

UTILITY CODE

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General

3.000 Code Provisions as Law.

The provisions of this Code are the laws of the City of Gold Beach and not merely prima facie evidence of the law.

3.010 General Savings Provision.

This Code shall not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this Code.

3.020 Continuity of Existing Provisions.

The provisions of this Code that are the same in substance as code or ordinance provisions that are in effect immediately before this Code becomes effective are construed as restatements and continuations of the prior provisions.

3.030 Interpretation of Term “City Administrator”.

Unless the context specifically indicates otherwise, any time this Code indicates that an action is to be performed by the City Administrator, that action may be performed either by the City Administrator or by the City Administrator’s designee. Designation of a designee of the City Administrator may be done informally.

3.040 Severability.

The sections, subsections, paragraphs, provisions, clauses, phrases, and words of this Code are severable. If a sections, subsection, paragraph, provision, clause, phrase, or word of this Code is declared by a court of competent jurisdiction to be unconstitutional or invalid, the judgment shall not affect the validity of the remaining portions of this Code. Every other section, subsection, paragraph, provision, clause, phrase or word of this Code enacted, irrespective of the enactment or validity of the portion declared unconstitutional or invalid, is valid.

Water Code

3.100 Water Code Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Water Code shall be as follows:

- (1) “Approved back flow preventions assembly” means an assembly to counteract back pressures or prevent back siphonage. This assembly must appear on the list of approved assemblies, issued by the Oregon State Health Division.
- (2) “Auxiliary supply” means any water source or system, other than the public water system, that may be available in the building or on the premises.
- (3) “Backflow” means the flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the water system of the City’s water.
- (4) “City” shall mean the City of Gold Beach, Oregon, including its duly authorized officials, agents and employees.

(5) "City system" shall mean the total water system of the City of Gold Beach within and without the limits of the city of Gold Beach, Oregon.

(6) "Contamination" means the entry into or presence in a public water supply system of any substance that may be deleterious to health and/or quality of the water.

(7) "Cross Connection" means any physical arrangement where a public water system is connected, directly or indirectly, with any other non-drinkable water system or auxiliary system, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, or any other assembly which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change over assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.

(8) "Degree of hazard" shall be derived from the evaluation of a health, system, plumbing or pollutional hazard.

(9) "Health hazard" means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

(10) "Person" shall mean and include any person, firm, co-partnership, association, corporation or other organization, whether he or it is acting for himself or itself or as the clerk, servant, employee or agent of another; and the singular shall include the plural and the plural the singular.

(11) "Plumbing hazard" means an internal or plumbing-type cross-connection in a consumer's potable water system that may be either a pollutional or a contamination-type hazard. This includes, but is not limited to, cross connections to toilets, sinks, lavatories, wash trays, domestic washing machines and lawn sprinkling systems. Plumbing-type cross connections can be located in many types of structures including homes, apartment houses, hotels and commercial or industrial establishments.

(12) "Pollutional hazard" means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree of intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

(13) "Potable water supply" means any system of water supply intended or used for human consumption or other domestic use.

(14) "Premises" means any piece of land to which water is provided including all improvements, mobile home(s) and structures located on it.

(15) "Reduced pressure principle assembly" shall mean an assembly containing two (2) independently acting approved check valves together with a hydraulically-operated, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly shall include properly located test cocks and tightly closing resilient seated shut-off valves at the end of the assembly. A check valve is approved if it appears on the list of approved assemblies issued by the Oregon State Health Division.

(16) "System hazard" means an actual or potential threat of severe danger to the physical properties of the public or consumer's potable water system or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.

(17) "Thermal Expansion" means heated water without the space to expand.

(18) "Water department" shall mean the total water department of the City of Gold Beach, including office, service yard, and all employees connected therewith, clerical or field.

(19) "Water superintendent" shall mean the duly appointed water superintendent of the City of Gold Beach or such employee as the water superintendent may delegate.

(20) "Water user" shall mean any person specifically requesting delivery of water from the city water system or using or consuming water from the city's water system.

Terms not specifically defined herein shall have the meaning given in the Zoning Code of the City of Gold Beach. Any words or phrases that are not particularly defined therein shall be defined by the City of Gold Beach Building Code.

3.110 Council to Have Charge of Water System. The Council shall have charge of the total water works, plant and system of the city of Gold Beach.

3.120 Council Powers and Authority.

(1) The Council is authorized and empowered to purchase, construct, keep, conduct, extend, and maintain the water system and all necessary plants and facilities to furnish water to the City and to areas adjacent thereto and to areas adjacent to the pipes, conduits, or aqueducts constructed or used for such purposes, and to that end may acquire, by purchase or otherwise, and own and possess such real and personal property within and without the limits of the City as in the judgment of the Council may be deemed necessary and convenient.

(2) The Council shall have power and authority to enter into the necessary contracts or agreements to purchase all necessary material, equipment, and supplies as it may deem necessary or convenient to the conduct, extension, operation, maintenance, and management of the city system, and to do any other act in the construction, operation, and maintenance of the city system.

(3) The Council shall have power and authority to acquire any waterworks or water plant, or part thereof, either by direct purchase or by condemnation proceedings, in the manner prescribed by law for the appropriation of private property for corporate purposes or public use.

(4) The Council shall have power and authority to, and shall, from time to time, make such regulations as may be necessary for the installation of water mains, and for the apportionment of the cost thereof between property owners and the City.

(5) Excepting such installations as are deemed by the Council to be of benefit to the city system as a whole, the Council shall not cause to be laid any water mains unless, in its judgment, the revenue that will be derived from the water sales resulting from such installation shall produce a revenue equal to ten (10) percent per annum of the cost of such project.

When the owner of property to be served by a water main, the income from which will not equal a sufficient amount to justify the cost of the project thereof as provided by this Code and such Council regulations desires such service, the Council may cause such project to be done, in accordance with city specifications, at the sole cost and expense of the property owner; such main becoming the sole property of the City upon completion of installation; and at any time thereafter when the annual income from such main shall be sufficient to have justified its construction, the City may reimburse the property owner at a price not exceeding the original cost, less five (5) percent per annum for depreciation.

(6) The Council shall have power and authority, by resolution and publication, to designate specific days, dates, or hours during which users of water from the city system may use water for irrigation purposes, and may prohibit the use of water from the city system for purposes of irrigation, and it shall be unlawful for any person to irrigate or sprinkle in violation of such proclamation.

(7) The Council shall have power and authority to do any other act or make any other regulation necessary and convenient for the conduct of its business and the due execution of the power and authority given it by charter and not contrary to law.

3.125 Council to Set Rates and Other Charges.

(1) The Council shall have power and authority to establish all rates, deposits, fees, penalties, and other charges for the use and consumption of water from the city system and the connection thereto and to provide for the payment of water rates, deposits, fees, penalties, and other charges and to shut off the water from any house, tenant, or place for which the water rates, deposits, fees, penalties, and other charges are not duly paid; or when any rule or regulation is disregarded or disobeyed. The establishment of said rates, deposits, fees, penalties, and other charges shall be by written resolution without the necessity of amending this Code, and such resolution, when duly and regularly passed, shall be the lawful rates, deposits, fees, penalties, and other charges of the City.

