

TITLE 1

ADMINISTRATION

PREFACE

This Administration Title contains ordinances as indicated in accordance with adoption and notation standards. Ordinances of the City adopted after said ordinance supersede noted provisions herein in this Title to the extent that they are in conflict or inconsistent therewith. See City Hall to ascertain whether any particular provision of this Title has been amended, superseded, or repealed.

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CHAPTER 1

IRRIGON CITY CODE

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1-1-1: TITLE: Upon the adoption by the city council, this code is hereby declared to be and shall hereafter constitute the official city code of Irrigon. This code of ordinances shall be known and cited as the *IRRIGON CITY CODE* and is hereby published by authority of the City Council and shall be supplemented to incorporate the most recent legislation of the city as provided in section [1-1-3](#) of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the section itself, when reference is made to this code by title in any legal documents. (2008 Code)

1-1-2: ACCEPTANCE: The city code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in section [1-2-1](#) of this title. (2008 Code)

1-1-3: AMENDMENTS: Any ordinance amending the city code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the city code. (2008 Code)

1-1-4: CODE ALTERATIONS: It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this code in such a manner that the meaning of any phrase or provision may be changed or omitted. Said code, while in actual possession of officials and other interested persons, shall be and remain the property of the city and shall be returned to the office of the city recorder when directed so to do by order of the city council. (2008 Code)

CHAPTER 2

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1-2-1: REPEAL OF GENERAL ORDINANCES: All general ordinances of the city passed prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances. (2008 Code)

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES: No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as the city code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2008 Code)

1-2-3: COURT PROCEEDINGS:

- A. **Prior Acts:** No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or

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provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

- B. **Extend To All Repeals:** This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- C. **Pending Actions:** Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this code. (2008 Code)

1-2-4: SEVERABILITY CLAUSE: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (2008 Code)

CHAPTER 3

DEFINITIONS

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1-3-1: CONSTRUCTION OF WORDS:

- A. Whenever any word in any section of this code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.

- B. The word "ordinance" contained in the ordinances of the city has been changed in the content of this code to "title", "chapter", "section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the city's ordinances is not meant to amend passage and effective dates of such original ordinances. (2008 Code)

1-3-2: DEFINITIONS, GENERAL:

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either or by implication.

CITY: The city of Irrigon, County of Morrow, state of Oregon.

CIVIL PENALTY/ PENALTY:	Amount assessed for violations (infraction/violation/fine) pursuant to citation, provided for a maximum amount of a civil penalty that may be Assessed in accordance with state law, ordinance, or as identified in the Master Fee Schedule.
CODE:	The full Irrigon City Code, to include the zone, building and development code portions.
COUNCIL:	Unless otherwise indicated, the council of the city of Irrigon.
COUNTY:	The county of Morrow, state of Oregon.
DECISION:	A conclusion or resolution reached after consideration of an action or process of deciding something with final judgement or action.
EMPLOYEES:	Whenever reference is made in this code to a city employee by title only, this shall be construed as though followed by the words "of the city of Irrigon".
ENFORCEMENT OFFICER:	Any person authorized to enforce any provision of the City Code.
FEE:	A sum of money charged by the city for the carrying on of a business, profession or occupation.
GENDER:	A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.
LICENSE:	The permission granted for the carrying on of a business, profession or occupation.
MISDEMEANOR:	An offense or violation less than a felony punishable by fine, citation or community service.
ORS:	Oregon Revised Statutes.
OCCUPANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

- OFFENSE:** Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.
- OFFICERS:** Whenever reference is made in this code to a city officer by title only, this shall be construed as though followed by the words "of the city of Irrigon".
- OPERATOR:** The person who is in charge of any operation, business or profession.
- OWNER:** As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land that has an enforceable claim or title to an asset or property, and is recognized as such by law or having rights of redemption to such property.
- PARTY:** Any natural person, firm, association, business, trust, organization, partnership, company, or any other entity which is recognized as the subject of rights or duties.
- PERSON:** Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person which is recognized as the subject of rights or duties.
- PERSONAL** Shall include every description of money, goods, chattels, effects,
- PROPERTY:** evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.
- PROCESS:** Any formal or informal notice or writ over a person or property which normally takes effect by serving in on a person, arresting a person, posting it on real property, or seizing personal property.
- PROPERTY:** A thing or things belonging to someone, possessions collectively which may be movable or immovable pertaining to "real property" or possession.
- REAL PROPERTY:** Land, premise, and anything growing on, affixed to, or built upon land. This includes man-made structures as well as crops/vegetation.

- RESPONDENT:** Any person or entity who is the registered owner, property owner, legal owner, driver, operator, tenant, lessee, or is otherwise liable for penalties in accordance with this code, and who contests or disputes liability for civil penalties.
- RESPONSIBLE PARTY:** Any person or entity who is the registered owner, property owner, title holder, contract seller, contract buyer, possessor or user of the land upon which a violation is occurring, or the person(s) responsible for the action, conduct, or omission which constitutes a violation of a City ordinance, who may be held responsible for a violation of a City ordinance.
- RETAILER:** Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.
- RIGHT OF WAY:** The privilege of the immediate use of the roadway or other property.
- STATE:** The state of Oregon.
- STREET:** Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.
- TENANT:** As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.
- VIOLATION:** An offense created by State Law or Ordinance which is punishable by a fine or other punishment through a court by means of citation or other means through ordinance, order or judgment.
- VIOLATIONS BUREAU:** Established by and under the direction of a judge for the designation of administering certain court functions to any appropriate person directed for such action by the judge.
- WHOLESALE DEALER:** Terms, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.
- WRITTEN, IN WRITING:** May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting

of such person, or in case such person is unable to write, by such person's proper mark. (2008 Code)

1-3-3: **CATCHLINES:** The catchlines of the several sections of this code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2008 Code)

CHAPTER 4

ELECTIONS

1-4-1: ELECTORAL NOMINATIONS; FEE:

- A. Acceptance of Nominations: The city, in accordance with its charter, section 28, shall accept electoral nominations by the nominees registering a declaration of intent.
- B. Declaration of Intent Form: The declaration of intent shall be a form issued from the office of the city recorder
- C. Fee: A fee set forth by separate council resolution shall accompany said declaration.
- D. Advertisement of Positions: Fitting advertisement shall be made of the elected positions by the city recorder, requiring nominees sufficiently in advance of said election to allow such registration. (Ord. 73, 10-14-1980; Ord. 251-21, 2-16-2021)

CHAPTER 5

CITY MANAGER

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1-5-1: OFFICE ESTABLISHED; APPOINTMENT; TERM: In recognition of the need for full time professional administration of the city, the office of city manager is hereby established. The office of city manager shall be filled by appointment by a majority of the city council. The city manager shall be chosen solely on the basis of professional qualifications, and shall be appointed for an indefinite term or by contract. (Ord. 43, 6-28-1977)

1-5-2: BOND: The city manager shall be bonded for a minimum of five thousand dollars (\$5,000.00) for which the premium will be paid by the city. (Ord. 43, 6-28-1977)

1-5-3: POWERS AND DUTIES: The city manager:

- A. Shall be the chief administrative and personnel officer of the city. He shall directly supervise all department heads and all employees of the office department. He shall not supervise the municipal judge, but is responsible for all city activities, property and contracts.
- B. Shall be the chief financial officer of the city. He shall serve as budget officer as defined by Oregon Revised Statutes 294.331. He shall see to the maintenance of financial records adequate to the city's needs and to legal requirements at all times. He shall be purchasing agent for all city departments, with all purchases set separately and specifically by the City Council.
- C. Shall facilitate city council operations. He shall program and publish agendas for all city council meetings, and shall attend such meetings.

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- D. Shall advise the city council as requested or as he sees fit on all matters in any way related to the operation of the city.
- E. Shall be responsible for city relations with other governmental and quasi-governmental bodies, and for seeking the best possible service of these to the city.
- F. Shall be competent to represent the city officially at any time and place where no elected official of the city is doing so.
- G. Shall remain abreast of developments in his profession. He shall maintain, at city expense, membership in the International City Management Association (ICMA) and in the Oregon City County Managers Association (OCCMA) of same. He shall attend such meetings and conventions, at city expense, as the council deems appropriate and within budget approval limits.
- H. Shall honor in all respects the code of ethics of the International City Management Association (ICMA). (Ord. 43, 6-28-1977)

1-5-4: COMPENSATION: The city manager shall be compensated as determined by the council. He shall receive all fringe benefits given to city employees generally, but shall not otherwise be subject to any pay plan now or later covering city employees. (Ord. 43, 6-28-1977)

1-5-5: REMOVAL FROM POSITION:

- A. Removal Authorized; Notice or Severance: The city manager shall be removed with or without cause by a majority of the city council. Unless accused by formal legal process of criminal misconduct, he shall be entitled to a minimum sixty (60) days' written notice of removal, and shall receive severance pay equal to full salary and benefits from removal after having received notice of same.
- B. Written Notice To City Prior To Leaving: The city shall be entitled to thirty (30) days' written notice from the city manager of voluntary leaving of employment.
- C. Waiver of Rights: Either party may waive its rights under this section, in writing. (Ord. 43, 6-28-1977; Ord. 251-21 2-16-2021)

CHAPTER 6

DRUG FREE WORKPLACE

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1-6-1: POLICY:

- A. It is the City of Irrigon's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.
- B. The use, possession, distribution, purchase or sale of any controlled substance by any person while on city premises, engaged in city business or while operating city equipment is prohibited. This policy also prohibits any person, while under the influence of any controlled substance, from entering upon city premises, engaging in city business, or operating city equipment.
- C. Violation of this policy by an employee will be cause for disciplinary action, including termination. Any other person violating this policy will be removed from the city's premises. In all cases, law enforcement will be advised of violations.
- D. The city or designated law enforcement reserves the right at any time to inspect or search any person (with their permission), place, or thing on city premises to enforce this policy.
- E. The city reserves the right to require contractors to search and/or screen their employees before entering upon city premises, engaging in city associated business, or operating city equipment. Contractors are required to search and/or screen their employees who are on city premises, engaged in city business or operating city equipment in a manner that, at a minimum, meets the requirements of this policy.

