



595 Main Street, Aumsville, OR 97325  
Office: (503) 749-2030 ~ FAX: (503) 749-1852  
Email: rharding@aumsville.us

# **PUBLIC NOTICE**

## **AUMSVILLE CITY COUNCIL MEETING**

Via Zoom Video Conference

**MONDAY, October 26, 2020**

### **AGENDA**

**1) CALL TO ORDER: 7:00PM**

- A. Approve Agenda

**2) PRESENTATIONS, PROCLAMATIONS, & VISITORS**

A. **Public Comment:** Due to the COVID-19 Virus Council will conduct the meeting via Zoom conference call. Public Comment will be accepted from online attendees at this time. Comments are limited to 5 minutes for comments on items other than Public Hearings listed below. There is a public comment period within each hearing. You may also submit comments by emailing City Administrator Ron Harding at [rharding@aumsville.us](mailto:rharding@aumsville.us) by noon on October 26, 2020.

B. **Visitors:** For information about how to attend the meeting online, please call City Hall at 503.749.2030 or email [crogers@aumsville.us](mailto:crogers@aumsville.us) to request log in instructions. Information will also be posted on our website [www.aumsville.us](http://www.aumsville.us)

**3) CONSENT AGENDA:** (Action) Council Meeting October 12, 2020 Minutes

**4) PUBLIC HEARING: Municipal Code Ordinance Update Chapters 1 & 3**

**A. Open Hearing**

- 1) Staff Report - Proposed Chapter 1 & 3 Ordinance Updates: City Administrator Ron Harding
- 2) Questions
- 3) Receive Public Comments
- 4) **Close Public Hearing**
- 5) Council Deliberations
- 6) Council Decision: (Action)
  - a) First reading of Ordinance No. 671 AN ORDINANCE ESTABLISHING CITY PLANNING COMMISSION; PRESCRIBING ITS POWERS AND DUTIES AND REPEALING ORDINANCE NO. 354.
  - b) First reading of Ordinance No. 672 AN ORDINANCE REPEALING ORDINANCE NO. 362, WHICH ESTABLISHED A PARK AND RECREATION COMMISSION FOR THE CITY OF AUMSVILLE
  - c) First reading of Ordinance No. 673 AN ORDINANCE REPEALING ORDINANCE NO. 476, WHICH ESTABLISHED AN AUMSVILLE TRAFFIC AND SAFETY COMMISSION.
  - d) First reading of Ordinance No. 674 AN ORDINANCE REPEALING ORDINANCE NO. 365, WHICH PROVIDES FOR MUNICIPAL SEWER AND WATER SERVICE FEES, SIDEWALK, CURBS, SIDESTRIPS AND STREET ASSESSMENTS TO BECOME LEINS.

- e) First reading of Ordinance No. 675 AN ORDINANCE REPEALING ORDINANCE NO. 543, WHICH PROVIDED FOR APPOINTMENT OF AN AUMSVILLE SKATEPARK COMMITTEE FOR THE CITY OF AUMSVILLE, OREGON
- f) First reading of Ordinance No. 676 AN ORDINANCE REPEALING ORDINANCE NO. 544, AN ORDINANCE OF THE CITY OF AUMSVILLE, OREGON, REGARDING CLAIMS FOR JUST COMPENSATION ARISING OUT OF THE ENACTMENT OF A STATEWIDE BALLOT MEASURE; MAKING CERTAIN PROVISION THEREFORE AND DECLARING AN EMERGENCY.
- g) First reading of Ordinance No. 677 AN ORDINANCE ADOPTING RULES TO BE KNOWN AS THE CITY OF AUMSVILLE PUBLIC CONTRACTING REGULATIONS AND REPEALING ORDINANCE NO. 559.
- h) First reading of Ordinance No. 678 AN ORDINANCE WHICH ESTABLISHING A SYSTEMS DEVELOPMENT CHARGE FOR CAPITAL IMPROVEMENTS FOR WATER SUPPLY, TREATMENT, TRANSMISSION, AND DISTRIBUTION; WASTEWATER COLLECTION, TREATMENT, AND DISPOSAL; STORM DRAINAGE, INCLUDING FLOOD CONTROL; STREETS; AND PARKS AND REPEALING ORDINANCE NO. 387.
- i) First reading of Ordinance No. 679 AN ORDINANCE ESTABLISHING WATER REGULATIONS AND REPEALING ORDINANCE NO. 401
- j) First reading of Ordinance No. 680 AN ORDINANCE ESTABLISHING SEWER REGULATIONS AND REPEALING ORDINANCE NO. 402
- k) First reading of Ordinance NO. 681 AN ORDINANCE ADOPTING REGULATIONS FOR USE OF THE CITY'S SANITARY SEWER SYSTEM AND REPEALING ORDINANCE NO. 570

**5) OLD BUSINESS: None**

**6) NEW BUSINESS: (Action) None**

**7) CITY ADMINISTRATOR REPORT: (Information)**

- A. Review Check Register October 13, 2020 through October 15, 2020

**8) MAYOR AND COUNCILORS REPORTS**

**9) GOOD OF THE ORDER:**

- A. Other Business May Come Before the Council at This Time

**10) CORRESPONDENCE: None**

**11) EXECUTIVE SESSION: None**

**12) ADJOURNMENT**

The City of Aumsville does not and shall not; discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

Anyone wishing to speak on an agenda item should ask to be recognized by the Mayor or Chair at the beginning of that agenda item. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities must be made at least 48 hours prior to the meeting. Please call (503) 749-2030 and leave a message or Oregon Relay Service for TDD at (800) 735-2900.



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## **AUMSVILLE CITY COUNCIL**

### **Minutes – October 12, 2020**

Mayor Clevenger called the meeting to order at 7:05 PM via Zoom Conferencing. Council present was: Mayor Derek Clevenger, Ryan Bambrick (arrived 7:08), Nico Casarez, Angelica Ceja, Doug Ecclestone, Larry Purdy, and Della Seney. Council absent: None. City Administrator Ron Harding (CA Harding), City Clerk Colleen Rogers (CC Rogers) were also present via Zoom. The meeting was video recorded to be released later.

**AGENDA APPROVAL:** Staff requested to add an amendment to the agenda under Item 6) New Business: Contract Agreement with Arete Advisors, LLC. Councilor Casarez moved to approve the amended agenda per staff recommendation. Councilor Ceja seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

**VISITORS:** There were 13 online attendees. Login information was provided for members of the community to listen to the discussion.

**PUBLIC COMMENT:** Steve Sugg, owner of Snake River Solutions, aka Visor, explained that he was having difficulty getting a franchise application from city hall and asked Council for help. CA Harding offered Council insight and stated that he has been emailing with Mr. Sugg about other concerns with his current franchise agreement. In one of his replies to CA Harding, Mr. Sugg asked to convert his current fiber application to a cable franchise. He replied, letting Mr. Sugg know that there are state and federal laws that govern franchises and the City can't convert two different types of applications. CA Harding then sent the request to our franchise attorney for guidance on the request. This was a couple of weeks ago and he has not heard anything back from the attorney. He was waiting to hear back from the attorney before responding to Mr. Sugg. He apologized that he didn't know it was a time sensitive matter. He will follow up with the attorney and let Mr. Sugg know what the next step will be.

**CONSENT AGENDA:** Council reviewed the September 28, 2020 Council meeting minutes. Councilor Casarez moved to approve the consent agenda as presented. Councilor Ecclestone seconded. Motion APPROVED 7-0: (Yes: Councilors Bambrick, Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

#### **OLD BUSINESS:**

Draft Vision Plan: CA Harding gave a brief overview of the document, stating that it is the product of several years of public meetings and community input. The goals and objectives were taken directly from the information from those meetings. CC Rogers displayed the document in a flip page format to show Council how it will look on our website. CA Harding

walked Council through the booklet explaining each section. CA Harding explained to Council that the action plans in the vision plan are only those that the process shows universal agreement for. CA Harding said he included all of the brainstorm developed issues on the last two pages for transparency and his plan will be to get the plan on the website and develop feedback from the community using the flip software and a survey form. Mayor Clevenger and Councilor Purdy voiced their appreciation to CA Harding, staff, and community members that participated in this process for all the hard work creating this document.

Ordinance/Code Updates: CA Harding gave a brief history of the updating process and where we are in the process now. Going forward, staff will work with the attorney on the changes that are needed to ensure the updates comply with current case law. The drafts will be brought to Council for review, then once completed bring them to Council for the first reading, then two weeks later bring it back for the second reading and adoption. This will give more time for the public to review changes online and give feedback. Council received and reviewed Code Chapter 1, 2, and 3 updates. CA Harding explained that there are several old ordinances that staff suggests repealing as they are no longer relevant to City operations. He continued through the chapters, citing the proposed updates.

He stated that there are several significant changes needing to be discussed regarding the water rates regulation ordinance. He commented that the focus of these changes is equalization of the utility for all customers but also there are a number of changes that create a benefit to our customers. Some of the changes proposed:

- no longer require account deposits
- eliminate the lien process on delinquent bills
- have the owner of the property sign a contract to be responsible for the water bills
- changes to the discount program

CA Harding asked Council, if they choose to move forward with these proposed changes, how would staff implement the changes? Would staff apply the changes to existing accounts or only to new accounts? He also asked how Council would like to address the senior rate program. After a lengthy discussion, Council consensus was to leave the discount program status quo and come back to the discussion after the water rate analysis is completed. Council consensus was to eliminate the lien process and remove deposits and have owners sign contract to be responsible. CA Harding stated that he will get the discussed changes made to these first three chapters and bring it back to Council for the first readings and review. Staff will work on the best plan for implementation of these changes should Council approve the final ordinance.

**NEW BUSINESS:** Contract service agreement with Arete Advisors, LLC., anti-virus spyware software provider. CA Harding explained that with all the ransom ware attacks happening in other cities, our IT provider suggested that we hire a cyber security monitoring service. He talked about the contract and some of the changes that he negotiated with them. These changes are shown in the markup version of the contract and it was discussed.

Councilor Purdy moved to authorize CA Harding to move forward with the Arete Advisors, LLC as presented with edits. Councilor Casarez seconded. Motion APPROVED 7-0: (Yes: Councilors Bambrick, Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

**CITY ADMINISTRATOR’S REPORT:** COVID-19: CA Harding updated Council on the COVID-19 epidemic. The Aumsville zip code area had a rise and we are now at 48 positive cases since the beginning of the outbreak.

CA Harding reported that the Event Planning Committee has begun work on the 2020 Christmas events. They have some fun ideas to create COVID friendly events. We will not be able to have our traditional Christmas in the Park event but will still do the Tree Lighting in some format. The committee is still working out the details. The Santa visit will still happen. Santa will stay in the firetruck and bags will be distributed. New ideas include Mill Creek Carriage touring through town with carolers singing favorite Christmas songs. The horse drawn carriage will be decked out with lights and decorations. We are also looking at doing a residential and commercial decorating contest. We will post plans on Facebook and in the newsletter as we get them confirmed.

CA Harding reported that he had someone contact him with a question about Manufactured Home Parks (MHP) having different rules than the rest of the city. He stated that the MHPs do have some different rules regarding streets and infrastructure. These are privately owned by the park, so we can’t enforce traffic or parking issues. Most other city ordinances do apply to park residents. It is always best to contact the city with any questions regarding ordinances.

We had an issue with our October newsletter getting mailed out late. There was a mix-up with the printing company, and it was delayed. Staff has put some procedures in place that will prevent this from happening again in the future.

**MAYOR/COUNCIL REPORTS AND INITIATIVES:** Councilor Casarez asked if the City has looked at having a permanent ballot drop box installed outside of city hall. CA Harding stated that the Marion County Election office did come find a good location to place a permanent box. Unfortunately, there were funding issues, and they couldn’t get it installed before this election.

**GOOD OF THE ORDER:** Mayor Clevenger announced that the Santiam Canyon Wildfire fundraiser has been moved to the 17<sup>th</sup> because of weather issues.

**CORRESPONDENCE:** None

**ADJOURNED WITHOUT PREJUDICE AT 8:51 PM**

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Derek Clevenger, Mayor

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Ron Harding, City Administrator



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## STAFF REPORT

**TO:** City of Aumsville City Council

**FROM:** Ron Harding, City Administrator

**SUBJECT:** Proposed Ordinance Revisions  
(See new Ord. numbers in blue below)

**RECOMMENDATION:** Approve first reading of ordinances in chapter 1 of the Aumsville Municipal Code repealing Ord 354, 362, 476, 365, 543, 544, 559 and replacing with Ord 671, 672, 673, 674, 675, 676, and 677. In chapter 3 of the Aumsville Municipal Code repealing Ord 387, 401, 402, 570 and replacing with Ord 678, 679, 680 and 681.

**BACKGROUND:** The City of Aumsville worked last year with John Morgan from Morgan CPS to review and propose changes to the development ordinance that Council approved and adopted in August. A secondary project was to provide a complete overview of all other city ordinance chapters. Staff had identified a number of inconsistencies and there were some desires of Council to make certain changes to accommodate changes of the community. The project from Morgan CPS was completed in February just before the COVID-19 pandemic interrupted our work. City staff then began working with our city attorney to review for legal compliance. At this point we had discovered a number of our ordinances were no longer consistent with either changing state laws or recent case law and a more extensive rewrite would need to be completed. Below is a summary of the proposed substantive revisions. Other revisions proposed are in track changes on the original ordinances. Copies are provided in the agenda packet.

### CHAPTER 1 CHANGES:

**1-2 Planning Commission** (Ord 354, amended by 432, 558).  
(Replacing with Ordinance No. 671)

Revisions

Section 2. Updated to clarify member qualifications. Removed the Mayor as ex-officio member.

Section 7. Updated to clarify that secretary is a staff member.

Section 10. Updated to clarify that signature need only be chair or vice-chair if the chair was not present. Section 13. Removed Emergency Clause, not needed.

### **1-3 Park and Recreation Commission (Ord 362)**

City Administrator recommends repeal as the commission is inactive and a substantial rewrite would need to be completed. Recommendation is to move committees like this to a resolution format.

Repealing with Ordinance No. 672

### **1-4 Traffic and Safety Commission**

(Ord 476, amended by 483, 488, 512, 515, 553)

Repealing with Ordinance No. 673

City Administrator recommends repeal as this commission is inactive and would need substantial rewrites to be valid. Recommendation are the same as above.

### **1-5 Municipal Sewer and Water Liens (Ord 365)**

Reviewed by City Attorney – recommend repeal.

Repealing with Ordinance No. 674

### **1-6 Skatepark Committee (Ord 543)**

City Administrator recommends repeal as the committee is inactive and again should be rewritten when a need is shown.

Repealing with Ordinance No. 675

### **1-7 Property Owner Land Claims (Measure 37 Claims) (Ord 544)**

Reviewed by City Attorney – recommend repeal.

Repealing with Ordinance No. 676

### **1-8 Public Contracting Regulations (Ord 559)**

Replacing with Ordinance No. 677

X **Revisions**

Section 8. Updated ORS. Section (B) is all new

Section 10. (A) 2. Updated contract price

Section 10. (A) 18. Removed Temporary Use of City Owned Property

Section 10 (B) 1. Updated to apply to all Public Improvements, not just Non-Transportation

Section 10 (B) 2. Updated contract price

## **CHAPTER 3 CHANGES:**

### **3-1 Solid Waste Management and Garbage Franchise**

(Ordinance No. 308 as amended by Ordinance Nos. 334, 384, 459, 468, 514)

(See also under Chapter 9, 9-10 Franchises)

This section is to be removed as it already exists under Chapter 9. The language in the section is staying the same, it is a duplicate of Chapter 9.

### **3-2 Sewer Regulations**

(Ordinance No. 374)(Repealed by Ord. No. 570 January 31, 2007 See section 3-6)

### **3-2 System Development Charges**

(Ordinance No. 387 as amended by Ordinance No. 513; 588; 614)

☒ Revisions needed [Replacing with Ordinance No. 678](#)

Section 12, D & E deleted. No exceptions made for work in which the City finances or it is a municipal project.

Section 13, C, D, E Credits given to developers to be updated to fit within current method of operation. This allows an agreement between the city and a developer for installation of projects by development to allow either a purchase by the city or credits on SDC's for work performed above work required by development.

Section 22, Emergency clause deleted; not needed.

### **3-3 Water Rates and Regulations**

(Ordinance No. 401 as amended by Ordinance Nos. 446, 448, 454, 521, 529, 548, 589, 591, 595, 631, 639)

☒ Revisions needed ([Replacing with Ord. 679](#))

Article 1, Section 1, (A) A water rate resolution is used to set the rates, the rates section is deleted.

Article 1, Section 1, (B)(1) The owner of the land upon which the user is located is responsible for charges. By doing this we also remove the option to lien, instead send to collections for unpaid bills.

Article 1, Section 1, (B)(3) Rate increased by 3% up to 6% should this be completed by resolution each year. We deleted any reference to % increase or decrease, the new process will simply be to review rates during budgeting and council can approve a new rate or leave rates in place by taking no action.



Article 1, Section 1 Removed all instances of specific fees as these will be set in the water rate resolution rather than in this Ord.

Article 1, Section 1, (C) Hydrant tank filling, it has been the practice of the city to only allow for use inside the city, i.e., when new development needs water but does not have water lines set yet. We adjusted this to fit within this practice.

Article 2 Section 1 (G) Spelling it out explicitly that the city is not responsible for the water lines on the customer's side of the water meter.

Article 2 Section 1 (H) Base water rates are always due, regardless of usage or not. So discontinue to allow opt out options for snow birds.

Article 2 Section 3 City restricts new wells and requires owners who have wells to install and maintain a backflow device that the Public Works Director says will prevent contamination of the city's water supply.

Article 2 Section 11 More clearly outlined the customers responsibility in regard to damaging the water system. Specifically added a section requiring promptness.

Article 2 Section 13 Adds a statement to the application stating that water staff can access the plumbing to ascertain no hazards.

Article 4 Section 2 Discuss the option of not requiring a deposit or refunding the deposit to everyone and not just homeowners after 12 months of on time payment.

Article 5 Section 1 Remain unchanged regarding senior discount program.

Article 6, Section 3 Inserted the right to an appeal section which it did not contain previously. This sets a specific process in place to stop a disconnection.

Article 6 Section 5 Unauthorized reconnection is the responsibility of the property owner and a violation results in a fine rather than a criminal or civil citation. The fine is set.

Article 6 Section 9 Updated the adjustment of accounts for leaks to fit within current practices, also require prompt repair, and to not be covered if the leak is a result of negligent action. This shares the cost of reduction between the owner and the city, rather than all on the city, and removes the adjustment fee.

Article 10 Section 2, Looking into removing mechanism for liens and instead sending to collections.

Article 10 Section 4, update the fines for violations. These violations can cause a public health issue to our water system and should be taken seriously; fines should reflect. We have increased the proposed fines. We deleted a sentence that did not refer to this section.

### **3-4 Sewer User Charges**

(Ordinance No. 402 as amended by Ordinance Nos. 455, 523, 585, 590, and 612)

Revisions needed (Replacing with Ordinance No. 680)

Article 2, Section 7. Outdated sewer rate breakdown removed and states that resolution adopted by Council establishes the rate.

Article 3, Section 2. Discount programs remain the same but set by council resolution rather than this ordinance.

Article 4, Section 1. Responsible party will be the property owner, allows the council to set deposit fees by resolution or contract.

Added Article 10, Violations. This sets provisions for failures to comply with requirements. Removes liens and replace with contract and sending to collections. Outlines what are prohibited activities. Outlines penalties, in line with the water fines in Article 10, Section 4.

### **3-5 Sewer Regulations**

(Ordinance No. 570; amended by Ord. No. 586)

Attached with revisions **Rewritten by City Attorney – attached**

(Replacing with Ord. 681)

Repeals and replaces Ord 570.

Remove all emergency declarations

### **SAMPLE MOTION:**

**Option 1: Move to approve first reading of Ordinance No. \_\_\_\_ by title only, or**

**Option 2: Move to approve first reading of Ordinance No. \_\_\_\_ by title only with modifications, or**

**Option 3: Move to remand Ordinance No. \_\_\_\_\_ back to staff for revision.**

- I motion to approve the first reading by title only of Ordinance No. 671 AN ORDINANCE ESTABLISHING CITY PLANNING COMMISSION; PRESCRIBING ITS POWERS AND DUTIES AND REPEALING ORDINANCE NO. 354.
- I motion to approve the first reading by title only of Ordinance No. 672 AN ORDINANCE REPEALING ORDINANCE NO. 362, WHICH ESTABLISHED A PARK AND RECREATION COMMISSION FOR THE CITY OF AUMSVILLE

- I motion to approve the first reading by title only of Ordinance No. 673 AN ORDINANCE REPEALING ORDINANCE NO. 476, WHICH ESTABLISHED AN AUMSVILLE TRAFFIC AND SAFETY COMMISSION.
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- I motion to approve the first reading by title only of Ordinance No. 680 AN ORDINANCE ESTABLISHING SEWER REGULATIONS AND REPEALING ORDINANCE NO. 402
- I motion to approve the first reading by title only of Ordinance NO. 681 AN ORDINANCE ADOPTING REGULATIONS FOR USE OF THE CITY'S SANITARY SEWER SYSTEM AND REPEALING ORDINANCE NO. 570

## **ORDINANCE NO. 671**

### **AN ORDINANCE ESTABLISHING CITY PLANNING COMMISSION; PRESCRIBING ITS POWERS AND DUTIES AND REPEALING ORDINANCE 354.**

#### **The City of Aumsville ordains as follows:**

**Section 1.** Ordinance 354 re-established and recreated the city planning commission ("Commission") for the city of Aumsville, Oregon. This ordinance perpetuates the Commission.

**Section 2.** The Commission shall consist of five members none of whom shall be city officials or employees, one of whom may reside outside the city limits but within the City's urban growth boundary, and one whom may be a current Aumsville business owner residing within or outside of the Aumsville urban growth boundary. All other Commission members must reside within the city limits. Commission members receive no compensation.

**Section 3.** Members of the Commission shall be appointed by the mayor with the consent of the majority of Council, for terms of two (2) years. Terms shall be staggered so two (2) members are appointed in odd-numbered years and three (3) in even-numbered years.

**Section 4.** Appointments to fill vacancies on the Commission shall be for the remainder of an unexpired term in the same manner as set forth in Section 3 above.

**Section 5.** Any member of the Commission may be removed for misconduct or non-performance of duty, following a public hearing. After which their position may be declared vacant. A Commission member absent from three (3) consecutive meetings without an approved excuse from the Commission is presumptively deemed in non-performance of duty. Removal shall be only upon a majority vote of the entire Council.

**Section 6.** At its first meeting of each calendar year, the Commission shall elect a Chair and Vice-Chair from among the Commission members.

**Section 7.** The City shall select a staff member who shall act as the secretary for the Commission. The secretary shall keep an accurate record of all Commission proceedings consistent with State law and Council policy.

**Section 8.** Three members of the Commission constitute a quorum. The Commission shall meet at least once a month unless the Chair cancels the meeting due to the lack of agenda items or the lack of a quorum. Meetings of the Commission shall be

conducted consistent with the Oregon Open Meetings Law and Council policy. Meetings other than at regularly scheduled times shall be announced at a prior meeting and made a part of the minute records.

The Chair upon their own motion, or at the request of three (3) Commission members, may call for a special Commission meeting to be held at a time not earlier than twenty-four (24) hours after public notice is provided consistent with state law. Notice of the special meeting will be given immediately to all Commission members. Notice of the special meeting shall be posted at city hall and to the extent feasible, provided to interested persons.

**Section 9.** It shall be the Commission's duty and authority except as otherwise provided by law to:

- 1) make recommendations to Council for revisions and updates of the city's currently adopted comprehensive plan and development code as provided by the respective ordinances.
- 2) recommend, make suggestions to and advise Council, and with the prior consent of Council, other public authorities concerning:
  - a. the laying out, widening, extension, and location of streets, sidewalks, boulevards, and other public rights-of-way and areas in the city;
  - b. relief from traffic congestion; and
  - c. betterment of zones and/or districts limiting the use, height, area, and bulk of buildings and other structures.
- 3) recommend to Council, and with the consent of Council, other public authorities plans for regulation of future growth, development, and beautification of the city.
- 4) study and propose for Council's consideration measures designed for promotion of the public interest, health safety, comfort, convenience, and welfare of the city and within the urban growth boundary.
- 5) exercise those substantive and procedural duties and obligations imposed on the Commission pursuant to this ordinance, the City's Development Code, or state law, including but not limited to:
  - a. the preparation and establishment of rules for the conduct of Commission meetings, to be effective upon approval by Council;
  - b. making decisions on all applications for planning approval by determining conformance with applicable Development Code and other lawful criteria, and following defined hearing and deliberation procedures set out in the Development Code and state law;
  - c. conducting public hearings and developing recommendations to Council concerning amendments to the Comprehensive Plan text and map, supplemental plans, and Development Code.

**Section 10.** All recommendations, reports, decisions, and suggestions made to Council by the Commission shall be in writing. Said written reports shall be signed and acknowledged by the Commission's Chair or Vice-Chair.

**Section 11.** The Commission shall have authority to neither make expenditures nor obligate the City for payment of any sums of money except as provided, approved, and authorized by Council. All requests for payment shall be submitted to the Council at a regularly scheduled meeting.

**Section 12. Repeal.** Ordinance 354 is hereby repealed.

**Section 13. EFFECTIVE DATE.** This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

**ORDINANCE NO. ~~XXX~~354****AN ORDINANCE ESTABLISHING ~~A~~ CITY PLANNING COMMISSION;  
PRESCRIBING ITS POWERS AND DUTIES; REPEALING ORDINANCE 354; AND  
DECLARING AN EMERGENCY.**

The ~~e~~City of Aumsville ordains as follows:

**Section 1.** Ordinance 354 re-established and recreated ~~the a~~ city planning commission ("~~Commission~~"), ~~herein referred to as the commission~~, for the city of Aumsville, Oregon. This Ordinance perpetuates the ~~e~~Ccommission.

**Section 2.** The ~~e~~Ccommission shall consist of five members ~~none of whom shall be who are not~~ officials or employees of the city, ~~two one~~ of whom may reside outside the city limits but within the ~~City's~~ urban growth boundary; ~~and~~ one ~~whom~~ may be a current Aumsville ~~B~~business ~~O~~owner residing within or outside of the Aumsville urban growth boundary. ~~All other commission members must reside within the city limits. The mayor shall serve as an ex-officio member of the commission, with the right to take part in its discussions, but shall not have the right to vote.~~ Commission members ~~shall~~ receive no compensation.

**Section 3.** Members of the commission shall be appointed by the mayor; with the ~~consent approval~~ of the majority of the ~~city~~ council, for terms of two (2) years. ~~Terms shall be staggered so two (2) members are appointed in odd-numbered years and three (3) in even-numbered years.~~

**Section 4.** Appointments to fill vacancies on the ~~C~~commission shall be for the remainder of ~~anthe~~ unexpired term ~~and~~ in the same manner as set forth ~~In Section 3 above for appointment of all commission members, by the mayor with the approval of the majority of the city council.~~

**Section 5.** Any member of the ~~C~~commission may be removed by the ~~city~~ council ~~after a hearing and their position declared vacant~~ for misconduct or non-performance of duty. A ~~commission~~ member ~~who is~~ absent from three (3) consecutive meetings; without an ~~approved~~ excuse ~~from as approved by~~ the ~~C~~commission; is ~~presumptively deemed ed to be in~~ non-performance of duty; ~~and the city council shall declare the position vacant, unless they find otherwise.~~ Removal ~~of any member of the commission~~ shall be only upon a majority vote of the entire council ~~of the city.~~

**Section 65.** At its first meeting of each calendar year, the ~~e~~Ccommission shall elect a ~~chairman~~ and vice-chairman ~~from among the Ccommission members who shall be voting members of the commission to serve one-year terms.~~

**Section 76.** The ~~e~~Ccommission shall select a secretary who need not be a member of the ~~C~~commission. The secretary shall keep an accurate record of all

~~Commission proceedings consistent in accordance with State law and Council policy. The commission shall report the same to the city council within a reasonable time after the commission meeting.~~

**Section 87.** ~~A majority of the Three~~ members of the ~~C~~ommission shall constitute a quorum. The ~~e~~Commission shall meet at least once a month ~~unless the Chair cancels the meeting due to the lack of agenda items or the likely lack of a quorum.~~ Meetings of the ~~e~~Commission shall be ~~conducted consistent in accordance with the Oregon Open Meetings Law and Council policy open to the public.~~ Meetings other than at regularly scheduled times shall ~~may~~ be announced at a prior meeting and ~~thereby~~ made a part of the minute records.

The ~~e~~Chairman, upon his ~~or her~~ own motion, ~~may~~, or at the request of three (3) ~~Commission~~ members ~~of the commission, by giving notice to the members of the commission, may~~ call ~~for a previously unannounced~~ special ~~Commission~~ meeting ~~of the commission to be held at for~~ a time not earlier than twenty-four (24) hours after ~~the public~~ notice is ~~provided consistent with state law given.~~ ~~Notice of the special meeting will be given immediately to all the eCommission members.~~ Notice of ~~the special a previously unannounced~~ meeting shall be posted at city hall and, to the extent feasible, provided to interested persons ~~at least twenty-four (24) hours prior to said meeting.~~

**Section 89.** It shall be the ~~Commission's~~ duty ~~of the commission,~~ and ~~authority it shall have the power,~~ except as otherwise provided by law ~~to:~~

- 1) ~~To~~ make recommendations to the council for revisions and up-dates of the city's currently adopted comprehensive plan and development ~~code ordinance~~ as provided by the respective ordinances.
- 2) ~~To review and suggest changes in planned unit development applications to insure consistency with the development ordinance and compatibility with surrounding developments.~~
- 3) ~~To work as an advisory staff to the city council in reviewing subdivision plats.~~
- 2) ~~To~~ recommend, ~~and~~ make suggestions to ~~and advise~~ the city council and ~~to all with the prior consent of the council,~~ other public authorities concerning:
  - a. the laying out, widening, ~~extensioning~~ and ~~locationng~~ of streets, sidewalks, boulevards and other public rights-of-way and areas in the city; ~~and public parking areas, sidewalks, and boulevards,~~
  - b. ~~relief from for~~ traffic congestion; ~~and~~
  - a.c. ~~\_\_\_\_\_~~, betterment of zones ~~and/or~~ districts limiting the use, height, area and bulk of ~~the~~ buildings and ~~other~~ structures.
- 4)3) ~~To~~ recommend to the city council and ~~all with the consent of the council,~~ other public authorities ~~plans~~ for regulation of future growth, development and beautification of the city municipality with respect to ~~its~~ public and private buildings and works, streets, parks, grounds and vacant lots ~~consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper services of all public utilities and transportation facilities.~~



- ~~5)4) To study and propose for the Council's consideration, in general, such measures designed as may be advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and within the urban growth boundary.~~
- ~~6)5) To exercise those substantive and procedural duties and obligations imposed on the Commission any expressed or implied power, right or act pursuant to this ordinance, the City's Development Code ordinance, or state law including but not limited to: ORS Chapter 227.~~
- ~~7) To exercise any expressed or implied power or duty which is now or may hereafter be assigned to it by charter, ordinance or resolution of this city and the general laws of the state.~~
- ~~a. the preparation and establishment of rules for the conduct of Commission meetings, to. Said rules shall be effective only upon approval by a majority of the city council.~~
- ~~b. To make decisions on all applications for planning approval as prescribed in the Development Code by determining conformance with applicable Development Code and other lawful criteria for approval and following defined hearing and deliberation procedures set out in the Development Code and state law;:-~~
- ~~c. To conducting public hearings and developing recommendations to the City Council concerning amendments to the Comprehensive Plan text and map, supplemental plans, and the Development Code.~~
- ~~b. conduct public hearings and deliberations on all amendments to the development ordinance, applications for zone changes, variance permits, applications for conditional use permits or any other hearings specified in the Aumsville development ordinance. Commission decisions on variance and conditional use applications shall be final, unless an appeal is filed. Recommendations to the council shall be made on all other procedures.~~

**Section 9.** All recommendations, reports, decisions and suggestions made to the city Council by the Commission shall be in writing. Said writing-written reports shall be signed and acknowledged by the Commission's chairman and vice-chair man of the commission.

~~**Section 10.** If a quorum of the commission is not available for any procedure requiring a public hearing, the applicant may request that the hearing be set before the next regularly scheduled meeting of the city council. If the city council conducts the public hearing, the council shall be the public body to make the decision.~~

**Section 104.** The Commission shall have ~~no~~ authority to neither make expenditures on behalf of the city, nor ~~to~~ obligate the City for ~~the~~ payment of any sums of money; except as herein provided, approved and authorized by the city Council. All requests for payment shall be submitted ~~for approval~~ to the city Council at a the next regularly scheduled meeting and monies shall be expended from the general fund of the city budget.

**Section 1211. Repeal.** Ordinance 354189 is hereby repealed.

**Section 1312. Emergency Clause.** Whereas, it is necessary for the immediate the duties and authority of the Aumsville Planning Commission be set out promptly for it to continue its functions, preservation of the public health, peace and safety of the citizens of the city of Aumsville that this ordinance become effective at the earliest time possible, therefore, this ordinance shall become effective immediately upon its passage by the council and signature of the mayor.

PASSED by the council \_\_\_\_\_

and signed by the mayor \_\_\_\_\_

**ORDINANCE NO. 672**

**AN ORDINANCE REPEALING ORDINANCE NO. 362, WHICH ESTABLISHED A PARK AND RECREATION COMMISSION FOR THE CITY OF AUMSVILLE.**

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer valid, The City has reorganized this committee and this structure is no longer needed.

Section 2. REPEAL. ORDINANCE NO. 362, AN ORDINANCE ESTABLISHING A PARK AND RECREACITON COMMISSION FOR THE CITY OF AUMSVILLE, OREGON; PROVIDING THE TERMS OF OFFICE AND DEFINING THE POWERS AND DUTIES THEREOF; MAKING THE ORDINANCES OF SAID CITY APPLICABLE TO AUMSVILLE PARKS AND RECREATION PROPERTY WITHING THE BOUNDARIES OF SAID CITY; REPEALING ORDINANCES 173 AND 270 AND DECLARING AN EMERGENCY, dated December 13, 1989; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

## ORDINANCE NO. 362

AN ORDINANCE PROVIDING FOR APPOINTMENT OF A PARK AND RECREATION COMMISSION FOR THE CITY OF AUMSVILLE, OREGON; PROVIDING THE TERMS OF OFFICE AND DEFINING THE POWERS AND DUTIES THEREOF; MAKING THE ORDINANCES OF SAID CITY APPLICABLE TO AUMSVILLE PARKS AND RECREATION PROPERTY WITHIN THE BOUNDARIES OF SAID CITY; REPEALING ORDINANCES 173 and 270 AND DECLARING AN EMERGENCY.

The City of Aumsville, Oregon, ordains as follows:

Section 1. The Mayor of the City of Aumsville shall appoint, with the approval of the Council, a Commission to be known as the Park and Recreation Commission consisting of seven members. At least four of the said original commissioners shall be appointed for a term of one year and three members shall be appointed for a term of two years. Thereafter, all members shall be appointed for two year terms, or until a successor is appointed. Commission terms shall end on the 31st day of December.

Section 2. An ex-officio member of said Commission shall be a Councilor of the City of Aumsville, to be appointed by the Mayor, and shall serve as Park and Recreation Commissioner at the pleasure of the Council. Said Councilor shall act as liaison between the Commission and the Council. In the absence of a Park and Recreation Commissioner, a replacement will be appointed by the Mayor.

Section 3. The Commission shall annually elect, from its members, a Chairman, Vice-Chairman and Secretary. The chairman shall preside over all meetings. The vice-chairman shall serve in the absence of the chairman. The secretary shall keep a permanent record of the proceedings of the Commission, a copy of which shall be placed in the office of the City Recorder as one of the public records of that office. One copy shall also be delivered to the Park and Recreation Commissioner.

Section 4. The members of the Park and Recreation Commission shall serve without pay. Said Commission shall hold regular meetings at least once a month with said meeting open to the public, and if any member of the Commission shall be absent from three (3) regularly scheduled meetings within a period of one year without excuse, the chairman shall declare the position vacant and shall proceed to fill the vacancy. A quorum shall consist of the majority of the positions filled at that particular time. Three members of the Commission may call an unscheduled meeting provided that said members personally try to notify all other members of the Commission and a quorum is present.

Section 5. The Park and Recreation Commission shall have control of the management and administration of the public parks of the City of Aumsville, subject to Council approval, and shall have authority to make such rules and regulations to control

the management and administration of all of the activities coming within its jurisdiction. All funds budgeted for the purpose of carrying on the work assigned to the Park Commission shall be expended only by the Council in like manner as all other general expenses of the City are allowed and paid, and none of such funds shall be handled by the Commission. That said Commission shall have no power to create any indebtedness or claim unless there shall have been funds heretofore budgeted according to law by the City of Aumsville for such purpose.

Section 6. The duties of the Commission shall consist of the power and duty to advise the City Council and Administrator concerning the management, care, and control of the public parks and recreation facilities now in existence and those which may hereafter be established. More specifically:

(a) To devote due time and attention to the discharge of the duties imposed upon it by provisions of this ordinance.

(b) To make suitable rules and regulations, which shall first be approved by the Council, to provide a general program of public recreation for the community.

(c) To determine the form of recreation or cultural activity which should be conducted on public playgrounds, playfields, indoor recreation centers, and other recreation areas or facilities available to the Commission, which will be most beneficial to the largest number of people in the community.

(d) To advise the Council and those responsible for the administration of the recreation program of the Commission's plans and recommendations for public recreation.

(e) To hold public hearing whenever necessary with respect to the Commission's plan and program for public recreation.

(f) To submit annually to the budget committee of the City recommendations on the proposed budget for public parks and recreation operations and maintenance for the ensuing fiscal year.

(g) To make recommendations as to the rate or amount of any necessary service charges required for the use of any recreation facility under the jurisdiction of the Commission.

(h) To make an annual report to the City Council, and such other reports as from time to time may be requested of the Commission.

Section 7. The Commission may, subject to Council approval, solicit or receive any gifts or bequests of money, or other personal property, or any donation to be applied, principal or interest, for either temporary or permanent use of the playgrounds or other recreational purposes. Said Commission may also solicit

to hold recreational activities on private property with written consent of the owner, organization or agency.

Section 8. All park property owned or held under leave by the City of Aumsville within the city limits of said city, is hereby placed under the police jurisdiction of the City of Aumsville and all city ordinances of the City of Aumsville are hereby ordained and declared to be applicable to park and recreation property of the City of Aumsville, in order to protect the same and preserve peace and order therein, and regulate the use of such park and recreation property.

Section 9. Repeal. Ordinances 173 and 270 and hereby repealed.

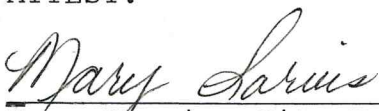
Section 10. Emergency Clause. Whereas it is necessary for the immediate preservation of the public health, peace and welfare of the citizens of the City of Aumsville that this ordinance become effective at the earliest time possible, therefore, this ordinance shall become effective immediately upon its passage by the council and signature of the mayor.

Passed by a unanimous vote of the council this 11th day of December, 1989.

Signed by the mayor this 13 day of December, 1989.

  
\_\_\_\_\_  
Harold L. White, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Sarvis, City Recorder

**ORDINANCE NO. 673**

**AN ORDINANCE REPEALING ORDINANCE NO. 476, WHICH ESTABLISHED AN AUMSVILLE TRAFFIC AND SAFETY COMMISSION.**

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer valid, The City does not use this committee and is no longer needed.

