

**CHAPTER TWO -- GOVERNMENT AND  
ADMINISTRATION  
COUNCIL PROCEDURES**

**2.001 TYPES OF MEETINGS**

- (1) Regular Meetings. The Council shall hold two regular meetings, on the first and third Monday of each month, except in those cases where the Council finds it necessary to designate another date due to conflicts. Regular meetings shall be convened in the City Council Chambers and shall be called to order at 7:00 p.m. If and when the regular meeting date of the Council falls on the legal holiday, as defined by State Statute, as now or hereafter constituted, which by this reference is incorporated in and made a part of this Code, the Council shall meet on the following day in the Council Chambers at 7:00 p.m.; and such meeting shall be a regular meeting.
- (2) Executive Sessions. The Council may hold closed meetings (Executive Sessions) pursuant to State Statute during regular or special meetings. A motion or notice calling for an executive session shall identify the specific statutory authorization. Media representatives will be allowed to attend executive sessions, but the Council may require that certain information shall not be disclosed. Final action on any matter discussed in executive session must be taken at an open meeting.
- (3) Special Meetings. Any Council meeting other than the Regular council meeting which has been called for the purpose of conducting official action or studying an issue. Notice shall be given at least 24 hours in advance. A Special Council meeting may be called at any time on request of two members of the Council, by the Mayor, or by the President of the Council in the Mayor's absence, by giving notice of the meeting to the Council members and the public.
- (4) Emergency Meetings. A special meeting called without 24 hours notice is an Emergency Meeting. An Emergency Meeting may be called when the Council could not reasonably have foreseen the need for meeting on a limited issue at a time when adequate notice could have been provided. The meeting shall be limited to

discussion and action regarding the emergency. The notice for an emergency meeting shall be provided as soon as possible after becoming aware of the emergency and the need for the meeting. An emergency meeting may be called by the Mayor or a majority of the City Council. The minutes shall indicate the reason for the emergency.

- (5) Work Sessions. Work sessions of the Council shall be held in accordance with State Statutes for the purpose of studying an issue(s) and such session shall be called by either the Mayor, City Manager or two Council members. Work Sessions are a form of special meeting and the Council may take action at such sessions.

[Added by Ordinance No. 00-24, enacted Nov. 21, 2000.]

**2.005 ORDER OF BUSINESS AND AGENDA**

- (1) Order of Business. The order of business at each Council meeting shall be in accordance with the agenda prepared by the City Manager. Items may be taken out of the following order with the consent of the majority of the Council members.
  - (a) Call to order and roll call
  - (b) Pledge of Allegiance
  - (c) Consent Agenda
  - (d) Land Use Public Hearing - Quasi Judicial
  - (e) Land Use Public Hearing - Legislative
  - (f) General Public Hearing
  - (g) Legislative Action
  - (h) Other Matters
  - (i) Public Comment
  - (j) Adjournment
- (2) Agendas. Staff shall prepare an agenda for every regular, and if requested, for every special Council meeting. Items may be placed on the regular meeting agenda by any person, but such items shall be presented to the City Manager's office no later than 10:00 a.m. on the Monday preceding the meeting at which they are to be discussed. Upon approval by the Mayor, the City Manager, or any member of the Council, the item shall be placed on the

agenda for consideration. Agendas and informational material for regular meetings shall be distributed to the Council at least 4 days prior to the meeting.

- (3) Items to be Acted on Generally. Normally, only those items on the agenda shall be acted upon by the Council. Matters deemed to be emergencies or of an urgent nature by the Mayor, a Council member, the City Manager, or the City Attorney may be submitted for Council consideration and action under Other Matters.
- (4) New Business. The Mayor, City Manager or a Council member may bring before the Council any new business under the Other Matters portion of the agenda. These matters need not be specifically listed on the agenda, but formal action on such matters shall be deferred until a subsequent Council meeting, unless deemed urgent under (3) above.
- (5) Public Comment:
- (a) Policy. The Council recognizes that public input into the governmental process is an invaluable aid to informed decision making. Therefore, it is the policy of the Council that all citizens shall have the right to speak before the Council on matters of public concern, but each citizen shall be responsible for abuse of such right. Consequently, to ensure that the greater public interest is fostered, each citizen or group of citizens who desires to speak before the Council shall have the duty to exercise this right in a manner which furthers the greater public interest.
- (b) Public Comment Generally. Any member of the general public wishing to address the Council on a matter of public concern may do so at the time set for public comments during each regular session of the Council. Any member so addressing the Council shall be limited to a period of five minutes within which to make themselves heard. The Council, in its sole discretion, may extend this time, or may request further information be presented to the Council on such date and in such manner as it deems appropriate.
- (c) Persons Sharing Common Concerns. If any group of three or more persons

sharing a common viewpoint on any subject wishes to address the Council during the time for public comment, the group shall select a spokesperson, who shall present the views of the group to the Council. The Council, in its sole discretion, may request to hear the views of additional speakers from the group. Additional support for the views of the group, in the form of petitions, letter, videotapes, etc., may be presented to the Council for consideration at the conclusion of the spokesperson's remarks.

- (d) Complaints and Suggestions to the Council. When any citizen brings a complaint or suggestion before the Council, other than for items already on the agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature. If it is legislative, i.e, a complaint about the letter or intent of legislative acts or a suggestion for changes to such acts, and if the Council finds such complaint or suggestion may call for a change to an Ordinance or Resolution of the City, the Council may refer the matter to the City Attorney, a committee or the City Manager for study and recommendation. If the matter is administrative in nature, i.e., a complaint regarding administrative staff performance, administrative execution or interpretation of legislative policy, or a complaint or suggestion regarding administrative policy within the authority of the City Manager, the Presiding Officer shall then refer the complaint or suggestion directly to the City Manager for his or her review if the matter has not already been reviewed. The Council may direct the City Manager to report to the Council when his or her review has been made.

[Amended by Ordinance No. 95-5, enacted April 6, 1995; Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

## **2.010 REGULAR MEETINGS FALLING ON HOLIDAYS [REPEALED]**

[Amended by Ordinance No. 95-5, enacted April 6, 1995; Repealed by Ordinance No. 00-24, enacted Nov. 11, 2000.]

**2.015 SPECIAL MEETING [REPEALED]**

[Repealed by Ordinance No. 00-24, enacted Nov. 11, 2000.]

**2.020 CONSENT AGENDA**

- (1) Agenda items to be included within the consent Agenda portion of the Council's Order of Business shall be routine matters of limited public interest including such matters as licenses, permits, minor agreements, authorizations to bid, award of bids less than \$100,000 and approval of minutes. Matters which may not be included in the Consent Agenda are Ordinances, Resolutions, public hearings, major bid awards and agreements of interest to the public and those items for which interested persons are likely to appear and comment.
- (2) The Consent Agenda shall be subject to one combined vote of Council; provided, however, prior to such vote any member of the public through written request, any Council member or any staff member, may request to have removed one or more Consent Agenda items to be considered individually during the regular agenda. Such items shall be considered immediately following Council action on the Consent Agenda.
- (3) Individual written staff reports shall be prepared for each Consent Agenda item and shall be included in the agenda packet and made available to the public pursuant to Oregon's Public Meeting Law. Council members may question staff regarding such reports prior to voting on the Consent Agenda and without removing the items from the Agenda.

[Ordinance No. 6584, enacted Nov. 6, 1989; Amended by Ordinance No. 00-24, enacted Nov. 21, 2000; Amended by Ordinance No. 06-24, enacted Aug. 7, 2006.]

**2.025 STUDY SESSIONS [REPEALED]**

[Repealed by Ordinance No. 00-24, enacted Nov. 21, 2000.]

**2.030 READING OF MINUTES**

Unless the reading of the minutes of the previous Council meeting is requested by a majority of the Council, such minutes may be approved without reading if copies have been

previously furnished to each of the Council members.

[Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

**2.035 DESIGNATION OF HEARINGS OFFICER TO CONDUCT SPECIAL PUBLIC HEARINGS**

A hearings officer may be designated by the Council to conduct special public hearings, when appropriate.

[Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

**2.040 ADMINISTRATIVE STAFF AND CITY EMPLOYEES ADDRESSING COUNCIL OR PUBLIC**

Members of the City's administrative staff and other City employees desiring to address the Council or members of the public shall first be recognized by the presiding officer. The staff may respond to questions or comments by the Council or members of the public with permission of the presiding officer, but shall always do so in a polite, tactful manner.

[Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

**2.045 IMPERTINENT OR SLANDEROUS REMARKS; UNAUTHORIZED REMARKS; DEMONSTRATIONS**

Any person making impertinent or slanderous remarks or who become boisterous during the Council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer; any such person may be barred from further remarks before that session of the Council. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the presiding officer. Disorderly conduct at Council meetings may be prosecuted upon appropriate complaint signed by the presiding officer.

[Amended by Ordinance No. 6451, enacted April 16, 1984; Amended by Ordinance No. 6500, enacted Dec. 2, 1985; Amended by Ordinance No. 6524, enacted Feb. 2, 1987; Amended by Ordinance No. 6584, enacted Nov. 6, 1989; Amended by Ordinance No. 6646, enacted Dec. 18, 1992; Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

**2.047 CONSENT AGENDA [REPEALED]**

[Added by Ordinance No. 6646, enacted Dec. 18, 1992; Repealed by Ordinance No. 00-24, enacted Nov. 21, 2000.]

**2.050 QUESTIONS OF PERSONAL PRIVILEGE**

The right of a Council member, staff member or member of the public to address the Council on a question of personal privilege shall be limited to cases in which the person's integrity, character or motives are assailed, questioned or impugned.

**2.055 EXPRESSING AND RECORDING DISSENTS OR PROTESTS**

Any Council member shall have the right to express dissent from or protest against any Ordinance, Resolution or decision of Council and have the reason therefore, entered upon the Council minutes. Such dissent or protest may be verbal during the meeting or in writing and presented to Council not later than the next regular meeting following the date of passage of the Ordinance, Resolution or decision objected to.

**2.060 PUBLIC MEMBERS ADDRESSING THE COUNCIL**

- (1) Members of the public who wish to address Council on a scheduled Agenda item shall so indicate by submitting a written request to the City Recorder.
- (2) Any other public member desiring to address the Council shall stand and wait to be recognized by the presiding officer. After recognition, the person's name and address shall be stated for the record and the remarks shall be limited to the question under discussion.
- (3) All remarks and questions shall be addressed to the presiding officer and not to any individual Council member, staff member or other person without the permission of the presiding officer. No person shall enter into any discussion without being recognized by the presiding officer.
- (4) Any public member addressing the Council shall be limited to 5 minutes unless further time is granted by the presiding officer. No

public member shall be allowed to speak more than once upon any one subject until every other public member choosing to speak thereon has spoken.

- (5) After a motion has been made or after a public hearing has been closed, no public member shall address the Council without first securing permission from the majority of the Council.

**2.065 PERSONS PERMITTED WITHIN RAIL**

No persons shall approach the Council without consent of the presiding officer.

