CITY ORDINANCES

CLICK ON THE LINKS BELOW TO GO TO THAT SECTION.

TITLE I - ADMINISTRATION

1 Adoption, Contents and Interpretation
2 Definitions
3 Administrative Policy and Procedure
4 City Housing Commission
5 Special Assessment Procedure
6 City Elections
7 Municipal Civil Infractions
8 Property Tax Exemption
9 Downtown Development Authority
10 Ross Lake Village Tax Exemption Ordinance

TITLE II — UTILITIES AND SERVICES

21 Garbage and Rubbish
22 City Water Utility
23 City Sewer Service
24 Water and Sewer Rates
25 Private Wells
26 Cable Television
27 Telecommunications

TITLE III — PARKS AND PUBLIC GROUNDS

31 Parks — General Regulations
32 City Cemeteries

TITLE IV — STREETS & SIDEWALKS

41 Streets
42 Sidewalks

TITLE V — LAND USE

51 City of Beaverton Zoning
52 Subdivision Control
53 Flood Plain Districts
54 Blight Ordinance
55 Fences
56 Dangerous Structures

TITLE VI -- FOOD AND HEALTH

61 Drive-in Restaurants

TITLE VII — BUSINESS AND TRADES

71 Licenses
72 Fees and Bonds Required
73 Peddlers
74 Solicitors
75 Auctions
76 Transient Merchants
77 Yard Sales
78 Secondhand and Junk Dealers
79 Taxicabs
79-1 Pool Rooms
79-2 Dances and Dance Halls
79-3 Carnivals and Circuses

TITLE VIII — BUILDING CODE ENFORCEMENT

80 Reserved
81 Existing Structures
82 Rental Housing Business

TITLE IX — POLICE REGULATIONS

105 Nuisances
106 Radio, TV Interference
107 Noise Control
108 Weed Control
109 Abandoned Refrigerators
110 Animals
111 Disorderly Conduct
112 Parades and Demonstrations
113 Curfew
114 Alcoholic Liquor
115 Fire Prevention

TITLE X— TRAFFIC

126 Traffic
127 Traffic – Street Closings
128 Railroad Trains

BEAVERTON CITY
ZONING & ORDINANCES
ADOPTED: MAY 1997
REVISED: APRIL 2008

CITY OF BEAVERTON
ORDINANCES AND ZONING

TABLE OF CONTENTS

TITLE I - ADMINISTRATION

CHAPTER

1 Adoption, Contents and Interpretation
2 Definitions
3 Administrative Policy and Procedure
4 City Housing Commission
5 Special Assessment Procedure
6 City Elections
7 Municipal Civil Infractions
8 Property Tax Exemption
9 Downtown Development Authority
10 Ross Lake Village Tax Exemption Ordinance

TITLE II — UTILITIES AND SERVICES

CHAPTER

21 Garbage and Rubbish
22 City Water Utility
23 City Sewer Service
24 Water and Sewer Rates
25 Private Wells
26 Cable Television
27 Telecommunications

TITLE III — PARKS AND PUBLIC GROUNDS

CHAPTER
31 Parks — General Regulations
32 City Cemeteries

TITLE IV — STREETS & SIDEWALKS

CHAPTER
41 Streets
42 Sidewalks

TITLE V — LAND USE

CHAPTER
51 City of Beaverton Zoning
52 Subdivision Control
53 Flood Plain Districts
54 Blight Ordinance
55 Fences
56 Dangerous Structures

TITLE VI -- FOOD AND HEALTH

CHAPTER

61 Drive-in Restaurants

TITLE VII — BUSINESS AND TRADES

CHAPTER

71 Licenses
72 Fees and Bonds Required
73 Peddlers
74 Solicitors
75 Auctions
76 Transient Merchants
77 Yard Sales
78 Secondhand and Junk Dealers
79 Taxicabs
79-1 Pool Rooms
79-2 Dances and Dance Halls
79-3 Carnivals and Circuses

TITLE VIII — BUILDING CODE ENFORCEMENT

CHAPTER

80 Reserved
81 Existing Structures
82 Rental Housing Business

TITLE IX — POLICE REGULATIONS

CHAPTER

105 Nuisances
106 Radio, TV Interference
107 Noise Control
108 Weed Control
109 Abandoned Refrigerators
110 Animals
111 Disorderly Conduct
112 Parades and Demonstrations
113 Curfew
114 Alcoholic Liquor
115 Fire Prevention

TITLE X— TRAFFIC

CHAPTER

126 Traffic
127 Traffic – Street Closings
128 Railroad Trains

TITLE I

ADMINISTRATION

CHAPTER 1

ADOPTION, CONTENTS AND INTERPRETATION

The purpose of this ordinance is to provide for the exercise of certain municipal powers of the City of Beaverton, Michigan, to serve the health, safety, and welfare of persons and property in the City, and to provide penalties for the violation of the provisions thereof.

The City of Beaverton, ordains:

§1.101 Publication and Distribution of Code. Publication of this codification of the ordinances of the City of Beaverton is hereby directed. Twenty-five copies of the Code shall be published in loose-leaf form and distributed as follows:

Officer	No. Copies
Mayor	1
Each Council Member (6)	1
Administrator	1
Clerk	10
Attorney	1
Treasurer	1
Assessor	1
City Engineer	1
Health Officer	1
Chief of Fire Department (if any)	1
Other Officers	1

Twenty-five (25) copies of the original printing shall be published and made available to the public at a reasonable charge fixed by the City Council. Further copies may be printed as needed, in accordance with demand or necessity.

§1.102 Amendment Procedure. This Code shall be amended by ordinance. The title of each amending ordinance shall be substantially as follows, as the context requires:

(a) To amend any existing section:

AN ORDINANCE TO AMEND SECTION_____ (or SECTIONS_____ AND_____) OF CHAPTER_____ OF TITLE _____ OF THE CODE OF THE CITY OF BEAVERTON.

(b) To insert a new section, chapter or title:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF BEAVERTON BY ADDING A NEW SECTION (_____ NEW SECTION, A NEW CHAPTER, or A NEW TITLE, as the case may be) WHICH NEW SECTION (SECTIONS, CHAPTER, or TITLE) SHALL BE DESIGNATED AS SECTION_____ (SECTIONS_____AND_____) OF CHAPTER _ OF TITLE_____ ,or proper designation if a chapter or title is added OF SAID CODE.

(c) To repeal a section, chapter or title:

AN ORDINANCE TO REPEAL SECTION_____(SECTIONS_____AND_____, OF CHAPTER_____, OF TITLE_____, as the case may be) OF THE CODE OF THE CITY OF BEAVERTON.

§1.103 Publication and Distribution of Amendments. Amendments to the Code shall be published as required by the Fourth Class Cities Act, MCL 87.1, et seg.; MSA 5.1658 and not less than twenty-five copies of each amendment shall be published in loose-leaf form suitable for insertion in the loose-leaf copies of this Code. The City Clerk shall distribute such copies to the officers of the City having copies of the Code assigned to them. Each officer assigned a copy of the Code shall be responsible for maintaining the same and for the proper insertion of amendment pages as received. Each copy of said Code shall remain the property of the City and shall be turned over by each officer having custody thereof upon expiration of his term of office to his successor or to the City Clerk, in case there shall be no successor.

§1.104 Contents of the Code.

(a) **Items included:** This Code contains all ordinances of a general and permanent nature of the City of Beaverton and includes ordinances dealing with municipal administration, City utilities and services, parks and public grounds, streets and sidewalks, zoning and planning, food and health, businesses and trades, building, electrical, heating and plumbing regulations, police regulations and traffic regulations.

(b) **Items excluded:** This Code excludes ordinances granting franchises and special privileges, appropriating funds or establishing salaries, establishing sewer and other public improvement districts, providing for the construction of particular sewers, streets or sidewalks, or for the improvement thereof, and for the construction and improvement of other public works, authorizing the borrowing of money or the issuance of bonds.

(c) **Zoning included:** The zoning ordinance of the City of Beaverton (being Ordinance No. 86 adopted (November 1971) is hereby preserved and amended by this Code, and is set forth as Title V, Chapter 51 of this Code. The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this Code.

(d) **Repealer:** All ordinances of a general and permanent nature in effect on the effective date of this Code are hereby preserved except as to such provisions of any such ordinances as are also contained or inconsistent with those herein; provided, also, that any sections or parts of any such ordinance which are not permanent and general in nature as herein defined, and which are severable from the remainder of such ordinance are continued. Ordinances not

codified herein, as per Title I, Chapter 1, § 1.104(b) are preserved.

(e) Further codification: Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this Code, nor be deemed a part hereof.

§1.105 Short Title. This ordinance shall be known and cited as the "Beaverton City Code."

§1.106 Headings. The catch lines or headings within this document are not part of the ordinance or code and may not be used to construe a provision broadly or more narrowly than the text indicates. No provision of this code shall be held invalid by reason of deficiency in any chapter or section heading.

§1.107 Responsibility. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted there under, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do said act.

§1.111 Notice. Notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which, if performed by the City, may be assessed against the premises under the provisions of this Code, shall be served:

(a) Personal Service: By delivering the notice to the owner personally or by leaving the same at his residence, office or place of business with some person of suitable age and discretion; or

(b) By Mail: By mailing said notice by certified or registered mail to such owner at his last known address, or

(c) By Posting: If the owner is unknown, by posting said notice in some conspicuous place on the premises at least five (5) days before the act or action concerning which the notice is given is required or is to occur.

No person shall interfere with, obstruct, mutilate, conceal, or tear down any official notice or placard posted by any City officer, unless permission is given by said officer to remove said notice.

§1.112 Penalty. Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code calling for a criminal penalty shall be punished by a fine of not more than Five Hundred Dollars ($500.00) and costs of prosecution or by imprisonment for not more than ninety (93) days, or by both such fine and imprisonment.

Each act of violation and every day upon which any such violation

shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Code whether or not such penalty is re-enacted in the amending ordinance. Costs of prosecution shall be not less than Ten ($10.00) Dollars in each case and shall be paid over to the City Treasurer.

Amended March 7, 2001.

$1.113 Single Lot: Assessments.

(a) Allocation of Expenses. When any expense shall have been incurred by the City upon or in respect to any single premises, which expense is chargeable against said premises and the owner thereof under the provisions of this Code or applicable statute or the Fourth Class Cities Act and which is not of that class required to be prorated among the several lots and parcels of land in a special assessment district, an account of the labor, material and service for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported to the Treasurer, who shall immediately charge and bill the owner, if known.

(b) Preparation of Assessment Roll. The Treasurer shall report to the City Council, at the end of each quarter, all sums so owing to the City and which have not been paid within thirty (30) days after the mailing of the bill therefore. The Council shall, at such times as it may deem advisable, direct the Assessor to prepare a special assessment roll covering all such charges reported to it together with a penalty of ten percent (10%). Such roll shall be filed with the Clerk who shall advise the Council of the filing of the same, and the Council shall thereupon set a date for the hearing of objections to such assessment roll. The assessment roll shall be open to public inspection for a period of seven (7) days before the Council shall meet to review the roll and hear complaints. The City Clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the Council to hear complaints and shall also give like notice to the owners of the property affected by first class mail at their addresses as shown on the current general assessment roll of the City, at least ten (10) days prior to the date of such hearing.

(c) Lien Created. Such special assessments and all interest and charges thereon, shall, from the date of confirmation of the roll, be and remain a lien upon the property assessed, of the same character and effect as a lien created by general law for state and county taxes, until paid. The same penalty and interest shall be paid on such assessments, when delinquent from such date after confirmation as shall be fixed by the Council, as are provided by law or by official act of the City from time to time, with penalties and interest, shall be added by the

Treasurer to the next general City Tax Roll or general County and School Tax Roll, as shall be convenient, and shall thereafter be collected and returned in the same manner as general City taxes.

§1.114 Severability. It is the legislative intent of the City Council in adopting this Code, that all provisions and sections of this ordinance be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City of Beaverton. Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that this Code shall stand, as though the offending or invalid portion had been omitted by the drafter.

The provisions of this section shall apply to the amendment of any section of this Code whether or not the wording of this section is set forth in the amending ordinance.

§1.116 Effective Date. This Code shall take effect in accordance with the provisions of the ordinance which adopts it, except for the portions of the prior ordinances which remain in effect and are preserved.

TITLE I

ADMINISTRATION

CHAPTER 3

ADMINISTRATIVE POLICY AND PROCEDURE

§1.331 City Administrator. The City Administrator shall see that all laws, ordinances, rules and regulations adopted by the City Council and the provisions of this Code are properly enforced. He shall attend all meetings of the City Council, regular and special. During the absence or disability of the Administrator an Acting City Administrator shall be appointed.

§1.332 Department Heads. All administrative officers including City Clerk, Police or Fire Chief, if any, Treasurer, Assessor, Department of Public Works Superintendent, and any other heads of departments as determined by the City Council shall be responsible to the City Administrator for the effective administration of their respective departments and offices, and all activities assigned to them. The City Administrator shall employ or appoint all officers and employees with the consent of City Council except as otherwise provided by law, or this Code. The City Administrator may set aside any action taken by an administrative officer other than the City Attorney and may supersede any officer other than the City Attorney in the functions of their respective offices.

§1.333 Vacancies. In case of vacancy in the office or during the absence of any administrative officer, the City Administrator may designate an interim acting head or perform personally the functions of the office, until such vacancy is filled in accordance with the law.

§1.334 Responsibilities of all departments. The following list of responsibilities imposed upon department heads is intended to be non-exclusive, and shall not be construed to exclude every nonenumerated responsibility:

(a) Duty of Competence. All department heads shall keep informed as to the latest practice in their particular fields and shall inaugurate, with the approval of the City Administrator, such new practices as appear to be of benefit to the service of the City and the public.

(b) Duty to Report. All reports of the activities of each department shall be made to the Administrator as he directs.

(c) Duty to Preserve Public Records. Each department head shall be responsible for the preservation of all public records of that department and shall provide a system of filing and indexing of same. No public records, reports, correspondence, or other data relative to the business of any department shall be destroyed or removed, permanently from the files without the knowledge and approval of the City Council and shall be subject to the provisions of this

Chapter.

ASSESSOR

§1.341 Office of Assessor. This office shall be headed by the City Assessor whose duty it shall be to perform all work in connection with the assessing of property and the preparation of all assessment and tax rolls and tax notices. The City Assessor shall, on or before the first Monday in March in each year, make and complete the assessment roll. The City Assessor shall be certified as qualified by the State Assessor's Board at the level prescribed by the Michigan Administrative Code. (1979 MAC R211.431, et seg.;

§1.342 Board of Review. Pursuant to the provisions of Act 285, Public Acts of 1949, State of Michigan, the Board of Review shall meet on the second Monday in March in each year at 9:00 a.m. and shall remain in session for not less than six (6) hours. The Board shall also meet for not less than six (6) hours during the remainder of that week. The Board of Review shall meet for the purpose of reviewing and correcting the assessment roll at the Beaverton City Hall. The review of assessments shall be completed on or before the first Monday in April. After the Board of Review shall complete the review of said roll, a majority of said Board shall endorse thereon and sign a statement on or before the first Monday in April to the effect that the same is the assessment roll of the City for ensuring the fiscal year, as approved by the Board of Review.

POLICE DEPARTMENT

§1.345 Authority; Contract. The City may provide for police services by maintaining a police department or by appropriate contract with another local authority.

§1.346 Employment Qualifications. A person employed as a police officer in the City shall:

(a) Be a citizen of the United States.

(b) Have attained the minimum age as established by the hiring agency, which shall not be less than eighteen (18) years or as otherwise provided by law.

(c) Have obtained a high school diploma or its legal equivalent.

(d) Have no felony convictions.

(e) Successfully complete the basic police training curriculum at a school approved by the Michigan Law Enforcement Officers Training Commission. MCL 28.601, et seg.; MSA 4.450(1).

(f) Possess normal hearing, normal color vision, and normal visual functions and acuity in each eye correctable to 20/20. Be free from any other impediment of the senses, physically sound, in possession of his extremities and well developed physically, with height and weight in relation to

each other as indicated by accepted medical standards. Be free from physical defects, chronic diseases, organic diseases, organic or functional conditions, or mental and emotional instabilities which may tend to impair the efficient performance of his duty or which may endanger the lives of others or the officer. These requirements in conformity with the Employment Standards of the Michigan Law Enforcement Officers Training Commission published under authority of Public Act 203 of 1965.

(g) Possess good moral character as determined by a favorable comprehensive background investigation covering school and employment records, home environment and personal traits, integrity and consideration will be given to all law violations, including traffic and conservation law convictions, as indicating a lack of good character.

§1.347 Examinations, Fingerprints and Certificates. Before sending a person to a council-approved school, the City shall:

(a) Cause the applicant to be examined by a licensed physician to determine that the applicant meets the standards set forth in the Employment Standards of the Michigan Law Enforcement Officers Training Commission published under authority of Public Act 203 of 1965.

(b) Cause the applicant to be fingerprinted and a search made of local, state and national fingerprint files to disclose any criminal record.

(c) Conduct an oral interview to determine the applicant's acceptability for a police officer position and to assess appearance, background, and ability to communicate.