Section 2. REPEAL. ORDINANCE NO. 476, AN ORDINANCE ESTABLISHING THE CITY OF AUMSVILLE TRAFFIC AND SAFETY COMMISSION; PRESCRIBING ITS POWERS AND DUTIES, dated July 10, 2000; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

*Amended by  
483, 488,  
515, 553*

**ORDINANCE NO. 476**

**AN ORDINANCE ESTABLISHING THE CITY OF AUMSVILLE TRAFFIC AND SAFETY COMMISSION; PRESCRIBING ITS POWERS AND DUTIES.**

The City of Aumsville ordains as follows:

**SECTION 1. COMMISSION CREATED.** The City of Aumsville traffic and safety commission is hereby created, and is referred to in this ordinance as the "commission".

**SECTION 2. MEMBERSHIP.** The commission shall be composed of up to five qualified members who live within the Urban Growth Boundary of the City of Aumsville. The members of the commission shall be appointed by the mayor subject to confirmation by the city council. Ex officio members of the commission shall be a representative of the city administrator's office, the chief of police and the public works director. Members of the commission shall not be entitled to compensation for performance of their duties.

**SECTION 3. APPOINTMENT, TERM AND VACANCY.** The initial members of the commission shall be appointed so that one member serves for one year, two for two years, two for three years. Thereafter, commissioners appointed to fill vacancies created by the expiration of the term of a member shall hold office for a term of three years commencing on May 1 of each year. Any vacancy filled by appointment shall be for the unexpired portion of the term of the commissioner in office when the vacancy occurred.

**SECTION 4. ELECTION OF OFFICERS.** At its first meeting, the commission shall elect a chairman and vice chairman and a secretary. The secretary need not be an appointed member of the commission. Officers shall hold office for one year, unless removed prior to that time by note of the commission

**SECTION 5. QUORUM, MEETINGS.** A quorum shall consist of three appointed members of the commission. The commission shall meet at least once a month at such times and places as may be fixed by the commission. Special meetings may be called at any time by the chairman by written notice sent to each member of the commission, including the ex officio members, at least 24 hours before the time specified; and the notice shall state the time and place of the meeting and the business to be discussed at the meeting.

**SECTION 6. REMOVAL FROM COMMISSION.** A commission member may be excused from attending a regular meeting by the chairman, for good cause. If an appointed member fails to attend four consecutive regular meetings without excuse for good cause, the chairman shall submit this fact to the commission, and the commission shall have the power to recommend removal of said member from the commission by the mayor and council.



SECTION 7. DUTIES AND POWERS. Without limiting the generality of the following, the commission shall have the following duties and functions:

- (a) To develop and recommend coordinated traffic safety programs
- (b) To recommend traffic safety priorities for the City
- (c) To review and recommend project applications for funding
- (d) To provide research and information to official agencies of the City
- (e) To foster and promote public knowledge and acceptance of traffic programs, laws and needs
- (f) To provide an annual report of its activities to the Council and other reports which may from time to time be requested by the Council.
- (g) To hold meetings relating to traffic problems and surveys, and to generally educate the public with respect to traffic control problems, solutions and proposals.

SECTION 8. RECOMMENDATIONS. Any recommendations made by the commission to the City Council shall be in writing.

SECTION 9. EXPENDITURE OF FUNDS. The commission shall not have authority to expend money on behalf of the city, nor to obligate the city for the expenditure or payment of any sums of money. All expenditures of city funds related to the performance of the duties and functions of the traffic and safety commission shall be made by order of the City Council.

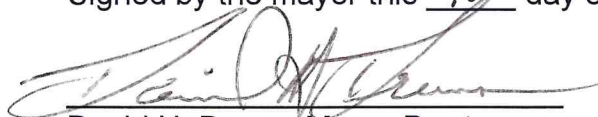
SECTION 10. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

READ first by title only on the 26<sup>th</sup> day of June, 2000.

READ a second time by title only on the 10<sup>th</sup> day of July, 2000.


ADOPTED AND PASSED by the Aumsville City Council on the 10<sup>th</sup> day of July, 2000.

Signed by the mayor this 10<sup>th</sup> day of July, 2000



David H. Drews, Mayor Pro-tem

ATTEST:

  
Maryann Hills, City Administrator

**ORDINANCE NO. 674**

**AN ORDINANCE REPEALING ORDINANCE NO. 365, WHICH PROVIDES FOR MUNICIPAL SEWER AND WATER SERVICE FEES, SIDEWALK, CURBS, SIDESTRIPS AND STREET ASSESSMENTS TO BECOME LIENS.**

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer valid, under state law the city has lien authority for local improvement districts. This ordinance is no longer needed.

Section 2. REPEAL. ORD. NO. 365 AN ORDINANCE PROVIDING FOR MUNICIPAL SEWER AND WATER SERVICE FEES, SIDEWALK, CURBS, SIDESTRIPS AND STREET ASSESSMENTS TO BECOME LIENS; PROVIDING FOR RECORDING OF SAID LIENS; PROVIDING FOR PROCEDURES TO COLLECT SAID LIENS; REPEALING ORDINANCE 215, AND DECLARING AN EMERGENCY.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

*Amended  
by 493,538,560*

ORDINANCE NO. 365

AN ORDINANCE PROVIDING FOR MUNICIPAL SEWER AND WATER SERVICE FEES, SIDEWALK, CURBS, SIDESTRIPS AND STREET ASSESSMENTS TO BECOME LIENS; PROVIDING FOR RECORDING OF SAID LIENS; PROVIDING FOR PROCEDURES TO COLLECT SAID LIENS; REPEALING ORDINANCE 215, AND DECLARING AN EMERGENCY.

The City of Aumsville, Oregon, ordains as follows:

Section 1. Every charge for water and sewer service provided by the City of Aumsville shall become a lien against the real property so served, if the same remains unpaid for more than sixty (60) days after the City requests payment, Also, every charge assessed for sidewalks, curbs, sidestrips and streets shall become a lien when the assessed charges remain unpaid for more than sixty (60) days after the City requests payment.

Section 2. The City Clerk shall notify the owner of the real property of the lien and shall note in the lien docket of the City the date of billing for service, or assessment, the date notice of the lien was placed in the mail, the amount of the claim, the address of the property assessed and the name and address of the owner of record.

Section 3. The City shall have, in addition to all other remedies provided at law and equity, the power to foreclose municipal liens as provided in ORS 223.505 through ORS 223.650, inclusive, and shall follow the procedures for enforcement of said liens as provided herein.

Section 4. All liens shall bear interest thereof at the legal rate provided by law of nine percent (9%), and the same shall commence sixty (60) days from the date the City requests payment.

Section 5. In addition to any other charges, the owner of the real property upon which a lien is imposed shall pay a Ten Dollar (\$10.00) assessment for administrative costs.

Section 6. In the event of a foreclosure of any lien imposed thereby, the City of Aumsville shall be entitled to recover its reasonable attorney fees incurred therein.

Section 7. Repeal. Ordinance 215 is hereby repealed.

Section 8. Emergency Clause. It is hereby adjudged and declared that the existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and welfare of the citizens of the City of Aumsville. An emergency is hereby declared to exist and this ordinance

shall take effect and be in full force and effect when passed by the city council and signed by the mayor.

Passed unanimously by the city council this 11th day of December, 1989.

Signed by the mayor this 13 day of December, 1989.

  
\_\_\_\_\_  
Harold L. White, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Sarvis, City Recorder

**ORDINANCE NO. 675**

**AN ORDINANCE REPEALING ORDINANCE NO. 543, WHICH PROVIDED FOR APPOINTMENT OF AN AUMSVILLE SKATEPARK COMMITTEE FOR THE CITY OF AUMSVILLE, OREGON**

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer valid, The City does not use this committee and is no longer needed.

Section 2. REPEAL. ORD. NO. 543 AN ORDINANCE PROVIDING FOR APPOINTMENT OF AN AUMSVILLE SKATEPARK COMMITTEE FOR THE CITY OF AUMSVILLE, OREGON; PROVIDING THE TERMS OF OFFICE AND DEFINING THE POWERS AND DUTIES.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

ORDINANCE NO. 543

**AN ORDINANCE PROVIDING FOR APPOINTMENT OF A AUMSVILLE SKATEPARK COMMITTEE FOR THE CITY OF AUMSVILLE, OREGON; PROVIDING THE TERMS OF OFFICE AND DEFINING THE POWERS AND DUTIES.**

**The city of Aumsville, Oregon, ordains as follows:**

**Section 1. Appointment and Term.** The mayor of the city of Aumsville shall appoint, with the approval of the council, a committee to be known as the Aumsville Skatepark Committee. At least one of the said original committee members shall be appointed for a term of one year and two members shall be appointed for two year terms, or until a successor is appointed. Committee terms shall end on the 31st day of December.

**Section 2. Ex-officio Members.** Ex-officio members of said committee shall be the parks commissioner, public works director and city administrator. Said ex-officio members shall act as liaison between the committee and the council.

**Section 3. Election of Officers.** The committee shall annually elect, from its members, a chairman, vice-chairman and secretary. The chairman shall preside over all meetings. The vice-chairman shall serve in the absence of the chairman. The secretary shall keep a record of all revenue received by the committee and keep a minutes record of the proceedings of the committee, a copy of which shall be placed in the office of the city administrator as one of the public records of that office.

**Section 4. Quorum, Meetings and Vacancies.** The members of the skatepark committee shall serve without pay. Said committee shall give notice to its members and the public of the time and place of meetings and the principal subjects to be discussed in the Aumsville Newsletter, or if that is not timely, then postings at the city hall and post office; with said meetings open to the public. If any member of the committee shall be absent from three regularly scheduled meetings, within a period of one year, without excuse, the chairman shall declare the position vacant and shall proceed to fill the vacancy. A quorum shall consist of the majority of the positions filled at that particular time. Two members of the committee may call an unscheduled meeting provided that said members personally try to notify all other members of the committee and a quorum is present.

**Section 5. Skatepark Committee Powers.** The skatepark committee shall have the power to make recommendations on the management, maintenance and possible expansion of the skatepark of the city of Aumsville, subject to council approval. All funds budgeted for the purpose of carrying on the work assigned to the

skatepark committee shall be expended only by the city in like manner as all other general expenses of the city are allowed and paid, and none of such funds shall be handled by the committee. That said committee shall have no power to create any indebtedness or claim unless there shall have been funds heretofore budgeted according to law by the city of Aumsville for such purpose.

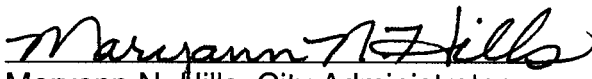
**Section 6. Duties.** The duties of the committee shall consist of the power and duty to advise the city council and city administrator concerning the management, care, and control of the skatepark now in existence and those skatepark areas which may hereafter be established. More specifically:

- (A) To devote due time and attention to the discharge of the duties imposed upon it by provisions of this ordinance.
- (B) To advise the council, city administrator, and public works director of the committee's plans and recommendations for maintenance and possible expansion of the skatepark, and of public recreation events in the skatepark.
- (C) To make reports as from time to time may be requested of the committee.

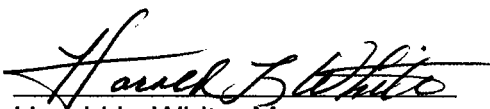
**Section 7. Solicitation of Donations.** The committee may, subject to council approval, solicit gifts or bequests of money, or other personal property, and donations to be received by the city. Any revenue or donation shall be given to the city and applied to the Park Fund for skatepark maintenance, expansion and other skatepark related recreational purposes. Said committee may also solicit to hold recreational activities on private property with written consent of the owner, organization or agency.

**SECTION 8. Effective Date.** This ordinance shall take effect on the thirtieth day after its enactment.

PRESENTED AND PASSED the first reading on the 11th day of October, 2004.  
PASSED its second reading on the 25<sup>th</sup> day of October, 2004. ADOPTED by the Aumsville City Council on the 25<sup>th</sup> day of October, 2004.

  
Maryann N. Hills, City Administrator

SIGNED by the mayor this 26 day of October, 2004

  
Harold L. White, Mayor

**ORDINANCE NO. 676**

**AN ORDINANCE REPEALING ORDINANCE NO. 544, AN ORDINANCE OF THE CITY OF AUMSVILLE, OREGON, REGARDING CLAIMS FOR JUST COMPENSATION ARISING OUT OF THE ENACTMENT OF A STATEWIDE BALLOT MEASURE; MAKING CERTAIN PROVISION THEREFORE AND DECLARING AN EMERGENCY.**

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer valid, due to approval of Ballot measure 37 approved in 2004.

Section 2. REPEAL. ORD. NO. 544 AN ORDINANCE OF THE CITY OF AUMSVILLE, OREGON, REGARDING CLAIMS FOR JUST COMPENSATION ARISING OUT OF THE ENACTMENT OF A STATEWIDE BALLOT MEASURE; MAKING CERTAIN PROVISION THEREFORE AND DECLARING AN EMERGENCY.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor



**AN ORDINANCE OF THE CITY OF AUMSVILLE, OREGON, REGARDING CLAIMS FOR JUST COMPENSATION ARISING OUT OF THE ENACTMENT OF A STATE WIDE BALLOT MEASURE; MAKING CERTAIN PROVISION THEREFORE AND DECLARING AN EMERGENCY.**

**The City of Aumsville ordains as follows:**

**Section 1. Purpose.** The purpose of this ordinance is to establish the contents and procedures for a demand or request for compensation under the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 passed by the voters of the State of Oregon on November 2, 2004. These provisions establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city's decision capable of circuit court review.

**Section 2. Definitions.** As used in this Ordinance, the following words and phrases mean:

1. City Administrator. The City Administrator of the City of Aumsville, or his or her designee.
2. Appraisal. A written statement of an opinion of the value of real property prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, and who holds the applicable certification for the type of appraisal.
3. Claim. A claim filed under Ballot Measure 37.
4. Exempt Land Use Regulation. A land use regulation that:
  - (a) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
  - (b) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
  - (c) Is required in order to comply with federal law;
  - (d) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
  - (e) Was enacted prior to the date of acquisition of the property by the owner or a family member the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.
5. Family Member. Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.
6. Land Use Regulation. Includes:
  - (a) Any statute regulating the use of land or any interest therein;
  - (b) Administrative rules and goals of the Land Conservation and Development Commission;
  - (c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

- (d) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and
  - (e) Statutes and administrative rules regulating farming and forest practices.
7. Owner. The present owner of the property, or any interest therein.
  8. Valid Claim. A claim submitted by the owner of real property that is subject to a land use regulation adopted or enforced by the city that restricts the use of the private real property in a manner that reduces the fair market value of the real property.

### **Section 3 - Claim Filing Procedures.**

1. A person seeking to file a claim under sections 1 - 7 of this ordinance must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the city.
2. A claim shall include:
  - (a) The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;
  - (b) The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by the claimant, and the date the property was acquired;
  - (c) The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;
  - (d) The amount of the claim, based on the alleged reduction in value of the real property supported by an appraisal as defined above.
  - (e) Copies of any leases or Covenants, Conditions and Restrictions ("CCR's) applicable to the real property, if any, that impose restrictions on the use of the property.
3. Notwithstanding a claimant's failure to provide all of the information required by subsection (2) of this section, the city may review and act on a claim.

### **Section 4 - City Administrator Investigation and Recommendation.**

1. Following an investigation of a claim, the City Administrator shall forward a recommendation to the city council that the claim be:
  - (a) Denied;
  - (b) Investigated further;
  - (c) Declared valid, and waive or modify the land use regulation, or compensate the claimant upon completion of an appraisal; or
  - (d) Evaluated with the expectation of the city acquiring the property by condemnation.
2. If the City Administrator's recommendation is that a claim be denied, and no elected official informs the City Administrator within 14 days that the official disagrees, then the City Administrator may deny the claim. If an elected official objects, then the City Administrator shall wait an additional seven days to see whether two more elected officials object to the proposed denial. If they do, then the City Administrator shall schedule a work session with the city council. If not, the City

Administrator may deny the claim.

**Section 5 - City Council Public Hearing.** The City Council shall conduct a public hearing before taking final action on a recommendation from the City Administrator. Notice of the public hearing shall be provided to the claimant, to owners and occupants of property within 300 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the subject property.

**Section 6 - City Council Action on Claim.**

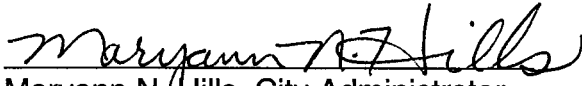
1. Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was filed, the City Council shall:
  - (a) Determine that the claim does not meet the requirements of Measure 37 and this Ordinance, and deny the claim; or
  - (b) Adopt a Resolution with findings therein that supports a determination that the claim is valid and either direct that the claimant be compensated in an amount set forth in the Resolution for the reduction in value of the property, or remove, modify or direct that the challenged land use regulation not be applied to the property.
2. The City Council's decision to waive or modify a land use regulation or to compensate the owner shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property.

**Section 7 - Processing Fee.**

1. The City Administrator shall maintain a record of the City's costs in processing a claim, including the costs of obtaining information required by Section 3 of this Ordinance which a property owner does not provide to the City. Following final action by the City on the claim at the local level, the City Administrator may send to the property owner a bill for the actual costs, including staff and legal costs, that the City incurred in reviewing and acting on the claim.

**Section 8. Emergency Clause.** Due to the passage of Measure 37 at the General Election on November 2, 2004, with an effective date 30 days thereafter, the City Council declares it is necessary for the preservation of the public health, welfare and safety for this Ordinance to have immediate effect. Therefore, this Ordinance shall become effective immediately upon its passage by the City Council, and signature of the mayor.

PRESENTED AND PASSED the first reading on the 29<sup>th</sup> day of November, 2004. PASSED its second reading on the 29<sup>th</sup> day of November, 2004. ADOPTED by the Aumsville City Council on the 29<sup>th</sup> day of November, 2004.

  
Maryann N. Hills, City Administrator

SIGNED by the mayor this 30<sup>th</sup> day of November, 2004

  
Harold L. White, Mayor

Ordinance No. 544

## ORDINANCE NO. 677

### AN ORDINANCE ADOPTING RULES TO BE KNOWN AS THE CITY OF AUMSVILLE PUBLIC CONTRACTING REGULATIONS AND REPEALING ORDINANCE NO. 559.

The City of Aumsville ordains as follows:

**Section 1. Short Title.** The provisions of this ordinance and all rules adopted under this ordinance may be cited as the city of Aumsville's "Public Contracting Regulations."

**Section 2. Policy.**

- (A) Purpose of Public Contracting Regulations. These regulations are promulgated by the Council as the local contract review board ("Board"), as the governing body and local contract review board of the City of Aumsville; for the purpose of establishing the rules and procedures for contracts entered into by the City of Aumsville. It is the policy of the City in adopting the Public Contracting Regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:
  - 1. Promoting impartial and open competition;
  - 2. Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
  - 3. Taking full advantage of evolving procurement methods that suit the contracting needs of the City as they emerge within various industries.
- (B) Interpretation of Public Contracting Regulations. In furtherance of the purpose of the objectives set forth in subsection A, it is the City's intent that the city of Aumsville's Public Contracting Regulations be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B, and 279C.

**Section 3. Application of Public Contracting Regulations.**

- (A) In accordance with ORS 279A.025 the City's Public Contracting Regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts.
  - 1. Between Governments. Contracts between the City and another contracting agency or between the City and another governmental body, including the federal government.
  - 2. Grants. A grant contract is an agreement under which the City is either a grantee or a grantor of moneys, property, or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions. The making or receiving of a grant is not a Public Contract subject to the Oregon Public Contracting Code; however, the expenditure of any grant received by the City is subject to these Regulations and the expenditure of grants made by the City to construct a Public Improvement or Public Works project is subject to these Public Contracting Regulations.
  - 3. Legal Witnesses and Consultants. Contracts for professional or expert witnesses

or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the City is or may become interested.

4. Real Property. Acquisitions or disposals of real property or interests in real property. This exemption includes the City granting or receiving an interest in real property that may be less than fee title to property, including a lease, an easement or a license.
5. Textbooks. Contracts for the procurement or distribution of textbooks.
6. Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program.
7. Finance. Contracts, agreements, or other documents entered into, issued, or established in connection with:
  - a) The incurring of debt by the City, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special, or limited;
  - b) The making of program loans and similar extensions or advances of funds, aid or assistance by the City to a public or private Person for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;
  - c) The investment of funds by the City as authorized by law, or
  - d) Other predominantly financial transactions of the City that, by their character, cannot practically be established under the competitive contractor selection procedures, as determined by the City administrator.
8. Employee Benefits. Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125 (4), 243.221, 243.275, 243.291, 243.303, and 243.565.
9. Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of state law.
10. Federal Law. Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these regulations or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations.

**Section 4. Authority of City Council.** Except as expressly delegated under these regulations, the Council reserves to itself the exercise of all of the duties and authority of a contract review board under state law, including, but not limited to, the power and authority to:

- (A) Solicitation Methods Applicable to Contracts. Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;
- (B) Brand Name Specifications. Exempt the use of brand name specifications for public improvement contracts;
- (C) Waiver of Performance and Payment Bonds. Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;
- (D) Electronic Advertisement of Public Contracts.

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- (E) Appeals of Debarment/Disqualification and Prequalification Decisions. Hear properly filed appeals of the city administrator's determination of debarment, or concerning prequalification;
- (F) Rulemaking. Adopt additional contracting rules pursuant to ORS 279A.055, 279A.065 and 279A.070 including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services and public improvements; and
- (G) Award. Award all contracts that exceed the authority of the city administrator.

**Section 5. Model Rules.** The Model Rules adopted by the Attorney General under ORS 279A.065 do not apply to the contracting procedures of the City, except as otherwise provided by the Public Contracting Code or if the city administrator determines they are necessary to supplement this Ordinance, and then they will apply only to the extent that they do not conflict with these Public Contracting Regulations or other contracting rules adopted by Board.

**Section 6. Definitions.** For the purposes of these regulations, the following definitions apply:  
Addendum or Addenda: Additions or deletions to, material changes in, or general interest explanations of the city's Solicitation Documents.

Affected Person: A Person whose ability to participate in a Procurement is adversely affected by the City.

Authorized Representative: The owner of a sole proprietorship, a partner in a firm or partnership, or, a person authorized to bind by a corporation's board of directors.

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

Bid: A binding, sealed, written offer to purchase surplus property, or provide goods, services or public improvements for a specified price or prices.

Bid or Proposal Bond/Bid or Proposal Security: A means of securing execution of an awarded contract.

Bidder: An Offeror who submits a bid in response to the City's Invitation to Bid.

Board: The local contract review board, which is the Aumsville City Council.

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

City: City of Aumsville, Oregon

Cooperative Procurement: A procurement conducted by or on behalf of one or more contracting agencies.

Conduct Disqualification: A disqualification pursuant to ORS 279C.440.

Concession Agreement: A contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, goods or services, specified by the city

administrator, from real property owned or managed by the City, and under which the concessionaire makes payments to the City based, at least in part, on the concessionaire's revenues or sales. The term "concession agreement" does not include a mere rental agreement, license, lease, or permit for the use of the premises.

Contract: See definition for "Public Contract."

Contract Price: The total amount paid or to be paid under a contract, including bonuses, incentives, contingency amounts, approved alternatives, and any fully executed change orders or amendments; if the Contractor fully performs under the Contract; or the maximum not-to-exceed amount of payments specified in the Contract; or the unit price for Goods or Services or Personal Services set forth in the Contract.

Contractor: The Person with whom the City executes a Public Contract.

Debarment: A declaration by the Board or city administrator under ORS 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the City's public contracts for a prescribed period of time. The term used in ORS Chapter 279C is "disqualification" and it is synonymous with "debarment."

Disposal: Any arrangement for the transfer of property by the City under which the City relinquishes ownership.

Emergency: Circumstances that create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and requires prompt execution of a contract to remedy the condition.

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

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

Goods and services/goods or services: Any item or combination of supplies, equipment, materials, and services other than personal services designated under ORS 279A.055, or other personal property, including tangible, intangible, and intellectual property and rights and licenses in relation thereto.

Informal Solicitation: A solicitation made in accordance with the City's public contracting regulations to a limited number of potential contractors, in which the Solicitation Agent attempts to obtain at least three written quotes or proposals.

Invitation to bid: A publicly advertised request for competitive sealed bids.

Model Rules: The public contracting rules adopted by the Attorney General under ORS 279A.065.

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Nonresident Bidder: A bidder who is not a resident bidder as defined in this section.

Offeror: A person who submits a bid, quote, or proposal to enter into a public contract with the City.

Opening: The date, time, and place announced in the solicitation document for the public opening of written, sealed offers.

Oregon Public Contracting Code: ORS chapters 279A, 279B, and 279C.

Owner: The city of Aumsville, acting through its legally constituted City Council.

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

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

Personal Services: The services or type of services performed under a Personal Services Contract.

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

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

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

Public Improvement: A project for construction, reconstruction, or major renovation on real property by or for the City. "Public improvement " does not include

- (A) Projects for which no funds of the City are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
- (B) Emergency work, minor alteration, ordinary repair, or maintenance necessary to



preserve a public improvement.

Qualified Pool: A pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

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

Request for Proposals: A publicly advertised request for sealed competitive proposals.

Resident Bidder: A bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a "resident bidder" under this paragraph.

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

Solicitation Agent: With respect to a particular solicitation or contract the staff member charged with the responsibility for conducting the solicitation and making an award or making a recommendation on award to the Board.

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

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

- (A) Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;
- (B) A satisfactory record of performance. The Solicitation Agent shall document the record of performance of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;
- (C) A satisfactory record of integrity. The Solicitation Agent shall document the record of integrity of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;
- (D) Qualified legally to contract with the City;
- (E) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the Solicitation Agent concerning responsibility, the Solicitation Agent shall base the determination of responsibility upon any available information or may find the offeror non-responsible; and
- (F) Not been debarred by the City, and, in the case of public improvement contracts, has not been listed by the Construction Contractors Board as a contractor who is not

qualified to hold a public improvement contract.

Surplus Property: Personal property owned by the City which is no longer needed for use by the City.

## **Section 7. Authority of City Administrator.**

### (A) General Authority.

1. Solicitation Agent. The city administrator is designated as the solicitation agent for all City contracts and concession agreements and will possess the authority granted to a “contracting agency” under the Public Contracting Code, subject to the limitations of these Public Contracting Regulations. The solicitation agent may award contracts for which the contract price does not exceed \$50,000, without additional authorization of the Board; provided there is a current fiscal year budget appropriation; or supplemental budgetary authority from the City Council, with respect to the contract, is approved. For all other contracts the solicitation agent shall conduct the solicitation and make a recommendation to the Board. The solicitation agent shall award all concession agreements that can be awarded under an informal solicitation or by direct appointment and shall have authority to award all purchases of surplus property.
2. Execution and Delivery. The city administrator has the authority to execute and deliver on behalf on the City all contracts that the city administrator has the power to award, and all amendments to such contracts. All other contracts and amendments shall be executed by the officer designated by the Board or designee.
3. Promulgation of Forms and Materials. Subject to the provisions of these Public Contracting Regulations, the city administrator may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the City's contracting needs. The city administrator shall hear all solicitation and award protests.

(B) Delegation of City Administrator's Authority. Any of the responsibilities or authorities of the solicitation agent or the city administrator under this Ordinance may be delegated and sub-delegated by written directive.

(C) Solicitation Preferences. When possible, the city administrator shall use solicitation documents and evaluation criteria that:

1. Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability, and quality are otherwise equal; and
2. Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.

(D) Purchasing From City Officials. The city administrator shall not make any purchase of goods and services from any City official, or any business with which a City employee is associated; except when the purchase is expressly authorized by the Board; or during a state of emergency. In any situation in which the city administrator believes that a purchase would cause an appearance of impropriety, regardless of

- whether the purchase is prohibited by this or any other public contracting code provision, the city administrator may forward the proposed purchase to the Board for approval.
- (E) **Mandatory Review of Rules.** Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify the Model Rules, the city administrator shall review the Public Contracting Regulations, other than the Model Rules, and recommend to the Board any modifications required to ensure compliance with statutory changes.
  - (F) **Guidelines to Implement Public Contracting Regulations.** The city administrator may adopt guidelines and other materials to assist staff and the public with the implementation of these regulations. Such guidelines shall be consistent with these regulations and may include flowcharts to guide staff in the City's day-to-day procurement activities.

**Section 8. Personal Service Contracts.** Personal services contracts are subject to the regulations established by this section:

- (A) **Procedures for the Screening and Selection of Persons to Perform Personal Services.**
  1. Any Personal Services Contract. Personal services contracts in any amount may be awarded under a publicly advertised request for proposals in accordance with ORS 279B.060.
  2. Discretionary Award. The following personal service contracts may be awarded under any method deemed in the City's best interest by the city administrator, including by direct appointment; subject to approval by the city council when required by this ordinance.
    - a) Contracts for which the solicitation agent estimates that payments will not exceed \$20,000 in any fiscal year.
    - b) Contracts for legal services for the City.
    - c) Contracts with architects, engineers, surveyors and other professionals identified in ORS 279C.100 that involve "related services" as that term is defined in ORS 279C.100(8).
  3. Personal Service Contracts Not Exceeding \$150,000. Contracts for personal services for which the estimated contract price does not exceed \$150,000, may be awarded using an informal solicitation for proposals.
  4. Personal Service Contracts for Continuation of Work. Contracts of not more than \$200,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition, if the prior contract was awarded under a competitive process, and the city administrator determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.
  5. \$75,000 Award from Qualified Pool. Contracts for personal services for which the estimated contract price does not exceed \$75,000 may be awarded by direct appointment without competition from a Qualified Pool.
- (B) **Procedures for Screening and Selection of Persons to Perform Architectural, Engineering, Surveying or Other Professional Services Governed by ORS 279C.105.**
  1. Intent. This section implements the qualification-based selection ("QBS")

requirements contained in the Public Contracting Code (ORS 279C.100 through 279C.125). The City will rely on this section, not the Model Rules, when it is required to follow the QBS process.

2. Applicability. This section only applies when the services the City seeks are legally required to be performed by an architect, engineer, land surveyor, photogrammetrist or, in certain narrow instances, a transportation planner. If the services qualify as a “related service” as that term is defined in ORS 279C.100(8), the City may rely on Section 8(A) of these rules to award a contract.
3. Methods of Award.
  - a) Direct Award. The City may award a contract directly to a consultant of its choosing under this section:
    - i. If the estimated amount the City will pay a consultant for the consultant’s services does not exceed \$100,000;
    - ii. In an emergency; or
    - iii. If the City previously had a contract with the consultant for the same or a substantially similar project and the prior contract was awarded in accordance with these regulations, including prior versions of these regulations.
  - b) RFP. If the City cannot award a contract directly to a consultant, the City will issue an RFP and advertise it in any manner it deems appropriate. If the City directly solicits proposals from consultants, it will contact at least three.
    - i. Criteria. The screening and selection procedures in the RFP will at least include consideration of a consultant’s experience, resources, record of past performance and familiarity with the City and its needs. The RFP must also contain the information required by ORS 279C.110(5)(a). Subject to the limitations in subsection (ii) below, the City may include consideration of additional screening criteria on a case-by-case basis.
    - ii. Costs. The City will consider a consultant’s cost and pricing information as part of its screening and selection process in accordance with ORS 279C.110(5). After completing an initial evaluation of consultants pursuant to the criteria in the RFP, the City will announce the initial evaluation scores and rank each of the prospective consultants. The City may then determine that as many as three of the top-ranked consultants are qualified to perform the services and may request a pricing proposal from each consultant in accordance with ORS 279C.110(5)(c). The value assigned to the pricing proposal may not exceed 15 percent of the weight of the total score the City uses to evaluate consultants.
    - iii. Negotiation. After the City completes its evaluation of the top ranked consultants and their respective pricing proposals, the City may select one of the top ranked consultants and proceed to negotiate a contract for the services. If for any reason the parties

cannot arrive at a mutually acceptable contract, the City may terminate negotiations and engage the next highest ranked consultant in negotiations.

- iv. Award. If a contract is negotiated, the City will notify other prospective consultants of its intent to award a contract.

### **Section 9. Public Contract Exemptions and Process for Approval of Special Solicitation Methods.**

- (A) Authority of the City Council. The City Council upon its own initiative, or upon request of the city administrator, may create special selection, evaluation, and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.
- (B) Basis for Approval. The approval of an exemption from competition or special solicitation methods must be based upon a record before the Board that contains the following:
  - 1. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
  - 2. The estimated contract price or cost of the project, if relevant;
  - 3. Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
  - 4. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;
  - 5. A description of the proposed alternative contracting methods to be employed; and
  - 6. The estimated date by which it would be necessary to let the contract(s).  
In making a determination regarding a special selection method, the Board may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
- (C) Hearing.
  - 1. Notice. The City shall approve the special solicitation or exemption after a public hearing before the Board following notice by publication in at least one newspaper of general circulation in the City. The notice shall be published at least seven days prior to the hearing. The Notice shall state that the purpose of the hearing is to consider findings in support of, as applicable:
    - a) A special procurement for a single contract or classes of contracts under ORS 2798.085; or
    - b) An exemption from competitive bidding for a single contract or class of contracts under ORS 279C.335.

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

2. At the public hearing, the City shall offer an opportunity for any interested party to appear and present comment.
  3. The Board will consider the findings and may approve the special solicitation or exemption as proposed or as modified by the Board after providing an opportunity for public comment.
  4. If the Board approves the special procurement(s) or exemptions(s) at the public meeting of the City Council following the hearing, or at a subsequent public meeting of the City Council, no published notice of the approval shall be required.
- (D) Public Improvement Contract Exemption Special Requirements.
1. Notification of the public hearing for exemption of a public improvement contract, or class of public improvement contracts, shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing.
  2. The notice shall state that the public hearing is for the purpose of taking comments on the City's draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.
- (E) Commencement of Solicitation Prior to Approval. A solicitation may be issued prior to the approval of a special exemption under this Section 9, provided that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the Board approves the exemption. If the Board fails to approve a requested exemption or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or cancelled.

**Section 10. Solicitation Methods for Classes of Public Contracts.** The City may encourage meaningful competition through a variety of solicitation methods. The solicitation agent shall choose the solicitation method that is most likely to encourage offers representing optimal value to the City. The following classes of public contracts and the method(s) that are approved for the award of each of the classes are hereby established by the Board. However, nothing in this section may be construed as prohibiting the City from conducting a procurement under competitive bidding or competitive proposal procedures.

- (A) Small Procurements - Direct Purchase or Appointment. The following classes of contracts may be awarded in any manner, which the solicitation agent deems appropriate to the City's needs, including by direct purchase or appointment.
1. Goods and Services Contracts Up to \$10,000. Contracts for goods and services for which the contract price does not exceed \$10,000, may be awarded as a small procurement.
    - a) Notwithstanding any other contrary provisions of these regulations, a goods and services Contract awarded as a small procurement may be amended or re-negotiated without additional competition, with prior approval of the city administrator if it is advantageous to the City; but the cumulative amendments shall not increase the total Contract Price to greater than \$12,500.
    - b) State law prohibits a procurement from being artificially divided or fragmented, so as to constitute a small procurement under this section.
  2. Public Improvement Contracts Up to \$5000. Contracts for a public improvement for which the contract price does not exceed \$5000 may be awarded as a small

procurement. Contracts awarded pursuant to this subsection may be amended but the cumulative amendments shall not increase the total contract price to more than \$10,000.

3. Amendments. Contract amendments shall not be considered separate contracts, if made in accordance with the Public Contracting Regulations.
4. Advertising. Contracts for the placing of notice or advertisements in any medium.
5. Animals. Contracts for the purchase of animals.
6. Small Concessions. Concession agreements for which the city administrator estimates that receipts by the City will not exceed \$5,000 in any fiscal year, and \$50,000 in the aggregate may be awarded by any method deemed appropriate by the Solicitation Agent; including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.
7. Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.
8. Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without preliminary dismantling or testing.
9. Government Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
10. Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135, and 414.145.
11. Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the City.
12. Sole Source Contracts. Contracts for goods or services, which are available from a single source, may be awarded without competition.
13. Specialty Goods for Resale. Contracts for the purchase of specialty goods by City for resale to consumers.
14. Sponsor Agreements. Sponsorship agreements, under which the City receives a gift or donation in exchange for recognition of the donor.
15. Structures. Contracts for the disposal of structures located on City-owned property.
16. Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures.
17. Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.
18. Used Property. The city administrator, for procurements for procurements up to \$50,000 may contract for the purchase of used property by negotiation, if such property is suitable for the City's needs and can be purchased for a lower cost than substantially similarly new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period

for which the property will be used by the City. There shall be a written record of the purchase.

19. Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.
20. Hazardous Material Removal and Oil Clean-up. The City may acquire services to remove or clean up hazardous material or oil from any vendor when ordered to do so by the Oregon Department of Environmental Quality pursuant to its authority under ORS Chapter 466.

(B) Intermediate Procurements - Informal Solicitation. The following classes of contracts may be awarded using the informal solicitation procedures in Section 12 of these regulations. State law prohibits a procurement from being artificially divided or fragmented, so as to constitute an intermediate procurement under this section.

1. Public Improvement Contracts.

- a) Public Improvements Up to \$100,000. Public improvement contracts for which the estimated contract price does not exceed \$100,000 may be awarded using an informal solicitation for competitive quotes. ***Contracts in excess of \$100,000, unless approved for a special exemption, shall be issued in accordance with the provisions of ORS 279C;***
- b) Contracts for a public works project estimated to exceed \$50,000 shall include the Bureau of Labor and Industries (BOLI) provisions regarding the prevailing wage, unless otherwise exempt under Oregon law.
- c) Use of Existing Contractors. When a public improvement is in need of minor alteration, repair or maintenance at or near the site of work being performed by another City contractor, the City may hire that contractor to perform the work provided:
  1. The contractor was hired through a competitive selection process permitted by these regulations;
  2. The solicitation agent first obtains a price quotation from the contractor that is competitive and reasonable or based on unit prices in the current contract;
  3. Any prevailing wage requirements are complied with and
  4. A change order is issued for the work.

2. Contracts for Goods and Services Exceeding \$10,000. The procurement of goods or services, for which the estimated contract price exceeds \$10,000, but not exceeding \$150,000, may be awarded under an informal solicitation for either quotes or proposals. ***Public contracts for good or services in excess of \$150,000 shall be let in accordance with the provisions of ORS 279B.***

3. Intermediate and Major Concessions. For Concession Agreements for which receipts by the City exceed \$5,000 in a fiscal year or \$50,000 in the aggregate, and the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less; the city administrator has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed \$500,000, the Solicitation Agent may, but shall not be required to, reissue the solicitation as a request for



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

- (C) Hybrid Contracts. The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.
1. Design/Build and CM/GC Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals, but only if the Council has approved an exemption in accordance with these regulations. The determination to construct a project using a design/build or construction manager/general contractor construction method may be approved by the Board if the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the city. All CM/GC contracts must also comply with ORS 279C.337 and the provisions in the Model Rules that govern the CM/GC delivery method.
  2. Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification in this Section 10, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the City's Public Contracting Regulations.
- (D) Purchases from Nonprofit Agencies for Disabled Individuals. The City shall purchase goods, services, and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of ORS 279.835 through 279.850.
- (E) Emergency Procurements.
1. In General. When an official with authority to enter into a contract on behalf of City determines that immediate execution of a contract, within the official's authority, is necessary to prevent a substantial risk of loss, damage, or interruption of services; or a substantial threat to property, public health, welfare, or safety, the official may execute the contract without competitive selection and award or City approval; but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.
  2. Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the city administrator or Board has made a written declaration of emergency. Any public improvement contract awarded under emergency conditions must be awarded within 60 Days following the declaration of an emergency, unless the Board grants an extension of the emergency period. All such contracts, whether or not signed by the contractor, shall be deemed to contain a termination for convenience clause permitting the City to immediately terminate the contract at its discretion and, unless the contract was void, the City shall pay the contractor only for work performed prior to the date of termination plus the contractor's unavoidable costs incurred as a result of the termination. In no event will the City pay for anticipated lost profits or consequential damages as a result of the termination. Where the time delay needed to obtain a payment or performance bond for the contract

could result in injury or substantial property damage, the city administrator or Board may waive the requirement for all or a portion of required performance and payment bonds.

3. Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, document the nature of the emergency; and for Good or Services contracts, describe the method used for the selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the City and the public; and notify the Board of the facts and circumstances surrounding the emergency execution of the contract.

(F) Surplus Property.

1. Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the estimated value of the item and the manner of disposal.
2. General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the Solicitation Agent that the method of disposal is in the best interest of the City. Factors that may be considered by the Solicitation Agent include costs of sale, administrative costs, and public benefits
3. to the City. The Solicitation Agent shall maintain a record of the manner of disposal, including the name of the person to whom the surplus property was transferred.
  - a) Auction. By publicly advertised auction to the highest bidder.
  - b) Bids. By public advertised invitation to bid.
  - c) Donation. By donation to any non-profit cause or organization operating within or providing a service to residents of the City.
  - d) Governments. Without competition, by transfer or sale to another public agency.
  - e) Fixed Price Sale. The Solicitation Agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
  - f) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.
  - g) Trade-In. By trade-in, in conjunction with acquisition of other price-based item under procurement. The solicitation, shall require the offer to state the total value assigned to the surplus property to be traded.
4. Restriction on Sale to City Employees. City employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.
5. Personal-Use Items. An item (or indivisible set) of specialized and personal use, other than police officer's handguns, with a current value of less than \$100 may

be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the city administrator.

6. Police Officers' Handguns. Upon honorable retirement from service with the City, a police officer may purchase the handgun that she or he was using at the time of retirement. The purchase price shall be the fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the City at least 30 days prior to his or her expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer the City shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who shall have up to 30 days from the date of retirement to purchase the handgun for the appraised fair market value.
7. Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the City shall make, execute, and deliver, a bill of sale signed by the city administrator, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

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

1. The procurement must be made in accordance with procedures established by GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the city administrator. The Solicitation Agent shall provide the city administrator with a copy of the letter, memorandum, or other documentation from GSA establishing permission to the City to purchase under the federal program.
2. The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.
3. The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the City.
4. If a single purchase of goods or services exceeds \$150,000, the Solicitation Agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the City. This paragraph does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes.

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

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

1. Upon completion of and final payment for any public improvement contract, or class of public improvement contracts described in ORS 279A.050 (3) (b), in excess of \$100,000; for which the City did not use the competitive bidding process, City staff shall prepare and deliver to the City Council an evaluation of

the public improvement project, or class of public improvement contracts. The evaluation shall include but not be limited to the following matters:

- a) The actual project cost as compared with original project estimates;
  - b) The amount of any guaranteed maximum price;
  - c) The number of project change orders issued by the Owner;
  - d) A narrative description of successes and failures during the design, engineering and construction of the project; and
  - e) An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.335.
2. Evaluations required by this section must be made available for public inspection, and be completed within 30 days of the date that the Contracting Agency accepts:
- a) The public improvement project; or
  - b) The last public improvement project if the project falls within a class of public improvement contracts.

### **Section 11. Sole Sources.**

- (A) Determination of Sole Source. A sole source contract is a contract with a vendor who is the only responsible source for the goods, services, or personal services required by the City. A determination of sole source may be made by the city administrator based upon written findings that demonstrate that the contractor is a sole source, and that alternative goods, services, or personal services would be unsatisfactory for the City's needs based on factors that may include any of the following:
1. A record that no qualified vendors responded to a notice issued in accordance with Subsection B;
  2. A written statement from a manufacturer established as a sole source that the product is only available to the City from a single point of sale;
  3. Written evidence that the contract is for a patented product and that the proposed vendor is the exclusive holder of a right to sell the product;
  4. Records of research that demonstrate that only one suitable source for the goods or service exists and that alternate goods or services do not meet the City's requirements, including, without limitation, that efficient utilization of existing goods requires the acquisition of compatible goods or services; or
  5. A statement that the goods or services are for use in a pilot or experimental project.
- (B) Manner of Notice. The record that a contractor is a sole source may be established if no qualified alternative sources responded to a public notice of the City's requirements. The notice shall be published at least five business days before contract execution and shall:
1. Describe the goods, services, or personal services sought;
  2. State the estimated amount of the contract;
  3. Request statements of ability to provide the identified goods, services, or personal services from vendors who are qualified to compete for the contract, and
  4. State that if no responses are received from qualified vendors within the time

period specified in the notice, the Purchasing Manager will proceed with a sole-source award.

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

**Section 12. Informal Solicitation Procedures and Qualified Pools.** When authorized by these regulations the City may use the following procedures for informal solicitations, and a contract may be awarded using the Informal solicitation procedures described in this Section 12.

- (A) Record of Contract Requirements and Evaluation Criteria. The solicitation agent shall make a written record of the contract requirements and criteria upon which the award will be based before conducting the solicitation. This record shall be used to provide all potential offeror with the same information concerning the contract requirements and the manner in which their offers will be evaluated.
- (B) Contact with Potential Offerors. The solicitation agent request for Quotes or proposals may be by general or limited distribution to a certain group of vendors, by direct inquiry to Persons selected by the Solicitation Agent, or in any other manner that the Solicitation Agent deems suitable for obtaining a sufficient number of competitive quotes or proposals.
- (C) Number of Offers. The Solicitation Agent shall attempt to obtain at least three Responsive quotes or proposals from offerors who are qualified to perform the contract unless three offers cannot be reasonably obtained. If fewer than three quotes or proposals are reasonably available, fewer will suffice, but the Solicitation Agent shall make a record of the efforts made to obtain the offers.
- (D) When Written Solicitation Required. The request for offers and the receipt of offers shall be made in writing in the following cases:
  1. Contracts for Goods, Services, or Personal Services. If the estimated Contract Price will exceed \$75,000, the Solicitation Agent shall request written quotes or proposals using a written description of contract requirements and award criteria.
  2. Contracts for Public Improvements. The Solicitation Agent shall request written quotes for all public improvement contracts and shall present the description of contract requirements and award criteria using written materials unless the information can be given by other means in a conference or oral presentation at which all potential offerors are present and have an opportunity to ask questions. Notwithstanding the foregoing sentence, when soliciting quotes for a public works project, the Solicitation Agent must deliver all written materials, including written copies of the prevailing wage rates required by the Bureau of Labor and Industries.
- (E) Basis for Award. Selection of contractors for goods, services, and personal services shall be based on the quote or proposal that is most advantageous to the City. The selection criteria for public improvement contracts shall be based on quotes but may include a consideration of, and ranking of other factors in addition to, price, such as experience, specific expertise, availability, project understanding, contractor capacity, responsibility, and similar factors. The Solicitation Agent shall make a written record of all offerors, the prices quoted and, if the award was made on a basis other than price, a record of the evaluation of each offer, and the basis for award.
- (F) Discussions and Negotiations. The Solicitation Agent may discuss the solicitation

requirements for any type of informal solicitation with potential offerors and may discuss a quote or proposal with an offeror to clarify its quote or proposal or to effect modifications that will make the quote or proposal responsive to the solicitation requirements. Except for solicitations involving public improvements, after all initial quotes have been received and recorded, the solicitation agent may negotiate with an offeror to effect modifications that will make the quote or proposal more advantageous to the City. The Solicitation Agent may not disclose the price offer or terms of one offeror to another during discussions prior to contract award.

(G) Amendment. A contract awarded using an Informal Solicitation may be amended only as provided in these regulations.

(H) Qualified Pools.

1. Purpose of Qualified Pools. In lieu of prequalification on a contract-by-contract basis, the City may establish qualified pools that can be used on a continuous basis for the selection of contractors when direct appointment or Informal Solicitation is otherwise authorized by these regulations.
2. Creation of Qualified Pool. To create a qualified pool, the city administrator may invite prospective contractors to submit their qualifications to the City for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects, including personal services and public improvements.
3. Advertisement. The invitation to participate in a qualified pool shall be advertised, at the discretion of the Solicitation Agent, by publication in a newspaper of general circulation in the Aumsville area, by electronic publication as permitted in these regulations or by any other method that the Solicitation Agent deems desirable to develop a sufficient pool of qualified vendors. The advertisement shall be made at the time of initial formation and whenever the qualified pool contract is subject to re-opening or renewal. If the pool is open to entry at any time, and is continuously advertised on the City's website, no additional advertisement shall be required.
4. Qualification for Participation. A qualified pool shall be open for entry not less than once in each three years. Standards for participation in a qualified pool may include the applicant's financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the City. The City may also require, as a condition to participation, that the applicant furnish additional materials such as proof of licensure, insurance, insurance endorsements to protect the interests of the City, material concerning performance and fidelity bonds, and that the applicant agree to the terms and conditions of participation in the qualified pool. The qualifications for participation in each qualified pool shall be set forth in writing, but may be changed at any time, provided that all participants are notified of the change.
5. Contents of Solicitation. Requests for participation in a qualified pool shall describe the scope of goods or services or personal services for which the pool will be maintained, and the minimum qualifications for participation in the pool.
6. Use of Qualified Pools. The Solicitation Agent may use a qualified pool to make direct appointments as authorized in these regulations or to obtain quotes or

proposals for an informal solicitation, but shall not be limited to selection from a qualified pool. Participation in a qualified pool shall not entitle any participant to the award of a City contract.

7. Amendment and Termination. The Solicitation Agent may discontinue a qualified pool at any time or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.
8. Protest of Failure to Qualify. The Solicitation Agent shall notify any applicant who fails to qualify for participation in a pool that it may appeal the Solicitation Agent's decision to the city administrator in the manner described in Section 17.

### **Section 13. Requirements for Invitation to Bids and Request for Proposals.**

- (A) Unless otherwise provided in these regulations, all formal bids, and proposals made to the City shall:
  1. Be in writing.
  2. Be filed with the solicitation agent before the Closing. Any offer received after the Closing is late. An Offeror's request for withdrawal or modification of an offer received after the closing is late. The City shall not consider late offers or late modification of an offer or late withdrawal of an offer.
  3. Be opened publicly by the City at the date, time, and place designated in the solicitation.

### **Section 14. Use of Brand Name Specifications for Public Improvements.**

- (A) In General. Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:
  1. It is unlikely that such exemption will encourage favoritism in the awarding of Public Improvement Contracts or substantially diminish competition for Public Improvement Contracts; or
  2. The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the City; or
  3. There is only one manufacturer or seller of the product of the quality required; or
  4. Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.
- (B) Authority of City Administrator. The city administrator shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of Subsection A.
- (C) Brand Name or Equivalent. Nothing in this Section 14 prohibits the City from using a "brand name or equivalent" specification, from specifying one or more comparable products as examples of the quality, performance, functionality, or other characteristics of the product needed by the City, or from establishing a qualified product list.

## Section 15. Bid, Performance and Payment Bonds.

- (A) Solicitation Agent May Require Bonds. The Solicitation Agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.
- (B) Bid Security. Except as otherwise exempted, the solicitations for all contracts that include the construction of a non-transportation related public improvement and for which the estimated contract price will exceed \$100,000 shall require bid security. For transportation-related public improvements, bid security is required if the estimated contract price will exceed \$50,000. Bid security for a request for proposal may be based on the City's estimated contract price. The amount of bid security may not exceed 10 percent of the bid amount.
- (C) Performance Bonds.
  - 1. General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.
  - 2. Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000, that includes the construction of a public improvement, Contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the City and any public agency that is providing funding for the project for which the contract was awarded.
  - 3. Cash-in-Lieu. The city administrator may permit the successful offer or to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond.
- (D) Payment Bonds.
  - 1. General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.
  - 2. Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS 279C.600.
- (E) Design/Build Contracts. If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.
- (F) Construction Manager/General Contractor Contracts. If the public improvement contract is with a single person to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by Subsection A. of this section upon execution of an amendment establishing the guaranteed maximum



price. The City shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

- (G) Surety; Obligation. Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the City or to the public agency or agencies for whose benefit

the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the city administrator.

- (H) Emergencies. In cases of emergency, or when the interest or property of the City probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of Section 10.E.2, unless the Board requires otherwise.

**Section 16. Electronic Advertisement of Public Contracts.** In lieu of publication in a newspaper of general circulation in the City area, the advertisement for an invitation to bid or request for proposals for any type of public contract may be published electronically by posting on the City's website, provided that the following conditions are met:

- (A) The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and
- (8) The Solicitation Agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the area and will provide costs savings for the City, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the area in encouraging meaningful competition.

### **Section 17. Protests and Appeals.**

- (A) Protests of Solicitation Procedures.
  1. Protests Generally. A prospective offeror for a public contract may file a protest with the City if the prospective offeror believes that the procurement process is contrary to law or that a solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name. If a prospective offeror fails to timely file such a protest, the prospective offeror may not challenge the contract for any of the foregoing reasons in any future legal or administrative proceeding.
  2. Exception for Special Procurements. The procedures for a contract-specific special procurement approved by the board may not be protested, challenged or reviewed unless the approval of the special procurement by the board has been invalidated by a reviewing circuit court under ORS 2798.400.
  3. Time for Submission of Protest. Protests of a Solicitation shall only be considered

when presented to the City administrator in writing in accordance with the following timelines.

- (a) Protests shall be submitted in writing, not less than five (5) days prior to the solicitation closing unless the solicitation period is shorter than seven (7) days, in which case, the solicitation documents shall recite another protest deadline that allows a period of at least one (1) business day after the issue date of the solicitation to submit protests; and
  - (b) Protests not asserted or not properly asserted within these timelines shall be deemed waived by the protester.
4. Identification of Protest. It is the protester's responsibility to ensure that the protest is received by the City within the stated timelines. The protest should be delivered in an envelope that is clearly marked with the protester's name and sufficient information to identify the solicitation being protested, identified as a protest, and directed to the person identified in the solicitation documents for receipt of protests. Faxed protests may not be accepted.
5. Eligibility for Consideration. The City administrator shall consider the protest if the protest is timely filed and contains the following:
  - (a) Sufficient information to identify the solicitation that is the subject of the protest;
  - (b) The grounds that demonstrate how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed, or improperly specifies a brand name;
  - (c) Evidence or supporting documentation that supports the grounds on which the protest is based; and
  - (d) The relief sought.
6. Form of Decision. If the protest is timely submitted and contains the required information, the City administrator shall consider the protest and issue a decision in writing. Otherwise, the City administrator shall promptly notify the prospective protesting offeror that the protest is untimely or that the protest failed to meet the requirements of this Section 17.1 and give the reasons for the failure.
7. Time of Decision. The City administrator shall issue a decision no less than 72 hours before the solicitation closing, unless a written determination is made by the City administrator that circumstances exist that require a shorter time limit.
8. Appeal. If the City administrator is the City Administrator's designee, the City administrator's decision may be appealed to the City Administrator by notifying the City Administrator of the intent to appeal within three business days after the date on which the City administrator sends its decision to the protestor's electronic or postal address specified in the written protest.
9. Finality of Decision. The decision of the City Administrator, or if no appeal is made to the City Administrator, of the City administrator, shall be the final determination of the City on the protest.
10. Delay of Solicitation Closing. If the City receives a protest from an offeror in accordance with this Section 17.1, the City administrator may in his or her discretion extend the date of solicitation closing if the City administrator determines an extension is necessary to consider the protest and, if necessary, to issue addenda to the solicitation documents or otherwise cancel the solicitation.

(B) Protest of Competitive Range Decisions and Contract Awards.

1. Delay of Evaluation or Award. The City Administrator will not proceed with a subsequent tier or evaluation, or award a contract under an Invitation to bid or request for proposals, until the period of time for filing a protest of competitive range determination, or award, as applicable, has expired, and the City administrator has responded to all timely filed protests of aggrieved offerors.
2. Definition of Aggrieved Offeror. An offeror is an aggrieved offeror only if the person is one to whom a notice of selection of a competitive tier or notice of intent to award has been, or should have been, sent, and such person has been erroneously denied the award of a contract, or has been erroneously eliminated from competition because:
  - (a) All higher-ranked offers were non-responsive, or all higher-ranked offerors clearly failed to meet the standards of responsibility;
  - (b) The evaluation of offers was not conducted in accordance with the criteria or processes described in the solicitation documents;
  - (c) The evaluator abused its discretion in disqualifying the protestor's offer as non-responsive or as failing to meet the standards of responsibility; or
  - (d) The evaluation of offers or subsequent determination of award was otherwise made in violation of the Oregon Public Contracting Code or these regulations.
3. Filing of Protests. Unless a longer or shorter time period is provided in the solicitation documents, an aggrieved offeror shall have five (5) days after the date of issuance of the notice of intent to award, and three (3) days, if mailed, or 72 hours, if issued electronically after a notice of competitive range determination, to submit to the City administrator a written protest of the matter described in the award. The written protest must specify the grounds upon which the protest is based, demonstrate the basis for the protestor's status as an aggrieved offeror, and include an electronic or postal address at which the protestor will receive the City administrator's response. Notwithstanding the foregoing, the period of protest may not be shorter than five (5) days after the date of notice of award, unless the City administrator determines that the immediate execution of a contract is necessary to avoid a loss of funding for the contract or that further delay in execution will result in injury, property damage or other serious adverse consequences.
4. Authority to Resolve Protests. The City administrator shall consider a written protest and issue a written decision on the protest. The City administrator may not consider a protest that is filed in an untimely manner or that fails to allege facts that would support a finding that the protester is an aggrieved offeror. If the City administrator is the City Administrator's designee, the City administrator's decision may be appealed to the City Administrator by notifying the City Administrator of the intent to appeal within three business days after the date on which the City administrator sends its decision to the proposer's electronic or postal address specified in the written protest. The decision of the City Administrator, or if no timely appeal to the City Administrator is made, the decision of the City administrator, shall be the final decision of the City on the protest.
5. Delay of Award; Cancellation of Solicitation. If the City receives a protest from

an offeror in accordance with this Section 17.2, the City administrator shall not submit the contract for execution until the protest is resolved through the final

decision under 17.2.4. In addition, the City administrator shall have discretion to delay or cancel an award or a solicitation in response to a protest, regardless of the final decision on the protest, and may, but shall not be required to, reissue the solicitation, if the City administrator determines that such action best serves the City's interests.

(C) Appeal of Debarment or Prequalification Decision.

1. Right to Hearing. Any person who has been debarred from competing for City contracts or for whom prequalification has been denied, revoked or revised may appeal the City's decision to the City Council as provided in this Section 17.3.
2. Filing of Appeal. The person must file a written notice of appeal with the City's City administrator within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.
3. Notification of City Council. Immediately upon receipt of such notice of appeal, the City administrator shall notify the City Council of the appeal.
4. Hearing. The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:
  - (a) Promptly upon receipt of notice of appeal, the City shall notify the appellant of the time and place of the hearing;
  - (b) The City Council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the City administrator; and
  - (c) At the hearing, the City Council shall consider de nova the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.
5. Decision. The City Council shall set forth in writing the reasons for the decision.
6. Costs. The City Council may allocate the City Council's costs for the hearing between the appellant and the City. The allocation shall be based upon facts found by the City Council and stated in the City Council's decision that, in the City Council's opinion, warrant such allocation of costs. If the City Council does not allocate costs, the costs shall be paid as by the appellant, if the decision is upheld, or by the City, if the decision is overturned.

**Section 18. Public Contracts Amendments.**

- (A) Amendment Defined. An amendment is any change or modification of any term or condition of a contract or any addition or deletion of any term or provision of a contract. Amendments include, but are not limited to change directives, change orders, and any addition, deletion or modification that affects the nature, quantity, degree, or scope of the goods or services or improvements to be provided under a contract or the time of performance or price or that affects any provision concerning the rights or obligations of a party.
- (8) Writing and Signature Requirements. No amendment will be binding on the City unless set forth in writing and signed by an official who is duly authorized to bind the City in the manner described by the amendment.

- (C) Amendments That Increase Price. Except in connection with a contract renewal or extension, no contract may be amended to increase the contract price unless the increase is directly related to an increase in the quantity or types of goods or services to be provided, a betterment in the quality of goods or materials to be provided, or to compensate the contractor for delays occurring after the execution of the contract for which the City is responsible. Amendments that increase the contract price are further limited as follows:
1. Price Established by Contract. Amendments that increase the quantity of goods or services to be provided under the contract and for which unit prices were established in the original contract (for example, by weight, volume, itemized equipment price lists, or hourly fees) shall be permitted without limitation.
  2. Price Not Established by Contract. Amendments that increase the contract price and that are not described in subsection 18(C)(1) may not, in the aggregate, increase the total amount to be paid under the contract by more than twenty-five percent (25%) of the original contract price unless approved in advance by the City Council.
  3. Contracts Issued Under Price-Based Solicitation. Except in an emergency, or under a waiver approved by the City council, a contract awarded under a solicitation method based on contract price may not be amended if the resulting contract price would exceed either of:
    - (a) The limitations on amendment under subsections 18(C)(1) or (2), as applicable, or
    - (b) 125% of the maximum contract price for the class of contracts under which the Solicitation was conducted.
- (D) Time. The time of performance under a contract, or the term of an expiring contract, may not be extended by amendment except as provided in the original contract or on a temporary basis as provided in Section 10.

**Section 19. Repeal.** Ordinance 559, adopting public contracting regulations, enacted November 8, 2005, is hereby repealed.

**Section 20. Effective Date.** This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

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Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

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Derek Clevenger, Mayor

**ORDINANCE NO. 559**

**AN ORDINANCE ADOPTING RULES TO BE KNOWN AS THE CITY OF AUMSVILLE  
PUBLIC CONTRACTING REGULATIONS AND REPEALING ORDINANCE NO. 546559.**

**The City of Aumsville ordains as follows:**

**Section 1. Short Title.** The provisions of this ordinance and all rules adopted under this ordinance may be cited as the city of Aumsville's "Public Contracting Regulations."

**Section 2. Policy.**

- (A) Purpose of Public Contracting Regulations. These regulations are promulgated by the Council as the local contract review board ("Board"), as the governing body and local contract review board of the City of Aumsville; for the purpose of establishing the rules and procedures for contracts entered into by the City of Aumsville. It is the policy of the City in adopting the Public Contracting Regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:
1. Promoting impartial and open competition;
  2. Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
  3. Taking full advantage of evolving procurement methods that suit the contracting needs of the City as they emerge within various industries.
- (B) Interpretation of Public Contracting RulesRegulations. In furtherance of the purpose of the objectives set forth in subsection A, it is the City's intent that the city of Aumsville's Public Contracting Regulations be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B, and 279C.

**Section 3. Application of Public Contracting Regulations.**

- (A) In accordance with ORS 279A.025 the City's ~~public~~Public contracting Contracting regulations Regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts.
1. Between Governments. Contracts between the City and another contracting agency or between the City and another governmental body, including an agency of the federal government.
  2. Grants. Grants, but Not the Expenditure of Grant Funds. A grant contract is an agreement under which the City is either a grantee or a grantor of moneys, property, or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions. The making or receiving of a grant is not a Public Contract subject to the Oregon Public Contracting Code; however, the expenditure of any grant received by the City is subject to these Regulations and the expenditure of

~~Grants~~ grants made by the City to construct a Public Improvement or Public Works project is subject to these Public Contracting Regulations.

3. Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the City is or may become interested.
4. Real Property. Acquisitions or disposals of real property or interests in real property. This exemption includes the City granting or receiving an interest in real property that may be less than fee title to property, including a lease, an easement or a license.
5. Textbooks. Contracts for the procurement or distribution of textbooks.
6. Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program.
7. Finance. Contracts, agreements, or other documents entered into, issued, or established in connection with:
  - a) The incurring of debt by the City, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special, or limited;
  - b) The making of program loans and similar extensions or advances of funds, aid or assistance by the City to a public or private Person for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;
  - c) The investment of funds by the City as authorized by law, or
  - d) Other predominantly financial transactions of the City that, by their character, cannot practically be established under the competitive contractor selection procedures, as determined by the City administrator.
8. Employee Benefits. Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125 (4), 243.221, 243.275, 243.291, 243.303, and 243.565.
9. Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of state law.
10. Federal Law. Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these regulations or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations.

**Section 4. Regulation Authority of City Council**. Except as expressly delegated under these regulations, the Council reserves to itself the exercise of all of the duties and authority of a contract review board ~~and a contracting agency~~ under state law, including, but not limited to, the power and authority to:

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



- (B) Brand Name Specifications. Exempt the use of brand name specifications for public improvement contracts;
- (C) Waiver of Performance and Payment Bonds. Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;
- (D) Electronic Advertisement of Public Contracts.
- (E) Appeals of Debarment/Disqualification and Prequalification Decisions. Hear properly filed appeals of the city administrator's determination of debarment, or concerning prequalification;
- (F) Rulemaking. Adopt additional contracting rules ~~under pursuant to~~ ORS 279A.055, 279A.065 and ~~ORS—~~279A.070 including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services and public improvements; and
- (G) Award. Award all contracts that exceed the authority of the city administrator.

**Section 5. Model Rules.** The Model Rules adopted by the Attorney General under ORS 279A.065 do not apply to the ~~contracts-contracting procedures~~ of the City, ~~;~~ except when as otherwise provided by the Public Contracting Code or if the city administrator ~~deems-determines~~ they are necessary to supplement this Ordinance, and then they will apply only to the extent that they do not conflict with the ~~se~~ Public Contracting Regulations or other contracting ~~regulations-rules~~ adopted by Board.

**Section 6. Definitions.** For the purposes of these regulations, the following ~~mean~~definitions apply:

Addendum or Addenda: Additions or deletions to, material changes in, or general interest explanations of the city's Solicitation Documents.

Affected Person: A Person whose ability to participate in a Procurement is adversely affected by the City.

Authorized Representative: The owner of a sole proprietorship, a partner in a firm or partnership, or, a person authorized to bind by a corporation's board of directors.

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

Bid: A binding, sealed, written offer to purchase surplus property, or provide goods, services or public improvements for a specified price or prices.

Bid or Proposal Bond/Bid or Proposal Security: A means of securing execution of an awarded contract.

Bidder: An Offeror who submits a bid in response to the City's Invitation to Bid.

Board: The local contract review board, which is the Aumsville City Council.

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

City: City of Aumsville, Oregon

Cooperative Procurement: A procurement conducted by or on behalf of one or more contracting agencies.

Conduct Disqualification: A disqualification pursuant to ORS 279C.440.

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

Contract: See definition for "Public Contract."

Contract Price: The total amount paid or to be paid under a contract, including bonuses, incentives, contingency amounts, approved alternatives, and any fully executed change orders or amendments; if the Contractor fully performs under the Contract; or the maximum not-to-exceed amount of payments specified in the Contract; or the unit price for Goods or Services or Personal Services set forth in the Contract.

Contractor: The Person with whom the City executes a Public Contract.

Debarment: A declaration by the Board or city administrator under ORS 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the City's public contracts for a prescribed period of time. [The term used in ORS Chapter 279C is "disqualification" and it is synonymous with "debarment."](#)

Disposal: Any arrangement for the transfer of property by the City under which the City relinquishes ownership.

Emergency: Circumstances that create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and requires prompt execution of a contract to remedy the condition.

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

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

Goods and services/goods or services: Any item or combination of supplies, equipment, materials, and services other than personal services designated under ORS 279A.055, or other personal property, including tangible, intangible, and intellectual property and rights and licenses in relation thereto.

Informal Solicitation: A solicitation made in accordance with the City's public contracting regulations to a limited number of potential contractors, in which the Solicitation Agent attempts to obtain at least three written quotes or proposals.

Invitation to bid: A publicly advertised request for competitive sealed bids.

Model Rules: The public contracting rules adopted by the Attorney General under ORS 279A.065.

Nonresident Bidder: A bidder who is not a resident bidder as defined in this section.

Offeror: A person who submits a bid, quote, or proposal to enter into a public contract with the City.

Opening: The date, time, and place announced in the solicitation document for the public opening of written, sealed offers.

Oregon Public Contracting Code: ORS chapters 279A, 279B, and 279C.

Owner: The city of Aumsville, acting through its legally constituted City Council.

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

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

Personal Services: The services or type of services performed under a Personal Services Contract.

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

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

Public Contract: A sale or other disposal, or a purchase, lease, rental, or other

acquisition, by the City of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. Public Contract does not include grants.

Public Improvement: A project for construction, reconstruction, or major renovation on real property by or for the City. "Public improvement " does not include

- (A) Projects for which no funds of the City are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
- (B) Emergency work, minor alteration, ordinary repair, or maintenance necessary to preserve a public improvement.

Qualified Pool: A pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

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

Request for Proposals: A publicly advertised request for sealed competitive proposals.

Resident Bidder: A bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a "resident bidder" under this paragraph.

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

Solicitation Agent: With respect to a particular solicitation or contract the staff member charged with the responsibility for conducting the solicitation and making an award or making a recommendation on award to the Board.

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

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

- (A) Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;
- (B) A satisfactory record of performance. The Solicitation Agent shall document the record of performance of an offeror if the Solicitation Agent finds the offeror to be not responsible under this paragraph;
- (C) A satisfactory record of integrity. The Solicitation Agent shall document the record of integrity of an offeror if the Solicitation Agent finds the offeror to be not

- responsible under this paragraph;
- (D) Qualified legally to contract with the City;
  - (E) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the Solicitation Agent concerning responsibility, the Solicitation Agent shall base the determination of responsibility upon any available information or may find the offeror non-responsible; and
  - (F) Not been debarred by the City, and, in the case of public improvement contracts, has not been listed by the Construction Contractors Board as a contractor who is not qualified to hold a public improvement contract.

Surplus Property: Personal property owned by the City which is no longer needed for use by the City.

### **Section 7. Authority of City Administrator.**

- (A) General Authority.
  1. Solicitation Agent. The city administrator is designated as the solicitation agent for all City contracts and concession agreements and will possess the authority granted to a "contracting agency" under the Public Contracting Code, subject to the limitations of these Public Contracting Regulations. The solicitation agent may award contracts, for which the contract price does not exceed \$50,000, without additional authorization of the Board; provided there is a current fiscal year budget appropriation; or supplemental budgetary authority from the City Council, with respect to the contract, is approved. For all other contracts the solicitation agent shall conduct the solicitation and make a recommendation to the Board. The solicitation agent shall award all concession agreements, that can be awarded under an informal solicitation or by direct appointment and shall have authority to award all purchases of surplus property.
  2. Execution and Delivery. The city administrator has the authority to execute and deliver on behalf on the City all contracts that the city administrator has the power to award, and all amendments to such contracts. All other contracts and amendments shall be executed by the officer designated by the Board or designee.
  3. Promulgation of Forms and Materials. Subject to the provisions of this Ordinance these Public Contracting Regulations, the city administrator may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the City's contracting needs. The city administrator shall hear all solicitation and award protests.
- (B) Delegation of City Administrator's Authority. Any of the responsibilities or authorities of the solicitation agent or the city administrator under this Ordinance may be delegated and sub-delegated by written directive.
- (C) Solicitation Preferences. When possible, the city administrator shall use solicitation documents and evaluation criteria that:
  1. Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability, and quality are

- otherwise equal; and
2. Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products.
- (D) **Purchasing From City Officials.** The city administrator shall not make any purchase of goods and services from any City official, or any business with which a City employee is associated; except when the purchase is expressly authorized by the Board; or during a state of emergency. In any situation in which the city administrator believes that a purchase would cause an appearance of impropriety, regardless of whether the purchase is prohibited by this or any other public contracting code provision, the city administrator may forward the proposed purchase to the Board for approval.
- (E) **Mandatory Review of Rules.** Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify the Model Rules, the city administrator shall review the Public Contracting Regulations, other than the Model Rules, and recommend to the Board any modifications required to ensure compliance with statutory changes.
- (E)(F) Guidelines to Implement Public Contracting Regulations. The city administrator may adopt guidelines and other materials to assist staff and the public with the implementation of these regulations. Such guidelines shall be consistent with these regulations and may include flowcharts to guide staff in the City's day-to-day procurement activities.

**Section 8. Personal Service Contracts.** Personal services contracts are subject to the regulations established by this section:

- (A) **Procedures for the Screening and Selection of Persons to Perform Personal Services.**
1. Any Personal Services Contract. Personal services contracts in any amount may be awarded under a publicly advertised request for proposals in accordance with ORS [2798279B.060](#).
  2. Discretionary Award. The following personal service contracts may be awarded under any method deemed in the City's best interest by the city administrator, including by direct appointment; subject to approval by the city council when required by this ordinance.
    - a) Contracts for which the solicitation agent estimates that payments will not exceed \$20,000 in any fiscal year.
    - b) Contracts for legal services for the City.
    - c) City engineering contractsContracts with architects, engineers, surveyors and other professionals identified in ORS 279C.100 that involve "related services" as that term is defined in ORS 279C.100(8).
  3. Personal Service Contracts Not Exceeding \$150,000. Contracts for personal services for which the estimated contract price does not exceed \$150,000, may be awarded using an informal solicitation for proposals.
  4. Personal Service Contracts for Continuation of Work. Contracts of not more than \$200,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract

may be awarded without competition, if the prior contract was awarded under a competitive process, and the city administrator determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

5. \$75,000 Award from Qualified Pool. Contracts for personal services for which the estimated contract price does not exceed \$75,000 may be awarded by direct appointment without competition from a Qualified Pool.

(B) Procedures for Screening and Selection of Persons to Perform Architectural, Engineering, Surveying or Other Professional Services Governed by ORS 279C.105.

1. Intent. This section implements the qualification-based selection (“QBS”) requirements contained in the Public Contracting Code (ORS 279C.100 through 279C.125). The City will rely on this section, not the Model Rules, when it is required to follow the QBS process.
2. Applicability. This section only applies when the services the City seeks are legally required to be performed by an architect, engineer, land surveyor, photogrammetrist or, in certain narrow instances, a transportation planner. If the services qualify as a “related service” as that term is defined in ORS 279C.100(8), the City may rely on Section 8(A) of these rules to award a contract.
3. Methods of Award.
  - a) Direct Award. The City may award a contract directly to a consultant of its choosing under this section:
    - i. If the estimated amount the City will pay a consultant for the consultant’s services does not exceed \$100,000;
    - ii. In an emergency; or
    - iii. If the City previously had a contract with the consultant for the same or a substantially similar project and the prior contract was awarded in accordance with these regulations, including prior versions of these regulations.
  - b) RFP. If the City cannot award a contract directly to a consultant, the City will issue an RFP and advertise it in any manner it deems appropriate. If the City directly solicits proposals from consultants, it will contact at least three.
    - i. Criteria. The screening and selection procedures in the RFP will at least include consideration of a consultant’s experience, resources, record of past performance and familiarity with the City and its needs. The RFP must also contain the information required by ORS 279C.110(5)(a). Subject to the limitations in subsection (ii) below, the City may include consideration of additional screening criteria on a case-by-case basis.
    - ii. Costs. The City will consider a consultant’s cost and pricing information as part of its screening and selection process in accordance with ORS 279C.110(5). After completing an initial evaluation of consultants pursuant to the criteria in the RFP, the City will announce the initial evaluation scores and rank each of

the prospective consultants. The City may then determine that as many as three of the top-ranked consultants are qualified to perform the services and may request a pricing proposal from each consultant in accordance with ORS 279C.110(5)(c). The value assigned to the pricing proposal may not exceed 15 percent of the weight of the total score the City uses to evaluate consultants.

- iii. Negotiation. After the City completes its evaluation of the top ranked consultants and their respective pricing proposals, the City may select one of the top ranked consultants and proceed to negotiate a contract for the services. If for any reason the parties cannot arrive at a mutually acceptable contract, the City may terminate negotiations and engage the next highest ranked consultant in negotiations.
- iv. Award. If a contract is negotiated, the City will notify other prospective consultants of its intent to award a contract.

## **Section 9. Public Contract Exemptions and Process for Approval of Special Solicitation Methods.**

- ~~(A)~~ Authority of the City Council. ~~In its capacity as contract review board for the City,~~
- ~~(B)~~~~(A)~~ The City Council upon its own initiative, or upon request of the city administrator, may create special selection, evaluation, and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.
- ~~(C)~~~~(B)~~ Basis for Approval. The approval of an exemption from competition or special solicitation methods must be based upon a record before the Board that contains the following:
1. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
  2. The estimated contract price or cost of the project, if relevant;
  3. Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
  4. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;
  5. A description of the proposed alternative contracting methods to be employed; and
  6. The estimated date by which it would be necessary to let the contract(s).
- In making a determination regarding a special selection method, the Board may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
- ~~(D)~~~~(C)~~ Hearing.



1. Notice. The City shall approve the special solicitation or exemption after a public hearing before the Board following notice by publication in at least one newspaper of general circulation in the City. The notice shall be published at least seven days prior to the hearing. The Notice shall state that the purpose of the hearing is to consider findings in support of, as applicable:
  - a) A special procurement for a single contract or classes of contracts under ORS 2798.085; or
  - b) An exemption from competitive bidding for a single contract or class of contracts under ORS 279C.335.

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

2. At the public hearing, the City shall offer an opportunity for any interested party to appear and present comment.
3. The Board will consider the findings and may approve the special solicitation or exemption as proposed or as modified by the Board after providing an opportunity for public comment.
4. If the Board approves the special procurement(s) or exemptions(s) at the public meeting of the City Council following the hearing, or at a subsequent public meeting of the City Council, no published notice of the approval shall be required.

~~(E)~~(D) \_\_\_\_\_ Public Improvement Contract Exemption Special Requirements.

1. Notification of the public hearing for exemption of a public improvement contract, or class of public improvement contracts, shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing.
2. The notice shall state that the public hearing is for the purpose of taking comments on the City's draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.

~~(F)~~(E) \_\_\_\_\_ Commencement of Solicitation Prior to Approval. A solicitation may be issued prior to the approval of a special exemption under this Section 9, provided that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the Board approves the exemption. If the Board fails to approve a requested exemption or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or cancelled.

**Section 10. Solicitation Methods for Classes of Public Contracts.** The City may encourage meaningful competition through a variety of solicitation methods. The solicitation agent shall choose the solicitation method that is most likely to encourage offers representing optimal value to the City. The following classes of public contracts and the method(s) that are approved for the award of each of the classes are hereby established by the Board. However, nothing in this section may be construed as prohibiting the City from conducting a procurement under competitive bidding or competitive proposal procedures.

- (A) Small Procurements - Direct Purchase or Appointment. The following classes of contracts may be awarded in any manner, which the solicitation agent deems

appropriate to the City's needs, including by direct purchase or appointment.

1. Goods and Services Contracts Up to \$510,000. Contracts of any type for goods and services for which the contract price does not exceed \$510,000, may be awarded as a small procurement.
  - a) Notwithstanding any other contrary provisions of these City regulations, a goods and services Contract awarded as a small procurement may be amended or re-negotiated without additional competition, with prior approval of the city administrator if it is advantageous to the City; but the cumulative amendments shall not increase the total Contract Price to greater than \$612,000500.
  - b) State law prohibits a procurement from being artificially divided or fragmented, so as to constitute a small procurement under this section.
2. Public Improvement Contracts Up to \$5000. Contracts for a public improvement for which the contract price does not exceed \$5000 may be awarded as a small procurement. Contracts awarded pursuant to this subsection may be amended but the cumulative amendments shall not increase the total contract price to more than \$10,000.
3. Amendments. Contract amendments shall not be considered separate contracts, if made in accordance with the Public Contracting Regulations.
4. Advertising. Contracts for the placing of notice or advertisements in any medium.
5. Animals. Contracts for the purchase of animals.
6. Small Concessions. Concession agreements for which the city administrator estimates that receipts by the City will not exceed \$5,000 in any fiscal year, and \$50,000 in the aggregate may be awarded by any method deemed appropriate by the Solicitation Agent; including without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.
7. Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.
8. Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without preliminary dismantling or testing.
9. Government Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
10. Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135, and 414.145.
11. Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the City.
12. Sole Source Contracts. Contracts for goods or services, which are available from a single source, may be awarded without competition.
13. Specialty Goods for Resale. Contracts for the purchase of specialty goods by City for resale to consumers.
14. Sponsor Agreements. Sponsorship agreements, under which the City receives

a gift or donation in exchange for recognition of the donor.