- F. Where violations of this policy may present a clear and present danger to the employee, another person, or to the public, a more restrictive controlled substance search and/or screen procedure may be implemented for certain job categories, with prior approval obtained through legal channels. (Ord. 122, 4-11-1989)

1-6-2: SCOPE; DEFINITIONS:

CITY PREMISES: Used in the broadest sense and includes, but is not limited to, all land, Property, buildings, structures, installations, vehicles, equipment, aircraft, and watercraft owned, leased, or in any other manner being used by the city for any purpose.

CONTROLLED SUBSTANCE: Specifically includes: opiates, including heroin; hallucinogens, Including marijuana, mescaline, and peyote; cocaine; PCP; any prescription drug, including amphetamines and barbiturates, which is not obtained and used under a valid prescription or which is not authorized by appropriate medical staff; and any other substance included in the Federal Controlled Substances Act or is unlawful under applicable state law. (Ord. 122, 4-11-1989)

REASONABLE SUSPICION: An articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee or individual is more likely than not under the influence of controlled substances or alcohol, or has used drugs or alcohol. Circumstances which can constitute a basis for determining "reasonable cause" are listed in the city employee handbook.

1-6-3: RESPONSIBILITY:

- A. All employees are personally responsible for complying with this chapter for their own safety, the safety of others, and the protection of city property. Withholding relevant information regarding the conduct of other employees or persons who violate this chapter may be cause for disciplinary action.
- B. Employees must inform their supervisor immediately if they are taking medication which could interfere with the performance of their job duties.
- C. Employees must inform their supervisor, who will then notify city administration, of any criminal drug statute arrest and/or conviction for a violation occurring in the workplace no later than five (5) days after said arrest and/or conviction.

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- D. Supervisors are responsible for initiating corrective action when they have reasonable cause to believe that an employee is not in compliance with this chapter. Any disciplinary action resulting from the enforcement of this chapter should be reviewed by the appropriate human resources group prior to implementation.
- E. Supervisors will inform all newly hired employees of this chapter. All employees should review this chapter periodically, and it should be communicated to all persons entering upon city premises, where practical.
- F. Supervisors using contract personnel are required to ensure compliance with the provisions of this chapter. Where practical, the agreement with the contractor should contain provisions mandating compliance with the terms of this chapter.
- G. Appropriate medical personnel will be used to establish procedures for controlled substance screening, if needed.
- H. Any required search procedures will be coordinated through and by established and trained law enforcement personnel. (Ord. 122, 4-11-1989)
- I. An employee, individual or contractor who refuses to consent to a test or search, when there is reasonable suspicion, that the individual has violated city policy is subject to disciplinary action up to and including termination.
- J. An employee or individual who actively promotes (pushes) other employees, individuals or contractors to use alcohol or prohibited substances (drugs) while on city property or business will be immediately terminated.

1-6-4: PROCEDURES:

- A. City departments hiring new employees must establish controlled substance screening programs for applicants. All applicants selected for employment may be screened as part of the normal applicant medical examination.
- B. When, through observation of employee behavior or job performance, a supervisor has reasonable suspicion to suspect that the employee is under the influence of controlled substances, or is otherwise in violation of this chapter, the employee must be removed from the job site immediately and approved procedures followed regarding controlled substance screening, search, medical care, and safe transportation from the work site.

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- C. When employees have informed their supervisor that they are taking medication, a doctor may be consulted, with proper authorization, regarding the employee's ability to perform the job while on prescribed or self-administered medication.
- D. The city will establish and maintain a library of information related to drug abuse which will include availability of drug counseling, rehabilitation, and employee assistance programs.
- E. The city will post notices in all city locations notifying employees of this drug free chapter and will place said chapter in the file of each department. (Ord. 122, 4-11-1989; Ord. 251-21 2-16-2021)

CHAPTER 7

MUNICIPAL COURT

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1-7-1: JURISDICTION OF MUNICIPAL COURT: The Municipal Court shall have jurisdiction over all violations made punishable under all ordinances of the City and all state violations, as defined by ORS 801.557. Any such violation may be tried in the Irrigon Municipal Court. The Municipal Court shall also have jurisdiction over any nuisance and abatement actions pursuant to the Irrigon Municipal Code. The Municipal Court does not have jurisdiction over misdemeanors or felonies. (Ord. 247-20, 5.19.2020; Ord. 256-22, 11.19.2022)

1-7-2: MUNICIPAL JUDGE:

A. Appointment and Removal by City Council:

The City Council shall fill the office of Municipal Judge by appointment solely on the basis of qualifications and experience, without regard to political considerations. The City Council shall appoint and remove Municipal Judges by resolution. Cause shall not be required for removal of the Municipal Judge.

B. Qualifications of Municipal Judge:

Any candidate for the office of Municipal Judge must be a member in good standing of the Oregon State Bar Association and must maintain full malpractice coverage with the Professional Liability Fund.

C. Municipal Judge Pro Tempore:

The Municipal Judge is authorized to appoint Municipal Judges Pro Tempore, subject to approval of the City Council, to serve in the absence of the Municipal Judge. All such appointments shall be in writing and shall specify the dates and

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7-2(B). The Municipal Judge Pro Tempore shall have the same powers and be compensated in the same manner as the Municipal Judge

D. Powers of Municipal Judge:

1. The Municipal Judge shall have all the inherent and statutory powers and duties of a Justice of the Peace within the jurisdictional limits of the City. The Municipal Judge shall also have such additional powers as may be conferred by ORS Chapter 221, the Irrigon City Charter, and the Irrigon City Code. (Ord. 256-22, 11.15.2022)
2. The Municipal Judge shall have the power to issue warrants for the entry and inspection of property for the purposes of nuisance abatement and may hear citations and abatement actions brought pursuant to the Irrigon City Code. (Ord. 256-22, 11.15.2022)
3. The Municipal Judge may, by any lawful means, serve orders of the court necessary for the proper conduct thereof and, within the limits set by state law and the Irrigon City Code, may prescribe the fine or forfeiture for violation of any provision of the Irrigon City Code.
4. The Municipal Judge may adopt rules necessary for the prompt and orderly conduct of the business of the Municipal Court. Such rules must be consistent with the provisions of ORS Chapters 153 and any rules adopted by the Oregon Supreme Court pursuant to ORS 153.033.

E. Municipal Court Time and Location:

1. The Municipal Judge shall conduct Municipal Court at least one day of each month at a time that he or she designates. The Municipal Judge may also hold court at such other times and places as he or she deems reasonable and necessary. (Ord. 247-20; 5.19.2020)

1-7-3: VIOLATIONS:

A. Violations Generally:

2. A culpable mental state is not required to establish a violation unless the mental state is part of the code provision, ordinance, or other requirement alleged to have been violated.
3. Each day that a violation continues to exist may, at the discretion of the Municipal Judge, constitute a separate violation.
4. The Municipal Judge shall establish schedules, within the limits prescribed by law and the Irrigon City Code, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. Such schedules shall be subject to approval by the City Council.
5. Any person charged with a violation within the authority of the Municipal Court may plead no contest and pay the penalty established for the violation charged, including any costs and assessments authorized by law.
6. The Municipal Judge may order payment of penalties to be made immediately, within a specified time period, or in specified installments.
7. The Municipal Judge, in his or her discretion, may permit a person to work at community service projects to satisfy penalties for violations at a reasonable hourly rate set by the Municipal Judge.
8. If a person fails to satisfy his or her obligations pursuant to a judgment of the Municipal Court, the City may pursue any of the enforcement options authorized by law, including, but not limited to, placing liens on real property pursuant to ORS 221.351.

B. Violations Bureau:

1. The Municipal Judge may establish a Violations Bureau and designate a clerk of the Municipal Court or any other appropriate person to act as Court Clerk for the Violations Bureau. The Court Clerk shall serve under the direction and control of the Municipal Judge.
2. A Court Clerk may exercise authority over any violation. If the Municipal Judge establishes a Violations Bureau, he or she shall set by order the violations that are subject to the authority of the Clerk. The Municipal Judge shall define the Court Clerk's duties in writing prior to establishment of a Violations Bureau and the Court Clerk shall work under the Municipal Judge's direction and oversight.

3. The Violations Bureau shall operate in the manner provided in ORS 153.800. The Municipal Judge may issue orders to direct the operations of the Violations Bureau, subject to the limitations of ORS 153.800. (Ord. 247-20; 5.19.2020)

1-7-4: CITATIONS:

A. Definitions:

1. Enforcement Officer: Any person that the City Manager authorizes to enforce the Irrigon City Code.
2. Responsible Party: The person responsible for curing or remedying a violation. A Responsible Party is the person alleged to have committed, allowed, or authorized the violation. When a violation involves real property, the property owner, agent of the property owner, or any person occupying or having possession of the property may be a Responsible Party.

B. Citation Required for Municipal Court Jurisdiction:

1. The Municipal Court may only exercise its jurisdiction over a violation after receiving a citation that meets the requirements of this Chapter.
2. Citations under this Chapter must be prepared by an Enforcement Officer.

C. Contact Prior to Citation:

1. All reports or complaints of violations of the Irrigon City Code shall be referred to an Enforcement Officer.
2. The Enforcement Officer has the discretion to investigate the facts and circumstances surrounding any violation reported or otherwise made known to the Enforcement Officer.
3. Before a Enforcement Officer issues a citation for a potential violation of the Irrigon City Code, he or she may contact a responsible party and may give the responsible party a reasonable opportunity to cure or remedy the alleged violation in accordance with the provisions outlined herein and in accordance with any other relevant City procedures or policies. The Enforcement Officer shall document such reasonable opportunities to cure alleged violations.

4. Contact prior to issuance of a citation is solely within the discretion of the Enforcement Officer.
5. If prior contact is made, the Enforcement Officer shall communicate the following information in a Warning Notice to the responsible party:
 - a. Description or identification of the activity constituting the potential violation and identification of the recipient as being the reputed responsible party for the potential violation.
 - b. A statement that the Enforcement Officer has determined the activity to be a violation of the Irrigon City Code.
 - c. A statement of the action required to remedy the violation and the time and/or date by which the remedy must be completed.
 - d. A statement advising that if the required remedy or cure is not completed within the time specified, the Enforcement Officer will issue a citation and that a civil penalty in the maximum amount provided for that particular violation may be imposed.

