential uses.

(C) A property owner connects to the sewer line or water line or makes use of the surface water management or street improvement for which the

Zone of Benefit was formed. As used in this subsection, “makes use of the surface water management improvement” means installation of an improvement that increases impervious surface on the property at the time of or following construction of the surface water management improvement for which the Zone of Benefit was formed. As used in this subsection, “makes use of the street improvement” means installation of an improvement or changing the use of the property at the time of or following construction of the street improvement that increases vehicle trips or congestion on the road improvement for which the Zone of Benefit was formed.

(2) At any time up to a maximum of 20 years after adoption of a council resolution creating a Reimbursement District, the Zone Connection Charge shall be due and payable as a precondition of receiving the first City permit or approval applicable to development activity undertaken on any property within the Zone of Benefit, or, in the case of connection to a line, as a precondition of receiving the connection permit.

(3) The Zone Connection Charge may be paid in installments in the same manner as systems development charges, if approved by the city engineer.

(4) The failure to pay the Zone Connection Charge when due is a civil violation and an infraction of this Chapter and shall be grounds for denying any development or building permit and withholding any city approval. (Ord. 2021-01)

Parallel References

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