15. Structures. Contracts for the disposal of structures located on City-owned property.
16. Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures.
17. Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.
- ~~18. Temporary Use of City-Owned Property. The City may negotiate and enter into a license, permit, or other contract for the temporary use of City-owned property without using a competitive selection process if:
 
  - a) ~~The contract results from an unsolicited proposal to the City based on the unique attributes of the property or the unique needs of the proposer;~~
  - b) ~~The proposed use of the property is consistent with the City's use of the property and the public interest; and~~
  - c) ~~The City reserves the right to terminate the contract without penalty, in the event that the City determines that the contract is no longer consistent with the City's present or planned use of the property or the public interest.~~~~

~~19.~~18. Used Property. The city administrator, for procurements for procurements up to \$50,000 may contract for the purchase of used property by negotiation, if such property is suitable for the City's needs and can be purchased for a lower cost than substantially similarly new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the City. There shall be a written record of the purchase.

~~20.~~19. Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.

~~21.~~20. Hazardous Material Removal and Oil Clean-up. The City may acquire services to remove or clean up hazardous material or oil from any vendor when ordered to do so by the Oregon Department of Environmental Quality pursuant to its authority under ORS Chapter 466.

(B) Intermediate Procurements - Informal Solicitation. The following classes of contracts may be awarded using the informal solicitation procedures in Section 12 of these regulations. State law prohibits a procurement from being artificially divided or fragmented, so as to constitute an intermediate procurement under this section.

1. Public Improvement Contracts.

- ~~a) Non-Transportation~~ Public Improvements Up to \$100,000. Public improvement contracts ~~other than contracts for a highway, bridge, or other transportation project~~ for which the estimated contract price ~~exceeds~~ ~~b)a) \$5,000, but~~ does not exceed \$100,000, may be awarded using an informal solicitation for competitive quotes. **Contracts in excess of \$100,000,**

**unless approved for a special exemption, shall be issued in accordance with the provisions of ORS 279C;**

- ~~c) Transportation Public Improvements Up to \$50,000. Contracts for which the estimated contract price exceeds \$5,000, but does not exceed \$50,000, for highways, bridges, or other transportation projects may be awarded using an informal solicitation for quotes. **Contracts in excess of \$100,000, unless approved for a special exemption, shall be issued in accordance with the provisions of ORS 279C;**~~
- ~~d)b) Contracts in excess of \$50,000, unless approved for a special exemption, shall be issued in accordance with the provisions of ORS 279C; Requests for a price quotation Contracts for a public works projects estimated to exceed \$50,000 shall include the Bureau of Labor and Industries (BOLI) provisions regarding the prevailing wage, unless otherwise exempt under Oregon law.~~
- ~~e) If the estimated cost is less than \$50,000 but all price quotations equal or exceed \$50,000 then the solicitation shall be cancelled and a new request for written price quotations, containing the BOLI provisions regarding prevailing wage shall be included.~~
- ~~f)c) Use of Existing Contractors. When a public improvement is in need of minor alteration, repair or maintenance at or near the site of work being performed by another City contractor, the City may hire that contractor to perform the work provided:~~
1. The contractor was hired through a competitive selection process permitted by these regulations;
  2. The solicitation agent first obtains a price quotation from the contractor that is competitive and reasonable or based on unit prices in the current contract;
  3. Any prevailing wage requirements are complied with and
  4. A change order is issued for the work.
2. Contracts for Goods and Services Exceeding \$510,000. The procurement of goods or services, for which the estimated contract price exceeds \$510,000, but not exceeding \$150,000, may be awarded under an informal solicitation for either quotes or proposals. **Public contracts for good or services in excess of \$150,000 shall be let in accordance with the provisions of ORS 279B.**
3. Intermediate and Major Concessions. For Concession Agreements for which receipts by the City exceed \$5,000 in a fiscal year or \$50,000 in the aggregate, and the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less; the city administrator has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed \$500,000, the Solicitation Agent may, but shall not be required to, reissue the solicitation as a request for proposals. Major concession agreements, for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed \$500,000 annually, shall be awarded using a request for proposals.

- (C) Hybrid Contracts. The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.
1. Design/Build and CM/GC Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals, but only if the Council has approved an exemption in accordance with these regulations. The determination to construct a project using a design/build or construction manager/general contractor construction method may be approved by the Board if the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the city. All CM/GC contracts must also comply with ORS 279C.337 and the provisions in the Model Rules that govern the CM/GC delivery method.
  2. Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification in this Section 10, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the City's Public Contracting Regulations.
- (D) Purchases from Nonprofit Agencies for Disabled Individuals. The City shall purchase goods, services, and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of ORS 279.835 through 279.850.
- (E) Emergency Procurements.
1. In General. When an official with authority to enter into a contract on behalf of City determines that immediate execution of a contract, within the official's authority, is necessary to prevent a substantial risk of loss, damage, or interruption of services; or a substantial threat to property, public health, welfare, or safety, the official may execute the contract without competitive selection and award or City approval; but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.
  2. Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the city administrator or Board has made a written declaration of emergency. Any public improvement contract awarded under emergency conditions must be awarded within 60 Days following the declaration of an emergency, unless the Board grants an extension of the emergency period. All such contracts, whether or not signed by the contractor, shall be deemed to contain a termination for convenience clause permitting the City to immediately terminate the contract at its discretion and, unless the contract was void, the City shall pay the contractor only for work performed prior to the date of termination plus the contractor's unavoidable costs incurred as a result of the termination. In no event will the City pay for anticipated lost profits or consequential damages as a result of the termination. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the city administrator or Board may waive the requirement for all or a portion of

required performance and payment bonds.

3. Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, document the nature of the emergency; and for Good or Services contracts, describe the method used for the selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the City and the public; and notify the Board of the facts and circumstances surrounding the emergency execution of the contract.
- (F) Surplus Property.
1. Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the estimated value of the item and the manner of disposal.
  2. General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the Solicitation Agent that the method of disposal is in the best interest of the City. Factors that may be considered by the Solicitation Agent include costs of sale, administrative costs, and public benefits
  3. to the City. The Solicitation Agent shall maintain a record of the manner of disposal, including the name of the person to whom the surplus property was transferred.
    - a) Auction. By publicly advertised auction to the highest bidder.
    - b) Bids. By public advertised invitation to bid.
    - c) Donation. By donation to any non-profit cause or organization operating within or providing a service to residents of the City.
    - d) Governments. Without competition, by transfer or sale to another public agency.
    - e) Fixed Price Sale. The Solicitation Agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
    - f) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.
    - g) Trade-In. By trade-in, in conjunction with acquisition of other price-based item under procurement. The solicitation, shall require the offer to state the total value assigned to the surplus property to be traded.
  4. Restriction on Sale to City Employees. City employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.
  5. Personal-Use Items. An item (or indivisible set) of specialized and personal use, other than police officer's handguns, with a current value of less than \$100 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a

process deemed most efficient by the city administrator.

6. Police Officers' Handguns. Upon honorable retirement from service with the City, a police officer may purchase the handgun that she or he was using at the time of retirement. The purchase price shall be the fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the City at least 30 days prior to his or her expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer the City shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who shall have up to 30 days from the date of retirement to purchase the handgun for the appraised fair market value.
  7. Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the City shall make, execute, and deliver, a bill of sale signed by the city administrator, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.
- (G) Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration ("GSA") as provided in this subsection.
1. The procurement must be made in accordance with procedures established by GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the city administrator. The Solicitation Agent shall provide the city administrator with a copy of the letter, memorandum, or other documentation from GSA establishing permission to the City to purchase under the federal program.
  2. The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.
  3. The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the City.
  4. If a single purchase of goods or services exceeds \$150,000, the Solicitation Agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the City. This paragraph does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes.
- (H) Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code, ORS 279A.200-225.
- (I) Report to City Council on Non-Bid Public Improvement Projects.
1. Upon completion of and final payment for any public improvement contract, or class of public improvement contracts described in ORS 279A.050 (3) (b), in excess of \$100,000; for which the City did not use the competitive bidding process, City staff shall prepare and deliver to the City Council an evaluation of the public improvement project, or class of public improvement contracts. The

evaluation shall include but not be limited to the following matters:

- a) The actual project cost as compared with original project estimates;
  - b) The amount of any guaranteed maximum price;
  - c) The number of project change orders issued by the Owner;
  - d) A narrative description of successes and failures during the design, engineering and construction of the project; and
  - e) An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.335.
2. Evaluations required by this section must be made available for public inspection, and be completed within 30 days of the date that the Contracting Agency accepts:
- a) The public improvement project; or
  - b) The last public improvement project if the project falls within a class of public improvement contracts.

### **Section 11. Sole Sources.**

- (A) **Determination of Sole Source.** A sole source contract is a contract with a vendor who is the only responsible source for the goods, services, or personal services required by the City. A determination of sole source may be made by the city administrator based upon written findings that demonstrate that the contractor is a sole source, and that alternative goods, services, or personal services would be unsatisfactory for the City's needs based on factors that may include any of the following:
1. A record that no qualified vendors responded to a notice issued in accordance with Subsection B;
  2. A written statement from a manufacturer established as a sole source that the product is only available to the City from a single point of sale;
  3. Written evidence that the contract is for a patented product and that the proposed vendor is the exclusive holder of a right to sell the product;
  4. Records of research that demonstrate that only one suitable source for the goods or service exists and that alternate goods or services do not meet the City's requirements, including, without limitation, that efficient utilization of existing goods requires the acquisition of compatible goods or services; or
  5. A statement that the goods or services are for use in a pilot or experimental project.
- (B) **Manner of Notice.** The record that a contractor is a sole source may be established if no qualified alternative sources responded to a public notice of the City's requirements. The notice shall be published at least five business days before contract execution and shall:
1. Describe the goods, services, or personal services sought;
  2. State the estimated amount of the contract;
  3. Request statements of ability to provide the identified goods, services, or personal services from vendors who are qualified to compete for the contract, and
  4. State that if no responses are received from qualified vendors within the time period specified in the notice, the Purchasing Manager will proceed with a sole-



source award.

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

**Section 12. Informal Solicitation Procedures and Qualified Pools.** When authorized by these regulations the City may use the following procedures for informal solicitations, and a contract may be awarded using the Informal solicitation procedures described in this Section 12.

- (A) Record of Contract Requirements and Evaluation Criteria. The solicitation agent shall make a written record of the contract requirements and criteria upon which the award will be based before conducting the solicitation. This record shall be used to provide all potential offeror with the same information concerning the contract requirements and the manner in which their offers will be evaluated.
- (B) Contact with Potential Offerors. The solicitation agent request for Quotes or proposals may be by general or limited distribution to a certain group of vendors, by direct inquiry to Persons selected by the Solicitation Agent, or in any other manner that the Solicitation Agent deems suitable for obtaining a sufficient number of competitive quotes or proposals.
- (C) Number of Offers. The Solicitation Agent shall attempt to obtain at least three Responsive quotes or proposals from offerors who are qualified to perform the contract unless three offers cannot be reasonably obtained. If fewer than three quotes or proposals are reasonably available, fewer will suffice, but the Solicitation Agent shall make a record of the efforts made to obtain the offers. (~~ORS 2798.070; Section 133, Chapter 794, Oregon Laws 2003~~)
- (D) When Written Solicitation Required. The request for offers and the receipt of offers shall be made in writing in the following cases:
1. Contracts for Goods, Services, or Personal Services. If the estimated Contract Price will exceed \$75,000, the Solicitation Agent shall request written quotes or proposals using a written description of contract requirements and award criteria.
  2. Contracts for Public Improvements. The Solicitation Agent shall request written quotes for all public improvement contracts and shall present the description of contract requirements and award criteria using written materials unless the information can be given by other means in a conference or oral presentation at which all potential offerors are present and have an opportunity to ask questions. Notwithstanding the foregoing sentence, when soliciting quotes for a public works project, the Solicitation Agent must deliver all written materials, including written copies of the prevailing wage rates required by the Bureau of Labor and Industries.
- (E) Basis for Award. Selection of contractors for goods, services, and personal services shall be based on the quote or proposal that is most advantageous to the City. The selection criteria for public improvement contracts shall be based on quotes but may include a consideration of, and ranking of other factors in addition to, price, such as experience, specific expertise, availability, project understanding, contractor capacity, responsibility, and similar factors. The Solicitation Agent shall make a written record of all offerors, the prices quoted and, if the award was made

- on a basis other than price, a record of the evaluation of each offer, and the basis for award.
- (F) Discussions and Negotiations. The Solicitation Agent may discuss the solicitation requirements for any type of informal solicitation with potential offerors and may discuss a quote or proposal with an offeror to clarify its quote or proposal or to effect modifications that will make the quote or proposal responsive to the solicitation requirements. Except for solicitations involving public improvements, after all initial quotes have been received and recorded, the solicitation agent may negotiate with an offeror to effect modifications that will make the quote or proposal more advantageous to the City. The Solicitation Agent may not disclose the price offer or terms of one offeror to another during discussions prior to contract award.
- (G) Amendment. A contract awarded using an Informal Solicitation may be amended only as provided in these regulations.
- (H) Qualified Pools.
1. Purpose of Qualified Pools. In lieu of prequalification on a contract-by-contract basis, the City may establish qualified pools that can be used on a continuous basis for the selection of contractors when direct appointment or Informal Solicitation is otherwise authorized by these regulations.
  2. Creation of Qualified Pool. To create a qualified pool, the city administrator may invite prospective contractors to submit their qualifications to the City for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects, including personal services and public improvements.
  3. Advertisement. The invitation to participate in a qualified pool shall be advertised, at the discretion of the Solicitation Agent, by publication in a newspaper of general circulation in the Aumsville area, by electronic publication as permitted in these regulations or by any other method that the Solicitation Agent deems desirable to develop a sufficient pool of qualified vendors. The advertisement shall be made at the time of initial formation and whenever the qualified pool contract is subject to re-opening or renewal. If the pool is open to entry at any time, and is continuously advertised on the City's website, no additional advertisement shall be required.
  4. Qualification for Participation. A qualified pool shall be open for entry not less than once in each three years. Standards for participation in a qualified pool may include the applicant's financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the City. The City may also require, as a condition to participation, that the applicant furnish additional materials such as proof of licensure, insurance, insurance endorsements to protect the interests of the City, material concerning performance and fidelity bonds, and that the applicant agree to the terms and conditions of participation in the qualified pool. The qualifications for participation in each qualified pool shall be set forth in writing, but may be changed at any time, provided that all participants are notified of the change.

5. Contents of Solicitation. Requests for participation in a qualified pool shall describe the scope of goods or services or personal services for which the pool will be maintained, and the minimum qualifications for participation in the pool.
6. Use of Qualified Pools. The Solicitation Agent may use a qualified pool to make direct appointments as authorized in these regulations or to obtain quotes or proposals for an informal solicitation, but shall not be limited to selection from a qualified pool. Participation in a qualified pool shall not entitle any participant to the award of a City contract.
7. Amendment and Termination. The Solicitation Agent may discontinue a qualified pool at any time or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.
8. Protest of Failure to Qualify. The Solicitation Agent shall notify any applicant who fails to qualify for participation in a pool that it may appeal the Solicitation Agent's decision to the city administrator in the manner described in Section 17.

### **Section 13. Requirements for Invitation to Bids and Request for Proposals.**

- (A) Unless otherwise provided in these regulations, all formal bids, and proposals made to the City shall:
1. Be in writing.
  2. Be filed with the solicitation agent before the Closing. Any offer received after the Closing is late. An Offeror's request for withdrawal or modification of an offer received after the closing is late. The City shall not consider late offers or late modification of an offer or late withdrawal of an offer.
  3. Be opened publicly by the City at the date, time, and place designated in the solicitation.

### **Section 14. Use of Brand Name Specifications for Public Improvements.**

- (A) In General. Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:
1. It is unlikely that such exemption will encourage favoritism in the awarding of Public Improvement Contracts or substantially diminish competition for Public Improvement Contracts; or
  2. The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the City; or
  3. There is only one manufacturer or seller of the product of the quality required; or
  4. Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.
- (B) Authority of City Administrator. The city administrator shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of Subsection A.
- (C) Brand Name or Equivalent. Nothing in this Section 14 prohibits the City from using a "brand name or equivalent" specification, from specifying one or more comparable

products as examples of the quality, performance, functionality, or other characteristics of the product needed by the City, or from establishing a qualified product list.

### **Section 15. Bid, Performance and Payment Bonds.**

- (A) Solicitation Agent May Require Bonds. The Solicitation Agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.
- (B) Bid Security. Except as otherwise exempted, the solicitations for all contracts that include the construction of a non-transportation related public improvement and for which the estimated contract price will exceed \$75100,000 shall require bid security. For transportation-related public improvements, bid security is required if the estimated contract price will exceed \$50,000. Bid security for a request for proposal may be based on the City's estimated contract price. The amount of bid security may not exceed 10 percent of the bid amount.
- (C) Performance Bonds.
1. General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.
  2. Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000, that includes the construction of a public improvement, Contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the City and any public agency that is providing funding for the project for which the contract was awarded.
  3. Cash-in-Lieu. The city administrator may permit the successful offer or to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond.
- (D) Payment Bonds.
1. General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.
  2. Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS 279C.600.
- (E) Design/Build Contracts. If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.
- (F) Construction Manager/General Contractor Contracts. If the public improvement contract is with a single person to provide construction manager and general

contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by Subsection A. of this section upon execution of an amendment establishing the guaranteed maximum price. The City shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

- (G) Surety; Obligation. Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the City or to the public agency or agencies for whose benefit

the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the city administrator.

- (H) Emergencies. In cases of emergency, or when the interest or property of the City probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of Section 10.E.2, unless the Board requires otherwise.

**Section 16. Electronic Advertisement of Public Contracts.** In lieu of publication in a newspaper of general circulation in the City area, the advertisement for an invitation to bid or request for proposals for any type of public contract may be published electronically by posting on the City's website, provided that the following conditions are met:

- (A) The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and
- (8) The Solicitation Agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the area and will provide costs savings for the City, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the area in encouraging meaningful competition.

**Section 17. Protests and Appeals.**

- (A) Protests of Solicitation Procedures.

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

- proceeding.
2. Exception for Special Procurements. The procedures for a contract-specific special procurement approved by the board may not be protested, challenged or reviewed unless the approval of the special procurement by the board has been invalidated by a reviewing circuit court under ORS 2798.400.
  3. Time for Submission of Protest. Protests of a Solicitation shall only be considered when presented to the City administrator in writing in accordance with the following timelines.
    - (a) Protests shall be submitted in writing, not less than five (5) days prior to the solicitation closing unless the solicitation period is shorter than seven (7) days, in which case, the solicitation documents shall recite another protest deadline that allows a period of at least one (1) business day after the issue date of the solicitation to submit protests; and
    - (b) Protests not asserted or not properly asserted within these timelines shall be deemed waived by the protester.
  4. Identification of Protest. It is the protester's responsibility to ensure that the protest is received by the City within the stated timelines. The protest should be delivered in an envelope that is clearly marked with the protester's name and sufficient information to identify the solicitation being protested, identified as a protest, and directed to the person identified in the solicitation documents for receipt of protests. Faxed protests may not be accepted.
  5. Eligibility for Consideration. The City administrator shall consider the protest if the protest is timely filed and contains the following:
    - (a) Sufficient information to identify the solicitation that is the subject of the protest;
    - (b) The grounds that demonstrate how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed, or improperly specifies a brand name;
    - (c) Evidence or supporting documentation that supports the grounds on which the protest is based; and
    - (d) The relief sought.
  6. Form of Decision. If the protest is timely submitted and contains the required information, the City administrator shall consider the protest and issue a decision in writing. Otherwise, the City administrator shall promptly notify the prospective protesting offeror that the protest is untimely or that the protest failed to meet the requirements of this Section 17.1 and give the reasons for the failure.
  7. Time of Decision. The City administrator shall issue a decision no less than 72 hours before the solicitation closing, unless a written determination is made by the City administrator that circumstances exist that require a shorter time limit.
  8. Appeal. If the City administrator is the City Administrator's designee, the City administrator's decision may be appealed to the City Administrator by notifying the City Administrator of the intent to appeal within three business days after the date on which the City administrator sends its decision to the protestor's electronic or postal address specified in the written protest.
  9. Finality of Decision. The decision of the City Administrator, or if no appeal is

made to the City Administrator, of the City administrator, shall be the final determination of the City on the protest.

10. Delay of Solicitation Closing. If the City receives a protest from an offeror in accordance with this Section 17.1, the City administrator may in his or her discretion extend the date of solicitation closing if the City administrator determines an extension is necessary to consider the protest and, if necessary, to issue addenda to the solicitation documents or otherwise cancel the solicitation.
- (B) Protest of Competitive Range Decisions and Contract Awards.
1. Delay of Evaluation or Award. The City Administrator will not proceed with a subsequent tier or evaluation, or award a contract under an Invitation to bid or request for proposals, until the period of time for filing a protest of competitive

range determination, or award, as applicable, has expired, and the City administrator has responded to all timely filed protests of aggrieved offerors.

2. Definition of Aggrieved Offeror. An offeror is an aggrieved offeror only if the person is one to whom a notice of selection of a competitive tier or notice of intent to award has been, or should have been, sent, and such person has been erroneously denied the award of a contract, or has been erroneously eliminated from competition because:
  - (a) All higher-ranked offers were non-responsive, or all higher-ranked offerors clearly failed to meet the standards of responsibility;
  - (b) The evaluation of offers was not conducted in accordance with the criteria or processes described in the solicitation documents;
  - (c) The evaluator abused its discretion in disqualifying the protestor's offer as non-responsive or as failing to meet the standards of responsibility; or
  - (d) The evaluation of offers or subsequent determination of award was otherwise made in violation of the Oregon Public Contracting Code or these regulations.
3. Filing of Protests. Unless a longer or shorter time period is provided in the solicitation documents, an aggrieved offeror shall have five (5) days after the date of issuance of the notice of intent to award, and three (3) days, if mailed, or 72 hours, if issued electronically after a notice of competitive range determination, to submit to the City administrator a written protest of the matter described in the award. The written protest must specify the grounds upon which the protest is based, demonstrate the basis for the protestor's status as an aggrieved offeror, and include an electronic or postal address at which the protestor will receive the City administrator's response. Notwithstanding the foregoing, the period of protest may not be shorter than five (5) days after the date of notice of award, unless the City administrator determines that the immediate execution of a contract is necessary to avoid a loss of funding for the contract or that further delay in execution will result in injury, property damage or other serious adverse consequences.
4. Authority to Resolve Protests. The City administrator shall consider a written protest and issue a written decision on the protest. The City administrator may not consider a protest that is filed in an untimely manner or that fails to allege facts that would support a finding that the protestor is an aggrieved offeror. If the City administrator is the City Administrator's designee, the City administrator's decision may be appealed to the City Administrator by notifying the City Administrator of the intent to appeal within three business days after the date on which the City administrator sends its decision to the proposer's electronic or postal address specified in the written protest. The decision of the City Administrator, or if no timely appeal to the City Administrator is made, the decision of the City administrator, shall be the final decision of the City on the protest.
5. Delay of Award; Cancellation of Solicitation. If the City receives a protest from an offeror in accordance with this Section 17.2, the City administrator shall not submit the contract for execution until the protest is resolved through the final



decision under 17.2.4. In addition, the City administrator shall have discretion to delay or cancel an award or a solicitation in response to a protest, regardless of the final decision on the protest, and may, but shall not be required to, reissue the solicitation, if the City administrator determines that such action best serves the City's interests.

(C) Appeal of Debarment or Prequalification Decision.

1. Right to Hearing. Any person who has been debarred from competing for City contracts or for whom prequalification has been denied, revoked or revised may appeal the City's decision to the City Council as provided in this Section 17.3.
2. Filing of Appeal. The person must file a written notice of appeal with the City's City administrator within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.
3. Notification of City Council. Immediately upon receipt of such notice of appeal, the City administrator shall notify the City Council of the appeal.
4. Hearing. The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:
  - (a) Promptly upon receipt of notice of appeal, the City shall notify the appellant of the time and place of the hearing;
  - (b) The City Council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the City administrator; and
  - (c) At the hearing, the City Council shall consider de nova the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.
5. Decision. The City Council shall set forth in writing the reasons for the decision.
6. Costs. The City Council may allocate the City Council's costs for the hearing between the appellant and the City. The allocation shall be based upon facts found by the City Council and stated in the City Council's decision that, in the City Council's opinion, warrant such allocation of costs. If the City Council does not allocate costs, the costs shall be paid as by the appellant, if the decision is upheld, or by the City, if the decision is overturned.

**Section 18. Public Contracts Amendments.**

- (A) Amendment Defined. An amendment is any change or modification of any term or condition of a contract or any addition or deletion of any term or provision of a contract. Amendments include, but are not limited to change directives, change orders, and any addition, deletion or modification that affects the nature, quantity, degree, or scope of the goods or services or improvements to be provided under a contract or the time of performance or price or that affects any provision concerning the rights or obligations of a party.
- (8) Writing and Signature Requirements. No amendment will be binding on the City unless set forth in writing and signed by an official who is duly authorized to bind the City in the manner described by the amendment.

- (C) Amendments That Increase Price. Except in connection with a contract renewal or extension, no contract may be amended to increase the contract price unless the increase is directly related to an increase in the quantity or types of goods or services to be provided, a betterment in the quality of goods or materials to be provided, or to compensate the contractor for delays occurring after the execution of the contract for which the City is responsible. Amendments that increase the contract price are further limited as follows:
1. Price Established by Contract. Amendments that increase the quantity of goods or services to be provided under the contract and for which unit prices were established in the original contract (for example, by weight, volume, itemized equipment price lists, or hourly fees) shall be permitted without limitation.
  2. Price Not Established by Contract. Amendments that increase the contract price and that are not described in subsection 18(C)(1) may not, in the aggregate, increase the total amount to be paid under the contract by more than twenty-five percent (25%) of the original contract price unless approved in advance by the City Council.
  3. Contracts Issued Under Price-Based Solicitation. Except in an emergency, or under a waiver approved by the City council, a contract awarded under a solicitation method based on contract price may not be amended if the resulting contract price would exceed either of:
    - (a) The limitations on amendment under subsections 18(C)(1) or (2), as applicable, or
    - (b) 125% of the maximum contract price for the class of contracts under which the Solicitation was conducted.
- (D) Time. The time of performance under a contract, or the term of an expiring contract, may not be extended by amendment except as provided in the original contract or on a temporary basis as provided in Section 10.

**Section 19. Repeal.** Ordinance [546559](#), adopting public contracting regulations, enacted ~~March 14~~[November 8](#), 2005, is hereby repealed.

**Section 20. Effective Date.** This ordinance shall take effect on the thirtieth day after its enactment.

PASSED by the Aumsville City Council on November 7<sup>th</sup>, 2005 and signed by the mayor November 8, 2005.

## ORDINANCE NO. 678

### **AN ORDINANCE WHICH ESTABLISHING A SYSTEMS DEVELOPMENT CHARGE FOR CAPITAL IMPROVEMENTS FOR WATER SUPPLY, TREATMENT, TRANSMISSION, AND DISTRIBUTION; WASTEWATER COLLECTION, TREATMENT, AND DISPOSAL; STORM DRAINAGE, INCLUDING FLOOD CONTROL; STREETS; AND PARKS AND REPEALING ORDINANCE NO. 387.**

#### **The city of Aumsville ordains as follows:**

**Section 1. Purpose.** The systems development charge (SDC) imposes an equitable share of capital improvement costs for water, supply, treatment, transmission, and distribution; wastewater collection, treatment, and disposal; storm drainage; streets; flood control; and parks upon developments creating the need for, or increase in, the demand made on the aforementioned capital improvements.

**Section 2. Scope.** The SDC imposed by this ordinance is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

**Section 3. Definitions.** For purposes of this ordinance, the following mean:

- (A) Capital Improvements. Facilities or assets used for:
  1. Water, supply, treatment, and distribution;
  2. Wastewater collection, transmission, treatment, and disposal; drainage and flood control;
  3. Transportation, including but not limited to streets, sidewalks, bike lanes and paths, streetlights, traffic signs and signals, public transportation, vehicle parking and bridges; or
  4. Parks and recreation, including but not limited to neighborhood parks, community parks, public open space and trail systems, buildings, courts, fields, and other like facilities.
- (B) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction, installation, or change of a building or other structure; land division; establishment or termination of a right to access; storage on the land; drilling and site alteration, including but not limited to surface mining, dredging, paving, excavation, or clearing Developer. Any person responsible for a development.
- (C) Improvement Fee. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 4 of this ordinance.
- (D) Land Area. The area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

- (E) Owner. The owner(s) of record title or purchaser(s) under a recorded sale agreement and other persons having an interest of record in the described real property.
- (F) Parcel of Land. A tract of land however described occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.
- (G) Qualified Public Improvements. A capital improvement that is:
  1. Required as a condition of residential development approval;
  2. Identified in the plan adopted pursuant to Section 8 of this ordinance; and
  3. Not located on or contiguous to a parcel of land that is the subject of the residential development approval.
- (H) Reimbursement Fee. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 4 of this ordinance.
- (I) Systems Development Charge (SDC). A reimbursement fee, an improvement fee, or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit , building permit, or connection to the capital improvement as identified in Section 9. SDC does not include connection or hook-up fees for sanitary sewers, storm drains, or water lines, such fees are designed by the City only to reimburse the City for actual or average costs for such connections. An SDC does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.

**Section 4. Systems Development Charge Established.**

- (A) SDCs shall be established and may be revised by resolution of Council.
- (B) Unless otherwise exempted by the provisions of this ordinance or other local or state law, an SDC is hereby imposed upon all developers of parcels of land within the city and lands outside the boundary of the city that connect to or otherwise use the sewer facilities, storm sewers, park facilities, transportation system, or water facilities of the city.

**Section 5. Methodology.**

- (A) The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.
- (B) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

- (C) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be established and may be revised by resolution of Council.
  - (1) The City shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any SDC.
  - (2) Written notice shall be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify an SDC, and the methodology supporting the system development charge shall be available at least 60 days prior to the first hearing.
  - (3) The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the City. The city administrator may periodically delete names from the list, but at least 30 days prior to removing a name from the list must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.
  - (4) Legal action intended to contest the methodology used for calculating a system development charge may not be filed after 60 days after the effective date of the ordinance or resolution establishing or modifying an SDC. Any person shall request judicial review of the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100 (2020).
  - (5) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the SDC if the change in the amount is based on the periodic application of an adopted specific cost index or on a modification to any of the factors related to rate that are incorporated in the established methodology.

## **Section 6. Authorized Expenditures.**

- (A) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- (B)
  - 1. Improvement fees shall be spent only on costs associated with capacity increasing capital improvements, including expenditures relating to repayment of bonded debt for said improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by development.
  - 2. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to Section 8 of this ordinance.
- (C) Notwithstanding subsections (A) and (B) of this section, SDC revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing SDC methodologies and providing an annual

accounting of SDC expenditures and costs of properly administering, collecting, and accounting for SDCs.

**Section 7. Expenditures Restrictions.**

- (A) SDCs shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.
- (B) SDCs shall not be expended for costs of the operation or routine maintenance of capital improvements.

**Section 8. Improvement Plan.** Council shall adopt a plan that:

- (A) Lists the capital improvements that may be funded with improvement fee revenues;
- (B) Lists the estimated costs and time of construction of each improvement; and
- (C) Describes the process for modifying the plan.

**Section 9. Collection of Charge.**

- (A) The SDC is payable upon issuance of:
  - 1. A building permit;
  - 2. A development permit for development not requiring the issuance of a building permit; or
  - 3. A permit to connect to the water, sanitary sewer, or storm drainage systems.
- (B) If no building, development, or connection permit is required, the SDC is payable at the time of annexation or when the usage of the capital improvement is increased.
- (C) If development is commenced or connection is made to the water, sewer, or storm drainage systems without an appropriate permit, the SDC is immediately payable upon the earliest date that a permit was required.
- (D) The city administrator shall collect the applicable SDC when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.
- (E) The city administrator shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to Section 11 of this ordinance, or unless an exemption is granted pursuant to Section 12 of this ordinance.

### **Section 10. Delinquent Charges; Hearing.**

- (A) When, for any reason, the SDC has not been paid, the city administrator shall report to 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 of the developer.
- (B) Council shall schedule a public hearing on the matter and direct that notice of the hearing be given to each developer with a copy of the city administrator's report concerning the unpaid charge. Notice of the hearing shall be given either personally or by certified mail, return receipt requested, or by both personal and mailed notice, and by posting notice on the parcel at least 10 days before the date set for the hearing.
- (C) At the hearing, Council may accept, reject, or modify the determination of the city administrator as set forth in the report. If Council finds that an SDC is unpaid and uncollected, it shall direct the city administrator to docket the unpaid and uncollected SDC in the lien docket. Upon completion of the docketing, the City shall have a lien against the described land for the full amount of the unpaid charge, together with interest at the legal rate of 10 percent and with the City's actual cost of service notice of the hearing on the developer. The lien shall be enforceable in the manner provided in ORS Chapter 223.

### **Section 11. Installment Payment.**

- (A) The owner of a parcel of land subject to an SDC over \$10,000.00 may apply for payment thereof in installments, to include interest at the rate of 10% on any unpaid balance, consistent with ORS 223.208 (2020). Payment may be over a period of less than 10 years if so elected by the property owner. Otherwise, SDCs are payable over a period of 10 years in 20 semi-annual installments, to include interest on the unpaid balance.
- (B) The city administrator shall provide application forms for payment of the SDC installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.
- (C) An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.
- (D) The city administrator shall report to Council the amount of the SDC, the dates on which the payments are due, the name of the developer, and the description of the parcel.
- (E) The city administrator shall docket the lien in the lien docket. From that time the City shall have a lien upon the described parcel for the amount of the SDC, together with interest on the unpaid balance at the rate established by Council with the priority of an assessment lien described in ORS 223.230(3) (2020). The lien shall be enforceable in the manner provided in ORS Chapter 223 (2020).

### **Section 12. Exemptions.**

- (A) A developer whose structures and uses were established and existing on or before the effective date of this ordinance is exempt from an SDC, except water

and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Developers affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.

- (B) A developer whose development consists of an alteration, addition, replacement, or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from those portions of the SDC that are not impacted.

### **Section 13. Credits.**

- (A) As used in this section and in the definition of "qualified public improvement" in Section 3, the word contiguous means: in a public way which abuts.
- (B) When development occurs subject to payment of an SDC under Section 4 of this ordinance, the SDC for the existing use shall be calculated and if less than the SDC for the proposed use, the difference between the charge for the existing use, and the charge for the proposed use shall be the SDC required under Section 4. If the change in use results in the SDC for the proposed use being less than the SDC for the existing use, no SDC shall be imposed but no refund or credit shall be given.
- (C) A credit shall be given for the cost of a qualified public improvement associated with a development above that required by the development itself, if a qualified public improvement is located partially on and partially off the parcel of land, subject of the development approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the parcel of land subject to development approval. The credit provided for by this subsection shall be only for the public improvement charge charged for the type of improvement being constructed and not exceed the public improvement charge even if the cost of the capital improvement exceeds the applicable public improvement charge. (for example if a development requires an eight inch (8") water line to be installed and the city's master plan shows a 12" water line is desired, and the developer agrees to install; the city would enter into an agreement to offset costs directly attributed to upsizing.)
- (D) Where the amount of the credit exceeds the amount of the SDC, the excess credit is not transferable to another development although it may be transferred to another phase of the original development.
- (E) Credit shall not be transferable from one type of capital improvement to another.
- (F)** Credits must be used within five (5) years of the date the credit was given.



**Section 14. Segregation and Use of Revenue.**

- (A) All funds derived from a particular type of SDC are to be segregated by accounting practices from other funds of the City. That portion of the SDC calculated and collected for a specific facility system shall be used for no purpose other than as set forth in Section 6 above.
- (B) The city administrator shall provide Council with an annual accounting, based on the city's fiscal year, for SDCs showing the total amount of SDC revenues collected for each type of facility and the projects funds for each account.

**Section 15. Appeal Procedure.**

- (A) A person challenging the propriety of an expenditure of SDC revenues may appeal the decision or the expenditure to Council by filing a written request with the city administrator describing with particularity the decision of Council and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.
- (B) Appeals of any other decision required or permitted to be made by the city administrator under this ordinance must be filed within 10 days of the date of the decision.
- (C) After providing notice to the appellant, Council shall determine whether the city administrator's decision or the expenditure is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314 (2020) and may affirm, modify, or overrule the decision. If Council determines that there has been an improper expenditure of SDC revenues, Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.
- (D) A legal action challenging the methodology adopted by Council pursuant to Section 5 shall not be filed later than 60 days after the adoption.

**Section 16. Prohibited Connection.** No person may connect to or otherwise use any City public improvement unless the appropriate SDC has been fully paid or a lien or installment payment method has been applied for and approved in writing.

**Section 17. Penalty.** Violation of Section 16 of this ordinance is punishable by payment of the mandatory SDCs and a fine not to exceed \$500.00.

**Section 18. Construction.** The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference and made a part of this ordinance.

**Section 19. Exceptions.** Nothing in this ordinance prohibits Council from changing the SDC based on the facts and circumstances of a particular case.

**Section 20. Severability.** If any provision, section, sentence, or phrase of this ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be

unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this ordinance.

**Section 21. Repeal.** All city of Aumsville ordinances or parts of ordinance in conflict herewith are hereby repealed.

Read first on the 26<sup>th</sup> day of October 2020. READ a second time on the \_\_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

**ORDINANCE NO. ~~XXX~~387**

**AN ORDINANCE ~~REPEALING AND REPLACING~~ ~~ORDINANCE 387~~ WHICH ESTABLISHED ~~EDING~~ A SYSTEMS DEVELOPMENT CHARGE FOR ~~RELATING TO~~ CAPITAL IMPROVEMENTS FOR WATER, SUPPLY, TREATMENT, TRANSMISSION ~~AND DISTRIBUTION~~ AND DISTRIBUTION; WASTEWATER COLLECTION, TREATMENT AND DISPOSAL; STORM DRAINAGE ~~INCLUDING FLOOD CONTROL~~; STREETS; ~~FLOOD CONTROL~~ AND PARKS. ~~AND DECLARING AN EMERGENCY.~~**

The city of Aumsville ordains as follows:

**Section 1. - Purpose.** -The ~~purpose of this~~ systems development charge ~~is to~~ imposes an equitable share of ~~the costs of~~ capital improvements ~~costs~~ for water, supply, treatment, transmission and distribution; wastewater collection, treatment and disposal; storm drainage; streets; flood control and parks upon ~~these~~ developments ~~that~~ ~~create~~ ~~ing~~ the need for, or increase ~~in,~~ the demands ~~made on the~~ ~~aforementioned~~ ~~on~~ capital improvements.

**Section 2. - Scope.** - The systems development charge imposed by this ordinance is separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development.

**Section 3. Definitions.** For purposes of this ordinance, the following mean:

(A) Capital Improvements. -Facilities or assets used for:

- (1) Water, supply, treatment and distribution;
- (2) Waste-water collection, transmission, treatment and disposal;
- (3) Drainage and flood control;
- (4) Transportation, including but not limited to streets, sidewalks, bike lanes and paths, street-lights, traffic signs and signals, public transportation, vehicle parking and bridges; or
- (5) Parks and recreation, including but not limited to neighborhood parks, community parks, public open space and trail systems, buildings, courts, fields and other like facilities.

~~(B)~~ Development. ~~Any man-made change to improved or unimproved real estate, including but not limited to construction, installation or change of a building or other structures, land division, establishment or termination of a right to access, storage on the land, drilling and site alteration including but not limited to such as that due to land surface mining, dredging, paving, excavation or clearing.~~ -The change in character, occupancy for use of land or buildings; including redevelopment and demolishing a building for the conversion of such property to a different use; which increases the usage of any capital improvements or which creates the need for additional capital improvements; or annexing into the City when parks, sewer, transportation and/or water services are provided to the annexed property.

~~(C)~~(B) Developer. Any person responsible for a ~~D~~development.