D. Voluntary Compliance Agreement:

1. The City and a Responsible Party, at the City's discretion, may enter into a written compliance agreement to attempt to resolve the alleged violation. Nothing in this Chapter precludes informal resolution without a written agreement. If the City and a Responsible Party enter into a voluntary compliance agreement, the following conditions apply:
 - a. The fact that the Responsible Party enters into such an agreement shall not be considered an admission of having committed an infraction for any purpose.
 - b. The City will not serve or file a citation while a voluntary compliance agreement is in effect and is being complied with. If the terms of the voluntary compliance agreement are satisfied, the City shall take no further action concerning the alleged violation other than those steps necessary to terminate the matter.
 - c. If the voluntary compliance agreement is not complied with, the Enforcement Officer shall issue a citation for the violation that is the subject of the voluntary compliance agreement.

E. Form of Citation:

1. The City may use any citation form to inform a Responsible Party of the nature of the alleged violation and the options to respond to the citation. The Enforcement Officer, in his or her discretion, may specify within the citation a period of time available to the Responsible Party to remedy the violation. Any citation that the City uses must include, at a minimum:
 - a. A brief description of the violation;
 - b. Date and location of the violation(s) and the approximate time the violation(s) was observed;
 - c. Code section(s) or ordinance(s) violated;
 - d. Description of the corrective action required;
 - e. A statement explaining that each day the violation continues constitutes a separate violation;
 - f. The amount of the civil penalty imposed for the violation(s), with a notation that civil penalties may continue to accrue until the violation(s) have been remedied;
 - g. The period of time, if any, that the Enforcement Officer provides to the Responsible Party to remedy the violation(s);
 - h. Remedies the City may seek for the violation(s);
 - i. That any civil penalty, fee, or fine shall be paid to the City within thirty (30) days of its final assessment, the procedure for payment, and the consequences of failure to pay;
 - j. A statement indicating that the Responsible Party is entitled to appear at the Municipal Court hearing and is entitled to present arguments and evidence in his or her defense at the hearing;
 - k. A statement describing the responsible party's right of appeal;
 - l. The signature of the Enforcement Officer who issues the citation.

F. Service of Citation:

1. An Enforcement Officer may personally serve a Responsible Party with a citation by hand-delivering the citation to the person. However, no Enforcement Officer shall unlawfully trespass on private property to deliver a citation; or
2. Service may also be made by mailing a copy of the violation citation, to the Responsible Party's last known mailing address. Service by mail shall be deemed to have occurred three (3) days after mailing within the State of Oregon, and seven (7) days after mailing outside the State of Oregon; or
3. If the alleged violation relates to real property, the violation citation may be served by posting the citation at the main entry to an occupied residence or office on the property if the person to whom the citation is issued is not present. A copy of the citation shall be mailed to the Responsible Person at the mailing address of the property no later than the end of the business day following; or
4. Service may also be made by any means authorized by the Oregon Rules of Civil Procedure.

G. Filing of Citation:

1. The Enforcement Officer shall file the citation and a proof of service with the Municipal Judge or Court Clerk.
2. A violation(s) continues to exist until corrected and verified by the Enforcement Officer. Correction includes, but is not limited to, cessation of the unlawful practice and remediation of the violation(s) in accordance with the Irrigon City Code.
3. If the Responsible Party fails to correct the violation(s) in the period of time specified in the citation, the Municipal Judge may issue a judgment ordering payment of penalties specified in a citation, requiring community service to work off penalties, or directing any other enforcement method authorized by law and the Irrigon City Code to correct the violation. The order shall inform the Responsible Party that he or she may request a hearing in front of the Municipal Judge, the time, date, and location of the Municipal Court hearing,

and a statement indicating that the Responsible Party is entitled to appear the hearing to present arguments or evidence in his or her defense.

4. Service of the order in Section 1-7-4(G)(3) shall be made in the manner provided in Section 1-7-4(F) of the Irrigon City Code.
5. If the Responsible Party does not request a hearing, the order in Section 1-7-4(G)(3) shall be the City's final decision on the matter. If the Responsible Party requests a hearing, the Municipal Judge shall hold the hearing and issue an order afterwards with the City's final decision on the matter.
6. The decision of the Municipal Court shall be final. A Responsible Party may seek judicial review of the municipal court decision by filing a writ of review with a circuit court under ORS Chapter 34. (Ord. 247-20; 5.19.2020)

CHAPTER 8

PUBLIC IMPROVEMENTS, SYSTEM DEVELOPMENT CHARGE (SDC)

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1-8-1: PURPOSE: The purpose of the system development charge is to impose a portion of the cost of capital improvements for water, wastewater drainage, streets, flood control, and parks upon those developments that create the need for, or increase the demands on, capital improvements. (Ord. 136, 1-26-1999)

1-8-2: SCOPE: The system development charge imposed by this chapter is separate from, and in addition to, any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. (Ord. 136, 1-26-1999)

1-8-3: DEFINITIONS: For purposes of this chapter, the following mean:

CAPITAL

IMPROVEMENTS: Facilities or assets used for:

- A. Water supply, treatment and distribution;

B. Wastewater collection, transmission, treatment and disposal;

C. Drainage and flood control;

D. Transportation; or

E. Parks and recreation.

DEVELOPMENT: Conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two (2) or more parcels (including partitions and subdivisions), and creating or terminating a right of access.

IMPROVEMENT FEE: A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to section [1-8-6](#) of this chapter.

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 portion of the parcel within a recorded right of way or easement subject to a servitude for a public street or scenic or preservation purpose.

OWNER: The owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

PARCEL OF LAND: A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

PERMITTEE: The person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right of way access permit is issued.

QUALIFIED PUBLIC IMPROVEMENT: A capital improvement that is:

A. Required as a condition of residential development approval;

1-8-3

1-8-4

- B. Identified in the plan adopted pursuant to section [1-8-10](#) of this chapter; and either
- C. Not located on or contiguous to a parcel of land that is the subject of development approval; or
- D. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
- E. For purposes of this definition, "contiguous" means in a public way which abuts the parcel.

REIMBURSEMENT

FEE: A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to section [1-8-6](#) of this chapter.

**SYSTEM
DEVELOPMENT
CHARGE:**

A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. "System development charge" does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. (Ord. 136, 1-26-1999)

1-8-4: RULES OF STATUTORY CONSTRUCTION: The rules of statutory construction contained in Oregon Revised Statutes chapter 174 are adopted and by this reference made a part of this chapter. (Ord. 136, 1-26-1999)

1-8-5

1-8-8

1-8-5: CLASSIFICATION OF CHARGES: The city council determines that any fees, rates or charges imposed by this chapter are not a tax subject to the property tax limitations of article XI, section 11(b) of the Oregon constitution. (Ord. 136, 1-26-1999)

1-8-6: SYSTEM DEVELOPMENT CHARGE ESTABLISHED:

- A. System development charges shall be established and may be revised by resolution of the city council. The resolution shall set the amount of the charge, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.
- B. Unless otherwise exempted by the provisions of this chapter or other local or state law, a system development charge is hereby imposed upon all development within the city, upon the act of making a connection to the city water or sewer system within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the sewer facilities, storm sewers, or water facilities of the city. (Ord. 136, 1-26-1999)

1-8-7: 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 the then existing facilities.
- B. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements need 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 contained in an ordinance adopted by the council. (Ord. 136, 1-26-1999)

1-8-8: AUTHORIZED EXPENDITURES:

- A. Reimbursement Fees: 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.

1-8-8

1-8-10

B. Improvement Fees:

1. Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of future debt for the 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 current projected 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 [1-8-10](#) of this chapter.

C. Expenditure Of Revenues: 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 chapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures. (Ord. 136, 1-26-1999)

1-8-9: EXPENDITURE RESTRICTIONS:

- A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements
- B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 136, 1-26-1999)

1-8-10: IMPROVEMENT PLAN:

- A. The council shall adopt a plan that:
 1. Lists the capital improvements that may be funded with improvement fee revenues;
 2. Lists the estimated cost of each improvement; and
 3. Describes the process for modifying the plan.

1-8-10

1-8-11

- B. In adopting this plan, the council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section. (Ord. 136, 1-26-1999)

1-8-11: COLLECTION OF CHARGE:

- A. The system development charge is payable upon issuance of:
1. A building permit.
 2. A development permit.
 3. A development permit for development not requiring the issuance of a building permit.
 4. A permit or approval to connect to the water system after having obtained a building permit.
 5. A permit or approval to connect to the sewer system after having obtained a building permit.
- B. If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.
- C. If development is commenced or connection is made to the water or sewer systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.
- D. The city manager or his/her designee shall collect the applicable system development charge from the permittee 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 manager shall not issue such permit or allow such connection until the charge has been paid in full. (Ord. 136, 1-26-1999)

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1-8-12: EXEMPTIONS:

- A. Structures and uses established and existing on or before January 26, 1998, are exempt from a system development charge, 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. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the water or sewer system. (Ord. 136, 1-26-1999)
- B. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the state building code, are exempt from all portions of the system development charge. (Ord. 136, 1-26-1999; and. 2008 Code)
- C. 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 all portions of the system development charge.
- D. A project financed by city revenues is exempt from all portions of the system development charge. (Ord. 136, 1-26-1999)

1-8-13: CREDITS:

- A. When development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated, and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given unless provided for by another subsection of this section.
- B. A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.

1-8-13

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- C. If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than sixty (60) days after acceptance of the improvement by the city.
- D. When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.
- E. Notwithstanding subsections C and D of this section, when establishing a methodology for a system development charge, the city may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the council finds reasonable.
- F. Credits shall not be transferable from one development to another.
- G. Credits shall not be transferable from one type of system development charge to another.
- H. Credits shall be used within ten (10) years from the date the credit is given. (Ord. 136, 1-26-1999)

1-8-14: NOTICE:

- A. List of Persons Requesting Notification: 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. Written notice shall be mailed to persons on the list at least forty-five (45) days prior to the first hearing to adopt or amend a system development charge. The methodology supporting the adoption or amendment shall be available at least thirty (30) days prior to the first

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hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city.

- B. **Removal of Names From List:** The city may periodically delete names from the list, but at least thirty (30) days prior to removing a name from the list, the city 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. (Ord. 136, 1-26-1999)

1-8-15: SEGREGATION AND USE OF REVENUE:

- A. All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in section [1-8-8](#) of this chapter.
- B. The city manager shall provide the city council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account. (Ord. 136, 1-26-1999)

1-8-16: APPEAL PROCEDURE:

- A. **Appeal Propriety of Expenditure:** A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city manager describing with particularity the decision of the city manager and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two (2) years of the date of the alleged improper expenditure.
- B. **Appeal of Other Decisions:** Appeals of any other decision required or permitted to be made by the city manager under this chapter must be filed within ten (10) days of the date of the decision.

