

CONSOLIDATED CITY CODES AS OF JULY 2022



Chapter 1: Administration

Adopted as Ordinance No. 642, October 2012 and amended by Ordinance No. 657, June 2016

Chapter 2: Local Improvement Code

Adopted as Ordinance No. 629, May 2010

Chapter 3: Utility Code

Adopted as Ordinance No. 631, May 2010 and amended by Ordinance No. 647, March 2014

Chapter 4: Business Code

Adopted as Ordinance No. 643, October 2012 and amended by Ordinance No. 654, January 2015, Ordinance No. 658, June 2016, and Ordinance No. 664, June 2017, Ordinance No. 675 & No. 676, May 2021, Ordinance No. 680 adopted March 2022, and Ordinance No. 681 adopted June 2022

Chapter 5: Nuisance and Offense Code

Adopted as Ordinance No. 664, October 2012 and amended by Ordinance No. 679, October 2021

Chapter 6: Traffic Code

Adopted as Ordinance No. 630, May 2010 and amended by Ordinance No. 678, October 2021

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General

1.005 City Seal

The following is adopted as the official seal of the City of Gold Beach and shall be

used by imprinting upon all bonds and other obligations of the City of Gold Beach.

1.010 Records

(1) Record Retention Schedule. The schedules or record retention provided in OAR chapter 166, as authorized by ORS 192.105 and 357.895, govern the retention and disposal of all records on file in each department of the city.

General

1.025 **Residency.**

(1) An individual is a “Resident” of the City of Gold Beach for the purposes of serving on a City Commission or Committee, or to be eligible for an elective city office as referenced in Chapter III, Section 12 of the Gold Beach Charter if:

- a) The individual resides within the city limits of Gold Beach and makes the City of Gold Beach a fixed and permanent home; and
- b) Gold Beach is listed as the individual’s residence address for federal income tax purposes; and
- c) If the individual is a property owner within the City of Gold Beach, the records of the Curry County Tax Assessor list Gold Beach as the individual’s mailing address; and
- d) Gold Beach is listed as the individual’s residence address on their valid Oregon driver’s license or state issued identification card; and
- e) The individual is an elector as defined by Section 12 of the Gold Beach Charter.

(2) The City Administrator shall make the initial determination as to whether an individual qualifies as a “resident” under this Section 1.025. The City Administrator’s determination may be appealed pursuant to subsection (3) of this Section 1.025.

(3) A person aggrieved by a residency determination by the City Administrator may appeal that determination to the City Council by filing a written request with the City Administrator within five (5) calendar days of the City Administrator’s written decision. The City Administrator shall immediately notify the Council and the Mayor of the appeal request, and shall schedule a date for an appeal hearing as soon as practicable, but in no

case later than twenty-one (21) calendar days from the date of the City Administrator's receipt of the appeal request. Prior to the appeal hearing, the City Administrator shall transmit the appeal request together with the City Administrator's written determination and any facts, data, or exhibits that were part of said determination to the Council, the Mayor, and the appellant. At the hearing, the appellant will have the opportunity to present information to show that the appellant does meet the definition of "resident" in this Section 1.025. The City Council may uphold or overturn the City Administrator's determination. All decisions of the City Council pursuant to this Section 1.025(3) are final and binding.

1.030 **Interpretation of Ordinances**

(1) All words and phrases in ordinances of the City shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such technical or peculiar and appropriate meaning.

(2) The following grammatical rules shall apply to the ordinances of the City, unless it is apparent from the context that a different construction is intended:

- (a) Each mention of gender includes the masculine, feminine and neuter genders.
- (b) The singular number includes the plural and the plural includes the singular.
- (c) Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.
- (d) The words "shall" and "must" mean mandatory; the word "may" means permissive.

City Government

1.105 **City Council**

(1) **City Council - Regular Meetings.**

(a) The Council of the City of Gold Beach shall hold one regular meeting each month at a time and at a place that it designates and to last no longer than

10:30 p.m., unless there is unanimous consent to continue beyond that time.

(b) The regular meetings shall be held in the Council Chambers of the City Hall of the City of Gold Beach.

(2) City Council - Special and Emergency Meetings.

(a) The Mayor, Administrator, or at the request of two Council members, shall, call a special meeting of the City Council.

(b) Except upon consent of all members of the Council or in the case of an actual emergency, public notice of the meeting shall be given at least twenty-four (24) nor later than forty-eight (48) hours prior to the meeting time. This notice shall be reasonably calculated to give actual notice to interested persons of the time and place for holding the meeting. Notice shall be deemed to be sufficient if it is published in a newspaper of general circulation, in the City or posted in a conspicuous place in City Hall.

(c) The Mayor or the City Administrator shall attempt to give notice of the time and place of a special meeting to all Council members by email, telephone, or letter sent to them at their address on file in the office of the City Administrator.

(d) In the case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice.

1.110 City Administrator

(1) The Office of City Administrator and Procedures for Appointment.

(a) The City Administrator shall be appointed by the Mayor with approval of the majority vote of all incumbent members of the council.

(b) City Administrator shall receive such compensation as the City Council shall fix from time to time.

(c) At the time of appointment the person so appointed as City Administrator need not be a resident of the City of Gold Beach, Oregon, or the State of Oregon, but within six (6) months from the date of appointment, said person shall reside within fifteen (15) minutes traveling time from the location of the Gold Beach

City Hall. The City Council may excuse the City Administrator from said requirement, if deemed necessary, for good and appropriate cause.

(d) No member of the city council shall be eligible to receive the appointment as city administrator during the term for which the member shall be elected.

(e) The City Administrator shall be required to carry a bond for the faithful performance of his duties in the amount of \$50,000. The expense of said bond shall be paid from the General Fund.

(2) Duties, Powers and Authority of the City Administrator.

(a) City Administrator shall devote his/her entire time to the discharge of his/her official duties as outlined hereunder, and shall attend all meetings of the City Council, unless excused therefrom, by the Council or the Mayor. He/she shall keep the City Council advised, at all times, of the affairs and needs of the city and make reports annually, or more frequently if requested by the Council, on all the affairs and departments of the city.

(b) City Administrator shall be the chief administrative officer and head of the administrative branch of the city and shall have the right to hire, discharge and discipline all city employees and control their work. This power shall include the power to transfer an employee from one department to another. City Administrator shall supervise the departments to the end of attaining the utmost efficiency in each of them. City Administrator shall also have the power to contract for necessary services. City Administrator shall have no power to appoint or remove the Municipal Judge, or other officers appointed pursuant to Chapter III, Section 10, of the Gold Beach Charter of 1986, as such appointment and removal power is within the hands of the Mayor and City Council pursuant to the Charter. City Administrator shall have the right to control the work of such city-appointed officers.

(c) City Administrator shall enforce all codes and ordinances of the city, including the provisions of all franchises, leases, contracts, permits and privileges granted by, or running to the city.

(d) City Administrator shall act as purchasing agent for all departments of the city and all purchases shall be requisitioned and signed by him/her or his/her designee.

(e) City Administrator shall supervise the operation of all departments and public utilities owned and operated by the city, and shall have supervision powers over all city real or personal property. Prior to acquisition, disposal, or substantial improvements to real property owned by the City, the City Administrator shall consult with the City Council before taking action to acquire, dispose, or improve such real property.

(f) City Administrator or his/her designee shall act as budget officer and prepare an annual budget for presentation to the City Budget Committee and City Council.

(g) City Administrator shall supervise the expenditures of all departments, divisions or services of the city and analyze and supervise the functions, duties and activities of the various departments, boards and services of the city, and all employees thereof, and make such recommendations to the Mayor and the City Council with reference thereto, which in his/her judgment, will result, if adopted, in greater efficiency of the overall operation of the City of Gold Beach's government.

(h) City Administrator shall develop and organize, when necessary, improvement projects and programs, and aid and assist the Mayor and City Council in the various departments and boards in carrying through to a successful conclusion.

(i) City Administrator will make and keep an inventory of all personal and real property owned by the city and advise the Mayor and Council of the purchase of new machinery, equipment or supplies, which in his/her judgment the same can be obtained under the terms and conditions which are most advantageous to the city.

(j) City Administrator shall make, or cause to be made, studies and surveys of the duties, responsibilities and work of the personnel appointed or employed by the city. The City Administrator shall inform and update the Mayor and City Council in regards to his/her decisions on abolition, consolidation, transfer, removal of positions or personnel, or any other administrative decisions made by the Administrator which in his/her judgment will increase administrative efficiency. Such information reports to the Council may be made orally or in writing at the discretion of the City Administrator.

(k) City Administrator shall perform such other duties as may be required

of him/her by the Mayor and City Council, not inconsistent with the laws of the State of Oregon, and the provisions of the Charter and Codes and Ordinances of the City of Gold Beach.

(l) The City Administrator shall endeavor at all times to exercise the highest degree of tact, patience and professional courtesy in his/her contacts with the public and personnel employed by the city, to the end that the highest possible standards of public service shall be maintained.

(3) Legislative Policy Making Prohibited. The City Administrator shall not exercise any legislative making policy or legislative functions, nor attempt to commit or to bind the Mayor or City Council to any action, plan or program regarding legislative policy or legislative functions, and such shall remain exclusively the province of the city.

(4) Removal of City Administrator. The City Administrator may be removed, with or without cause at any time, by majority vote of all incumbent members of the Council. The action of the City Council in removing the City Administrator shall be final.

(5) Salary and Benefits. The salary and benefits of the City Administrator shall be set by the City Council within the annual budget of the City of Gold Beach and may be revised from time to time by the City Council in its discretion and legislative function.

1.118 Authority of City Council when Position of City Administrator is Vacant.

In the event that the office of the city administrator becomes vacant and the mayor has not appointed an interim city administrator, the City Council by majority vote may exercise the hiring authority normally granted to the city administrator to fill vacant city positions at the department head level.

1.120 City Planning Commission.

(1) Creation. A City Planning Commission consisting of five (5) members is hereby created.

(2) Appointment and Term of Office. The Mayor shall appoint the members of the Planning Commission with the approval of the City Council. The members of the Planning Commission shall meet all of the requirements of ORS 227.030 and at least four (4) of the members shall be residents of the city. One member may be selected from outside the city, but shall reside within the city urban growth boundary as that term is defined in the City Comprehensive Plan.

(3) Term of Office. Each member shall serve a term of four (4) years.

(4) Liaison. The City Council may appoint one of its members to be a liaison between the City Council and the Planning Commission. Said liaison shall be in addition to the five commission members and shall be permitted to engage in discussion of all matters coming before the Commission but shall be a nonvoting and nonauthoritative party at the Planning Commission's meetings and hearings.

(5) Vacancy and Removal. Any member of the Planning Commission who is absent from three (3) consecutive regular Planning Commission meetings without just cause, or who engages in misconduct or nonperformance of duty, may be removed by the Mayor and Council after hearing. The hearing shall be conducted by the Mayor at a special City Council meeting called for that purpose and the decision of the Mayor and Council shall be final. Thereafter, the Mayor shall appoint, with the approval of the City Council, a replacement member to fill that position. All Planning Commission members shall notify the Planning Department Staff Person ten (10) days prior to any regular meeting, of an intended absence from that meeting. Failure to so notify may be cause for removal by the Mayor.

(6) Member's Conflict of Interest. A member of the Planning Commission shall not participate in any commission proceeding or action in which he may have a conflict of interest as defined by ORS 224.135. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

(7) Compensation. Members of the Planning Commission shall serve without compensation. Preauthorized, reasonable and necessary expenditures may be reimbursed by the City subject to City reimbursement policy.

(8) Budget. There shall be included in the budget of the City of Gold Beach an amount to pay the reasonable and necessary expenses of the Planning Commission during the succeeding year.

(9) Officers. The Planning Commission shall choose its own Chairman and Vice Chairman from its own members and each shall serve as long as the commission wishes. Planning Commission shall implement the duties outlined below.

(a) It shall be the duty of the Chairman to preside over all regular and special meetings of the commission, to sign any documents necessary and exercise the commission's powers.

(b) It shall be the duty of the Vice Chairman to exercise powers of the Chairman when the Chairman is absent.

(c) If the Chairman or Vice Chairman are both absent, a temporary Chairman shall be appointed by a majority of the members present, provided that a quorum is present.

(d) The Planning Staff shall keep written minutes and audio recordings of Planning Commission meetings.

(10) Meetings. The Planning Commission shall hold one meeting a month at the Gold Beach City Hall. A special meeting may be called by the written requests of a quorum of the Planning Commission members. The time, place and agenda of all Planning Commission meetings shall be given proper public notice.

(11) Quorum and Voting. For the commission to act at any regular or special meeting, it shall be necessary that three of the members thereof be present. For a motion, resolution or recommendation to be approved by the commission, it shall be necessary that a majority of the members present at the meeting vote affirmatively for said motion, resolution or recommendation. Any commission member serving as an officer shall have a vote equal to all other members of the commission.

(12) Powers and Duties. The City Planning Commission shall have the following powers and duties:

(a) All of the powers and duties set forth in ORS 227.090.

(b) The commission shall consider the comprehensive planning problems of the City of Gold Beach, and shall review the layout and the proposed location of streets, parks and playgrounds, and all other installations or improvements that is believed advisable and beneficial, and shall outline the means and details of obtaining or making said improvements. The commission shall make written reports to the City Council and submit its proposals and decisions to the City Council in writing.

(c) The Gold Beach City Council hereby directs and appoints as hearing officer the Gold Beach Planning Commission and does delegate to said commission all powers and duties as prescribed in ORS 227.165.

(d) The Planning Commission shall have the authority to administer the City of Gold Beach Comprehensive Plan, subdivision ordinance, zoning ordinance, major and minor partitions, off street parking ordinance, annexation ordinance, and dedication and vacations of lands for public use. The Planning Commission shall review and investigate public testimony where necessary on any such actions, and thereafter, make a written report and recommendation to the City Council. The Planning Commission may also recommend to the City Council any amendments in the above described ordinances, or suggest any new ordinances to the City Council in regards to land use planning.

(e) The Planning Commission shall make and alter rules and regulations for its internal governing and procedure consistent with the laws of this state, and the codes, ordinances and city charter of the City of Gold Beach.

(13) Effective Recommendation. All written recommendations of the Planning Commission to the City Council shall be binding as a final decision, unless within thirty (30) days after commission decision, the City Council on its own motion, with written notice to the Planning Commission and all affected parties, decides to review the Planning Commission's action; or unless an appeal of said action is filed pursuant to the appropriate ordinance under which any hearing and decision was held. "Affected parties" is defined as the applicant, or any person receiving written notification of a Planning Commission hearing and any parties submitting written or oral testimony at the Planning Commission hearing on the particular subject.

1.125 Local Budget Committee

(1) Mayor. The Mayor shall participate in the budget process as an ex-officio member of the budget committee, but shall have no vote in the decisions of the budget committee.

(2) Membership, Appointment and Term of Office. The Budget Committee membership, appointment and term of office are subject to the provisions of ORS 294.414. The committee shall consist of the five (5) members of the City Council and five (5) additional members who shall be appointed by the City Council. The appointive members of the Budget Committee shall be electors of the City and shall not be officers, agents or employees of the City of Gold Beach. If less than five (5) electors are willing to serve, the City Council and any electors who are willing to serve shall be the Budget Committee. If no electors are willing to serve, the City Council shall be the Budget Committee. Each City Council member shall serve as a Budget Committee member for his/her term of office. Each appointed elector shall serve a term of three (3) years which term shall be staggered

so that approximately one-third (1/3) of the terms of the appointive members end each year.

(3) Vacancy and Removal. If any appointive member is unable to serve the term for which the member was appointed, or an appointive member resigns prior to completion of the term for which the member was appointed, the Mayor, with approval of the Council, shall fill the vacancy by appointment for the unexpired term.

If the number of City Council members is reduced or increased by law or charter amendment, the City Council shall reduce or increase the number of appointive members of the Budget Committee so that the number thereof shall be equal to but not greater than the number of members of the City Council. In the event of a reduction, the City Council may remove such number of appointive members as may be necessary. The removals shall be made so that the number remaining will be divided into three equal or approximately equal groups as to terms. In the event of an increase, additional appointive members shall be appointed for such terms so that they, together with the members previously appointed, will be divided into three equal or approximately equal groups as to terms.

(4) Compensation. Members of the Budget Committee shall serve without compensation. Preauthorized, reasonable and necessary expenditures may be reimbursed by the City subject to City reimbursement policy.

(5) Officers. The Budget Committee shall at its first meeting after its appointment elect a chairperson, a vice-chairperson and a secretary from among its members and each shall serve as long as the Committee wishes.

(6) Meetings. The Budget Committee shall meet from time to time at its discretion. All meetings of the Budget Committee shall be open to the public.

Elections

1.205 Elections: General

(1) Precinct Boundaries. For election purposes the City of Gold Beach shall be divided into such precincts as are formed from time to time by the Curry County clerk for state general elections.

(2) Qualified Voters. All persons registered to vote with the county clerk of Curry County, and residing in the city of Gold Beach, shall be qualified voters at all city

elections.

(3) The Curry County Elections Department shall conduct all city elections and the general laws of the state shall apply to notice of city elections, the conduct of city elections, recounts of the returns therefore and contests therefore.

(4) The filing fee for candidacy to the city offices of Mayor or Councilor is set by Resolution adopted by the Gold Beach City Council.

(5) State Election Laws. All matters relating to election procedure not expressly set forth in the charter of the City of Gold Beach, Section 1.210, or this section shall be governed by the election laws of the State of Oregon.

(6) Referral of Residency Determination to the City Council. If the City Administrator determines that a candidate for City elective office does not meet the definition of "resident" in Section 1.025 of this Code, the City Administrator must reject the candidate's filing. A candidate for elective city office may appeal the City Administrator's determination pursuant to Section 1.025(3) of this Code. In the case of an appeal of the City Administrator's determination by a candidate for an elective City position, the Council shall schedule the appeal hearing for a date that will allow the City Administrator to timely submit the candidate's election materials to Curry County if the Council determines that the candidate is eligible to hold elective office in the City. If the City Administrator rejects a candidate's filing, the City Administrator shall return the candidate's filing fee if the candidate does not appeal the City Administrator's determination within the period specified in Section 1.025(3) of this Code, or the City Council determines that the candidate is not eligible to hold elective city office.

1.210 Initiative and Referendum

(1) Introductory Provisions.

(a) Definitions. As used in this Section:

(i) The term "measure" means: a legislative enactment by the common council not necessary for the immediate preservation of the public peace, health and safety; a part of such an enactment; or a proposed legislative enactment for the city.

(ii) The term "voter" means a legal voter of the City.

(iii) The term “petition” means an initiative or referendum petition for ordering a measure to be submitted to the voters.

(iv) The term “refer” means to write, type, or print.

(v) The term “write” means to write, type, or print.

(b) This Code section provides a complete procedure for the voters to exercise their initiative and referendum powers which, unless specifically stated to the contrary, is intended to be supplementary to and not in conflict with the procedures set forth by ORS 250.005, et seq.

(2) Initiative

(a) Manner of proposing measure. The manner of proposing a measure by the initiative shall be to deposit at the office of the City Administrator a duly prepared petition ordering the measure to be submitted to the voters.

(b) Form of petition. The initiative petition shall be in the form prescribed by the Secretary of State pursuant to ORS 250.015.

(c) Presentation of Measure to City Council. If the initiative petition contains the required number of verified signatures, the City elections officer shall file the initiated measure with the City Council at its next regular meeting.

(d) Submission of Measure to Voters. The City Administrator shall cause to be submitted to voters at the time provided by Section 1.310(6) a charter or charter amendment proposed by the initiative and any other initiative measure not enacted by the City Council within thirty (30) days after its proposal.

(3) Referendum

(a) Manner of referring measure. The manner of referring a measure shall be:

(i) For a person to deposit at the office of the recorder a duly prepared referendum petition for the measure, or

(ii) For the common council to order the submission of the measure to the voters.

(b) Form of petition. The referendum petition shall be in the form prescribed by the Secretary of State pursuant to ORS 250.015.

(c) Time for referring measure to petition. No referendum petition shall be deemed duly prepared unless it, and the signatures requisite to its being deemed fully prepared, are deposited at the office of the City Administrator within thirty (30) days after the City Council enacts the measure.

(d) Time for Council to refer measure. The City Council may refer a measure only at the session at which it enacts the measure.

(e) Submission of measure to voters. The City Administrator shall cause a referred measure to be submitted to the voters at the time fixed by this section.

(4) Petition.

(a) Presentation for checking, specifications, and preparation of titles.
No petition shall be deemed duly prepared unless:

(i) Prior to its circulation, a copy of it is deposited at the office of the recorder, and

(ii) It is in the form required by the Secretary of State pursuant to ORS 250.015, and

(iii) As circulated, it complies with the requirements of state law, the specifications listed below and contains the ballot title, either that prepared initially or that approved or prescribed on appeal, required by this code for the measure for which it is being circulated.

(b) Checking, specifications, and preparation of titles. When a copy of a petition to be circulated is deposited at the office of the City Administrator, the City Administrator shall immediately:

(i) Check it for the legal sufficiency of the form in which it appears;

(ii) Advise the person depositing it whether it is legally sufficient in form, and if it is not so, how to make it so;

(iii) Transmit the copy to the city attorney for preparation of a ballot title.

(c) Requisite number of signatures. The number of signatures on a petition requisite to its being deemed duly prepared shall be, for an initiative petition, fifteen (15) percent, and for a referendum petition, ten (10) percent of the electors registered in the City at the time the prospective petition is filed.

(d) Attachment of measure to sheets for signatures. No signature on a petition sheet shall be counted unless attached to it at the time of the signing of the signature is a copy of the measure to which the petition refers.

(e) Verification of signatures. No signature on a petition sheet shall be counted unless the person who circulates the sheet verifies it by an affidavit in the following form:

State of Oregon)
County of Curry) ss
City of Gold Beach)

I, _____, being first duly sworn, state that each signer of this sheet signed it in my presence, and that I believe that he/she stated his/her name and address correctly on the sheet and is a legal voter of the City of Gold Beach, Oregon.

Address of Affiant: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires:

(f) Certification of signatures. Within five (5) business days after a duly prepared petition is deposited at the office of the City Administrator, the City Administrator shall cause to be verified the number and genuineness of the signatures and voting qualifications of the persons signing the petition by reference to the registration books in the office of county clerk of Curry County. If a sufficient number of qualified voters signed the petition, the City Administrator shall file the same with the City Council within ten (10) business days after verification.

(5) Ballot Title.

(a) Preparation of ballot title.

(i) The ballot title for a measure ordered by the common council, or proposed to be ordered by a petition, to be submitted to the voters shall be prepared and in the hands of the City Administrator within five (5) days after the council orders the submission or after a copy of the petition is first deposited at the office of the City Administrator.

(ii) When the common council orders submission of a measure to the voters, or when a petition for ordering submission of a measure to the voters is first deposited at the office of the recorder, the city attorney shall, within the aforesaid period of time, prepare the title and cause the said title so prepared to be filed in the record of the matter.

(iii) A voter who has signed the petition and who is dissatisfied with the title, prepared and filed as aforesaid, within five (5) days after it has been filed by the city attorney as aforesaid, may appeal to the City Council of a written appeal deposited at the office of the City Administrator asking for a different ballot title for the measure and therein stating why the title prepared and filed is unsatisfactory.

(iv) Within three (3) days after the deposit of the appeal at the office of the City Administrator, the City Council shall, either in regular or special session, afford the appellant a hearing and either approve the title or prescribe another ballot title for the measure. The title thus adopted shall be the ballot title for the measure.

(b) Requisites of ballot title. The ballot title shall be in the form prescribed by ORS 250.035 to 250.038.

(6) Election.

(a) Time to vote on measure. The time for voting on a measure which is not adopted by the City Council or which is required to be submitted to the voters shall be set forth in ORS 250.325.

(7) Effect on Measures.

(a) Proclamation of Mayor.

(i) Immediately upon the completion of the canvass of the voters on a measure submitted to the voters pursuant to this section, the Mayor shall issue a proclamation:

(aa) Recapitulating the vote on measure,

(bb) Declaring whether the vote shows a majority of those who voted on the measure to be in favor of it, and

(cc) In case the vote shows a majority of them to be in favor of the measure, announcing it to be effective from the date of the vote.

(ii) The City Administrator shall give public notice of the proclamation by:

(aa) Publishing it once in a newspaper of general circulation in the City, or

(bb) Posting copies of it in five (5) public places in the City, including city hall.

(iii) The proclamation shall be filed with the measure.

(b) Effective date of measure. A measure submitted to the voters pursuant to this Code shall take effect only when approved by a majority of the voters voting upon it.

(c) Measures subject to referendum. A measure, so long as it is subject to the referendum, shall have no effect.

(d) Conflicting measures. Of conflicting measures approved by the voters at an election, the one receiving the greater number of affirmative votes shall be paramount.

(8) Criminal Provisions.

(a) Unlawful acts. No person other than a voter shall sign his name to a petition; sign a petition with a name not his own; or sign his name to a petition with

knowledge that he has previously signed his name to the petition. No person shall knowingly circulate or deposit at the office of the City Administrator a petition which to his knowledge contains a signature signed in violation of this Code. No person shall procure or attempt to procure a signature to a petition by fraud. No person shall make a statement which he knows to be false concerning a petition. No person shall make a document for which this Code provides which contains a false statement.

Courts

1.305 Powers and Duties of Municipal Judge.

(1) **Municipal Court; Municipal Judge as Administrative Head of Municipal Court.**

The Gold Beach Municipal Court is the tribunal exercising power for the enforcement of the ordinances of the City of Gold Beach and such other enforcement power as may be conferred by the state of Oregon. The municipal judge is the presiding judge of the court and the court's administrative head, and shall exercise administrative authority and supervision over the municipal court consistent with the Charter of the City of Gold Beach, the U.S. Constitution, the Oregon Constitution, and any other applicable laws and ordinances. To facilitate the exercise of that administrative authority and supervision, the municipal judge may:

- (a) Make rules and issue orders appropriate to that exercise;
- (b) Require appropriate reports from staff of the municipal court;
- (c) Establish time standards for disposition of cases;
- (d) Propose a budget for the municipal court; and
- (e) Undertake any other action authorized by law necessary to effectuate the purposes of the municipal court and the office of municipal judge.

(2) **Qualifications of Municipal Judge; Selection; Term of Appointment; Removal; Compensation.**

(a) Unless otherwise approved by a majority of the Council, the municipal judge shall be a person of good character, shall be a citizen of the United States, and shall be a resident of the state of Oregon. The municipal judge may be, but is not required to be, an attorney. If the municipal judge is an attorney, then the municipal judge

shall be a member in good standing of the Oregon State Bar Association.

(b) The municipal judge shall be appointed by majority vote of all sitting councilors. Once appointed, the municipal judge shall serve at the pleasure of the Council until the appointment is rescinded by resolution of the Council.

(c) The municipal judge may be removed at any time by a majority vote of all sitting City Council members.

(d) Compensation for services provided by the Municipal Judge shall be established by majority vote of the City Council.

(3) Absence or Vacancy in Office of Municipal Judge.

(a) When the municipal judge is incapacitated or otherwise absent, is disqualified for prejudice, or when there is a vacancy in the office, the City Council may appoint any person who meets the qualifications for appointment as municipal judge (Section 2.1) to serve as municipal judge pro tempore. The municipal judge pro tempore may perform the functions of the municipal judge, may hear proceedings and may enter any judgment, order, or decree with the same force and effect as if done by the municipal judge.

(b) Any appointment under this section shall be made by resolution of the City Council, which shall designate the duration of the appointment.

(c) No action or proceeding pending in municipal court shall be affected by the vacancy or absence of the municipal judge.

(4) Powers of the Municipal Court.

The municipal court shall have such powers as is conferred upon municipal courts under the Oregon Constitution, the Charter of the City of Gold Beach, and Oregon law. By way of illustration, but not limitation, the municipal court has the power:

(a) To enter judgments, orders and decrees necessary to effectuate the exercise of its power to enforce the ordinances of the city as well as to enforce any infractions or violations authorized to come before the municipal court pursuant to the Oregon Revised Statutes regarding traffic violations.

(b) To compel compliance with and obedience to its judgments, orders,

and decrees in or out of court.

(c) To preserve and enforce order in its immediate presence and in the proceedings before it and to control, in the furtherance of justice, the conduct of the court's ministerial officers and parties and witnesses connected with any proceeding before it.

(d) After finding of guilt, to impose a fine up to the limit allowed by the statutory authority, city ordinance, and/or Oregon Revised Statutes as violated by any defendant and may require defendant to pay such fines within appropriate periods as well as the reasonable costs incurred as a consequence of court proceedings.

(e) To compel the attendance of persons to testify in any proceeding pending in municipal court.

(f) To administer oaths in any pending proceeding, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

(g) To adjourn any proceeding before the court from time to time as may be necessary, unless otherwise expressly prohibited by city ordinance or state law.

(5) Sessions of Court; Place of holding Court; Scheduling; Legal Holidays.

(a) Sessions of municipal court shall be public, and shall be held in the City of Gold Beach Council Chambers.

(b) Municipal court shall be held on the second and last Wednesday of each month or such other dates as may be designated by the court. If the day appointed for holding court is a legal holiday, the court shall be held the next Wednesday following which is not also a legal holiday.

(c) Municipal court may be held and judicial business may be transacted on any day other than Saturdays, Sundays, and legal holidays, except that the court may exercise the powers of a magistrate on any day.

(d) The municipal court shall be in session only for such time as may be necessary to complete the judicial business of the city.

(6) Local Rules of Procedure.

The municipal judge may adopt local rules for the conduct of the municipal court

that are not inconsistent with the rules of procedure established by this ordinance or any rules made applicable to a municipal court by state law.

(7) Time for Decision.

Any question submitted to the court shall be decided and the decision rendered within thirty (30) days after submission, unless prevented by sickness or unavoidable casualty; provided that the time may be extended by stipulation in writing signed by the parties and filed with the court before the expiration of the thirty-day period.

(8) Contempt of Court.

The court may exercise power to punish contempt in the manner provided by ORS 33.015-33.155.

(9) Disqualification.