(2) The Council shall have power and authority to classify water services by service pipe size, meter sizes, demand, nature of usage, or other means deemed equitable by the Council and to establish rates and minimum charges by said classification; and the establishment of such classification and such rates and minimums shall be by written resolution, without the necessity of amending this Code; and such resolution, when duly and regularly passed, shall be the lawful classification of water services and rates and minimum charges of the City.

(3) The Council shall have power and authority to enter into special agreements for water usage and at special rates either greater or less than existing rates to water users within or without the boundaries of the City.

3.130 Broken Meter Rates. Whenever a water meter is found by the meter reader to be inoperative, an amount equal to the average billing of the three preceding months shall be billed to the water user for that month.

3.135 Adjustments and Refunds Other Than Deposit. Adjustments and refunds, other than deposit, of water bills or other charges may be made only upon motion by the Council.

3.140 Deposit.

(1) A water user shall make a deposit in the sum established by resolution of the City Council prior to the time water service is provided to that water user.

(2) The cashier of the Water Department shall keep the total of such deposits in a separate account known as "water deposit accounts" and shall keep records showing the source of all receipts and purposes of withdrawals from said account. From this account the cashier shall satisfy any delinquent water or sewer account. When a depositor closes an account and all obligations have been fully satisfied, the cashier shall return any unused portion of the deposit by check to the depositor. In the event the depositor does not apply for the return of the deposit within thirty (30) days from the date that water service is discontinued, then such deposit shall be forfeited to the City of Gold Beach, unless otherwise specified by the Council. The provisions of this section shall not apply to the Curry County Courthouse, and other buildings, offices, or agencies of said county, not to the Coos-Curry fire patrol, agencies of the state of Oregon, United States of America, the Port of Gold Beach, or any other recognized and duly incorporated municipal corporation or political subdivision of the state of Oregon. The City Council may from time to time in its rates resolution exempt the requirements of this section to the other groups or organizations or establishments using the city water system.

(3) If the owner of property has specifically requested delivery of water to that property, has agreed to be responsible for such service and has agreed that if payment is not made the City may impose a lien on the property, a deposit is not required.

3.145 Application for Connection of Water Service.

(1) A person wishing water service shall make written application for a permit to connect the premises to the city system or to request water turned on at the premises, on the forms provided by the City. The applicant shall specify the location and the use for which the service is required and shall agree to abide by the provisions of this Code. The applicant shall pay the connection fee and deposit specified by resolution of the City Council and any charges required by Section 3.150 of this Code. If no meter is installed, the applicant shall pay the cost of the meter and its installation.

(2) A separate water service hook-up shall be required to each unit of property of separate ownership, and in no event shall one service serve properties under separate ownerships. At any time a property is divided into separate ownerships from one ownership, then this clause shall also apply to

separate ownership. Separate water services shall be required to each individual building upon each unit of ownership. This section shall not apply to condominium development as that term is defined in ORS Chapter 94. Condominium developments may install a single meter for service of residential units under separate ownership within the condominium developments only.

(3) Any person who wishes to change the use for which water service is required shall apply for a new water service permit and pay all fees associated therewith.

3.150 Installation of Service.

(1) Where the applicant wishes service for a subdivision, major partition, planned unit development, industrial connection, commercial connection, or multi-residential connection, then said application shall be placed on the next regularly scheduled Council meeting for approval by the City Council. Applicants shall specify in the application, the size of development, estimated quantity of water to be used daily, and proposed number of living and/or commercial units to be constructed within the development. Application for water service shall be filed with the City Administrator's office, either prior to, or at the same time, that applicant files with other city authorities for a land use decision in regards to his specific project.

(2) All plans and specifications in regards to water distribution within the development and all other plans and specifications shall be submitted to the city engineer for his comments and approval as a part of being submitted to the City Council. The City Council shall review the engineer's recommendations and applicant's design and specifications. The City Council and/or the engineer may require any other pertinent information from the applicant deemed to be necessary to review this matter. All costs of review of the applicant's project shall be paid by the applicant as charged to the City by the city engineer or any other source.

(3) Upon acceptance of the applicant's specifications and design by the City Council, the applicant shall post a cash bond to cover all costs of the improvements, including the engineering, construction, legal and administration costs. At the same time, applicant shall pay a connection fee to the city recorder and the City may commence, after posting of said bonds and payment of fees to construct the necessary improvements, or receive bids on the project in the City Council's sole discretion. If the City Council requests bids, a cash bond to cover bid price shall be posted at the start of construction. Upon completion of the project, the applicant shall install a service pipe at its sole cost, from the water main to the curb or property line of the street in which the main is located and the City shall install curb stop, meter and meter boxes at applicant's expense and it shall be the duty of the City thereafter to maintain said service line and any other capital improvements constructed under this section as a part of the city water system to the curb or property line of the applicant.

(4) The applicant, at his own expense, shall install pipes from the curb or the property line on the street on which the main is located to the facilities as desired on his premises subject always to building, plumbing and sanitation codes of any municipal or governmental body and any required inspections of the City.

(5) If an applicant is making application for a single-family dwelling or a single commercial hook-up in an area where there is an adequate water main in the street adjacent to the proposed premises,

then upon application and payment of the appropriate connection fee, the City shall install a service pipe from the main to the curb or property line of the street on which the main is located, including curb stop, meter and meter box. The applicant shall pay the cost of this work. It shall be the duty of the City to maintain said service line from the main to the curb or property line of the street in which the main is located. The applicant shall pay, at his own expense, and install pipes from the curb or property line of the street in which the main is located to the facility as desired on applicant's premises, subject always to the building, plumbing and sanitation codes of any municipal or government entity and required inspections of the City.

3.155 Services Outside the City.

(1) The City may furnish water to water users outside the boundaries of the City and may charge such users rates fixed by the City Council. In case such service is to companies, towns or water districts, the aforesaid shall furnish to the City a map of its system, the number of water users and other information when called upon to do so.

(2) A water user receiving water service outside the city limits shall comply with and be bound by the provisions of this Code.

(3) The City may refuse to sell water to water users who do not comply with the requirements of this section.

(4) As a condition of the extension of water service to new users outside the City, all owners of the property to which service will be extended shall be required to execute a consent to annexation and assessment agreement prior to the extension of service. Said consent shall be in such form as will allow it to be recorded to bind both the current and future property owners pursuant to ORS 222.115.

(5) A person who wants confirmation from the City that it will provide water service to property located outside the city limits shall submit an application for confirmation to the City Council. The City Council may grant this application if it determines that it will be in the best interest of the City and its residents to do so. The City Council may impose such conditions as are reasonable.

If the person seeking confirmation is a real estate agent, inquiring or applying on behalf of a prospective purchaser or seller, the City Council may grant temporary confirmation. This confirmation shall expire when the earnest money agreement expires or in ninety (90) days, whichever first occurs. Thereafter, the person who wants confirmation may apply for confirmation. If the person fails to do so, the City shall have no further obligation to furnish water service.

3.160 Access to Premises for Inspection. Officials, agents and employees of the City shall at all reasonable times have access to any premises served by the city system for the purpose of inspection, repair or enforcement of any of the provisions of this Code; and in the event that any inspection discloses excessive leaks or any undue waste of water, then the City shall have the right to discontinue water service to such premises until satisfactory repairs have been made.