- ~~(D)~~(C) Improvement Fee. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 4 of this ordinance.
- ~~(E)~~(D) Land Area. The area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.
- ~~(F)~~(E) Owner. The owner~~(s) or owners~~ of record title or ~~the purchaser(s) or purchasers~~ under a recorded sale agreement, and other persons having an interest of record in the described real property.
- ~~(G)~~(F) Parcel of Land. A ~~lot, parcel, block or other~~ tract of land however described that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.
- ~~(H)~~(G) Qualified Public Improvements. A capital improvement that is:
- (1) Required as a condition of residential development approval;
  - (2) Identified in the plan adopted pursuant to Section 8 of this ordinance; and
  - (3) Not located on or contiguous to a parcel of land that is the subject of the residential development approval.
- ~~(I)~~(H) Reimbursement Fee. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 4 of this ordinance.
- ~~(J)~~(I) Systems Development Charge (SDC). A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement as identified any of the times specified in Section 9. Systems development charge does not include connection or hook-up fees for sanitary sewers, storm drains or water lines, such fees are designed by the city only to reimburse the city for actual or average costs for such connections. A Systems Development Charge does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.
- ~~(K)~~

#### **Section 4. Systems Development Charge Established.**

- (A) Systems ~~D~~evelopment ~~e~~Charges (SDCs) shall be established and may be revised by resolution of the council.
- (B) Unless otherwise exempted by the provisions of this ordinance or other local or state law, a systems development charge is hereby imposed upon all developers of parcels of land within the city and lands outside the boundary of the city that connect to or otherwise use the sewer facilities,

storm sewers, park facilities, transportation system or water facilities of the city.

### **Section 5. Methodology.**

- (A) The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.
- (B) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.
- (C) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be established and may be revised by resolution of the council.
  - (1) The city shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge.
  - (2) Written notice shall be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge, and the methodology supporting the system development charge shall be available at least 60 days prior to the first hearing.
  - (3) The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the city. - The city administrator may periodically delete names from the list, but at least 30 days prior to removing a name from the list must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.
  - (4) Legal action intended to contest the methodology used for calculating a system development charge may not be filed after 60 days after the effective date of the ordinance or resolution establishing or modifying a systems development charge. Any person shall request judicial review of the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100 (2020).
  - (5) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the systems development charge if the change in the amount is based on the periodic application of an adopted specific cost index or on a modification to any of the factors related to rate that are incorporated in the established methodology.

### **Section 6. Authorized Expenditures.**

- (A) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

- (B) (1) Improvement fees shall be spent only on costs associated with capacity increasing capital improvements, including expenditures relating to repayment of bonded debt for said improvements. ~~:-~~ An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. ~~-~~ The portion of the capital improvements funded by improvement fees must be related to demands created by development.
- (2) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to Section 8 of this ordinance.
- (C) Notwithstanding subsections (A) and (B) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, included the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures and costs of properly administering, collecting and accounting for systems development charges.

#### **Section 7. Expenditures Restrictions.**

- (A) Systems dDevelopment eCharges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.
- (B) Systems dDevelopment eCharges shall not be expended for costs of the operation or routine maintenance of capital improvements.

#### **Section 8. Improvement Plan.** The council shall adopt a plan that:

- (A) Lists the capital improvements that may be funded with improvement fee revenues;
- (B) Lists the estimated costs and time of construction of each improvement; and
- (C) Describes the process for modifying the plan.

#### **Section 9. Collection of Charge.**

- (A) The systems development charge is payable upon issuance of:
- (1) A building permit;
  - (2) A development permit for development not requiring the issuance of a building permit; or
  - (3) A permit to connect to the water, sanitary sewer or storm drainage systems.
- (B) If no building, development or connection permit is required, the system development charge is payable at the time of annexation or when the usage of the capital improvement is increased.
- (C) If development is commenced or connection is made to the water, sewer or storm drainage systems without an appropriate permit, the systems development charge is immediately payable upon the earliest date that a permit was required.

- (D) The city administrator shall collect the applicable systems development charge when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.
- (E) The city administrator shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to Section 11 of this ordinance, or unless an exemption is granted pursuant to Section 12 of this ordinance.

### **Section 10. Delinquent Charges; Hearing.**

- (A) When, for any reason, the ~~s~~Systems ~~d~~Development ~~e~~Charge has not been paid, 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 of the developer.
- (B) The city council shall schedule a public hearing on the matter and direct that notice of the hearing be given to each developer with a copy of the city administrator's report concerning the unpaid charge. Notice of the hearing shall be given either personally or by certified mail, return receipt requested, or by both personal and mailed notice, and by posting notice on the parcel at least 10 days before the date set for the hearing.
- (C) At the hearing, the council may accept, reject or modify the determination of the city administrator as set forth in the report. If the council finds that a systems development charge is unpaid and uncollected, it shall direct the city administrator to docket the unpaid and uncollected systems development charge in the lien docket. Upon completion of the docketing, the city shall have a lien against the described land for the full amount of the unpaid charge, together with interest at the legal rate of 10 percent and with the city's actual cost of service notice of the hearing on the developer. The lien shall be enforceable in the manner provided in ORS Chapter 223.

### **Section 11. Installment Payment.**

- (A) The owner of ~~a~~the parcel of land subject to a system development charge ~~of~~ over \$10,000.~~00~~ may apply for payment ~~thereof~~ in installments, to include interest at the ~~legal~~ rate of 10% on ~~any~~the unpaid balance, ~~consistent in accordance~~ with ORS 223.208 ~~(2020)~~. Payment may be over a period of less than 10 years, if so elected by the property owner. Otherwise, system development charges are payable over a period of 10 years in 20 semi-annual installments, to include interest on the unpaid balance.
- (B) The city administrator shall provide application forms for ~~payment of the system developevelop~~ installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

- (C) An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.
- (D) The city administrator shall report to the city council the amount of the system development charge, the dates on which the payments are due, the name of the developer and the description of the parcel.
- (E) The city administrator shall docket the lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the systems development charge, together with interest on the unpaid balance at the rate established by the council with the priority of an assessment lien described in ORS 223.230(3) (2020). The lien shall be enforceable in the manner provided in ORS Chapter 223 (2020).

## Section 12. Exemptions.

- (A) A developer whose structures and uses were established and existing on or before the effective date of this ordinance is exempt from a systems development charge, except water and sewer charges, to the extent of the structure or use then existing ~~and to the extent of the structure or use then existing~~ and to the extent of the parcel of land as it is constituted on that date. Developers affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.
- ~~(B) A developer constructing additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code is exempt from all portions of systems development charge.~~
- ~~(C)~~(B) A developer whose development consists of an alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from those all portions of the systems development charge which are not impacted.
- ~~(D) A developer whose project is financed by city revenues is exempt from all portions of the systems development charge.~~
- ~~(E) Municipal projects or projects partnerships designated by the Aumsville City Council are exempt from all system development charges.~~

[Section 12 amended by Ord. No. 588, passed December 17, 2009]

## Section 13. Credits.

- (A) As used in this section and in the definition of "qualified public improvement" in Section 3 the word contiguous means: in a public way which abuts.
- (B) When development occurs subject to payment of that must pay a systems development charge under Section 4 of this ordinance, the SDC systems development charge for the existing use shall be calculated and if it is less than the systems development charge for the proposed use, the difference between the systems development charge for the existing use and the system development charge for the proposed use shall be the



~~SDC systems development charge~~ required under Section 4. If the change in use results in the systems development charge for the proposed use being less than the systems development charge for the existing use, no system development charge shall be ~~imposed required;~~ ~~however, but~~ no refund or credit shall be given.

- (C) A credit shall be given for the cost of a qualified public improvement associated with a development ~~above that required by the development itself~~. If a qualified public improvement is located partially on and partially off the parcel of land ~~that is the~~ subject of the development approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the parcel of land ~~subject to development approval~~. The credit provided for by this subsection shall be only for the public improvement charge charged for the type of improvement being constructed and ~~shall~~ not exceed the public improvement charge even if the cost of the capital improvement exceeds the applicable public improvement charge.
- (D) ~~In situations w~~where the amount of ~~the~~ credit exceeds the amount of the system development charge, the excess credit is not transferable to another development ~~although~~ ~~—~~it may be transferred to another phase of the original development.
- ~~(E)~~ Credit shall not be transferable from one type of capital improvements to another.
- ~~(E)~~~~(F)~~ Credits must be used within five (5) years of the date the credit was given.

#### **Section 14. Segregation and Use of Revenue.**

- (A) All funds derived from a particular type of systems development charge are to be segregated by accounting practices from ~~all~~ other funds of the city. That portion of the systems development charge calculated and collected ~~for on account of~~ a specific facility system shall be used for no purpose other than ~~as these~~ set forth in Section 6 ~~above of this ordinance~~.
- (B) The city administrator shall provide the ~~city~~ council with an annual accounting, based on the city's fiscal year, for systems development charges showing the total amount of systems development charge revenues collected for each type of facility and the projects funds ~~for from~~ each account.

#### **Section 15. Appeal Procedure.**

- (A) A person challenging the propriety of an expenditure of systems development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city administrator describing with particularity the decision of the city council and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

- (B) Appeals of any other decision required or permitted to be made by the city administrator under this ordinance must be filed within 10 days of the date of the decision.
- (C) After providing notice to the appellant, the council shall determine whether the city administrator's decision or the expenditure is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314 (2020) and may affirm, modify, or overrule the decisions. If the council determines that there has been an improper expenditure of systems development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.
- (D) A legal action challenging the methodology adopted by the council pursuant to Section 5 shall not be filed later than 60 days after the adoption.

**Section 16. ~~Prohibited Connection~~ Prohibited Connection.** No person may connect to ~~or otherwise use any City public improvement the water or sewer systems of the city~~ unless the appropriate ~~s~~Systems ~~d~~Development ~~e~~Charge has been ~~fully~~ paid or ~~at~~ the lien or installment payment method has been applied for and approved ~~in writing~~.

**Section 17. Penalty.** Violation of Section 16 of this ordinance is punishable by payment of the mandatory system development charges and a fine not to exceed \$500.00.

**Section 18. Construction.** The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference and made a part of this ordinance.

**Section 19. Exceptions.** Nothing in this ordinance prohibits the Aumsville City Council from changing the systems development charge based on the facts and circumstances of a particular case.

**Section 20. Severability.** If any provision, section, sentence or phrase of this ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this ordinance.

**Section 21. Repeal.** All city of Aumsville ordinances or parts of ordinance in conflict herewith are hereby repealed.

~~**Section 22. Emergency.** Whereas it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville, that this ordinance become effective at the earliest time possible; therefore, this ordinance shall become effective immediately upon passage by the council and signature of the mayor.~~

PASSED by the City Council \_\_\_\_\_ and signed by the  
Mayor \_\_\_\_\_

## **ORDINANCE NO. 679**

### **AN ORDINANCE ESTABLISHING WATER REGULATIONS AND REPEALING ORDINANCE 401**

**The city of Aumsville, Oregon, ordains as follows:**

#### **ARTICLE 1**

#### **Monthly Water Rates**

**Section 1.** Minimum Monthly Charge and Consumption Charge. The minimum monthly charge and consumption charge for use of water from the water system of the city of Aumsville for users thereof shall be established by a resolution of Council adopted each year based on the following parameters:

- (A) The water rate resolution shall establish water rates in amounts necessary to adequately fund the administration, existing debt, planning, design, construction, operation, maintenance, and repair of the City's water system. The rate shall be based on single use and multiple use meter size(s); location, (i.e., within and without city limits); base usage; charges for use/consumption beyond base usage amounts; and volume factor meter multipliers for commercial, industrial, public agency, and non-profit organization single-user meters.
- (B) Domestic Rates. The water rate resolution shall establish a minimum monthly charge for use or withdrawal of water by domestic single user meters residing within the city limits using the base usage number as the same is established in the water rate resolution..
  - 1. The consumption charge for water used by domestic single user meters exceeding the base allowed amount reflected in the minimum monthly charge may be charged an additional sum established in the water rate resolution for each 1,000 gallons (or part thereof) over the initial base allowed amount. If water consumption during the month exceeds the allowed gallons per dwelling unit, occupant upon which the users are located shall be responsible for any additional charges.
  - 2. In the annual water rate resolution, the monthly charge and consumption charge will increase upon determination that they are necessary to provide for the system expenses.
  - 3. Commercial, Industrial, Public Agency, and Non-Profit Organization Rates. The water rate resolution shall establish water rates for commercial, industrial, schools, churches, public agency, non-profit organizations, and similar users. In the annual water rate resolution, the monthly charge and consumption charge may increase upon determination that they are necessary to provide for the system expenses.
- (C) Tank or Container Users. The City may approve filling a tank or container with water from a designated fire hydrant for use within the city unless authorized by council. The Aumsville fire authority are exempt from this section as long as they have a contractual agreement with the city of Aumsville.

1. The tank or container shall first pass a safety inspection by public works staff and be equipped with a backflow protection assembly.
2. The approved user will be issued a fire hydrant water meter with the initial meter reading taken at city hall prior to issuance and instructed to use the hydrant located on the corner of Church and 5th Streets, or as approved by the public works director. It shall be the responsibility of the user to return the hydrant meter on a daily basis.
3. The minimum monthly charge for use or withdrawal of water by users as registered on the hydrant meter for use within or outside the City's corporate limits shall be established in the annual water rate resolution.

## **ARTICLE 2**

### **Connection to the Water System**

#### **Section 1. Property Owner and Customer Responsibility.**

- (A) No person shall attempt to or make connection with a City main or connect any pipe after it has been disconnected by the City, without first obtaining a permit from the City.
- (C) The service connection between the City's water lines and a user's service, regardless of its location on public or private property, is and remains the property of the City which reserves the right to repair, maintain, and replace it as the City deems appropriate.
- (D) The service line between the meter and the residence shall have a separate shutoff valve between said meter and the residence.
- (E) The location of the point of connection between the City's water system and a user thereof is determined by the City.
- (F) All expenses (including reimbursement fees) associated with connection(s) between the City's water system and property wishing to be served thereby along with all costs for the purchase and installation of any and all necessary flow metering systems for the property are the responsibility of the property owner.
- (G) The City's responsibility ends at the customer's side of the water meter.
- (H) Disconnection of Water Service. No disconnection of water service is allowed except for emergency situations approved by the city administrator.

#### **Section 2. Application Required.**

- (A) An applicant for water service from the City shall complete an application form provided by the City. The application is a written request for water service and does not bind the City to provide said service..
- (B) The City may refuse to furnish and/or discontinue water to property being served by the City where, in the judgment of the City's Public Works Director, apparatus, appliance(s) or equipment on said property may be used in violation of federal, state, or local law, is dangerous or otherwise unsafe.
- (C) If an applicant for water service has outstanding charges at another service address in the City, the City may refuse to provide service until the unpaid

charges are paid in full or the City authorizes the transfer of the unpaid balance to the applicant's new utility service account.

- (D) In the event an applicant for City water service is not the owner of the property to be served, the City may, prior to water service being provided to the property, require the owner to agree in writing to be responsible for any and all charges incurred for water service to the property.

**Section 3. Private Wells.** No owner of real property upon which a water well is located shall permit any existing well or fixture thereto be connected directly or otherwise to the City's water system or be located in a manner such that well water might enter the City's water system. The City may require, by and through its public works director the installation by the property owner to install and thereafter maintain at their cost a backflow assembly/device and/or such other equipment as the public works director deems appropriate to prevent any contamination of the City's water supply.

**Section 4. Private Booster Pumps Prohibited.** No booster pumps may be installed by any person increasing water pressure or delivery to a premises without the written permission of the public works director.

### **Hookup of Property Outside City Limits**

**Section 5. Outside City Limits Application Requirement.** An owner of property located outside the City's corporate limits wishing to have the City supply water to the property shall first make written application to Council for such services. The applicant shall show:

- (A) That the proposed connection is compatible with projected future growth of the City and that the property is within the City's urban growth boundary;
- (B) That the proposed connection will not burden the City's ability to provide water service to the citizens of Aumsville nor will it adversely affect water availability, flows, volumes, and infrastructure capacity beyond that identified in the City's water system master plan; .
- (C) That the applicant has or will obtained all necessary licenses, permits, and easements to connect to the City's water system; and .
- (D) That the proposed line connecting the property to the City's system meets or exceeds City specifications for said connecting line.

**Section 6. Approval of the Outside City Limits Application.** Regardless if an applicant is able to satisfy the requirements set forth in Section 5 above, approval of the connection remains in sole discretion of Council. The owner shall be required to sign a waiver of remonstrance against annexation to the City in a form approved by the city attorney prior to water services being provided to the property.

**Section 7. Outside City Limits Applicant Responsibilities.** Upon approval of the application the following are the responsibility of the owner:

- (A) All construction and costs associated with the installation of the line or lines

from the owner's property to and including the connection to the City's main line.

- (B) That the connection be a single hookup and serve only one household or business.
- (C) Maintenance and repair of the connection line from the property to and including connection to the City's main line shall be the sole and exclusive responsibility of the property owner to be served.
- (D) All lines that are to be connected to the City system shall be approved and inspected by the public works department prior to connection.
- (E) All costs of water meter and accessories necessary for the installation of a water meter shall be the sole responsibility of the property owner.
- (F) The water systems development charge is paid before water is provided by the City.

**Section 8. Hookup Not Directly Adjacent to City Limits.** Council, in its sole discretion, may allow a hookup to the City's water system by property not directly adjacent to the then existing city limits. If application is made for such property by its owner, the City may impose additional criteria including but not limited to requiring the property owner construct a connecting line sufficient to serve other prospective users that may hook up to the city water system at a later date, with such construction subject to a reimbursement district agreement

**Section 9. Maintenance of Lines Outside City Limits.** If for any reason the City make repairs to non-City owned connecting lines located outside the City, the owner(s) of the affected property shall be responsible for the costs thereof plus 25% and shall pay said amount within 30 days of being presented a bill by the City. Any bill not paid after 30 days shall automatically become an assessment lien upon said property and may be enforced pursuant to existing state law and city ordinance.

### **General Requirements**

**Section 10. Water Meters and Meter Clear Area.**

- (A) No person may store or maintain any item, material, or refuse, or install equipment over, under, or within two (2) feet of a water meter.
- (B) No person may permit shrubs or other landscaping to obstruct the reading of any water meter. Any obstruction may be trimmed or removed by the City and the owner charged the cost thereof.
- (C) No person may park a motor vehicle so as to obstruct or prevent access to any water meter.
- (D) A safe passageway to the water meter shall be maintained to allow City personnel to enter upon property or into a building to read a water meter or work on a water service connection.
- (E) Water Meters: Use Required
  - 1. Exception as provided below, each single-family structure and each dwelling unit in either a two- or three-family dwelling and each non-residential establishment shall have a separate water service line and meter, provided

- that if circumstances of construction render metering of individual service impractical, the public works director may waive or adjust said requirements.
2. Service to more than one user, or multiple meters for the same user, shall not be combined to obtain a more favorable water rate.
  3. Each structure containing more than (3) residential dwelling units or (3) non-residential establishments will be served with a single meter for the entire building or by a separate water service line and meter for each unit.
  4. Each meter shall be located in the public right-of-way or public utility easement consistent with the City's Public Works Standards.

### **Section 11. Damage to System.**

- (A) A customer is responsible for and cause to be repaired damages to the City's water system resulting from act(s) of the customer, persons, or things subject to the customer's control including users, tenants, or agents thereof. Damages include (but are not limited to) breaking or destruction of seals on or near a water meter, breaking or destruction of locks, removing the first fitting on the downstream side of a metering device, damage resulting from electrical grounding to cold water pipes or damage to a water meter by steam from a boiler or heater on the customer's property as well as breaking or destruction of a water meter or its enclosure by a motor vehicle. The customer shall take such actions as are necessary to promptly cause the repair and/or replacement of the damage caused and pay any and all costs associated therewith. .
- (B) The City may opt to repair the damaged portions of the water system and if it does so, charge the cost for said repairs to the owner of the property served. The City shall be reimbursed by the customer for such damage promptly on presentation of a bill.
- (C) Failure to pay costs for damages may be made an assessment lien against the property.
- (D) No unauthorized person shall break, damage, destroy, uncover, deface, or tamper with any water system structure, appurtenance, or equipment.
- (E) Contamination:
  1. It shall be unlawful for any person to in any way contaminate or pollute the water in the reservoirs or pipes of the municipal water system or in any fountain, hydrant, or source or place of storage of the water supply of the City or any of its inhabitants.
  2. It shall be unlawful to any person to throw any rubbish, debris, or any other thing into any water reservoir belonging to the City.

**Section 12. Apparatus on Customer's Property.** The City does not assume liability for inspecting apparatus on the customer's property. The City, upon 24 hours' notice to the occupant of the property, has the right of inspection; however, if there is reason to believe that unsafe or illegal apparatus is in use, the City has the ability to immediately inspect.

### **Section 13. Access to Premises.**



- (A) City employees have access, upon proper identification, to all premises where city water is being used to ascertain that no hazard to the public water supply exists or that water is being used in a manner contrary to this ordinance. Such access shall be during City business hours with 24 hours' notice, unless otherwise arranged with customer, and shall not interfere with the customer's normal use of his premises.
- (B) Applications for water service will include a statement, signed by the property owner stating access to inspect plumbing both inside and outside the structure is granted to the City in perpetuity and that this granting of authority passes with ownership of the property, failure to allow access will result in immediate termination of service.

**Section 14. Resale of Water Prohibited.** Except in manufactured home parks or by special arrangements with the City, no customer shall resell water received by such Customer from the city, nor shall water be delivered to premises other than those specified in the application for service. Any agreement to resell water is at the sole discretion of the City to approve.

**Section 15. Illegal Taps Prohibited.** All unauthorized taps on the city water system shall be designated illegal taps. Such taps are subject to immediate removal by the City and are a violation subject to the provisions of Article 10 of this ordinance.

**Section 16. Interruption of Service, Notification.** Wherever practicable, customers will be notified in advance of any planned interruption of service or shutdown of mains for repair or alterations. The City assumes no responsibility for providing uninterrupted water service and will not be liable for damages resulting from such interruptions.

**Section 17. Abandonment of Service Lines and Water Mains.** The public works director may cause the removal or abandonment of any unused service lines when its further need is not apparent and when in his or her judgment removal is appropriate to reduce leakage or future maintenance responsibility. Subsequent service to the property shall be treated as a new service.

**Section 18. Installation of Temporary Water Pump Stations.**

- (A) In certain instances where, in the judgment of the public works director, it is not practicable to provide adequate water flows to any area through the use of traditional water service methods, the City may, at the option of the public works director, elect to serve said area through the installation and operation of a temporary water pump station by the City.
- (B) As used in Subsection 1, unless the context otherwise requires, a 'temporary water pump station,' or 'temporary pump station' shall mean any self-contained pump station designed, constructed, and installed with the intent of future relocation.

## ARTICLE 3

### Frequency of Reading Water Meters

**Section 1. Designated Months Defined.** The reading of water meters of the City shall take place monthly.

## ARTICLE 4

### Customer's Deposit Fee

**Section 1. Fees Set for Inside and Outside City Limits.** The water service deposit fee shall be established by resolution. The fee for customer water and sewer deposit outside the corporate limits of the City shall be double the fee for customers residing within the city limits.

**Section 3. Refund Procedures. After deductions for City water services used, the water deposit fee shall be refunded:**

- (A) Upon discontinuation of water service to a premises ;
- (B) To property owner/users connected to the water system after water service bills have been timely paid for 12 consecutive months;
- (C) To renters of property connected to the water system upon vacation of the rented premises.

## ARTICLE 5

### Senior Citizen Water Rates

**Section 1. Reduced Rate and Qualifications.** The council finds that citizens sixty-five years of age or over, that are retired and acting as the head of a household, are generally on a fixed income and use a minimal amount of water. Therefore, any retired citizen sixty-five years of age or over, residing within the limits of Aumsville and acting as the head of household shall be charged the following water rates:

- (A) A minimum monthly charge for use or withdrawal of not more than 7,000 gallons of water during the month according to the user's water meter
- (B) Monthly base rates and consumption charges for water in excess of 7,000 gallons during the month as shown by the water meter shall be set by council in yearly rate resolution.
- (C) Water deposit fee charged, if any shall be set by resolution.

**Section 2. Application Required.** Application for the reduced rates described in Article 5, Section 1 above, must be filed at city hall and approved by the city administrator. All information required to be given on the form shall be verified by the applicant as being true to the best of their knowledge.

**Section 3. Termination of Rate Reduction.** Reduced senior water rates for customers

shall be terminated by the city administrator in the event of the occurrence of any of the following circumstances:

- (A) Applicant moves from the dwelling;
- (B) Applicant, if an owner, sells, trades or otherwise relinquishes ownership of the dwelling;
- (C) Applicant fails to comply with any rule, standard, or regulation adopted under this article; refuses to provide information to or hinders any investigation by the city administrator into the continued eligibility of the applicant for reduced rates; willfully makes any false or misleading statement in order to obtain or retain a rate reduction; or receives benefits under this article with knowledge that he or she does not qualify for such benefits.

## **ARTICLE 6**

### **Payment of Water Billings**

#### **Section 1. Responsible Party (Customer).**

- (A) All water service provided by the City will be billed to and the responsibility of the occupant of the premises where service is provided unless the property owner or Customer requests, in writing, that the bill be sent to another address.
- (B) Where more than a single dwelling unit or business is served by a single water meter, the bill for water service shall be sent to the premise's owner, who shall be responsible party for payment thereof.

#### **Section 2. Assessments Due.**

- (A) Charges for municipal water services are due when the City requests payment by mailing a bill to a customer.
- (B) Charges assessed for municipal water services provided by the City shall become delinquent if not paid within 10 days of the City request for payment as set forth in this ordinance section.

#### **Section 3. Shut Off; Right of Appeal; Hearing.**

- (A) In the event a city water bill becomes delinquent, the City shall send written notice to the customer setting forth a date certain for the water shut off by first class mail to the customer and shall not be less than 4 business days from the shut off date. The city shall also post a copy of the shut off notice on or at the premises being served 48 hours before disconnection. The notices shall inform the customer and other affected person(s) of the right to appeal any proposed shut off of the City's water service prior to the termination.
- (B) In the event, the Customer and/or person(s) affected by the proposed shut off wishes to challenge the proposed water shut off as illegal or otherwise improper, they must file a written appeal with the city administrator at least

one day prior to the shut off date identified in the City's notice. The appeal must include the following information:

1. The date of the notice of appeal;
2. The name of the person filing the appeal;
3. The address of the premises where the shut off is to take place;
4. A telephone number, email address, and physical address where the person(s) filing the appeal may be contacted by the City;
5. A short statement setting out the reasons why the person(s) filing the appeal believe the water shut off is illegal or otherwise improper.

Once an appeal is filed by a customer or other affected person with the city administrator, the water shut off shall be suspended so that the hearing on the appeal can occur and may be extended for such further time as the city administrator otherwise deems necessary or appropriate.

- (D) Once the appeal is filed, the city administrator shall within two (2) business days cause there to be scheduled a hearing date, which date shall be no more than ten (10) business days after the appeal's filing. The person(s) filing the appeal will be notified thereof by email, regular mail, telephonically, or any combination thereof reasonably calculated to give the customer or other person filing the appeal notice of the hearing date. The hearing may be rescheduled by the city administrator for good cause.
- (E) The hearing on the appeal shall be conducted by the city administrator (or designate). The customer and/or affected person filing the appeal shall explain why they believe the shut off is illegal or otherwise improper and the city administrator (or designate) shall either approve or reject the appeal, and if they deem appropriate prepare a written decision on the matter.

**Section 5. Unauthorized Reconnection Prohibited.** No person, other than an authorized city representative, shall turn on a water service connection which had been turned off by the City. The property owner is responsible for any unauthorized reconnection. A violation of this section results in a fee of \$500.00

**Section 6. Meter Error.** A customer may request the City test the meter serving their premises. In such an event:

- (A) The customer shall deposit an amount to cover the reasonable cost of the test, as set by resolution of Council. This deposit will not be returned if the meter is found to register less than 3% fast.
- (B) The customer or their representative shall have the right to be present when the test is made, and a customer who requests a meter test will be notified not less than two days in advance of the time and place of the tests.
- (C) A written report giving the results of the test shall be available to the customer within 10 days after completion of the test.
- (D) When, upon testing, a meter is found to be registering more than 3% fast under conditions of normal operation the City shall refund the customer the full amount of the overcharge based on corrected meter reading for a period not to

exceed three months.

**Section 7. Hardship.** In cases of hardship, the city administrator or designee shall have discretion to decide not to discontinue or renew services to a delinquent account upon acceptance of a customer signed payment plan for past due amounts. The accepted payment plan shall serve as the automatic shut off notice provided for in Section 3 above.

**Section 8. Appeal of Council.**

- (A) A customer or other person having filed an appeal with the city administrator under Section Article 6, Section 3 above may appeal the decision or result thereof to Council.
- (B) To file a notice of appeal the customer or other person affected must post with the City, monies in the amount of the bill being appealed.
- (C) If Council finds that the bill was incorrect, the bill shall be adjusted and the difference between the adjusted bill and the monies posted shall be returned to the customer.
- (D) All appeals must be filed within 30 days from the time the monies are posted to appeal a notice to disconnect.

**Section 9. Adjustment of Accounts.** Customer accounts shall be adjusted for any of the following circumstances:

- (A) Accounts receiving less than one month of service will be billed on a pro rata basis according to meter size.
- (B) When, upon tests, a meter is found to be registering more than three percent fast under conditions of normal operations, the City shall refund to the customer the full amount of the overcharge, based on corrected meter readings for a period not exceeding two months.
- (C) The City may bill the customer for water consumed while the meter is not registering. The bill shall be at the minimum monthly meter rate.
- (D) The city administrator may adjust a customer's utility billing to reduce charges resulting from a verified leak when:
  1. The customer notifies the City of the leak;
  2. The customer makes a reasonable effort to locate the leak and initiates repairs within 30 days of discovering the leak;
  3. The City verifies a leak exists, and the leak was caused by either a broken pipe or pipe connection;
  4. The customer (or a contractor hired by the customer) fully repairs the leak within 30 days of notice to the City of the leak; and
  5. The customer provides proof of the fixed leak to the City on a form and manner as prescribed by the finance department, including, but not limited to, receipts and other verification of repairs or costs.
- (E) If the City determines the customer meets the conditions in subsection (D) of this section, the City will adjust the billing by reducing the affected monthly usage by 50% of the excess over the user's normal amount. Adjustments to the

- bill may not exceed 90 days from the date before the customer fixes the leak.
- (F) Faulty valves or similar devices (for example but not limited to: toilets, faucets, or irrigation systems) of the customer are not grounds for the adjustment of a utility bill. In addition, obvious neglect or improper installation by the customer is not grounds for adjustment of a utility billing.
- (G) The City will not adjust an account balance resulting from a leak if the same leak occurred within the last two years and the customer has already received an adjustment based on that leak or as a result of a negligent action by the customer, or customer's agent.

## **ARTICLE 7**

### **Use of Funds**

**Section 1. Deposit of Gross Revenues.** The city administrator shall deposit all gross revenues received from charges, rates, and penalties collected for the consumption of water in the Water Fund. .

**Section 2. Exclusive Use of Revenues.** Revenues deposited in the Water Fund shall be used exclusively for the planning, design, operation, maintenance, and repair of the water system, training expenses, administrative costs, expenses for collection of charges imposed by this ordinance, and payments of the principle and interest of any debts of the City's water system .

## **ARTICLE 8**

### **Cross Connection and Backflow Prevention**

**Section 1. Designation.** This portion of this ordinance shall be referred to and may be designated and cited as the Aumsville Cross Connection Control Ordinance.

**Section 2. Purpose.** The purpose of this section of the ordinance shall be to protect the water supply of the City from contamination or pollution due to existing or potential cross connection by establishing appropriate regulations and controls relating thereto, including the installation and proper maintenance of approved backflow and/or siphonage devices.

### **Section 3. Definitions.**

- (A) Approved Backflow Prevention Device means a device to counteract back pressures and/or prevent back siphonage. Such devices must be approved by the Oregon State Health Division.
- (B) Auxiliary Supply means any water source or system other than the City's water system that may be available to a particular building on the premises.
- (C) Backflow means a flow in other than the intended direction of flow of any

substance, foreign liquid, gas or otherwise, other than potable water provided by the City, into the City's water system.

- (D) Cross Connection shall mean any actual or potential connection or structural arrangement whereby the City's water system is connected directly or indirectly with any other water sources or system, public or private, through which it is possible to introduce into any part of the City's system, any other source of water, potable or otherwise, or an industrial fluid, gas, or substance other than the City's potable water with which the system is supplied, including any connection with a sewer, drain, conduit, swimming pool, storage reservoir, plumbing fixture, swamp cooler, or other device through which it is possible to introduce into any part of the water system contaminated water, sewage, or other materials of unknown or unsafe quality which may be capable of imparting contamination to the City's water system as a result of backflow or otherwise, bypass arrangements, jumper connections, removable sections, swivel, or changeover devices or other temporary or permanent devices through which, or because of which, backflow may occur.
- (E) City Water System shall refer to and mean the Aumsville water system which shall include its wells, pumping stations, reservoirs, supply, trunk or feeder lines, service lines, meters and all other appurtenances, devices, lines, and things necessary to the operation of the system and to supply water service to individual property or premise and shall include the City's potable water with which the system is supplied.
- (F) Public Works Director shall mean the person appointed by Council to be in charge of the City's water system.

**Section 4. Application and Responsibility.** This ordinance applies throughout the city of Aumsville and to every premise and property serviced by the City water system. It applies to any premises water system, public or private, regardless of date of installation. Every owner or occupant of any concerned premises is responsible for compliance with its terms and shall be responsible for any damages incurred as a result of failure to comply with the terms and provisions contained herein.

**Section 5. Cross Connections Prohibited.** Unless provided specifically herein or specially approved in writing by Council all cross connections, whether or not they are controlled by automatic devices such as check valves or by hand operated mechanisms such as gate valves or cork stops are prohibited.

**Section 6. Backflow Prevention Device Installation.** The owner of each property or premises serviced and/or furnished water by the City shall be required to install a testable backflow prevention device under the following circumstances:

- (A) There is upon such premises an auxiliary water supply which is or can be connected to the City's service or supply system (including individual premises service plumbing);
- (B) There is piping or equipment for conveying other than potable city water and

- that piping or equipment is under pressure and installed and operated in a manner that could cause a cross connection;
- (C) There is intricate plumbing which makes it impractical to ascertain whether or not cross connections exists;
  - (D) The concerned premises have restricted entry so that inspections for cross connections cannot be made with sufficient frequency or with sufficient short notice, to assure that cross connections do not exist;
  - (E) There is a fire line or irrigation service or domestic service larger than two inches;
  - (F) The premises have a repeated history of cross connections being established or re-established;
  - (G) The serviced premises from time to time may have materials of a toxic or hazardous nature which are handled so that if back siphonage should occur a serious health hazard may result;
  - (H) Premises with the following or similar installation must have a backflow device installed: hot tubs, solar system, other uses specified by a certified cross connection specialist representing the City;
  - (I) Premises on which any substance is handled under pressure so as to permit entry into the public water system, or where a cross connection could be reasonably expected to occur; this includes the handling of processed water and cooling water. Such type of facilities include dry cleaners/laundromats, laboratories, car washes, petroleum processing or storage plants, food preparation facilities, other facilities specified by the City's cross connection specialist.
  - (J) Backflow prevention devices shall be required on domestic services two inches or smaller if the building is two (2) stories or higher than thirty-two (32) feet above the water main. One (1) and two (2) story buildings which exceed thirty-two (32) feet in height may be exempted upon determination by the city that no backflow hazard exists.
  - (K) Any other water system which receives water from the city of Aumsville water system and does not have a cross connection program which has been approved by the City.

### **Section 7. Type of Backflow Prevention Devices Required and Location.**

- (A) The type of backflow prevention device required shall be commensurate with the degree of hazard that exists and must meet at all times the standards of the Oregon State Health Division; all backflow prevention devices required under this section shall be a type and model approved by the Oregon State Health Division and the director of public works.
- (B) A reduced pressure principal backflow prevention device shall be installed where the water supply may be contaminated by a substance that could cause health or system hazard. This type of device will also be required in any premises where entry is restricted by the water user. A reduced pressure principle backflow will be required at the point of connection between the city water system and any other water system, which does not have a cross



connection program.

- (C) A double-check valve assembly pressure vacuum breaker or a reduced pressure principle backflow device assembly shall be installed where it is possible to interject a substance that may be objectionable, but not hazardous, into the water system.

**Section 8. Location and Installation of Backflow Device.**

- (A) The City may specify the location and method of installation of a backflow prevention device. The control or elimination of a cross connection shall be in accordance with Manuals of Standard and Practice pertaining to cross connection control approved by the City, and any requirements set forth by the United States Environmental Protection Agency as authorized by the "Safe Drinking Water Act" PL93-523 and other applicable legislature, rules, and regulations of the United States, the state of Oregon and concerned agencies.
- (B) An installation, corrective measure, disconnection, or other change to a backflow prevention device shall be at the sole expense of the owner. The costs of any change required in the City's system outside the property concerned, or between the meter and the supply line or distribution system, or any changes for cut-offs or disconnection, shall be paid in accordance with the City's practice and procedure, and may, if not paid, be collected through legal process or any other appropriate manner approved by law.

**Section 9. Pre-existing Backflow Prevention Device.** Any backflow prevention device installed before the effective date of this ordinance, not an approved device and hereinafter set forth shall be permitted to remain in service if:

- (A) The device is property maintained; and
- (B) The type of device is commensurate with the degree of hazard, such determination to be made by the City; and
- (C) The device is tested annually as required herein; and
- (D) The device performs satisfactorily.

If a backflow device does not meet the standards of the Oregon State Health Division as herein set forth, the device may be replaced if it is removed or requires more than minimum maintenance.

**Section 10. Testing Requirements.**

- (A) Any backflow prevention device which may be required to be installed under this ordinance for the protection of the City's water supply shall be tested before its use in the City and annually thereafter, unless a more frequent testing is required. All tests required to be performed under this section must be performed by a tester certified by the state of Oregon or otherwise approved by the City and written results of such test furnished to the City.
- (B) Any backflow prevention device which may be required by the City or state to be installed on property for the protection of a water supply shall be tested at the time of installation and anytime the device is moved or relocated (immediately

after relocating or moving). The property owner must forward the results of such testing to the City within ten (10) days of the date of installation or relocation.

- (C) The property owner must order and cause to be performed a test of each backflow prevention device annually on or within thirty (30) days after the anniversary date of the initial testing. The City may require more frequent testing in order to assure the device is functioning in those installations which represent a serious health hazard as determined by the city or the State Health Department.
- (D) If the City has not received the results of such test within thirty (30) days of the anniversary date for annual testing or within ten (10) days of the date of installation of the device as the case may be, or the date of the City's discovery that a device was installed without appropriate test as applicable, the City may order such test and bill the property owner for the cost thereof if the device is for protection of a fire service or for a commercial use; if the device is for protection of a domestic service, the City may deny or discontinue water service until satisfactory proof is furnished that the device has been tested and is functioning properly.
- (E) If the results of a test required by the City as herein set forth indicates that repairs are necessary, such repair must be undertaken and a new test taken, and the results thereof forwarded to the City within ten (10) days of the test, indicating the defect was repaired.

### **Section 11. General Provisions.**

- (A) Any person operating any mobile apparatus which uses the City's water system or water from any premises within the city must provide for backflow prevention and the provisions herein set forth are applicable.
- (B) All plumbing within buildings served by the City shall be so installed and all plumbing fixtures so constructed as to prevent pollution of the City's water supply by back siphonage or cross connections. Water service to any premises known or found to have such defects and hazards shall be disconnected and not restored until such defects and hazards have been eliminated.

**Section 12. Customer System Open for Inspection.** The customer system shall be open for inspection to perform a facility survey at all reasonable times to the public works director, to determine whether cross connections or other structural or sanitary hazards including violations of these regulations exist. The public works director or any police officer shall have the power to enter any premises or building, for the purpose of enforcing the regulations contained in this Article, and it shall be unlawful for any person in charge of any such premises or building to refuse such entrance.