The municipal judge shall not hear any proceeding if any party moves the court for a change of judge on grounds of prejudice against the party or the party's attorney. The motion shall be supported by an affidavit by the party, under oath, stating that the municipal judge is prejudiced against the party or the party's attorney, stating with particularity the fact or facts supporting the existence of prejudice, stating the party cannot or reasonably believes the party cannot have a fair and impartial hearing before the judge, and that the motion to disqualify is not filed for the purpose of delay. Upon receipt of the motion, the municipal judge shall grant the motion if grounds for disqualification actually exist. Failure to allege specific facts supporting the existence of prejudice shall result in a denial of the motion. The motion shall be filed not less than two weeks before the party's first appearance, and failure to do so shall result in a waiver of a right to seek disqualification. No party shall file more than one motion to disqualify in any proceeding.

(10) Administrative Search Warrants.

(a) Authorization. The municipal judge is authorized to issue administrative search warrants authorizing the inspection or investigation at a designated location upon application by the City Attorney, Building Official, Police Chief or Fire Chief, or their duly authorized representatives, acting in the course of their official duties, whenever an inspection or investigation of any place is required or authorized by any municipal ordinance or regulation.

(b) Grounds for Issuance.

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

(ii) Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the location or there is probable cause to believe that a condition of nonconformity with a health, public protection or safety ordinance, regulation, rule, standard or order exists with respect to the particular location, or an investigation is reasonably believed to be necessary in order to determine or verify the condition of the location.

(c) Procedure for Issuing Search Warrant.

(i) Before issuing any administrative search warrant, the municipal judge shall examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.

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

(d) Execution of Search Warrant.

(i) Except as otherwise provided in this section, in executing an administrative search warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present credentials, authority and purpose to the occupant or person in possession of the location designated in the warrant and shall show

him or her the warrant or copy thereof upon request.

(ii) In executing an administrative search warrant, the person authorized to execute the warrant need not inform anyone of his or her authority and purpose, as prescribed in subsection (1) of this section, but may promptly enter the designated location, if, at the time of execution, the location is unoccupied or not in the possession of any person or is reasonably believed to be in such condition.

(iii) A public safety officer may be requested to assist in the execution of the administrative search warrant.

(iv) An administrative search warrant must be executed and returned to the municipal judge by whom it was issued within 10 days from its date, unless the municipal judge, before the expiration of such time, extends the time for five days by endorsement thereon. After expiration of the time prescribed by this subsection, the warrant, unless executed, is void.

1.310 Interpretation and Rules of Construction.

(1) Definitions.

As used in this code, the following mean:

(a) Building Official: The City Planner or his or her designee, assigned to enforce the uniform, specialty, and other building codes.

(b) Code: The City of Gold Beach municipal Code and Ordinances.

(c) Codes Enforcement Officer: Any person designated by the City Administrator to undertake enforcement of any city ordinance.

(d) Person: An individual, association, corporation, partnership, trust or any other entity at law or in fact.

(e) Fire Department Official: The City of Gold Beach Fire Chief or his or her designee.

(f) Public Safety Officer: The City of Gold Beach Chief of Police or his or her designee.

(2) Interpretation of Ordinances.

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

(b) The following grammatical rules shall apply to the ordinances of the City, unless it is apparent from the context that a different construction is intended:

- i. Each mention of gender includes the masculine, feminine and neuter genders.
- ii. The singular number includes the plural and the plural includes the singular.
- iii. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.
- iv. The words "shall" and "must" mean mandatory; the word "may" means permissive.

(3) Computation of Time.

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

(4) Construction.

The ordinances of the city shall be construed with a view to effect their objectives and to promote justice.

(5) Effect of Repeal of Repealing Ordinance.

Whenever an ordinance which repeals a former ordinance is repealed, either expressly or by implication, the former ordinance shall not thereby be revived unless it is expressly so provided.

(6) Prohibited Acts Include Causing and Permitting.

Whenever the ordinances of the city make an act or omission unlawful, such ordinance shall include as unlawful the act or omission of causing, aiding, abetting, or concealing such act or omission.

(7) Violations Outside City Limits.

An act made unlawful by any ordinance of the city shall constitute a violation when committed on any property owned or controlled by the city, even though outside the city's corporate limits.

(8) Continuing Violations.

Whenever an act is prohibited or declared to be unlawful or the doing of an act is required or the failure to do an act is declared to unlawful, each day the violation persists shall constitute a separate and distinct violation.

(9) Liability.

(a) A person is guilty of a violation if the act or omission is committed by his or her own conduct or by the conduct of another person for which the persons is liable, or both.

(i) A person is liable for the conduct of another person if:

(aa) The person is made liable by the ordinance defining the violation; or

(bb) With the intent to promote or facilitate the commission of the violation, the person solicits or commands such other person to commit the violation, or aids or abets or agrees or attempts to aid or abet such other person in planning or committing the violation, or having a legal duty to prevent the commission of the violation fails to make the effort the person is required to make.

(ii) In the prosecution for a violation in which liability is based upon the conduct of another person, it is no defense that such other person has not been prosecuted for or convicted of any violation based upon the conduct in question or has been convicted of a different violation.

(b) When an act is required, such that it may be done by an agent as well as the principal, such requirement shall be construed to include all such acts performed by the agent, acting under either authorized or apparent authority.

(c) In addition to the liability of a corporation, firm, partnership, association, or joint stock company otherwise imposed by the ordinances of this city, such an organization is guilty of a violation if;

(i) The conduct constituting the violation is engaged in by an officer, employee or agent of the organization acting within the course and scope of their office, employment or agency; or

(ii) The conduct constituting the violation is knowingly tolerated by the officers, employees or agents of the organization.

(iii) A person is liable for conduct constituting a violation which he or she performs or causes to be performed in the name of or in behalf of a corporation, firm, partnership, association, or joint stock company to the same extent as if such conduct were performed in his or her individual capacity.

(10) Classification of Offenses; Penalties.

(a) Unless otherwise provided by law or ordinance, all violations of city ordinances are classified as infractions.

(b) If provided for in the ordinance defining the violation, the court may order restitution in addition to any penalty or fine.

(c) The amounts for fines and penalties shall be set and from time to time adjusted by resolution of the City Council. At the time any such fine and penalty amounts are so adjusted, previous fines and penalties will be automatically repealed whether previously set by ordinance or resolution.

1.315 Court Rules and Procedure.

(1) Citation; Complaint; Summons.

(a) A citation substantially conforming to the requirements of this section may be used for citing violations of city code and ordinance.

(b) A citation shall contain the following:

(i) Complaint.

(ii) Department record.

(iii) Summons

(c) A summons shall contain the following information:

(i) The name of the court; the name of the person or persons cited; the date on which the citation was issued; the name of the complainant; and the time at which the person cited is to appear in court.

(ii) A statement or designation of the violation in such manner as can be readily understood by a person making a reasonable effort to do so and the date and place the violation is alleged to have occurred.

(iii) A notice to the person or persons cited that a complaint will be filed with the court based on the violation.

(iv) The maximum amount of penalty or bail, if any, fixed for the violation, and a statement notifying the person that a money judgment may be entered up to the maximum amount of the penalty or the cost of nuisance abatement, along with other costs allowed by law if the defendant fails to appear.

(d) A complaint shall contain the following information:

(i) The name of the court; the name of the city in whose name action is being brought; and the name of the defendant or defendants.

(ii) A statement or designation of the violation in such a manner as can be readily understood by a person making a reasonable effort to do so and the time and place of the alleged violation.

(iii) A verification that the complainant swears or affirms that he or she has reasonable grounds to believe, and does believe, that the person or persons cited have violated a provision of the code.

(e) The citation may also contain additional information as may be appropriate for administrative departments of the city, including an indication of whether a

written warning was previously issued.

(2) Persons Authorized to Issue Citations; Complaints by Private Citizens.

(b) A citation may be issued by the Codes Enforcement Officer, Public Safety Officer or Fire Department Official if he or she has reasonable grounds to believe that the person or persons to be charged are in actual violation of a provision, other than a criminal provision, of the code. A citation may be issued by the Public Safety Officer if the officer has probable cause to believe that the person to be charged with the violation is in violation of a criminal provision of the code.

(c) Any person may seek to have the city issue a citation for violation of the code by filing a complaint with the Codes Enforcement Officer, Public Safety Officer, or Fire Department Official if such violation is a violation of a criminal provision of the code, alleging under oath and upon personal knowledge material facts which, if proven, would constitute a violation, provided that such person can testify at trial to material facts in the case.

(d) Any person who, in connection with the issuance of a citation or the filing of a complaint under this subsection, knowingly certifies falsely to matters set forth therein shall be subject to a penalty upon conviction of \$1,000.00

(3) Delivery and Filing of the Summons and Complaint.

The Codes Enforcement Officer, Public Safety Officer or Fire Department Official, as the case may be, shall cause summons to be served on the person cited and shall file the complaint along with proof of service of the summons with the court.

(4) Right to Counsel.

(a) A defendant may be represented by counsel at any trial for a violation, but defense counsel shall not be provided at public expense.

(b) At the defendant's first appearance in municipal court, the defendant shall be informed by the court of his or her right to have counsel before pleading to the violation and shall be asked if he or she wishes to obtain counsel before pleading.

(c) At any trial for an infraction, the city attorney may aid the Codes Enforcement Officer, Public Safety Officer or Fire Department Official in preparing evidence and obtaining witnesses, but shall not appear unless the defendant retains counsel. The

court shall give the city attorney timely notice if defense counsel is to appear at trial.

(5) First Appearance; Return of Summons.

The defendant shall:

- (a) Either appear in court at the time indicated in the summons; or
- (b) Prior to such time, deliver to the court the summons together with the amount of the penalty or bail, if any, set forth in the summons, along with a request for a hearing or a written statement in explanation or mitigation; or
- (c) Prior to such time, deliver the summons together with a waiver of hearing and plea of guilty, along with the penalty or bail set forth in the summons.

(6) Effect of Defendant's Written Statement in Explanation or Mitigation.

- (a) If the defendant submits a written statement in explanation or mitigation and does not request a hearing, the statement shall constitute a waiver of hearing, a consent to judgment by the court and assessment of penalty, if, based on the written statement and testimony or written statements of other witnesses, if any, the court finds the defendant violated the provision of the Code with which the defendant has been charged.
- (b) If the defendant submits a request for a hearing along with the written statement in explanation or mitigation and requests a hearing, the court shall fix the date and time for hearing and shall mail notice to the defendant at least fifteen days in advance of the hearing.

(7) Court-Ordered Hearing; Judgment on Failure to Appear.

- (a) In any proceeding where the defendant fails to appear, the court may, at its discretion, direct a hearing be held.
- (b) The court may proceed to make a determination without a hearing in the following circumstances:
 - (i) The defendant fails to appear at the time, date and place specified in the citation and a hearing is not required under ordinance or statute.

(ii) The defendant appeared at the time, date and place specified in the citation and requested a hearing or was ordered by the court to appear at a subsequent hearing, and the person fails to appear at the time, date, and place set for the hearing or subsequent hearing on the matter.

(iii) A determination under this section shall be based on the citation and on any evidence the court may, in its discretion, determine to be appropriate.

(iv) Upon making a determination under this section, the court may enter judgment and may impose the penalty, along with a money judgment for costs, assessments and any restitution authorized by ordinance or law.

a. If the court orders restitution, the court need not make a determination of the defendant's ability to pay. The defendant may seek review of his or her ability to pay by filing a written request with the court within one year after entry of judgment. The court shall set a hearing on the matter, and may reduce the amount restitution ordered if the defendant establishes at the hearing that he or she is unable to pay the restitution in whole or in part.

(c) If judgment is entered under this section after the defendant has failed to appear, on motion by the defendant and upon such terms as are just, the court may relieve the defendant from the judgment, upon showing that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. The motion must be made within a reasonable time, but in no event more than one year after entry of judgment in the matter, unless the judgment is for the abatement of a nuisance in which case the motion must be made prior to the time the city has expended funds to abate the nuisance.

(d) No judgment may be entered under this section for failure to appear unless the summons contained a statement notifying the defendant that a money judgment may be entered against the defendant up to the maximum amount of the penalty, along with other costs allowed by law if the defendant fails to appear.

(8) First Appearance.

At the time of first appearance, the court shall apprise the defendant of the nature of the alleged violation, and advise the defendant that he or she may plead guilty or not guilty, plead guilty with matters in mitigation, as the case may be. Upon a plea of guilty, or a plea of guilty with matters in mitigation, judgment shall be entered. Upon a plea of not guilty, the court shall set a trial date.

(9) Discovery.

(a) Upon request by the defendant the Codes Enforcement Officer, Public Safety Officer or Fire Department Official shall disclose to the defendant the following material and information within his or her possession and control.

(i) The names and addresses of persons whom the city intends to call as witnesses at trial, together with relevant written or recorded statements or memoranda of any oral statements made by such persons.

(ii) Any written or recorded statements or memoranda of any oral statements made by the defendant or co-defendant if the trial is to be a joint trial.

(iii) Any reports or statements of experts made in connection with the particular case, including results of examinations and of scientific tests, experiments and comparisons, which the city intends to offer into evidence at trial.

(iv) Any books, papers, documents, photographs, or tangible objects which the city intends to offer into evidence at trial or which were obtained from or belong to the defendant.

(b) Upon request by the city, the defendant shall disclose to the city the following material and information within the possession and control of the defendant:

(i) The names and addresses of persons whom the defendant intends to call as witnesses at trial, together with relevant written or recorded statements or memoranda of any oral statements of such persons.

(ii) Any written or recorded statements, videotapes, or memoranda of any oral statements made by the defendant or co-defendant if the trial is to be a joint trial.

(iii) Any reports or statements of experts made in connection with the particular case, including results of examinations and of scientific tests, experiments and comparisons, which the defendant intends to offer into evidence at trial.

(iv) Any books, papers, documents, photographs, or tangible objects that the defendant intends to offer into evidence at trial.

(c) All discovery requests shall be made not less than fifteen days, and all discovery completed not less than ten days, prior to trial on the matter.

(d) The following material and information shall not be subject to discovery under this section;

(i) Work product, legal research, records, correspondence, reports or memoranda to the extent that they contain opinions, theories or conclusion of city attorney, the Codes Enforcement Officer, Public Safety Officer, Fire Department Official or other city official in connection with the investigation, prosecution of the violation, or such documents to the extent they contain opinions, theories or conclusions of the defendant or defendant's attorney in connection with the defense of the violation.

(ii) The identity of a confidential informant where disclosure of the identity of the informant is exempt under Oregon law and failure to disclose the identity of the informant will not infringe on the constitutional rights of the defendant.

(e) The court may order any party who refuses to comply with a discovery request under this section to permit inspection of the material, may grant a continuance, may refuse to permit the witness to testify, may refuse to receive into evidence material not disclosed, or may enter such other order it deems appropriate under the circumstances. Upon a showing of good cause, the court may, after in camera examination, enter an order that specified disclosures be denied, restricted or deferred or make such other order it deems appropriate under the circumstances. The court shall make a record of such examination, which shall then be sealed and preserved in the records of the court, and made available to the appellate court in the event of an appeal.

(10) Trial Without Jury; Commencement; Burden of Proof; Proof of Mental State Not an Element.

(a) The trial shall be by the court without a jury, and shall not be scheduled for less than fifteen (15) days from the date of the citation, unless the defendant waives the fifteen-day period.

(b) The city shall have the burden of proving the alleged violation, other than a criminal provision of the code, by a preponderance of the evidence.

(c) A defendant may not be required to be a witness at trial.

(d) Notwithstanding any other provision of law, the court may admit the affidavit of any witness into evidence in lieu of taking testimony orally in court. The authority granted under this subsection is subject to all of the following.

(i) In order to allow testimony to be presented by affidavit, the court must adopt rules and procedures allowing for the use of affidavit (attached hereto as "Exhibit A").

(ii) The court shall allow testimony by affidavit only upon signed waiver by the defendant of the right to have the witness present for examination in court.

(iii) The court may allow testimony by affidavit under this subsection with respect to any matter including, but not limited to, matter described in ORS 40.460.

(iv) Nothing in this subsection requires the defendant or any other witness to waive the right to appear if testimony is taken by affidavit as provided by this subsection.

(e) Unless specifically set forth in the ordinance which is the basis for the violation, proof of a culpable mental state is not an element of a violation.

(f) The determination at trial shall be on the citation and upon any evidence that the court, in its discretion, determines is appropriate. The court may make such further investigation it deems necessary to resolve the case, and may call witnesses or order the production of documents and things that pertain to the matter.

(11) Judgment as Lien.

Any judgment entered shall be a lien against any real property owned by the defendant in the city, shall be entered upon the city's lien docket and may be foreclosed according to law or ordinance.

(12) Procedure Upon Order of Nuisance Abatement.

(a) If the defendant fails to abate any nuisance within the time directed by the court, the city may cause abatement to occur and seek a money judgment as provided by this section. The court shall retain jurisdiction over the proceeding until final order is entered that the nuisance has been abated.

(b) If the defendant fails to abate a nuisance within the time period provided by the court, the city may cause the nuisance to be abated, and move the court for entry of a money judgment. Upon receipt of the city's motion, the court shall cause a Notice and Statement of Judgment to be mailed to the defendant at the defendant's address as indicated on the most recent Curry County tax roll, or personally delivered to the

defendant. The Notice and Statement of Judgment shall state that objections to the judgment must be filed with the court within twenty days of the date of mailing of the Notice and Statement of Judgment or personal delivery thereof, as the case may be, and that any objection shall state with particularity the grounds for the objection. The fact that a contract was bid for nuisance abatement pursuant to Oregon public contracting law shall be irrefutable presumption as to the reasonableness of the costs of abatement.

(c) Upon receipt of a timely and properly filed objection to Notice and Statement of Judgment by the defendant, the court shall schedule a hearing on the grounds for the objection. After hearing, or after the expiration of the twenty-day period for filing objections, if no objection has been received, the court shall enter judgment for the city.

(13) Appeals.

(a) A party to a proceeding in municipal court may appeal from any judgment or other final determinative order. Any appeal from the municipal court shall be by writ of review, taken and perfected in the manner provided by ORS Chapter 34.

(b) In addition to any notices required to be served under ORS Chapter 34, notice of the appeal shall also be served upon the City Administrator.

(c) When the notice of appeal has been filed with the municipal court, the appellate court shall have jurisdiction over the matter. Failure to serve a notice of appeal on the City Administrator shall not preclude jurisdiction in the appellate court.

(14) Severability.

The sections and subsections of this ordinance are severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections

(15) Rules for the Use of Affidavit in Lieu of Taking Testimony at Trial.

(a) An affidavit must be in the witness's own handwriting and shall explain the relevant events in which they were involved or which they witnessed to the best of their ability.

(b) The witness's signature on the affidavit must be certified by a Notary Public of the state of Oregon prior to submission of the affidavit to the court.

(c) A copy of the completed and notarized affidavit should be kept by the person submitting the affidavit. The original must be submitted to the municipal court.

(d) Falsified affidavits submitted to the court are subject to prosecution for perjury and a fine of up to \$1,000.00.

Personnel

1.405 Personnel Policies.

(1) Establishing Personnel Policies. The City of Gold Beach may establish personnel policies by resolution of the City Council.

City Contracts

1.600 Contract Review Board and Contracting Agency.

The Gold Beach City Council is designated as the local Contract Review Board of the City and shall have all the rights, powers, and authority necessary to carry out the provisions of ORS Chapters 279A, 279B, and 279C (the “Public Contracting Code”), City Public Contracting Rules (“City Rules”) and the Gold Beach Code. The City Administrator, his or her designee, and any other purchasing agent as authorized by City policy, is hereby designated as the City’s “Contracting Agency” and may exercise all authorities, powers, and duties granted to a Contracting Agency under the Public Contracting Code and City Rules, unless otherwise limited by City Ordinance, resolution, or policy.

1.605 Opting Out of the Attorney General’s Model Rules

Public contracts shall be let by the City of Gold Beach in accordance with the State of Oregon Public Contracting Code and City Public Contracting Rules, to be adopted by resolution of the City Council and Local Contract Review Board if required by State law. The City hereby opts out of the Mode Rules adopted by the Attorney General pursuant to ORS 279A.065, and hereafter those rules do not apply to the City.

1.610 Authority of the City Administrator

The City Administrator or his or her designee is authorized to:

(1) Enter into City contracts not to exceed \$75,000 without additional authorization of the Local Contract Review Board.

(2) Recommend that the Local Contract Review Board approve or disapprove contract awards in excess of \$75,000, or change orders or amendments to contracts more than \$75,000.

LOCAL IMPROVEMENT CODE

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General

2.005 Definitions.

(1) Definition of Terms. The following words and phrases when used in this Local Improvement Code shall, for the purpose of this Code, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning.

(a) “City” shall mean the City of Gold Beach, its City Council or such City officer as the Council shall designate in general or in a particular case.

(b) “Obstruction” shall mean any excavation, tunnel, material, barrier or thing that constricts, obstructs or prohibits the normal use and flow of traffic, vehicular or pedestrian.

(c) “Person” shall mean every natural person, firm, co-partnership, association or corporation.

(d) “Sidewalk” shall mean the part of the street right-of-way between the curb lines or the lateral lines of a roadway and the adjacent property lines.

(e) “Street” shall mean a way or place open as a matter of right to the use of

the public for vehicular traffic and lying between the boundary lines of said place or way as follows:

(i) Arterial Street. A street of considerable continuity which is primarily a traffic artery for intercommunication between major geographic areas or which carries a heavy volume of traffic.

(ii) Collector Street. A street supplementary to the arterial road system and used for both through traffic and access to abutting properties.

(iii) Residential Street. A street providing direct access to abutting residential property lot size and or dwelling density potential indicate urban residential traffic volume.

(f) "Tunnel" shall mean an excavation requiring the removal of dirt or like matter and including the driving or forcing of pipe through the ground.

Public Improvements

2.105 Procedure for Making Public Improvements.

(1) Initiation of Proceedings; Engineer's Report.

(a) Whenever the Council determines, upon its own motion or upon the petition of the owners of two-thirds (2/3) of the property who are also two-thirds (2/3) of the property owners which will benefit specially from the improvement, to make a local improvement, the Council shall direct the City engineer or engineer employed by the City to make a survey and plat of such project and to submit a written report for the proposed improvement. The petition shall clearly state that each petitioner agrees to grant any easements reasonably necessary to construction of the improvement without receiving monetary compensation. If an individual wishes to pay for the engineering report PRIOR to obtaining petition signatures, they may request reimbursement, from the City, for the reasonable costs of preparing or obtaining the engineering report if the petition is accepted by the Council.

(b) Unless the Council directs otherwise, the report shall contain:

(i) A full description of such project and a description of each lot, tract, or parcel of land, or portion thereof, specially benefited thereby, with the name of the record owner or owners and may contain the name or names of other persons found to have any interest in or lien upon said property.

(ii) A description of the boundaries of the district benefited and to be assessed for such improvement as shown by the Council's resolution.

(iii) An estimate of the probable cost of such project, which estimate

shall include legal, administrative, and engineering costs attributable to such project.

(iv) A recommendation of a fair apportionment of the whole or any portion of the cost of the project to the property specifically benefited.

(2) Improvement Resolution; Public Hearing.

(a) Promptly after the filing of the engineer's report, the City Administrator shall prepare a notice stating that such report is on file in his office subject to examination, fixing the dates when the same was filed, the estimated probable cost of such proposed improvement, a brief statement of the area proposed to be assessed therefore, and notifying all persons interested to present their objections to said report, if any they have, before the City Council on a date specified in such notice, not less than ten (10) days after the date of the first publication or posting, as hereinafter provided, of said notice.

(b) The Council shall specify in a Resolution providing for the said improvement whether the notice provided for in this section shall be published or posted as herein provided.

(i) If the Council shall declare notice be published, the City Administrator shall prepare the notice of publication containing the information above set forth, together with the names of the record owners of the property and a description thereof, either by street number or other legal description and cause the said notice to be published in a newspaper of general circulation, either daily or weekly, within the city; that publication shall take place at least twice prior to the hearing provided for therein.

(ii) If the Council shall determine to give notice by posting, the City Administrator shall prepare a notice containing the same information as provided for by published notice, one (1) copy thereof shall be posted in the City Hall, and at least two (2) copies thereof shall be posted within the confines of the area where the proposed improvement is to be carried out. In addition, the City Administrator shall cause to be mailed to the address of the record owners a copy of said notice. Said notices shall provide for the hearing before the City Council, which may not be less than ten (10) days from the date of the mailing or posting, whichever is later, of the said notice.

(c) If the Council, after hearing the objections, if any there be, finds such report to be reasonable and just, it may adopt the same or amend, and, as amended, adopt the same by ordinance, embodying such report. It may require a supplementary or further report from the City engineer or engineer employed by the City.

(3) Remonstrance.

Not later than seven (7) days after the public hearing provided for in section (2), a remonstrance (filed with the City Administrator's office) of the owners of two-thirds (2/3) of the

property who are also two-thirds (2/3) of the property owners who will be assessed for the improvement shall defeat a resolution or petition to effectuate an improvement. In such an event, no further action to effect the improvement shall be taken for six (6) months.

(4) Procedure for LID Participants to Dissolve LID.

If two-thirds (2/3) of the original petitioners who requested formation of the local improvement district wish to cancel the improvement, they may do so by presenting the Council with a petition requesting dissolution. This request will be allowed on condition that all City expenditures related to the improvement must be paid by the petitioners requesting dissolution of the improvement district. The petition for dissolution must be presented to the Council PRIOR to acceptance of a bid for construction of the improvement. Upon receipt of the dissolution petition, the Council, by resolution, shall order the improvement be suspended for a period of not less than six (6) months or abandoned. The City will bill the petitioners for their prorated portion of the cost, with reimbursement to the City required within thirty (30) days of the billing date. The individual assessments of the reimbursement amount shall be set forth in the resolution suspending or abandoning the improvement. If any petitioner does not pay their portion within thirty (30) days, the City may impose a lien on the petitioner's property for the amount due the City in the manner provided in Section 2.110 (6)

(5) Manner of Doing Work; Contracts; Bids; Bonds.

The Council shall provide by resolution the time and manner of doing the work of such project, and may provide for the City to do the work itself, award the work on contract, or any combination thereof. In the event that the work is done under contract, the Council shall comply with the requirements of public contract law and ordinance.

2.110 Assessments.

(1) Assessment Procedure.

(a) When the Council, after the hearing provided for in section 2.105(2), shall have ascertained what it deems to be a fair, just, and proper assessment of benefits to the property it determines to be specially benefited, it may pass an ordinance specifying in detail such assessment, which ordinance may be passed at any time after the hearing hereinbefore specified. In order to avoid deficit assessments or rebates, or for any other reason deemed sufficient by the Council, such ordinance specifying and levying assessments need not be passed until the work is completed and total costs determined.

(b) The City Administrator shall cause notice of the proposed assessments to be mailed or personally delivered to the owner of each lot proposed to be assessed. The notice shall state the amounts of assessment proposed on that property and shall fix a date, not less than twenty (20) days from the date of delivery of the notice, by which time written objections to the proposed assessment may be filed with the City Administrator's office. Any such objection shall state the grounds thereof.

(c) The Council shall consider the objections and may adopt, correct, modify, or revise the proposed assessments and shall determine the amount of assessment to be

charged against each lot in the district, according to the special and peculiar benefits accruing thereto from the improvement, and by ordinance shall spread the assessments.

(2) Method of Assessment. The Council, in adopting a method of assessment of the costs of the local improvement, may:

(a) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.

(b) Authorize payment by the City of Gold Beach of all or any part of the cost of any such improvement, provided the method selected creates a reasonable relation between the benefits derived by the property specially assessed, and the benefits derived by the City as a whole.

(c) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

(3) Notice of Proposed Assessment. The notice required to be sent to the owner of a lot affected by a proposed assessment shall be sent by first class mail, addressed to the owner or his agent. If the address of the owner or of the owner's agent is unknown to the City Administrator, he/she shall mail the notice addressed to the owner or his agent at Gold Beach, Oregon. Any mistake, omission or failure with respect to such 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 owner, or if personal service cannot be had, then by publication once (1) a week for two (2) successive weeks in a newspaper of general circulation in the city.

(4) Alternative Methods of Financing. When, in the opinion of the Council, on account of topographical or physical layout, unusual or excessive public travel, or other character of work is involved, or when the Council otherwise believes the situation warrants it, it may pay what it deems a fair proportion of the cost of such improvement in relation to the benefits derived by the property directly benefited from general funds of the City, and the amount to be assessed to the property benefited shall be proportionately reduced. Nothing herein contained shall preclude the Council from using other available means of financing improvements, including federal or state grant-in-aid, sewer service or other types of service charges, revenue bonds, general obligation bonds, or other legal means of finances. In the event any of such other means of finance are used, the Council may, in its discretion, levy special assessments hereunder to cover any part of the costs of the improvement not covered by such means.

(5) Appeal. Any person feeling aggrieved by assessments made as herein provided may, within twenty (20) days from the passage of the ordinance levying the assessment by the Council, appeal there from to the circuit court of the state of Oregon for Curry County. Such appeal and the requirements and formalities thereof shall be heard, governed, and determined and the judgment thereon rendered and enforced so far as practicable in the manner provided for appeals from assessments in ORS 223.401, as now or hereafter amended. The result of such appeal shall be a final and conclusive determination of the matter of such assessment, except with respect to the City's right of reassessment as provided herein.

(6) Lien Recording; Notice of Assessment; Foreclosure.

(a) The Council upon completion of the project shall adopt a resolution directing the City Administrator to enter in the docket of City liens a statement of the respective amounts assessed upon each particular lot or parcel of land with the names of the record owners thereof. Upon such entry in the lien docket, the amounts so entered shall be immediately due and payable and shall be a lien and charge upon the respective lots, tracts, and parcels of land against which the same are placed. Such liens shall be superior to all other liens, except as otherwise provided by law.

(b) Within ten (10) days after making the entry in the City lien docket, the City Administrator shall cause notice of the assessment to be published once in a newspaper of general circulation in the City and to be mailed or personally delivered to the owners of the assessed lots. The notice shall contain a brief statement of the assessments and shall state that upon failure of the owner to make application to pay the assessment in installments as provided by ORS 223.205-223.330 (Bancroft Bonding Act), or upon failure of the owner to pay the assessment in full within thirty (30) days from the effective date of the assessment ordinance, then interest will commence to run at the rate determined by the City. In the event that any installment payments elected by the owner are not paid in full within thirty (30) days of the installment payment due date, the City may add a late fee of \$10 for each such late payment. All late fees incurred shall be added to the lien on the property which is established by subsection (a) of this section. The amount of the late fee may be modified by a resolution adopted by the City Council.