(d) Certify that the prospective trainee meets the minimum employment standards set forth in the Michigan Administrative Code Rules 28.4102, et seg.

§1.348 Department Rules. The Chief of Police may prescribe rules for the government of police officers of the City, subject to approval by the City Administrator, which shall be entered in a book of Police Department Rules and Orders and may be amended or revoked by the Police Chief upon written notice to the City Administrator. It shall be the duty of all members of the Police Force to comply with such rules and orders while effective.

§1.349 Acting Chief. In case of the absence from the City of the Police Chief, or his disability, or inability from any cause to act as Police Chief, the City Administrator shall designate and appoint some other member of the Police Department to act as Chief during such absence or disability.

POLICE AUXILIARY CORPS

§1.350 Corps Created. The Police Auxiliary Corps, (The Corps) is established as a voluntary organization serving gratuitously, composed of persons appointed by the Chief of Police (the Chief), or City Administrator, if none.

§1.351 Authority of Chief. The Chief shall have complete authority and control over the Corps. He may appoint as members any persons whom he deems to be qualified, and he may reject any application for membership. He may provide for the training of candidates for membership and for the further training of members. The Chief may, by order, expand or diminish the membership of the Corps.

§1.352 Training. No person shall become a member of the Corps until he has taken the training and is able to meet all other requirements prescribed by the Chief. When so qualified and selected, he shall then be sworn in by the Chief or by the Chief's representative as a member of the Corps.

§1.353 Capacity. Members of the Corps shall not be a part of, nor affiliated or connected in any official capacity with the City Police Department. The Corps shall have and exercise such limited police powers as may be delegated by the Chief. The Chief may, by order, establish rules and regulations to govern the Corps, including the fixing of specific duties of its members and the providing for maintenance and discipline. The Chief may change such orders from time to time.

§1.354 Identification. An identification card, badge and cap and such other insignia or evidence of identification as the Chief may prescribe shall be issued to each member who must carry the card at all times. Each member must surrender all City property issued to him upon the termination of his membership.

§1.355 Termination. The membership of any person in the Corps may be terminated by the Chief at any time, and such member may resign from the Corps upon notifying the Chief in writing of his resignation, provided, however, that the personnel regulations of the City Administrator applicable to full time, regular City employees shall not be applicable to the Corps.

§1.356 Firearms. No member of the Corps shall carry any firearm until he has qualified for and received a gun permit and only then while on duty and in uniform and as determined by the Chief of Police and the City Administrator.

§1.357 Limitation on Authority. A member of the Corps, when on duty as assigned by the Chief, shall have the authority to direct traffic and shall have the same power of arrest granted a member of the police department, subject to any limitations which the Chief may impose.

§1.358 Offenses. It shall be an offense punishable by imprisonment for not to exceed ninety (90) days or by fine not to

exceed Five Hundred ($500.00) Dollars, or both, for any person not a member of the Corps:

(a) To wear, carry or display a Corps identification card, badge, cap or insignia; or

(b) In any manner to represent himself to be connected with the Corps.

§1.359 Workers Compensation to Apply. Each member of the Corps, while under the direction of the Chief during a regular assigned tour of duty, is an employee of the City and is entitled to receive Workmen's Compensation from the City in accordance with the provisions of the Workmen's Compensation law of the State of Michigan.

FIRE PROTECTION

§1.370-1.379 [Reserved.]

PURCHASING BY CITY

§ 1.380 Purchasing.

(a) Purpose. The purpose of these purchasing procedures is to assure that all purchases of the City are proper, at competitive prices and expenditures are accounted for. The procedures vest control and authority for purchasing in the City Administrator, subject to the direction of the City Council.

(b) Preference. It is the preference of the City that whenever practicable and economic that all purchases be made locally. Beaverton businesses and firms should be given first consideration when quotations are being secured and the purchasing procedure instituted. This will afford the tax-paying community a chance to take an active part in the growth and development of the City.

§ 1.381 Securing Competitive Prices.

(a) Purchases less than 1,000.00. All purchases of items which, either individually or in the aggregate, are more than $50.00 must be approved by the City Administrator. The Department Head seeking to make a purchase must make every reasonable effort to assure that purchases are accomplished on a competitive basis. The City Administrator may establish a procedure for verbal or signed approval of all purchases or expenditures of less than $1,000.00. The City Administrator may adopt forms, such as purchase orders, requisitions, and/or authorizations to purchase as deemed expedient in administering this section.

(b) Quotes and Impracticability. At least two quotations must be submitted to the City Administrator for review, for any purchase or expenditure sought, which exceeds $500.00.

All quotes for purchases or expenditures over $1,000.00 will be in writing, signed and dated. Telephone quotations should be confirmed by the vendor in writing, where possible. Where it is not possible or reasonable to obtain at least two quotations, the basis for this impracticability should be described on the request for purchase forwarded to the City Administrator.

(c) Purchases more than One Thousand ($1,000.00) dollars. In the discretion of the City Council, purchases over One Thousand dollars, ($1,000.00), but not exceeding Three Thousand Five Hundred dollars, ($3,500.00) may be approved by the Council after evaluation of three written competitive bids.

(d) Purchases more than Three Thousand Five Hundred ($3,500.00) dollars. Formal sealed bids shall be obtained in all transactions involving expenditures exceeding Three Thousand Five Hundred Dollars ($3,500.00). At least three acceptable bids will be required unless the City Council determines that it would be in the City's best interest to reduce this limit. Where three acceptable bids cannot be obtained, the City Administrator will provide the City Council with a report detailing reasons why the necessary bids cannot be secured. The transaction will be awarded to the lowest competent bidder and evidenced by written contract submitted to and approved by the City Council. In cases where the City Council indicates by formal resolution upon the written recommendation of the City Administrator that it is clearly to the advantage of the City to contract without competitive bidding, however, it may so authorize.

§ 1.382 Pecuniary Interest Prohibited. The purchase of goods and/or services from a source in which an officer or employee of the City has a financial interest is prohibited, unless the City Council members, not having a financial interest, shall declare by unanimous vote that the best interests of the City are to be served by such purchase.

§ 1.383 Statement of Pecuniary Interest. All City officials, department heads, and elected officials shall on an annual basis provide an accurate and complete verified statement of any and all compliance with § 1.382 may be verified and monitored.

TITLE I

ADMINISTRATION

CHAPTER 4

CITY HOUSING COMMISSION

§1.401 Housing Commission. The Beaverton Housing Commission now in existence created by Ordinance No. 97 of 1977 and pursuant to Public Act Number 18 of 1933 (Extra Session) is hereby continued. MCL 125.601; MSA 5.3057.

§1.402 Members, Term, Appointment. In accordance with Section 4 of said Act 18 of 1933 (Ex. Sess.) the Beaverton Housing Commission shall consist of five (5) members to be appointed by the Mayor. Each of said members shall serve for a term of five years and until his successor shall be appointed and qualified. Members of the first Commission shall be appointed for staggered terms. Members shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in the performance of their duties.

§1.403 Powers and Duties. The Beaverton Housing Commission shall have all the powers and duties vested or permitted to be vested in housing commissions by said Act No. 18 Public Acts 1933 (Ex. Session) for the State of Michigan, as amended from time to time. It is the intention of this Code to vest the City Housing Commission with all powers and duties permitted by law.

§1.404 Employees. The Beaverton Housing Commission shall select and appoint such employees as it shall deem necessary for the proper exercise of its powers, functions and duties and shall pay them compensation as it shall, with the approval of the City Administrator and City Council, fix and determine.

TITLE I

ADMINISTRATION

CHAPTER 5

SPECIAL ASSESSMENT PROCEDURE

§1.531 To Initiate Special Assessment Procedure. Proceedings for the making of public improvements within the City may be commenced by resolution of the Council, on its own initiative or by an initiatory petition signed by property owners whose aggregate property in the special assessment district was assessed for more than 50% of the total assessed value of the privately owned real property located therein, in accordance with the last preceding general assessment roll. Provided, however, that in the case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by the owners of more than 50% of the frontage of property to be assessed.

Such petitions shall contain in addition to the signatures of the owners, a brief description of the property owned by the respective signers thereof.

Such petitions shall be verified by the affidavit of one or more of the owners or by some person or person with knowledge that said signers are such owners and that such signatures are genuine.

Petitions shall be addressed to the Council and filed with the City Clerk. Petitions shall in no event be mandatory upon the Council. All petitions shall be circulated and signed on blank forms furnished by the City. All petitions shall be referred by the City Clerk to the City Administrator. The City Administrator shall check the petitions to determine whether they conform to the foregoing requirements and shall report his findings to the City Council.

The City Administrator shall inform the person filing the petition as to how many petitions for the improvement sought are pending and how long it will be before the improvement requested can reasonably be expected to be commenced.

§1.532 Survey and Reports. Before the Council shall consider the making of any local or public improvement, the same shall be referred by resolution to the City Administrator directing him to prepare a report which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the life of the improvement, a description of the assessment district or districts and such other pertinent information as will permit the Council to decide the cost, extent and necessity of the improvement proposed and what part or proportion thereof shall be paid by special assessments upon the property especially benefited and what part, if any, should be paid by the City at large. The Council shall not determine to proceed with the making of any local or special improvement until such report of the City Administrator has been filed, nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of such public

improvement.

§1.533 Cost of Condemned Property Added. Whenever any property is acquired by condemnation, or otherwise, for the purpose of any special improvement, the cost thereof, and of the proceedings required to acquire such property, may be added to the cost of such special improvement.

§1.534 Determination of the Project, Notice. After the City Administrator has presented the report required in Section 1.532 for making any local or public improvement as requested in the resolution of the Council and the Council has reviewed said report, a resolution may be passed determining the necessity of the improvement; setting forth the nature thereof; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon property especially benefited, determination of benefits received by affected properties and what part, if any, shall be paid by the City at large; designating the limits of the special assessment district to be affected; designating whether to be assessed according to frontage or other benefits; placing the complete information on file in the office of the Clerk where the same may be found for examination; and directing the Clerk to publish a notice of public hearing on the proposed improvement at which time and place an opportunity will be given interested persons to be heard. Such notice shall be made by one publication in a newspaper published or circulated within the City at least one week prior to the holding of the hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council.

In all cases where special assessments are made against property, notice of all hearings in the special assessment proceedings are to be given as provided in Act 162, Public Acts 1962, State of Michigan, in addition to any notice of such hearing to be given by publication or posting as required in this Chapter, such statutory notice being as follows:

Notice of hearing in special assessment proceedings shall be given to each owner of or party in interest in property to be assessed whose name appears upon the last local tax assessment record by mailing by first class mail addressed to such owner or party at the address shown on the tax records at least ten (10) days before the date of such hearing. The last local tax assessment records means the last assessment roll for ad valorem tax purposes which has been reviewed by the local board of review as supplemented by any subsequent changes in the name or addresses of such owner or parties listed thereon.

§1.535 Hearing on Necessity. At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the public improvements in such a manner as they shall deem to be in the best interest of the City as a whole; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in Section 1.534. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, assessment district

and detailed estimates of cost, and directing the Assessor to prepare a special assessment roll in accordance with the Council's determination and report the same to the Council for confirmation.

§1.536 Deviation from Plans and Specifications. No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the City without authority of the Council by resolution. A copy of the resolution authorizing such changes or deviation shall be certified by the Clerk and attached to the original plans and specifications on file in his office.

§1.537 Special Assessment Roll. The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the City Administrator as approved by the Council.

§1.538 Assessor to File Assessment Roll. When the Assessor shall have completed such assessment roll, he shall file the same with the Clerk for presentation to the Council for review and certification by it.

§1.539 Meeting to Review Special Assessment Roll; Objections in Writing. Upon receipt of such special assessment roll, the Council by resolution, shall accept such assessment roll and order it to be filed in the office of the Clerk for public examination; shall fix the time and place the Council will meet to review such special assessment roll, and direct the Clerk to publish a notice of a public hearing for the purpose of giving an opportunity for interested persons to be heard. Such notice shall be made by one publication at least one (1) week prior to the holding of the hearing and by mail as prescribed in Section 1.534. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council. At this meeting, all interested persons or parties shall present in writing their objections, if any, to the assessments against them. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed.

§1.540 Changes and Corrections in Assessment Roll. The Council shall meet at the time and place designated for the review of "such special assessment roll, and hear objections thereto submitted in writing. The Council may correct said roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul such assessment roll and the same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council determines that it is satisfied with said special assessment roll, and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the Clerk, and directing the Clerk to attach his warrant to a certified copy with ten (10) days, therein commanding the Assessor to spread the various sums and amounts appearing thereon on a special assessment roll or upon the tax rolls of the City for the full amounts or in annual installments as directed by the Council. Such

roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applied, subject only to adjustment to conform to the actual cost of the improvement, as provided in Section 1.346.

§1.541 Special Assessment - When Due. All special assessments, except such installments thereof as the Council shall make payable at a future time as provided in this Chapter shall be due and payable upon confirmation of the special assessment roll.

§1.542 Installment Payments of Assessments. The Council may provide for the payment of special assessments in annual installments, not to exceed 15 in number, the first installment being due upon confirmation of the roll and the deferred installments being due annually thereafter or, in the discretion of the Council, may be spread upon and made a part of each annual City tax roll thereafter until all are paid. Interest may be charged upon deferred installments at a rate not to exceed six (6) percent per year payable annually. Under any installment plan adopted, the whole or any deferred installments with accrued interest to date of payment may be paid in advance of the due dates established.

§1.543 Collection from Assessment Roll, Procedure. When any special assessment shall be confirmed, and be payable as hereinbefore provided, the Council shall direct the assessment so made on the special assessment roll to be collected directly there from or from the general tax rolls; and thereupon the City Clerk shall attach his warrant to a certified copy of said special assessment roll, therein commanding the City Treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein and in case any person named in said roll shall neglect or refuse to pay his assessment upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person and return said roll and warrant, together with his doings thereon, within sixty (60) days from the date of such warrant.

§1.544 Collection by Treasurer: Sale, Proceeds. Upon receiving said assessment roll and warrant, the City Treasurer shall proceed to collect the amounts assessed therein. The Treasurer shall have the same powers in collecting special assessments as in the collection of taxes, as provided under applicable statute.

§1.545 Delinquent Special Assessment. Special assessments and all interest and charges thereon, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for state and county taxes, and under applicable statute for City taxes, until paid. From such date and after confirmation as shall be fixed by the Council, the same collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special assessments beginning on the following August 15 of each year, as are provided by applicable statute and this Code to be collected on delinquent City taxes. Such delinquent special assessments shall be subject to the same penalties, and the lands upon which the same are a lien shall be subject to sale therefore,

the same are delinquent City taxes and the lands upon which they constitute a lien.

§1.546 Additional Assessments and Refunds. When any special assessment roll shall prove insufficient to meet the costs of the improvements for which it was made, the Council may make an additional pro rata assessment, but the total amount assessed against any lot or parcel of land shall not exceed the value of benefits received by such lot or parcel of land. Should the assessment prove larger than necessary by five (5) percent or less, the Council may place the excess in the City treasury or make a pro rata refund. Should the assessment exceed the amount necessary by more than five (5) percent, the entire excess shall be refunded to owners of property upon which payments have been made, in full, on a pro rata basis. No refunds of special assessments may be made which impair or contravene the provisions of any outstanding obligation or bonds secured in whole or part by such special assessments. The City Council may provide by resolution that the amount of any such excess, whether in excess of five (5) percent or not, may be allowed as a credit on the last installment of the special assessment.

§1.547 Additional Procedures. In any case where the provisions of this Chapter may prove to be insufficient to carry into full effect the making of any special assessment, the Council shall provide by ordinance any additional steps or procedures required.

§1.548 Special Assessment Accounts. Moneys raised by special assessment to pay the cost of any local improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefore. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this Chapter.

§1.549 Contested Assessments. Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment within thirty (30) days after the date of the meeting of the Council at which it is finally determined to proceed with the making of the improvement in questions, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or, maintained for the purpose of contesting ox-enjoining the collection of such special assessment; and. regardless of whether or not any public improvement is completed in any special assessment district, no owner of real property located in such district shall be entitled to commence any suit or action for the purpose of contesting or enjoining the collection of any such special assessment after he has received a benefit from the substantial completion of that portion of such public improvement for which he is assessed.

§1.550 Reassessment for Benefits. Whenever the Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the Council shall have power to cause the new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has

been completed or not, and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person or persons making such payment.

§1.551 Combination of Projects. The Council may combine several districts into one project for the purpose of affecting a savings in the costs; provided, however, for each district there shall be established separate funds and accounts to cover the cost of the same.

TITLE I

ADMINISTRATION

CHAPTER 6

CITY ELECTIONS

§ 1.661 Election Date. Regular City elections shall be held in one or more precincts at such place therein as shall be designated by the Council, on the first Tuesday following the first Monday in November each year.

§ 1.662 Officers' Terms. The term of office of all elected City officials shall begin on the first regular meeting in December.

(Amended April 21, 2008)

§ 1.663 State Law. City officers shall be elected in conformity with Public Act 1895 Number 215, and Public Act 1954 Number 116.