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- C. Council Determination: After providing notice to the appellant, the council shall determine whether the city manager decision or the expenditure is in accordance with this chapter and the provisions of Oregon Revised Statutes 223.297 to 223.314 and may affirm, modify, or overrule the decisions. If the council determines that there has been an improper expenditure of system 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. The decision of the council shall be reviewed only as provided in Oregon Revised Statutes 34.010 to 34.100, and not otherwise.
- D. Challenging Methodology: A legal action challenging the methodology adopted by the council pursuant to section [1-8-7](#) of this chapter shall not be filed later than sixty (60) days after the adoption. A person shall contest the methodology used for calculating a system development charge only as provided in Oregon Revised Statutes 34.010 to 34.100, and not otherwise. (Ord. 136, 1-26-1999)

1-8-17: PROHIBITED CONNECTION; PENALTY:

- A. Prohibition: No person may connect to the water or sewer systems of the city unless the appropriate system development charge has been paid.
- B. Penalty: Violation of subsection A of this section is punishable by a fine as set by separate resolution of the city council. Each day shall constitute a separate incident. (Ord. 136, 1-26-1999; Ord. 251-21 2-16-2021)

CHAPTER 9**LOCAL IMPROVEMENT DISTRICT (LID) REGULATIONS**

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1-9-1: **TITLE:** This chapter shall be known and may be cited, as LOCAL IMPROVEMENT DISTRICT (LID) ORDINANCE of the city. (Ord. 249-20, 12-17-2020)

1-9-2: **PURPOSE:** The purpose of this Chapter is to govern the creation of local improvements and the payment of special assessments as permitted by ORS Chapters 223 and 310. To the extent that this Chapter does not address matters relevant to the purpose of this chapter, the Bancroft Bonding Act (ORS 223.205 to 233.295) shall control. (Ord. 249-20, 12-17-2020)

1-9-3: **DEFINITIONS:** The following definitions shall apply unless the context clearly indicates or requires a different meaning:

ACTUAL COST: All direct or indirect costs incurred by the City to deliver goods or services or to undertake a capital construction project. The actual cost of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property or property owner, whether stated as a minimum, fixed or variable amount. It includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

APPORTIONMENT: To divide and allocate the cost of the local improvement proportionally by real property parcel or lot according to an established plan.

BANCROFT BONDING ACT: As described in the Oregon Revised Statutes Chapter 223.205 to 223.295 as now enacted or amended hereafter.

BENEFITTED PROPERTY: All property specially benefitted by the local improvement portion of a project, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the assessable cost of the project between the properties determined to be specially benefitted therefrom.

ESTIMATED ASSESSMENT: With respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the city estimates will be

levied against the property following completion of the local improvement. The estimate shall be based on the city's estimate at that time of the actual costs of the local improvement and the proposed formula for apportioning the actual costs to the property. It shall be determined by excluding from estimated actual costs the estimated financing costs associated with any bonds issued to accommodate the payment of the assessment in installments and including in estimated actual costs the estimated financing costs associated with interim financing of the local improvement.

FINAL ASSESSMENT:

With respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property.

FINANCING:

All costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement. Financing may include the salaries, wages and benefits payable to employees of the city to the extent reasonably allocable to the work or services performed by the employees in connection with the local improvement or any part thereof; provided, that the city establishes a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement. Financing costs that are to be incurred after the levy of a final assessment may be included, whether directly in the final assessment or in the interest rate charged on installment payments, based on the City's reasonable estimate of the financing costs if the city first documents the basis for the estimate and makes the documentation available to interested persons on request.

LOCAL IMPROVEMENT:

A capital construction project or part thereof that provides a special benefit to or rectifies a problem caused by specific real properties, including but not limited to:

- (1) The widening, construction, improvement, repair or reconstruction of any right-of-way;
- (2) The widening, construction, improvement, repair or reconstruction of any sidewalks, curbs, gutters and bicycle ways;
- (3) The installation, reconstruction or replacement of street lights;
- (4) Constructing, reconstructing or repairing any water, sanitary or storm sewer or water facility, including but not limited to mains, laterals, water detention or quality features, dams and dikes;
- (5) Construction, reconstruction or repair of off-street parking facilities;
- (6) Construction, reconstruction, improvement or repair of any park, playground or recreational facility;
- (7) Underground placement of utilities;

- (8) The acquisition of real property or an interest in real property for any such improvement;
- (9) Any other improvement for which an assessment is authorized by state law.

LOCAL IMPROVEMENT DISTRICT (LID):

The geographical area determined by City Council to be specially benefited by the local improvement within which properties may be assessed to pay the cost of the local improvement.

LOT:

Lot, block or parcel of land.

NOTICE:

Notice as required by the Chapter is accomplished by posting the notice in the City Hall, posting on the properties to be benefited, by newspaper publication, by personal delivery, or mailing a copy of the notice by first class mail with a certificate of mailing, addressed to the last known address of the person currently assessed for the properties to be benefited as shown by the records of the Morrow County and the City of Irrigon.

OWNER:

The owner or owners of the title to real property, or the contract purchaser of real property, of record and as shown on the last available complete assessment roll in the office of the County Assessor, or the owner's agent authorized in writing to act for the owner. In the case of ownership by a corporation, limited liability company, partnership or similar entity, the person duly authorized by the entity shall be deemed to be the owner for purposes executing any petition, waiver, remonstrance, installment payment agreement or other document.

PROJECT:

Any capital construction work reasonably necessary involving a local improvement, which may include, but is not limited to: a street, alley, sidewalk, street light, underground utility, sanitary or storm sewerage facilities, water utility facilities, off-street parking facility, flood control facility, park or neighborhood recreation facility.

REMONSTRANCE:

The written objection to a proposed local improvement district or the assessment levied thereon, to be made in a manner hereinafter provided.

SOLE SUB-DIVISION DEVELOPMENT:

A development in which land owned by a single owner, whether an individual, single group of individuals, business entity, or single group of business entities, is divided into four (4) or more lots within a single calendar year.

1-9-3

1-9-3

TOTAL ASSESSABLE COST: That portion of the local improvement cost which is to be apportioned and assessed as a single assessment against each benefitted property.

TOTAL PROJECT COST: The total cost of constructing a project involving a local improvement, including but not limited to, engineering, interest on warrants, advertising, providing notice to benefitted property owners and overhead; and shall include all assessable costs of the local improvement.

UNDEVELOPED REAL PROPERTY: A single parcel of land, or several contiguous parcels of land in single ownership with an area free of permanent structures, capable of being divided into four or more developable lots. (Ord. 249-20, 12-17-2020)

1-9-4: INITIATION OF LID FORMATION:

A. The Council may declare by resolution that it intends to make a local improvement and direct the City Engineer to make a survey of the improvement and file a written report with the City Manager and in accordance with Section 4 B, shall direct the City Manager to prepare a financial investigation report when:

- (1) the Council considers it necessary to require that improvements to a street, sewer, water line, traffic signal, sidewalk, parking, curbing, drain, or other local improvement defined in ORS 223.387 be paid for in whole or in part by special assessment according to benefits conferred; or
- (2) owners of 50 percent of the property that will benefit by improvements as defined above request, by written petition that the Council initiate formation of a local improvement district.

A petition for formation shall include:

- (a) A general description of the proposed local improvement;
 - (b) A proposed boundary for the local improvement district, including the address, if one is available, and map and tax lot number of each property proposed to be benefitted by the local improvement;
 - (c) The signature of each of the owners of more than 50% of the lots within the proposed boundary;
 - (d) The fee, if any, established by the City Council for preparation of the report provided for in subsection (B) of this section.
- (3) The City Council shall consider any valid petition submitted pursuant to Section (4)(A)(2), but may,

- (a) decline to initiate formation of the local improvement district in its entirety;
 - (b) may modify the boundaries of the local improvement district as otherwise set forth in the petition and proceed with formation of the same; or
 - (c) may proceed with formation of a local improvement district after modifying the nature or scope of the public improvement proposed by petition.
- B. The resolution initiating formation of the local improvement district shall direct the City Manager to have a report prepared containing the following information and any other information requested by the City Council or deemed relevant by the City Manager:
 - (1) A description of the local improvement project and its boundaries based on preliminary project plans and specifications;
 - (2) A preliminary determination of the feasibility of making the proposed improvement, including an estimate of the actual cost of the proposed local improvement;
 - (3) A map of the proposed local improvement district with the address and the map and tax lot number or other sufficient description and ownership of each specially benefited property with a brief explanation of why the properties benefit;
 - (4) The proposed methodology for allocating the improvement project costs among and between the specially benefited properties, together with a description of other funds, if any, proposed to be used; and
 - (5) The assessed valuation of each property and an estimate of the assessment amount for each lot or portion thereof, with a statement of amounts of outstanding assessments against any lot proposed to be assessed by the improvement.
- C. The City Manager shall have a copy of the report filed in the office of the Finance Officer when completed. (Ord. 249-20, 12-17-2020)

1-9-5: LID FORMATION:

- A After consideration of the City Manager's report required by Section 4(B), City Council may adopt a resolution of intent setting forth its intention to form the

local improvement district and make the local improvement, as proposed or as may be modified by the City Council. The resolution of intent shall include:

- (1) A description of the local improvement, including its scope and location;
- (2) A map of the proposed local improvement district boundary, including the address, map and tax lot and ownership information for each property within the boundary;
- (3) An estimate of the actual cost of the improvement;
- (4) The proposed methodology for establishing special benefit and levying assessments, the estimated assessment to be levied against each property and a description of funds other than assessments, if any, that may be used to fund the local improvement; and
- (5) The location, date and time of a public hearing to be held on formation of the local improvement district.

- B The City Manager shall give notice of the proposal to form a local improvement district in the manner set forth in Section 3 providing that a hearing will be held to hear objections, if any, to the proposed improvement not less than 21 days after the date of the notice.