(c) The City of Gold Beach may proceed to foreclose as delinquent any lien sixty (60) days after the same shall have been entered in the lien docket, as provided for foreclosures of liens in ORS 223.505-223.650, as now constituted or hereafter amended.

(7) Deficit Assessment. If the assessment is made before the total costs are known, and it be found that the amount assessed is insufficient to defray the expenses of the project, the Council may by resolution declare such deficit and prepare a proposed deficit assessment. The City Administrator shall give notice thereof and of the hearing of objection thereto as above described with reference to the original report, and the Council upon such hearing shall make a just and equitable deficit assessment. Such deficit assessment shall be consolidated with the assessment in the lien docket.

(8) Rebate. If, upon the completion of the project, it is found that any sum assessed therefore upon any property is more than sufficient to pay the cost thereof, the Council must ascertain and declare the same, and when so declared it must be entered in the docket of City liens as a credit upon the appropriate assessment. If any such assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the payment of any portion of the rebate credit which exceeds the assessment by a warrant on the City treasurer.

(9) Abandonment of Proceedings. The Council shall have full power and authority to abandon and rescind proceedings for projects hereunder at any time prior to the final consummation of such proceedings, and if liens have been assessed upon any property under this procedure, they shall be canceled, and any payments made thereon shall be refunded to the payer, his assigns, or legal representatives.

(10) Curative Provisions. No assessment shall be invalid by reason of a failure to give in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket, or elsewhere in the proceedings, the name of the owner of any lot, tract, or parcel of land or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person or the entry of a name other than the name of such owner or other person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinbefore specified, unless it appears that reasonable notice has not been given of the hearing upon the proposed assessment or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the shall have power and authority to remedy and correct all such matters by suitable action and proceedings.

(11) Reassessments. If a local improvement assessment is declared void by a court, or if the Council is in doubt as to the validity of the assessment, the Council may reassess the cost of the improvement, in the manner provided by ORS 223.405 to 223.485, as now constituted or hereafter amended.

Streets

2.205 Standards and Specifications for Streets.

(1) All parcels of land intended for vehicular use by the general public shall be offered for dedication, except as otherwise provided herein.

(2) The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and to the proposed use of the land to be served by the streets. Street determination shall be coordinated with consideration of access to building sites and with need for utility locations. Proposed streets shall provide for the continuance or appropriate projection of existing streets in the surrounding area and otherwise meet standards as outlined below.

(3) Standard minimum roadway requirements. Unless otherwise indicated in the transportation element of the comprehensive plan, or in an adopted neighborhood circulation plan, the street right-of-way and roadway widths shall not be less than the minimums shown in table 1 and where applicable Table 2.

TABLE 1

Standard Minimum Roadway Requirements

A: Minimum standards where both public water and public sewer are available.

Type of Street	Minimum Right-of Way Width (feet) **	Minimum Paved Roadway (Curb) Width (feet)	Minimum Sidewalk Width (feet) *****	Average Grade %*
Arterial	80	44	5-both sides	8
Collector	50	36	4-both sides	10
Residential	50	32	4-both sides 5-one side only	12
Cul-de-sac Radius	50	36***		
Commercial/ Industrial	60-80	44	5-both sides	
Alley	20	20		

* Maximum of 200 feet can be to 18 percent.

** Additional right-of-way may be required for adequate protection of cuts and fills, slide hazard, and drainage problems.

*** No on street parking where minimum standard is used. Developer is responsible for no parking signage subject to city requirements.

***** Suitable alternative pedestrian routes may be provided as approved by planning commission.

Note: All streets within this section shall have curbs and gutters.

B: Minimum standards for residential streets in areas where public sewer and/or public water are not available.

1. Minimum right of way width - 50 feet.
2. Minimum paved roadway surface - 24 feet.
3. Minimum cul-de-sac radius requirements - 50 feet right of way, 30 feet paved.
4. Road surface shall be striped with a 4 foot walk/bike lane on one side.
5. Roadways may have gravel shoulders.
6. No on street parking is allowed where minimum standard is proposed. Developer is responsible for applicable signage subject to city requirements.

(4) Notwithstanding minimum standards as specified in Table 1 (A) above, the following optional residential roadway standards found in Table 2 may be used in areas where the average slope within the project area is greater than 15 percent. Area slope calculations shall be done by a licensed engineer or surveyor and shall be approved by the city engineer.

TABLE 2

Hillside Minimum Roadway Requirements

Minimum Right-of-Way Width (feet)	Minimum Paved Roadway (Curb face to curb face) Width (feet)	Marked Walk/ Bike Lane	Average Grade	Curb/Gutter
50 feet	26*	4'-one side (Same as Standard Road)		

*Parking requirement

Parking bays as illustrated on Figure 1, shall be required to provide on street parking at regular intervals along the roadway. These parking bays shall be spaced no more than 300 feet apart and shall provide on street parking at a minimum rate of two (2) spaces for every lot proposed. These spaces are not to be assigned to specific lots or parcels. It should be noted that this requirement does not effect the off street residential parking requirement.

A buffered parking bay (Figure 1) may be required by the planning commission in more active street areas.

(5) Cul-de-sacs. A cul-de-sac street shall be as short as possible and shall have a maximum length of 500 feet notwithstanding this requirement the length may be extended up to 800 feet without a variance if the planning commission determines that unusual circumstances exit and based upon written documentation from the City Engineer and Fire Chief indicating that said extension will not create a hazardous situation.

(6) Curves. Centerline radii of curves shall not be less than 300 feet on arterials, 200 feet on collectors, or 100 feet on residential streets.

(7) Construction of Streets and Roads to Meet Engineering Requirements. All streets and roads constructed within the City of Gold Beach shall be constructed to the specifications of the City Engineer and in accordance with the "Standard Specifications and Engineering Requirements for Public Works Improvements" approved by the City Engineer, which Standard Specifications are hereby adopted and incorporated by reference.

(8) Construction of Streets and Roads to Meet Public Works Requirements. All streets and roads constructed within the city of Gold Beach shall be constructed to the "Standard Specifications for Public Works Construction" as published by the American Public Works

Association, Oregon Chapter, which are now in effect or which shall take effect in the future. These specifications are hereby adopted and incorporated by reference.

(9) Alleys. When any lots are proposed for commercial or industrial usage, alleys at least 20 feet in width shall be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved.

(10) Street alignment. As far as practical, streets shall be in alignment with existing streets by continuation of the centerline thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet.

(11) Intersection radius. Intersections of streets with fewer than four (4) moving lanes of traffic for each street shall have a corner radius at the right-of-way line of not less than 30 feet. The City Engineer may approve exceptions up to 5 feet less in order to match exiting conditions or provide desired design controls.

(12) Street intersection angles. All streets within or abutting a development shall intersect one another at an angle as near to a right angle as is practicable in each specific case unless otherwise necessitated by topographical conditions or other pre-existing conditions.

(13) It is the desire of the City to have all preexisting nonconforming public roads brought up to, at minimum, the minimum standards set forth above. However, in cases, due to topography, water courses or odd shaped parcels or any other special circumstances whereby it is impractical to comply with the above, said requirements may be modified in such a manner as necessitated by the circumstances after inspection and written recommendation of the City Engineer, and approval of the City Council.

2.206 Driveway approaches. The location and width of access driveways onto public streets shall be subject to the following design standards and criteria:

(1) Minimum/maximum approach width, drive separation:

Use	Minimum Width	Optimum Width	Maximum Width between drives	Separation
Single and two family dwellings	12'	15'	24'*	5'
All other residential	15'	24'	32'	22'
Commercial	24'	24'	32'	22'
Industrial	24'	30'	48'	22'

*For up to two (2) parking stalls. For each additional parking stall within a garage that faces the street from which it is accessed, an additional 12 feet of width may be added.

(2) Distance from intersection. Driveway approaches shall be positioned from the intersection of a residential street a distance of no less than 20 feet and 100 feet for collector and arterial streets, provided however that such distances may be reduced by the city engineer where impractical due to lot configuration and/or width.

(3) Number of accesses permitted. Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe traffic circulation and carrying capacity of the street. Except as further restricted by this section, properties of less than 100 feet of frontage shall be limited to two (2) access lanes per frontage which may be together or separate and properties exceeding 100 feet of frontage shall be limited to two (2) access lanes per each 100 feet of frontage.

(4) Access driveway grade and surfacing. All driveway aprons shall be paved to a minimum 5 foot width. Access driveways shall have a minimum travel surface of 12 feet for single and two (2) family residential and 15 feet for all other residential accesses, 24 feet for commercial and industrial accesses. Driveways shall be no greater than 20 percent and shall be paved if greater than 12 percent. Driveway plans shall be approved by the City Planning Director and City Engineer.

2.207 Street lights. Street lighting shall be provided along all proposed streets within the City, and shall be provided to the following standards:

(1) Location. As part of a new street development, street lighting shall be installed at intersections and at a maximum distance of 220 feet apart with the following exceptions:

(a) A cul-de-sac where the terminus is less than 150 feet from the nearest lighted intersection; otherwise, a street light shall be installed at the end of a cul-de-sac.

(b) For streets serving industrial areas, there shall be a minimum of one (1) street light at each intersection.

(2) Service. Nearest facility carrying 120 volts secondary and controlled by individual photoelectric control devices. All services shall be underground.

(3) Materials and height. Galvanized steel, concrete, aluminum or fiberglass, or on existing wood distribution facilities, 25 to 30 feet in height.

(4) Design standards for roadway average maintained luminance. The following luminance values represent the lowest average maintained values that are currently considered appropriate for the following roadways (measured in foot-candles):

Classification	Commercial Areas	Industrial Areas	Residential Areas*
Arterial	2.0	1.4	1.0
Collector	1.2	0.9	0.6
Residential	0.9	0.6	0.4

*Mercury vapor luminaries only

(5) Alternate Standards. Notwithstanding the above standard coastal road development or other development where light pollution may be a concern in residential zones may propose alternative lighting standards, provided that the level of luminance resulting from the proposed alternate standards is equivalent to the level of luminance provided by the typical standards, as provided in Sections 1-4 above. The request for alternate standards shall be accompanied by calculations demonstrating equivalent luminance by an engineer registered in Oregon, and must be approved by the City Engineer. Power for and maintenance of alternate standards shall be the responsibility of the homeowners whose property is served by the alternate standards, through the means of a Homeowners Association, formed in accordance with Oregon law. The Homeowners Association shall hold the City harmless from damage claims arising from negligence on the part of the Homeowners Association in supplying power to or maintenance of said alternate standards. The City Attorney must review and approve the bylaws, covenants, codes and restrictions of the Homeowners Association for the proposed alternate standards.

2.208 Street Definitions.

(1) Arterial Street. A street of considerable continuity which is primarily a traffic artery for intercommunication between major geographic areas or which carries a heavy volume of traffic.

(2) Collector Street. A street supplementary to the arterial road system and used for both through traffic and access to abutting properties.

(3) Residential Street. A street providing direct access to abutting residential property lot size and or dwelling density potential indicate urban residential traffic volume.

2.210 Regulations for Streets.

(1) No Alterations. No person shall modify, alter or change any existing street in any manner which would result in the street being out of conformance with the Standard Specifications required by Section 2.205(1) of this Code or which would render conformance with the Standard Specifications more difficult or expensive, without the prior appraisal of the City Council.

(2) Application Requirements. It shall be unlawful for any person to obstruct, cut, break, dig up, damage in any manner, undermine or tunnel under any public street or alley without first making application to the City of Gold Beach, depositing security, and obtaining a permit therefore as provided in this Section.

(3) Application for Permit. Applications for said permits shall be in written form prescribed by the City Administrator's office and shall specify the name and address of the applicant; the date of the application; the name of the street or alley to be cut or tunneled under; the exact location of the cut or tunnel; the nature of the street surface involved; the purpose of the work; the size and nature of the cut or tunnel; the number of days required to complete the work; and an agreement to deposit such security as required by the City to comply with the provisions of this Section and with the specifications of the City pertaining to the conduct of the work; the type and manner of material replacement to save the City and its employees harmless against any

injury or damage that may result from the acts of the applicant, and to file a report of the work done within 24 hours of its completion. Application for each permit to be issued for a limited time and for a specific cut or tunnel in the street or alley shall be accompanied by a fee determined by Resolution of the City Council.

(4) Security. Before the issuance of any permit, the City shall require the applicant to file with the City either:

(a) A surety bond in an amount fixed by the City, conditioned that the applicant will, immediately upon the completion of the work, remove all surplus earth, rubbish or other material, replace the pavement cut or undermining in a condition as good as or better than it was before, and keep the same in good repair, at his own expense, for a period of time to be designated by the City, but not to exceed one (1) year from the completion of said work.

(b) Cash or certified check in an amount equal to twice the estimated replacement cost of the pavement to be cut, together with the cost of re-excavation and refilling with proper material, if necessary, as determined by the City, to be held and returned, subject to the same conditions as set forth above in the case of surety bonds.

(c) A blanket surety bond to cover all street cuts and tunnels made by any particular applicant for a period of one (1) year from completion of the last cut or tunnel made, in an amount to be fixed by the City, but not to exceed \$5,000, and subject to the same conditions as stated above with reference to bonds for particular street cuts.

(5) Issuance of Permit. If the City Administrator is satisfied that the excavation, cut or tunnel is feasible and proper, that the application has been made in due form, and that adequate security has been filed as required by the provisions of this Section, a permit shall be issued which shall designate the name and address of the person to whom the permit is granted; the date of the issuance of the permit; the street or streets or alley to be cut, tunneled under, or obstructed; the nature of the street surface or pavement involved; the purpose of the work; the size and nature of the cut, excavation or obstruction; the estimated cost of restoration; the nature and amount of security deposited; the time within which the work is to be completed, as determined by the City; and such other restrictions, specifications, and regulations as may be deemed necessary or proper by the City for the safety of the public and the protection of the public interest.

(6) Conduct of Work. All work under said permits shall be done in conformity with the provisions of this Section, the terms of said applications and permits, and under the supervision and subject to the approval of the City. Upon completion of the excavation, cut, tunnel, or obstruction, all surplus earth, rubbish, or other material shall be removed immediately and street or surface pavement shall be replaced in as good as or better condition that it was before.

(7) Adherence to and Exhibition of Permits. No work shall be undertaken other than that specified in the application and permit for the particular cut, excavation, tunnel, or obstruction. Upon demand of any City officer or employee, said permits shall be produced at the place where the work is in progress, or such work shall be stopped until said permit is produced.

(8) Barricades and Safety Measures. Whenever any person or corporation shall, under the authority of this Section or otherwise, place any obstruction in any street or alley or make any excavation therein for any purpose whatsoever, it shall be the duty of such person or corporation to keep such obstruction or excavation properly safeguarded by substantial barricades and to display lighted lanterns or other lights or flares from dusk until daylight in conformity with such regulations as may be specified by the City. Whenever, in the opinion of the City, the public safety is so seriously endangered by said cuts, excavations, tunnels, or obstructions, as to require constant supervision from dusk to daylight to ensure that all barricades are in proper condition, that all warning lights are burning, and that traffic is properly routed around such barricades, the persons to whom the permit for the work has been granted shall be responsible for furnishing a night watchman for that purpose.

(9) Liability for Accidents. Every person or corporation having occasion to place any obstruction in any street or alley or to make any excavation therein under the provisions of this Section or otherwise, shall be responsible to anyone for any injury or damage by reason of the presence of such obstruction or excavation in the public streets and alleys and also shall be liable to the City of Gold Beach, in the event that the City shall be held responsible for any accident claims or otherwise arising out of the presence of any such obstruction or excavation in said public streets or alleys.

(10) Liability Insurance. No permit shall be granted, or cut or obstruction made, pursuant to this Section or otherwise, until the applicant therefore shall deliver unto the City sufficient proof, in writing, that said applicant has in force a policy or policies of insurance covering the liability occasioned by said cut or obstruction in the minimum amounts necessary to insure against any and all liability the City may have under the Oregon Tort Claims Act.

The City and said applicant shall be named insured in said policy or policies of insurance or, if a general liability policy is in force covering said applicant, said policy shall contain a provision, or such provision shall be added thereto, which generally protects and covers the owners of properties upon which said applicant is working.

(11) Repairs. All persons to whom such permits are granted shall be personally responsible for the maintenance and repair of the street surface or pavement cut, dug up, damaged, tunneled under, or undermined under the provisions of said permits, in as good as or better condition than before such work was undertaken, at their own expense and for such period of time as may be required by the City, but not to exceed one year.

(12) Option to City to Replace Pavement. Whenever, in the opinion of the City, it would be to the best interests of the City for the City itself to replace or repair the street surface or pavement cut, dug up, damaged, tunneled under, or undermined under the provisions of this Section, such work shall be done by the City and the cost of said work shall be either charged to the person to whom the permit for the said cut, excavation, or tunnel has been granted or deducted from the security deposited by him with the City.

(13) Application to City Employees and Public Utilities. The provisions of this Section shall not be deemed to apply to the construction or maintenance of pavement by the City, by its employees, or by persons operating under contract with the City, nor to cuts or excavations

made by the employees of the City water department, nor to the public utility corporations operating under the provisions of franchises regulating street cuts or excavations by such corporations; but both the employees of the City and all public utility corporations shall give prior notice to the City of all street cuts and obstructions that would otherwise be subject to the provisions of this Section.

(14) Violations. The City shall have the authority to commence such suits, actions, or proceedings as may be necessary in courts of competent jurisdiction to restrain violations of this Section, or to collect damages therefore. In addition, such suits, actions, or proceedings as may be necessary, may be brought against persons obtaining permits under this Section who fail to properly repair streets as set forth herein, upon the bond given to the City, or if security deposits are insufficient. In any such suit, action or proceedings, the City may recover, in addition to the actual damage and costs, such sum as the court may adjudge reasonable as attorney's fees.

Sidewalks

2.305 Construction, Alteration and Repair of Sidewalks.

(1) Duty to Repair Sidewalks. It is the duty of an owner or occupant of land adjoining a city street to maintain in good repair the adjacent sidewalk whenever it becomes damaged or deteriorated in any way whatsoever.

(2) Liability for Sidewalk Injuries.

(a) The owner of real property responsible for maintaining the adjacent sidewalk shall be primarily liable to any person injured because of any negligence of such owner in failing to maintain the sidewalk in good condition.

(b) If the City is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty which this section (2) imposes, the person shall compensate the City for the amount of the damages thus paid. The City may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

(3) Standards and Specifications. Sidewalks shall be constructed, altered and repaired in accordance with City's Standard Specifications and Engineering Requirements for Public Works Improvements. Such Standard Specifications shall be on file at the City Administrator's office and are adopted by reference as if fully set forth herein.

(4) Submission of Plans. No person shall construct, alter or repair a sidewalk within the City without first making application for a permit and submitting the plans and specifications for the proposed work. Said application shall be made to the City Administrator's office, and all applicable standards and specifications established under section (3) herein shall be met by said plans. Thereafter, the City Administrator may issue a permit for the proposed work. The applicant shall pay the permit fee established by Resolution of the City Council.

(5) Supervision of Work. The construction, alteration or repair of sidewalks shall be under the supervision of the City Administrator. The City Administrator or his/her designee may inspect any materials and construction details as in his/her judgment may be necessary to ensure compliance with the applicable standards and specifications.

(6) Notice to Repair or Make Alterations.

(a) If the adjoining property owner does not maintain the sidewalk in good repair and the City Council determines, in the exercise of its discretion, to require alteration or repair of the sidewalk, the City Council may, by resolution, direct the City Administrator to issue a notice.

(b) The notice shall require the owner of the property adjacent to the sidewalk to complete the work within sixty (60) days after service of notice. The notice shall also state that if the work is not completed by the owner within the 60-day time period, the City may complete it and assess the cost against the property adjacent to the sidewalk.

(c) The City Administrator shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the City Administrator shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.

(d) The person serving the notice shall file with the City Administrator's office a statement stating the time, place and manner of service of notice.

(7) City May Alter or Repair Sidewalk. If the sidewalk alteration or repair is not completed within sixty (60) days after service of the notice, the City Administrator may complete it. Upon completion of the project, the City Administrator shall submit a report to the Council. The report shall contain an itemized statement of the cost of the work.

(8) Assessment for Sidewalk Work Done by City. Upon receipt of the report, the Council, by ordinance, shall assess the cost of the work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be collected in the same manner as is provided for the collection of street improvement assessments.

(9) Sidewalk Construction Requested by the Property Owner. If a property owner petitions the Council for an order to build a sidewalk on the part of the street abutting on his property agrees to pay cash or to make application to pay the cost in installments as provided by the Bancroft Bonding Act (ORS 223.205 to 223.300), waives the right of service and publication of notice of construction, and consents to the assessment of the property upon which the sidewalk abuts, the Council may order the construction of the requested sidewalk, if in its judgment the sidewalk should be built.

Penalty

2.990 **Penalty.**

Violation of this Code is punishable by a fine not to exceed \$300. Each day's violation of a provision of this Code shall constitute a separate offense. The Gold Beach City Council may amend the maximum penalty from time to time by resolution.

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General

3.000 Code Provisions as Law.

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

3.010 General Savings Provision.

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

3.020 Continuity of Existing Provisions.

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

3.030 Interpretation of Term “City Administrator”.

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

3.040 Severability.

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

Water Code

3.100 Water Code Definitions.

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

(1) “Approved back flow preventions assembly” means an assembly to counteract back pressures or prevent back siphonage. This assembly must appear on the list of approved assemblies, issued by the Oregon State Health Division.

(2) “Auxiliary supply” means any water source or system, other than the public water system, that may be available in the building or on the premises.

(3) “Backflow” means the flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the water system of the City’s water.

(4) “City” shall mean the City of Gold Beach, Oregon, including its duly authorized officials, agents and employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.120 Council Powers and Authority.

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

(2) The Council shall have power and authority to enter into the necessary contracts or agreements to purchase all necessary material, equipment, and supplies as it may deem necessary or convenient to the conduct, extension, operation, maintenance, and management of

the city system, and to do any other act in the construction, operation, and maintenance of the city system.

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

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

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

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

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

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

3.125 Council to Set Rates and Other Charges.

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

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

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

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

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

3.140 Deposit.

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

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

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

3.145 Application for Connection of Water Service.

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

(2) A separate water service hook-up shall be required to each unit of property of separate ownership, and in no event shall one service serve properties under separate ownerships. At any time a property is divided into separate ownerships from one ownership, then this clause shall also apply to separate ownership. Separate water services shall be required to each individual building upon each unit of ownership. This section shall not apply to condominium development as that term is defined in ORS Chapter 94. Condominium developments may install a single meter for service of residential units under separate ownership within the condominium developments only.

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

3.150 Installation of Service.

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

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

(3) Upon acceptance of the applicant's specifications and design by the City Council, the applicant shall post a cash bond to cover all costs of the improvements, including the engineering, construction, legal and administration costs. At the same time, applicant shall pay a connection fee to the city recorder and the City may commence, after posting of said bonds and payment of fees to construct the necessary improvements, or receive bids on the project in the City Council's sole discretion. If the City Council requests bids, a cash bond to

cover bid price shall be posted at the start of construction. Upon completion of the project, the applicant shall install a service pipe at its sole cost, from the water main to the curb or property line of the street in which the main is located and the City shall install curb stop, meter and meter boxes at applicant's expense and it shall be the duty of the City thereafter to maintain said service line and any other capital improvements constructed under this section as a part of the city water system to the curb or property line of the applicant.

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

(5) If an applicant is making application for a single-family dwelling or a single commercial hook-up in an area where there is an adequate water main in the street adjacent to the proposed premises, then upon application and payment of the appropriate connection fee, the City shall install a service pipe from the main to the curb or property line of the street on which the main is located, including curb stop, meter and meter box. The applicant shall pay the cost of this work. It shall be the duty of the City to maintain said service line from the main to the curb or property line of the street in which the main is located. The applicant shall pay, at his own expense, and install pipes from the curb or property line of the street in which the main is located to the facility as desired on applicant's premises, subject always to the building, plumbing and sanitation codes of any municipal or government entity and required inspections of the City.

3.155 Services Outside the City.

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

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

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

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

(5) A person who wants confirmation from the City that it will provide water service to property located outside the city limits shall submit an application for confirmation to the City Council. The City Council may grant this application if it determines that it will be in the best

interest of the City and its residents to do so. The City Council may impose such conditions as are reasonable.

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

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

3.170 Charges for Turning Water On or Off at Water User's Request. When requested by the water user or the water user's designated agent, the Water Department shall, if available, turn off the water at the meter to allow the water user to repair or replace plumbing on the premises. The cost of such water turn on or off shall be charged to the water user as established by resolution of the City Council.

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

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

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

(3) When any water user or water user's designated agent shall request a relocation or alteration of the service or meter location, either vertically or horizontally, a determination of advisability of such relocation or alteration shall be made by the water superintendent. The decision of the water superintendent shall prevail, subject to the order of the Council. In no event shall the meter or service be relocated onto private property beyond the property line,

except by order of the Council. The cost of such relocation or alteration shall be charged to the water user as established by resolution of the City Council. However, should a service or meter relocation or alteration be deemed beneficial to the City by the water superintendent, such relocation or alteration may be done by the Water Department, whether desired by the water user or not, and such relocation or alteration shall be at the expense of the City.

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

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

3.190 Temporary Disconnect.

(1) Upon written request of the water user, the Water Department shall turn off water to the premises designated by the water user, and the water charges to that premises shall cease for the temporary period. Upon written request by the water user, water service shall be restored to the premises. The water user shall be charged a fee for temporary disconnection as established by resolution of the City Council. A temporary disconnection shall not be for a period of longer than six (6) months. At the end of six months, the water user will be charged regular water user rates unless a new written request is made to continue temporary disconnection status or for monthly maintenance status. Following a temporary disconnection, failure to pay the water bill or make a new application for monthly maintenance rates will result in termination of the service and the City of Gold Beach Water Department shall have the authority to remove the meter.

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

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

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

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

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

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

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

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

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

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

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

3.225 Procedure for Reconnection. Whenever anyone shall apply for a reconnection or a turn on of water service where an application for initial water service is not required by the terms of this Code, the applicant shall pay all delinquent bills and a reconnection fee as established by resolution of the City Council. In the event that the amount then on deposit for such water service shall be less than the required amount, then the applicant shall also pay a sum sufficient to raise said deposit to the required amount. The reconnection fee shall be paid even

though no physical disconnection has been made. A separate fee shall be paid for each reconnection.

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

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

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

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

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

3.255 Use of the City Water and Private Water. Sale of water by any person within the City in competition with the city system is hereby prohibited, and each day that any sale or sales be made shall be considered a separate offense; provided however, this section shall be subject to the terms and conditions of the contract of purchase with Gold Beach Water, Light and Power Company. Owners of buildings desiring to use both a city water supply and a supply of water other than that furnished by the City may obtain city water at meter rates upon the following conditions, and not otherwise. Under no circumstances shall a physical connection, direct or indirect, exist or be made in any manner, even temporarily, between the city water supply and that of a private water supply except in accordance with Sections 3.300 to 3.530 of this Code.

Where such a connection is found to exist, means, the city water supply shall be shut off from the premises. In case of such discontinuance, service shall not be reestablished until satisfactory proof is furnished that the cross connection has been completely and permanently severed or an approved cross-connection assembly has been installed in accord with Section 3.300 to 3.330 of this Code.

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

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

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

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

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

3.305 Backflow Prevention Assembly Requirements.

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

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

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

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

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

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

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

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

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

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

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

3.310 Installation Requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.315 Access to Premises.

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

3.320 Testing and Repairs.

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

3.325 Variances.

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

3.330 Costs of Compliance.

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

3.335 Termination of Service.

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

3.350 Penalty. Any person, firm, or corporation who shall violate, fail, neglect, or refuse to comply with any of the provisions of this water code shall be guilty of a violation, and upon conviction thereof, shall be punished by a fine not to exceed \$300; and each day during

which any violation hereof shall continue and persist after due notice thereof shall constitute a separate and distinct violation of this Code. The maximum fine may be amended from time to time by resolution adopted by the Gold Beach City Council.

Sewer Code

3.400 Sewer Use and Charges.

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

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

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

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

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

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

(2) "Building Drain" shall mean that part of the lowest piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet (610 mm) outside the building wall. (Oregon Plumbing Specialty Code definition)

(3) “Building Sewer” shall mean that part of the horizontal piping of a drainage system that extends from the end of the building drain and that receives the discharge of the building drain and conveys it to a public sewer, private sewer, private sewage disposal system, or other point of disposal. (Oregon Plumbing Specialty Code definition)

(4) “Building Sewer Combined” shall mean a building sewer that conveys both sewage and storm water or other drainage. (Oregon Plumbing Specialty Code definition)

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

(6) “Domestic Sewage” shall mean the liquid and water-borne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, in the public sewer or by means of a private sewage disposal system. (Oregon Plumbing Specialty Code definition)

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

(8) “FOG” shall mean a substance or material discharged into the public sewer that has the potential to partially or completely obstruct a building sewer or any sewage works. FOG includes both polar and non-polar FOG.

(9) “FOG Generator” shall mean any commercial user that discharges FOG into the public sewer, including but not limited commercial users that operate food service establishments, commercial laundries, car washes, filling stations, commercial garages, and similar businesses with any type of washing facilities (including pressure washing and steam cleaning).

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

(11) “Industrial Waste” shall mean any and all liquid or water-borne waste from industrial or commercial processes, except domestic sewage. (Oregon Plumbing Specialty Code definition)

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

(13) “Non-polar FOG” shall mean FOG not of animal or vegetable origin, including but not limited to petroleum oil, grease, grit, sand, and lint.

(14) “Person” shall mean any individual, firm, company, association, society, corporation or group.

(15) “Ph” shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(16) “Polar FOG” shall mean FOG of animal or vegetable origin, including but not limited to fats and oils.

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

(18) “Public Facilities User” shall mean any public owned facility user including but not limited to: publicly owned recreational, medical, correctional, educational, or other similar facility. Examples are fairgrounds, hospitals and assisted living facilities, jails, and schools.