[Amended by Ordinance No. 6646, enacted Dec. 18, 1992.]

**2.070 QUORUM**

Three members of the Council shall constitute a quorum for its business.

**2.075 VOTING GENERALLY**

- (1) The vote on every motion shall be taken by voice vote or roll call and entered in full upon the record.
- (2) A roll call vote shall be used for all Ordinances and Resolutions. Any other question before the Council shall not require a roll call vote unless requested by any member of the Council. It shall not be in order for members to explain their vote during roll call. Any member may change his or her vote prior to the next order of business.
- (3) Where not otherwise controlled by Charter provision, the concurrence of a majority of the members of the Council present at a Council meeting shall be necessary to decide any question before the Council.

**2.080 RECONSIDERATION OF ACTIONS TAKEN**

Any member who voted with the majority may move for a reconsideration of an action at the same or the next following regular meeting. Once a matter has been reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Council.

**2.085 ORDINANCES; TWO READINGS REQUIRED**

- (1) Every Ordinance shall, before being put upon its final passage, be read in open Council meeting on 2 different days.

- (2) Any of the readings of an Ordinance may be by title only if no Council member present at the meeting requests that the Ordinance be read in full, provided that a written copy of the Ordinance is provided for each Council member and 3 written copies are provided for public inspection in the Council Chambers at the time of its consideration. An Ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was written, unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.
- (3) Upon the final vote on an Ordinance, the ayes and nays of the Council members shall be taken and entered in the record of proceedings. Except as provided in the City Charter regarding ward boundaries (Section 8), overriding vetoes (Section 18 and 34) and election procedures, (Section 30 when 4 affirmative votes are required, the affirmative vote of 3 members of the Council present at the Council meeting shall be necessary to pass the Ordinance.
- (4) Upon enactment of an Ordinance, the Recorder shall sign it with the date of its passage, and within 3 days the Mayor shall sign it, veto it or set it aside pursuant to Charter Section 34.

### 2.087 RESOLUTIONS

- (1) Every Resolution shall, before being passed, be read in open Council meeting. The reading of a Resolution may be by title only if no Council member present at the meeting requests that the Resolution be read in full, provided that a written copy of the Resolution is provided for each Council member and 3 written copies are provided for public inspection in the Council Chambers at the time of its consideration.
- (2) Upon final vote on a Resolution, the ayes and nays of the Council members shall be taken and entered in the record of proceedings.
- (3) Upon enactment of a Resolution, the Recorder shall sign it with the date of its passage and within 3 days, the Mayor shall sign it. The Mayor shall have no power to veto a Resolution.
- (4) A Resolution enacted by the Council shall

take effect immediately.

### 2.090 PUBLIC MEETING

All meetings shall be held in compliance with ORS 192.610 to 192.690 (Public Meeting Law). Except for executive sessions pursuant to ORS 192.660, all regular and special meetings shall be open to the public.

### 2.095 ADJOURNMENT

Any meeting may be adjourned to a time, place and date certain, but not beyond the next regular meeting.

### 2.097 SIGNING OF ORDINANCES, RESOLUTIONS, AGREEMENTS, AND CONTRACTS

The Mayor, or President of the Council when acting as presiding officer, shall sign all Ordinances, Resolutions, agreements, and contracts approved or adopted by the Council at the meeting at which the action was taken.

### 2.100 THE PRESIDING OFFICER

- (1) The Mayor. The Mayor shall preside at all regular and special meetings and executive sessions of the Council and shall be the recognized head of the City for all ceremonial purposes. The duties of the Mayor are outlined in the City Charter, Section 18.
- (2) Council President. At the first meeting each calendar year, the Council shall elect a president from its membership. In the Mayor's absence from any Council meeting, the Council President shall act as the presiding officer as outlined in the City Charter, Section 19.
- (3) Temporary Chairman. In event of the absence of the Mayor and Council President, the City Recorder shall call the Council to order and call the roll of the members; if a quorum is present, those Council members present shall elect, by majority vote, a Temporary Chairman for that meeting. Should the Mayor or Council President arrive, the Temporary Chairman shall relinquish the chair immediately upon the conclusion of the item of business then in consideration before the Council.

[Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### 2.105 QUESTIONS OF PERSONAL PRIVILEGE [REPEALED]

[Repealed by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### 2.110 EMPLOYEE DUTIES

- (1) City Manager. The City Manager shall attend all meetings of the Council, unless excused by the City Council. The City Manager shall make recommendations to the Council and shall take part in all discussions concerning the welfare of the City.
- (2) City Attorney. The City Attorney shall attend all meetings of the Council, unless excused by the City Council. Any member of the Council may at any time call upon the City Attorney for an informal oral opinion. Written opinions shall be required by a majority of the Council. The City Attorney shall be the Parliamentarian, and shall advise the Presiding Officer on any questions of order.
- (3) City Recorder. The City Recorder, or the City Recorder's designee, shall be the Clerk for the Council and shall keep minutes of meetings and shall perform such other duties at the meetings as ordered by the Presiding Officer, the Council or the City Manager. The City Recorder shall furnish each Council member with a copy of the minutes of each preceding meeting in the agenda packet for the next meeting.
- (4) The Chief of Police. The Chief of Police or his designee shall attend each Council meeting, and serve as the Sergeant-at-Arms. For the purpose of retaining order and decorum at the Council meetings, the Sergeant-at-Arms shall carry out all orders or instructions upon direction of the Presiding Officer or upon any other procedure specifically provided by these rules.
- (5) Officers and Employees. Any member of the City Council may request that the City Manager direct any employee to attend regular, special or executive meetings to confer with the Council on matters relating to the City.

[Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### 2.115 PUBLIC MEMBERS ADDRESSING THE COUNCIL [REPEALED]

[Repealed by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### 2.120 DECORUM AND ORDER

- (1) Presiding Officer. The Presiding Officer shall preserve decorum and decide all points of order, subject to appeal to the Council.
- (2) Council Members. Council members shall preserve order and decorum during Council meetings, and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Presiding Officer or these Rules. Council members shall, when addressing staff or members of the public, confine themselves to questions or issues then under discussion, shall not engage in personal attacks, shall not impugn the motives of any speaker, and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.
- (3) Confidentiality. Council members will keep all written materials and verbal information provided them on matters of confidentiality under law in complete confidence to insure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other Council members, the City Manager or the City Attorney.

If the Council, in Executive Session, provides direction or consensus to staff on proposed terms and conditions for any type of negotiations whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with the other parties shall be made by designated staff or representatives handling the negotiations or litigation. A Council member shall not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.

If a Council member does not refrain from disclosing such information as required by the Council rules, the Council shall convene and address the matter, as provided in the Censure provision of these rules.

- (4) Staff and Public. Members of the administrative staff, employees of the City and other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council.
- (5) Council-Staff Relations. Council members shall respect the separation between policy-making and administration by:
- (a) Not attempting to influence or coerce the City Manager concerning personnel or purchasing rules, as outlined in the City Charter.
  - (b) Addressing all inquiries and requests for information from staff to the City Manager or City Attorney and allowing sufficient time for response. At the discretion of the manager or attorney, inquiries may be forwarded to the full Council for consideration.
  - (c) Limiting individual contacts with City officers and Employees so as not to influence staff decisions or recommendations, undermine the authority of supervisors or prevent the full Council from having the benefit of any information received;
  - (d) Honoring the confidentiality of discussions with the City Attorney.
- (6) Censure.
- (a) The Council has the inherent right to make and enforce its own rules and to ensure compliance with those laws generally applicable to public bodies. Should any Council members act in any manner constituting a substantial violation of these rules or other general laws, the Council, acting as a whole, may discipline that Council member to the extent provided by law, including public reprimand.
  - (b) To exercise such inherent right, the Council has the right to investigate the actions of any member of the Council.
  - (c) Neither the Council or any member shall have the right to make public any information obtained through such investigation.
  - (d) Any member accused of a substantial violation of Council rules or any other general law shall have the right to present a defense to the allegations, including the right to present rebuttal evidence, and to

have representation by counsel. Upon finding, by a moral certainty, that a substantial violation has occurred, and that such violation affects the Council member's ability to represent the interests of the City as a whole, the Council may, upon a majority vote of the Council members (other than the offending member of the Council) impose a censure on the offending member.

[Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### **2.125 VOTING GENERALLY [REPEALED]**

[Amended by Ordinance No. 6646, enacted Dec. 18, 1992; Repealed by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### **2.130 DUTIES AND PRIVILEGES OF MEMBERS**

- (1) Code of Ethics. Council members shall conduct themselves so as to bring credit upon the City as a whole, and to set an example of good ethical conduct for all citizens of the community. Council members should constantly bear in mind these responsibilities to the entire electorate, and refrain from actions benefitting any individual or special interest group at the expense of the City as a whole. Council members should likewise do everything in their power to insure impartial application of the law to all citizens, and equal treatment of each citizen before the law, without regard to race, religion, national origin, sex, social station or economic position.
- (2) Debate.
  - (a) Any Council member who has the floor shall confine himself or herself to the question under debate, avoid personalities and refrain from impugning the motives of any member's argument or vote. No member shall address the chair or demand the floor while any vote is being taken.
  - (b) Council members shall limit their remarks on a subject to five minutes unless granted additional time by the majority of the Council. No Council member shall be allowed to speak more than once upon any one subject, until every other member choosing to speak thereon has spoken.
  - (c) A Council member, once recognized, shall

not be interrupted while speaking, unless called to order by the Presiding Officer, or unless a point of order is raised by any Council member while he or she is speaking, in which case he or she shall cease speaking immediately until the point is determined. If ruled to be in order he or she shall be permitted to proceed; if ruled to be out of order, he or she shall remain silent or shall alter his or her remarks as to comply with the ruling.

- (3) **Right to Appeal.** Any Council member may appeal to the Council from a ruling of the Presiding Officer, and if the appeal is seconded, the member making the appeal may briefly state his or her reason for the appeal and the Presiding Officer may briefly explain his or her ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The Presiding Officer shall then put the question, "Shall the decision of the chair stand as the decision of the Council?" If the majority of the members vote aye, the ruling of the chair is sustained; otherwise it is overruled.
- (4) **Excusal During the Meeting.** Except in an emergency, no member may leave the Council meeting while in regular session without permission from the Presiding Officer.
- (5) **Personal Privilege.** The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his integrity, character or motives are assailed, questioned or impugned.

[Amended by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### **2.135 ORDINANCES; TWO READINGS REQUIRED [REPEALED]**

[Repealed by Ordinance No. 00-24, enacted Nov. 21, 2000.]

### **2.140 ROBERT'S RULES OF ORDER**

Robert's Rules of Order Revised shall be used as the guideline for conduct of Council meetings, except in those cases where specific provisions contrary to Robert's Rules are provided herein.

### **2.145 WARD APPOINTMENT**

The 5 Council Wards shall be as set forth on the map located at the end of this Chapter, and

incorporated herein by this reference. Pursuant to Section 8 of the City Charter, the Council may establish or change the boundaries of any ward by 4 affirmative votes of its members.