3.170 Charges for Turning Water On or Off at Water User's Request. When requested by the water user or the water user's designated agent, the Water Department shall, if available, turn off the water

at the meter to allow the water user to repair or replace plumbing on the premises. The cost of such water turn on or off shall be charged to the water user as established by resolution of the City Council.

3.180 Charges for Inspecting, Testing, Repairing and Altering Meters.

(1) When any water user or water user's designated agent shall make a complaint that the water bill for any particular period is excessive, the Water Department shall, upon request, have such meter reread and the service inspected for leaks. Cost of such rereading and inspection shall be charged to the water user as established by resolution of the City Council.

(2) Should such water user or agent desire that the meter be tested or changed, such test or change shall be made by the Water Department, and the cost of said test or change shall be charged to the water user as established in the resolution of the City Council. Should the water user or agent desire that the test be conducted by a certified testing lab, the water user shall pay all lab charges and the sum set by resolution of the City Council. However, should the test of the meter show a registration in excess of three (3) percent in favor of the City, the amount charged to the owner for such test will be cancelled or credited as the case may be and the bill adjusted accordingly. The excess registration, not to exceed the three (3) previous readings, shall be credited to the account. Where no such error is found, the amount charged for such test will be retained to cover expense of such test or change.

(3) When any water user or water user's designated agent shall request a relocation or alteration of the service or meter location, either vertically or horizontally, a determination of advisability of such relocation or alteration shall be made by the water superintendent. The decision of the water superintendent shall prevail, subject to the order of the Council. In no event shall the meter or service be relocated onto private property beyond the property line, except by order of the Council. The cost of such relocation or alteration shall be charged to the water user as established by resolution of the City Council. However, should a service or meter relocation or alteration be deemed beneficial to the City by the water superintendent, such relocation or alteration may be done by the Water Department, whether desired by the water user or not, and such relocation or alteration shall be at the expense of the City.

(4) Whenever a city-owned meter is burned out by hot water or damaged by carelessness or negligence of the water user or water user's designated agent, the Water Department shall repair the damage and charge the water user as established by resolution of the City Council.

(5) When a service pipe, curb stop, meter, or meter box is damaged or destroyed by contractors or others in the performance of construction, excavation, hauling or other work, or where service pipes are destroyed by electrolysis, the person, contractor, or company responsible for such damage or destruction shall be billed by the City for the cost of repair or replacement of such pipes, curb stops, meter, or meter box as established by resolution of the City Council.

3.190 Temporary Disconnect.

(1) Upon written request of the water user, the Water Department shall turn off water to the premises designated by the water user, and the water charges to that premises shall cease for the temporary period. Upon written request by the water user, water service shall be restored to the premises. The water user shall be charged a fee for temporary disconnection as established by resolution of the City Council. A

temporary disconnection shall not be for a period of longer than six (6) months. At the end of six months, the water user will be charged regular water user rates unless a new written request is made to continue temporary disconnection status or for monthly maintenance status. Following a temporary disconnection, failure to pay the water bill or make a new application for monthly maintenance rates will result in termination of the service and the City of Gold Beach Water Department shall have the authority to remove the meter.

(2) If a water user does not want to use water for a period of less than six (6) months, but does not want the water disconnected, the water user may apply to pay a monthly maintenance rate, rather than the regular monthly charge. This rate shall be set by resolution of the City Council and is only applicable if no water goes through the water user's meter during that period. This rate is only applicable for a six-month period and at the end of six months, the water user will be charged regular water user rates.

3.200 Meter Reading and Billing. Meters on all service connections will be read on or about the third (3rd) week of each month, and the water user shall be billed on or about the fourth (4th) week of each month for water used since the preceding billing cycle. Said bills shall be due and payable upon receipt, and shall become delinquent at 8:00 a.m. on the tenth (10th) day of the following month.

3.205 Water Charge Liens. If the property owner has agreed that a lien may be imposed as set forth in Section 3.140 above, and if charges for water service are delinquent and not satisfied by application of a deposit, such water service charges shall be a lien against the premises served. The lien shall be entered on the ledger or records of the City and such ledger or other records if not available on-line, this will not give priority unless recorded with county see ORS 93.643 shall remain accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. The lien thereby created may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by law or city code or ordinance.

3.210 Penalty on Delinquent Bills. To every water bill not paid by 8:00 a.m. on the tenth (10th) day of the following month, there shall be added a penalty as established by resolution of the City Council for the purpose of defraying the cost of collecting delinquent bills. This penalty charge shall be promptly entered in the account file and collected by the same procedure as regularly followed in the collection of water bills; provided however, that the provisions of this section shall not apply to hospitals. Said penalties when collected shall be turned into the water account.

3.215 Procedure for Disconnect for Non-payment or Other Violation; Appeal Procedure. In every case where a water account is not paid by the tenth (10th) day of the month after the bill is presented, or where any premises is in violation of this code, or in violation of any part of the City Building Code, Zoning Code, Land Use Code, Sewer Code, or any land use special condition placed upon the premises by the Planning Commission or City Council, the following steps may be taken:

(1) In the case where the violation is a delinquency in the water bill, the Water Department shall send written notice to the last known address of the water users and to the premises as reflected by City water records, that water service will be disconnected seven (7) days after the date of said notice unless the arrearage is immediately corrected. Said notice shall indicate the amount of all arrearages, including penalty fees, and shall indicate that if any person disputes the amount owing, they can appeal to the City Administrator in the manner provided in subsection (5) of this section.

(2) In the case of any other violation, the City Water Department shall send written notice to the last known address of the water users and to the premises as reflected by the city water records that water service will be disconnected ten (10) days after receipt of said notice, unless the violation is corrected prior to that date. Said notice shall indicate specifically the violation causing the disconnection and shall indicate that if any affected person disputes the violation stated in the notice, they can appeal to the City Administrator and the City Council in the manner provided in subsection (5) of this section. Should the violation not be abated within the said ten (10) days after receipt of the notice, the water superintendent shall be instructed by written order from the City Administrator's office to immediately terminate the water service and remove the water meter from the subject property unless an appeal has been filed pursuant to subsection (5) of this section.

(3) Where there is a delinquency for nonpayment and notice has been sent as described above, and the city water superintendent determines in his opinion that the water meter has been tampered with after termination of service, the city water superintendent may remove said water meter and shall make a written report to the City Water Department and City Administrator, regarding the reasons for his opinion that the water meter has been tampered with and the cause for its removal. The Gold Beach City Council may, under appropriate circumstances of public safety, public welfare or hardship of cases, direct the water superintendent not to remove the meter under the above described circumstances.

(4) Where the violation is failure to pay delinquent water or sewer fees and penalties, water service may be reinstated upon payment of those fees. For any other violation, water service shall not be reinstated until such time that all violations have been cured, and a new application has been made and all fees required for initial application have been paid.

(5) A customer, occupant or owner of the premises who questions or disputes the correctness of a notice of intent to disconnect service may file with the City Administrator a request for a hearing within seven (7) days of the date of the notice. If a hearing has been timely requested, the City Administrator shall hold an informal conference to attempt to resolve the matter. In the case of a notice of intent to disconnect service for non-payment, the decision of the City Administrator shall be delivered at the conclusion of the informal conference and shall be final. In other cases, if no informal resolution is achieved, the City Council shall hold a hearing and consider relevant evidence presented by the appellant and the City. The Council shall determine whether the reasons prompting the notice of intent to disconnect are correct. Notice of the decision of the Council shall be mailed by first class mail to the customer at the billing address and to the occupant of the premises and to any other address specified by the appellant. In the event of an appeal to the City Council, service shall not be terminated until three (3) days after mailing of the notice of the decision. A notice of intent to disconnect service shall include information about the appeal process contained in this subsection.