(19) “Public Sewer” shall mean a common sewer directly controlled by public authority. (Oregon Plumbing Specialty Code definition)

(20) “Residential User” shall mean user of a single family dwelling.

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

(22) “Service area” shall mean all the area served by the Gold Beach sewage works.

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

(24) “Sewage treatment plant” shall mean any arrangement of devices and structures used for treating sewage.

(25) “Sewage works” shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(26) “Sewer” shall mean a pipe or conduit for carrying sewage.

(27) “Sewer user” shall mean any person specifically requesting sewer service or using city sewers.

(28) “Shall” is mandatory; “may” is permissive.

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

(30) “Storm Sewer” shall mean a sewer used for conveying rainwater, surface water, condensate, cooling water, or similar liquid wastes. (Oregon Plumbing Specialty Code definition)

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

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

(33) “Watercourse” shall mean a channel in which a flow of water occurs, either continuously or intermittently.

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

3.415 Use of Public Sewers Required.

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

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

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

(4) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer of the City,

is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this code within ninety (90) days after date of official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line.

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

3.420 Private Sewage Disposal.

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

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

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

(4) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations and regulations of the Department of Environmental Quality of the state of Oregon. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities without inspection of the superintendent and a qualified representative of the Department of Environmental Quality of the state of Oregon. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

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

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

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

3.425 Building Sewers and Connections.

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

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

- (a) Residential, which shall include single-family residences, apartments, duplexes and courts.
- (b) Residential/commercial, which shall cover hotels and motels, etc.
- (c) Commercial, which shall cover commercial non-residential uses.
- (d) Industrial, for service to establishments producing industrial waste.

(3) Prior to receiving city sewer service, a person shall make application to the City Administrator for a sewer hookup permit, on a form prescribed by the City. The application shall include consent to allow city inspectors to enter onto the premises during business hours to inspect, observe, measure, sample, and test sewage discharges. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City Administrator or the superintendent. The applicant shall state the use for which sewer service is required.

(4) If the applicant is a FOG generator, in addition to the application materials required by paragraph (3) of this section, the applicant must also submit the following management plan for the City's review and approval, which shall include:

- (a) The name or position of the staff person in charge of compliance with the City's sewer regulations;
- (b) Identification of the sources of FOG discharged by the user;

- (c) An employee training manual with new employee training and continuous education programming regarding discharge of FOG;
 - (d) A description of disposal and recycling programs for FOG utilized by the user;
 - (e) A list of housekeeping practices related to FOG;
 - (f) Copies of signs or notices to be posted at drainage stations related to disposal of FOG;
 - (g) Emergency contact information to enable the City to contact the user on a 24 hour basis; and
 - (h) A requirement for documentation of actions taken to reduce discharge of FOG, including but not limited to training sign off sheets and maintenance, cleaning, and incident reports.
- (5) If the use for which sewer service is required changes so that a different class of building sewer permit would be applicable, the sewer user shall apply for a new permit and pay all charges required for an initial permit.
- (6) All costs and expense incident to the installation and connection of the building sewer, and any inceptor or other device required by section 3.445(6) of this code shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (7) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (8) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this Code.
- (9) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements, rules and regulations as now composed or in the future amended by the state of Oregon through its authorized and delegated representative in administering a state sewer code. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

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

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

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

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

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

3.430 Monthly Sewer User Fees.

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

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

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

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

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

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

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

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

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

3.440 Temporary Termination of Sewer Service.

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

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

3.445 Use of the Public Sewers.

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

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as building sewers combined or storm sewers or to a natural outlet

approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, or approval of the superintendent, to a storm sewer, building sewer combined or natural outlet.

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

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

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

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

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

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

(a) Any liquid or vapor having a temperature higher than 150°F (65°C).

(b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150°F (0° and 65°C).

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

effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(k) Effluent containing more than 100 mg/liter of polar FOG

(j) Effluent containing more than 250 mg/liter of non-polar sediments including sand, lint, and grit.

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

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges;

(e) Require installation of grease interceptors, traps, or biological processes that comply with standards adopted by the City prior to discharging into the public sewer.

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

If the superintendent requires installation of grease interceptors, traps or biological processes the grease inceptor, trap or biological process must be accessible for sampling, cleaning and inspection, must be properly maintained by the FOG generator, and must remain in continuous operation. The FOG generator must also provide a suitable location to allow city staff to sample representative effluent discharged by the FOG generator.

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

(7) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a sampling port, together with such necessary meters and other appurtenances in the building sewer as to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly

and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(8) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.)

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

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

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

3.455 **Powers and Authority of Inspectors.**

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

(2) In the event that the superintendent cannot gain permission to enter onto private property from the property owner or other person with possession or control of the property, the superintendent may seek entry through any legal means including, without

limitation, making application to any court of competent jurisdiction for issuance of a warrant. The warrant application will identify the premises upon which entry is sought, and the purpose for which entry is desired.

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

3.460 Procedure for Disconnection; Appeal Procedure; Penalties.

In every case where a sewer account is not paid by the 25th day of the month after the bill is presented, or where any premises is in violation of this Code, the following steps may be taken:

(1) In the case where the violation is a delinquency in the sewer bill, the Sewer Department shall send written notice to the last known address of the sewer user and to the premises as reflected by City records, that water service will be disconnected ten (10) days after the date of said notice unless the arrearage is immediately corrected. Said notice shall indicate the amount of all arrearages, including penalty fees and shall indicate that if any person disputes the amount owing, they can appeal to the City Administrator in the manner provided in subsection (3) of this section.

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

(3) A customer, occupant or owner of the premises who questions or disputes the correctness of a notice of intent to disconnect service may file with the City Administrator a request for a hearing within seven (7) days of the date of the notice. If a hearing has been timely requested, the City Administrator shall hold an informal conference to attempt to resolve the matter. In the case of a notice of intent to disconnect service for non-payment, the decision of the City Administrator shall be delivered at the conclusion of the informal conference and shall be final. In other cases, if no informal resolution is achieved, the City Council shall hold a hearing and consider relevant evidence presented by the appellant and

the City. The Council shall determine whether the reasons prompting the notice of intent to disconnect are correct. Notice of the decision of the Council shall be mailed by first class mail to the customer at the billing address and to the occupant of the premises and to any other address specified by the appellant. In the event of an appeal to the City Council, service shall not be terminated until three (3) days after mailing of the notice of the decision. A notice of intent to disconnect service shall include information about the appeal process contained in this subsection.

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

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

Section 6. Commercial, industrial, and public facilities users discharging into the public sewer at the time this ordinance is effective will be required to comply with the requirements of Section 3.445(4). If the commercial, industrial, or public facilities user does not comply with Section 3.445(4), notwithstanding Section 3.460(2) of the Gold Beach Utility Code, the City may proceed to notify the commercial, industrial, or public facilities user of the failure to comply with this section and to immediately terminate water service to the premises. The commercial, industrial, or public facilities user shall have all the appeal rights provided in Section 3.460(3) of the Gold Beach Utility Code. In addition to termination of water service the City may assess a penalty for failure to comply with this section subject to the fee schedule in effect at that time. Each day of non-compliance with this section constitutes a separate violation.

System Development Charge Code

3.500 Findings.

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

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

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

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

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

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

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

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

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

3.510 Policy Provisions.

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

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

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

(1) "Capital Improvement(s)", means facilities or assets used for any of the following:

(a) Water supply, treatment and distribution;

- (b) Sanitary sewers, including collection, transmission and treatment;
- (c) Storm sewers, including drainage and flood control;
- (d) Transportation, including but not limited to streets, sidewalks, bike paths, street lights, street trees, public transportation, vehicle parking, and bridges; or
- (e) Parks and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks, metropolitan parks, and other recreational facilities.

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

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

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

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

(6) “Qualified Public Improvements.” A capital improvement that is:

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

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

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

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

3.520 Systems Development Charge Provided.

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

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

3.525 Collection.

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

connection to the sewer or water facilities of the City may be made unless the appropriate Systems Development Charge has been paid or the lien and installment payment method has been applied for.

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

(3) The owner of the parcel of land for which a Systems Development Charge is due may apply, upon forms provided by the City, for the voluntary imposition upon the parcel of a lien for the full amount of the Systems Development Charge and the payment of that lien in twenty (20) semi-annual installments plus interest. The burden of showing the identity of the owner of record or of the contract purchaser of record of the parcel shall be upon the applicant. Upon receipt of such an application, the City Administrator shall compute the amount of the Systems Development Charge and shall report to the City Recorder the amount of the charge, the date upon which that charge is due, the name of the owner of record or the purchaser of record, and the description of the property, and upon receiving that report the City Recorder shall docket the lien in the City's docket of liens and record it in the Curry County deed records, and from the time that docketing is completed, the City shall have a lien upon that described land for the amount of the charge and interest upon that charge at the rate of **4% + federal reserve prime rate on the date of the lien**. That lien shall be enforced in the manner provided in ORS chapter 223 and shall have priority over all other liens and encumbrances.

3.530 Exemptions.

(1) Full Exemption: Any parcel of land which has established use:

(a) Of streets by an existing structure or a valid building permit issued for the property; and

(b) Of water by connection to the City water system or a water tap order issued for the property; and

(c) Of sewers by connection to the City sewer system or a sewer connection permit issued for the property before the effective date hereof;

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

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

3.535 Credits.

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

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

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

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

3.540 Compliance with State Law.

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

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

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

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

Electric Service Code

3.600 Franchise Required.

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

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

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

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**NOTE Ordinance No. 671 adopted MFU Provisions as Section 4.6 of the Business Code. These MFU provisions have not been amended or revised here except to rename them as a Special Business License Endorsement and renumber the section.*

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REPEALED BY ORDINANCE NO. 654

§

General

4.000 Code Provisions as Law

The provisions of this code are the laws of the city of Gold Beach and nor merely prima facie evidence of the law.

4.010 General Savings Provision

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

4.020 Continuity of Existing Provisions

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

4.030 Interpretation of Term “City Administrator”

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

4.040 Severability

The sections, subsections, paragraphs, provisions, clauses, phrases, and words of this code are severable. If a section, subsection, paragraph, provision, clause, phrase, or word of

this code is declared by a court of competent jurisdiction to be unconstitutional or invalid, the judgment shall not affect the validity of the remaining portions of this code. Every other section, subsection, paragraph, provision, clause, phrase or word of this code enacted, irrespective of the enactment or validity of the portion declared unconstitutional or invalid, is valid.

§

Business License Code

4.100 Title

This portion of the Gold Beach Code shall be known as Business License Code.

4.105 *Purpose of Business License Code*

The purpose of this Section is to provide revenue for municipal purposes and to provide for the health, safety, and welfare of the citizens of Gold Beach through the regulation of businesses, occupations, and trades. A business need not be located within the city in order to be subject to the provisions of this Section. This Section serves the public interest by mandating that business will be carried on in compliance with applicable laws and in a manner that protects the public's health, safety, and welfare. The business license fee shall be in addition to, and not in lieu of, any other license or permit fee, charge, or tax required under any other Municipal Code section or city ordinance. The business license required by this Section shall not be construed to constitute a permit to engage in any activity prohibited by law nor as a waiver of any other regulatory or license requirement imposed by the city or state law.

4.110 Definitions

AUTHORIZED AGENT means a property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.

BUSINESS means any person, who sells, leases, or provides property, goods, food, things, entertainment or services. The term "business" shall not include any activities conducted solely for charitable, religious, community or public purposes. The term "business" shall include providing property, goods, food, things, entertainment or services in return for

donations which are accepted for the benefit of the provider. See Section 4.120 for specific exclusions from Business License Requirement.

ENDORSEMENT means standards established by the city which a business license applicant must satisfy prior to the city issuing a business license. Any city-approved endorsements will be clearly noted on the business license.

MOBILE FOOD UNIT (MFU) is defined as: any vehicle that is self-propelled, or can be pulled or pushed down a sidewalk, street, highway, or waterway. A MFU must be designed and constructed to move as a single piece. A MFU may not consist of multiple components that are assembled at the operating location. Additions, porches, cabanas, stairs, or other similar structural elements shall not be permitted to be added to the mobile vehicle. While the MFU is not required to move locations, the MFU must be able to be mobile at all times. The unit must be on wheels that are functional and appropriate for the type of vehicle. The unit and all operations and equipment must be integral to the unit. This does not preclude the use of one outdoor cooking unit such as a BBQ if the unit is licensed as a Class IV with the health department.

NOT-FOR-PROFIT-ENTITY means any entity organized and operated exclusively for a religious, charitable, humanitarian, or educational purpose and for whom the United States or the State of Oregon has granted an exemption from the payment of income tax on that basis.

OCCUPANCY means the right to the use or possession of any space in transient lodging for dwelling, lodging, or sleeping purposes for less than 30 days.

OCCUPANT means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

PERSON means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

RENT means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If

a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

RENTAL OF REAL PROPERTY means the rental or offering for rent of real property for a period of 30 days or more. Rental of real property includes, but is not limited to, the following types of properties rented or offered for rent: hotel or motel rooms, automobile or tourist courts, boarding houses, bed and breakfast rooms, mobile homes, or trailer parks, residential or vacation homes, multi-family dwelling units, moorage units, and commercial properties. Rentals for less than 30 days are SHORT-TERM RENTALS (STR) and subject to the special endorsement provisions of Section 4.190.

SHORT-TERM RENTAL (STR) Also referred to as a Vacation Rental - means a house, duplex, condominium, houseboat, trailer, or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling unit for transient lodging occupancy.

SHORT-TERM RENTAL HOUSING PLATFORM means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

TAX ADMINISTRATOR means the City Administrator or their designee.

TLT OR TAX means the transient lodging tax.

TEMPORARY MFU BUSINESS is defined as: a MFU operating for five (5) days or less in any calendar year during the same time, or in the same location, as a community event such as the County Fair, a concert, convention, holiday/community celebration, or similar event located on publicly owned property.

TRANSIENT LODGING OR TRANSIENT LODGING FACILITIES means:

- a) Hotel, motel, lodge, and inn dwelling units that are used for temporary overnight human occupancy;*
- b) RV sites or spaces within RV parks and/or campgrounds, tent sites and yurts in private and public campgrounds used for temporary overnight periods of human occupancy;*
- c) Houses, cabins, condominiums, or other single-family or duplex dwelling units, or portions of any of these dwelling units that are used for temporary human*

occupancy;

- d) *To protect and preserve needed local housing units, multifamily dwelling units such as apartment units or similar non one- & two-family dwelling units are specifically excluded as transient lodging or transient lodging facilities.*

TRANSIENT LODGING INTERMEDIARY means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

- a) Charges for occupancy of the transient lodging;*
- b) Collects the consideration charged for occupancy of the transient lodging; or*
- c) Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.*

TRANSIENT LODGING PROVIDER means a person that furnishes transient lodging.

TRANSIENT LODGING TAX COLLECTOR means a transient lodging provider or transient lodging intermediary.

VACATION RENTAL See Short-Term Rental (STR)

4.115 Requirement for License.

Every business in the City of Gold Beach or conducting business within the city limits of the City of Gold Beach, shall obtain a business license. No person shall do business in the City of Gold Beach unless he has a license from the City of Gold Beach and has paid the license fee prescribed herein. Any person representing himself or itself or exhibiting any sign or advertisement that he or it is engaged in any business in the City of Gold Beach for which a license fee is required by this code, shall be deemed to actually be engaged in such business and shall be liable for payment of such license fee and subject to this code.

4.120 Exclusions from Business License Requirement.

(1) No person who is employed by another person and whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary shall, for the purpose of this code, be deemed a person doing business in the City of Gold Beach, Oregon. It is the intention of the City that all licenses taxes and fees levied herein shall be borne by the employer and/or owner for the privilege of doing business in the City of Gold Beach.

(2) No person who owns property which is listed or advertised for sale and who is leasing this property until the sale can be completed shall be required to obtain a business license solely because of this lease; provided the person furnishes proof to the City Administrator that the person is actively attempting to sell the property.

(3) No person who delivers or distributes goods, food, and things exclusively to a business in the City of Gold Beach that has a valid city business license shall be required to obtain a business license.

(4) Nothing in this code shall be construed to apply to any person transacting or carrying on any business within the City of Gold Beach, Oregon, which is exempt from such license fee or regulation by the City, by virtue of the Constitution and/or laws of the United States or the Constitution and/or the laws of the State of Oregon.

(5) *No person, group, organization, club, etc. exempt from federal income tax under Section 501(c) of the federal Internal Revenue Code shall be required to obtain a business license. Proof of federal 501(c) status will be required by the City.*

4.125 Illegal Business or Profession.

The levy or collection of a license fee upon any business shall not be construed to be a license or permit from the City of Gold Beach, Oregon, to the person engaged therein, to engage in any business which is unlawful, illegal or prohibited by the laws of the State of Oregon and/or the United States and/or of the code or ordinances of the City of Gold Beach, Oregon.

4.130 License Required for Each Business and Location.

A separate license is required for each business subject to this code and for each separate location of each business. The intent of this code is to issue a license to a business at a specific location and to require a separate license for all additional locations. An established business may move to another location without paying an additional fee, by applying for a TRANSFER OF LOCATION BUSINESS LICENSE. This transfer must meet all the criteria of a new business license application.

4.135 License Term, Transfer of License.

All licenses shall be issued for a period of one year commencing July 1st and continuing to June 30th of each fiscal year. All fees chargeable for said business licenses shall be due on or before July 1st of each year and payable by July 31st without penalty by the applicant for said license. Payments received after July 31st shall be subject to a late charge of ten percent of the balance due per month.

An applicant who makes application for a new license after July 1st and before December 31st shall pay the business license fee for an entire one-year period. An applicant, who makes application for a new license after December 31st and prior to May 31st, shall be charged one-half the annual license fee. A license granted under such application shall continue to June 30th of that fiscal year. An applicant who makes application for a new license after May 31st may obtain a license for the month of June and the following fiscal year by paying the annual license fee plus the fee for one month on a prorated basis, or, in the alternative, may pay one-half the annual license fee for a license which shall be effective only until June 30th. Such an applicant shall not be allowed to purchase a license for one month at a one-month prorated amount only.

In the event a licensee sells or transfers his business, his license may be transferred to the purchaser of said business without additional charge; provided, however, that the business shall be carried on in the same manner, to the same extent and at the same location as previously. Licenses may not be transferred from one location to another, even if the nature, extent of the business and/or occupation remains the same in the new location. A new license shall be obtained for each additional, new or changed location and a new fee shall be paid therefore.

4.140 Application for License.

All applications for business licenses shall be made in writing and shall be made on the application form which may be obtained from the City of Gold Beach business office. Applications for any license hereunder must be signed by the applicant and in all cases must set forth the true name of the person to be engaged in such business, the true owner thereof, and the person(s) to be in charge of each unit thereof.

4.145 License Fee Schedule.

License fees under the authority of this code shall be paid annually unless otherwise specified. The fee schedule for the license(s) and late fees granted under this code shall be set by resolution of the City Council.

4.150 Display of License.

Every person licensed under this code shall display the license in some conspicuous place on the premises of the business so licensed unless the business does not operate from an enclosed permanent location in the City of Gold Beach, in which case all persons doing business in Gold Beach shall have a copy of the license in their possession at all times. Each business operating amusement or vending machines shall conspicuously display a copy of the business license on each machine it operates.

4.155 Examination of Business Premises.

The City police chief and police officers are authorized to examine all places of business licensed or subject to license for violation of provisions of this code. Said investigation shall be done only at a reasonable business time and at reasonable intervals under the circumstances.

4.160 Regulation of Residential Sales.

No person shall do business at a residence in the City of Gold Beach without obtaining the express permission of the occupant of the premises to do business at that location.

4.165 Penalties and Civil Remedies.

Any person violating any of the provisions of the code shall, upon conviction thereof, be punished by a fine not to exceed \$500, or such other maximum amount as the Gold Beach City Council may set from time to time by ordinance.

As separate and distinct remedies from the above, the City may bring suit in a court of competent jurisdiction to obtain judgment and enforce collection of the license fees due under this code and may avail itself of the right of mandamus or injunction in such courts to properly enforce provisions of this code.

4.170 Revocation of Licenses.

All licenses are subject to all regulations imposed by the City. The final authority concerning said licenses shall at all times be vested in the City Council, which may, as herein provided, revoke, cancel or suspend any license for any fraud or misrepresentation in its procurement, for violations of any provisions of the code, ordinances or Charter of the City of Gold Beach, or for a violation of any state or federal statute or for any acts permitted by the licensee on the premises which would be a violation of any City code or ordinance, state statute, or federal statute, or which is a menace to the health, peace and general welfare of the City.

Nothing herein contained shall be taken or construed as vesting any right of any licensee, including a contractual right or obligation on the part of the City as to the amount or character of the license hereunder.

When the City Council receives information which causes the Council to consider a revocation of any privilege granted under this code, the Council shall give notice to the licensee to appear and show cause why the license should not be revoked. The City Recorder shall mail to the licensee via certified mail a notice citing the date, time and place for appearance and the general statement of the allegations upon which the Council bases the possible revocation. No formal pleading shall be necessary, except that the Council may require a complaining party, if any, to appear at the same time and place to give testimony concerning the Council investigation. Such hearing and investigation shall be informal. If any licensee shall fail to appear after proper notice has been given and received, the Council may revoke said license without further determination. After such hearing and/or investigation, the Council shall vote to determine whether cause exists for revocation of a license and take the appropriate action.

Whenever a license to conduct any business has been revoked by the City Council, no license shall be granted or re-issued to the same person or at the same location for any business without the approval of the Council. As a condition of such approval, the Council may, in its discretion, require the applicant to file with the City a bond in the penal sum of \$1,000, which shall conform in all respects to the provisions of this code and which shall be forfeited to the City if the person is thereafter convicted of a violation of federal state or city laws or ordinances for which such license may be revoked. The bond shall be required to be in force for the term of the license and shall not be surrendered or cancelled pending a final determination of any charge or accusation by federal, state or city officials against the licensee, of any violation of any state law or any law or code which might justify a forfeiture of such bond.

All indemnity company bonds must be written by a surety company, licensed to do business within the State of Oregon upon its regular indemnity bond form with the particular provisions provided therein as required within this code. The City Attorney must approve all such indemnity bond forms.

SECTIONS 4.180 & 4.190 SPECIAL BUSINESS LICENSE ENDORSEMENTS

4.180 Mobile Food Unit (MFU) Business License Endorsement

(NOTE: MFU provisions were adopted in Ordinance No. 671 as Section 4.600 of the Business Code. Those provisions have been incorporated directly in the Business License code as a Special Endorsement and the Sections re-numbered. No other amendments or revisions were made)

4.180.00 Title

This portion of the Gold Beach Business Code shall be known as the Mobile Food Unit (MFU) Business License Code.

4.180.05 Purpose of MFU Business License Code

This code is enacted for the purpose of providing diversity in dining options for citizens and visitors and create entrepreneurial opportunities for new businesses when operated safely. This code is not intended to regulate or supersede any of the State of Oregon Health Authority (OHA) food safety program requirements for operating mobile food units.

4.180.10 Definitions

In addition to the definitions contained in the Business License Code Section 4.110 the following additional definitions are adopted:

(1) Mobile Food Unit is defined as: any vehicle that is self-propelled, or can be pulled or pushed down a sidewalk, street, highway, or waterway. A MFU must be designed and constructed to move as a single piece. A MFU may not consist of multiple components that are assembled at the operating location. Additions, porches, cabanas, stairs, or other similar structural elements shall not be permitted to be added to the mobile vehicle. While the MFU is not required to move locations, the MFU must be able to be mobile at all times. The unit must be on wheels that are functional and appropriate for the type of vehicle. The unit and all operations and equipment must be integral to the unit. This does not preclude the use of one outdoor cooking unit such as a BBQ if the unit is licensed as a Class IV with the health department.

(2) Temporary MFU Business is defined as: a MFU operating for five (5) days or less in any calendar year during the same time, or in the same location, as a community event such as the County Fair, a concert, convention, holiday/community celebration, or similar event located on publicly owned property.

4.180.15 Requirement for License.

Prior to the commencement of any food service operations within the City of Gold Beach, operators of a MFU business shall obtain a MFU Business License in addition to compliance with the requirements for a regular business license as contained in Section 4.1 of the City Business Code. MFU business operators shall be required to continuously maintain a valid food service permit complying with current Oregon Health Authority (OHA) requirements. Proof of compliance with state health food service permitting shall be required prior to issuance of a City MFU Business License and upon annual MFU Business License renewal.

4.180.20 Exclusions from MFU Business License Requirement.

(1) Operation of an OHA licensed MFU business on a temporary basis as defined in this code.

4.180.25 Illegal Business or Profession.

The issuance of an MFU business license shall not be construed to be a license or permit from the City of Gold Beach, Oregon, to the person engaged therein, to engage in any business which is unlawful, illegal or prohibited by the laws of the State of Oregon and/or the United States and/or of the code or ordinances of the City of Gold Beach, Oregon.

4.180.30 MFU License Required for Each Business and Location.

(1) A separate license is required for each MFU business subject to this code and for each separate location of each business. The intent of this code is to issue a MFU license to a business at a specific location and to require a separate MFU license for all additional locations. An established business may move to another location without paying an additional fee, by applying for a TRANSFER OF MFU BUSINESS LICENSE LOCATION. This transfer must meet all the criteria of a new MFU business license application.

(2) Licensed MFUs may only be located within the Commercial (4-C), Industrial (5-I), and Public Facilities (7-PF) zones.

4.180.35 License Term, Transfer of License.

The MFU Business License term and license transfer shall be as defined in the Business License code Section 4.135.

4.180.40 Application for License.

(1) All applications for MFU business licenses shall be made in writing and shall be made on the application form which may be obtained from the City of Gold Beach business office. Applications for any license hereunder must be signed by the applicant and in all cases must set forth the true name of the person to be engaged in such business, the true owner thereof, and the person(s) to be in charge of each unit thereof.

(2) As part of the MFU Business License review process the Mobile Food Unit shall be inspected by the following City departments:

- a. Public Works: for compliance with the City's utility code specifically the Fat/Oil/Grease (FOG) provisions; and
- b. Fire Department: for compliance with fire suppression requirements; and
- c. Planning Department: for review of contrary building code issues, traffic safety and parking, and refuse receptacles.

(3) The MFU business operator shall ensure compliance with current Oregon Health Authority (OHA) regulations (OAR Chapter 333 Division 162, and any revisions thereto).

4.180.45 License Fee Schedule.

License fees under the authority of this code shall be paid annually unless otherwise specified. The fee schedule for the license(s) and late fees granted under this code shall be set by resolution of the City Council.

4.180.50 Display of License.

Every person licensed under this code shall display the license in some conspicuous place on the premises of the business so licensed.

4.180.55 Examination of Business Premises.

The City Administrator, or their designee, are authorized to examine all places of MFU business licensed or subject to license for violation of provisions of this code. Said investigation shall be performed only at a reasonable business time and at reasonable intervals under the circumstances.

4.180.60 Penalties and Civil Remedies.

Any person violating any of the provisions of the code shall, upon conviction thereof, be punished by a fine not to exceed \$500, or such other maximum amount as the Gold Beach City Council may set from time to time by ordinance.

As separate and distinct remedies from the above, the City may bring suit in a court of competent jurisdiction to obtain judgment and enforce collection of the license fees due under this code and may avail itself of the right of mandamus or injunction in such courts to properly enforce provisions of this code.

4.180.65 Revocation of Licenses.

A MFU Business License may be revoked subject to the process outlined in the Business License Code Section 4.170.

4.190 Short-Term Rental (STR) Business License Endorsement

4.190.00 Title

This portion of the Gold Beach Business Code shall be known as the Short-Term Rental (STR) Business License Code.

4.190.05 Purpose

A short-term rental business license endorsement is a permission to operate a short-term rental on property within the City of Gold Beach. This chapter provides an administrative framework for licensing the annual operation of a short-term rental, in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances.

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

4.190.010 Definitions

The following definitions apply in this chapter.

AUTHORIZED AGENT *means a property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.*

OCCUPANCY *means the right to the use or possession of any space in transient lodging for dwelling, lodging or sleeping purposes for less than 30 days.*

OCCUPANT *means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.*

PERSON *means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal*

organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

RENT means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

SHORT-TERM RENTAL (STR) Also referred to as a Vacation Rental - means a house, duplex, condominium, houseboat, trailer, or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling unit for transient lodging occupancy.

SHORT-TERM RENTAL HOUSING PLATFORM means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

TAX ADMINISTRATOR means the City Administrator or their designee.

TLT OR TAX means the transient lodging tax.

TRANSIENT LODGING OR TRANSIENT LODGING FACILITIES means:

- a. Hotel, motel, lodge, and inn dwelling units that are used for temporary overnight human occupancy;*
- b. RV sites or spaces within RV parks and/or campgrounds, tent sites and yurts in private and public campgrounds used for temporary overnight periods of human occupancy;*
- c. Houses, cabins, condominiums, or other single-family or duplex dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy;*
- d. To protect and preserve needed local housing units, multifamily dwelling units such as apartment units or similar non one & two family dwelling units are specifically excluded as transient lodging or transient lodging facilities.*

TRANSIENT LODGING INTERMEDIARY means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

- a. Charges for occupancy of the transient lodging;
- b. Collects the consideration charged for occupancy of the transient lodging; or
- c. Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

TRANSIENT LODGING PROVIDER means a person that furnishes transient lodging.

TRANSIENT LODGING TAX COLLECTOR means a transient lodging provider or transient lodging intermediary.

VACATION RENTAL See Short-Term Rental (STR)

4.190.015 Annual Short-Term Rental (STR) Business License Endorsement Required

No owner of property within the Gold Beach city limits may advertise, offer, operate, rent or otherwise make available for occupancy or use a short-term rental without a business license with a STR rental endorsement. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile, or otherwise.

4.190.020 Application Information and Filing Fee

(1) Applications for short-term rental business license endorsements are to be on forms provided by the City, and shall include the following:

- a. Owner Information. Owner's name, permanent residence address, telephone number, email address (if available) and short-term rental address and telephone number.
- b. Authorized Agent. The name, telephone number, mailing address and email of a property management company or other entity or person who has been designated by the owner to act on their behalf.
- c. Representative Information. The name, telephone number, mailing address and email of a local representative who can be contacted concerning use of the property or complaints related to operation of the short-term rental. For the purposes of this requirement, local means the representative's address is within

30 minutes travel time of the subject property.