[Added by Ordinance No. 6388, enacted April 5, 1982; amended by Ordinance No. 92-03, enacted Feb. 5, 2002; amended by Ordinance No. 04-08, enacted Sept. 20, 2004; Amended by Ordinance No. 10-10, enacted Aug. 27, 2010; Amended by Ordinance No. 11-12, enacted Dec. 5, 2011.]

### **2.150 ELECTIONS -PAYMENT FOR CIRCULATION OF PETITIONS PROHIBITED**

No person shall pay or receive a valuable consideration for procuring a signature to an initiative or referendum petition for City legislation or for a recall petition for a City official.

[Added by Ordinance No. 6577, enacted Sept. 18, 1989.]

### **2.155 INITIATIVE AND REFERENDUM - ONE YEAR TIME LIMIT FOR COLLECTION OF SIGNATURES**

No initiative or referendum petition may be filed with the City elections officer unless the signatures on the petition have been secured within 365 days after the date on which the ballot title and prospective petitions are approved by the City or the ballot title is certified by Circuit Court, whichever occurs later.

[Added by Ordinance No. 94-27, enacted Oct. 20, 1994.]

### **INITIATIVE AND REFERENDUM**

#### **2.205 - 2.295 REPEALED**

[Repealed by Ordinance No. 6573, enacted Sept. 5, 1989.]

## CITY BOARDS AND COMMISSIONS

### CITY PLANNING COMMISSION

#### 2.300 COMPOSITION

There is hereby continued a City Planning Commission. The Mayor and City Attorney are hereby made ex-officio members of the City Planning Commission. The Mayor shall appoint seven other members to the Commission. No more than 2 voting members of the Commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit. No more than 2 members shall be engaged in the same kind of occupation, business, trade or profession. [Amended by Ordinance No. 6603, enacted June 4, 1990.]

#### 2.302 TERMS; VACANCIES

The 7 members appointed by the Mayor shall hold office for 4 years; except that, in case of vacancy, the Mayor shall fill the vacancy by appointment only for the unexpired portion of the term. Commission members who accumulate more than 3 unexcused absences from Commission meetings within an one-year period may be removed from the Commission on notice given by the Mayor.

#### 2.304 OFFICERS

(1) At the first meeting in July of each year, the Commission shall elect a president and vice-president, each of whom shall hold

office during the pleasure of the Commission.

(2) The Commission shall elect a secretary, who is not a member of the Commission and may, if it desires, make the Recorder its secretary. In the latter event, such secretarial work is hereby made the duty of the Recorder.

#### 2.306 QUORUM

Four members of the Commission shall constitute a quorum. Ex-officio members shall not be counted for quorum purposes.

[Amended by Ordinance No. 6603, enacted June 4, 1990.]

#### 2.308 MEETINGS

The Commission shall meet at least once a month, and the Council shall provide a suitable place for its meetings.

#### 2.310 RULES OF PROCEDURE

The Commission may make and alter rules and regulations for its government and procedure consistent with the laws of the State and with the Charter and provisions of this Code and other Ordinances of the City.

#### 2.312 POWERS AND DUTIES

The Council recognizes the fact that the Commission is authorized by the laws of the State, and that its powers and duties are designated by legislative act and not by the City Charter or Ordinance. Therefore, all powers and duties given the City Planning Commission by the laws of the State are hereby declared to be the powers and duties of the Commission.

**PARKING DISTRICT COMMITTEE****2.320 PARKING DISTRICT COMMITTEE APPOINTMENT**

[Amended by Ordinance. No. 6638, enacted Aug. 19, 1992; Amended by Ordinance. No. 94-35, enacted Jan. 6, 1995; Amended by Ordinance. No. 02-04, enacted March 4, 2002; Rescinded by Ordinance No. 11-09, enacted Nov. 7, 2011.]

**DOWNTOWN ADVISORY COMMITTEE****2.330 DOWNTOWN ADVISORY COMMITTEE**

(1) There shall be a Downtown Advisory Committee, composed of eleven members which shall be appointed by the Mayor. Public meetings of the Committee are to be held at regularly scheduled times. The Committee shall make every effort to assure opportunity for public input. This Committee is intended to serve as the citizen advisory committee formed to assist in the implementation of the Downtown Redevelopment Plan, and on public parking matters within the Urban Renewal District created by Ordinance No. 6585 and the Downtown Parking District as determined by Council pursuant to Section 7.135 (Boundaries of District). The Committee shall review demands for parking, conduct inventories and update parking areas to establish adequate spaces in and adjacent to the Downtown area for: 2 hour parking; long-term parking; public off-street parking; reserved parking; disabled parking; loading and unloading; and other parking issues.

(2) The Committee shall be composed of 11 members who shall be appointed as follows:

(a) A minimum of 5 city resident members who own real property, or who own or operate businesses, located within

Urban Renewal District or Parking District boundaries;

(b) A maximum of 6 members who own real property, or who own or operate businesses located within the Urban Renewal District or Parking District boundaries;

(c) One of the 11 members shall be designated as the Klamath Falls Downtown Association position, to be recommended for appointment from the leadership of the Klamath Falls Downtown Association;

(d) One of the 11 members may be designated as the Klamath Arts Council position, to be recommended for appointment from the leadership of the Klamath Arts Council.

**2.332 TERMS OF OFFICE; VACANCIES**

The initial terms of the office for 6 members shall be 4 years, and the initial terms of office for five members shall be 2 years. Thereafter, new members or reappointed members shall be appointed for a term of 4 years. In the case of a vacancy, the Mayor shall fill the position by appointment for the unexpired portion of the term.

**2.334 QUORUM; RULES OF PROCEDURE**

Five members of the Committee shall constitute a quorum for the conduct of meetings, and rules of procedure shall be left to the discretion of the Committee.

[2.330 – 2.336 Relating to the City Insurance Commission were repealed by Ordinance No. 6474, enacted Sept. 17, 1984; Added by Ordinance No. 11-09, enacted Nov. 7, 2011.]

## **PARKS, RECREATION AND CEMETERIES ADVISORY BOARD**

### **2.340 ADVISORY BOARD**

A Parks, Recreation and Cemeteries Advisory Board shall consist of 7 citizens of the City appointed by the Mayor. The members shall be appointed for a term of 4 years; except that, in the event of a vacancy during a term of office, the appointment shall be only for the unexpired portion.

[Amended by Ordinance No. 13-01, enacted February 19, 2013]

### **2.342 CHAIRPERSON; MEETINGS; QUORUM**

The Advisory Board shall elect a chairperson to serve for a six month term, beginning January 1 and July 1 of each year. The Advisory Board may meet once monthly but shall have at least one regular meeting quarterly. Special meetings or Work Sessions can be requested when no less than 3 of its members issue a request with the Community Development Director, who shall call such a meeting and notify the chairperson. The Director may call special meetings by notifying the Advisory Board members when special or unusual business must be decided before regularly scheduled meetings. Any 4 members shall constitute a quorum to transact business.

[Amended by Ordinance No. 6426, enacted July 18, 1983; Amended by Ordinance No. 94-26, enacted Oct. 20, 1994; Amended by Ordinance No. 13-01, enacted February 19, 2013; Amended by Ordinance No. 13-09, enacted Dec. 3, 2013.]

### **2.344 POWERS AND DUTIES**

The Advisory Board shall act in an advisory

capacity to the Council in all matters pertaining to the operation, planning, development, improvement, beautification, equipment, maintenance, and recreation program of public parks and cemeteries, including the facilities of the City. The Advisory Board shall have, in addition to the above, the following duties and powers:

- (1) Every year, to review and submit to the Council its recommendation for the Parks and Cemetery Division's annual budgets for the ensuing 3 fiscal years.
- (2) To review from time to time, the plans and recommendations for the development of parks, recreation and cemetery facilities of the City and advise the Division on its recommendations for such purposes.
- (3) To provide, clean and wholesome opportunities for the citizens of the City, particularly the children, to minimize juvenile delinquency.
- (4) The Advisory Board may provide for temporary restriction as to use of any part or area within the boundaries of any City park or cemetery and to temporarily close to use by the public any part or area of any City park or cemetery, such action to be reported to the City Manager as soon as adopted.

[Amended by Ordinance No. 13-01, enacted February 19, 2013]

### **2.346 ACCESS TO CITY FACILITIES**

The Advisory Board members shall have free access for the performance of official duties to all of the facilities of the Parks and Cemetery Division and may call upon the Division personnel through the Director to render to it such services as may be required.

[Amended by Ordinance No. 13-01, enacted February 19, 2013]

**PUBLIC CONTRACT REVIEW BOARD****2.350 CONTRACT REVIEW BOARD**

Pursuant to ORS 279.055, the Council is hereby designated as the City Contract Review Board. Relative to contract concerns of this City, the City Board shall have all the powers granted to the State Public Contract Review Board.

**2.352 TEMPORARY RULES**

There is hereby adopted by the City, for the purpose of establishing temporary rules governing public contracts in the City, the rules of the State Public Contract Review Board, Oregon Administrative Rules Chapter 127, one copy of which is filed in the office of the Recorder. These temporary rules shall remain in effect until such time as City Contract Review Board adopts rules to supersede the temporary rules.

**CHARTER REVIEW COMMISSION, DOCK  
COMMISSION,  
GEOTHERMAL ADVISORY COMMITTEE**

**2.358 GEOTHERMAL ADVISORY  
COMMITTEE AND DOCK  
COMMISSION DUTIES ASSUMED BY  
CITY COUNCIL**

The duties, responsibilities and powers formerly conferred upon the Geothermal Advisory Committee and the Dock Commission are assumed by the City Council.

[Added by Ordinance No. 97-11,, enacted April 21, 1997.]

**CABLE TELEVISION ADVISORY BOARD**

**2.360 - 2.366 REPEALED**

[Repealed by Ordinance No. 6539, enacted Oct. 5, 1987.]

**BOXING AND WRESTLING COMMISSION**

**2.370 - 2.372 REPEALED**

[Repealed by Ordinance No. 6539, enacted Oct. 5, 1987.]

**CHARTER REVIEW COMMISSION**

**2.380 - 2.388 REPEALED**

[Repealed by Ordinance No. 97-11, enacted April 21, 1997.]

**GEOTHERMAL ADVISORY COMMITTEE**

**2.400 – 2.402 REPEALED**

[Repealed by Ordinance No. 97-11, enacted April 21, 1997.]

**URBAN REDEVELOPMENT COMMITTEE**

**2.410 – 2.416 REPEALED**

[Repealed by Ordinance No. 11-09, enacted Nov. 7, 2011.]

**AIRPORT COMMISSION**

**2.420 - 2.424 REPEALED**

Repealed by Ordinance No. 97-11, enacted April 21, 1997.]

**UTILITY COMMISSION**

**2.430 - 2.434 REPEALED**

[Repealed by Ordinance No.97-16, enacted June 16, 1997]

## **DOWNTOWN DESIGN REVIEW COMMISSION**

### **2.450 DOWNTOWN DESIGN REVIEW COMMISSION**

There is hereby created a Downtown Design Review Commission in and for the City of Klamath Falls Downtown Business Zone, hereinafter referred to as "Downtown".