3.220 Alternate Procedure for Disconnection of Rented Premises for Non-payment. Any owner of real property who has requested water services and agreed to be responsible therefor and who has rented the property to another may in writing request that the City disconnect said rented premises at any time the water bill for service to said premises has not been paid by the tenth (10th) day of the month for water used during the previous billing cycle. The property owner shall inform tenants of such arrangement. The procedure to reconnect said premises shall be the same as specified in Section 3.225 of this Code. This

procedure does not excuse the property owner from responsibility for any delinquent charges for water service.

3.225 Procedure for Reconnection. Whenever anyone shall apply for a reconnection or a turn on of water service where an application for initial water service is not required by the terms of this Code, the applicant shall pay all delinquent bills and a reconnection fee as established by resolution of the City Council. In the event that the amount then on deposit for such water service shall be less than the required amount, then the applicant shall also pay a sum sufficient to raise said deposit to the required amount. The reconnection fee shall be paid even though no physical disconnection has been made. A separate fee shall be paid for each reconnection.

3.230 Water Use by Applicant. No person supplied with water from the city system shall use the water for any purpose other than that stated in the application or to supply in any way other persons without application and permit to do so. Where a violation of these provisions is found to exist, the City may discontinue service.

3.235 Outside Connections. No faucet shall be allowed on the outside of any building excepting hose connections, which must be controlled by a separate stop. No faucet shall be allowed on sidewalks, or at the curb line where they are accessible to the public.

3.240 Leaking or Unused Services. Where there is a leak under the street between the main and the curb line, the Water Department shall make all repairs free of charge unless the leak is on an unused or non-revenue-producing service. In such case, the Water Department shall shut off the service pipe at the main. Where a water service pipe has been disconnected from the main, the water user shall apply for a new permit and pay all charges required for a new service connection whenever the user wishes a water service.

3.245 Water System Shut Off; Responsibility. The City reserves the right at any time without notice to shut off the water supply for repairs or extensions, or any other reason in the public interest. The City shall not be responsible for any damage, such as the bursting of boilers, the breaking of any pipes or fixtures, stoppage or interruption of water supply, or any other damage resulting from the shutting off of water. The City shall not be responsible for broken pipes, leaks, or other defects to water lines or fixtures beyond the property line on private property; and it shall be the duty of each property owner to install a shut-off valve on the property served by the city system in order that the water may be shut off for repairing leaks in the water lines, faucets, and any or all fixtures through which water is used upon such private premises, and the City shall not be obligated to close any valve upon any street, alley, or other public property in order to effect repairs on such property.

3.250 Damage through Pipe and Fixtures. It shall be unlawful for any person to cause or suffer water from the city system to run, drain, or flow from property having a water connection onto any other property or onto any public street or way; and the City shall in no case be liable for damages occasioned by water running from open or faulty fixtures or from broken or damaged pipes beyond the property line of the street.

3.255 Use of the City Water and Private Water. Sale of water by any person within the City in competition with the city system is hereby prohibited, and each day that any sale or sales be made shall be

considered a separate offense; provided however, this section shall be subject to the terms and conditions of the contract of purchase with Gold Beach Water, Light and Power Company. Owners of buildings desiring to use both a city water supply and a supply of water other than that furnished by the City may obtain city water at meter rates upon the following conditions, and not otherwise. Under no circumstances shall a physical connection, direct or indirect, exist or be made in any manner, even temporarily, between the city water supply and that of a private water supply except in accordance with Sections 3.300 to 3.530 of this Code. Where such a connection is found to exist, means, the city water supply shall be shut off from the premises. In case of such discontinuance, service shall not be reestablished until satisfactory proof is furnished that the cross connection has been completely and permanently severed or an approved cross-connection assembly has been installed in accord with Section 3.300 to 3.330 of this Code.

3.260 Establishing Procedure for Reconnection after Use of Private Water Supply. In the event a water user shall be disconnected for violation of Section 3.255 of the water code for having a cross connection between the City and a private water source, or if a water user shall request a disconnection for the purpose of using a private water source, the premises shall not be reconnected to the city system until the water user has applied for new service and all charges required for initial service have been paid in full. Each time a premises is disconnected, a new application for service shall be required. In the event a water user requests disconnection for this reason, the water user shall be informed of the provisions of this section.

3.265 Operating Valves or Hydrants without Authority. It shall be unlawful for any person, without authority from the City, to remove, injure, open, close, or in any way tamper with any water pipe, water main, shut-off, valve, or hydrant belonging to the City.

3.270 Penalty for Turning On Water without Authority. Should the water to any premises served by the city system be turned on by any water user or other person without authority from the City, the water may then be shut off at the main, or the meter removed. The charge for shutting water off at the main, or for removing the meter, shall be as established by resolution of the City Council. Water shall not again be furnished to such person until the charges are paid.

3.280 Charges for Service Pipes Connected without Authority. It shall be unlawful for anyone to cause or permit the extension of water service from one dwelling unit, building, or parcel of land to another without authority from the City. When additional dwelling units, buildings, or parcels of land are connected without the proper application and permit, the water user whose premises is connected to the city water system may be charged at double the usual rate and the service may be shut off by the City. In case water service shall be turned off as provided in this section, the same shall not be turned on again until all water user charges have been paid in full.

3.300 Cross Connections Regulated. No cross connections shall be created, installed, used or maintained within the territory served by the City of Gold Beach, except in accordance with this Code.

3.305 Backflow Prevention Assembly Requirements.

(1) Approved backflow prevention assemblies shall be installed at the expense of the user, either at the service connection or within the premises, as determined by a certified cross connection inspector contracted by or employed by the City of Gold Beach, whenever:

(a) The nature and extent of any activity of the premises, or the materials used in connection with any activity of the premises, or materials stored on the premises, could contaminate or pollute the drinking water supply.

(b) Premises having any one or more cross connections as that term is defined in section 3.100 of this Code.

(c) Internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist are present.

(d) There is a repeated history of cross connections being established or re-established.

(e) There is unduly restricted entry so that inspections for cross connections cannot be made with sufficient frequency or with sufficient notice to assure that cross connections do not exist.

(f) Materials of a toxic or hazardous nature are being used such that, if backflow should occur, a health hazard could result.

(g) Any mobile apparatus uses the City's water or water from any premises within the City of Gold Beach's system.

(h) Installation of an approved backflow prevention assembly is deemed to be necessary to accomplish the purpose of this Code in the judgment of a certified cross connection specialist contracted by or employed by the City of Gold Beach.

(i) An appropriate cross connection report form has not been filed with the City.

(j) A fire sprinkler system using non-potable piping material is connected to the City's water system.

3.310 Installation Requirements.

To ensure proper operation and accessibility of all backflow prevention assemblies, the following requirements shall apply to the installation of these assemblies:

(1) No part of the backflow prevention assembly shall be submerged in water or installed in a location subject to flooding. If installed in a vault or basement, adequate drainage shall be provided.