The notice must be mailed and posted not less than 10 days prior to the hearing date. In addition to the date, time and location of the hearing, the notice shall include:

- (1) A general description of the proposed local improvement and the boundary of the district, including the address of each property proposed to be included;
- (2) The estimated cost of the proposed local improvement, the methodology for levying assessments and the estimated assessment for each property. The notice shall note that these are estimates only and that the final assessment may be greater;
- (3) A statement that the City Manager report is available for review;
- (4) A statement that any interested person may testify or submit written comments on the proposed local improvement district and that any property owner(s) may formally object by submitting a written remonstrance stating the reason for the objection and signed by each owner of the property, which remonstrance must be received by the City Manager no later than 5:00 p.m. on the business day before the public hearing; and
- (5) A form for remonstrance as provided and may be obtained at City Hall.
(Ord. 249-20, 12-17-2020)

1-9-6: PUBLIC HEARING AND CITY COUNCIL DECISION ON FORMATION:

- A. At the public hearing, the City Council shall provide a reasonable opportunity for persons to testify and shall consider any written comments received with any remonstrances.
- B. At the conclusion of testimony, the City Council shall adopt an ordinance to:
 - (1) decline to form the local improvement district as proposed or modified and terminate formation of the same after finding that it is not in the best interests of the City or for other sufficient reason, notwithstanding the filing of remonstrances; or
 - (2) decline to form the local improvement district if valid remonstrances are received from the owners of more than 65% of the lots that otherwise would be assessed, unless the properties are included in a sole sub-division development for which the property owner has executed a waiver of the right of remonstrance as a condition of subdivision approval.

Notwithstanding this provision and those of Section 7 if it is determined to be in the best interests of the City, Council may instead suspend the formation of the proposed local improvement district for not less than six months; or

- (3) approve the project and district formation as proposed or as modified in the City Council's discretion. The ordinance shall specify whether an estimated assessment shall be levied and the amount thereof to be levied against each specially benefited property as provided for in Section 4(B)(5). If the City Council modifies the proposed district or improvement terms that results in any property to be subject to a substantially increased proposed assessment, Council shall continue the public hearing and direct that written notice of the modification be sent to the owners in the proposed district, unless all the affected owners waive objection to the proposed increase at the hearing; or
- (4) Continue the hearing to a time and date certain for further consideration, not to exceed 90 days. (Ord. 249-20, 12-17-2020)

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1-9-7: REMOISTRANCES:

- A. To be valid, remonstrances shall be in writing and must include an objection to the local improvement district and a brief statement as to the reasons for the objection. It shall be signed by each of the owners of the property.
- B. Only remonstrances actually received by the City Manager by 5:00 p.m. on the business day before the public hearing shall be counted. Remonstrances shall not be counted if the property is subject to a non-remonstrance agreement.
- C. A remonstrance may be withdrawn if each owner does so in writing prior to the close of the hearing.
- D. If valid remonstrances constituting more than 65% of the lots within the proposed district are timely received, the City Council may either terminate formation or suspend formation for not less than six months. Notwithstanding the foregoing, the City Council may by ordinance override the remonstrances and approve formation if by unanimous vote the City Council determines that the proposed local improvement is immediately needed to address a threat to public health, safety or welfare. (Ord. 249-20, 12-17-2020)

1-9-8: CONSTRUCTION OF THE LOCAL IMPROVEMENT:

- A. The city may construct the public improvements in whole or in part using its own resources, partner with other government entities, contract with private entities as provided in the city's public contracting rules and state law, or by any combination thereof. The construction plans may modify the local improvement as reasonably necessary to conform to applicable codes or in the exercise of normal and customary project construction judgment. The city may combine the local improvement with a public improvement project as it deems appropriate; provided, that the costs of the local improvement are apportioned or otherwise reasonably attributed to the local improvement district.
- E. City Council in its sole discretion may reject any or all bids, rebid the project, or abandon the local improvement due to failure to obtain qualified or acceptable bids, or bids within the scope of the proposed cost of the improvement. The City Council may levy final assessments for the cost of preparing construction plans and bidding if it determines that the properties in the district were specially benefited. (Ord. 249-20, 12-17-2020)

1-9-9: ASSESSMENTS:

- A. The City Council shall conduct a public hearing to consider objections to the estimated assessment, if any, and the final assessment.

- B. Notice of the public hearing on the estimated assessment or final assessment shall be provided in the manner set forth in Section 3 not less than 21 days prior to the hearing and stating that a hearing will be held to hear objections, if any, to the proposed improvement. The notice shall include:
 - (1) the name of the owner;
 - (2) a description of the property to be assessed;
 - (3) the estimated or actual cost of the local improvement to be assessed and the amount to be assessed against each property with a description of the methodology for assessment;
 - (4) a statement that any objections to the proposed assessment may be submitted in writing or orally prior to the close of the public hearing;
 - (5) that the City Council may modify the proposed estimated or final assessments; and
 - (6) that at the conclusion of the hearing the City Council intends to enter an ordinance, levying assessments, which shall constitute a lien on the owner's property.

- C. Final assessments shall be levied based on a report submitted to City Council by the City Manager upon completion of the local improvement project. The report shall include:
 - (1) The actual cost of the local improvement, less the amount, if any, paid for using funds other than assessments;
 - (2) The final amount recommended to be assessed for each property based on the methodology approved by the City Council in the formation resolution or ordinance, adjusting for any estimated assessment payments received.

- C. If the initial assessment has been made based on an estimated assessment, and on the completion of work the actual cost is found to be greater than the estimated cost, the City Council shall make a deficit assessment for the actual cost. If an estimated assessment which was greater than the final assessment has been paid,

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the payor or the payor's assigns or legal representative shall be refunded the difference.

- E. The City Council shall review the estimated assessment or the final assessment report and make any modifications it deems appropriate. City Council shall adopt an assessment ordinance, schedule a public hearing and direct that notice of the proposed estimated or final assessment be provided to the owners within the local improvement district. The ordinance shall specify the payment dates, interest and penalties to be included in any installment payment agreement for final assessments or otherwise applicable to delinquent assessments.
- F. At the public hearing, the City Council shall consider any objections or recommendations received and may modify the estimated or final assessments. The City Council shall adopt an ordinance determining and levying the amount of assessment to be charged against each property. It shall specify the interest, penalties and other payment terms and that the assessment constitutes a charge and lien against assessed properties; for a final assessment, it shall specify the period for payment in installments to be 10 years.
- G. Claimed errors in calculation of assessments shall be called to the attention of the City Manager prior to any payment on account thereof. The City Manager shall check the calculation and report his findings to the City Council. If an error has been made, the City Council shall amend the final assessment ordinance to correct the error. Upon the enactment of an amendment by the City Council, the Finance Officer shall make the necessary correction in the lien docket and shall send by registered or certified mail to the owner a corrected notice of the assessment. (Ord. 249-20, 12-17-2020)

1-9-10: LIEN NOTICE:

Within ten days of City Council adoption of an estimated or final assessment, the City Manager shall by first class mail or deliver personally notice to the last known address of the person currently assessed for the properties to be benefitted as shown by the records of the Morrow County, identifying the local improvement for which the assessment is to be made, each lot to be assessed, and the estimated or final assessment for each lot.

In addition, for a final assessment the notice shall state that the owner shall have the right to apply to the city for payment of the final assessment in installments and that failure to execute the installment payment agreement within 30 days of the date of entry in the lien docket shall cause the full amount of the assessment to

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be immediately due and payable. The notice of a final assessment shall include an installment payment agreement. (Ord. 249-20, 12-17-2020)

1-9-11: LIEN RECORD AND FORECLOSURE PROCEEDINGS:

1. After the assessment ordinance is adopted, the Finance Officer shall enter into the docket of liens a statement of the amount assessed on each lot, parcel of land or portion of land, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket the amounts assessed shall become liens and charges on the lots, parcels of land or portions of land that have been assessed for improvement.
2. Assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as state law permits. The assessment ordinance shall be recorded at the Morrow County clerk's office.
3. Thirty days after the date of the assessment ordinance, interest shall be charged at a rate no less than city invested or borrowed funds but no more than two percent more than the prime rate. If the owner neglects or refuses to pay installments as they become due and payable, the City may then proceed at once to collect all unpaid installments and to enforce collection thereof, with all unpaid late payment penalties, attorney's fees and administrative charges added thereto, and the city may foreclose or enforce collection of assessment liens as set forth in 223.520, and 223.525. (Ord 249-20 amended, 2.16.2021)
4. The city may enter a bid on property being offered at a foreclosure sale. The city bid shall be prior to all bids except those made by persons who would be entitled under state law to redeem the property. (Ord. 249-20, 12-17-2020)

1-9-12: ERROR IN ASSESSMENT CALCULATION:

Claimed errors in the calculation of assessments shall be called to the attention of the Finance Officer, who shall determine whether there has been an error. If there has been an error, the City Manager shall recommend the City Council amend the assessment ordinance to correct the error. On adoption of the amendment, the Finance Officer shall make the necessary correction in the docket of liens and send a corrected notice of assessment by registered or certified mail. (Ord. 249-20, 12-17-2020)

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1-9-13: SUPPLEMENTAL ASSESSMENTS:

If an assessment is made before the total cost of the improvement is determined, and if the amount of the assessment is insufficient to defray expenses of the improvement, the council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The council shall set a time for hearing objections to the supplemental assessment and direct the city to publish one notice of the hearing in a newspaper of general circulation in the city. After the hearing the council shall make a just and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens. Notice of the supplemental assessment shall be published and mailed, and collection of the assessment shall be made, in accordance with established policies and procedures and in accordance with state law. (Ord. 249-20, 12-17-2020)

1-9-14: INSTALLMENT PAYMENTS: The installment payment agreement shall be on a form approved by the city and shall provide:

- A. The amount of final assessment and a statement of the interest rate and penalties for delinquency.
- B. A description of the property by lots, blocks, or legal description, and of the local improvement for which payment is required.
- C. The time to pay the final assessment in full, including any interest or penalties. There shall be no prepayment penalty.
- D. The due date for the initial payment and subsequent installments and the terms governing delinquencies, including a warning that installment payments, including interest and penalties, not paid within one year of the due date may result in the entire remaining balance being immediately due and payable and that the city shall have all remedies to enforce the obligation as provided by law, including foreclosure.