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

### **2.452 COMMISSION MEMBERSHIP**

The Downtown Design Review Commission shall consist of 7 members appointed by the Mayor, constituted as follows: all of which shall be members at large who shall be residents of the City and interested in Downtown and community appearance. At least 4 members shall be actively engaged in business in the Downtown, 2 members shall be architects and/or structural engineers, 1 of whom may be a landscape architect, and 1 member shall have experience in the field of historic preservation. In making appointments to the Commission, the Mayor shall seek to appoint as members persons who are recognized as experienced in matters of aesthetic judgment by virtue of training, education and experience (such as architects, landscape architects, real estate appraisers, land planners or persons specifically qualified for reasons of education, training or experience in the area of graphic or allied arts), and possessing qualities of impartiality and broad judgment. No member of the Commission shall participate in discussion with or vote on requests for a design approval from any client he/she is serving nor shall such member so participate or vote in connection with any business or property, the ownership of which he/she has a substantial interest or of which he/she is an officer or employee.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

### **2.454 TERMS OF MEMBERS**

The term of office for each member to the Commission shall be 3 years, unless such appointment is to fill the unexpired term created by a vacancy. The office of any Commission member who fails to attend 3 consecutive Commission meetings without having been excused by the Commission, or who fails to attend 1/2 of the total of all Commission

meetings scheduled or called during any 1 year period, may be declared vacant by a majority vote of the remaining members of the Commission. Upon receipt of notice of declaration of vacancy from the Commission, or in the event a vacancy in any office of a member of the Commission occurs for any reason the Mayor shall appoint a successor to a new three year term of office created by the vacancy. All appointees shall hold their offices for their respective terms and until their successors are appointed.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

### **2.456 OFFICERS OF THE COMMISSION**

The officers of the Commission shall be a chair and a vice chair, to be elected by the Commission from its members annually at the first meeting of the Commission. The term of office for each officer shall be 1 year.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

### **2.458 DUTIES OF THE CHAIR**

The chair shall have the duty of calling all meetings and shall preside at all meetings of the Commission. In the absence of the chair, the vice chair shall assume the duties of chair.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

### **2.460 MEETINGS OF THE COMMISSION**

(1) All meetings of the Commission shall be held at the call of the chair and at such other times as the Commission shall determine. Four members of the Commission shall constitute a quorum. A majority decision of members present at a duly constituted meeting shall be required for all Commission actions.

(2) The Commission may adopt its own rules of procedures.

(3) All meetings of the Commission shall comply with Oregon's public meeting law.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

### **2.462 POWERS AND DUTIES**

The Commission shall have the following powers and duties:

(1) To hold public hearings on and make recommendations to the Planning

Commission and the City Council for amendments to the Downtown Business Zone Design Standards as set forth in Chapter 14 of the Community Development Ordinance CDO.

- (2) To consult with and cooperate with other Commissions, City Departments, and any other governmental bodies on matters affecting the appearance of Downtown.
- (3) To study exterior design drawings, landscape and site plans and materials for any proposed public works or public improvements (except for replacement in kind of existing public landscaping) and to make recommendations as to the architectural or aesthetic aspects to the Planning Commission and the City Council (in the case of zoning and planning matters pending before it) or City Manager (in all other areas).
- (4) When required, to review proposed building designs pertaining to applications for design review or building permits and to make recommendations thereto.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

#### **2.464 REVIEW AUTHORITY OF THE COMMISSION OVER EXTERIOR ARCHITECTURAL FEATURES OF BUILDINGS AND STRUCTURES**

No permit required under the CDO for a sign or for erection, construction, alteration or repair of any building or structure in the Downtown Business Zone which involves an exterior design feature shall be issued by the Community Development Director or Planning Commission except upon its submission to the Commission for review and recommendation. If the Director shall determine that no exterior design feature is involved in the work for which the permit is sought, no review is required.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

#### **2.466 PROCEDURE FOR REVIEW**

- (1) Community Development Director's Duty. It shall be the duty of the Director or his designee, after receipt of an application for a permit, to determine and advise the applicant whether review by the Design Review Commission is required.
- (2) Preliminary Design Review. Any applicant or

prospective applicant for a design review or building permit which may require Design Review Commission review may request a preliminary design review. City planning staff shall review with the applicant the design standards which must be met for approval of the project. The applicant shall be given an informal opinion to assist said prospective applicant in the development of a plan which would be consistent with the requirements and purposes of the design standards.

#### **(3) Application for Review.**

- (a) The Commission shall review submitted applications within 10 days of receipt.
- (b) Applicants for review which may require design review may request to be scheduled for the next meeting of the Commission in order to address the concept of the proposed project with the Commission.
- (c) The fact that an application for design review has been filed and is pending shall not be cause for the Director to delay the review of plans relating to the building and zoning aspects of the project, while said application is pending.
- (d) The Commission may make recommendations as to changes in the drawings and sketches of the exterior, landscaping, site plan, materials and colors which in the judgment of the Commission would tend to affect the general purpose of the design standards.
- (e) After considering the material presented, the Commission shall recommend approval if it finds that:
  - (i) The applicant's plans are substantially consistent with the Downtown Business Zone standards;
  - (ii) The proposed exterior design features of the development are suitable and compatible with the character of Downtown buildings and structures existing or under construction, and contribute to the favorable environment of the Downtown;
  - (iii) The exterior design features of the development will not be detrimental to the harmonious and orderly growth of Downtown; and
  - (iv) The exterior design features of the development will not cause a substantial depreciation in the

property values or taxable values of the Downtown.

(f) The Commission shall render its decision within 10 days after receipt of an application and shall notify the Director. In the event that the Commission determines that the application does not satisfy the design standards it shall identify the deficiencies and so notify the Director.

(g) Amendments to a certificate may be obtained by application therefore in the same manner as provided for an original approval.

[Added by Ordinance No. 96-08, enacted April 4, 1996.]

**CITY EMPLOYEES – COLLECTIVE  
BARGAINING**

**2.504 - 2.579 REPEALED**

[Repealed by Ordinance No. 6581, enacted Oct.  
2, 1989.]

**BALLOT MEASURE 37****2.500 PURPOSE AND DEFINITIONS**

(1) Purpose. [Sections 2.500 through 2.530](#) are intended to implement the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 (approved by voters on Nov. 2, 2004). These Code sections: establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the City; preserve and protect limited public funds; preserve and protect the interests of the community by providing for public input into the process of reviewing demands for compensation and by providing a cause of action for property owners whose property values are adversely impacted by a City decision to modify, remove or not apply a land use regulation; and establish records of the City's decisions that are capable of Circuit Court review.

(2) Definitions. As used in [Sections 2.500 through 2.530](#) of this Code, the following words and phrases mean:

- (a) Appraisal. A written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, the term "Appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by written certificate.
- (b) City Manager. The City Manager of the City of Klamath Falls, or his or her designee.
- (c) Claim. The "written demand for compensation" required to be made by an Owner of real property under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed Nov. 2, 2004.
- (d) Exempt Land Use Regulation. A land use regulation that:
  - (i) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
  - (ii) Restricts or prohibits activities for the protection of public health and safety,

such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

- (iii) Is required in order to comply with federal law;
  - (iv) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
  - (v) Was enacted prior to the date of acquisition of the property by the Owner or a Family Member who owned the subject property prior to acquisition or inheritance by the Owner, whichever occurred first.
- (e) Family Member. Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the Owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the Owner of the property.
  - (f) Land Use Regulations. Includes:
    - (i) Any statute regulating the use of land or any interest therein;
    - (ii) Administrative rules and goals of the Land Conservation and Development Commission;
    - (iii) Local government comprehensive plans, zoning Ordinances, land division Ordinances, and transportation Ordinances; and
    - (iv) Statutes and administrative rules regulating farming and forest practices.
  - (g) Measure 37. Means those amendments to Oregon Revised Statutes Chapter 197, made by Oregon Ballot Measure 37, passed Nov. 2, 2004, including subsequent amendments.
  - (h) Owner. The present owner of real property that is the subject of a Claim, or any interest therein. The Owner must be a person who is the owner of the entire fee simple of the real property, or all joint Owners whose interests add up to a fee

simple interest in the property.

- (i) Valid Claim. A Claim submitted by the Owner of real property that is subject to a Land Use Regulation adopted or enforced by the City that restricts the use of the private real property in a manner that reduces the fair market value of the real property.

### **2.505 CLAIM FILING PROCEDURES**

- (1) A person seeking to file a Claim under [Sections 2.500 through 2.530](#) must be the present Owner of the property that is the subject of the Claim at the time the Claim is submitted. The Claim shall be filed with the City Manager's office, or another City office if so designated by the City Manager.
- (2) A Claim shall include:
  - (a) The address, tax lot, and legal description of the real property that is the subject of the Claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest(s) in the property, or other documentation reflecting all recorded ownership interests of the property;
  - (b) The name(s), address(es) and telephone number(s) of all Owners of the subject property and a description of the ownership interest of each, including the date(s) the property interest was acquired by each Owner;
  - (c) The current Land Use Regulation(s) that Owner(s) allege(s) restricts the use of the real property and causes a reduction in the fair market value of the subject property and a statement of how the Land Use Regulation reduces the fair market value;
  - (d) The dollar amount of the Claim, based on the alleged reduction in value of the real property supported by an Appraisal. In lieu of an Appraisal the City may accept other forms of evaluations or reports prepared by objective, third-party professionals;
  - (e) Copies of any leases or Covenants, Conditions and Restrictions ("CCR's) applicable to the real property, if any, that impose restrictions or limitations on the use of the property; and
  - (f) Adjacent landowner notification

information, within 500' of the perimeter of the subject property, including map and tax lot numbers, property owner names and mailing addresses.

- (3) Each Claim shall be accompanied by a \$100 advance application fee to be offset against City costs in reviewing a Claim. The City Manager shall maintain a record of the City's actual costs, including staff time and legal costs, in processing and reviewing a Claim, and also including, without limitation, the costs of obtaining information required by subsection (2), which an Owner does not provide to the City. Following final action by the City on the Claim, the City Manager shall mail to the applicant(s) an invoice for all actual costs that the City incurred in reviewing and acting on the Claim.
- (4) In the event the advance application fee does not cover the City's costs, the applicant(s) shall pay the balance due within 30 days. If the balance due is not paid within 30 days, the City may place a lien against the subject property for the balance due and the City may take any enforcement actions necessary to collect such amount as provided by law. A lien may be perfected by filing it in the City of Klamath Falls lien records indicating the amount of the lien, the basis for the lien and the property to which the lien attaches. No permits will be approved for development on properties with a lien for unpaid processing fees. All balances not paid within 30 days shall bear interest at 12% per annum.
- (5) In the event the advance application fee exceeds the City's costs, then the excess shall be returned to the applicant(s).
- (6) The advance application fee may be modified by Resolution of the City Council.
- (7) The City Council may, in its sole discretion, waive reimbursement of all or any portion of costs as to any Claim.