(2) Assemblies must be installed at the point of delivery of the water supply, before any branch in the line, on private property located just inside of the property line. Alternate locations must be approved in writing by the City prior to installations.

(3) The assembly must be protected from freezing and other severe weather conditions.

(4) All backflow assembly prevention assemblies shall be of a type and model approved by the State of Oregon Health Division and the City.

(5) Only assemblies specifically approved by The Oregon Health Division for vertical installation may be installed vertically.

(6) The assembly shall be readily accessible with adequate room for maintenance and testing. Assemblies two (2) inches and smaller shall have at least six (6) inches clearance on all sides of the assembly. All assemblies larger than two (2) inches shall have a minimum clearance of twelve (12) inches on the backside, twenty-four (24) inches on the test cock side, twelve (12) inches below the assembly and thirty-six (36) inches above the assembly. "Y" pattern double check valve assemblies shall be installed so that the checks are horizontal and the test cocks face upward.

(7) The property owner assumes all responsibility for all maintenance and testing of the assembly, as determined and required by the City.

(8) If written permission is granted to install the backflow assembly inside of the building, the assembly shall be readily accessible during regular working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

(9) If an assembly, with permission, is installed inside of the premises and is four (4) inches or larger and is installed four (4) feet above the floor, it must be equipped with a rigidly and permanently installed scaffolding acceptable to the City. This installation must also meet the requirements set out by the U.S. Occupational Safety and Health Administration and the State of Oregon Occupational Safety and Health Codes.

(10) RP assemblies may be installed in a vault only if relief valve discharge can be drained to daylight through a "boresight" type drain. The drain shall be of adequate capacity to carry the full rated flow of the assembly and shall be screened on both ends.

(11) An approved air gap shall be located at the relief valve orifice. This air gap shall be at least twice the inside diameter of the incoming supply line as measured vertically above the top rim of the drain and in no case less than one (1) inch.

(12) Upon completion of installation, the City shall be notified and all assemblies must be inspected and tested. The testing and repairs of all assemblies are the financial responsibility of the water user.

(13) All backflow assemblies must be registered with the City. Registration shall consist of date of installation make model, serial number of the backflow assembly, and initial test report.

(14) Any water pressure drop caused by the installation of a backflow assembly is not the responsibility of the City of Gold Beach.

(15) All new construction shall install an approved backflow assembly at the service connection.

3.315 Access to Premises.

Authorized employees of the City, or their designated representatives with proper identification, shall have access during reasonable hours to all parts of a premise and within the building to which water is supplied. However, if any water user refuses access to a premise or to the interior of a structure at reasonable times and on reasonable notice for inspection by a cross connection specialist appointed by the City, a reduced pressure principle assembly will be required to be installed at the service connection to that premise.

3.320 Testing and Repairs.

All backflow assemblies installed within the territory served by the City shall be tested immediately upon installation, if repaired, if moved, and at least annually thereafter by a state certified tester. All such assemblies found not functioning properly shall be promptly repaired or replaced by the water user. If any such assembly is not promptly repaired or replaced, the City may deny or discontinue water to the premise. All testing and repairs are the financial responsibility of the water user.

3.325 Variances.

Any variances from the cross connection requirements of this Code shall be requested in writing by the owner and approved by the City prior to assembly installation.

3.330 Costs of Compliance.

All costs associated with purchase, installation, inspections, testing, replacement, maintenance, parts, and repairs of the backflow assembly are the financial responsibility of the property owner.

3.335 Termination of Service.

Failure on the part of any customer to discontinue the use of all cross connections and to physically separate cross connections, or failure to comply with any of the provisions of this Code is sufficient cause for the immediate discontinuance of public water service to the premises.

3.350 Penalty. Any person, firm, or corporation who shall violate, fail, neglect, or refuse to comply with any of the provisions of this water code shall be guilty of a violation, and upon conviction thereof, shall be punished by a fine not to exceed \$300; and each day during which any violation hereof shall continue and persist after due notice thereof shall constitute a separate and distinct violation of this Code. The maximum fine may be amended from time to time by resolution adopted by the Gold Beach City Council.

Sewer Code

3.400 Sewer Use and Charges.

(1) The City Council shall have exclusive control of and regulation over sewer use charges, and shall, from time to time, by resolution set or change existing sewer service charge schedules.

(2) Sewer service charges shall be billed and collected with water service charges, and shall be due and payable at the same times as such water charges, and shall be subject to such penalties for delinquency as the Council shall from time to time determine in its rate resolutions.

(3) In addition to all other remedies for failure to pay sewer service charges, water service may be disconnected for nonpayment thereof, and water service shall not be restored until both water charges and sewer charges have been paid in full. Any and all deposits with the Water Department as security for water bills may also be applied to sewer charges, if an excess exists over and above the amount necessary to pay balances due for water service.

(4) All city sewer charges shall be placed into special funds entitled "Sewer Operating Fund," which shall be used to pay all operating expenses of the city sewer system, and "Sewer Debt Fund," which shall be used for the repayment of sewer bonds until all of said bonds plus interest shall be paid in full. Once each year at budget time, the City Budget Committee shall estimate cash balances and anticipated revenue and expenses for the forthcoming year, and insofar as cash balances and anticipated revenue shall not cover operating expenses, and bond principal and interest during the forthcoming year, shall make provisions to raise the additional revenue required.

3.410 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this sewer code shall be as follows:

(1) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

(2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(5) "Commercial user" shall mean any premises used for commercial or business purposes.

(6) "Domestic waste" shall mean any wastewater emanating from dwellings.

(7) "Equivalent Residential Unit (ERU)" shall mean a volume of wastewater which incurs the same costs for operations and maintenance as the average volume of domestic waste discharged from an average residential dwelling unit in the treatment works service area. For purposes of making this determination the City shall utilize the metered water use records of the City. Where a user believes his wastewater discharge to the treatment works is substantially different than his water consumption, an appropriate adjustment shall be made providing the user demonstrates to the satisfaction of the City the actual wastewater discharge. The volume attributed to an ERU where the BOD, suspended solids or other characteristic of the wastewater discharged by a user is significantly greater than domestic waste shall be adjusted to account for the difference in the costs of treatment. The superintendent shall file a list of ERU's for each commercial establishment.

(8) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(9) "Industrial wastes" shall mean liquid wastes from any nongovernmental user of publicly owned treatment works identified in the standard Industrial Classification Manual, 1972, Office of Management and Budget, under Divisions A,B,D,E and I.

(10) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

(11) "Person" shall mean any individual, firm, company, association, society, corporation or group.

(12) "Ph" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(13) "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

(14) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(15) "Residential User" shall mean user of a single family dwelling.

(16) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

(17) "Service area" shall mean all the area served by the Gold Beach sewage works.

(18) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and stormwaters as may be present.

(19) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(20) "Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(21) "Sewer" shall mean a pipe or conduit for carrying sewage.

(22) "Sewer user" shall mean any person specifically requesting sewer service or using city sewers.

(23) "Shall" is mandatory; "may" is permissive.

(24) "Slug" shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

(25) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(26) "Superintendent" shall mean the superintendent of sewage works and/or of water pollution control of the City of Gold Beach, or his authorized deputy, agent or representative.