TITLE I

ADMINISTRATION

CHAPTER 7

MUNICIPAL CIVIL INFRACTIONS

§1.701 Definitions. As used in this Chapter:

"Act" means Act No. 236 of the Public Acts of 1961, as amended.

"Authorized City official" means a police officer or other personnel of the City authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

"Bureau" means the City of Beaverton Municipal Ordinance Violations Bureau as established by this Chapter.

Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

"Municipal civil infraction citation" means a written complaint or notice prepared by an authorized City official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

"Municipal civil infraction violation notice" means a written notice prepared by an authorized City official, directing a person to appear at the City of Beaverton Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the City, as authorized under Sections 8396 and 8707(6) of the Act.

§1.702 Municipal civil infraction action; commencement. A municipal civil infraction action may be commenced upon the issuance by the City Administrator or by an authorized City official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the City of Beaverton Municipal Ordinance Violations Bureau.

§1.703 Municipal civil infraction citations; issuance and service. Municipal civil infraction citations shall be issued and served by authorized City officials as follows:

(a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(b) The place for appearance specified in a citation shall be the district court.

(c) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The

original citation shall be filed with the district court. Copies of the citation shall be retained by the City and issued to the alleged violator as provided by Section 8705 of the Act.

(d) A citation for a municipal civil infraction signed by the City Administrator or by an authorized City official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information knowledge, and belief."

(e) An authorized City official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(f) An authorized City official may issue a citation to a person if:

(i) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

(ii) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or City Attorney approves in writing the issuance of the citation.

(g) Municipal civil infraction citations shall be served by an authorized City official as follows:

(i) Except as provided by Section 1.703(g)2), an authorized City official shall personally serve a copy of the citation upon the alleged violator.

(ii) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy of the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

§1.704 Municipal civil infraction citations; contents.

(a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil

infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(b) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(i) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

(ii) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.

(c) Deny responsibility for the municipal civil infraction by doing either of the following:

(i) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the City.

(ii) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(d) The citation shall also inform the alleged violator of all of the following:

(i) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

(ii) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

(iii) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the City.

(iv) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

(v) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(e) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

§1.705 Municipal ordinance violations bureau.

(a) **Bureau established.** The City hereby established a Municipal Ordinance Violations Bureau ("Bureau") as authorized under Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized City officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.

(b) **Location; supervision; employees; rules and regulations.** The Bureau shall be located at Beaverton City Hall, and shall be under the supervision and control of the City Treasurer. The City Treasurer, subject to the approval of the City Council, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified City employees to administer the Bureau.

(c) **Disposition of violations.** The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this Chapter shall prevent or restrict the City from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the Bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(d) **Bureau limited to accepting admissions of responsibility.** The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of

any fact or matter relating to an alleged violation.

(e) Municipal civil infraction violation notices. Municipal civil infraction violation notices shall be issued and served by authorized City officials under the same circumstances and upon the same persons as provided for citations as provided in Sections 6-3(f) and (g) of this Chapter. In addition to any other information required by this Code or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) Appearance; payment of fines and costs. An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) Procedure where admission of responsibility not made or fine not paid. If an unauthorized City official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

§1.706 Schedule of civil fines established.

(a) A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed below shall be set annually by resolution.

(b) A copy of the schedule, as amended from time to time, shall be posted at the Bureau.

§1.707 Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of,

the Ordinance shall not be affected thereby.

TITLE I

ADMINISTRATION

CHAPTER 8

PROPERTY TAX EXEMPTION

§1.881

Any and all property tax exemptions heretofore in place are ratified and continue according to their own terms.

2001
Downtown Development Authority

RESOLUTION REQUESTING ISSUANCE OF BONDS AND
DECLARING PROJECTED TAX INCREMENT REVENUES

Beaverton Downtown Development Authority

Minutes of a special meeting of the Board of the Beaverton Downtown Development Authority, County of Schoolcraft, State of Michigan, on the 10th day of November 2001, at 7:00 o'clock PM, Eastern Standard Time.

PRESENT: Members: Pam Cingano, Larry Hooper, Bob Tarzewell, Sharon clark, Cindy Wolfe, Joyce Swartzmiller, Ted Odell, Gil reasume, Tom Fruchey, Lois Mitchell, Scott Govitz, Steve Guile.

ABSENT: Member: Robin Grove.

The following preamble and resolution Were offered by Member Reaume and supported by Member Hooper.

WHEREAS, the Board of the Beaverton Downtown Development Authority (the "Authority"), pursuant to Act 197, Public Acts of Michigan, 1975, as amended (the "Act"), and pursuant to the provisions of a development and tax increment financing plan, as amended (the "Plan"), of the Authority approved by the City Council of the City of Beaverton, County of Gladwin, State of Michigan (the "City"), has determined that it is necessary and expedient to acquire and construct certain improvements in the Downtown Development Area described in the Plan (the "Project"); and

WHEREAS, in order to obtain the lowest financing costs for the Project it is necessary that the City issue its limited tax general

obligation bonds pursuant to Section 16 of the Act; and

WHEREAS, the Authority is required to provide to the City Council a statement of the anticipated tax increment revenues for the period during which moneys must be set aside for the repayment of the City's 2001 Downtown Development Bonds (General Obligation Limited Tax) (the "Bonds") which the City is requested to issue on behalf of the Authority to finance the Project;

NOW, THEREFORE, BE RESOLVED AS FOLLOWS:

1. Request to Issue Bonds. The Authority nearby requests the City to issue the Bonds in an approximate amount of $350,000, pursuant to Section 16(1) of the Act, and the Authority here by pledges and agrees to pay to the City from Tax Increment Revenues as tea find in the Act received by the Authority the amounts necessary to pay principal of and interest on the Bonds as they come due; provided, however, that to the extent the City Council determines that it is in the best interest of the City to redeem all or in the portion of the Bonds prior to maturity, the Authority made, but shall not be required to, prepaid its obligations authorized herein. In the event the funds of the Authority are insufficient to pay the principal of and interest on any Bonds as they become due, and the City pays such sums from its own funds, the Authority agrees to reimburse the City in hole for such payments from funds of the Authority as the same are received. The Authority further agrees to

reimburse the City and whole any costs of the Project not financed from the proceeds of the Bonds, including, if necessary, the cost of issuance of the Bonds, and in the publication costs or other costs incurred by the City associated with the design and acquisition of the Project.

2. Bonds Issued in Reliance on Pledged of Tax Increment Revenues. The Authority here by it knowledge is that the City will issue its Bonds in reliance upon the agreement and promise of the Authority to pate to the City from Tax Increment Revenues as tea find in the Act the amounts it necessary to pay the principle of an interest on the Bonds.

3. Establishment of Project Fund; Approval of Depositary. The treasurer cap word of the Authority shall establish a separate fund (the “Project Fund”) which shall be captain a depositary bank account or accounts in a bank or banks established or a proved by the treasurer cap word of the city word. All moneys received by the Authority pursuant to the Plan shall be deposited in the Project Fund. All moneys in the Project Fund and earnings there on shall be used only in accordance with the Plan.

4. Payment of Tax Increment to Authority. The City Treasurer and the county treasurer shall, as ad valorem taxes and specific taxes are collected on the property of the Development Area, paid that proportion of the taxes, set for penalties and collection fees,

that the Captured Assessed Value (as defined in Act 197) bears to the Initial Assessed Value (as defined in Act 197) to the Treasurer of the Authority were deposit in the Project Fund, excluding therefrom such taxes as are included by the Plan. The payments shall be made on that date or dates on which the City Treasurer and the County Treasurer are required to remit taxes to each of the taxing jurisdiction.

5. Use Moneys in the Project Fund. The moneys credited to the Project Fund and on hand therein from time to time shall be used annually in the following manner and following order of priority:

First, two pay to the City for its payment of debt service on, or to pay into the debt retirement fund or funds for, all outstanding series of bonds issued pursuant to the Plan including without limitation that proposed Bonds, or any other series of bonds or other obligations pledging or committing the use of tax increment revenues of the Authority as a source of debt service, and a amount equal to the interest and principal coming due (in the case of principle whether by maturity are mandatory redemption) prior to the next collection of taxes from the same taxing jurisdiction, less in the credit for sums on hand in the debt retirement fund.

Second, to establish a reserve account for payment of principle of and interest on bonds issued pursuant to the Plan to the extent required by any resolution authorizing bonds.

Third, paid the administrative, auditing and operating costs of the Authority and the City pertaining to the plan cap word, including planning and promotion to the extent provided in the annual budget of the Authority.

Fourth, to repay a amounts advanced by the City for the project costs, including costs for preliminary plans, and these four other professional services.

Fifth, two paid, to the extent determined desirable by the Authority and approved by the city the cost of completing in remaining public improvements as set forth in the Plan, to the extent

those costs are not financed from other sources.

Six, to pay the cost of any additional improvements to the Plan that are determined necessary by the Authority and approved by the City in accordance with the Act.

6. Refund of Surplus Tax Increment. Any surplus money (as defined in Act 197) in the Project Fund at the end of a year, and shown by the annual report of the authority cap word, shall be paid by the Authority to the City Treasurer Or County Treasurer, as shown by the annual report of the Authority, and rebated by each to the appropriate taxing jurisdiction; provided, however, that it is the intent of the Authority to the extent stated in the Plan to retain and accumulate unexpended tax increment revenues until the purposes of the Plan have been met or the Authority declares that it will not require such revenues.

7. Deliver Resolution to City Clerk. The Secretary of the Authority is directed to deliver a certified copy of this resolution to the City Clerk.

8. The Chairperson and the Secretary of the Authority each B and is hereby directed to file a notice of intent to issue an obligation form with the Michigan Department of Treasury (the "Department") or to file an application for an order of approval with the Department.

9. Tax Covenant. The Authority here by covenants to take all action within its control, to the extent permitted by law, necessary

to maintain the exclusion of the interest on the Bonds from gross income for Federal income tax purposes under the Internal Revenue Code of 1986, as a amended (the “Code”), including but not limited to, actions relating to the rebate of arbitrage earnings and the expenditures and investment of proceeds of the Bonds and moneys deemed to be proceeds of the Bonds.

10. Rebate Representation. The Authority hereby represents that, in the calendar year 2001 it does not expect to issue, and hearby covenants not to issue or caused to be issued by the City, bonds the aggregate principal amount of which exceeds $5,000,000.

11. Repealer. All resolutions and parts of resolution in conflict with the provisions of this resolution are hearby repealed or amended to the extent of such conflict.

AYES: 12

NAYS: 0

RESOLUTION DECLARED ADOPTED.

Cindy Wolfe
Secretary

I hearby certify that the foregoing is a true in complete copy of a resolution adopted by the Board of the Beaverton Downtown Development Authority, County of Gladwin, State of Michigan, at a special meeting held on November 1, 2001 and that said meeting was conducted in public notice of this meeting was given pursuant to an in full compliance with the Open Meetings Act, been Act to 67, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Cindy Wolfe
Secretary

TITLE I

ADMINISTRATION

CHAPTER 10

ROSS LAKE VILLAGE APARTMENTS TAX EXEMPTION

City of Beaverton Ordinance # 145-99

CITY OF BEAVERTON TAX EXEMPTION ORDINANCE AS PROVIDED BY THE STATE HOUSING DEVELOPMENT ACT.

THE CITY OF BEAVERTON ORDAINS:

§1.10.1 PURPOSE

This article is to provide for a service charge in lieu of taxes for a multiple family dwelling project for persons of low to moderate income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended. This Ordinance shall be known as the "Ross Lake Village Apartments Tax Exemption Ordinance."

§1.10.2 PREAMBLE

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA Section 125.1401 et. seq., MSA Section 16.114 (1) et. seq.) The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons of low to moderate income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The City acknowledges that Ross Lake Village Limited Dividend Housing Association Limited Partnership (the "Sponsor") has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC), to erect, own, and operate a housing development identified as Ross Lake Village Apartments on certain property located off Brown Street, in the City to serve persons of low to moderate income, and that the Sponsor has offered to pay to the City on account of this Housing Development an annual service charge for public services in lieu of all taxes.

§S1.10.3 DEFINITIONS.

All terms shall be divined as set forth in the State Housing

Development Authority Act of 1966, of the State of Michigan, as amended, except as follows:

(a) ACT means the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

(b) ANNUAL SHELTER RENT means the total collections during an agreed annual period from all occupants of a housing development representing rent for occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

(c) AUTHORITY means the Michigan State Housing Development Authority.

(d) HOUSING DEVELOPMENT means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to persons of low income.

(e) ELDERLY means a single person who is fifty-five (55) years of age or older or a household in which at least one (1) member is fifty-five (55) years of age and all other members are fifty (50) years of age or older.

(f) SPONSOR means persons or entities which have applied to the authority for an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.

(g) UTILITIES mean fuel, water, sanitary sewer and electrical service which are paid by the Housing Development.

§1.10.4 CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of Housing Developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of taxes shall be housing developments for elderly persons and persons and families of low to moderate income, which are financed or assisted pursuant to the Act. It is further determined that Ross Lake Village Apartments is of this class.

§1.10.5 ESTABLISHMENT OF ANNUAL SERVICE CHARGES.

The Housing Development identified as Ross Lake Village Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after the year the project is placed in service as evidenced by a certificate of occupancy from the appropriate public officials. The City acknowledging that the Sponsor and the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and the qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes as established in this Ordinance, and in consideration of the Sponsor's offer, subject to receipt of an allocation under the LIHTC program, to construct, own and operate the Housing Development agrees to accept payment of an annual service

charge for public services in lieu of all property taxes. The annual service charge shall be equal to six and one-half percent (6.5%) of the Annual Shelter Rents actually collected, but in no case shall the service charge be less than $10,600.00.

§1.10.6 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

Notwithstanding Section 1.10.5, the service charge to be paid each year in lieu of taxes for part of the Housing Development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing Development if the Housing Development were not tax exempt.

The term "low income persons or families" as used herein shall be the same meaning as found in section 15(a)7)of the Act.

§1.10.7 CONTRACTUAL EFFECT OF ORDINANCE.

Notwithstanding the provisions of section 15 (a) (15) of the Act, to the contrary, a contract between the City and the Sponsor with the Authority as a third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

§1.10.8 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes except that the estimated annual payment shall be paid on or before February 28 of each year. The sponsor shall submit a statement from its independent auditor verifying the amounts used to compute the payment are correct as reported. The statement and supporting documents which may be from the sponsor's federal tax return.

§1.10.9 DURATION

This Ordinance shall remain in effect for a period of fifteen years after the certificate of occupancy is obtained from the appropriate officials, so long as the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, provided that construction of the Housing Development commences by the first day of October, 2000.

§1.10.10 TERMINATION

Notwithstanding anything contained herein to the contrary, should the sponsor fail to pay the final adjusted service charge in lieu of taxes granted hereunder or fail to provide the verification of the calculations used to make the payment, the City of Beaverton shall file a certificate of nonpayment upon the Sponsor of the Housing Development and the Authority by certified mail, with the Register of Deeds of Gladwin County. Following the expiration of sixty (60) days after service upon the Sponsor and the Authority of a certificate of nonpayment, if payment and supporting documentation has not been made within the intervening sixty (60) days, the service charge in lieu of taxes granted by this ordinance shall automatically be terminated, retroactive to January 1 of the year

for which the service charge in lieu of taxes applies.

§1.10.11 SEVERABILITY.

The various sections and provisions of this Ordinance shall be deemed to be severable, should any section or provision of this ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

§1.10.12 ACKNOWLEDGEMENT.

The City hereby acknowledges receipt of documentation from the authority indicating that the authority's participation with the Housing Development is limited solely to the allocation of tax credits under the "Low Income Housing Tax Credit Program".

§1.10.13 REPEALER.

All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

§1.10.14 EFFECTIVE DATE.

The Ordinance shall take effect seven (7) days after publication.

Roll Call Vote:

Ayes: Brown, Smith, Jr., Frei, Mitchell

Nays: None

Absent: Schofield, Smith

This Ordnance adopted this 25th day of June 1999.

Robert K. Tarzwell, Mayor

Madonna L. Asch, City Clerk

TITLE II

UTILITIES AND SERVICES

CHAPTER 21

GARBAGE AND RUBBISH

§2.100 Service to Customers. Authority for the City to provide for Garbage removal pursuant to Ordinance Number 127, duly enacted on January 6, 1986 is hereby continued and restated. The City may provide for garbage and trash collection service for the residents of the City of Beaverton, whether by contract with private enterprise or by directly operating such a service. The City shall appropriate such funds and employ such persons as may be reasonably necessary to assure that garbage and refuse is disposed of as required by the public.

All residents of the City are required to utilize the collection service method authorized by the City or contracted for by the City and to pay any fees established by Council resolution to fund these collection services.

§2.111 Definitions.

(a) **Garbage and Rubbish** for the purposes of this section shall have the same meaning: All waste, excess and/or rejected food to include accumulations of animal, fruit, or vegetable matter used or intended to be used for human consumption or that attends the preparation, cooking, or storage of animal, fruit, or vegetable matter and in addition shall be construed to include accumulations of household refuse such as, by way of example and not limitation, papers, boxes, can, glass and plastic containers and related materials. Garbage and refuse does not include trees, brush, junked appliances ("white goods") or other non-compactable material or not capable of being securely packaged in ordinary trash bags having a weight of 30 pounds or less, nor materials designated as poisonous, toxic, explosive, hazardous or otherwise dangerous to human health or safety.