Subdivisions of four or more lots may, upon request, delay installment principal payments and be subject to interim interest payments only during the LID development, for up to 30 months after adoption of the assessment ordinance. Thereafter, full assessment payments shall be required to be made, regardless of whether home sites are developed.

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- F. That the property owners acknowledge and agrees to pay the final assessment, including interest and penalties, together with an amount determined by the City Council to be sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing any bonds, including but not limited to legal, printing and consultant's fees.
- G. A waiver of all irregularities or defects whatsoever, jurisdictional or otherwise, in the proceedings to cause the local improvement for which the final assessment is levied and in the apportionment of the actual cost of the local improvement.
- H. Such other terms and conditions as the City Manager deem appropriate. (Ord. 249-20, 12-17-2020)

1-9-15: RECORDING AND DOCKET:

- A. Any estimated assessment shall be a lien against the property to be charged against each lot until the final assessment is entered. It shall be entered into the lien docket as provided below within 30 days of the adoption of the ordinance levying the estimated assessment.
- B. After expiration of the deadline for the filing of a request for installment payments, the City Manager shall enter into the City lien docket, under separate line items or accounts for each local improvement by name or number:

A description of each lot or parcel of land or other property against which the final assessment is made or which bears or is chargeable for a portion of the actual cost of the local improvement;

With the name of the owner of the property assessed; and

The amount of the unpaid assessment.

The lien docket entries shall be made as of the date of initial determination and levy of the final assessment.

- C. The docket shall stand thereafter as a lien docket as for ad valorem property taxes assessed and levied in favor of the local government against each lot or parcel of land or other property until paid, for the following:

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- (1) For the amounts of the unpaid assessments therein docketed, with interest on the installments of the assessments at the rate determined by the City Council; and
 - (2) For any additional interest or penalties imposed by the city with respect to any installments of assessments that are not paid when due.
- D. All unpaid assessments together with accrued and unpaid interest and penalties are a lien in favor of the city on each lot or parcel of land or other property subject to the assessment, and the lien shall have priority over all other liens and encumbrances whatsoever.
- E. The City shall make the lien record available on hard copy or through an online electronic medium. The Finance Officer shall maintain records of each local improvement including the date of filing of each petition, the name of the petitioner, a description of the properties subject to the local improvement district, and the amount of the final assessment as shown in the (resolution or ordinance). (Ord. 249-20, 12-17-2020)

1-9-16: UNKNOWN OWNER:

- A. If after reasonable investigation the identity or location of the owner of any property subject to assessment is unknown, the property may be assessed under the term “unknown owner(s)”.

If the property is otherwise correctly described, no final assessment shall be subject to invalidation as a result of error in the name of the owner of the property assessed, or by omission of the name of the owner, or by entry of a name other than that of the true owner.

Where the name of the true owner, or the owner of record, of any parcel of real property is given, the final assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey, employing such description in a court of equity would hold it to be good and sufficient. Any description of the property that conforms substantially to the requirements of state law shall be sufficient for all purposes.

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- B. Any mistake, error, omission or failure with respect to the mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the city. (Ord. 249-20, 12-17-2020)

1-9-17: REASSESSMENTS:

Whenever any assessment, deficit or reassessment for any local improvement which has been made by the city has been, or shall be, set aside, annulled or declared or rendered void, or its enforcement restrained by any court having jurisdiction, or when the City Council shall be in doubt as to the validity of such assessment, deficit assessment or reassessment or any part thereof, then the City Council may make a reassessment in the manner provided by state law. (Ord. 249-20, 12-17-2020)

1-9-18: REINSTATEMENT:

- A. The City Council may direct that the City pay a portion of the local improvement if it determines that on account of topographical or physical conditions of the proposed district, the improvements will be subject to excessive or unusual use by the general public, or other extraordinary circumstances exist that merit doing so, so long as the proportion to be paid by the City represents a reasonable relation between the benefits derived by the property specially assessed and the benefits derived by the city as a whole.
- B. The City Council may use any available means of financing the improvement, including city funds, federal or state grants in aid, sewer or water service or other types of services or charges, revenue bonds, general obligation bonds, or other legal means of finance. (Ord. 249-20, 12-17-2020)

1-9-19: FINANCING:

- A. The city may provide for interim or permanent financing through any method it deems appropriate as permitted by law.
- B. The issuance of notes or bonds to finance local improvements shall conform to the provisions of state law in effect at the time of issuance, except to the extent expressly modified by this chapter. (Ord. 249-20, 12-17-2020)

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1-9-20: PARKING IMPROVEMENTS:

The procedure for establishing motor vehicle parking districts provided for by state law shall be the same as for other improvement districts. (Ord. 249-20, 12-17-2020)

1-9-21: MISCELLANEOUS:

- A. Re-bonding. Re-bonding of the original assessment shall be as provided by state law in effect at the time an application for re-bonding is submitted with such terms as may be established by the City Council and any applicable ordinances, rules or regulations as provided by the City Council.
- B. Reinstatement. Reinstatement of delinquent liens before the property affected has been sold for payment thereof shall be governed by state law.
- C. The provisions of state law concerning acceptance of home owner's loan corporation bonds and municipal bonds as payments for assessment liens; assessment of public property benefited by improvements; and the inclusion of public roads in sidewalk improvement districts shall be governed by state law.
- D. Rebates. On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the council shall determine the excess and declare it by ordinance. When declared, the excess amount must be entered in the lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid it or that person's legal representative shall be entitled to payment of the rebate credit, of any amount in excess of the final assessment. (Ord. 249-20, 12-17-2020)

1-9-22 APPORTIONMENT ON PARTITION OR SUBDIVISION:

- A. The City Council may apportion a final assessment levied by it against a single tract, lot or parcel of real property among all the lots formed from a subsequent land division of that tract, lot or parcel if the subsequent division is in accordance with state law and is consistent with the applicable acknowledged comprehensive plans. The proportionate distribution of a final assessment may be made whenever the final assessment remains wholly or partially unpaid, and full payment or an installment payment is not due.

- B. The City Council shall apportion a final assessment under this subchapter when requested to do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the final assessment was originally levied or on its own motion. When the deed, mortgage or other instrument evidencing the applicant's ownership or other interest in the parcel has not been recorded by the county clerk of the county in which the parcel is situated, the City Council shall not apportion the final assessment unless the applicant files a true copy of that deed, mortgage or instrument with the city.
- D. Apportionment of a final assessment shall be done in accordance with an order or resolution of the City Council. The order or resolution shall describe each parcel of real property affected by the apportionment, the amount of the final assessment levied against each parcel, the owner of each parcel and such additional information as is required to keep a permanent and complete record of the final assessments and the payments thereon. A copy of the order or resolution shall be filed with the Recorder, required to maintain the lien docket for the city, which shall make any necessary changes or entries in the lien docket for the city.
- D. When a final assessment for an existing subdivision is being paid in installments, if the final assessment is apportioned among smaller lots under this section, the installments remaining unpaid shall be prorated among those smaller lots so that each lot shall be charged with that percentage of the remaining installment payments equal to the percentage of the unpaid final assessment charged to the parcel upon apportionment.
- Lots in subdivisions developed after the effective date of this Chapter Four of the City of Irrigon municipal code shall be assessed in equal amounts, regardless of the size of each respective lot.
- E. The apportionment shall be based on the methodology for imposing the original final assessment. Notice and hearing on reapportionment shall be provided in substantially the same manner as provided in this subchapter for levying a final assessment. The City Council may impose fees reasonably calculated to reimburse the city for its actual costs in apportioning final assessments. The provisions of this section shall apply to estimated assessments with respect to any property divided into smaller lots prior to the levy of the final assessment. (Ord. 249-20, 12-17-2020)

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1-9-23 CURATIVE PROVISIONS:

1. An improvement assessment shall not be rendered invalid by reason of:
 - (a) Failure of the city manager's report to contain all information.
 - (b) Failure to have all the required information in the improvement resolution, assessment ordinance, lien docket, or notices required to be published and mailed.
 - (c) Failure to list the names of or mail notice to an owner of property as required by this chapter.
 - (d) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining.
2. The council shall have authority to remedy and correct all matters by suitable action and proceedings. (Ord. 249-20, 12-17-2020)

1-9-24 ABANDONMENT OF PROCEEDINGS:

The council may abandon proceedings for improvements made under this chapter at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be canceled and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative. (Ord. 249-20, 12-17-2020)

CHAPTER 10

COMPREHENSIVE PLAN

- 1-10-1:** **COMPREHENSIVE PLAN ADOPTED:** Pursuant to Oregon Revised Statutes chapters 92, 197, 215 and 227, the statewide planning goals, and in coordination with Morrow County and other affected governmental units, the city hereby adopts by reference the city comprehensive plan including plan goals and policies, and the plan map, as included in city ordinance 59, and subsequent amendments thereto. (Ord. 59, 6-26-1978; 2008 Code, Ord. 250-21, 1-19-2021)

CHAPTER 11

RECORDS

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1-11-1: RECORDS MANAGEMENT PROGRAM: The city council hereby determines that it is in the best interest of the city to have a records officer and records management program and by this section, state such intent and election to participate in the record management program as defined by the state archivist. (2008 Code)

1-11-2: RECORDS OFFICER DESIGNATED; DUTIES:

Pursuant to the conditions set forth in Oregon Revised Statutes, each state agency and political subdivision shall designate a records officer to coordinate its records management program and to serve as liaison with the state archivist. The city manager is hereby designated as the records officer for the city and shall have the following duties:

- A. To create, maintain, monitor and update the citywide records retention schedule through coordination with the state archivist and department supervisors;
- B. To create a records management manual providing for the proper records handling, retention and storage for all city departments;
- C. To assist in establishing storage facilities;
- D. To keep updated on records law and procedures in order to implement required procedures and/or educate staff regarding records retention; and

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- E. To report to the state archivist regarding the records management program as required. (2008 Code)

1-11-3: RECORDS MANUAL ADOPTED: The city council hereby finds and determines that it is in the best interest of the city to adopt the "Records Management Manual" as the official city records management manual in its entirety and continue participation in the records management program as defined by the state archivist. (2008 Code)

1-11-4: RECORDS RETENTION SCHEDULE ADOPTED: The city council finds and determines that it is in the best interest of the city to adopt the "records retention schedule" document as the official city records retention schedule in its entirety and to continue participation in the records management program as defined by the state archivist. The city manager or his/her designee shall sign the certification of destruction prior to the destruction of records. (2008 Code)

1-11-5: INSPECTION OF RECORDS:

A. Right of Inspection:

1. Every person has the right to inspect any nonexempt public record of the city, subject to reasonable procedures.
2. The city shall provide proper and reasonable opportunities for inspection and examination of the records during usual business hours if such request does not interfere with the regular discharge of duties.
3. The city will not mail a general category of records to any public or private entity, as it considers such an activity an unreasonable interference with the regular discharge of its duties as the custodian (in accordance with Oregon Revised Statutes 192.430).