### **Section 13. Cross Connection and Backflow Enforcement.**

- (1) The public works director of the city or his duly appointed representative or the State of Oregon Health Division shall have the right without being deemed guilty of trespass or an unlawful act to check the premises of

- customers for cross connections (physical connections), physical connections with other water supplies, and the general condition of water lines and service facilities, at any reasonable time. Any such connection prohibited thereby shall be removed by the customer within the time specified after written notice by the City, and if not so removed, the City shall remove or discontinue any connection it may have for servicing the property.
- (2) The public works director shall designate City cross connections specialists, and institute, with the approval of Council, such additional rules or regulations necessary to carry out provisions of this ordinance.

**Section 14. Repealing Ordinance.** Ordinance No. 401 is hereby repealed.

## **ARTICLE 9**

### **VALIDITY**

**Section 1. Validity.** If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

## **ARTICLE 10**

### **VIOLATIONS**

**Section 1. Violations.** Except as otherwise set out specifically in this ordinance, any person violating any of the provisions or failing to comply with the requirements of this ordinance is guilty of a violation.

#### **Section 2. Enforcement of Provisions.**

- (A) In the event of violation of any provision in this Chapter, the City may use any enforcement method or measure, including discontinuance of service, it deems appropriate, in addition to any penalties provided for in this ordinance. (Ord. 774, October 22, 1997)
- (B) Discontinuance for Customer Noncompliance. The City may discontinue water service to a Customer for noncompliance with a City water regulation, if the customer fails to comply with the regulation within five days after receiving written notice of the City's intention to discontinue service.
1. If such noncompliance affects matters of health or safety, or other conditions warrant such action, the City may discontinue water service immediately.

#### **Section 3. Violation: Prohibited Activities**

- (A) It is unlawful for any person to open, cut into, or make any connection with any City water main or lines, or to tamper in any way with the public water

- system, including water mains, fire hydrants, valves, service lines, meters, and appurtenances without the express permission of the City.
- (B) It is unlawful for any person to open any shut off valve or other device so as to permit water to flow from the City mains or lines into any private main or line without the express permission of the City.
  - (C) It is unlawful for any person to use water from a City fire hydrant for construction purposes or any other purpose without express permission of the City, which may make provisions for metering such use, set charges, or refuse such permission.
  - (D) It is unlawful for any person required to use an approved backflow prevention device to not use such a device or to use a device that has not been maintained or passed the required inspection.

**Section 4. Violation: Penalties**

- (A) Except as otherwise provided in this ordinance, any person violating any of the terms of this Ordinance shall be subject to a civil penalty of not more than \$500.00.
- (B) If a person violates any term of this ordinance and then within 2 years of said violation that person commits another violation(s) , the person shall be subject to a civil penalty of \$1000.00 in addition to such other remedies as the court may deem appropriate.
- (C) The remedies provided in this section are cumulative and not exclusive. The city may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate an ordinance violation.

**Section 5. Violation: Each Act a Separate Violation.** Each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly.

**ARTICLE 11**

**Section 1. Effective Date.** This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

**ORDINANCE NO. XXX401**

~~AN ORDINANCE ESTABLISHING WATER REGULATIONS AND REPEALING ORDINANCE 401 FIXING MONTHLY WATER RATES FOR THE USE OR WITHDRAWAL OF WATER FROM THE WATER SYSTEM OF THE CITY OF AUMSVILLE; PROVIDING FOR THE FREQUENCY OF WATER METER READING; ESTABLISHING CUSTOMER DEPOSIT FEES FOR THE USE OF THE WATER SYSTEM; PROVIDING SPECIAL WATER DEPOSITS FOR SENIOR CITIZENS; REQUIRING APPLICATION TO BE MADE AND PRESCRIBING REGULATIONS; SETTING FORTH WHEN MUNICIPAL WATER CHARGES BECOME DUE; PROVIDING FOR THE DISCONTINUATION OF MUNICIPAL WATER AND SEWER SERVICES FOR FAILURE TO PAY FEES; PROVIDING FOR THE RESPONSIBLE PERSON; ASSESSING ADMINISTRATIVE COSTS; SETTING FORTH A PROCEDURE TO CORRECT METER READING; PROVIDING FOR APPEAL THE AMOUNT OF A WATER BILL; REGULATING CROSS CONNECTIONS TO THE WATER SYSTEM AND ESTABLISHING STANDARDS THEREFORE; PROVIDING FOR BACK-FLOW PREVENTION, MEANS OF CONTROL AND STANDARDS THEREFORE; REPEALING ORDINANCE 390; PROVIDING PENALTIES AND DECLARING AN EMERGENCY.~~

The city of Aumsville, Oregon, ordains as follows:

**ARTICLE 1****Monthly Water Rates**

**Section 1.** Minimum Monthly Charge and Consumption Charge. The minimum monthly charge and consumption charge for use of water from the water system of the city of Aumsville for users thereof shall be established by a resolution of the Council adopted in December of each year based on the following parameters:

- (A) The annual water rate resolution shall establish monthly water rates in an amounts reasonable and necessary to adequately fund the administration, existing debt, planning, design, construction, operation, maintenance, and repair of the City's water system. to be charged for water consumption. The rate shall be based on single use meter size and multiple use meter size(s); location, (i.e., within and without the City Limits); base usage/gallage; and charges for use/consumption beyond exceeding base usage gallage amounts; and volume factor meter multipliers for commercial, industrial, public agency, and non-profit organization single-user meters.
- (B) Domestic Rates. The water rate resolution shall establish a minimum monthly charge for use or withdrawal of water by domestic single user meters residing within the city limits corporate limits of the city and using the base usage number not more than 7,000 a number of gallons of water during the month as the same is established in the annual water rate resolution. according to the users water meter, shall be \$31.82 on December 1, 2013.
- (1) The consumption charge for water used by domestic single user meters exceeding in excess of 7,000 the base allowed amount gallons reflected in the minimum monthly charge during the month, as shown by the water meter, may shall be charged an additional sum consumption rate established in by the water rate resolution of \$3.00 for each 1,000 gallons [PE3][RH4] (or part thereof) over the initial base allowed 7,000 amount. gallons. If water consumption during the month exceeds the allowed 7,000 gallons per dwelling unit, the owner of the land [ET5][PE6] occupant upon which the users are located shall be responsible for any additional charges. [PE7][ET8][RH9][PE10]
- (2) In December 2014 and in December of each year thereafter, the annual water rate resolution [ET11][PE12][ET13], the monthly charge and consumption charge will increase by 3% over the rate paid during the previous year. The Aumsville City Council may raise this increase up to 6% or may forego any of these increases, upon determination that they are not necessary to provide for the system expenses.
- (3) Commercial, Industrial, Public Agency and Non-Profit Organization Rates. The annual water rate resolution shall establish water rates for cCommercial, industrial, schools, churches, public agency, non-profit organizations, and other similar users. In the annual water rate resolution, the monthly charge and consumption charge may will increase by 3% over the prior year's rate paid during the previous year. The Aumsville City Council may raise this

~~increase up to a maximum 6% or may forego same any of these increases, upon determination provided that they are not unnecessary to provide for the system expenses.~~

~~(C) users within the corporate limits of the city, and using not more than the gallons of water included in the meter rate, as set forth below, during the month according to the users water meter, shall be as charged the following monthly charges on~~

~~(D) December 1, 2013. In addition, the consumption charge for water used in excess of the gallons of water included with the meter rate during the month, as shown by the water meter, shall be \$3.00 for each 1,000 gallons over the gallons included. In December 2014 and in December of each year thereafter, the monthly charges and consumption charge will increase by 3% over the rate paid previously. The Aumsville City Council may raise this increase up to 6% or may forego any of these increases, upon determination that they are not necessary to provide for the system expenses.~~

<u>Single-User Meters</u>	<u>Inside City Meter Rate</u>	<u>Outside City Meter Rate</u>	<u>Gallons Included</u>
<del>3/4" or less meter</del>	<del>\$ 31.82</del>	<del>\$ 63.64</del>	<del>7,000</del>
<del>1"</del>	<del>53.14</del>	<del>106.28</del>	<del>11,690</del>
<del>1 1/2"</del>	<del>76.38</del>	<del>152.76</del>	<del>16,800</del>
<del>2"</del>	<del>169.64</del>	<del>339.28</del>	<del>37,310</del>
<del>3"</del>	<del>318.27</del>	<del>636.54</del>	<del>70,000</del>
<del>4"</del>	<del>530.23</del>	<del>1,060.46</del>	<del>116,620</del>

<u>Single-User Meters</u>	<u>Inside City Meter Rate</u>	<u>Outside City Meter Rate</u>	<u>Gallons Included</u>
<del>6"</del>	<del>1,060.46</del>	<del>2,120.92</del>	<del>233,240</del>
<del>8"</del>	<del>1,696.68</del>	<del>3,393.36</del>	<del>373,170</del>
<del>10"</del>	<del>3,049.97</del>	<del>6,099.94</del>	<del>670,810</del>

<u>Multiple-User Meters</u>	<u>Inside City Meter Rate</u>	<u>Outside City Meter Rate</u>	<u>Gallons Included</u>
<del>3/4" or less meter</del>	<del>\$ 31.82 or \$31.82 per</del>	<del>\$ 63.64 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	
<del>1"</del>	<del>\$ 53.14 or \$31.82 per</del>	<del>\$106.28 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	
<del>1 1/2"</del>	<del>\$ 76.38 or \$31.82 per</del>	<del>\$152.76 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more</del>	
<del>2"</del>	<del>\$169.64 or \$31.82 per</del>	<del>\$339.28 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	
<del>3"</del>	<del>\$318.27 or \$31.82 per</del>	<del>\$636.54 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	
<del>4"</del>	<del>\$530.23 or \$31.82 per</del>	<del>\$1060.46 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	
<del>6"</del>	<del>\$1060.46 or \$31.82 per</del>	<del>\$2120.92 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	
<del>8"</del>	<del>\$1696.68 or \$31.82 per</del>	<del>\$3393.36 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	
<del>10"</del>	<del>\$3049.97 or \$31.82 per</del>	<del>\$6099.94 or \$63.64 per</del>	<del>7,000 per user</del>
	<del>user, whichever is more.</del>	<del>user, whichever is more.</del>	

~~(E) Volume Factor Meter Multipliers for Commercial, Industrial, Public Agency and Non-Profit Organization Single-User Meters:~~

<u>Volume Factor Meter Multipliers</u>
<del>5/8-3/4"=1</del>
<del>1"=1.67</del>

1 1/2"=2.40
2"=5.33
3"=10.00
4"=16.66
6"=33.32
8"=53.31
10"=95.83

~~The charge for use or withdrawal of water from the water system by domestic users thereof residing outside said corporate limits, and using not more than 7,000 gallons of water during the month according to the users water meter shall be doubled the current fee charged to persons residing within the city of Aumsville.~~

~~(F)(C)~~ Tank or Container Users. The eCity may approve filling a tank or container with water from a designated fire hydrant.[ET14] [ET15]

- (1) The tank or container shall first pass a safety inspection by public work's staff and be equipped with a backflow protection assembly.
- (2) The approved user will be issued a fire hydrant water meter with the initial meter reading taken at city hall prior to issuance and instructed to use the hydrant located on the ~~corner of Church and 5th Streets, or as approved by the Public Works Director.~~[ET16] It shall be the responsibility of the user to return the hydrant meter on a daily basis.
- ~~(3)~~—The minimum monthly charge for use or withdrawal of water by users as registered on the hydrant meter for use within or outside the City's corporate limits ~~of the city shall be established in the annual water rate resolution, and using not more than 7,000 gallons of water during the month shall be \$31.82. Water used by the user in excess of 7,000 gallons during the month as shown by the hydrant water meter shall be 3.00 for each 1, 000 gallons over the initial 7, 000 gallons. In December 2014 and in December of each year thereafter, the monthly and this consumption charge will increase by 3% over the rate paid during the previous year. The Aumsville City Council may raise this increase up to 6% or may forego any of these increases, upon determination of necessity to provide for the system expenses.~~
- ~~(4)~~—The charge for use or withdrawal of water from the water supply system by users as registered on the hydrant meter for use outside the corporate city limits, and using not more than 7,000 gallons of water during the month shall be double the current fee charged.
- ~~(5)~~~~(3)~~ [Article 1, Section 1 amended by Ord. No. 446, passed August 11, 1997; Ord. No. 454, passed March 22, 1999; Ord. No. 521, passed July 14, 2003; Ord. No. 529, passed January 12, 2004; Ord. No. 548, passed March 14, 2005; Ord. No. 589, passed April 30, 2009; Ord. No. 591, passed July 13, 2009; Ord. No. 595 passed December 14, 2009, Ord. No. 631 passed October 13, 2014, Ord. No. 639 passed June 8, 2015]

~~(6)~~~~(4)~~

## ARTICLE 2

### Connection to the Water System

#### Section 1. Property Owner and Customer Responsibility.

- (A) No ~~plumber or other~~ person shall attempt to or make ~~any~~ connection with a eCity main or connect any pipe after it has been disconnected by the city,[PE17] without first obtaining a Marion County Building Inspection plumbing permit from the City ~~county.~~
- ~~(B)~~The Customer shall, at the Customer's own risk and expense, furnish, install and keep in good and safe condition, equipment that may be required for receiving, controlling, applying and utilizing water. The city shall not be responsible for loss or damage caused by the improper care or wrongful act of the Customer in installing, maintaining, using, operating or interfering with the equipment.[PE18]
- (C) The service connection between the City's water lines and a user's service, regardless of its ,whether located on location on public or private property, is and remains the property of the eCity which, and the city reserves the right to repair, maintain and replace it as the City deems appropriate.



- (D) The service line between the meter and the residence shall have a separate shutoff valve between ~~said the water~~ meter and the ~~residence~~ structure.
- (E) The ~~location of the~~ point of connection ~~between the City's with the public~~ water system ~~and a user thereof is shall be as~~ determined by the ~~e~~City.
- (F) All expenses ~~(including reimbursement fees) associated with for~~ connection(s) ~~between to the City's~~ water system ~~and property wishing to be served thereby along with all costs for the purchase and installation of any and all necessary flow metering systems for the property shall be are the responsibility of borne solely by the property owner, and shall not be part of the systems development charge. The costs incurred in the purchase and installation of a water meter are also separate from the system development charge.~~ [PE19]
- ~~(G) The city may require as an additional expense for connection, reimbursement fees for the installation of water lines, which benefit the affected property.~~ [PE20]
- ~~(A) The city's responsibility ends at the customer's side of the water meter.~~ [ET21][ET22]

~~(GH) Disconnection of Water Service. No disconnection of water service is allowed except for emergency situations approved by the City Administrator. Base water rates are always due.~~

[ET23][ET24][RH25][PE26]

~~[Section 1 amended by Ord. No. 589, passed July 14, 2003, Ord. No. 631, passed October 13, 2014]~~

## Section 2. ~~Customer~~ Application Required.

- (A) ~~An~~Each applicant for water service ~~from the City~~ shall complete an application form ~~for utility service~~ provided by the City. The application is a written request for ~~water utility~~ service and does not bind the City to ~~provide said service.~~ serve.
- (B) The City may refuse to furnish ~~water~~ and/or ~~may~~ discontinue ~~water service to a premises to property being served by the City~~ where, in the judgment of the City's Public Works Director, ~~an~~ apparatus, appliance(s) or other equipment ~~on said property using water may will be~~ used or is being used in violation of ~~federal, state, or local laws, city ordinances or legal regulations,~~ is dangerous or ~~otherwise~~ unsafe.
- ~~(C)~~ If an applicant for ~~water utility~~ service has ~~outstanding unpaid~~ charges at another service address in the City, the City may refuse to provide service until ~~either~~ the unpaid charges are paid in full or the City authorizes the transfer of the unpaid balance to the applicant's new utility service account.
- ~~(C)(D)~~ In the event an applicant for City water service is not the owner of the property to be served, the City may, prior to water service being provided to the property, require the owner to agree in writing to be responsible for any and all arrearages incurred for water service to the property, ~~and agree to allow the City to file an assessment lien on said property for said arrearages.~~

~~[Section 2 amended by Ord. No. 631, passed October 13, 2014]~~

**Section 3. Private Wells.** [ET27][PE28] No owner of real property upon which a ~~water~~ well is located shall permit any existing well or ~~any~~ fixture thereto ~~to~~ be connected ~~directly or otherwise in any manner~~ to the ~~e~~City's water ~~system lines and pipes~~ or ~~to~~ be located in ~~such~~ a manner ~~such that as to permit well water might~~ ~~to~~ enter the ~~e~~City's water system. The ~~e~~City may require, ~~by and through its Public Works Director, in the absolute discretion of the public works director,~~ the installation by the ~~property~~ owner ~~to install and thereafter maintain at their cost of~~ a backflow assembly/~~device~~ and/or such other equipment as the Director deems appropriate to prevent any ~~such~~ contamination ~~of the City's water supply.~~ ~~[Section 3 amended by Ord. No. 521, passed July 14, 2003]~~

**Section 4. Private Booster Pumps Prohibited.** No booster pumps ~~may~~shall be installed by ~~any person the customer for the purpose of~~ increasing water pressure or delivery ~~to a premises~~ without the express written permission of the ~~p~~Public ~~w~~Works ~~e~~Director. ~~[Section 4 added by Ord. 631, passed October 13, 2014]~~

## Hookup of Property Outside ~~the~~ City Limits

**Section 5. Outside City Limit Application Requirement.** ~~An owner of property [PE29][RH30] located outside the City's corporate limits wishing to have the City supply water to the property -person requesting water services to a property outside the city limits of Aumsville shall first make written application to the Aumsville City Council for such services. The applicant shall show:have the burden of proving to the city council the following:~~

- (A) That the proposed connection is compatible with projected future growth of the eCity of Aumsville and that the property ~~that will be served will logically and harmoniously become incorporated into the city at a later date is within the City's Urban Growth Boundary;~~
- (B) That the proposed connection will not ~~unduly~~ burden the ~~existing~~ City's ability of the city to provide water service to the citizens of Aumsville ~~nor will it adversely affect diminish water availability, flows, volumes, and infrastructure capacity beyond that which is identified in the City's water system master plan; as necessary for planned growth in the sequencing identified in the master plan.~~
- (C) That the applicant has ~~or will obtained~~ ~~acquired~~ all necessary licenses, permits and easements to ~~put in the~~ connecting line to the city's ~~water system; and .main line.~~
- (D) That the proposed line connecting the property to the city's ~~system main line will meet~~s or exceeds eCity specifications ~~for said connecting line.~~

~~[Section 1 renumbered to Section 4 by Ord. No. 521, passed July 14, 2003, renumbered to Section 5 by Ord. No. 631, passed October 13, 2014]~~

**Section 6. Approval of the Outside City Limits Application.** Regardless if ~~an~~the applicant ~~is able to satisfy~~ meets the requirements set forth ~~in Section 5~~ above, ~~each application shall be decided on a case by case basis and~~ approval of the ~~connection remains in application is at~~ the sole discretion of the eCouncil. ~~The owner shall be required to A consent for future annexation to the city sign a -and waiver of remonstrance against annexation to the City in a form approved by the City Attorney shall be required prior to before water services being are~~ provided to the property.

~~[Section 2 renumbered to Section 5 by Ord. No. 521, passed July 14, 2003, amended and renumbered to Section 6 by Ord. No. 631, October 13, 2014]~~

**Section 7. Outside City Limits Applicant Responsibilities.** Upon approval of the application the following are the ~~sole and exclusive~~ responsibility of the ~~owner:applicant:~~

- ~~(A)(B)~~ All construction and costs associated with the installation of the line or lines from the ~~owner's applicant's~~ property to and including the connection to the city's main line.
- ~~(B)(C)~~ That the connection ~~will~~ be a single hookup and serve only one household or business.
- ~~(C)(D)~~ Maintenance and repair of the connection line from the property to and including ~~the~~ connection to the eCity's main line shall be the sole and exclusive responsibility of the property owner to be served.
- ~~(D)(E)~~ All lines that are to be connected to the city system shall be approved and inspected by the city public works department prior to connection.
- ~~(E)(F)~~ All costs of water meter and accessories necessary for the installation of a water meter shall be the sole responsibility of the property owner.

~~The city's responsibility ends at the customer's side of the water meter.~~[ET31][ET32]

~~(F)(G)~~ The Water Systems Development Charge is paid before water is provided by the City.

~~[Section 3 renumbered to Section 6 by Ord. No. 521, passed July 14, 2003, amended and renumbered to Section 7 by Ord. No. 631, October 13, 2014]~~

**Section 8. Hookup Not Directly Adjacent to City Limits.** The ~~city e~~Council, ~~in~~at its sole discretion, may allow a hookup ~~to the City's water system by~~ to property ~~that is~~ not directly adjacent to the ~~then~~ existing city limits. If ~~an~~ application is made for such property ~~by its owner~~, the eCity may impose additional criteria including but not limited to requiring ~~the property owner construct~~ a connecting line ~~that would be~~ sufficient to serve other ~~prospective~~ users that may hook up to the city ~~water~~ system at a later date, ~~with such construction -subject to a reimbursement district agreement~~ ~~[Section 4 renumbered to Section 7 by Ord. No. 521, passed July 14, 2003, renumbered to Section 8 by Ord. No. 631, October 13, 2014]~~

**Section 9. Maintenance of Lines Outside City Limits.** If for any reason ~~whatsoever~~ the eCity is required to ~~maintain or~~ make repairs ~~upon non-City owned~~ connecting lines ~~located~~ outside the eCity limits, the owner(s) of the ~~affected~~ property shall be responsible for ~~the all costs thereof and materials~~ plus 25% and shall pay said amount within 30 days of being presented a bill by the eCity. Any bill not paid after 30 days shall automatically become an ~~assessment~~ lien upon said property and may be enforced pursuant to existing state laws and city ordinances. ~~[Section 5 renumbered to Section 8 by Ord. No. 521, passed July 14, 2003, renumbered to Section 6 by Ord. No. 631, October 13, 2014]~~

### General Requirements

#### Section 10. Water Meters and Meter Clear Area.

- (A) No person may store or maintain any item, material, or refuse, or install equipment over, under, or within two (2) feet of any water meter.
- (B) No person may permit shrubs or other landscaping to obstruct the reading of any water meter. Any such obstruction may be trimmed or removed by the eCity and the owner may be charged for the removal costs thereof.
- (C) No person may park a motor vehicle ~~on public or private property~~, so as to obstruct or prevent access to any water meter.
- (D) ~~The owner shall provide~~ a safe passageway to the water meter ~~shall be maintained to allow when it is necessary for the city personnel~~ to enter upon property or ~~into to enter~~ a building to read a water meter or work on a ~~water~~ service connection.
- (E) Water Meters: Use Required
1. ~~Exception as provided below, in Subsection 2. of this Section,~~ each single-family ~~structure dwelling, and~~ each dwelling unit in ~~either a two or three -family dwelling, each dwelling unit in a three-family dwelling,~~ and each non-residential establishment shall have a separate water service line and ~~water~~ meter, provided that if ~~special~~ circumstances of construction render metering of ~~such~~ individual service impractical, the Public Works Director may waive ~~or adjust said such~~ requirements.
  - 1.2. Service to more than one user, or multiple meters for the same user, shall not be combined ~~for the purpose of to~~ obtaining a more favorable water rate
  - 2.3. Each structure containing more than (3) residential dwelling units or (3) non-residential establishments will be served with a single meter for the entire building or by a separate water service line and meter for each unit.
  - 3.4. Each meter shall be located in the public right-of-way or ~~in a~~ public utility easement ~~consistent in accordance~~ with the City's Public Works Standards.

~~[Section 9 added by Ord. No. 521, passed July 14, 2003; amended and renumbered to Section 10 by Ord. No. 631, October 13, 2014]~~

#### Section 11. Damage to System.

- (A) ~~A~~The Customer ~~is shall be~~ ~~responsible liable~~ [PE33]for ~~and cause to be repaired any~~ damages to the city's water system ~~that is resulting from caused by an act(s)~~ of the Customer, ~~or persons or things subject to the Customer's control including the Customer's users, tenants~~ [ET34]or agents thereof. ~~Damages include (but are not limited to) . -Damage includes, among other things,~~ breaking or destruction of seals on or near a water meter, breaking or destruction of locks, removing the first fitting on the downstream side of a metering device, damage resulting from electrical grounding to cold water pipes, or damage to a water meter by steam from a boiler or heater on the Customer's property ~~as well as and~~ breaking or destruction ~~of a water meter or its enclosure~~ by a motor vehicle, ~~driving over a meter or meter box.~~ ~~The customer shall take such actions as are necessary to promptly cause the repair and/or replacement of the damage caused and pay any and all costs associated therewith. .~~
- (B) The eCity may ~~opt to~~ repair the damaged ~~potions of the water system d water meter~~ and ~~if it does so, shall~~ charge the cost ~~for said repairs to against~~ the ~~owner of the~~ property served. ~~The cost of repairs shall be the actual costs.~~ The city shall be reimbursed by the Customer for such damage promptly on presentation of a bill.

- (C) Failure to pay ~~for the actual costs~~ for damages ~~to the city's water system and water meter~~ shall ~~may~~ be ~~made an assessment~~ lien against the property ~~from the date of entry in the customer's billing record or other city water records.~~
- (D) No unauthorized person shall ~~maliciously, willfully or negligently~~ break, damage, destroy, uncover, deface or tamper with any ~~water system~~ structure, appurtenance or equipment, ~~which is a part of the water system.~~ ~~Any person violating this provision shall be subject to immediate arrest.~~ [PE35]
- (E) Contamination:
- i. It shall be unlawful for any person to in any way contaminate or pollute the water in the reservoirs or pipes of the municipal water system or in any fountain, hydrant, or source or place of storage of the water supply of the city or any of its inhabitants.
  - ii. It shall be unlawful to any person to throw any rubbish, debris, or any other thing into any water reservoir belonging to the city.

~~[Section 10 added by Ord. No. 521, passed July 14, 2003; amended and renumbered to Section 11 by Ord. No. 631, October 13, 2014]~~

**Section 12. Apparatus on Customer's Property.** ~~The~~ City does not assume liability for inspecting apparatus on the Customer's property. [PE36][RH37] The city, upon 24 ~~hours notice~~ hours' notice to the occupant of the property, has reserves the right of inspection; however, if there is reason to believe that unsafe or illegal apparatus is in use, the city ~~has reserves~~ the ability to right for immediately inspect ~~ion.~~  
~~[Section 12 added by Ord. No. 631, passed October 13, 2014]~~

### Section 13. Access to Premises.

~~(1)~~ City eEmployees ~~of the department shall~~ have access, upon proper identification, to all premises where at which city water is being used ~~to ascertain for the purpose of determining~~ that no hazard exists to the public water supply ~~exists as a result of the manner in which the water is being used, or that water is being used in a manner contrary to this ordinance.~~ Such access shall be during city business hours with 24 ~~hours notice~~ hours' notice, unless otherwise arranged with customer, and shall not interfere with the customer's normal use of his premises. ~~If necessary, the City may seek and obtain a search warrant with probable cause [PE38][RH39] for a violation, and may use Police to enforce any warrant.~~

~~(1)(2)~~ Applications for water service will include a statement, signed by the property owner applicant, stating access to inspect water-plumbing both inside and outside the structure is granted to the City in perpetuity and that this granting of authority passes with ownership of the property, failure to allow access will result in immediate termination of service[ET40].

~~[Section 13 added by Ord. No. 631, passed October 13, 2014]~~

**Section 14. Resale of Water Prohibited.** Except in manufactured home parks or by special arrangements with the city, no Customer shall resell water received by such Customer from the city, nor shall water be delivered to premises other than those specified in the application for service. Any agreement to resell water is at the sole discretion of the City to approve.

~~[Section 14 added by Ord. No. 631, passed October 13, 2014]~~

**Section 15. Illegal Taps Prohibited.** All unauthorized taps on the city water system shall be designated illegal taps. Such taps are and subject to immediate removal by the City and ~~fine~~ are a Violation subject to the provisions of Article 10 of this ordinance.

~~[Section 15 added by Ord. No. 631, passed October 13, 2014]~~

**Section 16. Interruption of Service, Notification.** Wherever practicable, customers will be notified in advance of any planned interruption of service or shutdown of mains for repair or alterations. The city assumes no responsibility for providing uninterrupted water service and will not be liable for damages resulting from such interruptions. [PE41]

~~[Section 16 added by Ord. No. 631, passed October 13, 2014]~~

**Section 17. Abandonment of Service Lines and Water Mains.** The ~~public works director~~ [PE42][RH43] may cause the removal or abandonment of any unused service lines when its further need is not apparent and when in his judgment removal is appropriate to reduce leakage or future maintenance responsibility. Subsequent service to the property shall be treated as a new service.

~~[Section 17 added by Ord. No. 631, passed October 13, 2014]~~

**Section 18. Installation of Temporary Water Pump Stations.**

- (A) In certain instances where, in the judgment of the public works director, [PE44]it is not practicable to provide adequate water flows to any area through the use of traditional water service methods, the city may, at the option of the public works director, elect to serve said area through the installation and operation of a temporary water pump station by the city.
- (B) As used in subsection 1, unless the context otherwise requires, a 'temporary water pump station,' or 'temporary pump station' shall mean any self-contained pump station designed, constructed, and installed with the intent of future relocation.

~~[Section 18 added by Ord. No. 631, passed October 13, 2014]~~

## ARTICLE 3

### Frequency of Reading Water Meters

**Section 1. Designated Months Defined.** The reading of water meters of the city shall take place monthly.

~~[Section 1 amended by Ord. No. 521, passed July 14, 2003]~~

## ARTICLE 4

### Customer's Deposit Fee

**Section 1. Fees Set for Inside and Outside City Limits.** ~~On and after the effective date of this ordinance, the water service deposit fee for customer water deposit, within the corporate limits of the city of Aumsville shall be as established in the annual water rate by resolution. \$60.00.~~ The fee for customer water and sewer deposit outside the corporate limits of the city of Aumsville shall be double the ~~deposit~~ fee for customers residing within the city limits. ~~[Section 1 amended by Ord. No. 521, passed July 14, 2003]~~

~~**Section 2. Deposit Fee Based on Billing.** Since the customer deposit fee is based on a billing for two months use, this section may be changed by resolution of the city council. [Section 2 amended by Ord. No. 521, passed July 14, 2003; [Section 2 amended by Ord. No. 631, passed October 13, 2014]] [PE45]~~

**Section 3. Refund Procedures.** ~~After deductions for city water services used, the~~ ~~The customer's~~ water deposit ~~fee~~ shall be refunded:

- ~~(A) Upon discontinuation of water service to a premises ;~~
- ~~(A)(B) , any amount of excess of the unpaid bills for water furnished by the city.~~
- ~~(C) To property owner/users Owners of property connected to the water system of the city of Aumsville are eligible for a refund of the deposit fee after water service bills for water have been timely paid on time for 12 consecutive months;~~
- ~~(B)(D) To renters .Renters of property connected to the water system of the city of Aumsville shall have the deposit refunded upon vacation of the rented premises. Any amount due and owed the city shall be deducted before a refund check is authorized. [PE46][RH47]~~

~~[Article 4, Section 3 amended by Ord. No. 446, passed August 11, 1997; Ord. No. 448, passed September 8, 1997; Ord. No. 521, passed July 14, 2003]~~

## ARTICLE 5

### Senior and Disabled Citizen Water Rates [RH48]

**Section 1. Reduced Rate and Qualifications.**

- (A) The council finds ~~that~~ citizens sixty-five years of age or over or citizens with permanent disabilities are

qualified to receive a reduced base water rate established in the annual water rate resolution when the Council finds ~~a#~~ the following conditions exist<sup>1</sup>:

- (1) The heads of household are retired meaning receiving social security retirement benefits or social security disability benefits or a retirement pension or distributions from a retirement account or any combination of these sources of income,
  - (2) Any additional sources of income of the heads-of-household do not exceed 50% of the total income identified in Section (1),
  - (3) No additional resident of the household makes an income exceeding 50% of the total income identified in Section (1),
  - (4) Average water use is less than 2,000 gallons per month, and
  - (5) The heads-of-household reside within the City Limits of the City of Aumsville.
- ~~(A) , that are retired and acting as the head of a household, are generally on a fixed income and use a minimal amount of water. Therefore any retired citizen sixty-five years of age or over, residing within the limits of Aumsville and acting as the head of household shall be charged the following water rates:~~
- ~~(A) A minimum monthly charge for use or withdrawal of not more than 7,000 gallons of water during the month according to the user's water meter shall be \$23.87 on December 1, 2013.~~
- ~~(A)(B) \_\_\_\_\_ A consumption charge for water in excess of 27,000 gallons during the month shall be the same as for all water users.~~

~~In December 2014 and in December of each year thereafter, the monthly charge and consumption charge will increase by 3% over the rate paid previously. The Aumsville City Council may raise this increase up to 6% or may forego any of these increases, upon determination that they are not necessary to provide for the system expenses.~~

~~One-half the water deposit fee charged to owners of private property.~~

~~[Section 1 amended by Ord. No. 521, passed July 14, 2003; Ord. No. 548, passed March 14, 2005; Ord. No. 589, passed April 30, 2009; amended by Ord. No. 631, passed October 13, 2014, Ord. No. 639, passed June 8, 2015]~~

**Section 2. Application Required.** Application for the reduced rates described in Article 5, Section 1 above, senior citizens rates must be filed at city hall and approved by the eCity aAdministrator. All information required to be given on the form shall be verified by the applicant as being true to the best of their knowledgecustomer. ~~[Section 1 amended by Ord. No. 454, passed March 22, 1999; Ord. No. 521, passed July 14, 2003]~~

**Section 3. Termination of Rate Reduction.** Reduced senior and disabled citizens water rates for customers shall be terminated by the City Administrator, with right of appeal to the Council, in the event of the occurrence of any of the following circumstances:

- (A) Applicant moves from the dwelling;
- (B) Applicant, if an owner, sells, trades or otherwise relinquishes ownership of the dwelling;
- (C) Applicant fails to comply with any rule, standard, or regulation adopted under this article; refuses to provide information to or hinders any investigation by the city administrator into the continued eligibility of the applicant for reduced rates; willfully makes any false or misleading statement in order to obtain or retain a rate reduction; or receives benefits under this article with knowledge that he or she does not qualify for such benefits.

~~[Section 3 added by Ord. No. 521, passed July 14, 2003]~~

## ARTICLE 6

### Payment of Water Billings

#### Section 1. Responsible Party (Customer).

<sup>1</sup> Income information and qualifications will be determined by the City Manager based on adequate information provided confidentially to the Manager. Income information will not be released to the Council, media, or public without the applicant's written permission.

- (A) All water services provided by the eCity will be billed to and the responsibility of the occupant of the premises where the service is provided, unless the property owner or Customer requests, in writing, that the bill be sent submitted to another address.
- (B) Where more than a single dwelling unit or business is served by a single water meter, the bill for water service shall be sent to the premises owner of the premises, who shall be the Customer responsible party for payment thereof. ~~among the tenants for collecting amounts owing from such tenants.~~

~~[Section 1 amended by Ord. No. 521, passed July 14, 2003; amended by Ord. No. 631, passed October 13, 2014]~~

### Section 2. Assessments Due.

- (A) Charges assessed for municipal water services are shall become due when the eCity of Aumsville requests payment by mailing a bill to a Customer.
- (B) Charges assessed for municipal water and sewer [PE49][RH50] services provided by the city of Aumsville shall become delinquent if said assessment is not paid within 10 days offrom when the eCity requests for payment as set forth in this ordinance section.

~~[Section 2 amended by Ord. No. 521, passed July 14, 2003; amended by Ord. No. 631, passed October 13, 2014]~~

### Section 3. Automatic Shut Off [PE51]; Right of Appeal; Hearing.

- (A) In the event a city water and sewer assessment [PE52] bill becomes delinquent, the eCity shall send a written notice to the Customer setting forth a date certain for automatic the water and sewer shut off both by first class mail to the Customer and by posting a copy of the shut off notice on or at the premises being served. The notices shall inform the Customer and other affected person(s) of the right to appeal any proposed shot off of the City's water service prior to the termination.
- (B) Such notice shall set out the provide an automatic shutoff date which date shall not be less than 4 business days from the date the notice is mailed and posted at the premises, whichever date is the latter to the Customer.

~~(B)(C)~~ In the event, the Customer and/or person(s) affected by the proposed shut-off wishes to challenge the proposed water shut-off as illegal or otherwise improper, they must file a written appeal with the City Administrator by email or at least one day prior to the shut-off date identified in the City's notice. The appeal must include the following information:

- 1) The date of the notice of appeal;
- 2) The name of the person filing the appeal;
- 3) The address of the premises where the shut-off is to take place;
- 4) A telephone number, email address and physical address where the person(s) filing the appeal may be contacted by the City;
- 5) A short statement setting out the reasons why the person(s) filing the appeal believe the water shut-off is illegal or otherwise improper.

Once an appeal is filed by a Customer or other affected person with the City Administrator, the water shut-off shall be suspended so that the hearing on the appeal can occur and may be extended for such further time as the City Administrator otherwise deems necessary or appropriate.

- (D) Once the appeal is filed, the City Administrator shall within two (2) business days cause there to be scheduled a hearing date which date shall be no more than ten (10) business days after the appeal's filing. The person(s) filing the appeal will be notified thereof by email, regular mail, telephonically or any combination thereof reasonably calculated to give the Customer or other person filing the appeal notice of the hearing date. The hearing may be rescheduled by the City Administrator for good cause.
- (E) The hearing on the appeal shall be conducted by the City Administrator (or designate). The Customer and/or affected person filing the appeal shall explain why they believe the shut off is illegal or otherwise improper and the City Administrator (or designate) shall either approve or reject the appeal, and if they deem appropriate prepare a written decision on the matter.

~~[Section 3 amended by Ord. No. 521, passed July 14, 2003; amended by Ord. No. 631, passed October 13,~~

2014]

~~**Section 4. Reinstatement of Services.** After city water services have been discontinued pursuant to this ordinance, the same shall not be reinstated until the entire delinquency, plus a delinquent account reconnect fee, as set by resolution of the city council, has been paid in full. [Section 4 amended by Ord. No. 521, passed July 14, 2003][PE53][RH54]~~

~~**Section 5. Unauthorized Reconnection Turn-On Prohibited.** No person, other than an authorized city representative employee, shall turn on a water service connection which has had been turned off by the eCity. The property owner is responsible for any unauthorized reconnection. A violation of this section is a Class A civil infraction results in a fee of [?]. [ET55][RH56] [Section 5 added by Ord. No. 521, passed July 14, 2003; amended by Ord. No. 631, passed October 13, 2014]~~

**Section 6. Meter Error.** A customer may request the eCity to test the meter serving their premises. In such an event:

- (A) The customer shall deposit an amount to cover the reasonable cost of the test, as set by resolution of the city council. This deposit will not be returned if the meter is found to register less than 3% fast.
- (B) The customer or their representative shall have the right to be present when the test is made, and a customer who requests a meter test will be notified not less than two days in advance of the time and place of the tests.
- (C) A written report giving the results of the test shall be available to the customer within 10 days after completion of the test.
- (D) When, upon testing, a meter is found to be registering more than 3% fast under conditions of normal operation the city shall refund the customer the full amount of the overcharge based on corrected meter reading for a period not to exceed three months.

~~[Section 5 renumbered to Section 6 by Ord. No. 521, passed July 14, 2003]~~

**Section 7. Hardship.** [ET57][RH58][RH59][PE60] In cases of hardship, the eCity administrator or designee shall have the discretion to decide not to discontinue service or to renew services to a delinquent account upon acceptance of a Customer signed payment plan for the payment of past due amounts. The accepted payment plan shall serve as the automatic shut-off notice provided for in Section 3 above.