§2.112 Receptacles.

(a) Proper receptacles prescribed. The occupants of every building where wastes accumulate shall provide, keep clean and in place, proper receptacles. Proper receptacles must be of a portable type, of substantial construction provided with firm handles and a tight fitting cover. No single receptacle that is intended to be emptied by non-mechanical means (by human power) shall exceed fifty pounds when filled. No garbage or food wastes of any description shall be placed in an uncovered receptacle.

As an alternative, when appropriate, plastic bags designed as containers for garbage may be used.

(b) Location of receptacles. All receptacles shall be located

so that collectors will not have to trespass on private property in order to pick up such receptacles, i.e. . .at the curb on along an alley. Receptacles shall not be placed under the eaves of a building in such manner that water from the roof will enter them, and any receptacle filled with ice or water will not be emptied.

(c) Service Discontinuance. At the option of the City or the service provider garbage removal services may be discontinued for violation of Subsections (a) and (b) above.

(d) Discontinuation of Service. The Beaverton City Council in recognition that some property owners own dwellings that are uninhabitable and that these dwellings will remain uninhabitable as they currently exist, or under unique or existing circumstances, establishes a garbage discontinuation of service policy. A garbage discontinuation fee equal to the full amount of the current billing cycle shall be charged any property owner allowed to discontinue service. This fee shall be paid prior to any discontinuation of service.

This policy allows the property owner to notify the City of Beaverton in writing their desire to have garbage service discontinued in the event the above criteria can be satisfied, and at the discretion of and with the final approval of the City Administrator. This policy shall not apply to rental properties unless deemed uninhabitable. In addition, no service shall be discontinued prior to the removal of all electric meter devices (electricity) to said property.

Adopted August 3, 1998.

§2.113 Conduct prohibited.

(a) No person shall place, deposit or otherwise dispose of any garbage in any City Street, alley, or other public place without first having deposited same in suitable plastic watertight bags which have been securely fastened and closed.

(b) Negligent disposal. No person shall engage in conduct, or fail to engage in conduct, which allows garbage or refuse to be spread or distributed around a yard or neighborhood by the forces of nature, cats, dogs or other causes.

(c) Unauthorized persons. No person shall remove, transport, molest or otherwise disturb garbage that has been deposited at the curb for collection.

(d) Litter. No person shall deposit or cause to be deposited, scatter, burn, or leave any garbage, rubbish, empty cartons or barrels, ashes, cinders, earth, glass, manure, glass, paper, or any other offensive materials in any public street or alley or on any public property in the City of Beaverton, except as provided in this Chapter, except in approved and duly licensed dumps, and except certain of these materials

if used in a normal manner for improving property by grading, surfacing, or fertilizing.

§2.114 Costs.

(a) The costs of this service shall be determined by the City Council, and assessed against the residential units located within the City of Beaverton, by dividing the number of residential units located in the City limits of the City of Beaverton by the total cost for residential services.

(b) The City Treasurer is directed to establish a separate fund for collection of said costs, into which all funds so derived shall be deposited, said fund shall be used to defray the City's contract or other expenses associated with providing this service.

§2.115 Violation. Any person found to be in violation of this section shall be responsible for a Civil Infraction, subject to disposition according to Title I, Chapter 7 of this Code.

TITLE II

UTILITIES AND SERVICES

CHAPTER 22

CITY WATER UTILITY

§2.200 Operation. The City Water system shall operate as a self-sustaining utility under the direction of the City Administrator as provided by Public Act 1895, Number 215, Chapter XXVI. Authority to own, construct, operate and provide for a City Water Utility under Ordinance Number 80 of the City of Beaverton is hereby continued.

§2.221 Construction of Mains. New water mains or extension of present water mains may be constructed in accordance with the provisions of Public Act 1895, Number 215, and other applicable law, or by petition.

§2.222 Usage required. All premises within the City used or occupied for residential, commercial or industrial purposes shall be connected to the City Water System, and the owner and occupants of all such premises are required to maintain such connections in accordance with the provisions of this Code. This provision shall not apply to premises the nearest part of which is more than more than one hundred (100) feet from a City water main.

§2.223 Petitions for Construction. In order that any new extensions of present water mains or the construction of new water mains be commenced and completed by petition it shall be necessary that the owners of two thirds (2/3) of the frontage abutting the line of proposed extension or new construction shall sign and file with the City Clerk a petition requesting such construction, and the granting of such petitions so filed shall remain within the discretion of the Council. Such petitions shall always include the promise and agreement of all petitioners to pay the cost of all construction on the basis of the special benefits directly received and at rates established by the Council.

§2.224 Connections. No person, unless duly authorized in writing by the City Administrator to do so, shall tap any water main or distribution pipe of the waterworks system, or insert therein any corporation cock, stopcock, or any other fixture or appliance, or alter or disturb any service pipe, corporation stop, curb stop, gate value, hydrant, water meter or any other attachment belonging to the waterworks system and attached thereto. No person except plumbers duly licensed, shall install any water service pipe or connect or disconnect any such service pipe with or from the mains or distribution pipes of the waterworks system, nor with or from any other service pipe now or hereafter connected with said system, nor make any repairs, additions to, or alterations to any such service pipe, tap, stopcock, or any other fixtures or attachments connected with any such service pipe.

§2.225 Permit Required. Before any service connection shall be made to any part of the waterworks system, or any work performed upon old or new connections, a permit shall be obtained from the City Clerk. Such permit shall be issued only where a licensed plumber has been

employed. Written application will be made on forms prepared for that purpose by the City Clerk.

§2.226 Application Fee. Upon filing an application for permit to connect with any water main or distribution pipe of the waterworks system, there shall be paid to the City Clerk such tapping fee as shall be prescribed by the rules and regulations governing the waterworks system. Such fee to include all the cost of tapping the main, installing the corporation cock, furnishing and laying the service pipe to the property line and installing stopcock and shutoff box; all such materials to be and remain the property of the City Water System.

All new construction shall be designed and built so as to conveniently accommodate installation of a water meter.

§2.227 Separate Service. The owner or occupant of any building or premises entitled to the use of water from said system, shall not supply water to other persons or premises except upon written permission of the City Administrator. Whereupon, the owner or occupant will be required to pay an additional rate for each additional service as provided for by such rules and regulations as may be made from time to time by resolution of the Council. No one shall permit an unnecessary waste of water.

§2.228 Water Turn-on Permit. No person shall turn the water from any main or distribution pipe into any service pipe without a permit in writing from the City Administrator, except that a licensed plumber may turn water into service pipes without such permit, for the sole purpose of testing such pipe for leaks, but in such case such plumber shall turn the water off from such service pipe immediately upon completion of the test.

§2.229 Service plan. All service pipes connecting with the distributing mains of the waterworks system, from the City main to the stop and waste inside building, shall be laid under the supervision of the City Administrator and in accordance with the provisions of the rules and regulations governing the waterworks system.

§2.230 Violation – Water Turn-off. Any premises may be disconnected, upon ten day prior notice, from the distribution pipes of the City waterworks system and the supply of water withheld from such premises upon violation by the owner or occupant of said premises, of any provision of this Chapter, or of any rule or regulation adopted pursuant thereto. Whenever the water is turned off from any premises because of any such violation, the same shall not be turned on again until the owner or occupant has paid a turn-on charge as established by the City Council by Resolution.

(1) The Beaverton City Council in recognition that some property owners own dwellings that are uninhabitable and that these dwellings will remain uninhabitable as they currently exist, or under unique or existing circumstances establishes a water and sewer disconnect policy.

This policy allows properties that can meet this criteria, to disconnect from the water and sewer system for a $120.00

non-refundable fee. This fee shall be paid prior to any disconnection of service. Water/Sewer will only be disconnected to the home and only at the written request of the property owner and upon the discretion of a final approval by the Beaverton City Administrator. It shall not be the responsibility of the City to notify any property owners of said policy and shall not apply to rental dwellings unless deemed uninhabitable.

In addition, a re-connection fee to the same sewer/water line is hereby established. This policy allows a re-connection to the system utilizing the same service lines that were previously disconnected for a $50.00 non-refundable fee.

These policies have no effect on other policies established with respect to turn on and turn off feed for these services.

Adopted August 3, 1998.

§2.231 Non-Liability of City. The City shall not be liable under any circumstances for any failure or deficiency in the supply of water to consumers whether occasioned by shutting off the water to make necessary repairs or connection or from any other cause.

§2.232 Multiple Services. In all cases where a water service is intended to supply more than one tenement, /shop, store or building, it shall be the duty of the person making such service connection, or causing the same to be made, to install a branch with a stopcock for each branch outside the line of premises so to be supplied, to be suitably protected and marked as to be easily located. In no case shall one service supply more than one lot unless occupied by a single building covering more than one lot used or a single industry or enterprise.

§2.233 Lawn Sprinkling. The use of water for sprinkling lawns and gardens, and the hours for such use, shall be as prescribed by the rules and regulations adopted for the governing of said water system.

§2.234 Standpipe Connections. The properties of manufacturing institutions, lumber yards, warehouses, elevators, stores, hotels, schools, and other public buildings wishing to install large pipes with hydrant and hose couplings, to be used only in case of fire, will be permitted to connect with the street main at their own expense, upon application to the City Administrator and under his direction and supervision, and will be allowed to use water for firefighting purposes free of charge, but all such pipes must be provided with suitable valve which must be sealed by the City. Such seal may be broken only for the extinguishment of fire and in such case such owner or proprietor shall immediately give notice to the City Administrator. The breaking of such seal for any other purpose shall be deemed a violation of this Code, and such owner or proprietor shall be subject to prosecution therefore.

§2.235 Right of Entry. The City Administrator or any of his agents shall have power and authority at all reasonable hours to enter upon any premises where water is furnished from the City waterworks

system, for the purpose of reading meters or the inspection of all pipes and fixtures connected with said waterworks system, and they shall have power and authority to require any defective pipes or fixtures to be repaired, removed or replaced where the same are not in compliance with the provisions of the rules and regulations pertaining to the waterworks system, and any person refusing or neglecting to make such repairs when so ordered, shall be deemed guilty of a violation of this Code and liable to prosecution therefore.

§2.236 Damage to Meters. Water meters may be installed upon any premises supplied with water and any damage to said meter resulting from the carelessness of the owner, agent or tenant through neglect to properly protect same shall be assessed to such owner or tenant. Water consumers shall not tamper with or remove meter from the service, or interfere with the reading thereof.

§2.237 Cross Connections Prohibited.

(a) A cross connection shall not be made between the public water supply system and a secondary water supply.

(b) A cross connection shall not be made by submerged inlet.

(c) A cross connection shall not be made between the public water supply and piping which may contain sanitary waste or a chemical contaminant.

(d) A cross connection shall not be made between the public water supply system and piping immersed in a tank or vessel which may contain a contaminant.

§2.238 Piping Identification. When a secondary water source is used in addition to the public water supply system, exposed public water and secondary water piping shall be identified by distinguishing colors or tags and so maintained that each pipe may be traced readily in its entirety. If piping is so installed that it is impossible to trace it in its entirety, it will be necessary to protect the public water supply at the service connection in a manner acceptable to the Department of Public Health.

§2.239 Inspections. It shall be the duty of the Department of Water to cause inspections to be made of all properties served by the public water supply where cross connection with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Department of Water and as approved by the Michigan Department of Public Health.

§2.240 Right of Entry. The representatives of the Department of Water shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the City for the purpose of inspecting the piping system or systems thereof for cross connections. On request the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

§2.241 Discontinuance of Service. The Department of Water with the approval of the City Council is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this Code exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this Chapter.

§2.242 Protection from Contamination. The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this Chapter and by the State and City Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as "WATER UNSAFE FOR DRINKING".

§2.243 Rules. The Council of the City of Beaverton shall from time to time make and adopt such rules and regulations for the operation and use of said water system and the supplying of water to consumer as said Council shall deem expedient and necessary, and such rules and regulations when adopted shall be and become a part of this Chapter and enforceable hereunder, and the penalties herein prescribed for violation of this Code shall apply to the violation of any such rules and regulations the same as though such rules and regulations were incorporated herein. Violation of any such provisions, rules or regulations shall be deemed a civil infraction subject to disposition pursuant to Title I, Chapter 7, of this code. For a second or subsequent violation, penalties shall be imposed as per Title I, Chapter 1, Subsection 1.112 of this Code.

TITLE II

UTILITIES AND SERVICES

CHAPTER 23

CITY SEWER SERVICE

§2.300 Authority. Authority to operate, own, and maintain a waste water disposal system is hereby continued under Ordinance #80 as amended.

§2.301 Definitions. Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:

(1) "Act" shall mean the Clean Water Act (33 U.S.C. 1251 et seq), as amended.

(2) "Approval Authority" shall mean the Director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(3) "Authorized Representative of Industrial User" shall be: (1) A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation; (2) A general partner or proprietor of the industrial user if a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "B.O.D." (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees= centigrade, expressed in parts per million by weight.

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

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

(7) "Bypass" shall mean the intentional diversion of waste streams from any portion of an Industrial Users treatment facility.

(8) "CFR" shall mean Code of Federal Regulations.

(9) "COD" shall mean Chemical Oxygen Demand.

(10) "City" shall mean the City of Beaverton or the City Council of Beaverton.

(11) "Combination sewer" or "combined sewer" shall mean a sewer receiving both surface run-off and sewage.

(12) "Cooling Water" shall mean the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(13) "Control Authority" shall refer to the "Approval Authority", defined herein above; or the Superintendent of the POTW if the City has an approved Pretreatment Program under the provisions of 40 CFR, 403.11.

(14) "Direct Discharge" shall mean the discharge of treated or untreated wastewater directly to the waters of the State of Michigan.

(15) "Environmental Protection Agency or EPA" shall mean the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(16) "Garbage" shall mean solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage, processing and sale of produce, meat or other food items.

(17) "Grab Sample" shall mean a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(18) "Holding tank waste" shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(19) "Indirect Discharge" shall mean the discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act. (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(20) "Industrial User" shall mean a source of Indirect Discharge which does not constitute a "discharge of pollutants" the Act. (33 U.S.C. 1342).

(21) "Industrial wastes" shall mean the liquid, solids, or gaseous wastes from industrial or commercial processes as distinct form sewage.

(22) "Interference" shall mean the inhibition or

disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the City's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(23) "L" shall mean liter.

(24) "Mg" shall mean milligrams.

(25) "Mg/L" shall mean milligrams per liter.

(26) "Administrator" shall mean the City Administrator of Beaverton to his appointed representative.

(27) "National Categorical Pretreatment Standard or Pretreatment Standard" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.

(28) "National Pollutant Discharge Elimination System or NPDES Permit" shall mean a permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

(29) "National Prohibitive Discharge Standard or Prohibitive Discharge Standard" shall mean any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.5.

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

(31) "New Source" shall mean any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or

installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(32) "Normal Domestic Sewage (NDS)" Wastewater which, when analyzed, shows a daily average concentration of not more than 300 mg/1 of BOD; nor more than 350 mg/1 of suspended solids; nor more than 20 mg/1 of phosphorus; no more than 150 mg/1 of fats, oil and grease and is free of toxic or interfering pollutants.

(33) "0 and M" Operation and Maintenance of the POTW.

(34) "Other Wastes" decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

(35) "pH" shall mean the logarithm (base 10) of the reciprocal of the weight of Hydrogen ions in grams per liter of solution.

(36) "Person" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, Joint Stock Company, trust, estate, governmental entity or any other legal entity, or their legal representative, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(37) "Publicly Owned Treatment Words (POTW)" shall mean a treatment works as defined by section 212 of the Act. (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this ordinance, "POTW" shall also include any sewers that convey waste waters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

(38) "Pollutant" any substance discharged into a POTW or

its collection system or a natural outlet containing any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions', chemical wastes, biological material, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(39) "Pollution" shall mean the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(40) "Pretreatment or Treatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR Section 403.6(d).

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

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

(43) "SIC" shall mean Standard Industrial Classification.

(44) "SWDA" shall mean Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.

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

(46) "Sewer" shall mean any pipe, tile, tubes, or conduit for carrying sewage.

(47) "Shall" is mandatory: "may" is permissive.

(48) "Significant Industrial User: shall mean any industrial user of the City's wastewater disposal system who (1) has a discharge flow of 25,000 gallons or more per average work day, or (2) has a flow greater than five (5%) percent of the flow in the City's wastewater treatment system, or (3) has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act of Michigan Statutes and rules

or (4) is found by the City, State of Michigan or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(49) "Significant Non-Compliance" shall mean for the purposes of this Ordinance, a User who is in significant Non- Compliance if its violation meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits defined here as those in which sixty-six (66%) percent or more or all the measurements taken during a six-month period exceed the daily maximum limit or the average limit for the same pollutant perimeter.