B. Conditions of Inspection: Records of any city departments may be inspected under the following conditions:

1. A written request must be received by the city not less than five (5) business days prior to the desired date of inspection.
2. The specific record must be identified by type, case or date of the record.

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3. The person who will inspect the records must be identified by name. (2008 Code)

1-11-6: INTEGRITY OF RECORDS:

Staff shall take reasonable measures to preserve the integrity of city records and maintain office efficiency and order:

- A. The public records law allows for the inspection of the original record.
- B. Before releasing a public record for inspection, a staff member must review the document to make certain the record does not contain any exempt information.
- C. A staff member should remain present while any original public record is being inspected to ensure the protection of the document.
- D. Copies may be furnished in lieu of inspection of original document. (2008 Code)

1-11-7: POSTPONING RELEASE FOR LEGAL OPINION: A request for public records disclosure may be postponed if staff needs to consult with the city attorney's office to obtain legal advice prior to release. (2008 Code)

1-11-8: FEES:

- A. Determination of Fees:
 1. Fees shall be established to reimburse the city for its actual cost in making public records available. Such calculation shall include cost of summarizing, compiling, or tailoring a record, either by organizing or transferring the record to a different medium, to meet the person's request. Actual cost includes the time spent by staff in locating the requested records, reviewing the records in order to delete exempt material, supervising the inspection of original documents, and copying the records.
 2. Staff should estimate charges for responding to a records request and require prepayment of the estimated charges before acting on a request. This is advisable as requests may require extensive staff time to locate or process records. If the actual charges are less than the prepayment, any overpayment must promptly be refunded.
 3. Copies of documents provided by a routine file search will be charged at the standard fee schedule unless subsection A4 of this section applies.

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4. In the event that the standard fee schedule does not accurately reflect the actual cost of providing the records, such as when a request is for an extraordinary number of documents or requires extra time to locate the records, actual staff time should be charged.
- B. Fee Schedule: A fee schedule for copies of public records of the city shall be adopted by the council by resolution. (2008 Code)

CHAPTER 12

FEES AND CHARGES

- 1-12-1:** **TITLE:** This chapter and title are known as Fees and Charges Ordinance, with a short title known as *MASTER FEE SCHEDULE*.
- 1-12-2:** **MASTER FEES AND CHARGES SCHEDULE:** Unless considerations of convenience, clarity, ease of reference, or similar factors dictate otherwise, all rates, fees, charges, deposits, refunds, reimbursements and penalties imposed or collected by the City, except where required by law to be otherwise set, shall be designated and set forth in a Master Fee Schedule (Resolution), as may be amended by the City Council from time to time. Wherever practicable throughout this code, reference shall be made to the Master Fee Schedule (Resolution) in lieu of any reference to specific rates, fees, charges, deposits, refunds, reimbursements and penalties.
- 1-12-3:** **DEPOSIT OF FUNDS RECEIVED:** All funds collected from fees, charges, deposits, refunds, reimbursements and penalties established by the Master Fee Resolution, shall be received by City staff and shall be deposited into the appropriate accounts within their respective funds. (Ord. 236-15, 3-17-2015)

CHAPTER 13

ENFORCEMENT

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1-13-1: PURPOSE AND POLICY: This chapter shall be known as the City Code Enforcement Chapter and cited as Enforcement. It is hereby published by authority of the City Council and incorporated the most recent legislation of the city as provided in this chapter.

The purpose of this chapter and any other portion of the Irrigon Code shall provide for the welfare, safety and health of the citizens of Irrigon by establishing procedure of policies, ordinances, and resolutions which can be enforced. This is done to ensure timely and uniform enforcement and to maintain public confidence.

Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the section itself, when reference is made by title in any legal documents.

A. Application

1. City policies and ordinances to be enforced under this Ordinance are those contained in the Irrigon City Code, which includes the Development Code, the City Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance, and the Transportation Support Plan, to the extent it is not enforced under specific

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enforcement procedures contained therein, and city comprehensive or development or land use ordinances co-adopted by the County pursuant to a Joint Management Agreement. A violation in any title or chapter of the Irrigon City Code that does not have an enforcement procedure to dispose of a violation is subject to this Ordinance, except for a violation(s) which unmistakably exists and imminently endangers health or property. This Ordinance shall apply when the permit language does not address violations relating to a particular complaint.

2. A violation of a Federal Law, Oregon State Statute (ORS) or Oregon Administrative Rule (OAR) that is not adopted by this Ordinance may be enforced in the manner provided in that statute or rule by a person having lawful authority to enforce such statute or rule. (Ord. 248-20, 5-19/2020)

1-13-2: PROVISIONS DECLARED MINIMUM REQUIREMENTS:

- A. Minimum Requirements Intended: In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Most Restrictive Requirements Apply: When the requirements of this title vary from other provisions of this title or with other applicable standards, the most restrictive or that imposing the highest standard shall govern. (Ord. 248-20, 5-19/2020)

1-13-3: DEFINITIONS:

For the purpose of this Enforcement Ordinance the following definitions apply:

ABANDONED

VEHICLE: A vehicle that is disabled, abandoned, parked or left standing more than 72 hours unattended upon the right-of-way of any county road, state highway, or upon any street, alley, or property over which City of Irrigon has jurisdiction, or upon any private property that is not permitted/approved for such storage or placement.

ABATEMENT:

Any action on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to, demolition, removal, repair, boarding and securing or replacement of property.

ATTRACTIVE

NUISANCE: Any negligent action or condition of property which would be both attractive and dangerous to curious children, or attract an infestation.

CHRONIC

DERELICTION: Means whenever a derelict building remains unoccupied for a period in excess of 6 months or a period less than 6 months when the building or portion thereof constitutes an attractive nuisance or hazard to the public.

CHRONIC

OFFENDER: A responsible party or property who has not complied with a City notice/order, a citation, an order of an Enforcement Officer or Law Officer for any number of violations within twelve consecutive months.

**CITATION,
COMPLAINT**

& SUMMONS: The official form which charges a person(s) with a violation of a City Ordinance, The City Code and requires that person to appear to answer or pay to the charges specified.

**CODE
ENFORCEMENT**

FILE: The public record which shall contain all documents, reports, evidence and other information concerning a particular complaint or enforcement action.

**CODE
ENFORCEMENT**

OFFICER: The person(s) whose primary duties are to conduct code investigations, issue stop work or stop use orders, issue citations, and generally initiate and prosecute enforcement actions under this Ordinance. Enforcement officers have all authority to carry out the purposes of this Ordinance and the provisions of the City Code under their authority. These persons may include any law enforcement officer, Irrigon Code Enforcement Officer, Public Health Director, Building Official, and the City Manager.

COMPLAINANT:

A person(s) who initiates a complaint against another person(s) alleging a violation of a City ordinance which is authorized by a City Council to be enforced under this Ordinance.

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DEBRIS: The remains of something broken down or destroyed, including, but not limited to, scrap metal, paper, plastic or wood, pieces of asphalt, concrete, lumber or other building supplies or yard clippings or cuttings of plant material.

DERELICT BUILDING: Any building, structure, or portion thereof which is unoccupied and meets any of the following criteria or any residential structure which is at least 50% unoccupied and meets any of the following criteria that: 1) Has been ordered to abate as a nuisance; 2) Has been issued a correction notice; 3) Is unsecured; 4) Is boarded; 5) Has been posted for violation of any portion of this Ordinance more than once in any two-year period; or 6) Has, while vacant, had a nuisance abated by the City.

GARBAGE, TRASH OR WASTE: All useless or discarded putrescible and non-putrescible materials, including but not limited to rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumping or other sludge, or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste.

HAZARDOUS VEHICLE: A vehicle left in a location or condition such as to constitute an immediate threat to the safety of vehicular or pedestrian traffic and as defined in Oregon State Highway Division Administrative Rule OAR 734-020-0147.

INFESTATION: To be overrun to an unwanted degree or in a troublesome manner, especially as predatory animals, insects, or vermin do.

INVASIVE SPECIES: An organism that causes ecological or economic harm in a new environment where it is not native.

JUNK: Broken, discarded or accumulated objects including but not limited to appliances, building supplies, furniture, vehicles, or parts of vehicles. This definition is not meant to include "bone yard".

LIVESTOCK: Domestic animals of types customarily raised or kept on a farm for profit or other purposes.

MOTOR

VEHICLE: A vehicle that is self-propelled or designed for self-propulsion.

NOISE

NUISANCE: Any sound which a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.

NOXIOUS

WEED: Any plant which is determined by the County Court to be injurious to public health, crops, livestock, land or other property.

PENALTY: A fine assessed accordingly by this Code or any enacted Ordinance against a person or property upon a finding by a citation of a violation.

PERSON: Any public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof.

**PERSON IN
CHARGE OF**

PROPERTY: An owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of property.

PLACE OR

PROPERTY: Any premises, room, house, building or structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

**PUBLIC
SAFETY**

OFFICER: A peace officer, Irrigon Code Enforcement Officer, fire prevention inspector, firefighter, or any person who, during an emergency formally declared by the City Council, has been deputized by and is acting pursuant to the orders of the Morrow County Sheriff or any other law enforcement.

**RESPONSIBLE
PARTY/**

VIOLATOR: An owner, title holder, contract seller, contract buyer, possessor or user of the land upon which a violation is occurring, or the person(s) responsible for the action, conduct, or omission which constitutes a violation of a City ordinance, who may be held responsible for a violation of a City ordinance.

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STOP
WORK
OR STOP
USE

ORDER: A formal written order issued by the City or Building Official directing that any work, action or use is in violation of a City ordinance, must stop immediately. Such an order must be issued according to the requirements of this Ordinance or City Code.

STREET OR

ROADWAY: That portion of the road right-of-way developed for vehicular traffic.