~~[Section 6 renumbered to Section 7 by Ord. No. 521, passed July 14, 2003; amended by Ord. No. 631, passed October 13, 2014]~~

**Section 8. Appeal of Council.** [PE61]

- (A) A Customer or other person having filed an appeal with the City Administrator under Section Article 6, Section 3 above may appeal the decision or result thereof notice to disconnect to the eCity eCouncil, if the Customer believes the bill for water and sewer services was incorrect.
- (B) To file a notice of appeal under this ordinance, the Customer or other person affected must post with the city, monies in the amount of the bill being appealed  
~~city, monies in the amount of the bill being appealed.~~
- (C) If the council finds that the bill was incorrect, the bill shall be adjusted and the difference between the adjusted bill and the monies posted shall be returned to the Customer.
- (D) All appeals must be filed within 30 days from the time the monies are posted to appeal a notice to disconnect.

~~[Section 7 renumbered to Section 8 by Ord. No. 521, passed July 14, 2003; amended by Ord. No. 631, passed October 13, 2014]~~

**Section 9. Adjustment of Accounts.** Customer accounts shall be adjusted for any of the following circumstances:

- (A) Accounts receiving less than one month of service will be billed on a pro rata basis according to meter size.
- (B) When, upon tests, a meter is found to be registering more than three percent fast under conditions of normal operations, the city shall refund to the Customer the full amount of the



overcharge, based on corrected meter readings for a period not exceeding two months.

- (C) The city may bill the Customer for water consumed while the meter is not registering. The bill shall be at the minimum monthly meter rate.
- ~~(D) When a Customer reports a water leak to the city hall or has been notified by the public works department of a possible water leak and repairs it in a timely manner, and the city has verified that the leakage has occurred and was caused by either a broken pipe or pipe connection, the city will adjust the billing by reducing the affected monthly usage by the excess over the user's normal amount. A \$15 service fee shall be added to the adjusted bill.~~
- (D) The eCity aAdministrator may adjust a customer's utility billing to reduce charges resulting from a verified leak when:
- a. The customer notifies the city in writing of the leak in a timely manner. Timely manner means there is physical evidence of the leak that should have been readily apparent to the customer several days before the notice was given to the city;
  - b. The customer makes a reasonable effort to locate the leak and initiates repairs within 30 days of discovering the leak;
  - c. The city verifies a leak exists, and the leak was caused by either a broken pipe or pipe connection;
  - d. The customer (or a contractor hired by the customer) fully repairs the leak within 30 days of notice to the city of the leak; and
  - e. The customer provides proof of the fixed leak to the city on a form and manner as prescribed by the finance department, including, but not limited to, receipts and other verification of repairs or costs.
- (E) If the city determines the customer meets the conditions in subsection (D) of this section, the city will adjust the billing by reducing the affected monthly usage by the excess over the user's normal amount, or by reducing the affected monthly usage by 50% of the excess over the user's normal amount whichever is greater. Adjustments to the bill may not exceed 90 days from the date before the customer fixes the leak.
- (F) Faulty valves or similar devices (for example but not limited to: toilets, faucets, or irrigation systems) of the customer are not grounds for the adjustment of a utility bill. In addition, obvious neglect or improper installation by the customer is not grounds for adjustment of a utility billing.
- (G) The city will not adjust an account balance resulting from a leak if the same leak occurred within the last two years and the customer has already received an adjustment based on that leak .
- (H) Or as a result of a negligent action by the customer, or customer's agent.
- ~~(E) Faulty valves or similar devices of the Customer shall not be grounds for the adjustment of a high water bill. In addition, obvious neglect or improper installation by the Customer shall not be grounds for adjustment of a high water billing.~~

## ARTICLE 7

### Change of Rate StructureUse of Funds

**Section 1. Deposit of Gross Revenues.** ~~The eCity aAdministrator shallis hereby directed to deposit in the Water Fund all of the gross revenues received from charges, rates, and penalties collected for the consumption of water in the Water Fund,as provided herein.~~ **Procedure.** ~~Any change of rate structure shall be done by two readings of an ordinance approved by the majority of the council present at the meeting.~~

**Section 2. Exclusive Use of Revenues.** ~~The rRevenues thus deposited in the Water Fund shall be used exclusively for the planning, design, operation, maintenance, and repair of the water system, training expenses, reasonable[PE62] administrative costs, expenses for collection of charges imposed by this ordinance, and payments of the principle and interest of any debts of the City's water system of the city.~~

## ARTICLE 8

## Cross Connection and Backflow Prevention

**Section 1. Designation.** This portion of this ordinance shall be referred to and may be designated and cited as the Aumsville Cross Connection Control Ordinance.

**Section 2. Purpose.** The purpose of this section of the ordinance shall be to protect the water supply of the city Aumsville from contamination or pollution due to existing or potential cross connection by establishing appropriate regulations and controls relating thereto including the installation and proper maintenance of approved backflow and/or siphonage devices.

### Section 3. Definitions.

- (A) Approved Backflow Prevention Device means a device to counteract back pressures and/or prevent back siphonage. Such devices must be approved by the Oregon State Health Division.
- (B) Auxiliary Supply means any water source or system other than the city's water system that may be available to a particular building on the premises.
- (C) Backflow means a flow in other than the intended direction of flow of any substance, foreign liquid, gas or otherwise, other than potable water provided by the city, into the city's water system.
- (D) Cross Connection shall mean any actual or potential connection or structural arrangement whereby the city's water system is connected directly or indirectly with any other water sources or system, public or private, through which it is possible to introduce into any part of the city's system, any other source of water, potable or otherwise, or an industrial fluid, gas or substance other than the city's potable water with which the system is supplied, including any connection with a sewer, drain, conduit, swimming pool, storage reservoir, plumbing fixture, swamp cooler or other device through which it is possible to introduce into any part of the water system contaminated water, sewage, or other materials of unknown or unsafe quality which may be capable of imparting contamination to the city's water system as a result of backflow or otherwise, bypass arrangements, jumper connections, removable sections, swivel or changeover devices or other temporary or permanent devices through which, or because of which, backflow may occur.
- (E) City Water System shall refer to and mean the Aumsville water system which shall include its wells, pumping stations, reservoirs, supply, trunk or feeder lines, service lines, meters and all other appurtenances, devices, lines and things necessary to the operation of the system and to supply water service to individual property or premise and shall include the city's potable water with which the system is supplied.
- (F) Public Works Director shall mean the person appointed by the city council to be in charge of the city's water system.

~~[Section 3 amended by Ord. No. 631, passed October 13, 2014]~~

**Section 4. Application and Responsibility.** This ordinance applies throughout the city of Aumsville and to every premise and property serviced by the city water system. It applies to any premises water system, public or private, regardless of date of installation. Every owner or occupant of any concerned premises is responsible for compliance with its terms and shall be responsible for any damages incurred as a result of failure to comply with the terms and provisions contained herein.

**Section 5. Cross Connections Prohibited.** Unless provided specifically herein or specially approved in writing by the Aumsville city council all cross connections, whether or not they are controlled by automatic devices such as check valves or by hand operated mechanisms such as gate valves or cork stops are prohibited.

**Section 6. Backflow Prevention Device Installation.** The owner of each property or premises serviced and/or furnished water by the city of Aumsville shall be required to install a testable backflow prevention device under the following circumstances:

- (A) There is upon such premises an auxiliary water supply which is or can be connected to the city's service or supply system (including individual premises service plumbing);
- (B) There is piping or equipment for conveying other than potable city water and that piping or equipment is under pressure and installed and operated in a manner that could cause a cross

- connection;
- (C) There is intricate plumbing which makes it impractical to ascertain whether or not cross connections exists;
  - (D) The concerned premises have restricted entry so that inspections for cross connections cannot be made with sufficient frequency or with sufficient short notice, to assure that cross connections do not exist;
  - (E) There is a fire line or irrigation service or domestic service larger than two inches;
  - (F) The premises have a repeated history of cross connections being established or re-established;
  - (G) The serviced premises from time to time may have materials of a toxic or hazardous nature which are handled so that if back siphonage should occur a serious health hazard may result;
  - (H) Premises with the following or similar installation must have a backflow device installed: hot tubs, solar system, other uses specified by a certified cross connection specialist representing the city;
  - (I) Premises on which any substance is handled under pressure so as to permit entry into the public water system, or where a cross connection could be reasonably expected to occur; this includes the handling of processed water and cooling water. Such type of facilities include dry cleaners/laundromats, laboratories, car washes, petroleum processing or storage plants, food preparation facilities, other facilities specified by the city's cross connection specialist.
  - (J) Backflow prevention devices shall be required on domestic services two inches or smaller if the building is two (2) stories or higher than thirty-two (32) feet above the water main. One (1) and two (2) story buildings which exceed thirty-two (32) feet in height may be exempted upon determination by the city that no backflow hazard exists.
  - (K) Any other water system which receives water from the city of Aumsville water system and does not have a cross connection program which has been approved by the city.

#### **Section 7. Type of Backflow Prevention Devices Required and Location.**

- (A) The type of backflow prevention device required shall be commensurate with the degree of hazard that exists and must meet at all times the standards of the Oregon State Health Division; all backflow prevention devices required under this section shall be a type and model approved by the Oregon State Health Division [and the Director of Public Works](#).
- (B) A reduced pressure principal backflow prevention device shall be installed where the water supply may be contaminated by a substance that could cause health or system hazard. This type of device will also be required in any premises where entry is restricted by the water user. A reduced pressure principle backflow will be required at the point of connection between the city water system and any other water system, which does not have a cross connection program.
- (C) A double-check valve assembly pressure vacuum breaker or a reduced pressure principle backflow device assembly shall be installed where it is
- (D) possible to interject a substance that may be objectionable, but not hazardous, into the water system.

#### **Section 8. Location and Installation of Backflow Device.**

- (A) The city may specify the location and method of installation of a backflow prevention device. The control or elimination of a cross connection shall be in accordance with Manuals of Standard and Practice pertaining to cross connection control approved by the city, and any requirements set forth by the United States Environmental Protection Agency as authorized by the "Safe Drinking Water Act" PL93-523 and other applicable legislature, rules and regulations of the United States, the state of Oregon and concerned agencies.
- (B) An installation, corrective measure, disconnection or other change to a backflow prevention device shall be at the sole expense of the owner. The costs of any change required in the city's system outside the property concerned, or between the meter and the supply line or distribution system, or any changes for cut-offs or disconnection, shall be paid in accordance with the city's practice and procedure, and may, if not paid, be collected through legal process or any other appropriate manner approved by law.

#### **Section 9. Pre-existing Backflow Prevention Device.** Any backflow prevention device installed before the

effective date of this ordinance, not an approved device and hereinafter set forth shall be permitted to remain in service if:

- (A) The device is properly maintained; and
- (B) The type of device is commensurate with the degree of hazard, such determination to be made by the city; and
- (C) The device is tested annually as required herein; and

The device performs satisfactorily.

If a backflow device does not meet the standards of the Oregon State Health Division as herein set forth, the device may be replaced if it is removed or requires more than minimum maintenance.

#### **Section 10. Testing Requirements.**

- (1) Any backflow prevention device which may be required to be installed under this ordinance for the protection of the city's water supply shall be tested before its use in the city and annually thereafter, unless a more frequent testing is required. All tests required to be performed under this section must be performed by a tester certified by the state of Oregon or otherwise approved by the city and written results of such test furnished to the city.
- (2) Any backflow prevention device which may be required by the city or state to be installed on property for the protection of a water supply shall be tested at the time of installation and anytime the device is moved or relocated (immediately after relocating or moving). The property owner must forward the results of such testing to the city within ten (10) days of the date of installation or relocation.
- (3) The property owner must order and cause to be performed a test of each backflow prevention device annually on or within thirty (30) days after the anniversary date of the initial testing. The city may require more frequent testing in order to assure the device is functioning in those installations which represent a serious health hazard as determined by the city or the State Health Department.
- (4) If the city has not received the results of such test within thirty (30) days of the anniversary date for annual testing or within ten (10) days of the date of installation of the device as the case may be, or the date of the city's discovery that a device was installed without appropriate test as applicable, the city may order such test and bill the property owner for the cost thereof if the device is for protection of a fire service or for a commercial use; if the device is for protection of a domestic service, the city may deny or discontinue water service until satisfactory proof is furnished that the device has been tested and is functioning properly.
- (5) If the results of a test required by the city as herein set forth indicates that repairs are necessary, such repair must be undertaken and a new test taken, and the results thereof forwarded to the city within ten (10) days of the test, indicating the defect was repaired.

#### **Section 11. General Provisions.**

- (1) Any person operating any mobile apparatus which uses the city's water system or water from any premises within the city must provide for backflow prevention and the provisions herein set forth are applicable.
- (2) All plumbing within buildings served by the city shall be so installed and all plumbing fixtures so constructed as to prevent pollution of the city's water supply by back siphonage or cross connections. Water service to any premises known or found to have such defects and hazards shall be disconnected and not restored until such defects and hazards have been eliminated.

**Section 12. Customer System Open for Inspection.** The customer system shall be open for inspection to perform a facility survey at all reasonable times to the public works director, to determine whether cross connections or other structural or sanitary hazards including violations of these regulations exist. The public works director or any police officer shall have the power to enter any premises or building, for the purpose of enforcing the regulations contained in this Article, and it shall be unlawful for any person in charge of any such premises or building to refuse such entrance.

~~[Added new section 12 by Ord. No. 631, passed October 13, 2014]~~

#### **Section 13. Cross Connection and Backflow Enforcement.**

- (1) The public works director of the city or his duly appointed representative or the State of Oregon Health Division shall have the right without being deemed guilty of trespass or an unlawful act to check the premises of customers for cross connections (physical connections), physical connections with other water supplies, and the general condition of water lines and service facilities, at any reasonable time. Any such connection prohibited thereby shall be removed by the customer within the time specified after written notice by the city, and if not so removed, the city shall remove or discontinue any connection it may have for servicing the property.
- (2) The public works director shall designate city cross connections specialists, and institute, with the approval of the city council, such additional rules or regulations necessary to carry out provisions of this ordinance.

~~[Renumbered from section 12 to section 13 and amended by Ord. No. 631, passed October 13, 2014]~~

**Section 14. Repealing Ordinance.** Ordinance No. 390 is hereby repealed.

## ARTICLE 9

### VALIDITY

**Section 1. Validity.** If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not ~~effect~~affect the validity of the remaining portions of the ordinance.

## ARTICLE 10

### VIOLATIONS

**Section 1. Violations.** Except as otherwise set out specifically in this ordinance, any person violating any of the provisions or failing to comply with the requirements of this ordinance is guilty of a violation.

~~[Amended by Ord. No. 631, passed October 13, 2014]~~

#### Section 2. Enforcement of Provisions.

- (A) In the event of violation of any provision in this Chapter, the City may use any enforcement method or measure, including discontinuance of service ~~or property lien~~, it deems appropriate, in addition to any penalties provided for in this ordinance. (Ord. 774, October 22, 1997)
- (B) Discontinuance – for Customer Noncompliance. The City may discontinue water service to a Customer for noncompliance with a city water regulation, if the Customer fails to comply with the regulation within five days after receiving written notice of the city’s intention to discontinue service.
  - i. If such noncompliance affects matters of health or safety, or other conditions warrant such action, the city may discontinue water service immediately.

~~[Section 2 added by Ord. No. 631, passed October 13, 2014]~~

#### Section 3. Violation: Prohibited Activities

- (A) It is unlawful for any person to open, cut into, or make any connection with any City water main or lines, or to tamper in any way with the public water system, including water mains, fire hydrants, valves, service lines, meters and appurtenances without the express permission of the City.
- (B) It is unlawful for any person to open any shutoff valve or other device so as to permit water to flow from the City mains or lines into any private main or line without the express permission of the City.
- (C) It is unlawful for any person to use water ~~for~~from a City fire hydrant for construction purposes or any other purpose without express permission of the City, which may make provisions for metering such use, set charges, or refuse such permission.
- (D) It is unlawful for any person required to use an approved backflow prevention device to not use such a device or to use a device that has not been maintained or passed the required inspection.

~~[Section 3 added by Ord. No. 631, passed October 13, 2014]~~

**Section 4. Violation: Penalties**

- (A) Except as otherwise provided in this Ordinance, any person violating any of the terms ~~convicted of a violation~~ of this Ordinance shall be subject to a civil penalty ~~punished by a fine~~ of not more than ~~\$50250.00.~~<sup>[ET63][PE64]</sup>
- (B) If ~~any person has~~ violates any term ~~been convicted of a violation~~ of this Ordinance, ~~at any time and then~~ within 2 years of said violation ~~of such conviction~~, that person commits another ~~commits a second or subsequent violation(s)~~, the person shall be subject to a civil penalty of ~~\$500.00.~~ <sup>[ET65][PE66]</sup> ~~may be prosecuted as a misdemeanor, punishable by a fine of not more than \$500.00.~~
- (C) The remedies provided in this section are cumulative and not exclusive. In addition to the penalties provided above and those specifically set out in personnel, may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate an Ordinance violation.

~~[Section 4 added by Ord. No. 631, passed October 13, 2014]~~

**Section 5. Violation: Each Act a Separate Violation.** Each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly.

~~[Section 5 added by Ord. No. 631, passed October 13, 2014]~~

**ARTICLE 11**

**Section 1. Effective Date.** Whereas, it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville that this ordinance become effective at the earliest time possible. Therefore, this ordinance shall become effective immediately upon its passage by the council and signature of the mayor.

PASSED by the council \_\_\_\_\_

and signed by the mayor \_\_\_\_\_.

## ORDINANCE NO. 680

### AN ORDINANCE ESTABLISHING SEWER REGULATIONS AND REPEALING ORDINANCE NO. 402

The city of Aumsville, Oregon, ordains as follows:

#### ARTICLE 1

#### DEFINITIONS

**Section 1.** Collection System means the system of public sewers operated by the City designed and intended for the collection of sewage and industrial waste.

**Section 2.** Commercial User means any premises used for commercial or business purposes other than an industrial use.

**Section 3.** Domestic Waste means wastewater from dwellings or from domestic activities which are performed outside the home in lieu of a home activity directly by or for private citizens.

**Section 4.** Industrial Waste shall mean that portion of the wastewater emanating from an industrial user which is not domestic waste or water from sanitary conveniences.

**Section 5.** Operation and Maintenance shall mean all activities, goods, and services which are necessary to maintain the proper capacity and performance of the treatment works for which such works were designed and constructed. The term "operation and maintenance" shall include replacement as directed hereinafter.

**Section 6.** Person means any individual, firm, partnership, corporation, company, association, society, corporation, or group.

**Section 7.** Replacement means acquisition and installation of equipment, accessories, or appurtenances necessary to maintain capacity and performance for which such the sewage treatment system works were designed and constructed.

**Section 8.** Service Area means the area served by the treatment works and for which there is a uniform user charge.

**Section 9.** Sewage means water contaminated by human use from any combination of domestic, industrial, commercial, or agricultural activities, surface runoff or stormwater, as well as sewer inflow or infiltration.

**Section 10.** Sewage Treatment System or System means all the City's facilities for collecting, pumping, treating, and disposing of sewage.

**Section 11.** Shall is mandatory; May is permissive.

**Section 12.** User means every person using any part of the public treatment system of the city of Aumsville.

**Section 13.** User Charge shall mean those charges levied on users of the sewage treatment system, to, at a minimum, cover each user's proportionate share of the cost of the operation and maintenance.

## **ARTICLE 2**

### **SEWER USER CHARGES**

**Section 1. Purpose.** A user charge shall be levied on all users of the sewage treatment system which shall apportion sewage treatment system costs in proportion to each user's potential contribution to the wastewater loading of the sewage treatment system.

**Section 2. User Classes.** There shall be established classes of users such that all members of a class may discharge approximately the same volume of wastewater per residence, facility, seat, or other appropriate unit.

**Section 3. Proportionate Charge.** The flat charge per appropriate unit shall be established in proportion to the volume of waste that may be discharged from that unit so that each user pays his/her proportionate share of the treatment costs.

**Section 4. Appeal.** Should any user believe that he/she has been incorrectly assigned to a particular user class, that user may apply for review of his/her user charge as provided in Article 7 of this ordinance.

**Section 5. Reassignment of a User.** Should the public works director determine that a user is incorrectly assigned to a user class, he/she shall reassign a more appropriate user class to the user and shall notify that user of such reassignment.

**Section 6. Records.** Records of all assigned rates and any assigned wastewater volume to user and user classes shall be kept on file with the city administrator and shall be open for public inspection.



**Section 7. Rates.** The minimum monthly charge for use of the sewage treatment system shall established by resolution considering the following:

- (A) an amount reasonable and necessary to fund the administration, debt, planning, design, construction, operation, maintenance, and repair of the City's sewer treatment system.
- (B) define user classes and rates per month for each user class.
- (C) an increase (if necessary) to provide for unforeseen system expenses.

**Section 8. New Users and Vacancies.** The sewer user charge for all occupied property begins the day connection is made to the public sewer. The sewer user charge for all unoccupied property begins the first day the affected structure is occupied. Once commenced, no sewer usage credit shall be given unless water service at the property from all sources had been discontinued. The user charge shall be reinstated provided water service to that property from any source has begun. If the dates when the user charge is commenced or altered does not fall on the first day of the billing period, the rates shall be pro-rated.

### **ARTICLE 3**

#### **DEPOSIT FEES**

**Section 1. Deposit Fee.** The sewer service deposit fee shall be established by resolution. The fee for customer water and sewer deposit outside the corporate limits of the City shall be double the fee for customers residing within the city limits.

**Section 2. Senior Citizen Deposit Fee.** The sewer service deposit fee shall be established by resolution.

**Section 3. Deposit Fee Outside City Limits.** Anyone outside Aumsville's boundaries shall pay twice the deposit amount of in-City customers.

### **ARTICLE 4**

#### **RESPONSIBILITY, PAYMENT, DELINQUENCIES, AND PENALTIES**

**Section 1. Monthly Billing & Responsible Party.**

- (A) Users of the system shall be billed monthly for services consistent with the rate schedule as set forth in Article 2 above.
- (B) Sewer charges will be billed as part of a combined water and sewer bill prepared, administered and enforced in accordance with Article 6 of the Water ordinance

**Section 2. Delinquent Accounts.** In the event of failure to pay sewer charges after they become delinquent, the City shall have the rights afforded it under ORS 454.225 (2020) for the imposition and collection of same.

**Section 3. Restoration of Services.** Sewer service shall not be restored until all charges, including interest accrued and the expense of removal, closure, and restoration have been paid.

**Section 4. Change of Ownership or Occupancy.** Change of ownership or occupancy is not cause for reducing or eliminating these penalties.

## **ARTICLE 5**

### **HANDLING OF FUNDS**

**Section 1. Mailing of Bills.** Bills for sewer user charges shall be mailed to the person specified in the application for sewer services.

**Section 2. Collection of Charges.** Sewer user charges shall be computed as consistent with Article 2 above and collected by the City as provided by Article 4..

**Section 3. Deposit of Gross Revenues.** The city administrator shall cause all of the gross revenues received from charges, rates, and penalties collected for the use of the sewerage system as provided herein into the Sewer Fund.

**Section 4. Exclusive Use of Revenues.** The revenues thus deposited in the Sewer Fund shall be used exclusively for the operation, maintenance, and repair of the sewerage system, training expenses, administrative costs, expenses for collection of charges imposed by this ordinance, and payments of the principle and interest of any debts of the City's sewerage system.

## **ARTICLE 6**

### **HOOKUP OF PROPERTY OUTSIDE THE CITY LIMITS**

**Section 1. Application Required.** A person requesting sewer service to property outside the city limits shall make application to Council. The applicant shall have the burden of proving to Council the following:

- (A) That the proposed connection is compatible with projected future growth of the city of Aumsville and that the property is within the City's urban growth boundary.
- (B) That the proposed connection will not adversely affect the City ability to provide sewer service to the system's current users nor as to availability, flows, volumes, and capacity beyond that identified in the City's sewer system master plan.
- (C) That the applicant has obtained all necessary licenses, permits, and easements to put in the connecting line to the City's main line.
- (D) That the proposed line connecting the property to the City's main line will meet or exceed City specifications.

(E) That sewer system development charges are paid at the time of application.

**Section 2. Council Approval of Application.** Regardless if the applicant meets the requirements set forth in Article 4, (A)-(E), approval of the application is at the sole discretion of Council.

**Section 3. Applicant Responsibilities.** Upon approval of an application under this Article, the applicant shall be responsible for the following:

- (A) All construction and other costs associated with installation of the line or lines from the applicant's property to and including the connection to the City's main line.
- (B) That the connection will be a single hookup serving one household or business.
- (C) Maintenance and repair of the lines from the property up to and including the connection to the City's main sewer line shall be the responsibility of the applicant.
- (D) All lines connected to the City sewer system shall be inspected and approved by the City public works department prior to connection.

**Section 4. Maintenance of Lines.** If the City is required to maintain or repair connecting lines located outside the city limits, the owners of the property service shall be responsible for and pay all costs and materials associated with the City's required maintenance and/or repair plus a 25% surcharge thereon. Payment of that amount shall be made not later than 45 days of being presented a bill by the city for that amount. Any sum not paid after 60 days shall automatically become an assessment lien upon said property and may be enforced consistent with existing state law

**Section 5. Monthly Fee.** The monthly sewer fee shall be double the monthly fee charged for single hookups inside the city, for all connections outside the city limits.

## **ARTICLE 7**

### **APPEALS**

**Section 1. Written Application to Council.** Any sewer user who feels his/her user charge is improper may make written application to Council requesting a review of his/her user charge.

**Section 2. Review of Written Application.** Review of the request shall be made by Council and the city engineer and shall determine if it is substantiated or not, including recommending further study of the matter by the city engineer or other professional engineer.

**Section 3. Determination.** If the request is determined to be valid, user charges for that user shall be recomputed based on the approved revised flow and/or strength data and new charges recomputed retroactively up to a maximum of six (6) months.

## **ARTICLE 8**

### **VALIDITY**

**Section 1.** If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

## **ARTICLE 9**

### **REPEAL**

**Section 1.** Ordinance 402 is hereby repealed

## **ARTICLE 10**

### **VIOLATIONS**

**Section 1. Violations.** Except as otherwise set out specifically in this ordinance, any person violating any of the provisions or failing to comply with the requirements of this ordinance is guilty of a violation.

### **Section 2. Enforcement of Provisions.**

- (A) In the event of violation of any provision in this Chapter, the City may use any enforcement method or measure, including discontinuance of service it deems appropriate, in addition to any penalties provided for in this ordinance.
- (B) Discontinuance for Customer Noncompliance. The City may discontinue sewer service to a customer for noncompliance with a city sewer regulation, if the Customer fails to comply with the regulation within four days after receiving written notice of the City's intention to discontinue service.
- (C) If such noncompliance affects matters of health or safety, or other conditions warrant such action, the City may discontinue sewer service immediately.
- (D) In the event of an unauthorized sewer connection, the City may discontinue service immediately.

### **Section 3. Violation: Prohibited Activities**

- (A) It is unlawful for any person to open, cut into, or make any connection with any City sewer main or lines, or to tamper in any way with the public sewer system, including sewer mains, service lines, pump stations, appurtenances,

without the express permission of the City.

**Section 4. Violation: Penalties**

- (A) Except as otherwise provided in this ordinance, any person convicted of a violation of this Ordinance shall be punished by a penalty of not more than \$500.00.
- (B) If any person has been convicted of a violation of this ordinance, at any time within 2 years of such conviction, that person commits a second or subsequent violation, the person may be prosecuted as a misdemeanor, punishable by a penalty of not more than \$1000.00.
- (C) The remedies provided in this section are cumulative and not exclusive. The city may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate an ordinance violation.

**Section 5. Violation: Each Act a Separate Violation.** Each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly.

**ARTICLE 11**

**Section 1. Repeal and Replace.** Ordinance No. 402 is hereby repealed.

**Section 2. Effective Date.** This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

## ORDINANCE NO. 402

~~AN ORDINANCE DEFINING CERTAIN TERMS; ESTABLISHING SEWER USER CHARGES; PROVIDING FOR REVIEW OF RATES ON A PERIODIC BASIS; IDENTIFYING THOSE RESPONSIBLE FOR PAYMENT; REQUIRING A DEPOSIT FEE; REQUIRING A DEPOSIT FEE FOR SENIOR CITIZENS; REQUIRING A DEPOSIT FEE FOR THOSE RESIDING OUTSIDE THE CITY LIMITS BUT WISHING TO HOOK UP TO THE CITY SEWER SYSTEM; PROVIDING FOR COLLECTION OF USER CHARGES; SETTING FORTH PENALTIES; REPEALING ORDINANCE 389, AND DECLARING AN EMERGENCY.~~

The city of Aumsville, Oregon, ordains as follows:

### ARTICLE 1

#### DEFINITIONS

**Section 1.** Collection System shall mean the system of public sewers to be operated by the city designed and intended for the collection of sanitary sewage and industrial waste.

**Section 2.** Commercial User shall mean any premises used for commercial or business purposes other than an industrial use which is not an industry.

**Section 3.** Domestic Waste shall mean any wastewater emanating from dwellings or from domestic activities which are performed outside the home in lieu of a home activity directly by or for private citizens.

**Section 4.** Industrial Waste shall mean that portion of the wastewater emanating from an industrial user which is not domestic waste or water from sanitary conveniences.

**Section 5.** Operation and Maintenance shall mean all activities, goods and services which are necessary to maintain the proper capacity and performance of the treatment works for which such works were designed and constructed. The term "operation and maintenance" shall include replacement as directed hereinafter.

**Section 6.** Person shall mean any individual, firm, partnership, corporation, company, association, society, corporation, or group.

**Section 7.** Replacement shall mean acquisition and installation of equipment, accessories, or appurtenances which are appurtenances necessary during the service

~~life of the treatment works~~ to maintain ~~the~~ capacity and performance for which such ~~the sewage treatment system~~ works were designed and constructed.

**Section 8.** Service Area ~~shall~~ means ~~all~~ the area served by the treatment works and for which there is ~~a~~ uniform user charge.

**Section 9.** Sewage ~~shall~~ means ~~means~~ water contaminated by human use from ~~any combination of domestic, industrial, commercial or agricultural activities, surface runoff or stormwater as well as sewer inflow or infiltration. a combination of water carried wastes from residences, business building, institutions, and industrial establishments, together with such ground, surface, and storm water as may be present.~~

**Section 10.** Sewage Treatment System or System ~~shall~~ means ~~all the City's facilities for collecting, pumping, treatment, and disposing of sewage.~~

**Section 110.** Shall is mandatory; May is permissive.

~~**Section 11.** Treatment Works shall mean all facilities for collecting, pumping, treatment, and disposing of sewage.~~

**Section 12.** User ~~shall~~ means every person using any part of the public treatment system of the city of Aumsville.

**Section 13.** User Charge shall mean ~~those periodic~~ charges levied on ~~all~~ users of the ~~public treatment works~~ sewage treatment system, ~~to and shall~~, at a minimum, cover each user's proportionate share of the cost of ~~the~~ operation and maintenance.

## ARTICLE 2

### SEWER USER CHARGES

**Section 1. [Purpose.]** A User charges shall be levied on all users of the ~~public treatment works~~ sewage treatment system ~~which shall cover the cost of operation and maintenance, debt service, taxes, and other administrative costs of such treatment works which.~~ ~~The user charge~~ shall apportion ~~distribute~~ sewage treatment system ~~these~~ costs in proportion to each user's potential contribution to the wastewater loading of the ~~treatment works~~ sewage treatment system. [Section 1 amended by Ord. No. 590, passed April 30, 2009]

**Section 2. [User Classes.]** There shall be established classes of users such that all members of a class may discharge approximately the same volume of wastewater per residence, facility, seat or other appropriate unit. [Section 2 amended by Ord. No. 590, passed April 30, 2009]

**Section 3. [Proportionate Charge.]** The flat charge per appropriate unit shall be established in proportion to the volume of waste that may be discharged from that unit so that each user pays his/her proportionate share of the treatment costs. [Section 2 amended by Ord. No. 590, passed April 30, 2009]

**Section 4. Appeal.** Should any user believe that he/she has been incorrectly assigned to a particular user class, that user may apply for review of his/her user charge as provided in Article 7 of this ordinance.

**Section 5. Reassignment of a User.** Should the Public Works Director ~~city engineer~~ determine that a user is incorrectly assigned to a user class, he/she shall reassign a more appropriate user class to the user and shall notify that user of such reassignment.

**Section 6. Records.** Records of all assigned rates and any assigned wastewater volume to user and user classes shall be kept on file with the city administrator and shall be open for public inspection. [Section 6 amended by Ord. No. 523, passed July 28, 2003]

**Section 7. Rates.** The minimum monthly charge for use of the sewage treatment system of the city of Aumsville for users thereof shall established by a resolution of the Council adopted in December of each year considering based on the following parameters:

- (A) The annual sewer rate resolution shall establish monthly sewer rates in an amount reasonable and necessary to fund the administration, debt, planning, design, construction, operation, maintenance, and repair of the City's sewer treatment system.
- (B) The annual sewer rate resolution shall define user classes and rates per month for each user class.
- (C) All monthly rates will an increase (if necessary) by 3% over the rate paid during the previous year. The Aumsville City Council may forego any of these increases upon determination that they are not necessary to provide for unforeseen the system expenses.
- Citizens approved for Senior and Disabled Citizen Water Rate shall pay a sewer rate consistent with the water rate discount. Single Family

The minimum monthly charge for users shall be as shown in the table below on December 1, 2010; and then the Rate per Month will increase \$1.50 every six months through June 1, 2013, except for the .40 consumption rate. In December of 2013 and in December of each year thereafter, all monthly rates will increase by 3% over the rate paid during the previous year. The Aumsville City Council may forego



~~any of these increases upon determination that they are not necessary to provide for the system expenses.~~

<u>User Class</u>	<u>Rate per Month</u>
Single Family Residence	\$30.00
Senior Citizen Head of Household as — Defined in Ordinance 401, — Article V, Section 1	\$22.50
Multiple Dwellings	\$30.00 per unit
Apartments combined with businesses	\$30.00 per unit
A business	\$35.00
Churches	\$30.00
Aumsville Elementary School, Large Commercial & Industrial	\$35.00
First 7,000 gallons of water	
For each 1,000 gallons of water used over the original 7,000	\$ .40 per 1,000

~~[Article 2, Section 7 amended by Ord. No. 455, passed March 22, 1999; Ord. No. 547, passed March 14, 2005; Ord. No. 590, passed April 30, 2009; Ord. No. 612, passed October 11, 2010]~~

**Section 8. New Users and Vacancies.** The sewer user charge for all occupied property ~~shall~~ begins the day ~~that~~ connection is made to the public sewer. The sewer user charge for all unoccupied property ~~shall~~ begins ~~on~~ the first day ~~of the affected structure is occupied.~~ ~~occupancy.~~ Once ~~the sewer charge has~~ commenced, no ~~sewer usage~~ credit shall be given unless ~~it can be demonstrated that~~ water service ~~at~~ the property from ~~any and~~ all sources had been discontinued. The ~~regular~~ user charge shall be reinstated ~~provided as soon as~~ water service to that property from any source has begun. If the dates ~~upon which~~ ~~when~~ the user charge is commenced or altered does not fall on the first day of the billing period, the rates shall be ~~appropriately~~ pro-rated. [Section 8 amended by Ord. No. 590, passed April 30, 2009]

### ARTICLE 3

#### ~~DEPOSIT FEES, DEPOSIT FEES FOR SENIOR CITIZENS, DEPOSIT FEES FOR THOSE USERS LIVING OUTSIDE THE CORPORATE CITY LIMITS.~~

**Section 1. [Deposit Fee.]** The deposit fee for those living within the city of Aumsville shall be set ~~by the annual Sewer Rate~~ resolution of the City Council. [Section 1 amended by Ord. No. 523, passed July 28, 2003; Ord. No. 590, passed April 30, 2009]

**Section 2. [Senior and Disabled Citizen Deposit Fee.]** The deposit fee for senior citizens approved for Senior and Disabled Citizen Water Rates shall be half of what regular users are required to deposit.

**Section 3. [Deposit Fee Outside City Limits.]** Anyone outside ~~the city limits of the city of~~ Aumsville's boundaries shall pay twice the deposit amount of in-City ~~the deposit of regular~~ customers. [Section 3 amended by Ord. No. 590, passed April 30, 2009]

## ARTICLE 4

### RESPONSIBILITY, PAYMENT, DELINQUENCIES AND PENALTIES

**Section 1. [Monthly Billing & Responsible Party.]**

~~A. The u~~Users of the ~~sewerage s~~System shall be billed ~~on a~~ monthly ~~basis~~ for services consistent ~~rendered in accordance~~ with the rate schedule as set forth in Article 2 ~~above of this ordinance~~

~~A.B.~~ Sewer charges will be billed as part of a combined water and sewer bill prepared, administered, and enforced in accordance with Article 6 of the Water ordinance. All sewer services provided by the city will be billed to the premises where the service is provided, unless the property owner requests, in writing, that the bill be submitted to another address.

~~B.~~ Where more than a single dwelling unit or business is served by a single meter, the bill for sewer service shall be responsible among the tenants for collecting amounts owing from such tenants, and remitting payment to the city. [Section 1 amended by Ord. No. 590, passed April 30, 2009]

~~Section 2. [Billing Date.]~~ The date of billing shall be the 1st day of the month for which the sewer user charge is calculated as provided in Article 2 of this ordinance.

**Section 23. [Delinquent Accounts.]** In the event of failure to pay sewer charges after they become delinquent, the city shall have the rights afforded it under ORS 454.225 (2020) for the imposition and collection of same. . . to remove or close sewer connections and enter upon the property for accomplishing such purposes. The expense of such discontinuance, removal, or closing, as well as the expense of restoring service shall be a debt due to the city. Said debt shall become a lien upon the person occupying the property and may be recovered in civil action in the name of the city.

**Section 34. [Restoration of Services.]** Sewer service shall not be restored until all charges, including interest accrued and the expense of removal, closure, and restoration have been paid.

**Section 54. [Change of Ownership or Occupancy.]** Change of ownership or occupancy ~~of premises found delinquent shall is~~ not be cause for reducing or eliminating these penalties.

## ARTICLE 5

### HANDLING OF FUNDS

**Section 1. Mailing of Bills.** Bills for sewer user charges shall be mailed to the person specified in the application for sewer services. [Section 1 amended by Ord. No. 523, passed July 28, 2003]

**Section 2. Collection of Charges.** Sewer user charges shall be computed as ~~consistent with provided in~~ Article 2 ~~above of this ordinance~~ and ~~shall be~~ collected by ~~the City city hall~~ as provided by Article 4. ~~of this ordinance~~. [Section 2 amended by Ord. No. 523, passed July 28, 2003]

**Section 3. Deposit of Gross Revenues.** The city administrator ~~shall cause is hereby directed to deposit in the Sewer Fund~~ all of the gross revenues received from charges, rates, and penalties collected for the use of the sewerage system as provided herein ~~into the Sewer Fund~~. [Section 3 amended by Ord. No. 523, passed July 28, 2003]

**Section 4. Exclusive Use of Revenues.** The revenues thus deposited in the Sewer Fund shall be used exclusively for the operation, maintenance, and repair of the sewerage system, training expenses, ~~reasonable~~ administrative costs, expenses for collection of charges imposed by this ordinance, and payments of the principle and interest of any debts of the ~~City's sewerage system, of the city~~. [Section 4 amended by Ord. No. 523, passed July 28, 2003]

## ARTICLE 6

### HOOKUP OF PROPERTY OUTSIDE THE CITY LIMITS

**Section 1. [Application Required.]** A person requesting sewer service to ~~a~~ property outside the city limits ~~of Aumsville~~ shall make application to the ~~Aumsville~~ City Council. The applicant shall have the burden of proving to the city council the following:

- (A) That the proposed connection is compatible with projected future growth of the city of Aumsville and that the property is within the City's Urban Growth Boundary.
- (B) That the proposed connection will not adversely affect not burden the existing ability of the City ability to provide sewer service to the System's current users the citizens of Aumsville nor will it diminish as to sewer availability, flows, volumes, and infrastructure capacity beyond that which

~~is identified in the City's sewer system master plan, as necessary for planned growth in the sequencing identified in the master plan.~~

- ~~(A) That the proposed connection is compatible with projected future growth of the city of Aumsville and that the property that will be served will logically and harmoniously become incorporated into the city at a future date.~~
- ~~(B) That the proposed connection will not unduly burden the existing ability of the city to provide sewer service to the citizens of Aumsville.~~
- ~~(C)~~(A) That the applicant has obtained/acquired all necessary licenses, permits and easements to put in the connecting line to the city's main line.
- ~~(D)~~(B) That the proposed line connecting the property to the city's main line will meet or exceed city specifications.
- ~~(E)~~(C) That sewer system development charges are paid at the time of application.