### **2.510 DETERMINING VALIDITY OF CLAIM: CITY MANAGER INVESTIGATION AND RECOMMENDATION AND CITY COUNCIL PUBLIC HEARING**

- (1) The City Manager shall investigate each Claim. Following an investigation of a Claim, the City Manager shall forward a recommendation to the City Council that the Claim be:
  - (a) Denied;

- (b) Investigated further;
  - (c) Declared valid; or
  - (d) Evaluated with the expectation that the City may acquire the subject property by condemnation.
- (2) The City Council shall conduct a public hearing before taking final action on a recommendation from the City Manager. Notice of the public hearing shall be provided to the claimant(s) and to owner(s) of property within 500 feet of the perimeter of the subject property, and to neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the subject property.
- (3) Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the Claim was filed, the City Council shall:
- (a) Determine that the Claim does not meet the requirements of Measure 37 and/or Sections [2.500-2.530](#), and deny the claim; or
  - (b) Determine that the Claim meets the requirements of Measure 37 and Sections [2.500-2.530](#) and is a valid Claim; or
  - (c) Direct the City Manager to report back to Council regarding possible City acquisition of the subject property by condemnation.

**2.515 VALID CLAIM: CITY MANAGER INVESTIGATION AND RECOMMENDATION AND CITY COUNCIL ACTION**

- (1) If the City Council determines that a Claim is valid, the City Manager shall investigate the Claim and shall forward a recommendation to the City Council that a Resolution (with findings supporting a determination that the Claim is valid) be adopted either:
- (a) Modifying, removing or not applying the challenged Land Use Regulation to allow the Owner to use the subject property for a use permitted at the time the Owner acquired the property;
  - (b) Directing that the Owner(s) be compensated in an amount set forth in the Resolution for the reduction in value of the property caused by the challenged Land Use Regulation. Compensation can only be paid based on the availability and appropriation of funds for this purpose; or

- (c) Initiating condemnation proceedings for acquisition of the subject property.
- (2) The City will accept donations from interested persons to acquire the property or to compensate the Owner(s) in order to avoid City action modifying, removing or not applying the challenged Land Use Regulation.
- (3) The City Council's decision to modify, remove or not apply a Land Use Regulation, to acquire the subject property by condemnation or to compensate the Owner(s) shall be based on whether the public interest would be better served by acquiring the property, by compensating the Owner(s) or by removing, modifying or not applying the challenged Land Use Regulation with respect to the subject property. Due to the unavailability of funding to compensate Owners pursuant to Measure 37, compensation will only be paid in extraordinary circumstances when the harm to the public interest in allowing a use of the subject property significantly outweighs the amount of compensation that will be paid.
- (4) Action by the City Council to modify, remove or not apply a Land Use Regulation does not operate to modify, remove or not apply any corresponding State Land Use Regulation or any Exempt Land Use Regulation.
- (5) Conditions of Approval and Revocation of Decision.
- (a) The City Council may establish any relevant conditions of approval for any Council action regarding a valid Claim.
  - (b) Failure to comply with any condition of approval imposed by Council is grounds for revocation of any Council action taken regarding approval of the Claim, including, without limitation, grounds for recovering any compensation paid.
  - (c) In the event the Owner, or Owner's successor in interest, fails to fully comply with all conditions of approval imposed by Council, the City Manager may institute a revocation or modification proceeding before the Council.

**2.520 PRIVATE CAUSE OF ACTION**

If the action of the City Council on an approved Claim results in the removal, modification or non-application of a Land Use Regulation and such action causes a reduction in value of other

property located in the vicinity of the subject property, the Owner(s) of the other property or properties shall have a cause of action in the State of Oregon Circuit Court for Klamath County, or in any court of competent jurisdiction, to recover from Owner(s) of the property that was the subject of the Claim the amount of such reduction in value. This private cause of action is created pursuant to the "Home Rule" powers of Article XI, Section 2 of the Oregon Constitution. The prevailing party in any action brought pursuant to this section shall be entitled to recover reasonable attorney fees, expenses, costs and other disbursements reasonably incurred therein. This Section does not create a cause of action against the City of Klamath Falls.

#### **2.525 SEVERABILITY**

If any phrase, clause, or other part or parts of [Section 2.500-2.530](#) of this Code is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

#### **2.530 APPLICABLE STATE LAW**

For all Claims filed with the City of Klamath Falls, the applicable State Law is Measure 37 as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State Administrative Agencies. Any Claim that has not been processed completely under Sections [2.500-2.530](#) shall be subject to any such amendments, modifications, clarifications or other actions taken at the State level and these Sections shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the State level. The Sections [2.500-2.530](#) are adopted solely to address Claims filed under the authority of those provisions of Measure 37. Except as expressly provided in [Section 2.520](#), no rights independent of said provisions are created by adoption of Sections [2.500-2.530](#).

[Added by Ordinance No. 04-12, enacted Dec. 1, 2004.]

**AIRPORT MANAGER****2.605 AIRPORT MANAGER**

There is hereby created the office of Airport Manager, who shall be appointed by the City Manager and who shall serve at the pleasure of the City Manager.

**2.610 POWERS AND DUTIES**

- (1) The Airport Manager shall be the administrative officer of the airport and shall be responsible to the City Manager for such administration. He/she shall have the authority to take such action as may be necessary for the protection and safeguarding of the public while present at the airport, and may suspend or restrict any or all operations deemed necessary in the interest of safety, but these actions may be reviewed by the manager and the Council.
- (2) In the event that the City should either take over or contract to provide the operation and maintenance of property, facilities, or services of the United States Air Force at Kingsley Field, the City Manager may delegate to the Airport Manager any or all of the following powers and duties:
  - (a) Responsibility for providing all necessary support services for United States Air Force or Air National Guard operations, including crash, fire and/or rescue;

runway and taxiway maintenance; snow removal; facilities maintenance; utilities such as sewage, electric power and water; and similar services.

- (b) Responsibility for the operation and maintenance of the Airport Industrial Park.
- (c) Responsibility for security and law enforcement, in accordance with this Code and Federal Aviation Administration Rules and Regulations, within the confines of the Airport, Airport Industrial Park, and Falcon Heights Housing Area.

**2.615 RULEMAKING**

- (1) The Airport Manager shall submit to the Council such proposed rules and regulations for the management, care and control of the Klamath Falls Municipal Airport properties as he/she considers necessary for the operation of the Airport. He/she shall publish such rules and regulations as are approved by the Council in the Airport Operations Manual.
- (2) Such rules and regulations as are approved by the Council shall be posted at the office of the Airport Manager, and a copy shall be kept available to the public in the office of the Recorder. They shall have full force and effect as though they were adopted and made a part of this Code and were incorporated and set out in full herein.

## AIRPORT PASSENGER FACILITY CHARGE

### 2.620 PURPOSE

The purpose of [Sections 2.620 through 2.632](#) (the Act) is to enact a passenger facility charge program consistent with the Aviation Safety and Capability Expansion Act of 1990 and its adopted regulations. Revenues derived are to be used on FAA eligible projects designed to enhance the capacity, safety and development of the Klamath Falls Airport.

### 2.622 DEFINITIONS

For purposes of this Act, unless the context otherwise requires, the following words and phrases shall mean:

- (1) Airport. The Klamath Falls Airport-Kingsley Field, located in Klamath Falls, Oregon.
- (2) Enplaned Passenger. A domestic, territorial or international revenue passenger enplaned at the Airport in a scheduled or nonscheduled aircraft in interstate, intrastate or foreign commerce, provided that Enplaned Passenger shall not include a passenger enplaning to a destination receiving essential air service compensation as provided by 14 C.F.R. 158.9.
- (3) FAA. The Federal Aviation Administration, Department of Transportation, United States of America.
- (4) Passenger Facility Charge. The charge imposed on Enplaned Passengers pursuant to 2.624.

### 2.624 PASSENGER FACILITY CHARGE

- (1) Establishment of Passenger Facility Charge. Commencing not later than sixty days after the approval of the FAA of the City's Passenger Facility Charge program authorized by this Act, or on such date thereafter as the Passenger Facility Charge can be collected as determined by the City Manager, there shall be imposed at the Airport a Passenger Facility Charge of \$4.50

per enplaned passenger. Such fee may be amended from time to time by Resolution of the City Council following public hearing and subject to approval of the FAA.

- (2) Expiration. The Passenger Facility Charge authorized by this Act shall expire on the date determined pursuant to regulations adopted by the FAA.

[Subsection 1 Amended by Resolution No. 00-64, enacted Nov. 20, 2000; Amended by Resolution No.12-02, enacted Feb. 6, 2012.]

### 2.626 ELIGIBLE PROJECTS

The Passenger Facility Charge collected pursuant to this program shall be expended for projects approved by the City Council and determined to the FAA to be eligible.

### 2.628 COMPLIANCE WITH FAA REQUIREMENTS

The Passenger Facility Charge authorized by this Act shall be collected and distributed pursuant to the rules and regulations adopted by the FAA pursuant to the Aviation Safety and Capability Expansion Act of 1990.

### 2.630 REPORTS; PAYMENTS OF PASSENGER FACILITY CHARGES

Every person required to collect the passenger facility charge shall file a quarterly report to the City providing an accounting of funds collected and funds remitted as required by 14 C.F.R. Section 158.65 and shall remit to the City on a monthly basis the passenger facility charges collected as required by 14 C.F.R. Section 158.51.

### 2.632 VIOLATIONS

In the event any airline violates any term or condition of this Act, the City may exercise any rights or remedies allowed by law or equity.

## **DISPOSITION OF PERSONAL PROPERTY**

### **2.650 PROPERTY OR MONEY COMING INTO POSSESSION OF POLICE; RECORD KEEPING**

All property or money taken from persons under arrest or taken under suspicion or with knowledge of its having been stolen or feloniously obtained, all property or money constituting evidence or proceeds of crime, and all property or money lost or abandoned that may come into the possession of any member of the Police Department shall be delivered to the Police Chief. A record shall be kept containing a detailed description of the property, together with the name of the person from whom received, the names of any claimants thereto, the time of the seizure, and the final disposition of the property.

### **2.655 CUSTODY; EXPENSE**

Property taken into custody by the Police Department of the City by reason of seizure or abandonment, or for any other reason, shall be held at the expense and risk of the person lawfully entitled to possession.

### **2.660 RECLAMATION BY OWNER**

At any time within 30 days after property has been taken into possession by the Police Department, the person lawfully entitled to possession may reclaim it on application to the Police Chief and upon satisfactory proof of right to possession and payment of charges and expenses, if any, incurred in the preservation and custody of the property, provided that the property is not needed as evidence.

### **2.665 RETURN OF PROPERTY OR MONEY TO PERSONS UPON RELEASE FROM CUSTODY**

When any person arrested is adjudged not guilty of the offense charged and it has been determined that the property or money taken belongs to such person, that Police Chief shall deliver the property or money to him/her personally and take a written receipt. If the accused is held for trial or examination, the money or property shall remain in the custody of the Police Chief until the discharge or conviction of the person accused, unless the Police Chief has delivered the property or money to a State or County officer, as provided by law. This

Section shall be subject to any specific Code provision dealing with confiscation and destruction.