- d. Occupancy. *Occupancy limits and number of bedrooms.*
- e. Parking. *Statement that required off-street parking spaces are available (one (1) off-street space per bedroom, but in no case less than a total of two (2) spaces), with a photo(s), dated within the last 90 days, of interior and exterior parking spaces.*
- f. Site plan: *interior showing STR layout, and exterior including a parking diagram of the parking spaces.*
- g. Good Neighbor Guidelines. *Written acknowledgement that a copy of the Good Neighbor Guidelines has been reviewed and relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.*
- h. Listing Number. *For renewals, the listing numbers or website addresses of where the short-term rental advertises.*
- i. Compliance declaration: *a signed declaration by the owner or their authorized agent of compliance with the following provisions:*
 - 1. *No offensive noise, smoke, dust, litter or odor noticeable at or beyond the property line will be generated as a result of the use of the property as a STR.*
 - 2. *There shall not be an excessive generation of traffic created by the STR use. Excessive Generation of Traffic is defined as traffic levels greater than customary residential use of the property.*
 - 3. *The STR must maintain the residential nature of the front and side yards. The property shall be landscaped and maintained as a permanent residence similar to the surrounding neighborhood.*
 - 4. *The licensee will comply with the provisions of the City of Gold Beach Transient Lodging Tax Code.*
 - 5. *The licensee shall provide refuse receptacles and shall provide proof of waste collection service.*

Other Requirements. *Such other information as the City Administrator or designee deems reasonably necessary to administer this Section.*

- (2) Incomplete Application. *If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required.*

- (3) License Fee. The fee for the application of a STR business license endorsement, and any of its components requiring city action, shall be established by resolution of the City Council.

4.190.025 Term of Annual Business License Endorsement and Transferability

- (1) Term. A short-term rental business license endorsement shall be issued for a period of 12-months, effective July 1st of each year, and may be renewed annually by the owner provided all applicable standards of this chapter are met.
- (2) Transferability. The business license endorsement shall be issued in the name of the owner(s) and is not transferable.

4.190.030 Business License Endorsement and Endorsement Renewal

- (1) Endorsement Must Be Obtained. An endorsement to a business license for a short-term rental shall be obtained and renewed as required in this section. The ability to operate a short-term rental in the City of Gold Beach shall be discontinued for failure to obtain or renew an endorsement to operate as provided in this chapter.
- (2) Application and Renewal Application Process. A person engaging in a short-term rental who has not yet obtained a STR business license endorsement, or who is required to renew an existing endorsement, shall do so as follows:
- a. Existing Non-Conforming Short-Term Rentals. A business license endorsement renewal application completed in accordance with the provisions of Gold Beach Business License Code is due on July 1, 2021, and annually every year thereafter.
 - b. New Short-Term Rentals. A business license endorsement for a STR shall be obtained before beginning operations.
 - c. Endorsement applications, completed in accordance with the provisions of this code may be submitted and issued at any time.
 - 1. For STR within the Commercial zone, the endorsement may be renewed annually thereafter on July 1st of each year.
 - 2. For STR within the Residential zones, the Council may, by resolution, set the total number of Residential Zone STR endorsements to be issued. The endorsements will be on a first come-first served basis. Preference will be given to previously endorsed STR that have not experienced compliance issues in the prior two (2) year period.

- (3) Notice. On or about June 1 of each year, the City shall send notice to owners of property with STR endorsements informing them that the endorsement must be renewed no later than August 15 of each year and that failure to do so will result in expiration of the endorsement. Notice shall be sent by first-class mail to the address the owner provided with the endorsement on file with the City.
- (4) Expiration of Endorsement. Failure of an owner to renew an endorsement by August 15 shall result in expiration of the endorsement, and the ability of the owner to operate shall be conclusively presumed to be discontinued. If the owner or their authorized agent continue to operate the STR without the necessary endorsement they may be subject to enforcement action by the City.
- (5) Approval Standards. The owner or authorized agent has the burden of proof to demonstrate compliance with standards for the approval or renewal of an endorsement. The approval standards also serve as continuing code compliance obligations of the owner. To receive approval, an owner or authorized agent must demonstrate that the approval standards listed below have been satisfied:
- a. Proof of Use. For STR endorsement renewals, lodging tax remittance records must demonstrate that the unit has been rented at least 30 days within the 12-month fiscal year.
 - b. Lodging Tax Compliance. The unit shall be in compliance with lodging tax requirements of Section 4.2 of the Gold Beach Business Code.
 - c. Violations. A STR business license endorsement that is revoked shall not be renewed. An owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement for a period of two years.
 - d. Mandatory Postings. The STR business license endorsement issued by the City shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The endorsement shall contain the following information:
 - 1. The name of the owner and authorized agent and a telephone number where the owner and authorized agent may be contacted. Contact must be available to guests 24/7, including holidays.
 - 2. The property address.
 - 3. The number and location of approved parking spaces and any overflow parking, if offered.
 - 4. The maximum occupancy permitted for the STR.

5. *Phone numbers and addresses for emergency responders and utility providers.*
6. *Any required information or conditions specific to the operating license endorsement.*
7. *Other information as established by resolution of the City Council.*

4.190.035 *Inspections*

Dwelling units for which a short-term rental business license endorsement is being sought, or has been obtained, shall be subject to initial inspection, and periodic re-inspection, by the City to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

4.190.040 *Violations*

Penalties, as specified in section 4.165-4.170, shall be imposed for one or more of the following violations:

- (1) Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental where the owner does not hold a valid endorsement issued pursuant to this section.*
- (2) Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental in a manner that does not comply with the endorsement requirements of this code.*
- (3) Failure to comply with the endorsement standards and operational requirements of Section 4.190 of the Gold Beach Business Code.*
- (4) Failure by the owner to collect and remit the transient lodging tax as required by Section 4.200 of the Gold Beach Business Code.*
- (5) Failure of the owner or owner's representative to respond to tenant, citizen or City complaints or inquiries. "Failure to respond" occurs if City staff is unable to reach the owner or designated representative after three attempts within a 48-hour period, using the information that the owner or designee has on file with the City.*

§

SECTION 4.2 GOLD BEACH BUSINESS CODE
Transient Lodging Tax Code

4.200 Title.

This portion of the Gold Beach Code shall be known as the Transient Lodging Tax Code of the City of Gold Beach.

4.205 DEFINITIONS

OCCUPANCY means the right to the use or possession of any space in transient lodging for dwelling, lodging, or sleeping purposes for less than 30 days.

OCCUPANT means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

PERSON means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

RENT means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

SHORT-TERM RENTAL means a house, duplex, condominium, houseboat, trailer or other residential dwelling unit where a person rents a guest bedroom or the entire residential dwelling unit for transient lodging occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use.

SHORT-TERM RENTAL HOUSING PLATFORM means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

TAX ADMINISTRATOR means the City Administrator of the City of Gold Beach, or its designee, which may include the Oregon Department of Revenue. If the city utilizes the Oregon Department of Revenue as its tax administrator, it will comply with ORS 305.620 in that it will

follow the rules adopted by the Department of Revenue regarding the administration, collection, enforcement and distribution of transient lodging taxes.

TLT OR TAX means the transient lodging tax.

TRANSIENT LODGING OR TRANSIENT LODGING FACILITIES means:

- (1) Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;*
- (2) RV sites or spaces within RV parks and/or campgrounds, tent sites and yurts in private and public campgrounds used for temporary overnight periods of human occupancy; or*
- (3) Houses, cabins, condominiums, or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.*
- (4) To protect and preserve needed local housing units, multifamily dwelling units such as apartment units or similar non one & two-family dwelling units are specifically excluded as transient lodging or transient lodging facilities.*

TRANSIENT LODGING INTERMEDIARY means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

- a) Charges for occupancy of the transient lodging; or
- b) Collects the consideration charged for occupancy of the transient lodging; or
- c) Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

TRANSIENT LODGING PROVIDER means a person that furnishes transient lodging.

TRANSIENT LODGING TAX COLLECTOR means a transient lodging provider or transient lodging intermediary.

4.210 TAX IMPOSED (Amended by Ordinance No. 681)

A. Each occupant shall pay a TLT in the amount of ~~seven percent (7%)~~ **NINE PERCENT (9%) of the rent.** *The occupant shall pay the TLT with the rent to the transient lodging tax collector. TLT amounts shall be rounded down to the nearest cent. The transient lodging tax collector shall maintain records of all rent charged and TLT payments received. If rent is paid in installments, a proportionate share of the TLT shall be paid by the occupant to the transient lodging tax collector with each installment unless the occupant pays the entire amount with the first payment.*

B. Bills, receipts or invoices provided to occupants shall list the TLT separately and must accurately state the amount of tax. All amounts listed as TLT on invoices, bills or receipts must be reported as TLT and, after collection, must be turned over to the city, less the five percent (5%) administrative charge.

4.215 COLLECTION OF TAX BY TRANSIENT LODGING TAX COLLECTOR

- A. Every transient lodging tax collector shall collect the TLT at the time rent is paid, unless an exemption applies. If payment is by credit card, for purposes of this section, payment is made at the time credit card information is provided to the transient lodging tax collector, not when the transient lodging tax collector ultimately receives credit for the transaction. While holding the payment in trust for the city, a transient lodging tax collector may commingle the tax proceeds with the transient lodging tax collector's funds, but the transient lodging tax collector is not the owner of tax proceeds, except that, when a return is filed, the transient lodging tax collector becomes the owner of the administrative fee authorized to be retained. Transient lodging tax collectors may choose to file returns and remit payment based on amounts accrued but not yet collected. The transient lodging tax collector is liable for any TLT that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant.
- B. Upon request of the city, transient lodging tax collectors must provide all physical addresses of transient lodging facilities within the city limits and the related contact information, including the name and mailing address, of the general manager, agent, owner, host or other responsible person for the location.

4.220 SHORT-TERM RENTAL HOSTING PLATFORM FEES

A hosting platform for short-term rentals may collect a fee for booking services in connection with short-term rentals only when those short-term rentals are lawfully registered as operators with the city and possess a certificate of authority at the time the short-term rental is occupied.

4.225 LIABILITY FOR TAX

Transient lodging providers who receive any portion of the rent for transient lodging and transient lodging intermediaries that provide booking service are both transient lodging tax collectors and are jointly and severally liable for the tax.

4.230 EXEMPTIONS

No TLT shall be imposed upon:

- A. A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;
- B. A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- C. A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;
- D. A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter;
- E. A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility; or
- F. A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:
 - (1) All dwelling units occupied are within the same facility; and
 - (2) The person paying consideration for the transient lodging is the same person throughout the consecutive period.

4.235 REGISTRATION OF TRANSIENT LODGING PROVIDER – FORM AND CONTENTS – EXECUTION – CERTIFICATION OF AUTHORITY

- A. Prior to commencement of business, all Transient Lodging Providers, Transient Lodging Intermediaries, and Transient Lodging Tax Collectors are required to comply with the provisions of the Business License Code, Section 4.1 of the Gold Beach City Business Code.
- B. Every person engaging or about to engage in business as a transient lodging provider shall provide a completed registration form to the tax administrator within 15 calendar days after demonstrating compliance with the Business License Code. The registration form shall require the transient lodging provider to provide the name of the business, any separate business addresses, and other information as the tax administrator may

- require to implement this Chapter. Transient lodging providers who own or operate transient lodging facilities in Gold Beach shall provide the address of the lodging facility. The registration form shall be signed by the transient lodging provider. The tax administrator shall, within 15 days after registration, issue without charge a certificate of authority to collect the TLT. The transient lodging provider's obligation to collect the TLT is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate has not been issued. If the rent transaction is facilitated online, the certificate of authority must be able to be viewed by the occupant by clicking on a link to the certificate of authority at a reasonable place during the payment transaction.*
- C. Certificates shall be non-assignable and non-transferable and shall be surrendered to the tax administrator when the business is sold or transferred or when a transient lodging facility ceases to operate at the location specified in the registration form. Each certificate issued to a transient lodging provider for a specific lodging facility shall be prominently displayed at the lodging facility and include:*
- (1) The name of the transient lodging provider;*
 - (2) The address of the transient lodging facility;*
 - (3) The date the certificate was issued; and*
 - (4) The certificate number as assigned by the tax administrator.*

4.240 REMITTANCES AND RETURNS

- A. Transient lodging tax collectors must submit a completed tax return form to the tax administrator on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter and accompanied by remittance of all tax collected, less a five percent (5%) administration fee. The return shall be filed in such form as the tax administrator may prescribe. The tax administrator if they deem it necessary in order to ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes on other than monthly periods.*
- B. The transient lodging tax collector is entitled to the administration fee. If a transient lodging facility has multiple owners, they are not entitled to retain additional fees.*
- C. Remittances are delinquent if not made by the last day of the month in which they are due.*

- D. Returns shall show the gross rents collected, taxable rents, the total amount of TLT collected and the amount of the administrative fee retained by the transient lodging tax collector. Returns shall also show the exempt and excluded rents and the basis for exemptions and exclusions.*
- E. The person required to file the return shall deliver the return, together with payment of the amount of the tax due, to the tax administrator, to the appropriate office, either by personal delivery, by mail, or by electronic tax return filed through a reporting and payment portal furnished by the tax administrator, or its designee. If the return is mailed, the postmark shall be considered the date of delivery.*
- F. The tax administrator may extend the time for making any return or remittance of the tax by up to 30 days. No further extension shall be granted, except by the city council. Any transient lodging tax collector to whom an extension is granted shall pay interest at the rate of ten percent (10%) per month on the amount of the remittance due without proration for a fraction of a month. If a return is not filed, and the remittance and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties.*

4.245 PENALTIES AND INTEREST

- A. Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the tax administrator was originally required to be filed to the time of payment.*
- B. If a transient lodging tax collector fails to file a return or pay the tax as required, a penalty shall be imposed in the same manner and amount provided under ORS 314.400.*
- C. Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid and remitted to the tax administrator.*
- D. Taxes, interest, and penalties paid to the tax administrator under this section shall be distributed as other revenue under Section 4.280.*

4.250 DEFICIENCY DETERMINATION – FRAUD, EVASION, LOCAL TAX TRUSTEE DELAY

- A. Deficiency Determination. The tax administrator may review tax returns and adjust the amount due based on the information in the return, on information obtained during a review or audit of records, or on the basis of other evidence. In the event of*

a deficiency, the tax administrator shall provide notice of the deficiency to the transient lodging tax collector, who shall remit deficiencies within 10 business days of the deficiency notice. Notice may be by personal delivery or certified or registered mail.

- a. In reviewing and adjusting tax returns, the tax administrator shall offset any amount received in excess of remittances due against any shortages in remittances.
 - b. Except in the case of fraud or intent to evade the TLT, notice of deficiency determinations shall be issued within three years of the period for which the deficiency determination is made.
 - c. The time to remit deficient payment amounts under this section shall be extended if the local tax trustee timely requests a redetermination.
- B. Fraud – Refusal to Collect – Evasion. If any transient lodging tax collector fails to collect, report or remit the tax as required, submits a fraudulent return, or otherwise violates or attempts to violate this chapter, the tax administrator shall estimate the tax due, and calculate the amount owing from the transient lodging tax collector for tax remittance, interest and penalties and provide notice to the transient lodging tax collector of the assessment. The determination and notice shall be made and mailed within three years of the discovery by the tax administrator of the violation. The determination is due and payable upon receipt of notice and shall become final 10 business days after the date notice was delivered if no petition for redetermination is filed.

4.255 REDETERMINATIONS

- A. Any person affected by a deficiency determination may file a petition for redetermination with the tax administrator within 10 business days of service of notice of the tax deficiency. A determination becomes final if a petition for redetermination is not timely filed.
- B. If a petition for redetermination is filed within the allowable period, the tax administrator shall reconsider the determination and grant an oral hearing if requested. The petitioner shall be allowed at least 20 business days to prepare for the hearing.
- C. After considering the petition and all available information, the tax administrator shall issue a redetermination decision and mail the decision to the petitioner. During the redetermination process, the tax administrator may agree to a compromise of the amount due if there is a good faith dispute over the amount owing.
- D. The decision of the tax administrator on redetermination becomes final and payment is due 10 business days after the decision is mailed unless the petitioner files an appeal to the city council within that time. The appeal shall be filed with the tax

administrator. The city council's decision shall be final when reduced to writing and mailed to the petitioner and all amounts due must be paid within 10 business days of mailing of the city council decision.

4.260 COLLECTIONS

- A. The city may bring legal action to collect on any amounts owed to the city under this chapter within three years after remittance is due to the city or within three years after any determination becomes final.
- B. The city is entitled to collect reasonable attorney fees in any legal action brought to collect on amount owed to the city under this chapter.

4.265 LIENS

The city may record a lien in the city's lien docket against any real property owned by a transient lodging provider who receives any portion of the rent from a transient lodging facility located within the city as to any delinquent remittances by the transient lodging provider.

4.270 REFUNDS

- A. Refunds by City to Transient Lodging Tax Collector. If the transient lodging tax collector remits more tax, penalty or interest than is due, the transient lodging tax collector may file a claim in writing stating the facts relating to the claim, within three years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall be either refunded or credited on any amount due from the transient lodging tax collector.
- B. Refunds by City to Occupant. A transient lodging tax collector may file a claim for refund by filing a claim in writing within three years of payment providing the facts relating to the claim for refund. If the tax administrator determines that the tax was collected and remitted to the city and the occupant was not required to pay the tax or overpaid, the city shall issue a refund to the occupant.
- C. Refunds by Transient Lodging Tax Collector to Occupant. If an occupant has paid tax to a transient lodging tax collector but stays a total of 30 or more consecutive days in the same transient lodging facility, the transient lodging tax collector shall refund to the occupant any tax collected for any portion of the continuous stay. The transient lodging tax collector shall account for the collection and refund to the tax administrator. If the transient lodging tax collector has remitted the tax prior to the refund or credit to the occupant, the transient lodging tax collector shall be entitled

to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.

- D. Burden of Proof. The person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

4.280 ADMINISTRATION

A. **Use of TLT Funds.**

The revenue disbursement formula net ~~7% tax~~ **9% TAX** collected is as follows:

The revenue disbursement formula net ~~7% tax~~ **9% TAX** collected is as follows:

7% TAX 9% TAX COLLECTED	OPERATOR	PROMOTIONS FUND	GENERAL FUND	EVENT CENTER BUILDING MTC FUND	TOTAL
Original 6%	5%	75%	20%	0%	100%
2016 1%	5%	0%	0%	95%	100%
2022 2%	5%	PROMO FUND DESTINATION DEVELOPMENT/ TOURISM FACILITIES/ TOURISM RECREATIONAL 75%	20%	0%	100%

- B. Records Required from Local Tax Trustee. Every local tax trustee shall keep records of each transaction involving rent and/or collection of TLT. All records shall be retained for at least three years and six months.
- C. Examination of Records – Investigations. The tax administrator or agent may examine all records of a local tax trustee relating to receipt of rent and TLT and remittance of tax during normal business hours and may obtain copies of the records to audit returns.
- D. Authority of Tax Administrator. The tax administrator shall have the power to enforce this chapter, conduct audits, and to adopt rules, regulations and forms consistent with this chapter. Rules and regulations of general application shall be mailed to all registered transient lodging providers. The tax administrator may also issue written interpretations on request of a transient lodging tax collector. As to the transient lodging tax collector to whom the interpretation is issued, the City will act consistently with the interpretation

until it is withdrawn, and the city shall provide 30 days' written notice of withdrawal of an interpretation.

- E. Confidential Character of Information Obtained – Disclosure Unlawful. The city shall maintain the confidentiality of information provided by transient lodging tax collector. Nothing in this subsection shall be construed to prevent:
- a. The disclosure to, or the examination of records and equipment by, another city official, employee or agent for collection of taxes for the purpose of administering or enforcing any provisions of this chapter or collecting city business license fees.
 - b. Disclosure of information to the transient lodging tax collector and the transient lodging tax collector's agents.
 - c. The disclosure of the names and addresses of any persons to whom certificates of authority have been issued.
 - d. The disclosure of general statistics regarding taxes collected or business done in the City.
 - e. Disclosures required by ORS Chapter 192.
 - f. Disclosures required by ORS Chapter 297.

4.285 APPEALS TO CITY COUNCIL

Any person aggrieved by any decision of the tax administrator may appeal to the city council by filing a written appeal with the tax administrator within 10 business days of the serving or mailing of the decision being appealed. The city manager shall schedule the hearing on a city council agenda and provide the appellant notice of the hearing at least 10 business days before the hearing. The city council may agree to a compromise of the amount of tax remittance if there is a good faith dispute over the amount owing. Any person may appeal the issuance of a rule or regulation issued by the tax administrator to the city council by filing a written appeal within 10 business days of the mailing of the notice of the regulation.

4.290 PENALTY

A violation of this chapter is a Class A civil infraction. Each day that a violation remains uncured is a separate infraction.

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Gold Beach Sign Code

4.300 Title.

This portion of the Gold Beach Code shall be known and cited as the City of Gold Beach Sign Code.

4.305 Purposes.

This code has been enacted for the following purposes:

(1) To provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the quality of materials, construction, location, electrification and maintenance of all signs and sign structures not located within a building. The regulations of this Sign Code are not intended to permit any violations of the provisions of any other lawful code or ordinance of the City.

(2) To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised.

(3) To allow and promote positive conditions for meeting sign users' needs while at the same time avoiding nuisances to nearby properties.

(4) To reflect and support the desired character and development patterns of the City.

(5) To allow for a variety in number and type of signs in commercial and industrial zones while preventing signs from dominating the visual appearance of the area.

(6) To ensure that the constitutionally guaranteed right of free speech is protected.

(7) To allow for a variety in number and type of signs for a site. The provisions do not necessarily assure or provide for a property owner's desired level of visibility for the signs.

4.310 Definitions. *(Amended by Ordinance No. 669 adopted June 10, 2019)*

For the purpose of this Sign Code, certain terms, phrases, and words shall have the specific meaning they are given in this Code or, if not defined in this Code, the meaning given in the Uniform Building Code. Where terms are not defined either in this Code or the Uniform Building Code (UBC), they shall have their ordinary accepted meaning within the context of which they are used. Webster's International Dictionary of the English Language shall be considered as providing an ordinary accepted meaning. The following definitions control in this Code:

Approved Plastic Material. Shall be those having a self ignition temperature of 650 degrees F, or greater, when tested in accordance with UBC Standard No. 52-3, and a smoke density rating

not greater than 450, when tested in accordance with UBC Standard 42-1 in the manner intended for use, or a smoke density rating no greater than 75, when tested in the thickness intended for use by UBC Standard 52-2. Approved plastic shall be classified as CCI or CC2, in accordance with UBC Standard 52-4.

City Official. The City Administrator or designee.

Curb Line. Curb line is the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the City Official.

Digital/Electronic Message Center (EMC) Sign. A digital/EMC sign is an on-premise sign with a bright digital screen display, which may utilize incandescent lamps, LEDs, LCDs, plasma, or a flipper matrix. They can display computer generated video or multimedia content and is updated remotely by computer or playback device.

Fin Sign. A sign attached to and projecting out from a building face or wall and generally at right angles to the building. Fin signs include signs projecting totally in the right-of-way, partially in the right-of-way, or fully on private property.

Ground Sign. A sign supported by one or more supports placed in or upon the ground which is not attached to any building.

Height. The height of a sign is the vertical distance above grade at the lowest point of grade under any part of the sign to the highest point of the sign.

Illuminated Sign. Any sign which has characters, letters, figures, designs, or outline illuminated by electric lights or luminous tubes.

Inoperable Vehicle Sign. Any sign attached or painted on a vehicle or trailer that is not operable or does not have a current valid license.

Marquee. A permanent, fixed structure extending over the entrance to a building and serving some purpose other than strictly to provide shelter.

Noncombustible. As applied to building construction material means a material which, in the form in which it is used, is either one of the following:

- (a) Material of which no part will ignite and burn when subjected to fire. Any material conforming to UBC Standard No. 4-1 shall be considered noncombustible within the meaning of this section.

(b) Material having a structural base of noncombustible material as defined in subsection a. above, with a surfacing material not over 1/8 inch thick which has a flame-spread rating of 50 or less.

(c) Noncombustible does not apply to surface materials. Materials required to be noncombustible for reduced clearances to flues, heating appliances, or other sources of high temperature shall refer to material conforming to subsection (a) above. No material shall be classed as noncombustible which is subject to increase in combustibility or flame-spread rating beyond the limits herein established, through the effects of age, moisture or other atmospheric condition.

(d) Flame-spread rating as used herein refers to a rating obtained according to tests conducted as specified in UBC Standard No. 42-1.

Obsolete Sign. Any sign which no longer applies to the business, property or site upon which it is located or which advertises a business which has been closed permanently. Any business which does not operate for 120 consecutive days shall be deemed permanently closed unless the operator establishes that the business will resume operations within one year.

Outline Illumination. Lighting around the exterior of a sign face consisting of exposed reflective-type bulbs, incandescent lamps exceeding 40 watts, fluorescent lamps or neon tubing.

Pole Sign. A sign on a frame, pole, or other support structure which is not attached to any building and is a sign wholly supported by a sign structure in the ground.

Projecting Sign. Projecting sign is a sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

Projection. The distance by which a sign extends over public property or beyond the building line.

Roof Sign. Signs erected, constructed and maintained wholly upon or over the roof on any building, with the principal support on the roof structure.

Sign. Materials placed or constructed primarily to convey a message or other display and which can be viewed from a right-of-way, private roadway or another property, excluding canopies.

Sign Face Area. The total area of a sign face, including all decorative or structural trim, facing announcement, demonstration display, illustration, or any other attention-getting device, exclusive of essential structural supports. (See figures 1-A, 2-A and 3-A) appendix page 1. This excludes canopies, only the actual painted advertising message portion of the canopy is included in the sign face area.

Sign Structure. Any structure which supports or is capable of supporting any sign.

Temporary Sign. A sign not permanently attached to a building, structure, or the ground.

Uniform Building Code or UBC. The Uniform Building Code promulgated by the International Conference of Building Officials as adopted by the City of Gold Beach.

Vision Triangle. The vision triangle shown on appendix page 2, Figure 4A.

Wall Sign. A sign attached to or painted on the exterior wall of any building or other structure. This includes signs attached to canopies, awnings, marquees or similar structures.

Directional Signs.

- (a) Arrows that are painted on pavement to direct traffic.
- (b) Words on pavement to indicate type of parking space.
- (c) Signs directing the public to business not visible from the street or sidewalk.
- (d) Signs directing traffic to parking areas.
- (e) Signs directing the public to rest rooms and or aid stations.
- (f) Signs-"entrance, exit, office" (indicating office of the business).
- (g) Directional signs shall not include names or type of business.

Cluster Signs.

- (a) Small individual signs attached to or suspended from a business name sign structure advertising products sold on the premises.
- (b) Small individual signs attached to the building wall. Each wall of a building shall be considered a separate cluster.
- (c) Each sign in a cluster shall not exceed 1.5 sq. ft.

Political Signs. Political signs are signs which advocate in favor of, or opposition to a candidate for public office, a political party or a ballot measure.

Property. Property shall mean Tax Lot.

4.315 Permit Required.

- (1) No person shall erect, re-erect, construct, alter or maintain any sign unless that person obtains a sign permit for that sign.

(2) A separate sign permit is required for each sign and sign structure. Small cluster signs advertising the same business may be included in one permit. For cluster signs- each wall shall require a separate permit.

(3) A new sign permit is required each time a sign is relocated or reconstructed unless relocation is required by action of the State, County or City.

(4) The City Official shall grant an application for a sign permit if the City Official determines that the sign will meet all the requirements of this Code and all other requirements of state and federal law.

(5) If the sign meets all the requirements of this Code except the size and spacing requirements set forth in Section 4.365, and if:

(a) The sign was in place at the existing location on the date the first Gold Beach Sign Ordinance became effective; and

(b) The sign meets all requirements of state and federal law (including ORS 377.700-377.840); and

(c) The sign has had proper permits (if required) issued for its construction by all permit agencies,

then the City Official shall issue a sign permit which shall only authorize display of such a non-conforming sign until major repair, maintenance or replacement is required. Major repair or maintenance means repair or maintenance work costing more than 50% of the value of the sign.

(6) Any person erecting, re-erecting, constructing, altering or maintaining a sign without a valid sign permit shall remove that sign.

4.320 Other Permits.

(1) An additional electrical permit shall be obtained from the appropriate authority for electrical signs.

(2) Obtaining a sign permit from the City of Gold Beach does not relieve the owner of the sign from compliance with all other state or federal requirements nor from the obligation to obtain all other necessary permits.

(3) Outdoor Advertising Signs require a permit from the Director of Transportation under ORS 377.725 and shall comply with all applicable Oregon Administrative Rules, including OAR 734-060-0005.

4.325 Application for Permit.

Application for a sign permit shall be made in writing upon forms furnished by the City. Such application shall contain the name of the sign owner, location by street number of the proposed sign or sign structure, the name and address of the contractor or erector, and any

plans or other pertinent information required by the City where such information is necessary to insure compliance with this Code.

4.326 Application for Digital/EMC Sign.

(1) Signs with a digital/EMC display may be permitted upon an application to the City Council and must be in compliance with the following minimum standards. The Council, at its discretion, may add addition conditions at the hearing:

- a) Only one sign per property may feature a digital/EMC display sign. The standards of Section 4.365 for total allowable property signage are also applicable.
- b) The size of the digital/EMC sign may not exceed forty (40) square feet in size. This measurement of allowable area is the actual sign face. Support structure and other equipment necessary to safely mount the sign is not included or counted toward the maximum 40 square feet.
- c) Digital/EMC signs are only permitted on pole signs as defined in this code.
- d) Only one continuous digital display is allowed on a sign face at a time.
- e) The image or message on the digital display may not change more often than once every ten (10) seconds.
- f) The images on the digital display must be static and the transition from one static display to another must be completed within two (2) seconds.
- g) The digital display may not be illuminated to a degree of brightness greater than is necessary for visibility. All digital/EMC display signs shall be equipped with a light sensor that automatically adjusts the intensity of the sign according to the amount of ambient light.
- h) Digital/EMC illumination limits: the difference between the off and solid-message measurements using the EMC measurement criteria shall not exceed 0.3 footcandles at night.
- i) All permitted digital/EMC signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandles measurements.
- j) Digital/EMC display signs must turn off, freeze the image or message in one static position, or show a full black screen if a malfunction in the sign occurs.
- k) Digital/EMC display signs operation and illumination is prohibited between the hours of 9pm to 6am.