(b) Technical Review Violation is defined here as those in which thirty-three (33%) percent or more of all the measurements for each pollutant perimeter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by applicable technical review criteria. (Technical Review Criteria equals 1.4 for BOD, total suspended solids, fats, oil and grease and 1.2 for all other pollutants except pH.)

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the control authority determines has caused alone or in combination with other discharges, interference or pass through, or endangering the health of POTW personnel or the general public.

(d) Any discharge of a pollutant that has caused immediate endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority in this ordinance to halt or prevent such a discharge.

(e) Failure to meet within ninety (90) days after the scheduled date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or obtaining final compliance.

(f) Failure to provide within thirty (30) days after the due date required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and

reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violations or group of violations which the control authority determines would adversely effect the operation or implementation of the local pretreatment program.

(50) "Slug Load" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent, or in quantity of flow, exceeds any period of duration longer than 'fifteen (15) minutes, or more than five (5) times the average limit for that constituent, or causes interference or pass through at the sewage works.

(51) "State" shall mean the State of Michigan.

(52) "Standard Industrial Classification (SIC)" shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(53) "Storm Water" shall mean any flow occurring during or following any form of natural precipitation and resulting there from.

(54) "Storm Sewer" or Storm Drain" shall mean a sewer which carries storm and surface waters and drainage but which excludes sewage and polluted industrial wastes.

(55) "Superintendent" shall mean the person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.

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

(57) "TSS" shall mean Total Suspended Solids.

(58) "Toxic Pollutants" any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307 (a) or other acts.

(59) "USC" shall mean United States Code.

(60) "Upset" an exceptional incident in which a Discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this chapter or the Dischargers Wastewater Contribution Permit (if applicable) due to factors beyond the reasonable control of the Discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

(61) "User" shall mean any person who contributes, causes, or permits the contribution of wastewater into the City's POTW.

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

(63) "Waters of the State' shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial,(public or private, which are contained within a flow through, or border upon the State or any portion thereof.

(64) "Wastewater" shall mean the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(65) "Wastewater Contribution Permit" shall mean as set forth in section 2.361 of this ordinance:

ARTICLE I

General Provisions

§2.302 Waste Deposits. It shall be unlawful for any person to place or deposit or permit to be deposited in any area under the jurisdiction of the City for discharge into any natural watercourse any substance which is injurious to the public health or detrimental to the public welfare.

§2.303 Privies and Septic Tanks. Except as hereinafter provided it shall be unlawful to construct or maintain any privy, privy vault, septic tank cesspool or other facilities intended or used for the disposal of sewage.

§2.304 Sewer Connection Required. The owners 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 or may be in the future located a public sanitary or combined sewer of the City are hereby required, at their own expense to install suitable toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this Chapter, provided that said public sewer is within one hundred (100) feet of the nearest property line of said premises. The property owner shall only be responsible for installation to the existing property line. Material used shall be compatible with commonly accepted materials used by the City for connection to the sewer main.

Revised June 21, 2004 Ordinance 2004-2.

§2.305 Private Sewer System. Where a public sanitary sewer or combined sewer is not available under the provisions of Section 2.304, the building sewer shall be connected with a private disposal system complying with the provisions of this Code.

§2.306 Permit. No septic tanks shall be constructed or installed within the City unless the plans for the installation are approved by the City Administrator as conforming to the regulations prescribed and a permit issued by the City Clerk. The fee for such permit shall be as prescribed by Council resolution.

§2.307 Inspection. The City Administrator or his designee of the City shall have authority to require that ample notice be given to the City Administrator or his designee to permit inspection of the installation prior to back-filling, to regulate the use, operation and maintenance of any and all septic tanks in said City or to order the tanks to be cleaned, repaired, or reconstructed or further use discontinued when, in his judgment, the use, operation or maintenance of any septic tank shall be unhealthy or harmful.

§2.308 Capacity. Every septic tank shall have a capacity of at least five hundred (500) gallons. The tank shall have a water depth of at least forty-eight (48") inches and shall have one compartment at least five (5') feet in length measuring inside from the inlet to the outlet. The tank shall be of water-tight construction and of materials not subject to corrosion or decay. All tanks shall be provided with one or more openings with covers, to permit inspection and cleaning.

§2.309 Location. Septic tanks shall be located at least fifty (50) feet from any well, pump, or water suction line.

§2.310 Dosing Chambers. Dosing chambers equipped with automatic siphons of the type approved by the State Department of Health shall be used in all installations where the liquid capacity of the septic tank is over one thousand (1,000) gallons.

§2.311 Fields. Sub-surface drainage fields shall be located at least fifty (50) feet from any wells, pumps, spring or suction line, and shall be designed to provide satisfactory soil absorption. In no case shall a seepage pit penetrate or extend into a water bearing stratum or overflow onto the ground surface.

§2.312 Cleaners. All persons engaged in cleaning sewage disposal systems shall keep all receptacles, appliances and equipment used for this purpose in a sanitary condition at all times. The method of disposal of tank contents shall be approved by the City Administrator or his designee.

§2.313 Discontinuance of System. At such time as a public sewer becomes available to a property served by a private sewer disposal system, as provided in Section 2.304, a direct connection shall be made to the public sewers in compliance with the provisions of this Chapter, and any septic tanks, privy, privy vault, cesspool, or similar private sewage disposal facilities, shall be abandoned and filled in a manner approved by the City Administrator or his designee.

§2.314 Maintenance. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense of the City.

§2.315 Connection Permit. No unauthorized person shall uncover, make any connection with or open into, use, alter or disturb any public sewer or any appurtenance thereof without first obtaining a written permit from the City Clerk. The fee for a connection permit shall be as established by Council resolution.

§2.316 Building Sewer Installation and Maintenance. All costs and expenses incident to the installation and connection of building sewer shall be borne by the owner of said property. The owner shall indemnify the City for all loss or damage that may be directly or indirectly occasioned by the installation of the building sewer. The owner shall be responsible for repairs to and maintenance of the building sewer as herein defined, at his expense to the existing property line.

Amended June 21, 2004 Ordinance 2004-2.

§2.317 Permit Application. The applicant for a sewer connection permit shall notify the City Clerk when the building sewer is ready for inspection and connection to the public sewer. The City Council or its designated representative shall then inspect the installation and, if such constructions found to conform to the established specification, and be in a safe and sanitary condition, approval shall be granted to connect the building sewer to the public sewer system. As a prerequisite to the issuance of all permits under this Chapter for the continuance thereof, satisfactory evidence must be received by the City Clerk indicating compliance with all state laws and regulations concerning sewage disposal.

§2.318 Sewer Connection.

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

(2) Old building sewers may be used in connection with new sewer line if, in the opinion of the City Administrator, this connection meets all requirements of this article.

(3) The building sewer shall be constructed of vitrified clay sewer pipe or cast iron soil pipe or plastic sewer pipe, as approved by the Administrator. The City reserves the right to specify and require the encasement of any sewer pipe with concrete, or the installation of the sewer pipe in concrete cradle if foundation and construction are such as to warrant such protection in the opinion of the Administrator.

(4) The size and slope of the building sewer shall be subject to approval by the Administrator, but in no event shall the diameter be less than four (4) inches. The slope of such four (4) inch pipe shall be not less than one-quarter (1/4) inch per foot, unless otherwise permitted. The slope of pipe, the diameter of which is six (6) inches or more, shall be not less than one-eighth (1/8) inch per foot unless otherwise permitted.

(5) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall; which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction greater than forty-five (45) degrees shall be provided with cleanouts accessible for cleaning.

(6) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by artificial means approved by the Administrator, and discharge to the building sewer.

(7) All joints and connections shall be made gas tight and water tight. All joints shall be approved by the Administrator, and discharge to the building sewer.

(8) No sewer connection will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.

(9) All newly constructed building sewers shall have a properly sized clean-out at the head of said sewer that is accessible at all times. This clean-out shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer.

(10) All sewers shall be constructed in accordance with the latest editions of the "Ten State Standards".

§2.319 Storm Water. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water or unpolluted industrial process water to any sanitary sewer.

§2.320 Storm Sewers. Storm sewers and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to an approved natural outlet. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the City Council, to a storm sewer, combined sewer or approved natural outlet.

(a) If it is determined that storm water is being discharged into a sanitary sewer, the property owner will be notified by mail and given 45 days to correct. If separation of storm sewer and sanitary sewer is not made, the property owner will be fined $10.00 per day until separation is made.

(Amended April 21, 2008)

§2.321 General Discharge Prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such Users of the POTW whether or not the User is subject to National Categorical Pretreatment Standards or any other National, State, or Local Pretreatment Standards or Requirements. A user may not contribute the following substances to any POTW:

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit. In no case can heat be released in such quantities that the temperature at the sewage treatment plant exceeds 104 degrees Fahrenheit.

(2) Any water or waste which may contain more than 25 parts per million (or any other* amount that will cause interference with or pass-through the POTW), of petroleum oil, non-biodegradable cutting oils, or

product of mineral oil origin.

(3) Wastewater containing more than 150 mg/1 floatable oils fat, or grease, or in quantities that may adhere to structures or interfere with sewage works operations or pass-through the POTW.

(4) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. No waste stream shall have a closed cup flash point of less than 140 degrees Fahrenheit. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohol's, ketones, aldehydes, peroxides, chlorites, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the User is a fire hazard or a hazard to the system.

(5) Any garbage which has not been properly shredded.

(6) Any solid or viscous substance which may cause obstructions to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides ,or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt, residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(7) Any waters or wastes having a pH lower than 5.0 or higher than 10.0 or having any other corrosive property capable of causing damage or hazards to the structures, equipment or personnel of the sewage works.

(8) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the

limitation set forth in Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(9) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(10) Any waters or wastes containing heavy metals including but not limited to the following: cadmium, chromium, copper, lead, mercury, nickel, zinc, selenium, molybdenum, arsenic, silver, or toxic substances such as: cyanide, PCB, or other organics in the families of halogenated hydrocarbons, aromatic hydrocarbons, phenols, or phthalate esters.

(11) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or low during normal operation.

(12) Any discharge which exceeds the limitations set forth in Article II, Industrial Pretreatment and Monitoring.

(13) Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State Criteria applicable to the sludge management method being used.

(14) Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

(15) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(16) Any wastewater containing any radioactive wastes or

isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State and Federal regulations.

(17) Any trucked or hauled pollutants except at discharge points approved and designated by the POTW.

(18) A daily average flow greater than five percent (5%) of the average daily sewage flow of the wastewater treatment plant, or

(19) a five-day BOD greater than 300 parts per million by weight, or

(20) containing more than 350 parts per million by weight of suspended solids, or

(21) containing more than 20 parts per million by weight of phosphorus.

(22) When the Superintendent determines that a User(s), is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall: (1) Advise the User(s) of the impact of the contribution on the POTW; (2) Develop effluent limitation(s) for such User to correct the Interference with the POTW; (3) He may also take any combination of the following actions to protect the POTW:

(a) Reject the wastes;

(b) Require pretreatment to the level defined as "Normal Domestic Sewage".

(c) Require control over the quantities and rates of discharge.

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

(e) Require new industrial customers or industries with significant changes in strength or flow to submit prior information to the City concerning the proposed flows.

When so directed by the City, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

(1) reduce the BOD to 300 parts per million and the suspended solids to 350 parts per million and phosphorous to 20 parts per million by weight, or

(2) reduce objectionable characteristics or constituents to within the maximum limits provided for in the Section 2.331, or

(3) Control the quantities and rates of discharges of such waters and wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the City, and no construction of such facilities shall be commenced until said approval is obtained.

Any sewage works user who has a discharge which exceeds these limits will be considered a significant Discharger and as such will be subject to regulations in Article II, Chapter 23, Industrial Pretreatment and Monitoring, provided such acceptance of waste is allowed by the City Council as set forth in Section 2.325 of this Chapter.

§2.322 Interceptors. Grease, oil and sand interceptors shall be provided when in the opinion of the City Council, or its designated representative, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any inflammable wastes, sand or other harmful ingredients, except that such interceptors shall be a type and capacity approved by the City Council or its designated representative, and shall be located so as to be readily accessible for cleaning and inspection.

Grease and oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be substantially constructed, water tight and equipped with easily removable covers, which, when bolted in place, shall be gas tight and water tight.

§2.323 Maintenance. Where installed, all grease, oil and sand interceptors shall be maintained by the owner at his expense, in continuously efficient operation at all times.

§2.324 Measurements and Tests. All Measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Sections 2.321 and 2.322 shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage", as published by the American Public Health Association or with procedures established by the U.S. EPA and contained in 40 CFR, part 136, as amended. Such tests as are herein specified, shall be determined upon suitable samples taken at the control manhole provided for in Article II, Chapter 23. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest down street manhole in the public sewer to the point at which the building sewer is connected or where designated.

§2.325 Wastewater Contribution permits. No statement contained in this Chapter 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. Such wastes, if accepted, will be charged a surcharge based on the amount of BOD, Suspended Solids, Flow, Phosphorous, or other characteristic not consistent with this Chapter. Only that portion of the discharge which is in excess of the limits established will be subject to surcharge. Such agreements will be by permit on a cause by case basis. Surcharges will reflect the cost of the additional expense involved in the operation, maintenance and capital improvements required to effectively treat the unusual or extra strength waste.

§2.326 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 municipal sewage works.

§2.327 Entry. The City Council and other duly authorized representatives of the City shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this Chapter at any time during reasonable or usual business hours.

§2.328 Penalties. Any person found to be violating any provision of this Chapter, will be considered a significant Discharger and will be* subject to the rules, regulations and penalties provided under Industrial Pretreatment and Monitoring, Article II, Chapter 23.

§2.329 Actions. The City Council may bring any appropriate action in the name of the City of Beaverton, in the proper court, as may be necessary or desirable to restrain or enjoin any public nuisance, to enforce any of the provisions of this Chapter, and in general to carry out the intent and purpose of this Chapter.

§2.330 Liability for Damages. Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

ARTICLE II

Industrial Pretreatment and Monitoring

§2.350 Purpose and Policy. This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Beaverton and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this Article are:

(a) to prevent the introduction of pollutants into the City wastewater system which interfere with the operation of the system or contaminate the resulting sludge;

(b) to prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) to improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(d) to provide for equitable distribution of the cost of the municipal wastewater system.

This Article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This Article shall apply to the City of Beaverton and to persons outside the City who are, by contract or agreement with the City, Users of the City POTW. This Article is a supplement to Chapter 23 Sewer Ordinance, as amended. Except as otherwise provided herein, the Superintendent of the City POTW shall administer, implement and enforce the provisions of this Ordinance.

§2.351 Limitations on Wastewater Strength.

(1) Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial sub-category, the Federal Pretreatment Standard, if more stringent than limitations imposed under this Ordinance for sources in that sub-category, shall immediately supersede the limitations imposed under this Ordinance. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(2) Modification of Federal Categorical Pretreatment Standards. Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the approval Authority for modification of specific limits in the Federal Pretreatment

Standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) "General Pretreatment Regulations for Existing and new Sources of Pollution" promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.

(3) State Requirements. State requirements and limitations on discharges to the POTW shall be met by all Dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable ordinance.

(4) Right of Revision. The City reserves the right to amend this Ordinance to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Section 2.350 of this Article

(5) Excessive Discharge. No User shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant- specific limitation developed by the City or State.

(6) Specific Pollutant Limitations. No person shall discharge wastewater containing in excess of:

Material	Concentration (mq/1)
arsenic	0.0285
cadmium	0.0111
copper	0.598
cyanide	0.5
lead	0.336
mercury	0.0000
nickel	0.873
silver	0.016
chromium	1.73
zinc	3.0506
methylenechloride	16.5
toluene	31.4
benzene	8.8

ethylbenzene	6.3
xylene	8.4
phenol	338
lll.Trichloroethane	23.4

(7) The City may impose mass limitations on Dischargers which are using dilution to meet the Pretreatment Standards or Requirements of this Ordinance, or in other cases where the imposition of mass limitations is deemed appropriate by the City.

§2.352 Accidental Discharges. Each User shall provide protection from accidental or SLUG discharges of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All existing users shall complete such a plan within 180 days of enactment of this Ordinance. No user_ who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accident SLUG discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. In the case of an accidental or SLUG discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

§2.353 Upset. If an accidental discharge is caused by the "upset" of an industrial User's treatment facility, the industrial User must notify the POTW within 24 hours of the upset. Written notification must be provided as described in section 2.355. An Industrial user who wishes to establish the affirmative defense of Upset shall demonstrate that:

An upset occurred and the Industrial User can identify the cause(s) of the upset;

The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

The Industrial user has submitted the appropriate notifications to the POTW as described in this and section 2.355.

§2.354 Bypass. Bypasses are prohibited and may result in enforcement action against the Industrial Discharger unless: Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

There was no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of down time;

The Industrial User submitted the proper notices to the POTW. An unanticipated Bypass requires the Industrial User to notify the POTW within 24 hours after becoming aware of the Bypass. A written submission shall also be provided according to the conditions of 2.355.