### **2.670 DISPOSITION OF UNCLAIMED PROPERTY**

Subject to other Code provisions, all unclaimed property that has been in the possession of the Police Department for at least 6 months or, in the case of a bicycle, at least 30 days, and is no longer needed as evidence shall be disposed of by the Police Chief in one of the following ways:

- (1) It shall be destroyed, if so directed by Federal, State or City laws.
- (2) If the use of such property is requested by any department of the City and the property so requested is not subject to destruction under applicable Federal, State or City laws or as provided herein, the property shall be turned over to the City Manager, who shall sign and return a receipt for it to the department making the request.
- (3) If the use of such property is requested by any charitable or nonprofit organization, recognized as such pursuant to Federal Internal Revenue Statutes, and the property so requested is not subject to destruction, the property may be turned over to the organization upon approval by the City Manager.
- (4) All such property which is not disposed of as provided in Subsections (1), (2), or (3) shall be sold at public auction to the highest bidder. A public auction shall be held at least once a year at a time and place to be fixed by the Police Chief. The Police Chief shall give notice of the sale at least 5 days before the time fixed by publication once in the official City newspaper. Such notice shall state the day and hour when the sale is to commence, the place at which it is to be held, and shall contain a general description of the property to be sold or refer to a list on file in the office of the Police Chief. The notice shall be signed by the Police Chief. The sale shall be conducted by the Police Chief. The proceeds of the sale shall, together with all money unclaimed for a period of six months or more, be paid to the Recorder and placed in the general fund of the City.

**2.675 CERTIFICATE OF SALE**

At the time of payment of the purchase price for bicycles or parts sold by the City at public auction, the Police Chief shall make and execute a certificate of sale in duplicate, the original of which shall be delivered to the purchaser.

**2.680 PAYMENT OF PORTION OF PROCEEDS TO OWNER**

At any time within the period of 2 years after the sale of any property at public auction by the City, the owner of any property sold shall be entitled to have the balance of the proceeds of such sale paid to him/her, upon making application to the City Manager and presenting satisfactory proof of ownership.

**2.685 LIABILITY OF CITY FOR CONDITION OF TITLE, VALIDITY OF SALE, ETC.**

The City assumes no responsibility as to the condition of title to any property sold at public auction by the City. In case such a sale shall for any reason be invalid, the liability of the City is limited to the return of the purchase price.

## EMERGENCY MANAGEMENT ACT

### 2.700 PURPOSES

The declared purposes of this Act are to:

- (1) Provide for the preparation and carrying out of plans for the protection of persons and property within this City in the event of an emergency; the direction of the emergency management organization; and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations and affected private persons; and
- (2) Implement the provisions of ORS Chapter 401.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

### 2.702 EMERGENCY DEFINED

As used in this Act, "emergency" means any man-made or natural event or circumstance causing or threatening, loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the County, civil disturbance, riot, sabotage, and war.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

### 2.704 CITY EMERGENCY MANAGEMENT AGENCY

The City Emergency Management Agency is created, and shall consist of the following:

- (1) The Mayor, who shall be Chairperson.
- (2) The Emergency Program Manager, who shall be Vice Chairperson.
- (3) The Assistant Emergency Program Manager.
- (4) Such chiefs of emergency services as are provided for in a current emergency plan of this City, adopted pursuant to this Act.
- (5) Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the Manager with the advice and consent of the City Council.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

### 2.706 EMERGENCY MANAGEMENT AGENCY - POWERS AND DUTIES

It shall be the duty of the City Emergency Management Agency, and it is empowered, to develop and recommend for adoption by the City Council, emergency and mutual-aid plans and agreements, and such Ordinances and Resolutions and rules and regulations as are necessary to implement such plans and agreements. The Agency shall meet upon call of the Chairperson or, in the Chairperson's absence from the City or inability to call such meeting, upon call of the Vice Chairperson.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

### 2.708 EMERGENCY PROGRAM MANAGER

- (1) The City Manager is designated the Emergency Program Manager.
- (2) The Chief of Police is designated the Assistant Emergency Program Manager.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

### 2.710 POWERS AND DUTIES

- (1) The Manager is empowered to:
  - (a) Request the City Council to proclaim the existence or threatened existence of a "local emergency" or to issue such proclamation if the City Council is not reasonably available. Whenever a local emergency is proclaimed by the Manager, the City Council shall take action to ratify the proclamation within 7 days thereafter or the proclamation shall have no further force or effect.
  - (b) Request the Governor, in coordination with the County, to proclaim a "state of emergency" when, in the opinion of the Manager; the locally available resources are inadequate to cope with the emergency.
  - (c) Control and direct the effort of the emergency organizations of this City for the accomplishment of the purposes of this Act.
  - (d) Direct cooperation between and coordination of services and staff of the emergency organization of this City, and resolve questions of authority and responsibility that may arise between them.

- (e) Represent this City in all dealings with the public or private agencies on matters pertaining to emergencies as defined in this Act.
- (f) In the event of the proclamation of a "local emergency" as provided in this section, the proclamation of a "state of emergency" by the Governor or the existence of a "state of war emergency," the Manager is empowered:
  - (i) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency. Provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
  - (ii) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value and, if required immediately, to commandeer the same for public use;
  - (iii) To require emergency services of any City officer or employee and, in the event of the proclamation of a "state of emergency" in Klamath County or the existence of a "state of war emergency", to command the aid of as many citizens of this community as he/she deems necessary in the execution of his/her duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by State Law for registered emergency service workers;
  - (iv) To requisition necessary personnel or material of any City department or agency; and
  - (v) To execute all of his/her ordinary power as City Manager, all of the special powers conferred upon him/her by this Act or by Resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon him/her by ORS Chapter 401, by any agreement approved by the City Council, and by any other lawful authority.
- (2) The Assistant Manager shall assume the duties of the Manager in the event the

Manager is unavailable to attend meetings and otherwise perform his/her duties during an emergency.

- (3) The Assistant Manager shall, under the supervision of the Manager and with the assistance of the emergency service chiefs, develop emergency plans and manage the emergency programs of this City, and shall have such other powers and duties as may be assigned by the Manager.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

## **2.712 EMERGENCY ORGANIZATION - COMPOSITION**

All officers and employees of this City together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may, by agreement or operation of law, including persons impressed into service under the provisions of [Subsection 2.710 \(1\)\(f\)\(iii\)](#), charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of the City.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

## **2.714 EMERGENCY PLAN**

The City Emergency Management shall be responsible for the development of the City Emergency Plan, which plan shall provide for the effective mobilization of all of the resources of the City, both public and private, to meet any condition constituting a local emergency, and shall provide for the organization, powers and duties, services and staff of the emergency organization. Such plan shall take effect upon adoption by Resolution of the City Council.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993. Amended by Resolution No. 99-19, enacted May 3, 1999.]

## **2.716 EXPENDITURES**

Any expenditures made in connection with emergency activities, including mutual-aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

**2.718 VIOLATIONS - PENALTIES**

It shall be a misdemeanor, punishable by a fine of not to exceed \$500, or by imprisonment for not to exceed 6 months, or both, for any person, during an emergency to:

- (1) Willfully obstruct, hinder or delay any member of an emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this Act, or in the performance of any duty imposed upon him/her by virtue of this Act.
- (2) Do any act forbidden by any lawful rule or regulation issued pursuant to this Act, if the act is of such nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives and property of inhabitants of this City, or to prevent, hinder or delay the defense or protection.

[Added by Ordinance No. 93-19, enacted Nov. 16, 1993.]

## **MUNICIPAL COURT AND COURT PROCEDURE**

### **MUNICIPAL COURT**

#### **2.800 MUNICIPAL JUDGE**

The Municipal Judge shall be the judicial officer of the City. The Judge shall hold court for the transaction of judicial business at times specified by the Council. Pro-tem judges shall be appointed by the Council when necessary.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.802 CRIMINAL PROCEDURE STATUTES GOVERN GENERALLY**

Except as otherwise provided by this Code, ORS 153.030 (Application of Procedures; Limitations of Actions) shall govern any actions in Municipal Court.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.804 APPLICATION OF STATE STATUTES**

Provisions of the Oregon Criminal Code relating to defense and burden of proof, general principles of criminal liability, parties, and general principles of justification, shall apply to offenses and violations defined and made punishable by this Code.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.806 FORM AND SUFFICIENCY OF COMPLAINT**

The form and sufficiency of a criminal complaint shall be as provided by the State statutes.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.808 ISSUANCE, REQUISITES AND EXECUTION OF WARRANT OF ARREST**

A warrant of arrest shall be issued, directed and executed in all respects as the warrant mentioned in ORS 133.140 (Warrant of Arrest, Required Contents and Form).

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.810 READING COMPLAINT TO DEFENDANT; PLEADING**

When the defendant is brought before the

Judge, the complaint shall be read to him/her and the defendant shall state their plea. A copy of a criminal complaint shall also be provided to the defendant.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.812 DELETED (RELEASE FROM CUSTODY)**

[Removed by Ordinance No. 13-10, enacted Dec. 16, 2013].

#### **2.814 JUDGMENT ON PLEA OF GUILTY, NO CONTEST OR CONVICTION**

When the defendant pleads no contest, or is convicted by the Judge, the Judge shall give judgment for such punishment, as may be prescribed for the offense.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.816 PROSECUTION**

(1) When the defendant appears without an attorney, the action shall be prosecuted by the complainant.

(2) When the defendant appears with an attorney, the action shall be prosecuted by the City Attorney; provided, however, no judgment of conviction can be given by the Court unless the complainant appears as a witness.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.818 REPRESENTATION**

Except as provided in Section 2.816(1), no person other than an attorney licensed to practice in this State shall represent a defendant in Municipal Court.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

#### **2.820 EFFECT OF NONPAYMENT OF FINES OR COSTS**

(1) When a defendant sentenced to pay a fine defaults in the payment or of any installment, the Court on motion of the City Attorney or upon its own motion may require the defendant to show cause why the default should not be treated as contempt of Court, and may issue a show cause citation or a warrant of arrest for his/her appearance.

(2) Unless the defendant shows that the default

should not be treated as contempt of Court, and may issue a show cause citation or a warrant of arrest for his/her appearance.