(2) Once a completed application and appropriate fee is received for a digital/EMC

display sign, the City Official shall schedule the review of the application at the next regular City Council meeting.

(3) A decision rendered by the City Council on a digital/EMC sign application is final. Any appeal or further review of a proposal will require reapplication.

4.330 Permit Fee.

The applicant shall pay such fees as specified and amended from time to time by ordinance of the City Council. Installation shall be completed not more than 90 days after the permit date. A 45-day extension may be granted if applied for in writing. If the sign is not installed within the times permitted, the permit shall be void. The square foot charge is based on the total sign face area for each property as defined in Section 4.010 (18).

4.335 Permit and Fee Exceptions.

(1) The following signs and operations shall not require a sign permit or fee but shall conform to all other applicable provisions of this Code:

- (a) Temporary Signs.
- (b) The changing of the advertising copy or message on a painted or printed sign or sign which is specifically designed for the use of replacement copy.
- (c) The painting, repainting, cleaning or normal maintenance of a sign face.
- (d) Directional signs painted on the pavement.
- (e) Directional signs painted on buildings or attached to posts or buildings shall not be more than 2.25 square feet in area.
- (f) Directional signs shall not be included in allowed sign space.
- (g) Political signs (must be removed within 10 days following the final election for which they are intended).

(2) Signs erected prior to February 14, 1989 that have a conforming valid paid permit on file shall not require a fee but shall require a permit and shall conform to all other applicable provisions of this Code:

4.340 Exempt Signs.

The following signs are exempt from the provisions of this Code, but may be subject to other Gold Beach Codes or Ordinances:

- (1) Signs legally erected in the right of way;

- (2) Building address numbers;
- (3) National, international and state flags;
- (4) All signs erected by a public officer in the performance of a public duty.

4.345 Prohibited Signs. The following signs are prohibited:

(amended by Ordinance No. 669 adopted June 10, 2019)

- (1) Signs attached to or painted on a vehicle that is not operable or does not have a current licenses;
- (2) Signs with moving parts;
- (3) Obsolete signs;
- (4) Signs in areas zoned Residential which exceed three (3) square feet unless the owner has obtained a conditional use permit for a home occupation, in which case signs in excess of nine (9) square feet are prohibited;
- (5) Signs that block or partially block an existing sign, a traffic control device, or access to any fire escape or other means of ingress or egress from a building or an exit corridor, hallway, or doorway;
- (6) Signs that impede traffic on any street, alley, sidewalk, bikeway, or other pedestrian or vehicular travel way.

4.350 Nonconforming Signs.

- (1) Signs not in compliance with the repair and maintenance standards of this Code (Section 4.355), shall be brought into compliance not later than 30 days after notification by the City.
- (2) Signs not in compliance with the structural standards of this Code (Sections 4.365 and 4.370) shall be brought into compliance not later than 90 days after notification by the City.
- (3) The owner of signs or property not in compliance with the size or spacing requirements of Section 4.365 of this Code shall remove all signs necessary to bring the signs or property into compliance when the sign requires major repair or maintenance (see section 4.315 (5)).
- (4) Whenever a nonconforming sign is reconstructed, a new sign permit is required. Whenever a nonconforming sign is relocated, a new sign permit is required unless the relocation is required by action of the federal, state, county or city government. No new sign permit shall be granted unless the sign and property are in compliance with all requirements of this Code, including the size and spacing requirements of Section 4.365 of this Code.

4.355 Maintenance of Signs.

All signs and sign support structures, together with their support, braces, guys and anchors, shall be kept in repair and in a proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times. Any sign or section, or part thereof, which is damaged 50 percent or more by wind, storm, fire or other cause, or becomes structurally unsound for any reason, shall be removed within ten days thereof, and not replaced until a new sign permit is obtained through the City as provided in this Code.

4.360 Inspections.

All signs for which a permit is required shall be subject to inspection by the City Official. Footing inspections may be required by the City Official for all signs having footings. All signs containing electrical wiring shall be subject to the provisions of the governing electrical code and the electrical components used shall bear the label of an approved testing agency. The City Official shall order the removal of any sign that is not maintained in accordance with these provisions or the provisions in Section 4.355.

4.365 Size and Spacing of Signs.

(1) Each property shall be allowed total sign face area which shall be equal to 1-1/2 square feet of signage for each linear front footage of the property on which the sign is to be located except:

(a) Each property shall be allowed at least 50 square feet of total sign face area and no more than 300 square feet of total sign face area except as set forth in subsections (b) and (c) below.

(b) A double faced sign that displays the identical advertising copy on both sides but can only be viewed from one direction shall have each side counted as 50% of allowed sign face area for that sign.

(c) Any property serving more than one business shall be allowed an additional ten square feet of total sign face area per business.

(2) No single sign face area shall exceed 200 square feet.

(3) For those signs which require a State permit, the minimum space between such signs within the City of Gold Beach and on the same side of the highway shall be 300 feet. For purposes of applying this spacing limitation, the following standards shall be used:

(a) Distances shall be measured lineally along the highway parallel to the center line of the highway.

(b) A back-to-back, double-faced or V-type sign shall be considered one sign.

4.370 Design and Construction.

(1) Signs and sign structures shall be designed and constructed to resist wind and seismic forces as specified in this section. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such a manner as to not overstress any of the elements thereof.

(2) Signs will be designed and constructed to the following load standards:

(a) Wind Loads. Signs and structures shall be designed and constructed to resist wind forces as specified in Section 23 of the Uniform Building Code.

(b) Seismic Loads. Signs and sign structures shall be designed and constructed to resist seismic forces as specified in Chapter 23 of the Uniform Building Code.

(c) Combined Loads. Wind and seismic loads need not be combined in the design of signs or sign structures, only that loading producing the larger stresses need be used. Vertical design loads, except roof live loads, shall be assumed to be acting simultaneously with the wind and seismic loads.

(3) Allowable Stresses. The design of wood, concrete, steel or aluminum members shall conform to the requirements of Chapters 25, 26, 27 and 28 of the Uniform Building Code. Loads, both vertical and horizontal, exerted on the soil shall not produce stresses exceeding those specified in Chapter 29 of the Uniform Building Code. The working stresses of wire rope and its fastenings shall not exceed 25 percent of the ultimate strength of the rope or fasteners. Working stresses for seismic loads combined with dead loads may be increased as specified in Chapter 23 of the Uniform Building Code.

(4) Construction. Signs shall be constructed to the following standards:

(a) The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of this Code.

(b) Materials. Materials of construction for signs and sign structures shall be of the quality and grade as specified for buildings in the Uniform Building Code. In all signs and sign structures the materials and details of construction shall, in the absence of specified requirements, conform with the following:

(i) Structural steel shall be of such quality as to conform with UBC Standard No. 27-1. Secondary members in contact with or directly supporting the display surface may be formed of light gauge steel, provided such members are designated in accordance with the specifications of the design of light gauge steel, as specified in UBC Standard No. 27-9, and in addition shall be galvanized.

Secondary members, when formed integrally with the display surface, shall not be less than No. 24 gauge in thickness. When not formed integrally with the display surface, the minimum thickness of the secondary members shall be No. 12 gauge. The minimum thickness of hot-rolled steel members furnishing structural support for signs shall be 1/4 inch, except that, if galvanized, such members shall not be less than 1/8 inch thick. Steel pipes shall be of such quality as to conform with UBC Standard No. 27.

(ii) Steel members may be connected with one galvanized bolt, provided the connection is adequate to transfer the stresses in the members.

(iii) Anchors and supports when of wood and embedded in the soil, or within 6 inches of the soil, shall be heartwood of a durable species or shall be pressure-treated with an approved preservative. Such members shall be marked or branded by an approved agency.

(c) Combustible Materials. Ground signs may be constructed of any material meeting the requirements of this code. Combination signs, roof signs, wall signs, projecting signs and signs on marquees shall be constructed of noncombustible materials, except as provided in subsection (d) of this section. No combustible materials other than approved plastics shall be used in the construction of electric signs.

(d) Nonstructural Trim. Nonstructural trim and portable display surfaces may be of wood, metal, approved plastics or any combination thereof.

(e) Anchors. Sign anchors shall conform to the following requirements:

(i) Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in either direction, horizontal or vertical, shall not exceed the safe values. Braced ground signs shall be anchored to resist the specified wind or seismic load acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil and for an effective resistance to pullout amounting to a force 25 percent greater than the required resistance to overturning. Anchors and supports shall penetrate to a depth below ground greater than that of the frost line.

(ii) Portable ground signs supported by frames or posts rigidly attached to the base shall be so proportioned that the weight and size of the base will be adequate to resist the wind pressure specified in this section.

(iii) Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to support safely the loads applied.

(iv) No wooden blocks or plugs or anchors with wood used in connection with screws or nails shall be considered proper anchorage, except in the case of signs attached to wood framing.

(v) No anchor or support of any sign shall be connected to, or supported by, an unbraced parapet wall, unless such wall is designed in accordance with the requirements for parapet walls specified for seismic zones in the Uniform Building Code.

(f) Display Surfaces. Display surfaces in all types of signs may be made of metal, glass, approved plastics or wood.

(g) Height and Setbacks. All sign installations shall comply with the current Zoning Ordinance of the City of Gold Beach requirements for set-backs and building height. The total height shall be the combination of sign and building if the sign is roof-mounted.

4.375 Projection and Clearance.

(1) Signs shall conform to the clearance and projection requirements of this section, including Tables A and B contained in subsections 7 and 8 of this section.

(2) High Voltage Power Lines. Signs shall be located not less than 6 feet horizontally or 12 feet vertically from overhead electrical conductors which are energized in excess of 750 volts. The term "overhead conductors" as used in this section means any electrical conductor, either bare or insulated, installed above the ground, except such conductors as are enclosed in iron pipe or other material covering of equal strength.

(3) Fire Escapes, Exits or Standpipes. No sign or structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit or standpipe.

(4) Obstruction of Openings. No sign shall obstruct any opening to such an extent that light or ventilation is reduced to a point below that required by the Uniform Building Code.

Signs erected within 5 feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics.

(5) Projection over Alleys. No sign or sign structure shall project into any public alley below a height of 14 feet above grade, nor project more than 12 inches where the sign structure is located 14 feet to 16 feet above grade. The sign or sign structure may project not more than 36 inches into the public alley where the sign or sign structure is located more than 16 feet above grade.

(6) Clearance from Streets. Signs shall not project within 2 feet of the curb line.

(7) Clearance Requirements for Projecting Signs.

TABLE A – CLEARANCE OF PROJECTING SIGNS

<u>CLEARANCE</u>	<u>MAXIMUM PROJECTION</u>
Less than 8'	Not permitted
8'	1'
8' to 16'	1' plus 6" for each foot of clearance in excess of 8'
Over 16'	5'

(8) Maximum Thickness of Projecting Signs.

TABLE B - THICKNESS OF PROJECTING SIGNS

<u>PROJECTION</u>	<u>MAXIMUM THICKNESS</u>
5'	2'
4'	2'6"
3'	3'
2'	3'6"
1'	4'

4.380 Fin Signs.

(1) Fin signs shall be constructed of noncombustible material, except as otherwise provided in this Code.

(2) All supports of fin signs shall be placed upon private property and shall be securely built, constructed and erected to conform with requirements specified in this Code.

(3) Fin signs may project beyond the property or legal setback in accordance with projection limits specified in this Code, with permission of the adjacent property owner over which the sign projects.

(4) The thickness of that portion of a fin sign which projects over public property shall not exceed the maximum set forth in Table B.

4.385 Pole Signs.

(1) Pole signs shall be constructed of noncombustible material, except as otherwise provided in this Code.

(2) All supports of pole signs shall be placed upon private property and shall be securely built, constructed and erected to conform with requirements specified in this Code.

(3) Projection of pole signs shall conform to the requirements of this Code.

4.390 Ground Signs.

- (1) Ground signs shall be constructed of any material meeting the requirements of this Code, except as otherwise provided in Section 4.370.
- (2) Ground signs shall be designed in accordance with the requirements of this Code.
- (3) Ground signs shall not project over public property or beyond a legal setback.

4.395 Roof Signs.

- (1) Roof signs shall be constructed of noncombustible materials, except as otherwise provided in this Code.
- (2) Roof signs shall be thoroughly secured and anchored to the frame of the building over which they are constructed and erected and shall be designed in accordance with the requirements specified in this Code.
- (3) Projection. Roof signs may project over public property or beyond a legal setback line complying with the requirements as specified in this Code with permission of the adjacent property owner over which the sign projects.
- (4) Clearance and Access. A passage clear of all obstructions shall be left under or around, and immediately adjacent to, all signs exceeding a height of 4 feet above the roof thereunder. Such passages shall be not less than 3 feet wide and 4 feet high and shall be at parapet or roof level. There shall be one such passage or access opening as follows:
 - (a) For each roof sign upon a building.
 - (b) An access opening for every 50 lineal feet of horizontal roof sign extension.
 - (c) Within 20 feet of walls and parapets when roof signs are at right angles to a face of the building.

4.400 Wall Signs.

- (1) Wall signs shall be constructed of noncombustible material, except as otherwise provided in this Code.
- (2) Wall signs shall be designed in accordance with the requirements specified in this Code.
- (3) Projection. No wall sign shall have a projection over public property or beyond a legal setback line greater than the distances specified in this Code nor shall it extend above any adjacent parapet or roof of the supporting building.
- (4) Thickness. The thickness of that portion of a wall sign which projects over public property or a legal setback line shall not exceed the maximum as set forth in Table B.

4.405 Projecting Signs.

- (1) Projecting signs shall be constructed of noncombustible materials, except as otherwise specified in this Code.
- (2) Projecting signs shall be designed in accordance with this Code.
- (3) Projection. Signs may project over public property or a legal setback line a distance determined by the clearance of the bottoms thereof above the level of the sidewalk or grade immediately below, as set forth in Table A with the permission of the property owner over which the sign projects.
- (4) Thickness. The thickness of a projecting sign exclusive of letters and trim shall not exceed that set forth in Table B.

4.410 Combination Signs.

- (1) Combination signs are signs incorporating two or more types of signs as defined and described in the Code. Combination signs shall be constructed of noncombustible materials, except as otherwise specified in this Code.
- (2) The individual requirements specified in this Code for roof, projecting and pole signs shall be applied to combination signs which incorporate one or more of those types of signs.
- (3) All supports of combination signs shall be placed in or upon private property and shall be securely built, constructed and erected to conform with the requirements of this Code.
- (4) Projection. Combination signs may project over public property or beyond a legal setback line as specified in this Code with permission of the property owner over which the sign projects.
- (5) Thickness. The thickness and height of that portion of a combination sign which projects over public property shall not exceed the maximum as set forth in Tables A and B.

4.415 Marquees.

Signs may be placed on, attached to, or constructed in a marquee. Such signs shall, for the purpose of determining projection, clearance, height and material, be considered a part of and shall meet the requirements for a marquee as specified in the Uniform Building Code.

4.420 Electric Signs.

- (1) Electric signs shall be constructed of noncombustible materials, except as otherwise allowed by this Code.

(2) The enclosed shell of electric signs shall be watertight, except that service holes fitted with covers shall be provided into each compartment of such signs.

(3) Installation. Electrical equipment used in connection with display signs shall be installed in accordance with local and state codes and Gold Beach Codes or Ordinances regulating electrical installation.

(4) Erector's Name. Every electric sign projecting over any street or alley or public place shall have painted on the surface of the sign the name of the sign erector and date of erection. Such name and date shall be of sufficient size and contrast to be readable from a reasonable distance. Failure to provide such name and date shall be grounds for rejection of the sign by the City Official.

(5) Lighting shall illuminate the advertising message only.

4.425 Temporary Signs.

(1) No permits are required for temporary signs.

(2) Temporary signs shall be limited to a maximum of 18 square feet, except banners for which a state sign permit is obtained.

(3) Temporary signs shall be included in determining the total allowable sign space for each property as limited by Section 4.365 of this Code.

(4) Except as provided in subsection (5) of this section, no temporary sign shall remain in place more than 40 days in any one calendar year or more than 40 consecutive days. Signs in place for a longer period of time shall be removed unless a sign permit for a permanent sign is obtained.

(5) Temporary signs exempt from 40-day time limit are:

(a) Signs displayed only during business hours and removed from view at the end of each day.

(b) Real estate signs posted on the property for sale, rent or lease. Such signs shall be removed ten days after the close of escrow or recording of sale documents.

(6) Temporary signs shall comply with section 4.370 (2) (a) and sections 4.375 (1) through 4.375 (4) of this Code.

4.430 Political Signs.

(1) No permits are required for political signs.

(2) Political signs shall be limited to a maximum of 32 square feet.

(3) Political signs shall be included in determining the total allowable sign space for each property as limited by section 4.365 of this Code.

(4) Political signs must be removed within ten (10) days following the final election for which they are intended.

(5) Political signs shall comply with section 4.370 (2) (a) and sections 4.375 (1) through 4.375 (4) of this Code.

4.435 Prohibited Conduct.

(1) No person shall install or attach any sign or poster to any utility pole, city sign pole, city sign standard or state sign pole or standard within the City of Gold Beach.

(2) No person shall erect, construct, maintain, repair or alter any permanent or temporary sign except in accordance with the provisions of this Code.

(3) No permanent sign shall be installed in a vision triangle. A temporary sign may be installed in a vision triangle, however, no temporary sign shall be located more than 30 inches above the road surface adjacent to the curb in the vision triangle. Height shall include supports and trim. *(See Figure 4, page 18-A.- this is not part of the ordinance we have.)*

4.440 Administration and Appeals.

(1) The City Official or designee is hereby authorized and directed to administer and enforce all of the provisions of this Code.

(2) Alternate Materials and Methods of Construction. The provisions of this Code are not intended to prevent the use of any material or method of construction not specifically proscribed by this Code, provided any such alternate has been approved as provided in this subsection. The City Official may approve any such alternate provided he/she finds that the proposed design is satisfactory and complies with the provisions of this Code and/or the State Building Code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability, and safety. The City Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

(3) Appeals.

(a) An affected person may appeal to the City Council from a decision of the City Official or designee made pursuant to this Code. Such appeal shall be taken within fifteen days of the decision by filing with the City Official a notice of appeal, specifying the action appealed from and the grounds for appeal. The City Official shall forthwith transmit to the City Council all the papers constituting the record upon which the action appealed from is taken.

(b) The decision of the City Official which is under appeal shall remain in effect during the appeal unless the City Official certifies to the City Council that, by reason of facts stated in the appeal, the City Official concludes that a stay is necessary to avoid immediate harm to the public health, safety or welfare or to property; in

which case the decision shall be stayed until the appeal is decided. If the City Official refuses to grant a stay, the decision will remain in effect unless a stay is granted by a court having jurisdiction of the matter.

4.445 Sign Code Variance Procedures.

The City Council may grant sign code variances in accordance with the following procedures:

(1) Application. An application and related information shall be submitted by the applicant in the manner prescribed by the City Official, together with the fee established from time to time by ordinance passed by the City Council.

(2) Notice. Within ten days of receipt of a complete and accurate application, and at least ten days before the City Council hearing, the City Official shall mail notice of the request to abutting property owners and occupants, including properties that would be abutting were it not for intervening streets or alleys.

(3) Timeline. Unless the applicant agrees to a longer time period, the City Council shall hold a hearing on the application and shall approve, conditionally approve, or deny a variance, with findings and conclusions thereon, within 30 days of receipt of a complete and accurate application.

(4) Criteria. The City Council's decision shall be based on the following criteria:

(a) Strict or literal interpretation and enforcement of certain of the regulations would result in practical difficulties and unnecessary physical or economic hardships inconsistent with the objectives of this Code.

(b) A practical difficulty or unnecessary hardship may result from:

(i) The size, shape or dimensions of a site, or the locations of existing structures thereon;

(ii) Geographic, topographic or other physical conditions on the site or in the immediate vicinity, or

(iii) Population densities, street locations or traffic conditions in the immediate vicinity.

(c) An economic hardship is one which results from an individual's inability to fairly and reasonably amortize the value of a nonconforming sign within the period of time prescribed by this Code. The power to grant variances does not extend to an economic hardship related to the cost, size or location of a new sign, or to the convenience of the applicant; nor is it intended to extend to the convenience of regional or national businesses who wish to use a standard sign, when those do not conform to the provisions of this Code.

(5) The City Official or designee shall mail a copy of the decision to the applicant and persons who have requested a copy on the date it is rendered.

(6) Expiration of Variance. Unless actual construction or alteration has begun within 90 days, a variance approval terminates. However, prior to expiration, the applicant may request in writing and the City Official or designee may extend approval for six-month periods. The City Official or designee shall not extend approval for more than two years from the first effective approval date.

(7) Compliance with Conditions Required. If a variance is granted subject to certain conditions or a substitute plan, compliance with the conditions or the substitute plan is required. Departure from approval conditions or the substitute plan is a violation of this Code.

4.550 Enforcement - Notice and Opportunity to Comply.

(1) The City Official or designee shall give written notice of any violation of this Code to the owner or lessee of the sign or property in question. The notice shall state the alleged violation and the relief sought.

(2) The owner or lessee shall have ten days to execute and deliver to the City Official or designee an assurance of voluntary compliance. The assurance shall set forth what actions, if any, the owner or lessee intends to take with respect to the alleged violation. The assurance of voluntary compliance shall not be considered an admission of a violation for any purpose. If the City Official or designee is satisfied with the assurance of voluntary compliance, it may be submitted to the Municipal Court for approval and, if approved, shall be filed with the clerk of the court as an order of the court.

(3) The City Official or designee may reject any assurance:

(a) Which does not provide for correction of the violation or removal of the sign in a reasonable time and manner; or

(b) Which does not provide for restitution in specific amounts to the City or to any person in cases involving any ascertainable loss of money or property as a result of the alleged violation; or

(c) Which does not contain any provision, including but not limited to the keeping of records, which the City Official reasonably believes to be necessary to insure the continued cessation of the alleged violation.

(4) Willful violation of any of the terms of an assurance of voluntary compliance which has been approved and filed with the court shall constitute a contempt of court.

4.460 Filing of Complaint; Temporary Restraining Order.

(1) After the expiration of ten days from the date of notice given under this Code, the City Official or designee may bring suit in the name of the City in the Municipal Court to restrain the violation, to seek a civil penalty, or both.

(2) If the City Official or designee alleges that he/she has reason to believe that the delay caused by complying with the notice provisions of section 4.455 of this Code would cause immediate harm to the public health, safety or welfare or to property, he/she may immediately institute a suit under subsection (1) of this section.

(3) A temporary restraining order may be granted without prior notice to the owner or lessee if the Municipal Court finds there is a threat of immediate and irreparable harm to the public health, safety or welfare or to property and demonstrates that reasonable efforts to give prior notice were unsuccessful. The court shall fix a time not to exceed ten days after which the temporary restraining order shall expire by its terms, unless within the time fixed, a hearing is held and, for good cause shown, the court extends the restraining order or provides for any other equitable relief.

4.465 Enforcement - Remedial Power of the Court.

(1) The Municipal Court is empowered to hear and determine violations of this Code. In addition to any other penalty provided by law, the court is empowered to issue any injunction, order or judgment necessary to restore to any person any money or property of which he/she was deprived by any violation of this Code, or which is necessary to insure cessation of the violation.

(2) City may apply to any other court of competent jurisdiction to obtain any relief authorized by law to prohibit the continuation of any violation of this Code.

4.470 Enforcement - Violation.

(1) Any person violating any of the provisions of this Code may be punished, upon conviction thereof, by a fine not to exceed \$300, or such other amount as the Gold Beach City Council shall set from time to time by ordinance. A violation as to each individual sign occurring for one day shall be considered a separate violation.

(2) The conviction of any person for violation of any of the provisions of this Code shall not operate to relieve such person from paying any fee or damages or prevent City from taking other remedial action to ensure compliance with this Code.

§

Vendor Assisted Tobacco Sales Code

4.500 Findings.

- (1) Youth addiction to tobacco products is a public health problem with grave health consequences.
- (2) Tobacco use is the leading preventable cause of death in Curry County.
- (3) Each day in Oregon, the equivalent of a classroom full of children begins smoking. In Curry County, 22% of students begin smoking before age 13, 28% of high school students' smoke and 6% chew tobacco.
- (4) More than half the tobacco retail outlets in Curry County have self-service tobacco displays when customers, including young people, have access to cigarettes, spit tobacco, and cigars without the assistance of a store employee.
- (5) Cigarettes are the item most frequently taken by shoplifters.

4.505 Purpose.

The purpose of this Code is to limit the sale of tobacco products to minors by way of vendor assisted tobacco sales.

4.510 Definitions.

- (1) "Minor" – Any person under eighteen years of age.
- (2) "Self-Service Displays" – Open display of tobacco products to which the public has access without the assistance of a store employee.
- (3) "Tobacco product" – Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or other means of ingestion.
- (4) "Tobacco Retail Store" – A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (5) "Vendor Assisted" – Only a store employee has access to the tobacco product and assists the customer by supplying the tobacco product; the customer does not take possession of the tobacco product until after it is purchased.

4.515 Vendor Assisted Tobacco Sales Required.

Except as provided in Section 4.520., no person or business may sell, permit to be sold, or offer for sale any tobacco product by means of self-service displays or any means other than Vendor-Assisted Sales.

4.520 Exceptions.

This Code shall not apply to Tobacco Vending Machines regulated by Oregon State Law, Tobacco Retail Stores, or to any business, retailer or establishment that is licensed by the Oregon Liquor Control Commission for a dispensing license and required to be posted preventing minors from access to the premises.

4.525 Non-retaliation.

No person or employer may discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or customer because such employee, applicant, or customer reports or attempts to prosecute any violation of this Code.

4.530 Penalties.

Violation of this Code shall be punishable by a fine not to exceed two hundred and fifty dollars (\$250.00) or such other maximum fine as the Gold Beach City Council shall set from time to time by ordinance. The Gold Beach Police Department shall have the authority to enforce this Code.

§

Social Gaming Code

This section REPEALED BY ORDINANCE NO. 654, January 26th, 2015

NUISANCE AND OFFENSE CODE

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GENERAL

5.000 Code Provisions as Law.

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

5.010 General Savings Provision.

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

5.020 Continuity of Existing Provisions.

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

5.030 Interpretation of Term "City Administrator".

Unless the context specifically indicates otherwise, any time this Code indicates that an action

is to be performed by the City Administrator, that action may be performed either by the City Administrator or by the City Administrator's designee. Designation of a designee of the City Administrator may be made informally.

5.040 Severability.

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

DOG CONTROL

5.050 Definitions.

- (1) The term "dog" as used in this Code shall mean male and female dogs, either sterilized or not, and whether licensed or not.
- (2) *Running at large definition:* A dog shall be considered to be running at large when it is off or outside the premises belonging to the person having the control, custody or possession of the dog unless the dog is under the complete control of such person by means of an adequate leash, or is within a vehicle.

5.055 Dogs Running at Large Prohibited.

The running at large of dogs within the City of Gold Beach is prohibited at all times.

5.060 Dogs Must be Licensed.

All dogs within the City of Gold Beach must be licensed at all times as provided by Oregon Revised Statutes Chapter 609.

5.065 Enforcement.

The police department of the City of Gold Beach shall have charge of the enforcement of this Code. It shall impound any dogs detained for violation of this Code in the Curry County animal shelter through the Curry County animal control officer. Any pick-up fee and any boarding fee charged to the owner will remain the property of Curry County, any fines or assessments

imposed pursuant to Section 5.070 of this Code shall remain the property of the City. .

5.070 Penalties.

Any dog found running at large may be impounded, whether licensed or not, and its owner shall be subject to citation into the municipal court. Each violation of this code constitutes an individual and separate offense. The maximum fines shall be set by resolution of the Gold Beach City Council.

5.075 Impoundment.

Any dog impounded under the authority of this Code will be retained for the amount of time provided in Oregon Revised Statutes 609.090, and after that period of time will be disposed of as provided by Oregon Revised Statutes 609.090.

5.080 Release of Impounded Dogs.

Any dog impounded under the authority of this Code shall be released to its owner upon payment of any pick-up and boarding fees charged by the Curry County animal shelter and any and all fines imposed by the municipal court. If any dog is impounded for lack of a license, then a license must be obtained in addition to any other fees and/or fines.

DISCARDED VEHICLES

5.100 Definitions.

As used in this Code, unless the context requires otherwise:

- (1) "Costs" shall mean the expense of removing, storing or selling a discarded vehicle.
- (2) "Chief of Police" includes any authorized law enforcement officer of the City of Gold Beach.
- (3) "Discarded" shall mean any vehicle that does not have lawfully affixed thereto an unexpired license plate and is in one or more of the following conditions:
 - (a) Inoperative.
 - (b) Wrecked.

- (c) Dismantled.
 - (d) Partially dismantled.
 - (e) Abandoned.
 - (f) Junked.
 - (g) Discarded vehicles may be deemed to include major parts thereof including but not limited to bodies, engines, transmissions and rear ends.
- (4) For the purposes of this chapter only, a vehicle rendered temporarily inoperative but otherwise legally parked outdoors on public right-of-way adjacent to the vehicle owner's residence or on private property shall not be considered a discarded vehicle if the vehicle is secure, not creating a hazard, and repairs to the vehicle are made within thirty (30) days.
 - (5) "Vehicle owner" shall mean any individual, firm, corporation or unincorporated association with a claim, either individually or jointly, of ownership of any interest, legal or equitable, in a vehicle.
 - (6) "Person in charge of property" shall mean any agent, occupant, lessee, contract purchaser, owner or person having possession, control or title of property where a vehicle is located.
 - (7) "Vehicle" shall mean every 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 by any means as defined in ORS 801.590.

5.105 Declaration of Public Nuisance.

The open accumulation and storage of a discarded vehicle is hereby found to create a condition tending to reduce the value of private property, to promote blight, deterioration and unsightliness, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of a discarded vehicle on private or public property is hereby declared to constitute a public nuisance, which may be abated in accordance with the provisions of this Code.