(27) "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

(28) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(29) Any words or phrases which are not particularly defined herein shall be construed as defined in the Zoning Code of the City of Gold Beach, and if not defined therein, then as defined by the City of Gold Beach Building Code.

3.415 Use of Public Sewers Required.

(1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Gold Beach, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the City of Gold Beach, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Code.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(4) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this code within ninety (90) days after date of official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line.

Any real property which was within 100 feet of the city sewer and further, had a functioning subsurface disposal system operating and serving said property on or before December 19, 1974, the original date of passage of the Gold Beach Sewer Code, shall not be required to connect to the city sewer system so long as said subsurface sewage disposal system operates within the standards and regulations of the Curry County Sanitarian and requires no repairs thereunder. At the time that said subsurface sewage disposal system requires any repairs pursuant to the standards and regulations of the Curry County Sanitarian, or the property ownership is transferred after October 25, 1983, then said property shall upon either of those occurrences be connected to the city sewer system within ninety (90) days of such occurrence. The City Council, as of October 25, 1983, was required to identify all properties within the City which met the above conditions for non-connection to the city sewer and the City was directed to enter into a written agreement with each property owner in regards to such non-connection and said agreement was to have been recorded in the records of Curry County, Oregon to give notice to any prospective or actual new purchasers of said properties of the requirement of connection to the city sewer system pursuant to this Code.

3.420 Private Sewage Disposal.

(1) Where a public sanitary or combined sewer is not available under the provisions of section 3.415 above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(2) Before commencement of construction of a private disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee set by resolution of the City Council shall be paid to the City at the time the application is filed.

(3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the application for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered.

(4) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations and regulations of the Department of Environmental Quality of the state of Oregon. No permit shall be issued for any private sewage disposal system employing subsurface soil

absorption facilities without inspection of the superintendent and a qualified representative of the Department of Environmental Quality of the state of Oregon. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 3.415, a direct connection shall be made to the public sewer within sixty (60) days and the private sewage disposal system shall be abandoned, cleaned of sludge and filled with clean bank-run gravel or dirt.

(6) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(7) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer.

3.425 Building Sewers and Connections.

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(2) There shall be four classes of building sewer permits:

(a) Residential, which shall include single-family residences, apartments, duplexes and courts.

(b) Residential/commercial, which shall cover hotels and motels, etc.

(c) Commercial, which shall cover commercial non-residential uses.

(d) Industrial, for service to establishments producing industrial waste.

(3) Prior to receiving city sewer service, a person shall make application to the City Administrator for a sewer hookup permit, on a form prescribed by the City, and said application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City Administrator or the superintendent. The applicant shall state the use for which sewer service is required.

(4) If the use for which sewer service is required changes so that a different class of building sewer permit would be applicable, the sewer user shall apply for a new permit and pay all charges required for an initial permit.

(5) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(6) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(7) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this Code.

(8) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements, rules and regulations as now composed or in the future amended by the state of Oregon through its authorized and delegated representative in administering a state sewer code. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(9) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged from the building.

(10) No person shall make connection of roof downspouts, exterior foundation drains, area way drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(11) The connection of the building sewer into the public sewer shall conform to the requirements, rules and regulations as now composed or in the future amended by the state of Oregon through its authorized and delegated representative in administering a state sewer code. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(12) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(13) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. In addition, when any sewer work involves street or alley pavement cuts or tunneling, the work shall be performed in accordance with the provisions of the Gold Beach Local Improvement Code.

3.430 Monthly Sewer User Fees.

(1) All sewer users shall pay a monthly sewer user fee as established by resolution of the City Council.

(2) There shall be assigned to each user an appropriate number of ERU's and this number shall represent the ratio of the cost incurred by the wastewater from the user to the cost incurred by the wastewater from a residential dwelling unit.

(3) The user charge shall be calculated by multiplying the total number of ERU's for each user by a constant cost factor. This cost factor shall be set by resolution.

(4) Should any user believe that he has been incorrectly assigned a number of ERU's, that user may apply for review of his user charge as provided in subsection 8 of this section.

(5) If it has been determined by the City that a user's wastewater contribution is incorrectly assigned, the City shall reassign a more appropriate value to that user and shall notify that user of such reassignment.

(6) Records of all assigned wastewater contributions forming the basis of the charges shall be kept on file with the City and shall be open for public inspection.

(7) The sewer user charges established in this Code shall, as a minimum, be reviewed bi-annually and revised periodically to reflect actual costs of operation, maintenance, and replacement of the treatment works and to maintain the equitability of the user charges with respect to proportional distribution of the costs of operation and maintenance in proportion to each user's contribution to the total wastewater loading of the treatment works.

(8) Appeal of the rate established by the City shall be made in writing to the City Administrator within ten (10) days of the billing of said use fee. The City Administrator shall respond in writing within ten (10) days of receipt of the appeal. Any user who wishes to appeal further shall request in writing that the City Administrator place their specific appeal on the next scheduled regular City Council session. The decision of the City Council shall be final.

(9) Each user shall be notified on not less than an annual basis, in conjunction with a regular bill, of that portion of the user charges which are attributable to the operation, maintenance, and replacement of the wastewater collection treatment and disposal system.

3.440 Temporary Termination of Sewer Service.

(1) Upon written request of the sewer user, the City shall turn off water to the premises and the monthly sewer charges to that premises shall cease for the temporary period. Upon written request by the sewer user, water and sewer service shall be restored to the premises. The sewer user shall be charged a fee for temporary disconnection as established by resolution of the City Council. A temporary disconnection shall not be for a period of longer than six (6) months. If a temporary disconnection continues for a period longer than six (6) months, then the service shall be deemed terminated and the sewer user shall be required to make a new application for service and to pay all fees required for initial water service.

(2) If a sewer user does not want sewer or water service for a period of less than six (6) months, but does not want the water disconnected, the sewer user may apply to pay a monthly sewer maintenance rate, rather than the regular monthly sewer charge. This rate shall be set by resolution of the City Council

and is only applicable if no water goes through the sewer user's water meter during that period. This rate is only applicable for a six-month period and at the end of six (6) months, the sewer user will be charged regular sewer user rates.

3.445 Use of the Public Sewers.

(1) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water to any sanitary sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, or approval of the superintendent, to a storm sewer, combined sewer or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails; and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged the following-described substances, materials, waters or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (a) Any liquid or vapor having a temperature higher than 150°F (65°C).
- (b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150°F (0° and 65°C).
- (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.
- (d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.
- (e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.
- (f) Any waters or wastes containing phenols or other taste- or odor-producing substance in such concentrations exceeding limits which may be established by the superintendent, as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
- (h) Any waters or wastes having a pH in excess of (9.5).
- (i) Materials that exert or cause:
 - (i) Unusual concentration of inert suspended solids such as, but not limited to, fullers earth, lime slurries, and lime residues; or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.
 - (ii) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.
 - (iii) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (iv) Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
- (j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such

degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(5) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section (4) above, and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section (6)(j) below.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(6) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located so as to be readily and easily accessible for cleaning and inspection.

(7) Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(8) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer as to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(9) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building

sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.)

(10) No statement contained in this Code shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern.