§2.355 Written Notice. Within five (5) days following an accidental discharge, operational upset or Bypass; the User shall submit to the Superintendent of the POTW a detailed written report describing the cause of the discharge, its duration including exact dates and times when it was corrected and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other liability which may be imposed by this article or other applicable law. If a substance is discharged to the POTW, which if otherwise disposed of would be a hazardous waste under 40 CFR Part 261, then Notification must include the name of the hazardous waste, the EPA hazardous waste number and the type of discharge (continuous, batch, etc.). The User must also notify the EPA Regional Waste Management Division Director and State hazardous waste authorities in writing.

§2.356 Notice to Employees. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a dangerous SLUG discharge. Employers shall insure that all employees who may cause or suffer such a dangerous SLUG discharge to occur are advised of the emergency notification procedure.

§2.357 Purpose. It is the purpose of this section to provide for the recovery of costs from Users of the City's Wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's schedule of Charges and Fees.

(1) Charges and Fees. The City may adopt charges and fees which may include:

(a) fees for reimbursement of costs of setting up and operating the City's Pretreatment Program;

(b) fees for monitoring, inspections and surveillance procedures;

(c) fees for reviewing accidental discharge procedures and construction;

(d) fees for permit applications;

(e) fees for filing appeals;

(f) fees for consistent removal (by the City) of pollutants otherwise subject to Federal Pretreatment Standards; and

(g) other fees as the City may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this Ordinance and are separate from all other fees chargeable by the City.

Administration

§2.360 Wastewater Dischargers. It shall be unlawful to discharge without a permit to any natural outlet within the City of Beaverton, or in any area under the jurisdiction of said City, and/or to the POTW any wastewater except as authorized by the Superintendent in accordance with the provisions of this Ordinance.

§2.361 Wastewater Contribution Permits.

(1) General Permits. All significant users proposing to connect to or to contribute to the POTW shall obtain a Wastewater Discharge Permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a Wastewater Contribution Permit within 180 days, after the effective date of this Ordinance.

(2) Permit Application. Users required to obtain a Wastewater Contribution Permit shall complete and file with the City, an application in the form prescribed by the City, and accompanied by the appropriate fee as set forth in the City's Schedule of Charges and Fees. Existing Users shall apply for a Wastewater Contribution Permit within thirty (30) days of the effective date of this Ordinance, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address and location (if different from the address);

(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics including but not limited to those mentioned in

this Ordinance, as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 305(g) of the Act and contained in 40 CFR, Part 136, as amended;

(d) Time and duration of contribution;

(e) Average daily and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(h) Where known, the nature and concentration of any pollutants or materials in discharge which are limited by any City, State or Federal Pretreatment Standards and a statement regarding whether or not the pretreatment standard are being met on a consistent basis and if riot, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;

(i) If additional pretreatment and/or O&M will be required to meet with the Pretreatment Standards; the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard:

The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in paragraph (1) shall exceed nine months.

(3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the-schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

(j) Each product produced by type, amount, process or processes, and rate of production;

(k) Type and amount of raw materials processed (average and maximum per day);

(l) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(m) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

The City will evaluate the date furnished by the User and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Contribution Permit subject to the terms and conditions provided herein.

§2.362 Permit Modifications. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Contribution Permit as required by 2.361(2), the User shall apply for a Wastewater Contribution Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the User with an existing Wastewater Contribution Permit shall submit to the Superintendent within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by paragraph (h) and (i) of Section 2.361(2).

§2.363 Permit Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:

(a) The unit charge or schedule of users charges and fees for the wastewater to be discharged to a community sewer;

(b) Limits on the average and maximum wastewater constituents and characteristics;

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(d) Requirement for installation and maintenance of inspection and sampling facilities;

(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

(f) Compliance schedules;

(g) Requirements for submission of technical reports or discharge reports (see §2.366);

(h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;

(i) Requirements for notification of the City or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(j) Requirements for notification of slug discharges as per §2.352;

(k) Other conditions as deemed appropriate by the City to ensure compliance with this Ordinance.

§2.364 Permit Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than one year or may be stated to expire on a specific date. The user shall apply for permit re-issuance a minimum of ninety (90) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in §2.351 are modified or other just cause exists. The User shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

§2.365 Permit Transfer. Wastewater Discharge Permits are

issued to a specific User for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or User shall also comply with the terms and conditions of the existing permit.

§2.366 Reporting Requirements for Permittee.

(1) Compliance Date Report. Within 180 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, ninety (90) days prior to commencement of the introduction of wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit to the Superintendent a Baseline Monitoring Report indicating the nature and concentration of all pollutants in the discharge from the regulated process(es) which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards or Requirements. A minimum of four (4) grab samples must be used for readily degradable parameters such as pH, Cyanide, Total phenols, oil and grease, sulfide and volatile organics. Samples for other pollutants shall be a twenty-four (24) hour composite flow proportional unless prior approval of waiver for flow proportional sampling is obtained from POTW. A minimum of one representative sample taken immediately downstream of the regulated process(es) is required. All sampling and analysis shall be performed in accordance with 40 CFR part 136 or as approved by the Superintendent. The baseline report shall indicate the time, date, place and name of the person collecting sample, methods of analysis and shall certify it is representative of normal work cycles and expected pollutant discharges. The baseline report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional 0 & M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and certified to by a qualified professional.

New sources shall install and have in operating condition and shall "startup" all pollution control equipment required to meet the Wastewater Contribution Permit and/or applicable Pretreatment Standards before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days), new sources must meet all applicable Pretreatment Standards.

(2) Periodic Compliance Reports.

(a) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge to the POTW or any other significant Industrial User, shall submit to the Superintendent during the months of June and December, unless required more frequently in the Pretreatment standard or by the Superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are limited by the Pretreatment Standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in paragraph (b) of 2.363. If an Industrial User monitors any pollutant more frequently than required, the results shall be included in the report. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted. Periodic compliance reports shall be reviewed and Signed by an authorized representative of the Industrial User.

(b) The Superintendent may impose mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports' shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of Pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be representative of conditions occurring during the reporting period, and shall be performed in accordance with the techniques approved by the Administrator.

(3) Violation of Discharge Standards. If sampling performed by an Industrial User indicates a violation of Discharge Standards, the User shall notify the POTW within 24 hours of becoming aware of the violation. The User shall also repeat sampling and analysis and submit the results of the repeat analyses to the POTW within thirty (30) days after becoming aware of the violation.

§2.367 Monitoring Facilities. The City shall require to be provided and operated at the User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the User's premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole of facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specification. Construction shall be completed within ninety (90) days following written notification by the City.

§2.368 Inspection and Sampling. The City may inspect the facilities of any User to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with.

Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The City shall have the right to set upon the User's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

§2.369 Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all Federal Categorical

Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or methods of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

The City shall annually publish in a newspaper of general circulation within the City a list of the Users which were not in compliance with any Pretreatment Requirements or Standards at least once during the twelve previous months. The notification shall also summarize any enforcement actions taken against the User(s) during the same twelve (12) months.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the EPA or Approval Authority upon request.

§2.370 Confidential Information. Information and data on a User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

When requested by a Discharger furnishing a report, the portions of a report which might disclose trade secrets or secret process shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the Report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the City as confidential, shall not be transmitted to any governmental agency or to the general public by the City until and unless a ten (10) day notification is given, to the user.

§2.371 Harmful Contributions. The City may suspend the

wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the City to violate any condition of its NPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the Wastewater Contribution Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen (15) days of the date of occurrence.

§2.372 Revocation of Permit. Any User who violates the following conditions of this Ordinance, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this section of this Ordinance:

(a) Failure of a User to factually report the wastewater constituents and characteristics of his discharge;

(b) Failure of the User to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit.

§2.373 Notification of Violation - Administrative Adjustment. Whenever the City finds that any User has violated or is violating this Ordinance, wastewater contribution permit, or any prohibition, limitation of requirement contained herein, the City may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the User.

§2.374 Show Cause Hearing. The City may order any User who causes or allows an unauthorized discharge to enter the POTW to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing

to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee to:

(a) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings,

(b) Take the evidence;

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

At any hearing held pursuant to this Ordinance testimony taken must be under oath and recorded steno graphically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.

After the City Council has reviewed the evidence, it may issue an order to the User responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

§2.375 Legal Action. If any person discharges sewage, industrial wastes or other wastes into the City's Wastewater disposal system contrary to the provisions of this Ordinance, Federal or State Pretreatment Requirements, or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in the (Circuit) Court of this County.

§2.376 Right of Appeal. Any Discharger or any interested party shall have the right to request in writing an interpretation or ruling by the City on any matter)covered by this Ordinance and shall be entitled to a prompt written reply. In the event that such inquiry is by a Discharger and deals with matters of performance or compliance with this Ordinance for which enforcement activity relating to an alleged violation is the subject, receipt of a Discharger's request, shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final

judicial order entered pursuant to this Ordinance may be taken in accordance with (local and state law).

Penalties

§2.380 Civil Penalties. Any User who is found to have violated an Order of the Council or who has willfully or negligently failed to comply with any provision of this Ordinance, and the orders, rules, regulations' and permits issued hereunder, shall be fined no less than $100 (One Hundred Dollars) or no more than $1,000.00 (One Thousand Dollars) for each offense. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit of law against the person found to have violated this Ordinance or the orders, rules, regulations, and permits issued hereunder.

§2.381 Falsifying Information. Any person who knowingly makes any statements) representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, shall, upon conviction, be punished by a fine of not more than $1,000.00 or by imprisonment for not more than six (6) months, or by both.

§2.382 Records Retention. All Dischargers subject to this Ordinance shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a Discharger in connection with its discharge. All records which pertain to matters which are the subject of Administrative Adjustment or any other enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the Discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

§2.383 Severability. If any provision, paragraph, word, section, chapter or article of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, chapters and articles shall not be affected and shall continue in full force and effect.

§2.384 Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent to such inconsistency or conflict.

TITLE II

UTILITIES AND SERVICES

_CHAPTER 24

WATER AND SEWER RATES

§2.401 Definitions. Unless the context specifically indicates otherwise, the meanings of terms used in this Chapter shall be as follows:

(1) "Premises" shall mean each lot or parcel of land, building or premises having any connection to the water Distribution System of the City, or the Sewage Disposal System of the City.

(2) "Person" shall mean any individual, firm, association, public or private corporation or public agency or instrumentality.

(3) "Department" shall mean the City Water and/or Sewer Department(s).

(4) "Superintendent" shall mean the Superintendent of the Department(s).

(5) "Debt Service Charge" shall mean the charge or charges designed to recover the cost of debts incurred by the department.

(6) "Normal Domestic Sewage" shall mean the wastewater which, when analyzed, shows a daily average concentration of not more than 300 mg/1 of DOB; nor than 350 mg/1 of suspended solids; nor more than 20 mg/1 of phosphorus; no more than 150 mg/ of fats, oils and grease.

(7) "Operation & Maintenance" shall mean those functions that result in expenditures during the useful life of the water and/or sewage treatment works for materials, labor, utilities and other items which are necessary for managing and for which such works were designed and constructed. The term "operation and maintenance" includes replacement as defined in 2.401(8).

(8) "Replacement" shall mean the expenditures for obtaining and installing equipment accessories or appurtenances which are necessary during the useful life of the water and/or sewage treatment works to maintain the capacity and performance for which such works were designed and constructed.

(9) "Service Charges" shall mean that portion of the total water and/or wastewater service charge which is levied to cover costs not associated with operation, maintenance and repair costs. Such costs might include late payment penalties; septage treatment costs; tap-in costs, turn on/turn off costs; and other costs of general management and

administrative activities not directly associated with operation, maintenance and repair.

(10) "User Charge" shall mean that portion of the total water and/or wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the water and/or wastewater treatment works.

(11) "User Classes" shall mean those premises having water and/or sewer connections. Such classes may include Residential, Commercial, Industrial, Institutional, and Governmental users.

(12) "Residential" shall mean any contributor or benefactor of the City's water or sewage treatment works whose lot, parcel, real estate, or building is used for domestic purposes only.

(13) "Commercial" shall mean any retail stores, restaurants, office buildings, laundries, and other private business and service establishments.

(14) "Industrial" shall mean any nongovernmental, nonresidential user of publicly owned water or sewage treatment works which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under the following divisions; Division A-Agriculture, Forestry, and Fishing; Division B-Mining; Division D-Manufacturing; Division E-Transportation, Communications, Electric, Gas and Sanitary, and Division I-Services.

(15) "Institutional" shall mean social, charitable, religious and educational activities such as schools, churches, hospitals nursing homes, penal institutions and similar institutional users.

(16) "Governmental" shall mean legislative, judicial, administrative and regulatory activities of Federal, State and local governments.

(17) "Sewer Charge" shall mean the charge made for wastewater services which may include debt service charges, service charges, user charges, industrial surcharges, or other charges as may be applicable to the discharge as set forth in this and various other ordinances of the City.

§2.402 Basis of Charges. All water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water or sewage disposal service customers by the Department. All sewage disposal service shall be charged for on the basis of water consumed. No free water service or sewage disposal service shall be furnished to any person.

§2.403 Water Rates.

(1) User Charges. Except as herein otherwise provided, water to

be furnished by the System to any premises shall be measured by a meter or meters installed and controlled by the City, and charges per unit for such metered water service to any premises within the City connected with the water supply system shall be at the rates now in effect until changed pursuant to resolution of the City Council.

(2) Water Service Tap Fee. The City Council may adopt, and amend by resolution from time to time, a Water Service Tap Fee. The purpose of the fee is to cover the cost of the water meter and the cost of installation. The fee may be established by meter size or on a time and materials basis. Revenues for this service will be deposited in the Water System Operating Fund.

(3) Water System-Development Fee. The City Council may adopt, and amend by resolution from time to time, a System-Development Fee. The purpose of the fee is to cover a portion of the system capital costs to make their connection possible; this fee represents a buy-in to the System. The fee may be established based on meter size or residential equivalents. Revenues from this fee will be deposited in the Water System Capital Fund.

(4) Cross-Connection Inspection Fee. The City Council may adopt, and amend by resolution from time to time, a Cross-Connection Inspection Fee. This fee is to cover a portion or all of the expenses associated with inspection of private wells to insure that they are not connected to City Water System in any manner. Revenues from this fee will be deposited in the .Water System Operating Fund.

(5) Water Turn-On Fee. The City Council may adopt, and amend by resolution from time to time, a Water Turn-On Fee. This fee is to cover a portion or all of the expenses associated with turning on service where a meter already exists. A different fee may be charged based on whether the turn-on takes place during regular business hours or not. Revenues from this fee will be deposited in the Water System Operating Fund.

(6) Water Shut-Off Fee. The City Council may adopt, and amend by resolution from time to time, a Water Shut-Off Fee. This fee is to cover a portion or all of the expenses associated with turning off service. The Public Works Department may waive the fee in the event of an emergency shut-off. Revenues from this fee will be deposited in the Water System Operating Fund.

§2.404 Sewer User Charge System.

(1) Established, to Whom Applicable, Basis for Computations. Rates and charges for the use of the wastewater system of the City of Beaverton are hereby established. Revisions to the rates for total sewer service charges are to be established by resolution of the City Council, which may be enacted apart from the published ordinances as necessary to ensure sufficiency of revenues in meeting operation,

maintenance and replacement costs, as well as debt service. Such changes and rates shall be made against each lot, parcel of land or premises which may have any sewer connections with the sewer system of the City, or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into such system or any part thereof. Such charges shall be based upon the quantity of water used thereon or therein.

(2) **Amounts, Billings, Sewer Service Charges**. The rates and charges for service furnished by such system shall be levied upon each lot or parcel or premises, having any sewer connection with such system, on the basis of the quantity of water used thereon or therein as the same is measured therein used, or in the absence thereof, by such equitable method as shall be determined by the Superintendent, and shall be collected at the same time, and in the same manner as provided for the payment of charges for water used, except in cases where the character of the sewage from a manufacturing or industrial plant, building or premises is such that unreasonable additional burden is placed upon the system, greater than that imposed by the normal domestic sewage delivered to the system plant, the additional costs of treatment created thereby shall be an additional charge over the regular rates hereinafter set forth; or the City may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises, to treat such sewage in such manner as shall be specified by the City before discharging such sewage into the sewage disposal system. Rates for all users obtaining all or part of their water supply from sources other than the City water system may be determined by gauging or metering the actual sewage entering the system or by metering the water used by them, in a manner acceptable to the Superintendent.

The rate to be billed for use of the System shall be as follows for all users within the sanitary sewer service area of the City of Beaverton except as otherwise provided herein:

(a) Sewer Service

(1) Residential user

(A) metered service

(i) user charge per bimonthly period: $8.09 plus $2.45/1000 gal. in excess of 3000 gal. per bimonthly period plus

(ii) debt service charge

(a) users with 3/4" water meter $16.91 per bimonthly period plus $2.45 over minimum

(b) users with 1" or larger water

meters $19.22 per bimonthly period, plus $4.65 over minimum in excess of 3000 gal. per bimonthly period.