5.110 Prohibited Action.

It shall be unlawful to store or permit the storing of a discarded vehicle upon any private property within the City unless the vehicle is completely enclosed within a building, stored behind a site obscuring fence, hedge or wall, or stored by a lawfully conducted business dealing in disabled vehicles or vehicle repairs .

5.115 Police Duty.

- (1) It shall be the duty of the Chief of Police, whenever a discarded vehicle is found upon private property to:
 - (a) Make an investigation to discover the owner of the vehicle and the person in charge of the property upon which such vehicle is located and give written notice to them by personal service or by registered or certified mail that the vehicle is in violation of this Code; and
 - (b) If the owner of the vehicle is not found, to place a notice upon the windshield or some other part of the vehicle where it can be easily seen.
- (2) The notice shall state that a certain discarded vehicle is in violation of this Code and that within fourteen (14) days of the date of mailing, delivery or posting of the notice:
 - (a) The vehicle must be removed from the City or to the storage yard of a business enterprise dealing in discarded vehicles or vehicle repair lawfully conducted within the City; or
 - (b) Completely enclosed within a building, stored behind a site obscuring fence, hedge or wall.
- (3) The notice shall also state that the alternative to compliance with Subsection (2) of this section is to petition the City Administrator and request appearance in writing before the City Council within fourteen (14) days of sending or posting of the notice and show cause why such vehicle should not be immediately abated as provided in this Code.
- (4) The notice shall also state that failure to comply with this Code authorizes the City to remove the vehicle and assess the cost of removal against the property.

5.120 Entry upon Private Property.

- (1) The Chief of Police is authorized at all reasonable times to enter upon private property and examine any vehicle for the purpose of determining whether or not it is in a discarded condition. However, before entering upon private property, the chief shall obtain the consent of an occupant thereof or a warrant of the municipal court authorizing his or her entry for the purpose of inspection, except when an emergency exists.
- (2) No search warrant shall be issued under the terms of this Code until an affidavit has been filed with the municipal court, showing probable cause for such inspection by stating the purpose and extent of the proposed inspection, citing this Code as the basis for such inspection, whether it is an inspection instituted by complaint or other specific or general information concerning the vehicle in question or the property on which it is situated.
- (3) It is unlawful for any person to interfere with or attempt to prevent the Chief of Police from entering upon private premises and inspecting any vehicle when an emergency exists or the chief exhibits a warrant authorizing entry.

5.125 Hearing by City Council.

Pursuant to a request pursuant to Section 5.115(3), the City Council shall fix a time for a hearing to show cause why a discarded vehicle nuisance should not be immediately abated. The Council shall receive the evidence and testimony of the Chief of Police and other interested persons concerning the existence, location and condition of the vehicle. After the hearing, the Council may authorize and order the vehicle removed by the City in accordance with the provisions of this Code. The Council shall make its order in the form of a resolution that declares the vehicle to be a public nuisance. The resolution may order the removal of more than one vehicle and the Council may consolidate the hearings and orders relating to more than one vehicle. The persons receiving the notice specified in Section 5.115 shall be provided with copies of the resolution of the Council. In addition, the Council may impose conditions and take such other action as it deems appropriate under the circumstances in order to carry out the purposes of this Code. The Council may delay the time for removal of said vehicle where, in its opinion, delay is justified by the circumstances. It shall refuse to order the removal of the vehicle where the vehicle, in the opinion of the Council, is not subject to the provisions Sections 5.100 through 5.155 of this Code. The Council shall not be bound by the technical rules of evidence in the conduct of the hearing.

5.130 Abatement by the City and Appraisal.

- (1) Fourteen (14) days after the giving of notice required in Section 5.115 or seven

(7) days after adoption of a resolution declaring a vehicle to be a public nuisance as set forth in Section 5.125, whichever is later, the City may abate the nuisance and may remove the vehicle by use of City employees or duly authorized independent contractors. It shall be unlawful for any person to interfere with, hinder or refuse to allow such employees or contractors to enter upon private property for the purpose of removing a vehicle under the provisions of this Code.

- (2) After removing the vehicle, the City shall cause it to be appraised by any person who holds a certificate issued under Oregon Revised Statutes 819.480.

5.140 Disposal of Vehicle.

The City shall dispose of the vehicle in accordance with Oregon Revised Statutes 819.210 and 819.215, as constituted when this Code is adopted.

5.150 Redemption Before Sale.

- (1) A vehicle impounded under the provisions of this Code may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed, before a sale or disposition has taken place by applying to the police department, whereupon the individual shall:
 - (a) Submit evidence of his or her ownership or interest in the vehicle, satisfactory to the Chief of Police, that such claim is rightful;
 - (b) Pay the costs due and owing at the time the application to redeem is made; and
 - (c) Give evidence that the nuisance character of the vehicle will not be allowed to be resumed.
- (2) Upon compliance with Subsection (1) of this section, the Chief of Police shall execute a receipt and cause the vehicle to be returned.

5.155 Assessment of Costs.

- (1) After disposing of the discarded vehicle and deducting the money, if any, received from any sale of the vehicle from the costs, incurred by the City in removal, storage and sale of the vehicle, the City Administrator shall give notice of assessment of abatement costs, as provided in Section 5.115, to the person in charge of the property from which the vehicle was removed. The

notice of assessment of abatement costs will specify:

- (a) The unpaid costs of abatement:
 - (b) That the cost as indicated will be assessed to and become a lien against the real property unless paid within thirty (30) days from the date of the notice of assessment of abatement costs.
 - (c) That if the person in charge of the property objects to the cost of the abatement indicated, he or she may file a written notice of objection with the City Administrator not later than twenty (20) days from the date of the notice of assessment of abatement costs.
- (2) Objections to the proposed assessment shall be heard and determined by the Council not later than twenty (20) days from the date the City Administrator receives written notice of objection from the person in charge of the property.
 - (3) If the costs of the abatement are not paid within thirty (30) days from the date of the notice of assessment of abatement costs, or the date of decision by the Council on the objection to the proposed assessment if such objection is filed by the person in charge of the property, an assessment of the costs shall be made by resolution of the City Council and shall be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the real property from which the nuisance was removed or abated.
 - (4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine (9) percent per annum. Such interest shall accrue from date of the entry of the lien in the lien docket.
 - (5) An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property.

NUISANCE CODE

5.200 Title and Definitions.

This section shall be known as the Nuisance Code of the City of Gold Beach and the following definitions shall apply herein:

- (1) "City" means the City of Gold Beach, Oregon.
- (2) "City Administrator" means the City Administrator of the City of Gold Beach or the Administrator's designee.
- (3) "Person" means a natural person, firm, partnership, association or corporation.
- (4) "Persons in Charge" means any agent, occupant, renter, lessee, owner or person other than the owner, having the possession or control of property or any person being caused to come into existence or continuing existence of a nuisance as defined in this Code.
- (5) "Noxious Growths" means the following:
 - (a) Any vegetation, including grass and/or weeds, which:
 - (i) Poses a fire hazard because it is dry and more than twelve (12) inches high and is either within 100 feet of a structure or an opened public right-of way; or within thirty (30) feet of other types of combustibles; or is otherwise a fire hazard as determined by the City Fire Chief;
 - (ii) Encroaches onto an opened public right-of-way or across a property line;
 - (iii) Poses a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous, impairs the view of street signs, or in the opinion of the City Chief of Police is a traffic hazard based on sound principles of traffic management;
 - (iv) Creates an unsafe area to which children may be attracted;
 - (v) Is used for habitation by trespassers;
 - (vi) Harbors rodents or other animals that pose a health threat to

humans or is otherwise a health hazard as determined by the Curry County Department of Health; or

- (vii) Are listed as noxious or invasive by federal, state or county authorities.
- (b) The term “noxious growths” does not include:
 - (i) Vegetation that constitutes an agricultural crop;
 - (ii) Vegetation the removal of which may be inadvisable because it exposes the land to erosion;
 - (iii) Vegetation (not including Irish Furze (also known as gorse), Scotch Broom, or blackberry vines) that is maintained as an ornamental hedge, privacy screen or windbreak no wider than five (5) feet; unless the ornamental hedge, privacy screen or windbreak constitutes a fire hazard under subsection 5(a)(i) of the Section; or
 - (iv) Vegetation that is maintained as a safety barrier at the top edge of a steep slope or other hazardous location.

5.205 Prohibited Animal Nuisance.

(1) Dangerous Animals. No person in charge of an animal that is dangerous to the public health or safety shall permit the animal to be exposed to the public. If the animal is exposed to the public, it may be taken into custody by the City and disposed of in accordance with the procedures provided by the Code for the impoundment of dogs, Code sections 5.050 to 5.080, except that before the animal is released by the City, the municipal judge must find that proper precautions will be taken to ensure the public health and safety;

(2) Removal of Carcasses. No person shall permit an animal carcass under his or her ownership or control to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass;

(3) Animals at Large. Except for household pets, no person in charge of an animal shall permit the animal to be at large. Animals at large may be taken into custody by the City and disposed of in accordance with the procedures provided by the Code for the impoundment of dogs, Code sections 5.050 to 5.080.

5.210 Nuisances Affecting Public Health.

No person shall cause or permit a nuisance affecting public health on property under his or her ownership or control. The following are nuisances affecting public health and may be abated as provided in this Code.

- (1) Privies. Open vaults or privies constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the Health Division regulations.
- (2) Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that could affect the health of the public.
- (3) Stagnant water. Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- (4) Water pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
- (5) Food. Decayed or unwholesome food that is offered for human consumption.
- (6) Odor. Premises that are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.
- (7) Surface drainage. Drainage of liquid wastes from private premises.
- (8) Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

5.220 Nuisances Affecting Public Safety.

- (1) No person shall create a hazard by:
 - (a) Maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or
 - (b) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation, or other hole of a

depth of four (4) feet or more and a top width of twelve (12) inches or more, fail or refuse to cover or fence it with a suitable protective construction.

5.225 Attractive Nuisances.

- (1) No owner or person in charge of property shall permit thereon:
 - (a) Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children.
 - (b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
 - (c) An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.
- (2) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

5.230 Snow and Ice.

No person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

- (1) Snow to remain on the sidewalk for a period longer than the first two (2) hours of daylight after the snow has fallen.
- (2) Ice to remain on the sidewalk for more than two (2) hours of daylight after the ice has formed unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

5.235 Noxious Growths Prohibited.

- (1) No person in charge of real property shall allow noxious growths on the property. Noxious growths are hereby declared a nuisance.
- (2) It shall be the duty of any owner or person in charge of real property to abate noxious growths from said property. The person in charge shall be liable for the cost of the abatement as provided in this Code.
- (3) No person in charge of property may allow noxious vegetation to be on the

property or in the right-of-way of a public thoroughfare abutting on the property. It shall be the duty of the person in charge of the property to cut down or to destroy grass, shrubbery, brush, bushes, weeds, or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a safety, health or fire hazard, or, in the case of weeds or other noxious vegetation from maturing or from going to seed.

- (4) Between February 1 and November 30 of each year, the City Administrator may cause to be published three (3) times in a newspaper of general circulation in the City a copy of Subsection (3) of this section as a notice to all owners of property of their duty to keep their property free from noxious vegetation. The notice shall state the City intends to abate all such reported nuisances ten (10) or more days after notifying the person in charge of the property and to charge the cost of doing so on any particular parcel of property to the person in charge of the property.
- (5) If the noxious growths have not been privately abated in accord with the published notice, the City may provide written notice to abate the nuisance in the manner provided by Section 5.285 of this Code. If the nuisance remains unabated ten (10) days after such notice is given, the City Administrator may cause the nuisance to be abated and assess costs therefore as provided in Section 5.305 of this Code. The City Administrator may enter upon the property at reasonable times for the purpose of investigating and abating conditions prohibited by this Code.
- (6) The procedure provided by this Code is not exclusive and is in addition to any other procedure authorized by the Gold Beach Code or ordinance and the City Administrator may abate noxious growths that are an imminent danger to human life or property within the City. The cost of abatement shall be assessed and collected as provided by this Code.
- (7) Each day's violation of a provision of this Section 5.235 shall constitute a separate offense. The abatement of a nuisance herein provided shall not constitute a penalty for a violation of this Code, but shall be in addition to any penalty imposed for a violation of this Code.

5.240 Scattering Rubbish.

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance of the property, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way.

5.245 Trees.

- (1) No person in charge of property that abuts upon a street or public sidewalk shall permit trees or bushes on his property to interfere with street or sidewalk traffic. It shall be the duty of the person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his premises that encroach into the street or public sidewalk, including the adjoining parking strip, trimmed to a height of not less than eight (8) feet above the sidewalk and not less than ten (10) feet above the roadway.
- (2) No person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to the persons or property on or near the property.

5.250 Fences.

- (1) No person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six (6) feet, six (6) inches high.
- (2) No person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

5.255 Surface Waters, Drainage.

- (1) No person in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.
- (2) The person in charge of property shall install and maintain in proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk.

5.260 Radio, Television, and Wireless Communication Interference.

- (1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio, television or wireless communication reception by a radio or television receiver or wireless communication device of good engineering design.

- (2) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

5.265 Junk.

- (1) No person shall keep any junk outdoors on any street, lot, premises, or in a building that is not wholly or entirely enclosed, or that blocks doors used for ingress or egress.
- (2) The term “junk” as used in this section includes all old motor vehicles, old motor vehicle parts, abandoned auto-mobiles, old machinery, old machinery parts, old appliances or parts thereof, old and other metal, glass, paper, lumber, wood or other waste or discarded material.

This section shall not apply to junk kept in a commercial junkyard or automobile wrecking house.

5.270 Soliciting.

No person shall solicit, cause any other person to solicit, or perform any act furthering solicitation of, any person located on private property or premises not open to the public, between the hours of 8:00 p.m. and 8:00 a.m. each day. Solicitation is defined as any act that constitutes a request, appeal or application to obtain something.

5.275 Container Burning and Open Burning.

- (1) Permit Required. Except as set forth in subsection (6), a permit is required to kindle or maintain any open fire, bonfire or rubbish fire and for container burning. There shall be three (3) types of permits:
 - (a) An open burning permit, limited to a maximum of seven (7) days per permit.
 - (b) A container burning permit, limited to one (1) year from the date of issue. Each container and each location must have a separate permit.
 - (c) A commercial fire permit limited to seven (7) days for building demolition or land clearing.
 - (d) The Fire Chief or designee shall issue the required permit if deemed necessary after an inspection and assurances from the applicant that all burning will take place in compliance with the terms of this Code. A

commercial permit shall be reviewed within seven (7) days of application.

- (2) Except as set forth in subsection (7), no person shall kindle or maintain an open fire, bonfire or rubbish fire or burn any material in a container without a permit to do so. No person shall kindle or maintain a bonfire or rubbish fire or burn any material in a container except in strict compliance with the terms of this Code.
- (3) No person shall dispose of waste matter by burning except as follows:
 - (a) All burning shall take place during the hours of 8:00 a.m. to 8:00 p.m. unless otherwise specified by the Fire Chief.
 - (b) Burning shall be confined to incinerators or approved burning containers except as follows:
 - (i) If any open burning permit to engage in such burning is obtained from the Fire Chief or designee;
 - (ii) Such burning is done at a distance of more than twenty-five feet (25') from any building, structure or other combustible waste matter; and
 - (iii) A charged garden hose with a shut off and adjustable nozzle or other like water supply is on hand and a competent person is on constant attendance until all fire has been extinguished. Applicants for such permit must be in legal control of the lot or parcel of land on which the burning is to be done.
- (4) Offensive Smoke and Odors. Nothing shall be burned under permit or otherwise, which shall, in burning, cause or create a dense smoke or noxious odors. Materials which shall not be burned include but are not limited to, the following: wet or organic kitchen garbage and wastes, any petroleum based products or plastics, treated wood products, metals, and commercial construction and/or demolition debris. Barrel burning of small amounts of clean construction/demolition debris from non-commercial, home projects will be permitted in accordance with a permit as provided in this Section 5.275.
- (5) Fire Hazard Prohibited. No person shall construct, erect, install, maintain or use any burning container or barbecue pit or open or pile burn any combustible material so as to constitute or occasion a fire hazard or as to endanger the life or property of any person thereby. All liability for an escaped fire, including but

not limited to personal property damage to property of the permittee and any other person, and all fire suppression costs resulting from the fire, are the sole responsibility of the permittee, or, in the instance of a fire for which no permit was acquired, the person who ignited the fire.

- (6) A permit is not required for the following open fires:
 - (a) Outdoor recreation fire used for cooking when the fire is confined in a commercially manufactured fireplace or barbecue.
 - (b) Fires set and maintained for firefighting training or for otherwise training fire protection personnel.
- (7) Fire Chief May Prohibit. The Fire Chief may prohibit any outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.
- (8) Kindling of Fire on Land of Others Restricted. No person shall kindle a fire upon the land of another without permission of the owner thereof of his or her agent and any permit required by this Section 5.275.
- (9) Types and Construction of Burning Containers. No person shall use a burning container unless it meets the following standards:
 - (a) Commercial, industrial and apartment type incinerators shall be constructed in accordance with the provisions of the Building and Mechanical Codes.
 - (b) Residential burning containers (such as burn barrels) shall be constructed of brick, concrete, hollow tile, metal (steel), or other fire resistive material, shall have no openings greater than one-quarter inch (1/4") wide that are not covered by a spark arrester as described in subsection 9 (c) of this section, shall be equipped with a spark arrester and shall be set on a fire resistive pad, bare mineral surface, or be approved by the Fire Chief.
 - (c) Every burning container shall be equipped and maintained with a spark arrester constructed of iron, heavy wire mesh of at least 14 gauge wire or other non-combustible material, with openings not larger than one-quarter inch by one-quarter inch (1/4" x 1/4").
 - (d) Every burning container shall be constructed and maintained in accordance with the requirements of the State of Oregon Department

of Environmental Quality.

(11) Location. All burning containers shall be located as follows:

(a)

A residential burning container shall not be located less than twenty (20) feet away from:

- i. Any building or structure;
- ii. Rubbish;
- iii. Dry grass or weeds;
- iv. Vegetation; and
- v. Other combustible materials

The twenty (20) foot minimum requirement shall apply both horizontally and vertically. In addition, a residential burning container shall not be located less than ten (10) feet from any property line.

(b) The restrictions in this subsection 11 shall not apply to commercially manufactured barbecues and outdoor fireplaces which meet the requirements of subsections 9 (b) and 9 (c) of this section.

(12) Maintenance. Every burning container, barbecue pit and the equipment therefore shall be maintained in good condition and repair at all times.

5.280 Unenumerated Nuisances.

(1) The acts, conditions or objects specifically enumerated as defined in Sections 5.205 to 5.275 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 5.285 to 5.310 of this Code.

(2) In addition to the nuisances specifically enumerated within this Code, every other thing, substance or act that is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City is declared a nuisance and may be abated as provided in this Code.

5.285 Notice of Abatement.

(1) Upon determination by the City Administrator that a nuisance exists, the City Administrator shall send a Notice to Abate to the person in charge of the property on which the nuisance exists by registered or certified mail to the last known address of the person in charge and shall also conspicuously post a

notice on the property.

- (2) The Notice to Abate shall contain:
 - (a) A description of the real property, by street address or otherwise, on which the nuisance exists.
 - (b) A direction to abate the nuisance within ten (10) days from the date of the notice.
 - (c) A description of the nuisance.
 - (d) A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of abatement will be charged to the person in charge of the property.
 - (e) A statement that failure to abate a nuisance may warrant imposition of a civil penalty.
 - (f) A statement that the person in charge of the property may protest the order to abate by giving notice to the City Administrator within ten (10) days from the date of the notice.
- (3) An error in the name or address of the person in charge of the property shall not make the notice void.
- (4) Any mailings to the person in charge of the property shall deem to have been received by such person upon mailing by the City to the address found in the records of the Curry County Assessor.

5.290 Abatement by the Person in Charge.

- (1) Within ten (10) days after mailing of such notice, as provided in Section 5.285, the person in charge of the property shall remove the nuisance or protest that no nuisance exists.
- (2) A person in charge of the property protesting that no nuisance exists, shall file with the City Administrator a written statement which shall specify the basis for so protesting.
- (3) The statement shall be referred to the Gold Beach Municipal Court for a hearing at its next succeeding sitting. At the time set for the hearing, the

person in charge of the property may appear and be heard by the Court; and the Court shall determine whether or not a nuisance in fact exists. A determination by the Court shall be required only in those cases where a written statement has been filed and the person in charge of the property or representative appears at the hearing.

- (4) If the Court determines that a nuisance does in fact exist, the person in charge of the property shall, within ten (10) days after the Court determination, abate the nuisance.

5.295 Joint Responsibility.

If more than one person is responsible for the nuisance, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the City in abating the nuisance.

5.300 Abatement by the City.

- (1) If, within the time allowed, the nuisance has not been abated by the person in charge of the property, the City Administrator may cause the nuisance to be abated.
- (2) The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.
- (3) The City Business Office shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge in an amount to be set by resolution of the City Council or fifteen (15) percent of those expenses (whichever is the greater) for administrative overhead.

5.305 Assessment of Costs.

- (1) The City Business Office by certified or registered mail, shall forward to the person in charge of the property a notice stating:
 - (a) The total cost of abatement, including the administrative overhead.
 - (b) That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.
 - (c) That if the person in charge of the property objects to the accuracy or

reasonableness of the cost of the abatement as indicated, he or she may file a notice of objection with the City Business Office within ten (10) days of the date of the notice setting forth the bases for objecting.

- (2) If a notice of objection is filed within ten (10) days after the date of the notice, the Gold Beach Municipal Court shall schedule a hearing to hear and determine the objections to the costs assessed.
- (3) If the costs of the abatement are not paid within thirty (30) days from the date of the notice or from the date of the decision of the Municipal Court, if an objection is filed pursuant to subsection (2) of this Section 5.305, an assessment of the costs, as stated in the notice from the City Business Office, or as determined by the Municipal Court shall thereupon be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated. If the person responsible is not the owner of that property, then the City also may impose a lien upon property owned by the person responsible.
- (4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine (9) percent per annum. The interest shall commence to run from the date of the entry of the lien in the lien docket.
- (5) The City shall be entitled to reasonable attorney fees for any litigation regarding collection of the costs of abatement or filing of the lien as described above with Curry County and any foreclosing of such lien through any appropriate legal action as set by any trial or appellate court.
- (6) An error in the name of the 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.

5.310 Summary Abatement.

The procedure provided by this Nuisance Code is not exclusive, but is in addition to procedure provided by other laws; and the Fire Chief, the Chief of Police, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property. The costs of such abatement may be assessed as provided in Section 5.305 of this Code.

5.315 Penalties.

Except as otherwise provided herein, any person or persons who shall be convicted of being

the creator or keeper of a nuisance, or otherwise guilty of a violation of any of the provisions of this Code shall be subject to the maximum fine set by resolution of the City Council for the first offense and all subsequent offenses.

5.320 Separate Violations.

- (1) Each day's violation of a provision of this Code, or each act separate unto itself, constitutes a separate offense.
- (2) The abatement of a nuisance is not a penalty for violating this Code, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within ten (10) days of the date of notice to abate, or if a written protest has been filed, then abatement within ten (10) days of Municipal Court determination that a nuisance exists, will relieve the person responsible for the imposition of any fine under Section 5.315 of this Code except a fine from violation of Section 5.275.

DANGEROUS BUILDINGS

5.350 Definitions.

For the purpose of this Code:

- (1) The term "dangerous buildings" shall include:
 - (a) A structure which, for the want of proper repairs or by reason of age and dilapidated condition or by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connections, defective heating apparatus, or for any other cause or reason, is especially liable to fire and which is so situated or occupied as to endanger any other building or property or human life.
 - (b) A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind especially liable to cause fire or danger to the safety of such building, premises or to human life.
 - (c) A structure which shall be kept or maintained or shall be in a filthy or unsanitary condition, especially liable to cause the spread of contagious

or infectious diseases.

- (d) A structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.
- (2) The term “person” shall include every natural person, firm, partnership, association or corporation.
- (3) “City official” means any Councilor, mayor, city employee, or any agency or employee of any agency under contract to the City for services.

5.355 General Regulations.

- (1) Administration. The City building official is the primary city official authorized to enforce the provisions of this Code, but any other city official may act under the authority of this Code.
- (2) Inspections. The City building official or another city official is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Code.
- (3) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Code and whenever the City building official or another city official has probable and reasonable cause to believe that there exists in any building any condition that would make such building a dangerous building as defined herein, then said city official, including the building official, may enter into such building at reasonable times to inspect said premises for any violations of this Code.

5.360 Nuisance.

Every building or part thereof which is found by the Council to be a dangerous building is hereby declared to be a public nuisance; and the same may be abated by the procedures herein specified, or a suit for abatement thereof may be brought by the City.

5.365 Initial Action.

Whenever a city official shall find or be of the opinion that there is a dangerous building in the City, it shall be his duty to report the same to the City Council. Thereupon, the Council shall, within a reasonable time, fix a time and place for a public hearing thereon.

5.370 Hearing; Mailed Notice.

By certified or registered mail, return receipt requested, the City Administrator shall notify the owner of record of the premises whereon the building in question is located, that a hearing will be held concerning the nuisance character of the property and the time and place of the hearing. A copy of this notice shall also be posted on the property in addition to notices prohibiting entry into building. At the hearing the Council shall determine by resolution whether or not the building is dangerous. The Council may, as a part of the hearing, inspect the building; and the facts observed by the Council at such inspection may be considered by it in determining whether or not the building is dangerous. At the hearing the owner or other person interested in the property or building shall have the right to be heard. At such hearing the Council shall have the power to order any building declared to be dangerous removed and abated, if in its judgment such removal or abatement is necessary in order to remove the dangerous condition; or the Council shall have the power to order the building made safe and to prescribe what acts or things must be done to render the same safe.

5.375 Published and Posted Notices.

Ten (10) days' notice of any hearing shall be published in a newspaper of general circulation in the City or by posting notices thereof in three (3) public places in the City. If the last-mentioned notice be published or given as herein required, no irregularity or failure to mail notices shall invalidate the proceedings.

5.380 Council Orders; Notice.

Five (5) days' notice of findings made by the Council at a hearing and any orders made by the Council shall be given to the owner of the building, the owner's agent or other person controlling the same, and if the orders be not obeyed and the building rendered safe within the time specified by the order (being not less than five (5) days), then the Council shall have the power and duty to order the building removed or made safe at the expense of the property on which the same is situated.

5.385 Abatement by City.

In the event that the Council orders are not complied with, the Council must specify with convenient certainty the work to be done and shall file a statement thereof with the City Administrator, and shall advertise for bids for the doing of the working the manner provided for advertising for bids for street improvement work. Bids shall be received, opened and the contract let.

5.390 Assessment.

The Council shall ascertain and determine the probable cost of the work and assess the same against the property upon which the building is situated. The assessment shall be entered in the docket of city liens and shall thereupon be and become a lien against the property. The creation of the lien and the collection and enforcement of the cost shall all be performed in substantially the same manner as in the case of the cost of street improvements, but irregularities or informalities in the procedure shall be disregarded.

5.395 Summary Abatement.

The procedures of this Code pertaining to Council declaration of a dangerous building need not be followed where a building is unmistakably dangerous and imminently endangers human life or property. In such an instance, the chief of the fire department, the fire marshal or the Chief of Police may proceed summarily to abate the building.

5.398 Penalty.

Any person who shall be the owner of, or shall be in possession of, or in responsible charge of any dangerous building within the City and who shall knowingly suffer or permit the building to be or remain dangerous beyond the time specified in the order of the Council pursuant to Section 5.380, shall be guilty of a violation of this Code and shall, upon conviction thereof, may be fined a maximum amount as set by resolution of the City Council for the first and all subsequent offenses. Each day's violation of a provision of this Code constitutes a separate offense.

OFFENSE CODE

5.400 Definitions.

The definitions contained in Oregon Revised Statutes chapters 161, 162, 163, 164, 165, 166, 167, 471, 475, and 480.110 to 480.160, as constituted when this Code is adopted, are adopted by reference and made a part of this Code.

5.405 Prosecution Procedures – State Statutes Adopted.

The procedures applicable to the prosecution of violations contained in the Oregon Revised Statutes as constituted when this Code is adopted, are adopted by reference and made a part of this Code, and all references therein to district attorney shall include the city prosecutor or the city attorney. These shall include, but not be limited to, those provisions relating to defenses and burden of proof, general principles of criminal liability, parties and general principles of justification.

5.410 Violations — State Statutes Adopted.

Each violation made an offense against the state under the provisions of the Oregon Revised Statutes chapters 161, 162, 163 164, 165, 166, 167, 471, 475, and 480.110 to 480.160, as constituted when this Code is adopted, are adopted by reference and made a part of this Code and designated an offense against the City. A person who violates any one of the provisions within the jurisdiction of the City is in violation of this Code, and shall be charged with the offense of violating section 5.410 of this Code, and reference shall be made in the charging instrument to that particular section of the Oregon Revised Statutes, as incorporated by reference, which has been violated. If any other section of this Code or any other code or ordinance creates a specific violation offense in conflict with a violation offense incorporated by reference in this Code, the provisions of the violation offense incorporated by reference shall govern.

5.415 Soliciting or Confederating to Violate Code.

No person shall solicit, aid, abet, employ or engage another, or confederate with another, to violate a provision of this Code or any other code or ordinance of the City.

5.420 Offenses Outside City Limits.

Where permitted by Oregon law, an act made unlawful by this Code shall constitute an offense when committed on any property owned or leased by the City, even though outside the corporate limits of the City.

5.425 Attempt to Commit Offenses.

A person who shall attempt to commit any of the offenses mentioned in this Code or any code of the City, but who for any reason is prevented from consummating such act, shall be deemed guilty of an offense.

5.430 Separate Violations.

Whenever in this Code, or any code of the City of Gold Beach, an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required, or the failure to do an act is declared to be unlawful or an offense, each day a violation continues shall constitute a separate offense.