- (3) When a fine is imposed on a corporation, unincorporated association, or similar organization, it is the duty of the person authorized to make disbursement from the assets, and failure to do so may be held to be contempt unless the person makes the showing required in Subsection (2).
- (4) The term of imprisonment for contempt for nonpayment of fines shall be set forth in the commitment order. A person committed for nonpayment of a fine shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.
- (5) If it appears to the satisfaction of the Court that the default in the payment of a fine is not contempt, the Court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the find or the unpaid portion thereof in whole or in part.
- (6) A default in the payment of a fine or costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine has actually been collected.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

### **2.822 GENERAL PENALTY; CONTINUING VIOLATIONS**

- (1) Whenever in this Code or in any other Ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided, the violation or any such provisions of this Code or any other Ordinance of the City shall be punished by a fine not exceeding \$500, except as provided in Subsection (2).
- (2) If there is a violation of any provision identical to a State statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed by State law.
- (3) Every day a violation of this Code or any

Ordinance of the City continues shall constitute a separate offense.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013]

### **2.824 DELETED (DEFINITIONS)**

[Added by Ordinance No. 6331, enacted March 4, 1981; Deleted by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### **2.826 DELETED (RESTITUTION)**

[Added by Ordinance No. 6331, enacted March 4, 1981; Deleted by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### **2.828 DELETED (EFFECT OF RESTITUTION ORDER ON OTHER REMEDIES OF VICTIM)**

[Added by Ordinance No. 6331, enacted March 4, 1981; Deleted by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**CITIZEN COMPLAINTS****2.830 FILING COMPLAINT BY PRIVATE PERSON**

An action may be commenced by a private person by the filing of a complaint, verified by the oath of the person commencing the action, who is thereafter known as the complainant.

**2.832 SECURITY FOR COSTS**

Before filing or receiving the complaint in a criminal action, the Judge may require the complainant to give security for costs and disbursements in the amount authorized in civil actions and not otherwise.

**2.834 PROCEDURE**

Upon entry of a plea, procedure shall conform to that provided for other actions in Municipal Court.

**2.836 WARRANT OF ARREST; CITATION IN LIEU OF ARREST**

Upon the filing of the complaint, the Judge shall authorize a police officer to issue and serve a citation, or may issue a warrant of arrest for the defendant named therein.

## **UNIFORM SHORT-FORM COMPLAINT AND CITATION**

### **2.840 ESTABLISHMENT AND PURPOSE**

- (1) A procedure to handle violations of the provisions of this Code through the issuance of citations, subject to the provisions set forth below, is hereby established pursuant to the home rule powers granted to the City by Art. V, Section 1, and Art. XI, Section 2, of the Oregon Constitution and Sections 4 and 6 of the City Charter.
- (2) A citation procedure has been established for the purpose of facilitating the decriminalization of numerous violations of certain Code provisions and providing a more efficient enforcement procedure.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### **2.842 SHORT-FORM CITATION AUTHORIZED**

- (1) A citation conforming to the requirements of ORS 153.045 (Requirement of Citations) must be used by persons authorized pursuant to Section 2.844 for the purpose of citing a violation of a City Code or State statutes.
- (2) The complaint in a violation citation must meet the requirements of ORS 153.048 (Requirements of Complaints) and the summons must meet the requirements of ORS 153.051 (Requirements of Summons).

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### **2.844 PERSONS AUTHORIZED TO ISSUE CITATIONS**

- (1) The citation may be issued and signed by any City Police Officer, Code Enforcement Officer or persons directed by the City Manager to investigate and issue such citations. However, the authorized person signing such citation must be a person who can testify, upon trial, to the material facts in the case. Blanks appearing in the citation form shall be filled in for the purposes intended by the authorized person signing the citation.
- (2) The authorized person issuing the citation must have reasonable grounds to believe that the person to be charged with the violation is in actual violation of the provision.

- (3) The citation may also be signed by a private citizen, provided that such private citizen can testify, upon trial, to the material facts in the case. The private citizen shall certify before the Judge or Clerk that he/she has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. All blanks appearing in the citation form shall be filled in for the purpose intended. Upon signature and certification, the citation shall be issued and served by the Police Department.

[Amended by Ordinance No. 6605, enacted July 2, 1990; Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### **2.846 DELETED (CONTENTS OF THE SUMMONS AND OF THE COMPLAINT)**

[Deleted by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### **2.848 DELIVERY OF THE SUMMONS AND COMPLAINT**

- (1) The City employee issuing the citation shall cause the summons to be delivered to the person cited and shall cause the complaint thereafter to be delivered to the Court.
- (2) For non-traffic violations, service of the uniform summons and citation may be by personal service on the defendant or an agent of the defendant authorized to receive process or by registered mail, return receipt requested, to the defendant at his or her last known address. Service will be considered complete upon such a mailing. Service by any other method reasonably calculated, under all the circumstances, to apprise the defendant of the existence and pendency of the violation and to afford a reasonable opportunity to respond shall be acceptable.
- (3) Service on particular defendants, such as minors, incapacitated persons, corporations, limited partnerships, the State of Oregon, other public bodies, and general partnerships, shall be prescribed for the service of a civil summons and complaint by the Oregon Rules of Civil Procedure.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**2.850 APPEARANCE OF DEFENDANT;  
RETURN OF SUMMONS**

The defendant shall either appear in Court at the time indicated in the summons or, prior to such time, shall deliver to the Court the summons, together with the amount of the fine set forth in the summons, enclosing a request for a hearing or a statement of matters in explanation or mitigation of the offense, or the executed appearance, waiver of hearing, and plea of guilty or no contest appearing on the summons.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**2.852 EFFECT OF DEFENDANT'S WRITTEN STATEMENT**

If a defendant has submitted to the Court a written statement, as provided in Section 2,850, it constitutes a waiver of hearing and consent to judgment by the Court and any testimony or written statement of the arresting officer or other witnesses which may be presented to the Court. If the defendant requests a hearing, or if, pursuant to Section 2,854, the Court directs that a hearing be held, the Court shall fix the date and time for hearing and unless notice is waived, shall, at least 5 days in advance of the hearing, mail to the defendant notice of the date and time so fixed.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**2.854 JUDGMENT ON FAILURE TO APPEAR**

In any case, the Court may direct that a hearing be held. Otherwise, the Court may enter the appropriate judgment and impose a fine. No sentence to jail may be imposed unless a hearing is held and contempt of court is ordered.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**2.856 PROCEDURE UPON APPEARANCE IN COURT**

- (1) When a person appears in Municipal Court in answer to the citation issued, the Judge shall explain that he/she is not under arrest. The hour for pleading may be continued at the request of the defendant to a specified time, to be set by the Judge.
- (2) The Judge shall advise the defendant how he/she may plead. Upon a plea of guilty or no contest, punishment shall be imposed as

fixed by the provisions of this Code violated. Upon a plea of not guilty, the Court shall proceed to try the case for violation of the provision of this Code, the same as if a formal complaint and arrest were issued. The charge set forth in the citation shall be declared to be a complaint for violation of such provisions. The person signing the citation being a City employee authorized to sign it, no further verification shall be required.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**2.858 DISPOSITION OF CASES  
GENERALLY; FAILURE TO PLEAD**

- (1) Upon the appearance in Court of the person charged with the violation, the Judge shall listen to such statement as the person may wish to make; but before such statement is made, the Judge shall warn the defendant that it may be used against him/her. The Judge may make such further investigation as deemed necessary and may call such witness as may have knowledge of any facts that pertain to the matter.
- (2) The Judge shall further inform the person charged with a violation that upon failure to plead may constitute a court order to be issued, based on the citation or complaint filed against him/her under the provision alleged to be violated and a fine and/or warrant may be issued for their arrest.

[Amended by Ordinance No.13-10, enacted Dec. 16, 2013.]

**2.860 WARRANT OF ARREST WHEN DEFENDANT FAILS TO COMPLY**

If a person cited fails to comply with the provisions ordered by the Court and of Section 2.850, or fails to appear at any time fixed by the Court, a warrant for his/her arrest may be issued.

[Added by Ordinance 6288; enacted May 5, 1980; Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**2.862 DELETED (WARRANTS FOR ARREST OF PERSONS WHEN TRUE NAME IS UNKNOWN)**

[Deleted by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**JURIES****2.870 RIGHT OF JURY TRIAL**

Every person charged with any offense defined and made punishable by any Charter of Code provision which carries the possibility of a sentence of imprisonment shall have the right to a trial by a jury of 6 persons. The request for a jury trial may be in writing or in open Court at the time of entry of plea, or such time as the Court may set.

**2.872 JURY SELECTION**

Juries shall be selected from the latest tax roll and registration books used at the last City election in the same manner in which juries are selected for Circuit Courts.

**2.874 JURORS' FEES**

The fee for jurors shall be \$10 for each juror sworn.

**2.876 DEPOSIT OF JURORS' FEES**

- (1) To insure the right of a trial by jury, the defendant shall submit with his request for a jury trial a deposit of \$60 for the payment of jury fees.
- (2) If the defendant is found not guilty, the deposit shall be returned to him.
- (3) No jury fee deposit shall be required:
  - (a) If the Court determines that the defendant is indigent; or
  - (b) If no such deposit would be required had the defendant been charged in a State court with the same offense.

**2.878 VOIR DIRE AND CHALLENGES**

The Judge shall voir dire the jury. The City and the defendant may each take challenges for cause and 2 peremptory challenges.

**2.880 JURY VERDICT**

The verdict of the jury shall be unanimous.

**APPEALS****2.882 APPEALS**

Appeals from the Court are prohibited, except as provided by the laws of the State.

[Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

**CITY PRISONERS****2.890 WORK BY PRISONERS**

- (1) All City prisoners, during the time of imprisonment or confinement after conviction, shall be liable, at the discretion of the Police Chief of Police, to work and labor upon the streets, public works or public places within the City.
- (2) No City prisoner shall be required to labor on any legal holiday or on his/her religious sabbath, nor for more than 8 hours on any 1 day.
- (3) Notwithstanding the provisions of Subsection (1), any prisoner who performs labor under the provisions of this Section shall receive an allowance of credits in time or compensation for such work at the rate of one day's credit for each 8 hours worked, or \$3 credit toward a fine for each hour worked. The prisoner shall have the option of applying the work credits to either the sentence or to the fine, if any.

## INSPECTION WARRANTS

### 2.894 ISSUANCE OF INSPECTION WARRANTS

Every Municipal Judge may, upon application of a City official or employee so authorized by the City Manager, issue an inspection warrant whenever an inspection or investigation of any premises is required or authorized by any Code provision relating to public nuisances, zoning, building, regulated businesses, fire safety or geothermal reservoir management. The inspection warrant is an order authorizing the inspection or investigation to be conducted at a designated place.

[Added by Ordinance No. 6304, enacted Aug. 4, 1980; Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### 2.896 GROUNDS FOR ISSUANCE OF WARRANTS; AFFIDAVIT

(1) An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant hereunder, the Code provision of regulation requiring or authorizing the inspection or investigation, the premises to be inspected or investigated is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

(2) Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the particular premises, or there is probable cause to believe that a condition or nonconformity with a Code provision or regulation exists with respect to the particular premises.

[Added by Ordinance No. 6304, enacted Aug. 4, 1980; Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### 2.898 PROCEDURE FOR ISSUANCE OF INSPECTION WARRANT

(1) Before issuing an inspection warrant, the Municipal Judge may examine under oath

the applicant and any other witness and shall satisfy himself of the existence of grounds for granting such application.