(B) users without water service

(i) user charge per bimonthly period $25.33 plus

(ii) debt service charge per bimonthly period $19.22

(2) Nonresidential user

(A) metered service

(i) user charge per bimonthly period $8.09 plus $2.45/1000 gal. in excess of 3000 gal. per bimonthly period plus

(ii) debt service charge

(a) users with 3/4" water meter $16.91 per bimonthly period plus $4.65 over minimum in excess of 3000 gal. per bimonthly period

(b) users with 1" or larger water meter $19.22 per bimonthly period plus $4.65 over minimum in excess of 3000 gal. per bimonthly period.

(c) Surcharge rate for BOD for wastewater in excess of 200 mg/1 as follows:

User charge of $0.18 per pound of BOD

(d) Surcharge rate for suspended solids in excess of 220 mg/1 as follows:

User charge of $0.11 per pound of SS

(e) Surcharge rate for phosphorus in excess of 8 mg/1 as follows:

User charge of $0.83 per pound of phosphorus

(f) There shall be an additional charge for laboratory testing of wastewater samples. The laboratory charge shall be for the cost thereof and will be determined for each user.

(g) Flat rates for unmetered customers shall be the average debt service charge plus the average O&M charge for the appropriate sized water meter (service) as determined by the Superintendent.

The above charges, other than the debt service charges, are user charges to pay the operation, maintenance and replacement of the sewage works and they are the same for customers located inside or outside the City and the equality of rates shall exist in any future modifications.

In addition to these charges the City may also levy such "Service Charges" as may be necessary, to recover the cost of such services.

(3) **Sewer Service Tap Fee.** The City Council may adopt, and amend by resolution from time to time, a Sewer Service Tap Fee. The purpose of this fee is to cover the cost of tapping the sewer collection line. The fee may be established by meter size, building use, or on a time and materials basis. Revenues for this service will be deposited in the Sewer System Operating Fund.

(4) **System-Development Fee.** The City Council may adopt, and amend by resolution from time to time, a Sewer System-Development Fee. The purpose of the fee is to cover a portion of the system capital costs to make their connection possible; this fee represents a buy-in to the system. The fee may be established based on meter size or residential equivalents. Revenues from this fee will be deposited in Sewer System Capital Fund.

(5) **Industrial Pretreatment Inspection Fee.** The City Council may adopt, and amend by resolution from time to time, an Industrial Pretreatment Inspection Fee. The fee would be an annual charge for existing IPP Permits. The purpose of the fee is to cover a portion or all of the expenses associated with administering the Industrial Pretreatment Program. Revenues from this fee would be deposited in the Sewer System Operating Fund.

§2.405 Annual Audit and Accounting.

(1) The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance and replacement of the system as are necessary to preserve the

same in good repair and working order. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on said audit, rates for sewage services shall be revised annually and revised as necessary by the City Council by resolution to meet system expenses and to insure that all user classes pay their proportionate share of operation, maintenance and equipment replacement cost.

(2) Water System Operating Fund. The City shall maintain a Water Operating Fund that will account for the operation and maintenance of the Water System, and its debt service. The revenues to support this fund shall be Water System User Fees, Water System Tap-In Fees, Cross Connection Inspection Fees, Water System Turn-On Fees, Water System Shut-Off Fees, Interest Earnings, and other miscellaneous services and reimbursements involving the operation of the Water System.

(3) Water System Capital Fund. The City shall establish a Water System Capital Fund. Proceeds from this fund are limited to Water System Capital Improvement expenditures, which include but are not limited to the following: System expansion and replacement of existing water infrastructure in excess of $25,000.00. Sources of funding for this fund "will include: Water System Development Fees and transfers from the Water System Operating Fund for Renewal of Replacement.

(4) Sewer System Operating Fund. The City shall maintain a Sewer System Operating Fund that will account for the operation and maintenance of the Sewer System, and its debt service. The revenues to support this fund shall be Sewer System User Fees, Sewer System Tap-In Fees, Industrial Pretreatment Inspection fees, Interest Earnings, and other miscellaneous services and reimbursements involving the operation of the Sewer System.

(5) Sewer System Capital Fund. The City shall establish a Sewer System Capital Fund. Proceeds from this fund are limited to Sewer System Capital Improvement expenditures, which include but are not limited to the following: Capital Expenditure for the expansion of treatment capacity, extension of sewer collection systems, and replacement of existing sewer infrastructure in excess of $25,000.00. Sources of funding for this fund will include: Sewer System Development Fees and transfers from the Sewer System Operating Fund for Renewal and Replacement.

§2.406 No Free Service. No free service shall be allowed from any user of the Beaverton water or wastewater systems.

If a resident wishes to have the water turn off because vacation, the resident will not be charged a turn off or turn on fee. However they will receive a minimum water and sewer bill for the period. The current monthly charges with garbage are $ 33.78.

Amended December 17, 2003

§2.407 Billing. Billing for water and wastewater service charges shall be billed by the 1st of each even numbered month, bimonthly for the preceding month. Payment is due on the 21st of the following month. If payment is not received by the 21st, then a ten (10%) percent delinquent penalty will be added to the bill.

§2.408 Collection.

(1) Collection Authorization. The City Treasurer is hereby authorized to enforce the payment of charges for water service, sewer service, and garbage service. The Department may discontinue water or sewer service should the account become delinquent and the following shut-off procedures are followed:

(a) Customer is provided seven (7) days notice, via first class mail, that water or sewer service will be discontinued if payment in full is not received by the specified date. The notice will indicate the amount that is delinquent, the scheduled date for shut-off, and the cost associated with the shut-off and turn-on service.

(b) Notice is placed at the customer's residence in a conspicuous location the day preceding the scheduled shut-off that the service will be discontinued if payment in full is not received. The notice will indicate the amount that is delinquent, the scheduled time for shut-off, and the cost associated with the shut-off and turn-on of service.

(2) Delinquent Accounts on Tax Roll. The charges for water service, sewage disposal service, and solid waste/recycling collection, which, under the provisions of Act 94, Public Acts of 1933 of the State of Michigan, as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien; and the City Treasurer shall, annually, on May 1, certify all unpaid charges for such services furnished to any premise which, on the 1st day of April preceding, have remained unpaid for a period of six (6) months, to the City Assessor who shall place the same on the next tax roll of the City. Such charges so assessed shall be collected in the same manner as general city taxes.

ORDINANCE NO. 6-2007

AN ORDINANCE TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF IMPROVEMENTS AND EXTENSIONS TO THE WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM OF THE CITY OF BEAVERTON; TO PROVIDE FOR THE ISSUANCE AND SALE OF JUNIOR LIEN REVENUE BONDS TO PAY THE COSTS THEREOF; TO PRESCRIBE THE FORM OF THE JUNIOR LIEN REVENUE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE JUNIOR LIEN REVENUE BONDS; TO PROVIDE AN ADEQUATE RESERVE ACCOUNT FOR THE JUNIOR LIEN REVENUE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE JUNIOR LIEN REVENUE BONDS AND THE SYSTEM.

THE CITY OF BEAVERTON ORDAINS:

Section 1. Definitions. The following words and terms used in this Ordinance shall have the meanings assigned in this Section, unless the context clearly indicates otherwise.

The word "acquired," as used in this Ordinance, shall be construed to include acquisition by purchase, construction or by any other method.

"Act 94" shall mean Act 94, Public Acts of Michigan, 1933, as amended.

"Additional Bonds" shall mean the bonds issued pursuant to Section 17 and subject to the terms of this Ordinance.

"Bond" or "Bonds" shall mean the Series 2007 Bond.

"Depository Bank" shall mean , , Michigan, a member of the Federal Deposit Insurance Corporation, or other financial institution qualified to serve as depository bank and designated by resolution of the City.

"Engineer" shall mean Rowe Incorporated, Mt. Pleasant, Michigan.

"Fiscal Year" shall mean the fiscal year of the City and the operating year of the System, commencing July 1 and ending June 30 of the subsequent year, as such year may be changed from time to time.

"Government" shall mean the government of the United States of America or any agency thereof.

"Government Obligations" means obligations, instruments or securities fully and unconditionally guaranteed as to the timely payment thereof by the Government.

"City" shall mean the City of Beaverton, County of Gladwin, State of Michigan.

"Junior Lien Bonds" means, collectively, the Bonds, the Series IV-A Bonds and the Series IV-B Bonds and any Additional Bonds.

"Junior Lien Bond Reserve Account" shall mean the subaccount in the Junior Lien Bond and Interest Redemption Account established in accordance with Section 12 of this Ordinance.

"Ordinance" shall mean this ordinance and any ordinance or resolution of the City amendatory or supplemental to this ordinance, including ordinances or resolutions authorizing issuance of Additional Bonds.

"Ordinance No. 115" shall mean Ordinance No. 115 adopted by the City Council on the City on March 23, 1981, authorizing the issuance of the Series II Bond.

"Ordinance No. 123" shall mean Ordinance No. 123 adopted by the City Council on the City on March 12, 1984, authorizing the issuance of the Series III Bond.

"Ordinance No. 141" shall mean Ordinance No. 141 adopted by the City Council onlhe City on November 7, 1991, authorizing the issuance of the Series IV-A Bond and the Series IV-B Bond.

"Outstanding Bonds" shall mean Series II Bond, Series III Bond, Series IV-A Bond and the Series IV-B Bond.

"Outstanding Ordinances" shall mean Ordinance No. 115, Ordinance No. 123 and Ordinance No. 141, authorizing the issuance of the Outstanding Bonds.

"Project" shall mean improvements to the existing Water Supply and Sewage Disposal System, consisting generally of replacing existing water mains with new water mains, adding a new water main to loop existing water mains for the purpose of improving water quality and flow, installing valves to improve isolation capacity, and improving and refurbishing the existing elevated storage tank, together with related equipment and appurtenances.

"Reserve Amount" shall mean with respect to the Bonds the lesser of (l)the maximum annual debt service due on the Bonds in the current or any future year, (2) 125% of the average annual debt service on the Bonds, or (3) 10% of the outstanding principal amount of the Bonds on the date of issuance of the Bonds.

"Revenues" and "Net Revenues" shall mean the revenues and net revenues of the City derived from the operation of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues," the earnings derived from the

investment of moneys in the various funds and accounts established by this Ordinance.

"Series II Bond" means the Water Supply and Sewage Disposal System Revenue Bonds, Series II, dated November 24, 1981, issued pursuant to Ordinance No. 115.

"Series III Bond" means the Water Supply and Sewage Disposal System Junior Lien Revenue Bonds, Series III, dated April 1, 1984, issuecT pursuant to Ordinance No. 123.

"Series IV-A Bond" means the Water Supply and Sewage Disposal System Junior Lien Revenue Bonds, Series IV-A, dated November 14, 1991, issued pursuant to Ordinance No. 141.

"Series IV-B Bond" means the Water Supply and Sewage Disposal System Junior Lien Revenue Bonds, Series IV-B, dated November 14, 1991, issued pursuant to Ordinance No. 141.

"Series 2007 Bond" means the Water Supply and Sewage Disposal System Junior Lien Revenue Bond, Series 2007, in the principal amount of $1,257,000 authorized to be issued by this Ordinance.

"System" shall mean the City's water supply and sewage disposal system including such facilities thereof as are now existing, are acquired and constructed as the Project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

"Transfer Agent" shall mean the transfer agent and bond registrar for the Bonds as appointed from time to time by the City as provided in Section 6 of this Ordinance and who or which shall carry out the duties and responsibilities as set forth in Sections 6 and 7 of this Ordinance.

Section 2. Necessity: Approval of Plans and Specifications; Outstanding Ordinances. It is hereby determined to be a necessary public purpose of the City to acquire and construct the Project in accordance with the plans and specifications prepared by the City's Engineer and on file with the City, which plans and specifications are hereby approved.

Except as changed by this Ordinance, all the provisions of the Outstanding Ordinances shall apply to the Bonds issued pursuant to this Ordinance, the same as though each of said provisions were repeated in this Ordinance in detail; the purpose of this Ordinance being to authorize the issuance of junior lien revenue bonds to finance the cost of acquiring additions, extensions and improvements to the System.

Section 3. Costs; Useful Life. The total cost of the Project is estimated to be not less than Two Million Seven Thousand Dollars ($2,007,000) including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than forty (40) years.

Section 4. Payment of Cost; Bonds Authorized. To pay part of the cost of acquiring and constructing the Project and legal, engineering, financial and other expenses incident to said acquisition and construction, and incident to the issuance and sale of the Bonds, it is hereby determined that the City borrow the sum of not to exceed One Million Two Hundred Fifty-Seven Thousand Dollars ($1,257,000) and that junior lien revenue bonds be issued therefor pursuant to the provisions of Act 94. The remaining costs of the Project shall fee paid from grant funds and City funds on hand and legally available for such use.

Section 5. Bond Details. The Bond shall be designated Water Supply and Sewage Disposal System Junior Lien Revenue Bond, Series 2007, shall be dated as of the date of delivery of the first installment, shall consist of one fully-registered nonconvertible bond of the denomination of $1,257,000 and shall be payable in principal installments on April 1 of each year, as follows:

Year	Amount	Year	Amount
2008	$13,000	2028	$29,000
1	13,000	2029	30,000
2	14,000	2030	31,000
3	14,000	2031	33,000
4	15,000	2032	34,000
5	16,000	2033	35,000
6	16,000	2034	37,000
7	1*7,000	2035	38,000
8	18,000	2036	40,000
9	18,000	2037	42,000
10	19,000	2038	43,000
11	20,000	2039	45,000
12	21,000	2040	47,000
13	22,000	2041	49,000
14	23,000	2042	51,000
15	24,000	2043	53,000
16	25,000	2044	55,000
17	26,000	2045	57,000
18	27,000	2046	60,000
19	28,000	2047	59,000

The Series 2007 Bond is expected to be delivered to the Government as initial purchaser thereof in installments (the "delivery installments") and each delivery installment shall be noted on the registration grid set forth on the Bond. The delivery installments shall be deemed to correspond to the principal installments of the Bond in direct chronological order of said principal installments.

The principal installments of the Bond will each bear interest from the date of delivery of the corresponding delivery installment to the registered holder thereof as shown on the registration grid set forth on the Bonds at the rate of not to exceed four and one-eighths percent

(4.125%) per annum, payable on the first April 1 or October 1 following the date of delivery of said delivery installment, and semiannually thereafter on April 1 and October 1 of each year until maturity or earlier prepayment of said installment. Acceptance of the interest rate on the Bonds shall be made by execution of the Bonds which so designates the rate specified by the Government and accepted in writing by the City. The Bonds shall be issued in fully-registered form and shall not be convertible or exchangeable into more than one fully-registered bond.

The Bonds or installments thereof will be subject to prepayment prior to maturity in the manner and at the times as provided in the form of the Bonds set forth in Section 9 of this Ordinance at anytime on or after the first principal payment date.

Section 6. Bonds Registration and Transfer. The Transfer Agent shall keep or cause to be kept at its principal office sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the City. The Transfer Agent shall transfer or cause to be transferred on said books the Bonds presented for transfer, as hereinafter provided and subject to such reasonable regulations as it may prescribe.

Any Bonds may be transferred upon the books required to be kept by the Transfer Agent pursuant to this Section by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bonds for transfer, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond shall be surrendered for transfer, the Transfer Agent shall record such transfer on the registration books and shall register such transfer on the registration grid attached to the Bond. At the time of such transfer the Transfer Agent shall note on the Bond the outstanding principal amount thereof at the time of such transfer. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The City shall not be required (i) to issue, register the transfer of, or exchange any Bonds during a period beginning at the opening of business fifteen days before the day of the mailing of a notice of prepayment of Bonds or installments thereof selected for redemption and ending at the close of business on the day of that mailing^or (ii) to register the transfer of or exchange any Bonds or portion thereof so selected for prepayment. In the event any Bonds are called for prepayment in part, the Transfer Agent, upon surrender of the Bonds, shall note on the Bonds the principal amount prepaid and shall return the Bonds to the registered owner thereof together with the prepayment amount on the prepayment date.

The City's Treasurer is hereby appointed to act as Transfer Agent with respect to the Bonds. If and at such time as the Bonds are transferred to or held by any registered owner other than the Government, the City by resolution may appoint a bank or trust company qualified under Michigan law to act as transfer agent and bond registrar with respect to Bonds, and the City may thereafter appoint a successor Transfer Agent upon sixty (60) days notice to the registered owner of the Bonds.

Section 7. Payment of the Bonds. Principal of and interest on the Bonds shall be payable in lawful money of the United States of America by check or draft mailed by the Transfer Agent to the registered owner at the address of the registered owner as shown on the registration books

of the City kept by the Transfer Agent. If the Government shall no longer be the registered

owner of the Bonds, then the principal of and interest on the Bonds shall be payable to the registered owner of record as of the fifteenth day of the month preceding the payment date by check or draft mailed to the registered owner at the registered address. Such date of determination of the registered owner for purposes of payment of principal or interest may be changed by the City to conform to future market practice. The City's Treasurer is hereby authorized to execute an agreement with any successor Transfer Agent.

The Transfer Agent shall record on the registration books thf payment by the City of each installment of principal or interest or both on the Bonds when made and the canceled checks or drafts representing such payments shall be returned to and retained by the City's Treasurer, which canceled checks or drafts shall be conclusive evidence of such payments and the obligation of the City with respect to such payments shall be discharged to the extent of such payments.