UNSAFE

BUILDING: Any building or structure where defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered, which may include the absence of public utilities.

VEHICLE: Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

VIOLATION: An offense created by an ordinance of the City of Irrigon which is punishable by a fine or punishment in addition to a fine in accordance with City Code provisions.

**VOLUNTARY
COMPLIANCE**

AGREEMENT: A written agreement signed by the responsible party(s) and the City stating the specific steps or conditions which the responsible party(s) must take or meet to cure a violation of the City Code or ordinance.

1-13-4: JURISDICTION: This Ordinance shall apply within those areas located inside the City of Irrigon an incorporated city.

1-13-5: VIOLATIONS PROHIBITED:

- A. No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or specifics under Title X or any amendment thereto. (Ord. 175-07, 6-19-2007)

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- B. No person(s) or property(s) shall allow any unsafe or unhealthy situation, nuisance, building violation, or obstruction which is in violation of the Irrigon City Code and any other Ordinance the City Council may enact. (Ord. 248-20, 5-19/2020)

1-13-6: COMPLAINTS REGARDING VIOLATIONS:

- A. Filing Written Complaint: Whenever a violation occurs, or is alleged to have occurred, any person may file a signed, written complaint.
- B. A complaint is not required to be filed by a member of the public to be in violation of any provision of the Irrigon City Code. City staff, law enforcement or designee may document such violation and submit for action and compliance.
- C. File Complaint with City Planning Official: Such complaints, stating fully the causes and basis thereof, shall be filed with the city planning official. The city planning official or designee shall properly record such complaints, investigate and take action thereon as provided by this Code and Title X. (Ord. 248-20, 5-19/2020)

1-13-7: STOP WORK OR STOP USE ORDER:

A City Staff, Building Official, or Law Enforcement, having reasonable grounds to believe that a person(s) has committed a violation, in lieu of or in addition to issuing a citation, may issue a stop work or stop use order according to the provisions of this Code.

- A. Grounds for Issuance. A stop-work or stop use order may be issued at any point in the enforcement process, if the violation observed is on which requires immediate remedial action:
 - 1. To protect the public health, safety or welfare;
 - 2. Because the responsible party(s) refuses to cooperate with the designated official; or
 - 3. Because the violation continues despite notice to the responsible party(s) of the violation or notice to obtain a necessary permit.

B. Contents. A stop-work or stop use order shall be in writing and may contain the following:

1. An order that all work or action in violation of City ordinance(s) stop immediately;
2. The name of the person(s), entity(s) or property(s) to whom it is issued (if known);
3. The effective date of the order;
4. The date the order is issued;
5. The location or address of the violation;
6. The tax account identification number;
7. The specific sections of the City Ordinance(s) violated;
8. A factual description of the nature of the violation;
9. The specific steps which the responsible party(s) must take to correct the violation;
10. The name and signature of the designated official; and
11. An address and phone number where the official can be contacted.

C. Service

A copy of a stop-work or stop use order shall be posted on the property where the Violation(s) is occurring (hereinafter “subject property”) and sent certified mail with return receipt, or any means of mailing or emailing by which a return receipt can be obtained, to the following:

1. All owners and contract purchasers of the subject property;
2. Any known lessees;
3. The City Building Official;

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4. Any known contractors doing construction work on the subject property which would be in violation of City Ordinance(s); and
5. Any other person(s) identifiable as a responsible party(s).

D. Priority

Any person upon whom a stop work order has been served may appeal the order by submitting a request for a hearing to the City within 10 business days of the service of the stop work order. Such order request may be presented personally to the City Manager or mailed. If a hearing is requested, the hearing shall be an expedited hearing in municipal court. The hearing and written findings as to the violation shall be followed in accordance with established Code and Ordinance provisions.

E. Violation of Order

If the responsible party(s) fails to obey the order, there shall promptly be issued a citation for violation of a stop work or stop use order. Each day of a violation of a stop work order constitutes a separate violation, of which area(s) of the code are in violation

F. Impact on other Permits

No building permit, sanitation permit or other permit or license may be issued, or any work continued under such permits while a stop work or stop use order is in effect when there is a violation of Title X. (Ord. 248-20, 5-19/2020)

1-13-8: ENFORCEMENT PROCEDURES:

A. Enforcement Actions

Resolution of a violation of City ordinances may be sought in any one or a combination of the following methods. Which method to be used is solely at the discretion of the City.

1. Warning process seeking voluntary compliance;
2. Voluntary compliance agreement;

3. Citation;
 4. Municipal Court Order;
 5. Summary Abatement.
- B. Investigation Authority; Entry on Premises.

Where authorized as a condition of permit approval, voluntary compliance agreement, or agreed condition of a prior enforcement order, the City designee shall have the power to lawfully enter upon and inspect, at any reasonable time, any public or private property, to investigate any alleged violation of City ordinance, order or permit approval, a violation of a statute which the City has the authority to enforce, or to ascertain compliance or noncompliance with the citation noted in this Chapter and IMC Chapter 7, a stop work or stop use order under this Ordinance, or a voluntary compliance agreement. Inspection of private property, including a private residence, will be accomplished in accordance with established ordinance(s) and lawful procedures.

C. Enforcement Process by Citation

1. If the violation has not been satisfactorily abated by the date and time specified in the warning notice, the enforcement officer may issue a citation.
2. The City shall follow the procedures detailed in Section 4 of IMC Chapter 7 to prepare, serve, and enforce citations.

D. Enforcement by Voluntary Compliance Agreement

1. Prior to entry of a judgment for a violation, the City and the responsible party may enter into an agreement designed to abate the violation.
2. Use of voluntary compliance agreements shall be governed by the standards set forth in IMC 1-7-4(D).

E. Enforcement by Municipal Court Judgment

If a Responsible Party fails to correct a violation as specified in a citation prepared under IMC 1-7-4, the Municipal Judge may issue a judgment ordering compliance and payment of penalties in accordance with IMC 1-7-4(G)(3-6).

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F. Summary Abatement.

The health officer, the chief of a Fire Department, the Sheriff, the City Manager, or the Director of Public Works may, through coordination with the City, proceed summarily to abate a health or other violation which unmistakably exists and which imminently endangers health or property. However, such summary abatement shall be limited to only those actions necessary to reduce the threat to a level that eliminates the imminent danger to health or property. No notice to the property owner or person in control of the property is required. Costs of the abatement may be assessed as provided in Subsections D.3 and D.4 of this ordinance. (Ord. 248-20, 5-19/2020)

1-13-9: PENALTIES AND COSTS:

A. Civil Penalties

Except for any separate fine issued for an amount otherwise established by law for any specific fine violation such as a nuisance dog, any person who violates the provisions of the City Code are punishable by imposition of a civil infraction/violation (fine) that has been identified by the applicable section of the code and as identified in the Master Fee Schedule.

Each day upon which a continuing offense occurs or continues shall constitute a separate violation if cited as such. In addition to the civil penalty amounts assessable herein, the City may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities and the costs of any actual damages incurred by the City attributable to the responsible party.

Payment of any fine shall not excuse or discharge a responsible party from the duty to immediately abate and correct a violation of the code, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of the code.

For the purposes of this City Code, a continuing offense occurs when a responsible party or person allows the circumstances constituting the offense to continue over consecutive 24-hour periods after:

1. having received notice of the violation; or
2. having refused notice of the violation; or
3. it is reasonable to expect that the person has actual knowledge of the circumstances constituting the offense.

B. Costs Recoverable

1. Upon a finding that a violation has occurred, the City has the discretion to order the violator, in addition to any penalties assessed, to reimburse the City for actual costs or expenditures incurred by the City in prosecuting, cleaning up or abating an ordinance violation for any of the following:
 - a. Any fees charged the City for service on responsible party(s);
 - b. Mileage for investigation service or other activities directly related to the enforcement action at the current county rate;
 - c. Postage;
 - d. Photocopying;
 - e. Publication charges;
 - f. Sampling and monitoring expenses;
 - g. Film and development costs; and
 - h. Any expense incurred by the City in abating or correcting a violation which the responsible party(s) has refused to correct.
2. All costs and expenses to be reimbursed must be documented by receipts, vouchers, or records verified by affidavit of the public official keeping such records.

C. Recovery on a money judgment

1. Every money judgment shall name the City of Irrigon as the judgment creditor.
2. A money judgment, including but not limited to funds described in Section 13-9.

D. Liens

Penalties and costs assessed against a violator(s) by order of the City shall, if not paid within 60 days of the date of the order or as otherwise specified in the order, be City liens as provided by law and City Ordinances.

Recording and releasing liens:

1. If the City intends to pursue recovery of penalties and costs against a violator the City shall cause to be filed with the County Clerk an itemized statement of the penalties and costs, as ordered by the municipal court, to be recovered. When the Statement of penalties and costs is filed the Clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the penalties and costs when so docketed shall constitute a first lien upon such property, except as to taxes. It shall be the responsibility of the City Finance to create and maintain a record of payments made by the responsible party, on a form identifying the case, the responsible party, the amount and date payment was made.
2. The City may record a money judgment as a lien in accordance with this Section, and may pursue recovery of any money judgment.
3. For purposes of a lien that has been filed, an error in the name of the owner or person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void but it shall remain a valid lien against the property.
4. The City is responsible to ensure that a satisfaction of judgment and release of lien is executed and filed as appropriate, once any money judgment is paid in full. (Ord. 248-20, 5-19/2020)

1-13-10: GENERAL PROVISIONS:

A. Appeal

A decision of the City on an enforcement action may be appealed filing a writ of review with a circuit court under ORS Chapter 34 or through other procedures authorized by the Irrigon City Code.

B. Remedies

The remedies provided herein shall be in addition to any other remedies provided by law.

C. Records

All records of enforcement proceedings shall be permanent City records. All Council orders, consent agreements and other actions entered into after the

issuance of a citation, and stop work or stop use orders shall be maintained with the City Clerk in accordance with City Records Retention.

D. Severability Clause

If any section, subsection, provision, clause or paragraph of this ordinance is adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is hereby expressly declared that every other section subdivision, paragraph, provision or clause of this ordinance would have been enacted irrespective of the enactment or the validity of the portion declared or adjudged unconstitutional or invalid.

E. Amendment Procedure

The City of Irrigon shall have the authority to order this Ordinance to be amended. (Ord. 248-20, 5-19/2020)