(2) If the Municipal Judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, he shall issue the warrant particularly describing the name and title of the person or persons authorized to execute the warrant, the premises to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m. or where the Judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

[Added by Ordinance No. 6304, enacted Aug. 4, 1980; Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### 2.900 EXECUTION OF INSPECTION WARRANTS

(1) Except as provided in Subsection (2), in executing an inspection warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present his credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant and show him the warrant or a copy thereof upon request.

(2) In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of his authority and purpose as prescribed in Subsection (1), but may promptly enter the designated premises if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition.

(3) A peace officer may be requested to assist in the execution of the inspection warrant.

(4) An inspection warrant must be executed and returned to the Municipal Judge within 10 days from its date, unless the Judge, before the expiration of such time, by endorsement thereon, extends the time for 5 days. After the expiration of the time prescribed by this Subsection, the warrant, unless executed, is

void.

[Added by Ordinance No. 6304, enacted Aug. 4, 1980; Amended by Ordinance No. 13-10, enacted Dec. 16, 2013.]

### **2.910 POLICE TRAINING FUND**

There is established the Police Training Fund for the purpose of providing training to City Police Officers in order to promote enforcement of laws by improving the competence of City Police Officers.

[Added Ordinance No. 6338, enacted May 4, 1981.]

### **2.915 ASSESSMENT ON BAILS AND FINES**

- (1) Whenever the Municipal Court imposes a fine, or orders a bail forfeiture as a penalty for violation of a City Code or Ordinance provision, except a violation relating to cars unlawfully left or parked, an assessment in addition to such fine or bail forfeiture shall be collected to be credited to the Police Training Fund. The assessment schedule shall be established by Resolution of the Council and may be revised by Resolution of the Council at any time.
- (2) When any deposit of bail is made for an offense to which this Section applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed pursuant to Subsection (1).
- (3) If bail is forfeited, the assessment prescribed pursuant to this Section shall be deducted. If bail is returned, the assessment made thereon shall also be returned.

[Added by Ordinance No. 6338, enacted May 4, 1981.]

### **2.950 CRIMINAL HISTORY CHECKS**

The Police Department is authorized to utilize the Oregon State Police Law Enforcement Data System ("LEDS") to check the criminal history offender records of all applicants for employment and formally appointed volunteers with the City. A member of the Police Department trained and authorized to perform criminal history checks through the Law Enforcement Data System will conduct the check on the prospective employee or volunteer and report to the Human Resources Director that the applicant's record indicated "no criminal record" or "criminal record." If the applicant's record is reported as "criminal record," the City

will, under OAR 257-010-0025, request a written criminal history report from the Oregon State Police Identification Services Section. Human Resources will make the written criminal history record available to the appropriate official for consideration in making the selection or appointment.

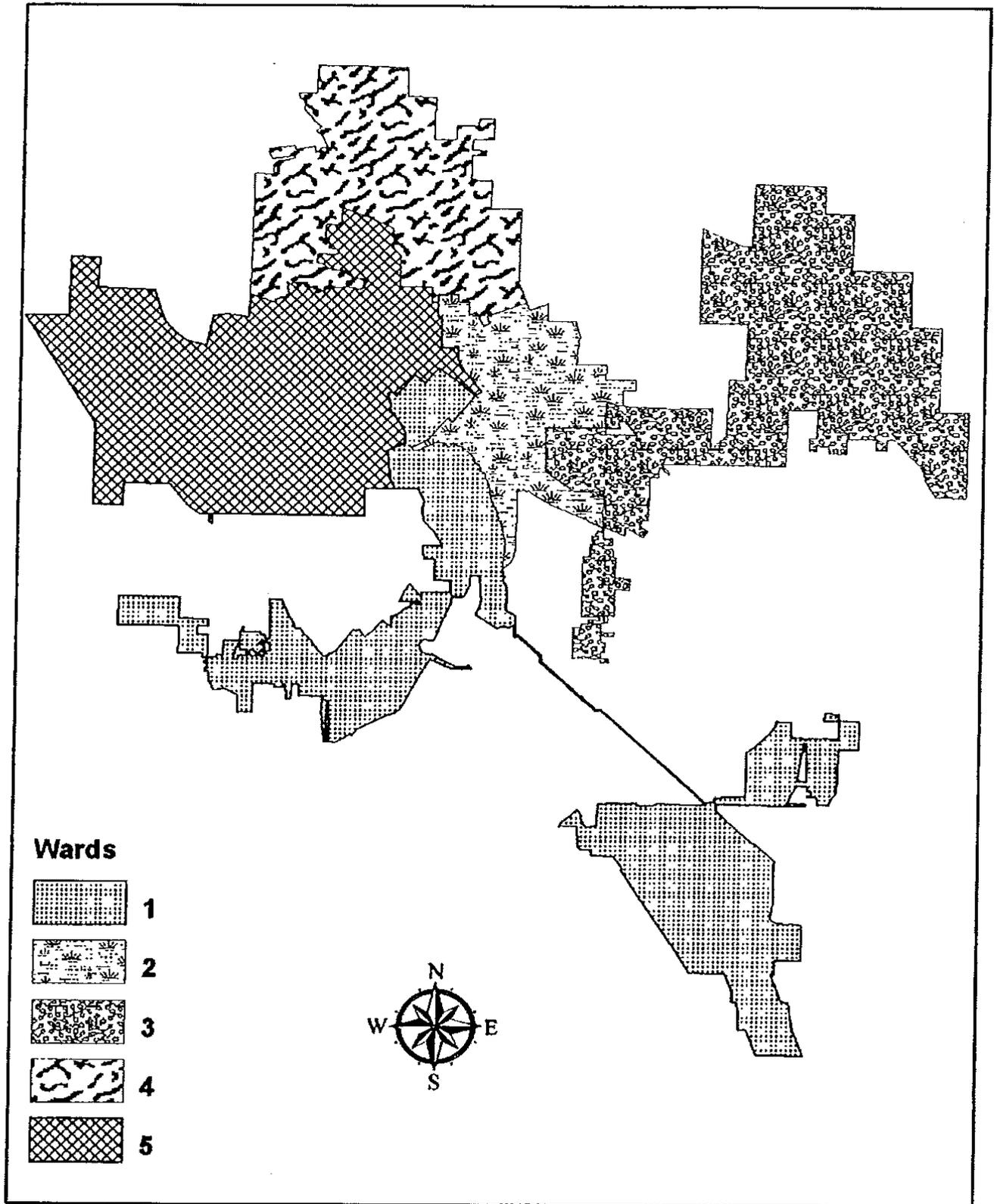
The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of OAR 166-200-0090 for a period of three years and thereafter will be destroyed. The criminal history record of applicants and volunteers with a criminal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

Non-profit organizations serving youth in the community, including, but not limited to all youth sports and recreation organizations, may request that the Police Department perform criminal history checks. Upon receiving such request and subject to workload priorities and staff availability, the Police Department may perform criminal record checks through LEDS. The Police Department shall confirm only if the person's record indicates "no criminal record" or "criminal record," without any detail of such record. Based on this report the youth organization may request criminal record history directly from the Oregon State Police pursuant to state statute and administrative rule.

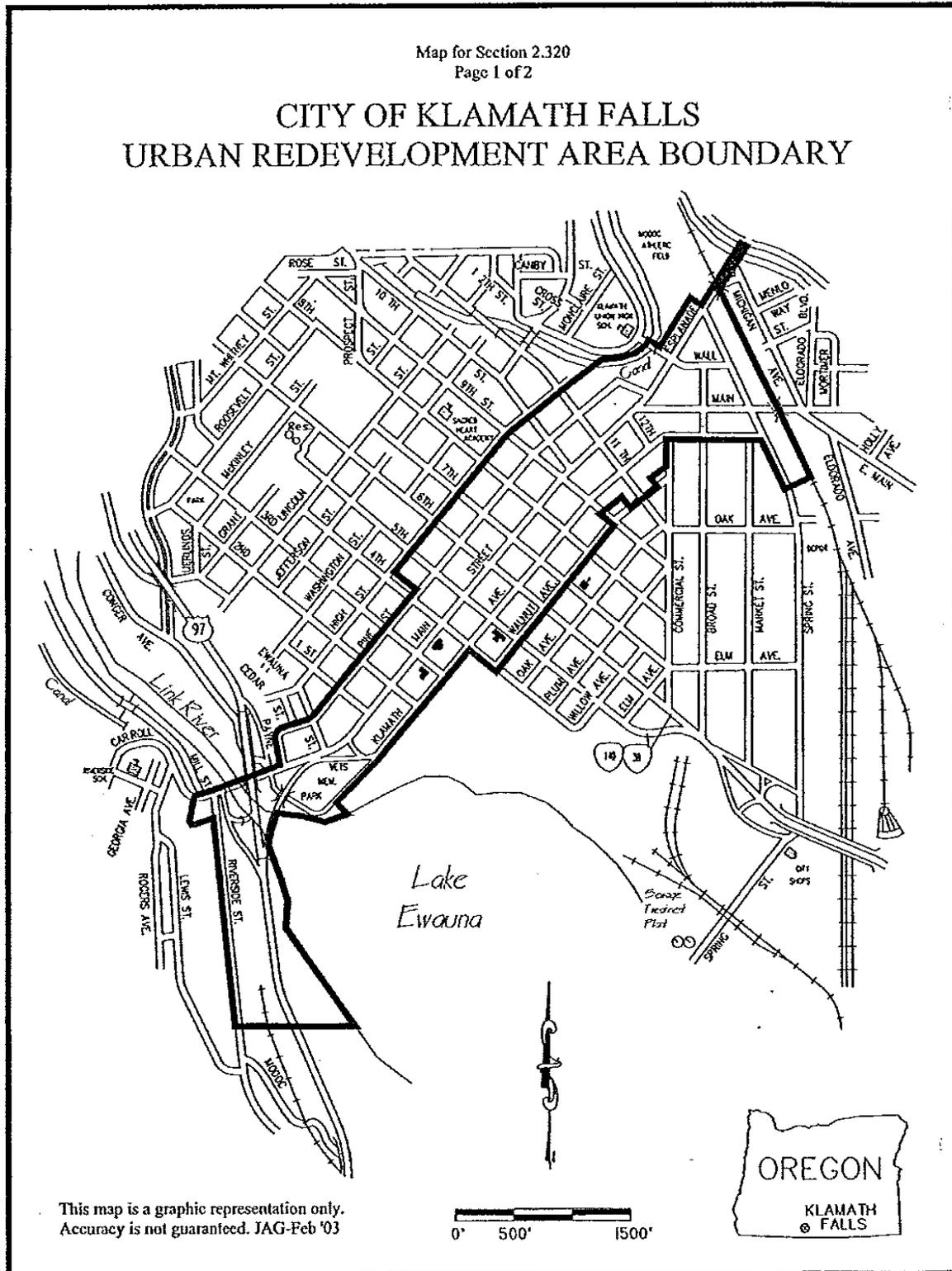
Criminal history checks of license applicants shall be performed by the Police Department, following the procedures outlined in Subsection (1).

[Added by Ordinance No. 07-10, enacted March 19, 2007.]

Map for Section 2.145



Map for Section 2.330



Map for Section 2.330