**Section 2. [Council Approval of Application.]** Regardless if the applicant meets the requirements set forth in Article 4, (A)-(E), ~~each applicant shall be decided on a case-by-case basis and~~ approval of the application is at the sole discretion of the council.

**Section 3. [Applicant Responsibilities.]** Upon approval of ~~an~~the application under this Article, the applicant shall be responsible for the following: following are the sole and exclusive responsibility of the applicant:

- (A) All construction and other costs associated with ~~the~~ installation of the line or lines from the applicant's property to and including the connection to the city's main line;
- (B) That the connection will be a single hookup servicing and serve only one household or business.
- (C) Maintenance and repair of the connecting lines from the property up to and including the connection to the city's main sewer line shall be the sole and exclusive responsibility of the applicant/property owner being served.
- (D) All lines ~~that are to be~~ connected to the city sewer system shall be inspected and approved and inspected by the eCity pPublic wWorks dDepartment prior to connection.

~~**Section 4. [Hookup Not Adjacent to City Limits.]** The city council, at its sole discretion, may allow a hookup to property that is not directly adjacent to the existing city limits. If an application is made for such property/property, the city may impose additional criteria including but not limited to requesting requiring a connecting line that would be sufficient to serve other users that may hook up to the city system at a later date.~~

**Section 5. [Maintenance of Lines.]** If ~~for any reason whatsoever~~ the ~~e~~City is required to maintain or ~~make repairs upon~~ connecting lines located outside the city limits, the owners of the property service shall be responsible for and pay all costs and materials associated with the City's required maintenance and/or repair plus a 25% surcharge thereon. Payment of that amount shall be made not later than 45 days and shall pay said amount within 30 days of being presented a bill by the city for that amount. Any sum bill not paid after ~~30-60~~ days shall automatically become a assessment lien upon said property and may be enforced consistent with foreclosed upon pursuant to existing state laws ~~and municipal ordinances~~.

**Section 6. [Monthly Fee.]** The monthly sewer fee shall be double the monthly fee charged for single hookups inside the city, for all connections outside the city limits.

## ARTICLE 7

### APPEALS

**Section 1. [Written Application to Council.]** Any sewer user who feels his/her user charge is ~~improper unjust and inequitable as applied to his premises with the intent of the foregoing provisions~~, may make written application to the city council requesting a review of his/her user charge.

**Section 2. [Review of Written Application.]** Review of the request shall be made by the city council and city engineer and shall determine if it is substantiated or not, including recommending further study of the matter by the city engineer or other professional engineer.

**Section 3. [Determination.]** If the request is determined to be valid, substantiated ~~the~~ user charges for that user shall be recomputed based on the approved revised flow and/or strength data and ~~the~~ new charges ~~thus recomputed shall be applicable~~ retroactively up to a maximum of six (6) months.

## ARTICLE 8

### CHANGE IN RATE STRUCTURE

~~Section 1. Any change in the rate structure shall be by two readings of an ordinance with approval of the majority of the city council present at the meeting.~~

## ARTICLE ~~8~~9

### VALIDITY

**Section 1.** If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

## **ARTICLE ~~9~~10**

### **REPEAL**

**Section 1.** Ordinance 389 is hereby repealed

## **ARTICLE 11**

### **PENALTIES**

~~**Section 1.** Any violation of this ordinance is hereby declared to be a public nuisance and any person found guilty thereof shall be punishable by a fine of not more than \$250.00. A violation of this ordinance shall be considered a separate offense for each day the violation occurs.~~

## **ARTICLE 102**

### **VIOLATIONS**

**Section 1. Violations.** Except as otherwise set out specifically in this ordinance, any person violating any of the provisions or failing to comply with the requirements of this ordinance is guilty of a violation.

### **Section 2. Enforcement of Provisions.**

(A) In the event of violation of any provision in this Chapter, the City may use any enforcement method or measure, including discontinuance of service ~~or property lien~~, it deems appropriate, in addition to any penalties provided for in this ordinance.

(B) Discontinuance – for Customer Noncompliance. The City may discontinue sewer service to a Customer for noncompliance with a city sewer regulation, if the Customer fails to comply with the regulation within ~~ffourive~~ days after receiving written notice of the city’s intention to discontinue service.

(C) If such noncompliance affects matters of health or safety, or other conditions warrant such action, the city may discontinue sewer service immediately.

(D) In the event of an unauthorized sewer connection, the city may ~~disco~~ntinue service immediately.

### **Section 3. Violation: Prohibited Activities**

(A) It is unlawful for any person to open, cut into, or make any connection with

any City sewer main or lines, or to tamper in any way with the public sewer system, including sewer mains, service lines, pump stations, appurtenances, without the express permission of the City.

**Section 4. Violation: Penalties**

- (A) Except as otherwise provided in this Ordinance, any person convicted of a violation of this Ordinance shall be punished by a ~~penalty fine~~ of not more than \$500~~250~~.00.
- (B) If any person has been convicted of a violation of this Ordinance, at any time within 2 years of such conviction, that person commits a second or subsequent violation, the person may be prosecuted as a misdemeanor, punishable by a ~~penalty fine~~ of not more than \$10~~5~~00.00.
- (C) The remedies provided in this section are cumulative and not exclusive. In addition to the penalties provided above and those specifically set out in personnel, may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate an Ordinance violation.

**Section 5. Violation: Each Act a Separate Violation.** Each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly.

**ARTICLE 11**

**Section 1. Effective Date.** Whereas, it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville that this ordinance become effective at the earliest time possible. Therefore, this ordinance shall become effective immediately upon its passage by the council and signature of the mayor.

PASSED by the council \_\_\_\_\_

and signed by the mayor \_\_\_\_\_.

## **ORDINANCE NO. 681**

### **AN ORDINANCE ADOPTING REGULATIONS FOR USE OF THE CITY'S SANITARY SEWER SYSTEM AND REPEALING ORDINANCE NO. 570.**

**WHEREAS, the City of Aumsville is updating its municipal code;**

**WHEREAS, the City Council believes it timely, appropriate, and in the interest of the public's health, safety and welfare to adopt updated provisions for the use of its sanitary sewer system and matters relating thereto;**

**NOW THEREFORE, based on the foregoing, the City of Aumsville ordains as follows:**

#### **Section 1. Unlawful disposal or discharge.**

No person shall, except as herein provided, place, deposit, permit, suffer, or otherwise allow the open placement or deposit of the following on public or private property within the City or areas under the City's jurisdiction:

- (A) Untreated human excrement;
- (B) Animal excrement, garbage, or other similar objectionable material in other than an appropriate closed container or other authorized space; or
- (C) Sewage or other polluted water not having received suitable treatment thereof compliant with applicable federal, state, and local regulation, including those found in this chapter.

#### **Section 2. On-site disposal restricted.**

Except as authorized by this Chapter, no person shall construct or maintain a privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage, human or animal excrement, or waste.

#### **Section 3. Use of public sanitary sewers required.**

- (A) The owner of a house, building or other property designed or used for human occupancy, education, employment, recreation or other purpose situated within 150 feet of a public sanitary sewer shall install and maintain suitable toilet facilities therein with connection to the public sanitary sewer consistent with this Chapter.
- (B) Connection to the public sanitary sewer shall be completed within 60 days of either:
  - 1. official notice by the City to do so; or
  - 2. prior to the construction or use of the house, building, or other property designed or used for human occupancy, education, employment, recreation, or other purpose.



- (C) The owner is responsible for the cost of the connection, including installation and the ongoing maintenance of any and all necessary pumps, pipelines, or equipment.

**Section 4. Notice to connect.**

The official notice by the City described in Section 3(B) above to connect to the public sewer shall be by first-class mailed notice to:

- (A) the owner(s) of property not connected to the sewer abutting a street, alley, or right-of-way in which there is a public sanitary sewer; and
- (B) the owners of property having public sewer service available within 150 feet of the affected property.

**Section 5. Objections to notice.**

In the event the owner of the affected property believes a sewer connection is either not possible or feasible, said owner may, during the 60-day period noted in Section 3(B) above, file written objections with the city administrator setting out the reasons why the property owner believes a connection to the public sanitary sewer should not be required. The City shall not enforce the requirement after the filing of objections until the objections to the requirements are heard by Council and a written decision thereon has been made and sent to the owner.

**Section 6. Hearing on objections.**

The objection shall be heard by Council not less than 30 nor more than 60 days from the date of the submission of objections to the city administrator. Not less than seven days prior to the date set by Council for hearing the objection, the city recorder shall notify the owner as to that date. The Council's decision shall be final; no exception to the connection requirement may be granted by the Council based solely on inconvenience or expense.

For good cause shown by the owner, Council may allow for a delay in making connection to the public sanitary sewer; notwithstanding the Council's authority to delay the connection, in no event shall a delay result in public health hazard to exist or be maintained.

**Section 7. Sanitary sewer connection charges.**

- (A) Applicants for a sanitary sewer connection permit must pay all required sanitary sewer connection and inspection fees as well as any and all system development charges (SDCs) prior to the issuance of a sanitary sewer connection permit by the City.
- (B) If connection to the sanitary sewage system is not effected prior to expiration of the sanitary sewer connection permit, said permit shall become void; to connect thereafter, the owner must apply for a new sanitary sewer connection permit and pay all appropriate sanitary sewer connection fees charges and additional SDCs, if any, that may be appropriate.

**Section 8. Connection permit required.**

No unauthorized person may uncover, make connections to, open, use, alter, or disturb any public sewer or City appurtenance thereto without first obtaining a written permit from the City. Improper or unauthorized connections may be summarily abated by the City. All costs incurred by the City, its employees, and/or agents as a result of the improper or unauthorized connection may be assessed against the property upon which the connection was made and made an assessment lien thereon.

**Section 9. Connection permits and fees.**

- (A) The owner or authorized agent of the property for which connection to the sanitary sewerage system is requested shall submit in writing a permit application furnished by the City, which application shall include all plans, drawings, specifications, agreements, or other information the City may reasonably require prior to issuance of any sanitary sewerage system permit. All City-required fees relating to the sanitary sewer connection are to be paid at the time the application is filed.
- (B) By applying for and receiving a sanitary sewer connection permit, the owners of the property for which the sanitary sewer system connection is to be made agree on behalf of themselves, their heirs, successors and assigns to:
  - 1. be bound by the terms of this Chapter as it now exists or as amended in the future;
  - 2. be bound by any rules, regulations, or protocols adopted or used by the City in existence now or as amended or added in the future concerning the use of the public sanitary sewer system; and
  - 3. be responsible for payment of any and all fees, charges, expenses, losses, damages, and/or fines incurred as a result of the use the connection to the public sanitary sewer system.
- (C) A sanitary sewer connection permit is both property specific and not transferable.
- (D) The property owner shall be responsible for and obtain all permits from applicable federal, state, or other local entities/agencies required for opening and/or using a street or highway prior to issuance of the City's sanitary sewer connection permit.
- (E) A sanitary sewer connection permit is valid for 180 calendar days from the permit's issuance date which may be extended for up to a maximum of 180 additional days upon written request by the property owner.

**Section 10. Separate connections.**

A separate sewer connection is both required and shall be provided for every building or premises unless otherwise allowed in writing by the City. Should more than one building be permitted by the City to connect via one sewer connection, the fees covered in Section 9(A) above shall be required of and paid for each building or premises served.

**Section 11. Sewer connection excavations.**

All excavations for sewer connections shall be open trench unless otherwise approved in writing by the City public works director. No backfill shall be placed in the trench until the installation work has first been inspected.

**Section 12. Use of existing building sewers.**

Old service laterals or building sewers may be used in connection with new buildings only when they are determined after examination and testing to meet all requirements of this Chapter with the costs associated therewith being borne by the applicant/customer.

**Section 13. Construction standards.**

The size, slope, alignment, materials of construction of a service lateral, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the state plumbing code and the City's standards.

**Section 14. Elevation of building sewer.**

Where possible, the building sewer shall be brought to the building at an elevation below the basement floor. In buildings where the building drain is too low to permit gravity flow to the public sewer, sanitary waste carried by the building drain shall be lifted and discharged by an approved pump system to the building sewer.

**Section 15. Connection to the public sewer.**

Connection of the building sewer to the public sewer is to conform to the requirements of the then most current Oregon State Plumbing Code.

**Section 16. Inspection.**

The applicant for the building sewer permit shall notify the City not less than 24 hours in advance of the need for building sewer inspection and connection to the public sewer. No installation shall be covered until the building sewer is both inspected and approved.

**Section 17. Barricades required.**

All excavations for building sewer installations located within public rights-of-way shall be appropriately barricaded and lighted so as to protect members of the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the excavation and installation shall be restored to the condition existing prior to said excavation and installation and in a manner satisfactory to the City.

**Section 18. Public sanitary sewer charges – Fee in lieu of assessment.**

(A) Except as provided in subsection (B) below, if property benefits from a public sanitary sewer, that property shall be assessed a proportionate share of the costs associated with the construction of that public sanitary sewer. Property

shall not be assessed a public sanitary sewer charge for existing public sanitary sewer if:

1. Property had been assessed for that existing public sanitary sewer through a local improvement district (LID); or
2. Evidence of an approved connection to the existing public sanitary sewer is found in the City's records.

(B) All sanitary sewer charges shall be paid prior to the City's issuance of a sanitary sewer connection permit.

### **Section 19. Private wastewater disposal.**

No person may construct, maintain, abandon, operate or otherwise use, or have a private wastewater disposal system except as permitted and approved by the Oregon Department of Environmental Quality (DEQ).

### **Section 20. Discharge of stormwater.**

- (A) No person may or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.
- (B) No person shall make connection of roof downspouts, exterior foundation drains, areaway 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.

### **Section 21. Prohibited discharges into sanitary sewer system.**

No person may discharge or cause to be discharged, directly or indirectly, any of the following substances into the City's sanitary sewerage system:

- (A) Gasoline, benzene, naphtha, fuel oil, any liquids or any solids, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil or gases which by reason of their nature or quantity are sufficient either alone or by interaction with other matter are capable of:
1. Causing a fire or explosion; or
  2. Damaging in any way the City's sanitary sewer system;
- (B) Solid or viscous substances in quantity, size capable of causing obstruction to the sanitary sewer line flow or other interference with the operation of the sanitary sewerage system including substances such as: grease; fat; waste; oil (whether or not emulsified); either soluble or n-hexane soluble matter or any substance which may solidify or become discernibly viscous at temperatures above 32 degrees Fahrenheit;
- (C) Garbage with particles greater than 1/2 inch in any dimension;
- (D) Animal guts or tissues; manure; bones; hair, hides, or fleshings, entrails, whole blood, feathers.
- (E) Ashes, cinders, sand, spent lime, stone, or marble dust;
- (F) Metal or glass;
- (G) Straw, shavings, grass clippings, spent grains, spent hops;

- (H)Waste paper, wood, plastics, rags, mud grinding, glass grinding, or polishing wastes, paper dishes, cups, paper packaging, plastic packaging, glass packaging, and metal packaging whether whole or ground;
- (I) Any wastewater having:
  - 1. A pH of less than 5.5 or greater than 9.0; or
  - 2. Any other corrosive property capable of causing damage or hazard to structures, equipment, or City personnel;
- (J) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction:
  - 1. To injure or interfere with any wastewater treatment plant process;
  - 2. To constitute a hazard to humans or animals; or
  - 3. To exceed the limitations set forth in the categorical pretreatment standards;
- (K)Any noxious or malodorous liquids, gases or solids which either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the public sanitary sewer lines for maintenance and repair;
- (L) Any substance which may cause the sanitary sewerage system's effluent or treatment residues, sludge or scum to be unsuitable for reclamation and reuse;
- (M) Any substance that would likely cause the City's wastewater treatment plant to be in non-compliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the federal Solid Waste Disposal Act, the Clean Air Act, Toxic Substances Control Act or Oregon standards applicable to the sludge management method being used;
- (N)Any substance that would cause the City's wastewater treatment plant to violate its National Pollution Discharge Elimination System (NPDES) or other disposal system permits;
- (O)Any substance with objectionable color not removed in the treatment process, such as dye wastes and vegetable tanning solutions;
- (P) Any liquid or vapor having a temperature which:
  - 1. Is higher than 150 degrees Fahrenheit (65 degrees centigrade);
  - 2. Would inhibit biological activity resulting in interference at the wastewater treatment plant's operation; or
  - 3. Would cause wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees centigrade);
- (Q)Any pollutant "slug" including those with a biochemical oxygen demand (BOD) released in a single extraordinary discharge episode of a volume or strength as to cause interference to the City's sanitary sewerage system;
- (R)Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration which exceeds limits established by applicable state or federal regulations;
- (S) Material from a private wastewater disposal system except material received directly at the wastewater treatment plant; and
- (T) Any wastewater which causes a hazard to human life or creates a public nuisance.

**Section 22. Interceptor use and approval; exception; maintenance obligation.**

- (A) Grease, oil and sand interceptors shall be provided by the property being served by and using the City's sanitary sewer system when, in the considered belief of the City's Public Works Director, the interceptors are necessary for the handling of the affected waste.
- (B) Interceptors shall not be required for private living quarters.
- (C) All interceptors shall be of a type and capacity that are approved by the public works director and be located so as to be both readily cleaned and inspected.
- (D) Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at the owner's expense, so as to remain in continuously efficient operation.

**Section 23. Protection from damage.**

No person shall break, damage, destroy, cover or uncover, deface, or tamper with any of the City's sanitary sewer system structures, appurtenances or equipment absent the written approval of the City's Public Works Director.

**Section 24. Repair/correction of sewer infiltration.**

- (A) Any building sanitary sewer connected to the City's sanitary sewer system (whether located within the City's right-of-way or on private property) determined by the public works director to allow infiltration of surface, storm, or groundwater into the City's sanitary sewer system, shall be repaired by the affected property owner within 60 days of the date of the official notice to the property owner to do so. All costs for said repair shall be borne by said owner.
- (B) When repairs are made within the City right-of-way, such repairs shall be performed consistent with the City Public Works Design Standards/Specifications.
- (C) Before being covered, each repair must be inspected and approved in writing by the City's Public Works Director.

**Section 25. Metered water consumption.**

- (A) The premises' metered water consumption, as the same is reflected in the City's records for water meter readings for said premises, shall act as the flow volume used to compute both commercial and industrial wastewater charges for premises engaging in either commercial or industrial uses.
- (B) Notwithstanding subsection (A) above, adjustments to the approach identified therein may be made by the City Administrator in the event the user is able to show the metered water flow to the premises is not entirely discharged into or otherwise served by the City's sanitary sewer system.
- (C) If the discharge of waste into the City's sanitary sewer system is (in whole or in part) the result of water sources other than those provided the premises by the City, the owner and/or user of the affected premises shall install and maintain City-approved meters to determine the water volume so obtained alternatively such that the waste volume derived from the other sources which are then discharged into the City's sanitary sewerage system may be determined and thereafter reflected in the waste water charges due.

- (D) The owner, after obtaining the City's approval, may install and operate a City-approved device measuring the volume of wastewater discharged instead of having the City employ the approach described in subsection (A) above. Subject to the periodic inspection of the device by the City, the owner shall own, install and operate the device and be responsible for the costs associated with the City's inspection thereof.
- (E) All storm sewers (including building storm sewers) on private property connecting to the building sanitary sewer shall be disconnected and capped unless they are then connected to a City-approved storm water disposal system within 60 days of the City's notice to the property owner to make the change.
- (F) If the City-approved alterations required by either subsection (C) and/or (E) are not timely completed by the owner/premises user, the City may elect thereafter enter the affected property and cause the necessary alterations be made. Any and all City costs and expenses related to the alteration and incurred by the City shall become an assessment lien on the property once entered into the City's lien docket which assessment lien shall then have the priority accorded assessment liens under ORS 223.230 (2020). The assessment lien shall be fully due and owing 30 days after the date written notice of said expenses and costs is provided the property owner. The City's notice shall be sent to the owner by registered or certified mail, state the amount of the assessment lien and inform the property owner that the assessment lien will be deemed delinquent if not full paid within 90 days of the date the lien was entered on the City lien docket unless otherwise agreed to in writing by the City. In the event written agreement for payment of the assessment lien are not timely made by and between the City and owner and owner fails to pay the assessment lien within 120 days of the entry of the lien on the lien docket, the City may thereafter enforce or foreclose the lien or lien account in the manner provided by ORS Chapter 223 (2020).
- (G) It is the property owner's responsibility to maintain, replace or repair service connection lines from the point of connection from their property to the City's sanitary sewer collection line.

## **Section 26. Inspection and testing.**

- (A) The City's public works director and other duly authorized City employees or representatives bearing proper credentials and identification shall have the right to enter upon all properties and premises receiving sanitary sewer service at reasonable hours in order to inspect, observe, measure, sample and test to ensure compliance with the provisions of this Chapter.
- (B) The city administrator, in consultation with the public works director, is authorized to adopt, amend, and thereafter enforce reasonable rules and regulations concerning any matter relative to the connection to and use of the City's sanitary sewer system. The city administrator shall, in advance of the effective date of any such rule, regulation or amendment, submit the matter to Council at one of its regularly scheduled meetings for its review and comment.

Said submission shall occur not less than 30 days prior to the rule, regulation, or amendment becoming effective.

- (C) Notwithstanding the provisions of subsection (B) above, in the event a public health emergency has been declared by the City, state, or federal government, the city administrator has the authority to immediately adopt and thereafter enforce rules designed to address issues relating to the public health emergency without having said rules be first reviewed and commented on by Council. Said rules shall be effective and may be enforced for the period of said health emergency.

**Section 27. Service charges.**

- (A) Service and other charges for use of the City sewage system shall be established by Council resolution following a public hearing thereon.
- (B) The user and property owner (if different) shall each be responsible for payment of all charges provided for by this section. A penalty fee set by Council shall be added each month on all charges that are delinquent to defray the City's costs associated with the delinquency program which fees will be assessed only on accounts with total arrearages of \$10.01 or more on the date of the penalty assessment.

**Section 28. Billing and payments.**

- (A) Sewer service charges shall be billed either monthly or in two months intervals as determined by the City and due on the 15<sup>th</sup> of the month following the billing. If the bill is not fully paid by the due date, the unpaid amounts shall be considered past due unless written arrangements have been made with the City specifying another due date. Any charge not paid by the due date designated on the bill or otherwise as agreed in writing is deemed delinquent. Delinquent accounts may be collected, water and sewer service discontinued, property liens filed as appropriate and late penalties imposed in the manner set forth in the City's sewer and/or water regulation ordinances.
- (B) Recovery of Delinquent Charges for Sewer Accounts Only. The City may certify to the Marion County Tax Assessor's Office the amount of any delinquent user and billing service charges. When the certification is complete, such amount, including interest, will be assessed against the premises served with sewer service in the same manner as other taxes are certified, assessed, collected, and paid.
- (C) Notice to Customers of Placement of Lien. Except in an emergency, the City shall provide written notice to the customer, either mailed or delivered to the customer's last known address, of the City's intention to lien the property. In emergencies, the City may notify by telephone or messenger. The customer shall be notified of and have the opportunity to be heard by a City official or employee empowered to resolve any valid objections prior to City placement of property lien.



**Section 29. User’s agreement/owner’s agreement for assessment lien.**

- (A) All applicants and/or users of the City’s sanitary sewer system shall be required to review and sign an application to use the sewer system. Said application shall include language whereby the applicant and/or user agrees to be bound by any City rules and regulations governing connection to and use of the sanitary sewer system without any reservation or qualification.
- (B) The owner of real property served by the City’s sanitary sewer system shall agree in writing with the City that the City may impose an assessment lien on the property in the event there are monies owed associated with the provision of sanitary sewer services to the property.

**Section 30. Disposition of payments.**

Payments made on sewer service charges shall be credited and paid to the City’s sewer fund.

**Section 31. Repeal and Replace.** Ordinance No. 570 is hereby repealed.

**Section 32. Effective Date.** This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 26<sup>th</sup> day of October, 2020. READ a second time on the \_\_\_\_ day of \_\_\_\_\_, 2020. ADOPTED AND PASSED by the Aumsville City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ron Harding, City Administrator

SIGNED by the mayor this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Derek Clevenger, Mayor

## ORDINANCE NO. 570

**AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; PROVIDING PENALTIES FOR VIOLATIONS THEREOF; AND REPEALING ORDINANCE NO. 374.**

The city of Aumsville, Oregon, ordains as follows:

### ARTICLE 1

#### DEFINITIONS

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

**Section 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 5 days at 200C, expressed in milligrams per liter.

**Section 2.** Building Drain shall mean that part of the lowest horizontal piping of a drainage system which received the discharge from soil, water, and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning 5 feet (1.5 meters) outside the inner face of the building walls.

**Section 3.** Building Sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

**Section 4.** Combined Sewer shall mean a sewer receiving both surface runoff and sewage.

**Section 5.** Garbage shall mean solid wastes from domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

**Section 6.** Industrial Waste shall mean the liquid wastes from any non-governmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under the following divisions:

- (A) Division A--Agriculture, Forestry, and Fishing
- (B) Division B--Mining
- (C) Division D--Manufacturing
- (D) Division E--Transportation, Communications, Electric, Gas, and Sanitary Services
- (E) Division I--Services

A user in the Divisions listed may be excluded if it is determined that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences.

**Section 7.** Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

**Section 8.** Person shall mean any individual, firm, company, association, society, corporation, or group.

**Section 9.** pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**Section 10.** 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 conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

**Section 11.** Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**Section 12.** Sanitary Sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**Section 13.** 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.

**Section 14.** Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewer.

**Section 15.** Sewage Works shall mean all facilities for collecting, pumping, treatment, and disposing of sewer.

**Section 16.** Sewer shall mean a pipe or conduit for carrying sewage.

**Section 17.** Shall is mandatory; May is permissive.

**Section 18.** Sludge 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 15 minutes more than five times the average 24 hour concentration or flows during normal operation.

**Section 19.** 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.

**Section 20.** Director shall mean the public works department of the city of Aumsville or an authorized representative.

**Section 21.** 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.

**Section 22.** Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

## ARTICLE 2

### USE OF PUBLIC SEWERS REQUIRED

**Section 1. Discharge of Waste.** 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 Aumsville, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

**Section 2. Unlawful Discharge.** It shall be unlawful to discharge to any natural outlet within the City of Aumsville, 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 ordinance.

**Section 3. Privy, Privy Vault, Septic Tank, Cesspool.** 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.

**Section 4. Hookup Required.** 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 now located or may in the future be 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 ordinance, within 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.

## ARTICLE 3

### PRIVATE SEWAGE DISPOSAL

**Section 1. Requirement.** Where a public sanitary or combined sewer is not available under the provision of Article 2, Section 4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

**Section 2. Permit Required.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement with plans, specifications, and other information as are deemed necessary by the city recorder. Applicable permit fee and inspection fees shall be paid to the city at the time the application is filed.

**Section 3. Inspection.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the public works department. They shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the public works department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four hours of the receipt of the notice by the public works department.

**Section 4. Compliance with State Regulations.** The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Oregon. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

**Section 5. Connection to Public Sewer.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article 3, Section 4, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

**Section 6. Operation.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

**Section 7. Additional Requirements.** No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by a health officer.

**Section 8. Public Sewer Connection Requirements.** When a public sewer becomes available, the building sewer shall be connected to said sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

## ARTICLE 4

### BUILDING SEWERS AND CONNECTIONS

**Section 1. Permit Required.** No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city .

**Section 2. Permit Classifications.** There shall be two classes of building sewer permits: (a) for residential and commercial service and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the city. Applicable permit fee and inspection fees shall be paid to the city at the time the application is filed. An industrial building sewer permit fee shall be determined by the city administrator and/or city engineer and shall be paid to the city at the time the application is filed.

**Section 3. Indemnification.** All costs and expenses 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.

**Section 4. Separate Hookups Required.** A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

**Section 5. Existing Connections.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the public works department, to meet all requirements of this ordinance.

**Section 6. Construction Standards.** 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 back-filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the City of Aumsville Public Works Design and Construction Standards shall apply.

**Section 7. Gravity Flow.** 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 to the building sewer.

**Section 8. Surface Runoff; Groundwater Connection.** No person shall make connection of roof downspouts, exterior foundation drains, areaway 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.

**Section 9. Connection Standards.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the City of Aumsville Public Works Design and Construction Standards. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the city before installation.

**Section 10. Inspection and Connection.** The applicant for the building sewer permit shall notify the public works department when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the public works department.

**Section 11. Excavation Standards.** 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.

## ARTICLE 5

### USE OF THE PUBLIC SEWERS

**Section 1. Discharge to Sanitary Sewer Prohibited.** 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 waters to any sanitary sewer.

**Section 2. Stormwater and Unpolluted Discharge.** Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm sewers, or to a natural outlet approved by the public works department. Industrial cooling water or unpolluted process waters may be discharged, on approval of the public works department, to a storm sewer, combined sewer, or natural outlet.

**Section 3. Polluted Discharge Prohibited.** 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 interacting 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 water of the treatment plant, including but not limited to cyanides in excess of two mg/l of 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.

**Section 4. Discharge of Pretreated Materials, Waters or Wastes.** 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 public works department 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 the opinion as to the acceptability of these wastes, the public works department 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, gas, grease, or oil, 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 (65° C).
- (C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the public works department.
- (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 public works department for such materials.
- (F) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the public works department as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction of such discharge to the receiving waters.

- (G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the public works department in compliance with applicable state or federal regulations.
- (H) Any waters or wastes having a pH in excess of nine .
- (I) Materials which exert of cause:
  - (1) Unusual concentrations of inert suspended solids such as, but not limited to, Fullers earth, lime slurries, and lime residues or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (2) Excessive discoloration (such as, but not limited to, dry wastes and vegetable tanning solutions).
  - (3) Usual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (4) Unusual volume of flow or concentration of wastes constituting "sludge" 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.

**Section 5. Public Works Review and Approval.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contained the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the public works department, may have a deleterious effect upon the sewage works, processes, equipment, or receiving water, nuisance, the public works director may:

- (A) Reject the wastes.
- (B) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (C) Require control over the quantities and rates of discharge, and/or
- (D) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 10 of this article.

If the public works department 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 public works department, and subject to the requirements of all applicable codes, ordinances, and laws.

**Section 6. Interceptors.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the public works department, 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 public works department, and shall be located as to be readily and easily accessible for cleaning and inspection.

**Section 7. Maintenance of Preliminary Treatment or Flow Equalizing Facilities.** Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his own expense.



**Section 8. Control Manhole Required.** When required by the public works department, 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 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 public works department. The manhole shall be installed by the owner at their expense, and shall be maintained by them so as to be safe and accessible at all times.

**Section 9. Measurements, Tests and Analyses Standards.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance 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 premise 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 whether pH's are determined from periodic grab samples.)

**Section 10. Agreements Between City and Industrial Concern.** No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial concern.

## ARTICLE 6

### INDUSTRIAL COST RECOVERY

**Section 1. Requirement.** All industrial users shall be required to pay that portion of the federal assistance grant under PL 92-500 allocable to the treatment of waste from such users.

**Section 2. Implementation and Maintenance.** The system for industrial cost recovery shall be implemented and maintained according to the following requirements:

- (A) Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay its share of the total federal grant amount divided by the recovery period.
- (B) The industrial cost recovery period shall be equal to 30 years or the useful life of the treatment works, whichever is less.

**Section 3. Applicability of Requirements.** This requirement applies only to those features of wastewater treatment and transportation facilities which have been constructed with federal assistance administered by the U.S. Environmental Protection Agency under PL 92-500.

## ARTICLE 7

### POWERS AND AUTHORITY OF INSPECTORS

**Section 1.** 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 section shall be subject to immediate arrest under charge of disorderly conduct.

## ARTICLE 8

### PROTECTION FROM DAMAGE

**Section 1. Inspection Authorized.** The public works department 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 ordinance. The public works department or representative 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 sewer or waterways or facilities for waste treatment.

**Section 2. Hold Harmless, Indemnification, Liability.** While performing the necessary work on private properties referred to in Article 8 , Section 1 above, the public works department or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article 5, Section 8.

**Section 3. Inspection Permitted.** The public works department 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.

## ARTICLE 9

### PENALTIES

**Section 1. Violation of Provisions.** Any person found to be violating any provisions of this ordinance except Article 7 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

**Section 2. Fine, Separate Offense.** Any person who shall continue any violation beyond the time limit provided for in Article 9, Section 1, shall be guilty upon conviction thereof shall be fined in the amount not exceeding \$100 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

**Section 3. Expense, Loss, Damage Liability.** Any person violating any of the provisions of this ordinance, shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

## ARTICLE 10

### VALIDITY

**Section 1.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 2.** The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

## ARTICLE 11

### REPEAL

**Section 1.** Ordinance 374 is hereby repealed.

## ARTICLE 12

### EFFECTIVE DATE

**Section 1.** This ordinance shall take effect on the thirtieth day after its enactment.

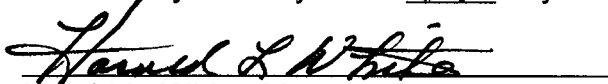
PRESENTED AND PASSED the first reading on the 8<sup>th</sup> day of January, 2007.

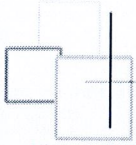
PASSED its second reading on the 22nd day of January, 2007.

ADOPTED by the Aumsville City Council on the 22nd day of January, 2007.

  
\_\_\_\_\_  
Maryann N. Hills, City Administrator

SIGNED by the mayor this 31 day of January, 2007

  
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Harold L. White, Mayor

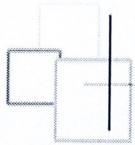


# Accounts Payable Register

City of Aumsville

Fiscal: 2020-21  
Deposit Period: 2020-21 - October  
Check Period: 2020-21 - October - First Council

Number	Name	Print Date	Amount
<b>Riverview Community Bank</b>	<b>9001000967</b>		
<b>Check</b>			
<u>54340</u>	AIRGAS USA, LLC	10/13/2020	\$35.10
<u>54341</u>	APPLIED CONCEPTS, INC.	10/13/2020	\$1,848.50
<u>54342</u>	BMS TECHNOLOGIES	10/13/2020	\$2,011.98
<u>54343</u>	CITY OF KEIZER	10/13/2020	\$1,320.00
<u>54344</u>	D & W AUTOMOTIVE	10/13/2020	\$143.75
<u>54345</u>	FERGUSON WATERWORKS #3011	10/13/2020	\$4,097.58
<u>54346</u>	GARRETT BERKEY	10/13/2020	\$232.78
<u>54347</u>	GARY WEAVER	10/13/2020	\$2,200.00
<u>54348</u>	JESSICA WEITMAN	10/13/2020	\$20.00
<u>54349</u>	MARION COUNTY TREASURY DEPARTMENT	10/13/2020	\$613.56
<u>54350</u>	MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS	10/13/2020	\$43.50
<u>54351</u>	MNOP	10/13/2020	\$351.29
<u>54352</u>	MOONLIGHT MAINTENANCE	10/13/2020	\$336.75
<u>54353</u>	OFFICE DEPOT, INC	10/13/2020	\$449.54
<u>54354</u>	ONE CALL CONCEPTS INC	10/13/2020	\$29.40
<u>54355</u>	O'REILLY AUTO PARTS	10/13/2020	\$75.88
<u>54356</u>	RITZ SAFETY	10/13/2020	\$115.95
<u>54357</u>	STAN BUTTERFIELD P.C.	10/13/2020	\$750.00
<u>54358</u>	STETTLER SUPPLY COMPANY	10/13/2020	\$95.72
<u>54359</u>	ULTREX BUSINESS SOLUTIONS	10/13/2020	\$15.39
<u>54360</u>	VISION MUNICIPAL SOLUTIONS, LLC	10/13/2020	\$6,675.00
<u>54361</u>	WATERLAB CORP	10/13/2020	\$140.00
<u>54362</u>	WAVE	10/13/2020	\$9.95
<u>54363</u>	WESTECH ENGINEERING INC	10/13/2020	\$1,833.00
<u>EFT Payment 10/13/2020 4:09:26 PM - 1</u>	DE LAGE LANDEN FINANCIAL SERVICES, INC.	10/13/2020	\$85.00
<u>EFT Payment 10/13/2020 4:09:26 PM - 2</u>	NW NATURAL	10/13/2020	\$46.99
<u>EFT Payment 10/13/2020 4:09:26 PM - 3</u>	OREGON DEPARTMENT OF REVENUE	10/13/2020	\$63.34
<u>EFT Payment 10/13/2020 4:09:26 PM - 4</u>	PACIFIC POWER	10/13/2020	\$11,566.29
<u>EFT Payment 10/13/2020 4:09:26 PM - 5</u>	REPUBLIC SERVICES #456	10/13/2020	\$60.00
<u>EFT Payment 10/13/2020 4:09:26 PM - 6</u>	RIVERVIEW COMMUNITY BANK	10/13/2020	\$2,923.20
<u>EFT Payment 10/13/2020 4:09:26 PM - 7</u>	VERIZON WIRELESS	10/13/2020	\$37.74
	<b>Total</b>	<b>Check</b>	<b>\$38,227.18</b>
	<b>Total</b>	<b>9001000967</b>	<b>\$38,227.18</b>
	<b>Grand Total</b>		<b>\$38,227.18</b>

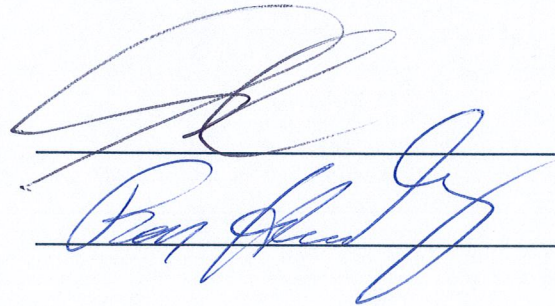


# Payroll Register

City of Aumsville

Fiscal: 2020-21  
Deposit Period: 2020-21 - October  
Check Period: 2020-21 - October - First Council

Number	Name	Print Date	Amount
<b>Riverview Community Bank</b>	<b>9001000967</b>		
<b>Check</b>			
54331	Casarez, Santos N	10/15/2020	\$83.02
54332	Purdy, Larry W	10/15/2020	\$83.02
54333	NATIONWIDE RECOVERY SERVICE, INC	10/15/2020	\$289.01
54334	Valley Credit Service Inc	10/15/2020	\$159.13
Direct Deposit Run - 10/13/2020	Payroll Vendor	10/15/2020	\$36,527.91
EFT 10272020	PERS	10/15/2020	\$11,371.32
EFT 43979676	EFTPS	10/15/2020	\$13,353.30
EFT 82371013	Oregon Department of Revenue	10/15/2020	\$3,669.02
EFT HSA10152020	HSA Bank	10/15/2020	\$875.83
EFT OSGP10152020	VOYA - STATE OF OREGON - LG#:2234	10/15/2020	\$540.00
EFT V10152020	Valic	10/15/2020	\$425.00
HDSHP DON 10152020	CITY OF AUMSVILLE	10/15/2020	\$184.49
	<b>Total Check</b>		<b>\$67,561.05</b>
	<b>Total 9001000967</b>		<b>\$67,561.05</b>
	<b>Grand Total</b>		<b>\$67,561.05</b>



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Ryan Anderson