(11) Industrial users shall comply with Section 204 of PL 92-500 and the rules and regulations regarding Industrial Cost Recovery as published in the August 21, 1973, Federal Register, Volume 38, Number 161.

3.450 Protection From Damage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

3.455 Powers and Authority of Inspectors.

(1) The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Code. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) The superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

3.460 Procedure for Disconnection; Appeal Procedure; Penalties.

In every case where a sewer account is not paid by the 25th day of the month after the bill is presented, or where any premises is in violation of this Code, or in violation of any part of the City Building Code, Zoning Code, Land Use Code, Water Code, or any land use special condition placed upon the premises by the Planning Commission or City Council, the following steps may be taken:

(1) In the case where the violation is a delinquency in the sewer bill, the Sewer Department shall send written notice to the last known address of the sewer users and to the premises as reflected by

City records, that sewer service will be disconnected ten (10) days after the date of said notice unless the arrearage is immediately corrected. Said notice shall indicate the amount of all arrearages, including penalty fees and shall indicate that if any person disputes the amount owing, they can appeal to the City Administrator in the manner provided in subsection (3) of this section.

(2) In the case of any other violation, the City Sewer Department shall send written notice to the last known address of the sewer users and to the premises as reflected by the city records that sewer service will be disconnected twenty (20) days after receipt of said notice, unless the violation is corrected prior to that date. Said notice shall indicate specifically the violation causing the disconnection and shall indicate that if any affected person disputes the violation stated in the notice, they can appeal to the City Administrator and the City Council in the manner provided in subsection (3) of this section. Should the violation not be abated within the said twenty (20) days after receipt of the notice, the sewer superintendent shall be instructed by written order from the City Administrator's office to immediately terminate the sewer service to the subject property unless an appeal has been filed pursuant to subsection (3) of this section.

(3) A customer, occupant or owner of the premises who questions or disputes the correctness of a notice of intent to disconnect service may file with the City Administrator a request for a hearing within seven (7) days of the date of the notice. If a hearing has been timely requested, the City Administrator shall hold an informal conference to attempt to resolve the matter. In the case of a notice of intent to disconnect service for non-payment, the decision of the City Administrator shall be delivered at the conclusion of the informal conference and shall be final. In other cases, if no informal resolution is achieved, the City Council shall hold a hearing and consider relevant evidence presented by the appellant and the City. The Council shall determine whether the reasons prompting the notice of intent to disconnect are correct. Notice of the decision of the Council shall be mailed by first class mail to the customer at the billing address and to the occupant of the premises and to any other address specified by the appellant. In the event of an appeal to the City Council, service shall not be terminated until three (3) days after mailing of the notice of the decision. A notice of intent to disconnect service shall include information about the appeal process contained in this subsection.

(4) Where the violation is failure to pay delinquent water or sewer fees and penalties, sewer service may be reinstated upon payment of those fees. For any other violation, sewer service shall not be reinstated until such time that all violations have been cured, and a new application has been made and all fees required for initial application have been paid.

(5) Any person violating any of the provisions of this Code shall become liable to the City for any expense, loss or damage occasioned to the City by reason of such violation.

System Development Charge Code

3.500 Findings.

The City Council of Gold Beach makes the following findings regarding this System Development Charge Code:

(1) The System Development Charge established herein is intended to be a charge upon the act of development by whoever seeks the development. It is a fee for service because it contemplates the development will receive essential municipal services based upon the nature of the development. The time when the development occurs and the extent of the development is within the control and discretion of the developer.

(2) The system development charge imposed by this Code is not intended to be a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Sec 11b, Art. XI of the Oregon Constitution or the legislation implementing that section.

(3) Even if the system development charge herein imposed is viewed under Sec. 11b, Art. XI of the Oregon Constitution as a tax against property or against a property owner as a direct consequence of ownership of that property, it is an incurred charge within the meaning of that Section and the statutes implementing it because:

(a) It allows the owner to control the quantity of the service by determining the extent of development to occur upon the property.

(b) It allows the owner to determine when the service is to be initiated or increased by controlling when the development occurs.

(c) State law and the codes and ordinances of this City require the owner to provide certain basic utility services to the property when it is developed for human occupancy. The provision of these basic utility services is a routine obligation of the owner of the affected property and essential to the health and safety of the community.

(4) Among the basic utility services to be provided on every property with a structure designed for human occupancy, except ancillary buildings, are water and sanitary sewer services.

(5) The System Development Charge imposed by this Code is based upon the actual costs of providing existing or planned for capital improvements and does not impose charges on persons not receiving a service and imposing a burden upon the City's existing capital improvements.

3.510 Policy Provisions.

(1) **Purpose:** The purpose of the Systems Development Charge is to impose a portion of the public cost of capital improvements upon those developments that create the need for or increase the demands on capital improvements.

(2) **Scope:** The Systems Development Charge provided in this subchapter is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development. A Systems Development Charge is to be considered in the nature of a charge for service to be rendered or a service hookup charge.

3.515 Definitions. As used in this System Development Charge code, except where the context otherwise requires, words and phrases have the following meaning:

- (1) “Capital Improvement(s)”, means facilities or assets used for any of the following:
- (a) Water supply, treatment and distribution;
 - (b) Sanitary sewers, including collection, transmission and treatment;
 - (c) Storm sewers, including drainage and flood control;
 - (d) Transportation, including but not limited to streets, sidewalks, bike paths, street lights, street trees, public transportation, vehicle parking, and bridges; or
 - (e) Parks and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks, metropolitan parks, and other recreational facilities.

(2) “Development” means the act of conducting a building or mining operation, or making a physical change in the use or appearance of a structure or land, which increases the usage of any capital improvements or which creates the need for additional capital improvements.

(3) “Improvement Fee” means a fee for costs associated with capital improvements to be constructed after the date this Code or ordinance 470, 499, 578 or 605 became effective.

(4) “Land Area” means all surface area of any parcel, including building area, excepting any portion of the parcel within a recorded right of way for a public street or alley.

(5) “Parcel of Land.” A platted lot or any other tract of land which is occupied, or may be occupied by a structure or other use; including the yards and other open spaces required under the zoning regulations of the City, or reasonably attributable to an existing or proposed use.

- (6) “Qualified Public Improvements.” A capital improvement that is:
- (a) Required as a condition of development approval;
 - (b) Identified in the plan adopted pursuant to subsection 3.540(2); and
 - (c) Either:
 - (i) Not located on or contiguous to a parcel of land that is the subject of the development approval. (As used in this definition “contiguous” means: in a public way which abuts.); or
 - (ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(7) "Reimbursement Fee." A fee for costs associated with capital improvements constructed or under construction when the fee is established, for which the City determines that capacity exists.

(8) "Systems Development Charge." A reimbursement fee, an improvement fee or a combination thereof assessed or collected at any of the times specified in subsection 3.525(1). It shall also include that portion of a water or sanitary sewer connection charge that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with the water system or the sanitary sewer system. "Systems development charge" does not include:

- (a) Any fees assessed or collected as part of a local improvement district;
- (b) A charge in lieu of a local improvement district assessment; or
- (c) The cost of complying with requirements or conditions imposed upon a land use decision.