5.435 Penalties.

Violation of any provision of this Offense Code is punishable by a maximum fine set by resolution of the City Council for the first and each subsequent violation provided, however, in the case of a violation of any provision of this offense code where the offense is identical to an offense created by state statute, and the state law offense carries a lesser penalty, punishment shall be limited to the lesser penalty prescribed in the state law. In addition to the above penalties, the municipal court may also impose any fees, penalties, or assessments provided for by state law, and may order the offender to pay restitution where appropriate. The municipal court judge, at his or her discretion, shall determine the amount of fine and any fees to be assessed in accordance with the provisions of this code.

5.440 Nuisance Abatement.

No provisions in this Code shall preclude the abatement of a nuisance as provided in the general Sections 5.285 through 5.310 of this Code.

5.500 Disorderly Conduct at Fires.

No person at or near a fire shall obstruct or impede the fighting of the fire, interfere with fire department personnel or fire department apparatus, behave in a disorderly manner or refuse to observe promptly an order of a member of the fire or police department.

5.510 Unnecessary Noise.

No person shall create or assist in creating or permit the continuance of unreasonable noise in the City of Gold Beach. The following enumeration of violations of this section is not exclusive but is illustrative of some unreasonable noises.

- (1) The keeping of an animal that by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity.
- (2) The use of an engine, thing or device which is so loaded, out of repair or operated in such a manner as to create a loud or unnecessary grating, grinding, rattling or other noise.
- (3) The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled.
- (4) The construction, including excavation, demolition, alteration or repair, of a building other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the City.
- (5) Operating or permitting the use or operation of any device designed for sound production, amplification, or reproduction, including but not limited to a radio, drums and other musical instruments, phonograph, tape recorder, television set, loud speaker or other similar device so loudly as to disturb persons or normal sensitivities in the vicinity thereof.

5.515 Discharge of Weapons.

No person within the city limits other than a police officer in the line of duty shall discharge a firearm, blowgun, bow and arrow, crossbow, BB gun, explosive device, or any other weapon which propels a projectile by use of gunpowder or other explosive or jet or rocket propulsion. The City Council may approve certain areas as firing ranges, and these areas shall be exempt from this section. Also exempt from the application of this section are (1) a person discharging a firearm in the lawful defense of person or property and (2) a person discharging a firearm in order to butcher domestic livestock for personal consumption if the discharge will not endanger persons or property.

5.520 Violating Privacy Of Another.

Except as otherwise allowed by this Code, no person other than a police officer performing a lawful duty shall enter upon land or into a building used in whole or in part as a dwelling without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person.

5.525 Release of Child Confined in Vehicle.

It shall be lawful and the duty of any police officer or peace officer of the City, state, or county finding a child confined, locked, or left unattended in violation of the terms of Oregon Revised Statutes 163.545, to enter the vehicle and remove the child. The officer, may, if necessary, break the doors, windows, or locks of the vehicle.

5.530 Place of Amusement.

- (1) No person shall employ a person under eighteen (18) years of age in or about a cardroom, poolroom, billiard parlor or dance hall, unless the establishment is a "recreational facility" as defined in subsection (4) of this section.
- (2) No person under eighteen (18) years of age shall enter, visit or loiter in or about a public cardroom, poolroom or billiard parlor.
- (3) No person operating or assisting in the operation of a public cardroom, poolroom, billiard parlor or public place of amusement shall permit a person under eighteen (18) years of age to engage therein in any game of cards, pool, billiards, dice, darts, pinball, games of like character, or games of chance, either for amusement or otherwise.
- (4) This section shall not apply to the playing of billiards or pool in a recreational facility. As used in this section, a "recreational facility" means an area, enclosure or room in which facilities are offered to the public to play billiards or pool for amusement only, and:
 - (a) Which is clean, adequately supervised, adequately lighted and ventilated;
 - (b) In which no alcoholic liquor is sold or consumed; and
 - (c) Access to which does not require passing through a room where alcoholic liquor is sold or consumed.

5.535 Poisoning of Animals.

No person shall put out or place any poison where it is reasonably possible the same may be ingested by any horse, cattle, sheep, hog, dog or other domestic animal.

5.540 Police and Fire Communications.

No person shall operate any generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of any police or fire department radio communication system.

5.550 Obstruction of Building Entrances.

No person shall obstruct any entrance to any building or any stairway or hall leading to any building.

5.555 Open Cellar Doors or Grates.

No owner or person in charge of property shall permit a cellar door or grate located in or upon a sidewalk or public pathway to remain open except when such entrance is being used and, when being used, there are adequate safeguards for pedestrians using the sidewalk.

5.560 Obstruction of Fire Hydrants.

No owner of property adjacent to a street upon which is located a fire hydrant shall place or maintain within eight (8) feet of such fire hydrant any bush, shrub or tree or other obstruction.

5.565 Vending Goods on Streets or Sidewalks.

No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry or otherwise, unless a license has first been obtained.

5.570 ~~Begging.~~ (REPEALED Ord No. 679, October 2021)

~~No person shall physically accost another person for the purpose of begging or soliciting alms upon the streets or in any public place.~~

5.575 Lodging.

No person shall lodge in a car, outbuilding or other place not intended for that purpose without permission of the owner or person entitled to the possession thereof.

5.580 Posted Notices.

No person shall affix a placard, bill or poster upon personal or real property, private or public, with-out first obtaining permission from the owner thereof or from the proper public authority.

5.585 Hauling.

No person shall haul sand, gravel, rock, wood or other substance in any vehicle or conveyance that is so constructed or in such condition as to allow the sand, gravel, rock, wood or other substance to fall on and litter the public streets of the City.

5.590 Curfew.

- (1) No minor under the age of eighteen (18) years shall be in or upon any street, highway, park, alley or other public place between the hours of 12:00 midnight and 4:00 a.m. of the following morning, unless:
 - (a) Such minor is accompanied by a parent, guardian or other person eighteen (18) years of age or over and authorized by the parent or by law to have care and custody of said minor; or
 - (b) Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section; or
 - (c) The minor is emancipated pursuant to Oregon Revised Statutes 419B.550 to 419B.558.
- (2) No parent, guardian or person having the care and custody of a minor under the age of eighteen (18) years, shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in subsection (1) above, except as otherwise provided in that subsection.
- (3) Any minor who violates subsection (1) of this section may be taken into custody as provided in Oregon Revised Statutes 419C.080, 419C.085 and 419C.088, and may be subject to further proceedings as provided in Oregon Revised Statutes chapter 419C.

PARKS

5.700 Park Rules and Regulations.

The following rules are hereby adopted for the regulation and use of municipal parks in and for the City of Gold Beach, Oregon, and shall be observed at all times, by all persons using any park and/or park facilities:

- (1) In general, park use is on a first come, first served basis. Pavilion use is by reservation only. A reservation to use the pavilion shall be made with the Park Superintendent through the Administrative Office at City Hall.
- (2) No fires or camp stoves shall be allowed except in the following designated areas:
 - (a) Park camp stoves or fireplaces provided for such purposes.
 - (b) Portable stoves in established picnic areas and areas specifically designated for portable stoves.
 - (c) No fire shall be left unattended and every fire shall be completely extinguished before user leaves the park area.
- (3) No person, except a police officer or Park Superintendent, acting within the scope of his or her employment, shall:
 - (a) Hunt, pursue, trap, kill, injure, molest or remove any bird, reptile, amphibian, or animal from confines of any city park, nor disturb in any manner the habitat of any bird or animal within the confinement of a city park.
 - (b) Discharge any firearm, pellet gun, bow and arrow, sling shot, or other weapon or instrument capable of injuring any person, bird or animal. Notwithstanding the forgoing, bow and arrow target practice competition may be held without prior written permission of the City Council.
 - (c) Possess any loaded firearm in any park area unless authorized under Oregon state statute (ORS 166.173).
- (4) Flowers, shrubs, foliage, trees, plant life or products of any type, shall not be picked, cut, mutilated, or removed from any park area without express written permission from the City Council or Park Superintendent.
- (5) No person except Park Superintendent or park employees, acting within the scope of

their employment, shall mutilate, deface, damage, or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic marker, or other structure or facility of any kind in or from the park area.

- (6) No person shall, except under special written permission and regulation of the City Council, dig up, deface, or remove any soil, stones, rocks, or other substance, making any excavation, quarry any stone, or lay, or set off any blast, or roll any stones or other objects, or cause or assist in doing any of the said things within any park area.
- (7) No person shall, except in specifically designated area within the park, erect signs, markers, or inscriptions of any type without permission from the City Council or Park Superintendent.
- (8) No person in any park area may, without written permission from the City Council:
 - (a) Operate any type of fixed or mobile concession, or commercial enterprise.
 - (b) On behalf of a commercial enterprise, solicit, sell, or offer for sale, peddle, hawk, or vend, any commercial goods, wares, merchandise, foods, liquids or other services.
- (9) Motor vehicles, including motorcycles and motorbikes, shall be operated only on roads, and in parking areas constructed or designated for motor vehicular use. No motor vehicle, motor-bike or motorcycle, shall be operated on any grass or trail, or in any part of the park area, not constructed or specifically designated for motor vehicle use, or on any road or trail posted as closed to the public, or on any road or trail where signs are placed and erected by authority of the City Council prohibiting the driving of motor vehicles, including motorcycles and motorbikes. Automobiles, trailers, and all other vehicles shall be parked only in designated parking areas.
- (10) No person shall operate a motor vehicle within any park area at a speed in excess of ten (10) miles per hour.
- (11) No person shall operate or use, any noise producing machine, vehicle, device or other instrument in such a manner that it is disturbing to other park area visitors, except park maintenance vehicles.
- (12) No dog, cat, or other animal of any kind shall be brought into or kept in a park area unless confined in a vehicle or on a leash. The Park Superintendent and city park employees are hereby authorized to undertake any reasonable measures, including the removal of the animal from the park area, deemed necessary by said park employees to prevent interference by said animal with the safety, comfort and

- well being of the park area users or the appearance and sanitary condition of the park area. No animals, other than disability assistance animals as allowed by law shall be allowed in any building.
- (13) No person shall allow an animal to defecate in a public park, unless the owner or custodian of such animal immediately removes and properly disposes of the animal waste.
- (14) No person shall ride, drive, lead, or keep any saddle horse, or other domesticated animal, in the park area, except cats and dogs on a leash or confined in a vehicle.
- (15) No bottles, cans, ashes, waste paper, garbage, sewage, or other rubbish, refuse, shall be left in any park area, except in the receptacles specifically designated for that purpose. It shall be unlawful for any person to deposit any waste paper, garbage, rubbish, or refuse that was produced from activities outside the confines of any city park, in any waste receptacle located in a city park.
- (16) No person shall set up or use a public address system in any park area without prior written permission of the City Council.
- (17) No person shall wash any clothing or other materials in any park stream or park restroom.
- (18) No overnight camping shall be allowed.
- (19) No person other than law enforcement officers or authorized city personnel, shall enter or remain in any park area during the period between one hour after sunset and one hour after sunrise.
- (20) No minor child under the age of five (5) years old shall be permitted in any park area, unless the child is accompanied by a responsible person of at least twelve (12) years of age.
- (21) Rules and Regulations for Use of Tennis Courts.
- (a) Time limit for play shall be one (1) hour if other persons are waiting to make use of the facilities.
- (b) No glass bottles or other glass containers shall be brought or kept inside any tennis court area.

- (c) No bicycles, skates, skateboards, or other similar instruments shall be allowed inside any tennis court area.
 - (d) No dogs, or other animals shall be allowed inside a tennis court area.
 - (e) Tennis courts within any city park are for the use of the public and no private or public lessons shall be given where a consideration is charged for the same without prior written permission of the City Council.
 - (f) Any person wishing to schedule any type of organized tennis tournament, or other organized activity using the tennis courts, shall make application to the Park Superintendent, at least fourteen (14) days prior to the date of the anticipated activity. The Park Superintendent shall be authorized to schedule and regulate all organized activities involving the tennis court area.
- (22) Rules and Regulations for Use of Kid Castle.
- a) Time limit for play shall be one (1) hour if other persons are waiting to make use of the facilities.
 - b) No glass bottles or other glass containers shall be brought or kept inside any Kid Castle area.
 - c) No bicycles, skates, skateboards, or other similar instruments shall be allowed inside the Kid Castle area.
 - d) No dogs, or other animals shall be allowed inside the Kid Castle area.
 - e) Kid Castle is located within a city park and is for the use of the public. No private or public lessons using Kid Castle shall be given where a consideration is charged for the same without prior written permission from the City Council.
 - (f) Any person wishing to schedule any type of organized activity, using the Kid Castle facilities, shall make application to the Park Superintendent, at least fourteen (14) days prior to the date of the anticipated activity. Park Superintendent shall be authorized to schedule and regulate all organized activities involving the Kid Castle area.
 - (g) Smoking. No smoking shall be permitted in the Kid Castle area at any time.
 - (h) Smokeless Tobacco. Smokeless tobacco (such as chew) and spitting shall not be allowed in the Kid Castle area.

- (23) Alcoholic Beverages. No alcoholic beverages shall be sold or consumed in the park without written permission from the City Council.

5.705 Application for Written Permission.

Any person required to obtain written permission from the City Council for any activity in a city park as described in Section 5.700 of this Code shall submit a request for said permission to the City Administrator and the City Administrator shall place said item on the agenda of the City Council for its next regularly scheduled Council meeting.

5.710 Authorization.

The City Park Superintendent and all city park employees and city police, are hereby authorized and directed to enforce, by all lawful means, full compliance by the public with Section 5.700 of this Code.

5.715 Penalty.

Any person violating any of the provisions of this Section 5.700 of this Code shall, upon conviction thereof in the municipal court of the City of Gold Beach may be punished by a maximum fine as set by resolution of the City Council. In addition to the above penalties, the court may also impose any fees, penalties, or assessments provided for by state law, and may order the offender to pay restitution where appropriate.

5.720 Separate Violations.

Each violation of a provision of this Parks Code shall constitute an individual and separate offense.

Section 2. The following ordinances and all ordinances in conflict herewith are hereby repealed:

1. Ordinance 560.

The following ordinances were previously repealed and incorporated into this Code:

1. Ordinance No. 156
2. Ordinance No. 161
3. Ordinance No. 271
4. Ordinance No. 331
5. Ordinance No. 332
6. Ordinance No. 335
7. Ordinance No. 338
8. Ordinance No. 351
9. Ordinance No. 355
10. Ordinance No. 367

11. Ordinance No. 378
12. Ordinance No. 391
13. Ordinance No. 409
14. Ordinance No. 412
15. Ordinance No. 417
16. Ordinance No. 419
17. Ordinance No. 434
18. Ordinance No. 473
19. Ordinance No. 485
20. Ordinance No. 531
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General

6.000 Code Provisions as Law.

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

6.010 General Savings Provision.

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

6.020 Continuity of Existing Provisions.

The provisions of this Code that are the same in substance as code or ordinance provisions

that are in effect immediately before this Code becomes effective are construed as restatements and continuations of the prior provisions.

6.030 Interpretation of Term “City Administrator”.

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

6.040 Severability.

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

6.050 Applicability of State Traffic Laws.

The following provisions of Oregon Revised Statutes, as the same appear as of the date of the adoption of this ordinance, are hereby adopted by reference and made part of this ordinance:

Chapters 153, 801, 802, 803, 805, 806, 807, 809, 810, 811, 813, 814, 815, 816, 818, 819, 820, 821, 822 and 825, ORS 221.333 and ORS 476.715

A violation of any of the above enumerated chapters or sections shall be considered offenses against the City of Gold Beach when committed within its boundaries. Insofar as any of said chapters or sections above set forth conflict with any provisions of the city charter, or of any other code or ordinance of the City, then the charter, code or other ordinance shall take precedence, and shall be in full force and effect.

6.060 Definitions.

In addition to the definitions contained in ORS Chapters 153 and 801 to 822, the following words and phrases, except where the context clearly indicates a different meaning, shall mean:

(1) “Bus stop.” A space on the edge of a roadway designated by sign for use by buses loading or unloading passengers.

- (2) "Funeral procession." The procession attending the burial of a deceased human.
- (3) "Loading zone." A space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours of specified days.
- (4) "Motor vehicle." Every vehicle that is self-propelled, including tractors, fork-lift trucks, motorcycles, road building equipment, street cleaning equipment and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicle laws of Oregon.
- (5) "Person." A natural person, firm, partnership, association or corporation.
- (6) "Street." The terms "highway," "road" and "street" when used in this Code or in the portions of state law adopted by section 6.100 shall be considered to be synonymous unless the context clearly indicates otherwise. "Street" includes alleys, sidewalks and parking areas owned and maintained by the City.
- (7) "Taxicab stand." A space on the edge of a roadway designated by sign for use by taxicabs.
- (8) "Traffic lane." That area of the roadway used for the movement of a single line of traffic.

Administration

6.100 Powers of the Council.

- (1) Subject to state laws, the City Council shall exercise all municipal traffic authority for the City except those powers specifically and expressly delegated herein or by another ordinance.
- (2) The powers of the City Council shall include, but not be limited to:
 - (a) Designation of through streets.
 - (b) Designation of one-way streets.
 - (c) Designation of crosswalks, safety zones and traffic lanes.
 - (d) Intersection channelization and designation of areas where drivers of

vehicles shall not make right, left or U-turns, and the times when such prohibitions apply.

(e) Designation of truck routes.

(f) Designation of parking zones and time limitations, including the form of permissible parking and any fees charged therefore.

(g) Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage.

(h) Authorization of greater maximum weights or lengths for vehicles using City streets than specified by state law and consistent with the provisions of ORS 810.060.

(i) Initiation of proceedings to change speed zones.

(j) Revision of speed limits in parks.

6.110 Duties of the City Administrator. The City Administrator shall implement the ordinances, resolutions and motions of the council and his or her own decisions by installing traffic control devices. Such installations shall be based on the standards contained in the Oregon Manual on Uniform Traffic Control Devices for Streets and Highways.

6.120 Public Danger. Under conditions constituting a danger to the public, the city police chief or the chief's designee may install temporary traffic control devices deemed by the chief to be necessary.

6.130 Standards. The administrative actions of the City Administrator shall be based upon:

(1) Traffic engineering principles and traffic investigations.

(2) Standards, limitations and rules promulgated by the Oregon Transportation Commission.

(3) Other recognized traffic control standards.

6.140 Authority of Police and Fire Officers.

(1) It shall be the duty of police officers to enforce the provisions of this Code.

(2) In the event of a fire or other public emergency, officers of the police and fire

department may direct traffic as conditions require, notwithstanding the provisions of this Code.

6.150 Gold Beach Traffic Commission Membership.

(1) There is established a Gold Beach Traffic Safety Commission which shall consist of a minimum of five (5) and a maximum of seven (7) voting members and non-voting ex officio members that may include the City Administrator, Superintendent of Public Works, Chief of Police, Fire Chief, Superintendent of Schools, and representatives from Oregon State Highway Department and Curry County. The voting members shall consist of one (1) member from the City Council, who shall serve as chairperson, with the remaining members appointed from the community at large; all of whom shall be appointed by the Mayor, subject to Council approval. The voting members shall elect a Secretary, for the Commission, from its body.

(2) Term and Vacancies. The term of the voting members shall be four (4) years, expiring on December 31 of the fourth year. Any vacancy shall be filled by appointment pursuant to Article IV, Section 18 of the City Charter of 1986 and Council Rules in effect at the time of the appointment. The newly filled position will continue for the unexpired portion of the term.

6.160 Traffic Commission Quorum and Rules.

The majority of the commission present, shall constitute a quorum. The Commission may make rules and regulations for its government and procedure, consistent with the laws of the state and the City Charter and Ordinances, and shall meet at least once every ninety (90) days.

6.170 Traffic Commission Powers and Duties.

The powers and duties of the Traffic Commission shall be as follows:

- (1) To develop and recommend coordinated traffic safety programs;
- (2) To recommend traffic safety priorities for the City;
- (3) To review and recommend project applications for funding;
- (4) To serve in a liaison capacity between the City and Oregon Traffic Safety Commission in developing the statewide highway safety program and in meeting the National Highway Safety Program Standards;
- (5) To act in an advisory capacity to the Gold Beach City Council and the City

Administrator in the implementation of official traffic safety activities;

- (6) To provide research and information to official agencies of the City;
- (7) To promote public acceptance of official City traffic programs;
- (8) To foster public knowledge and support of traffic law enforcement and traffic engineering problems and needs; and
- (9) To cooperate with the public and private school systems in promoting traffic safety education programs.

6.180 Traffic Commission Reports.

The Traffic Commission shall submit copies of its minutes to the City Council and shall make reports as may be requested of them by the City Council.

6.190 Traffic Commission Compensation.

Members of the Traffic Commission shall receive no compensation for services rendered.

General Regulations

6.200 Crossing Private Property.

No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services or other business purposes.

6.210 Unlawful Riding.

- (1) No operator shall permit a passenger and no passenger shall ride on a vehicle upon a street except on a portion of the vehicle designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to a person riding within a truck body in space intended for merchandise, provided all available safety belts are in use.
- (2) No person shall board or alight from a vehicle while the vehicle is in motion upon a street.

6.220 Skateboards and Sleds on Streets. No person shall use the streets for traveling on skateboards, skis, toboggans, sleds or similar devices, except where authorized.

6.230 Damaging Sidewalks and Curbs.

(1) The operator of a motor vehicle shall not drive upon a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

(2) No unauthorized person shall place dirt, wood or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.

(3) No person shall remove a portion of a curb, a portion of a roadway, or move a motor vehicle or a device moved by a motor vehicle upon a curb or sidewalk without first obtaining authorization from the City Administrator and posting a bond, if required in the discretion of the City Administrator. No person shall paint any curb any color without express authorization of the council. Any person who causes any damage to curbs or roadways shall be responsible for the cost of said repair.

6.240 Removing Glass and Debris. A party to a vehicle accident or a person causing broken glass or other debris to be upon a street shall remove the glass and other debris from the street, except where authorized tow company personnel on scene are authorized and/or directed by their company policy to effect such cleanup.

6.250 Unlawful transfer of property on street. (this section added Ord No. 678)

A. *A person commits the offense of unlawful transfer on a street if the person:*

- (1) While a driver or passenger in a vehicle on a highway, road or street within the boundaries of the city, creates a traffic hazard by giving or relinquishing possession or control of, or allows another person in the vehicle to give or relinquish possession or control of, any money or tangible personal property to a pedestrian; or*
- (2) While a pedestrian, creates a traffic hazard by accepting, receiving, or retaining possession or control of any money or tangible personal property from a driver or passenger in a vehicle on a highway, road, or street within the boundaries of the city.*

B. *This section does not apply:*

- (1) If the vehicle is legally parked;*

- (2) *To law enforcement officers acting in their official capacities; or*
- (3) *If the pedestrian is participating in a "pedestrian activity," as defined by OAR Chapter 734, Division 58, for which a permit has been issued by the Oregon Department of Transportation, so long as all terms of such permit are being met.*

Parking Regulations

6.300 Method of Parking.

- (1) Where parking space markings are placed on a street, no person shall stand or park a vehicle other than in the indicated direction and, unless the size or shape of the vehicle makes compliance impossible, within a single marked space.
- (2) The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to interfere.
- (3) Whenever the operator of a vehicle discovers that the vehicle is parked close to a building to which the fire department has been summoned, the operator shall immediately remove the vehicle from the area unless otherwise directed by police or fire officers.

6.310 Prohibited Parking or Standing. In addition to complying with the motor vehicle laws of the State of Oregon prohibiting parking,

- (1) No person shall park or stand:
 - (a) A vehicle where it poses a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous, impairs the view of street signs, or in the opinion of the City Chief of Police is a traffic hazard based on sound principles of traffic management.
 - (b) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials and in no case for a period in excess of thirty (30) consecutive minutes.
 - (c) A motor truck as defined by ORS 801.355 on a street between the hours of 9:00 p.m. and 7:00 a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation.

(d) A vehicle taller than five (5) feet in parking zones marked as restricted to vehicles over five (5) feet in height.

(2) No operator shall park and no owner shall allow a vehicle to be parked upon a street for the principal purpose of:

(a) Displaying the vehicle for sale.

(b) Repairing or servicing the vehicle, except repairs necessitated by an emergency.

(c) Displaying advertising from the vehicle.

(d) Selling merchandise from the vehicle, except when authorized.

(3) No operator shall park and no owner shall allow a vehicle to be parked upon private property or premises opened to the public without the permission of the owner or occupier of the premises. The positioning of a vehicle or other personal property for a period of over 24 hours on private property or premises opened to the public, without permission of the owner or occupier, shall constitute prima facie evidence that the vehicle is parked in a prohibited area.

6.320 Storage of Motor Vehicles on Streets. No person shall store or permit to be stored on a street or other public property, without permission of the City Administrator, a motor vehicle or personal property for a period in excess of 24 hours. Failure to move a motor vehicle or other personal property for a period of 24 hours shall constitute prima facie evidence of storage of a motor vehicle.

6.330 Use of Loading Zone. No person shall stand or park a vehicle for any purpose or length of time, other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. In no case, when the hours applicable to the loading zone are in effect, shall the stop for loading and unloading of materials exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed thirty (30) minutes.

6.340 Unattended Vehicles. Whenever a police officer finds a motor vehicle parked unattended with the ignition key in the vehicle, the police officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the police station.

6.350 Standing or Parking of Buses and Taxicabs. The operator of a bus or taxicab shall not stand or park the vehicle upon a street in a business stand, or park the vehicle upon a street in

a business district at a place other than a bus stop or taxicab stand, respectively; except that this provision shall not prevent the operator of a taxicab from temporarily stopping his vehicle outside a traffic lane while loading or unloading passengers.

6.360 Restricted Use of Bus and Taxicab Stands. No person shall stand or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop; except that the operator of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers, when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space.

6.370 Extension of Parking Time. Where maximum parking time limits are designated, movement of a vehicle within a block shall not extend the time limits for parking.

6.380 Exemption. The provisions of this Code regulating the parking or standing of vehicles shall not apply to a vehicle of the city, county, state or of a public utility while necessarily in use for construction or repair work on a street, or a vehicle owned by the United States while in use for the collection, transportation or delivery of mail.

Bicycles

6.400 Bicycle Operating Rules. In addition to observing all other applicable provisions of this Code and state law pertaining to bicycles, a person shall:

(1) Not leave a bicycle, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the provisions relating to the parking of motor vehicles.

(2) Not ride a bicycle upon a sidewalk.

6.410 Impounding of Bicycles.

(1) No person shall leave a bicycle on public or private property without the consent of the person in charge or the owner thereof.

(2) A bicycle left on public property for a period in excess of 24 hours may be impounded by the police department.

(3) In addition to any citation issued, a bicycle parked in violation of this ordinance may be immediately impounded by the police department.

(4) If a bicycle impounded under this ordinance is licensed, or other means of determining its ownership exist, the police shall make reasonable efforts to notify the owner. No impounding fee shall be charged to the owner of a stolen bicycle which has been impounded.

(5) A bicycle impounded under this Code which remains unclaimed shall be disposed of in accordance with the City's procedures for disposal of abandoned or lost personal property.

(6) Except as provided in Subsection (4), a fee of \$5.00 shall be charged to the owner of a bicycle impounded under this section.

Pedestrians

6.500 Pedestrians Must Use Crosswalks. No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within 150 feet of a marked crosswalk.

6.510 Right Angles. A pedestrian shall cross a street at a right angle unless crossing within a crosswalk.

Funeral Processions

6.600 Funeral Processions.

(1) A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practicable.

(2) The procession shall be accompanied by adequate escort vehicles for traffic control purposes.

(3) All motor vehicles in the procession shall be operated with their lights turned on.

(4) No person shall unreasonably interfere with a funeral procession.

(5) No person shall operate a vehicle that is not a part of the procession between the vehicles of a funeral procession.

Parking Citations and Owner Responsibility

6.700 Citation on Illegally Parked Vehicle. Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this Code, the officer finding the vehicle shall take its license number, and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a parking citation for the operator to answer to

the charge against him or pay the penalty imposed within five (5) days during the hours and at a place specified in the citation.

6.710 Failure to Comply with Parking Citation. If the operator does not respond to a parking citation affixed to a vehicle within a period of five (5) days, vehicle will be considered to be abandoned.

6.720 Owner Responsibility. The legal owner of a motor vehicle, as shown on the records of the Oregon Department of Motor vehicles at the time of a violation of the laws governing parking of a vehicle, shall be responsible for the offense, except when the use of the vehicle was secured by the operator without the owner's consent, or if a transfer of title has occurred but the transfer has not yet been recorded at the time of the violation. In the later instance, the new owner shall be responsible for payment of the parking violation. The name and address of the new owner is to be supplied in writing to the Gold Beach Police Department and verified by the Oregon Department of Motor Vehicles.

6.730 Registered Owner Presumption. In a prosecution of a vehicle owner charging a violation of a restriction on parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that the defendant was then the owner in fact.

Impoundment and Abandoned Vehicles

6.800 Impoundment of Vehicles.

(1) Whenever a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, a police officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner but subsequently became an obstruction or hazard. Vehicles may also be impounded as a result of traffic crimes and violations as described in Oregon Vehicle Code.

(2) The disposition of a vehicle towed and stored under authority of this section shall be in accordance with the provisions of this Code relating to impoundment and disposition of abandoned vehicles.

(3) The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this Code.

(4) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.

(5) Whenever a police officer observes a vehicle parked in violation of a provision of this Code, if the vehicle has four (4) or more unpaid parking violations outstanding against it, the officer may, in addition to issuing a citation, cause the vehicle to be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as is provided in Subsection (2) of this section.

6.810 Abandoned Vehicles. Abandoned and disabled vehicles shall be governed, impounded and disposed of as provided in ORS 819.100 to 819.260. The Gold Beach Police Department shall be the authority to act on behalf of the City in accord with ORS 819.140.

Penalties

6.900 Penalties.

(1) Penalties for violations of provisions of state law shall be those penalties provided by state law.

(2) Violation of Sections 6.200 through 6.240 and Section 6.320 is punishable by fine not to exceed \$100.00.

(3) Violation of Sections 6.300, 6.310 and 6.330 through 6.370 is punishable by fine not to exceed \$50.00.

(4) Violation of Section 6.400 is punishable by a time not to exceed \$50.00.

(5) In addition to the above penalties, the court may also impose a unitary assessment as provided by ORS 137.290 and may order the offender to pay restitution.

(6) The maximum penalties prescribed by this section may be revised from time to time by resolution of the Gold Beach City Council.