3.520 Systems Development Charge Provided.

(1) System Development Charge established: Unless otherwise exempted by the provisions of this Code or other local or state law, this Code continues in effect the Systems Development Charge which was effective July 16, 1991 and imposes a System Development Charge upon all new development within the City, and all development outside the boundary of the City that connects to or otherwise uses the water and/or sewer system of the City.

(2) Council to Determine: The Systems Development Charge for any capital improvement shall be fixed by the Council in one or more methodology resolutions that may be amended or altered from time to time, at the discretion of the City Council. Each resolution shall be based on a methodology which complies with the requirements of ORS 223.297 to 223.314. The City shall maintain a list of persons who have made a request for notification prior to adoption or amendment of a methodology and shall mail them written notice at least ninety (90) days prior to the first hearing to consider adoption or amendment of a methodology, all as required by ORS 223.304.

3.525 Collection.

(1) The Systems Development Charge is immediately due and payable upon receipt of application for a building permit or upon receipt of an application for connection to the sewer system or water system of the City, or upon enlargement of a structure as provided in this Code, whichever occurs first. If construction is commenced or connection is made to the sewer or water system without an appropriate permit, the systems development charge is immediately due and payable upon the earliest date that any such permit was required. The developer, owner or other person benefiting from the development shall pay and the City Administrator shall collect the applicable Systems Development Charge before issuing any building permit or before permitting any connection to the water system or sewer system of the City. No connection to the sewer or water facilities of the City may be made unless the appropriate Systems Development Charge has been paid or the lien and installment payment method has been applied for.

(2) Whenever the full and correct Systems Development Charge has not been paid and collected, for any reason, the City Administrator shall report to the Council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, and the name or names of the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement of the described land. The City Council shall set a public hearing and direct the City Administrator to give notice of that hearing to each of those owners and contract purchasers together with a copy of the Administrator's report concerning the unpaid charge, either in person or by certified mail. Upon public hearing, the Council may accept, reject or modify the Administrator's report and, if it finds that any charge is unpaid and uncollected, the Council may direct the City Recorder to docket the unpaid and uncollected charge in the City's record of liens and, upon completion of the docketing, the City shall have a lien against the described land for the full amount of unpaid charge, interest and the City's actual costs of serving notice upon the owners or contract purchasers. The decision of the Council shall be final and any aggrieved party may not appeal the decision under section 3.545 of this Code. The lien shall be enforced in the manner provided in ORS chapter 223.

(3) The owner of the parcel of land for which a Systems Development Charge is due may apply, upon forms provided by the City, for the voluntary imposition upon the parcel of a lien for the full amount of the Systems Development Charge and the payment of that lien in twenty (20) semi-annual installments plus interest. The burden of showing the identity of the owner of record or of the contract purchaser of record of the parcel shall be upon the applicant. Upon receipt of such an application, the City Administrator shall compute the amount of the Systems Development Charge and shall report to the City Recorder the amount of the charge, the date upon which that charge is due, the name of the owner of record or the purchaser of record, and the description of the property, and upon receiving that report the City Recorder shall docket the lien in the City's docket of liens and record it in the Curry County deed records, and from the time that docketing is completed, the City shall have a lien upon that described land for the amount of the charge and interest upon that charge at the rate of ten (10) percent per annum. That lien shall be enforced in the manner provided in ORS chapter 223 and shall have priority over all other liens and encumbrances.

3.530 Exemptions.

- (1) Full Exemption: Any parcel of land which has established use:
- (a) Of streets by an existing structure or a valid building permit issued for the property; and
 - (b) Of water by connection to the City water system or a water tap order issued for the property; and
 - (c) Of sewers by connection to the City sewer system or a sewer connection permit issued for the property before the effective date hereof;

is exempt from the systems development charge to the extent of the structure then existing on the land or covered by the building permit issued for the land on or before July 16, 1991.

(2) When adopting the methodology resolution, the Council may establish full or partial exemptions from all or part of the systems development charge.

3.535 Credits.

(1) When development occurs that must pay a System Development Charge under Section 3.520 the System Development Charge for the existing use shall be calculated and if it is less than the System Development Charge for the proposed use, the difference between the System Development Charge for the existing use and the System Development Charge for the proposed use shall be the System Development Charge required under Section 3.520. If the change in use results in the System Development Charge for the proposed use being less than the System Development Charge for the existing use, no System Development Charge shall be required, however, no refund or credit shall be given.

(2) The limitations on the use of credits contained in this subsection shall not apply when credits are given under subsection (3) of this section. A credit shall be given for the cost of a qualified public improvement associated with a development. The credit provided for by this subsection shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.

(3) When establishing the methodology, the council may provide for a credit against the improvement fee, the reimbursement fee, or both, for a capital improvement constructed as part of the development that reduces the development's demand upon existing public capital improvements or the need for future public capital improvements or that would otherwise have to be constructed at city expense under the then-existing council policies.

(4) Credit shall not be transferable from one type of capital improvements to another. If unused within ten (10) years from the date given, a credit shall expire and shall no longer be applied to a systems development charge.

3.540 Compliance with State Law.

(1) The revenues received from the Systems Development Charges shall be deposited to the fund for each capital improvement designated in a methodology resolution and shall be budgeted and expended as provided by state law. The accounting of such revenues and expenditures required by state law shall be included in the City's annual financial audit required by ORS Chapter 297.

(2) The capital improvement plan required by state law as the basis for expending revenues from the improvement fee of each systems development charge shall be the documents identified in the applicable methodology resolution.

3.545 Appeals. Any person who is aggrieved by a methodology adopted by the Council, by the expenditure of Systems Development Charges revenues or by a decision made by the City Administrator under this Code may appeal that decision to the City Council by filing a written request with the City Recorder within ten (10) days of the Council's action adopting the methodology or authorizing the expenditure or of receiving the City Administrator's written decision. Such appeal shall describe with particularity the decision from which the person seeks reconsideration or appeals, the error of that opinion

and the relief sought by the person from the City Council. In determining the appeal, the Council shall determine whether the decision is correct and may affirm, modify, extend or overrule that decision.

3.550 Regulations. The City Administrator may adopt such rules and regulations as the Administrator deems necessary for the proper and uniform administration and interpretation of this Code. Such rules and regulations shall be subject to review by the City Council.

Electric Service Code

3.600 Franchise Required.

(1) The term “person” shall mean and include natural persons, co-partnerships, corporations and associations, whether or not operating for a profit.

(2) It shall be unlawful for any person not holding a franchise from the City of Gold Beach, Curry County, Oregon, therefor, to install or maintain any power line, pole or poles, conduits or any other equipment or facilities pertaining to the manufacture, transmission, or distribution of electrical current upon any public street, alley, boulevard, avenue, road or thoroughfare within said City; or to erect or construct any pole, post, tower, power line, or other equipment or facility either upon, over, or beneath the surface of any such public street, alley, avenue, boulevard, road, or thoroughfare within said city for said purpose.

(3) Any person who shall violate any clause or provision of this Section shall be deemed guilty of a violation, and upon conviction thereof shall be punishable by a fine of not less than \$25 or more than \$500. Every such person shall be deemed guilty of a separate offense for each and every day during which any provision or provisions hereof are violated by him or it; and for every day during which any violation hereof shall continue, and for each violation, such person shall be punishable therefor as herein provided. The minimum and maximum fine prescribed by this subsection may be amended from time to time by resolution adopted by the Gold Beach City Council.