Upon payment by the City of all outstanding principal of and interest on the Bonds, the registered owners thereof shall deliver the Bonds to the City for cancellation.

The Mayor and Clerk are each hereby authorized and directed to negotiate privately the sale of the Bonds to the Government at an interest rate not to exceed four and one-eighths percent (4.125%) per annum.

The sale of the Bonds to the Government at an interest rate of not to exceed four and one-eighths percent (4.125%) per annum and at the par value thereof is hereby approved. The City's Treasurer is hereby authorized to deliver the Bonds in accordance with the delivery instructions of the Government.

Section 8. Execution and Delivery of the Bonds. The Bonds shall be manually signed by the Mayor and countersigned by the Clerk and shall have the corporate seal of the City impressed thereon. After execution, the Bonds shall be held by the City's Treasurer for delivery to the Government. No Bonds or any installment thereof shall be valid until registered by the City's Treasurer or by another person designated in writing by the City's Treasurer to act as Bond Registrar, or upon transfer by the Government and thereafter, by an authorized representative of the Transfer Agent.

Section 9. Bond Form. The form and tenor of the Bonds shall be substantially as follows:

REGISTERED

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF GLAD WIN

CITY OF BEAVERTON

WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM
JUNIOR LIEN REVENUE BOND, SERIES 2007

No.R-1 $1,257,000

The City of Beaverton, County of Gladwin, State of Michigan (the "City"), for value received, hereby promises to pay to the registered owner hereof, but only out of the hereinafter described Net Revenues of the City's Water Supply and Sewage Disposal System including all appurtenances, additions, extensions and improvements thereto (the "System"), the sum of

One Million Two Hundred Fifty-Seven Thousand Dollars

on the dates and in the principal installment amounts set forth in Exhibit A attached hereto and made a part hereof with interest on said installments from the date each installment is delivered to the City and as set forth on the registration grid hereon until paid at the rate of percent (%) per annum, first payable on 1, 2007, and semiannually thereafter; provided that the principal repayments required herein to the registered owner shall not exceed the total of the principal installments set forth on the registration grid attached hereto from time to time hereafter to acknowledge receipt of payment of the purchase price of this bond up to a total of $1,257,000. Both principal of and interest on this bond are payable in lawful money of the United States of America td the registered owner at the address shown on the City's registration books by check or draft mailed to the registered holder at the address shown on the registration books of the City, and for the prompt payment thereof, the revenues of the System, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance thereof (the "Net Revenues"), are hereby irrevocably pledged and a statutory lien thereon is hereby recognized and created subject in priority only to the statutory lien created by Ordinance No. 115 of the City duly adopted by the City Council of the City on March 23, 1981 (the "Ordinance No. 115 "), with respect to the City's outstanding Water Supply and Sewage Disposal System Revenue Bonds, Series II, dated November 24, 1981 (the "Series II Bonds") and Ordinance No. 115 of the City duly adopted by the City Council of the City on March 12, 1984 with respect to the City's outstanding Water Supply and Sewage Disposal System Junior Lien Revenue Bonds, Series III, dated April 1, 1984 (the "Series III Bond") and bonds issued on an equal standing and parity of lien as to the Net Revenues with the Series II Bonds or the Series III Bonds. The bonds of this issue are of equal standing and priority of lien as to the Net Revenues with the City's Water Supply and Sewage Disposal System Junior Lien Revenue Bonds, Series IV-A, dated November 14, 1991 (the "Series IV-A Bond), issued pursuant to Ordinance No. 141 adopted by the City Council of the City on November 7, 1991

(the "Ordinance No. 141." together with Ordinance No. 115 and Ordinance 123, the "Outstanding Ordinances") and the City's Water Supply and Sewage Disposal System Junior Lien Revenue Bonds, Series IV-B, dated November 14, 1991 (the "Series IV-B Bond," together with the Series II Bond, the Series III Bond and the Series IV-A Bond, the "Outstanding Bonds"), issued pursuant to Ordinance No. 141.

This bond is a single, fully-registered, non-convertible bond constituting an issue in the total aggregate principal sum of principal sum of $1,257,000, issued pursuant to Ordinance No. of the City (the "Ordinance"), and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of acquiring, constructing and equipping improvements to the System. For a complete statement of the revenues from which, and the conditions under which, this bond is payable, a statement of the conditions under which additional bonds of equal standing with this bond and of equal standing with the Outstanding Bonds may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance.

This bond is a self-liquidating bond and is not a general obligation of the City and does not constitute an indebtedness of the City within any constitutional, statutory or charter debt limitation, but is payable, both as to principal and interest, from the Net Revenues of the System. The principal of and interest on the bond is secured by the statutory lien hereinbefore mentioned.

Principal installments of this bond are subject to prepayment prior to maturity, in inverse chronological order, at the City's option, on any date on or after , 200 , at par and accrued interest to the date fixed for prepayment.

Thirty days notice of the call of any principal installments for prepayment shall be given by mail to the registered owner at the registered address. The principal installments so called for prepayment shall not bear interest after the date fixed for prepayment, provided funds are on hand to prepay said installments.

This bond shall be registered as to principal and interest on the books of the City kept by the City's Treasurer or successor or written designee as bond registrar and transfer agent (the "Transfer Agent") and noted hereon, after which it shall be transferable only upon presentation to the Transfer Agent with a written transfer by the registered owner or his attorney in fact. Such transfer shall be noted hereon and upon the books of the City kept for that purpose by the Transfer Agent.

The City has covenanted and agreed and does hereby covenant and agree to fix and maintain at all times while any bonds including any installments of this bond payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of this bond, the Outstanding Bonds and any additional bonds of equal standing with this bond or the Outstanding Bonds payable from the Net Revenues of the System as and when the same become due and payable, and to create a Junior Lien Bond and Interest Redemption Account (including a Junior Lien Bond Reserve Account) therefor, to provide for the payment of expenses of

administration and operation and such expenses for maintenance of the System as are necessary

to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City, by its City Council, has caused this bond to be signed in its name by its Mayor and to be countersigned by its Clerk, and its corporate seal to be hereunto affixed, all as of , 2007.

CITY OF BEAVERTON
COUNTY OF GLAD WIN
STATE OF MICHIGAN

By_
Its Mayor

(Seal) Countersigned:

By

Its Clerk

REGISTRATION
NOTHING TO BE WRITTEN HEREON EXCEPT
BY THE BOND REGISTRAR/TRANSFER AGENT

Date of Registration of Delivery	Name of Registered Owner	Principal Installment Delivered	Signature of Bond Registrar/ Transfer Agent
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		

EXHIBIT A

April 1	Amount	April 1	Amount
2008	$13,000	2028	$29,000
2009	13,000	2029	30.000
2010	14,000	2030	31,000
2011	14,000	2031	33,000
2012	15,000	2032	34,000
2013	16,000	2033	35,000
2014	16,000	2034	37,000
2015	17,000	2035	38,000
2016	18,000	2036	40,000
2017	18,000	2037	42,000
2018	19,000	2038	43,000
2019	20,000	2039	45,000
2020	21,000	2040	47,000
2021	22,000	2041	49,000
2022	23,000	2042	51,000
2023	24,000	2043	53,000
2024	25,000	2044	55,000
2025	26,000	2045	57,000
2026	27,000	2046	60,000
2027	28,000	2047	59,000

Section 10. Security for Bonds. To pay the principal of and interest on the Bonds as and when the same shall become due and any bonds of equal standing thereto, there is hereby recognized the statutory lien upon the whole of the Net Revenues of the System created by this Ordinance, subject in priority only to the lien in favor of the Series II Bonds and to the lien in favor of the Series III Bonds and any bonds issued on an equal standing and parity of lien as to the Net Revenues with the Series II Bonds or the Series III Bonds, which liens shall continue until the payment in full of the principal of and interest on all Junior Lien Bonds payable from the Net Revenues. Net Revenues shall be set aside for the purpose and identified as the Junior Lien Bond and Interest Redemption Account, as hereinafter specified.

Section 11. Budget. Immediately upon the effective date of this Ordinance for the remainder of the current Fiscal Year, and thereafter prior to the beginning of each Fiscal Year, the City shall prepare an annual budget for the System for the ensuing Fiscal Year. A copy of such budget shall be mailed to the Government without request from the Government for review prior to adoption (as long as the Government is the registered owner of any of the Bonds), and upon written request to any other registered owners of the Bonds.

Section 12. Custodian of Funds; Funds. The City's Treasurer shall be custodian of all funds belonging to or associated with the System and such funds shall be deposited in the Depository Bank. The City's Treasurer shall execute a fidelity bond with a surety company in an amount at least equal to the maximum annual debt service for the Bonds.

The City's Treasurer is hereby directed to create and maintain the following funds and accounts into which the proceeds of the Bonds and the Revenues from the System shall be deposited in the manner and at the times provided in this Ordinance, which funds and accounts shall be established and maintained, except as otherwise provided, so long the Bonds hereby authorized remain unpaid.

(A) CONSTRUCTION ACCOUNT. The proceeds of the Bonds hereby authorized, and no other funds, shall be deposited in the WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM JUNIOR LIEN SERIES 2007 CONSTRUCTION FUND ACCOUNT (the "Construction Account"), in the Depository Bank. Moneys in the Construction Account shall be used solely for the purposes for which the Bonds are issued. If monies other than proceeds of the Bonds are deposited into the Construction Account (including grant funds from any source, if any), then the monies constituting proceeds of the Bonds shall be accounted separately from such other funds or monies.

Any unexpended balance of the proceeds of sale of the Bonds remaining after completion of the Project herein authorized may in the discretion of the City be used for further improvements, enlargements and extensions to the System, provided that at the time of such expenditure such use be approved by the Department of Treasury (if such approval is then required by law). Any remaining balance after such expenditure shall be paid into the Junior Lien Bond and Interest Redemption Account and used as soon as is practical for the prepayment of installments of the Bonds or for the purchase of installments to the Bonds at not more than the fair market value thereof. Following completion of the Project, any unexpended balance of the Bonds shall be invested at a yield not to exceed the yield on the Bonds.

After completion of the Project and disposition of remaining proceeds, if any, of the Bonds pursuant to the provisions of this Section, the Construction Account shall be closed.

(B) WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM RECEIVING FUND. Upon and after the effective date of this Ordinance, the Revenues of the System shall continue to be set aside into the Water Supply and Sewage Disposal System Receiving Fund created in the Outstanding Ordinances (the "Receiving Account"), and moneys so deposited therein shall be transferred, expended and used only in the manner and order as follows:

(1) Operation and Maintenance Fund. There is hereby continued a separate fund designated as the OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Account"). Revenues shall be transferred from the Receiving Account to the Operation and Maintenance Account to pay the reasonable and necessary current expenses of administration and operating and maintaining the System for the ensuing quarter as described in the Outstanding Ordinances.

(2) Series II and Series III Debt Retirement Funds. After the transfer required in (1) above, Revenues shall be transferred each quarter from the Receiving Account and deposited into the debt service accounts established by Ordinance No. 115 and Ordinance No. 123 for the payment of Series II Bonds and the Series HI Bonds in accordance with the requirements of Ordinance No. 115 and Ordinance No. 123.

(3) Water Supply and Sewage Disposal System Revenue Bonds-Junior Lien Bond and Interest Redemption Account. The Series IV Junior Lien Revenue Bond - Bond and Interest Redemption Fund of the City is hereby re-designated as the JUNIOR LIEN BOND AND INTEREST REDEMPTION ACCOUNT (the "Junior Lien Bond and Interest Redemption Account") and the moneys on deposit therein from time to time used solely for the purpose of paying the principal of and interest on the Junior Lien Bonds. After the transfers required in (1) and (2) above, in addition to the transfer requirements of Ordinance No. 141, Revenues shall be transferred at the time of delivery of the first installment of the Series 2007 Bond and on the first day of each quarter of the Fiscal Year thereafter from the Receiving Account, before any other expenditures or transfer therefrom, and deposited in the Junior Lien Bond and Interest Redemption Account for payment of principal of and interest on the Series 2007 Bonds and to fund the Junior Lien Bond Reserve Account as required by this Ordinance.

Upon any delivery of an installment of the Series 2007 Bonds there shall be set aside at the time of delivery and on the first day of each quarter of the Fiscal Year thereafter to the next interest payment date an amount equal to that fraction of the amount of interest due on the next interest payment date on said installment so delivered, the numerator of which is 1 and the denominator of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next interest payment date. There shall be set aside each Fiscal Year quarter on or after October 1, 2007, an amount not less than 1/2 of the amount of interest due on the next interest payment date on all outstanding installments of the Series 2007 Bonds not delivered during the then current interest payment period.

Upon aay delivery of an installment of the Series 2007 Bonds there shall be set aside at the time of such delivery and on the first day of each quarter of the Fiscal Year thereafter to the

next principal payment date an amount equal to that fraction of the amount of principal due on the next principal payment date on said installment so delivered, the numerator of which is 1 and the denominator of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next principal payment date. There shall also be set aside each Fiscal Year quarter on or after the first day of the Fiscal Year quarter after payment of the first principal instalment of the Series 2007 Bonds, an amount not less than 1/4 of the amount of principal due on the next principal payment date. Except as hereinafter provided and as required by Ordinance No. 141, no further deposits shall be made into the Junior Lien Bond and Interest Redemption Account (excluding the Junior Lien Bond Reserve Account) once the aforesaid sums have been deposited therein. Any amount on deposit in the Junior Lien Bond and Interest Redemption Account (excluding the Junior Lien Bond Reserve Account) in excess of (a.) the amount needed for payment of principal installments of the Series 2007 Bonds for the then current principal payment period, plus (b.) interest on the Series 2007 Bonds for the then current interest payment period, shall be used by the City for redemption of principal installments of the Series 2007 Bonds in the manner set forth in Section 10 hereof, if such use is impracticable, shall be deposited in or credited to the Receiving Account.

If for any reason there is a failure to make such quarterly deposit in the amounts required, then the entire amount of the deficiency shall be set aside and deposited in the Junior Lien Bond and Interest Redemption Account out of the Revenues first received thereafter which are not required by the Outstanding Ordinances and this Ordinance to be deposited in the Operation and Maintenance Account or in the Series II or Series III debt retirement account, or in the Junior Lien Bond and Interest Redemption Account, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter or quarters.

The Series IV Junior Lien Bond Reserve Account created by Ordinance No. 141 is hereby re-designated as the JUNIOR LIEN BOND RESERVE ACCOUNT (the "Junior Lien Bond Reserve Account"), hi addition to the requirements of Ordinance No. 141, transfers shall be made to the Junior Lien Bond Reserve Account shall as follows: Commencing October 1, 2007, there shall be withdrawn from the Receiving Account at the beginning of each Fiscal Year quarter and set aside in and transferred to the Junior Lien Bond Reserve Account, after provision has been made for the Operation and Maintenance Account and the current requirements of the Junior Lien Bond and Interest Redemption Account, the sum of at least $1,625 per quarter ($6,500 annually for the Bond) until there is accumulated in the Junior Lien Bond Reserve Account the lesser of the sum of $65,000 or the Reserve Amount. Except as hereinafter provided, no further deposits shall be made into the Junior Lien Bond Reserve Account for the purpose of providing additional reserve funds for the Series 2007 Bonds once the lesser of the sum of $65,000 or the Reserve Amount has been deposited therein as herein provided. The moneys in the Junior Lien Bond Reserve Account shall be used solely for the payment of the principal installments of and interest on the Series 2007 Bonds as to which there would otherwise be default; provided however, that in the event the amount on deposit in the Junior Lien Bond Reserve Account exceeds the Reserve Amount, the moneys in excess of the Reserve Amount shall be used to pay principal installment of and interest on the Series 2007 Bonds on the next payment date.

If at any time it shall be necessary to use moneys in the Junior Lien Bond Reserve

Account for such payment, then the moneys so used shall be replaced from the Net Revenues first received thereafter which are not required by this Ordinance and the Outstanding Ordinances to be used for operation and maintenance or for current principal and interest requirements for the Series 2007 Bonds and the Outstanding Bonds.

Except as may be required by Ordinance No. 141, no further payments need be made into the Junior Lien Bond and Interest Redemption Account after enough of the principal installments of the Series 2007 Bonds have been retired so that the amount then held in the Junior Lien Bond and Interest Redemption Account (including the Junior Lien Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the principal installments of the Series 2007 Bonds then remaining outstanding.

The moneys in the Junior Lien Bond and Interest Redemption Account and the Junior Lien Bond Reserve Account shall be invested in accordance with the Outstanding Ordinances and Section 13 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in the Outstanding Ordinances and Section 13 of this Ordinance.

(1) Repair, Replacement and Improvement Account. The Replacement Fund continued by Ordinance No. 141 is hereby re-designated as the REPAIR, REPLACEMENT AND IMPROVEMENT ACCOUNT (the "RRI Account"). After the transfers required in (1), (2) and (3) above, in addition to the transfer requirements of Ordinance No. 141, revenues shall be transferred each Fiscal Year quarter from the Receiving Account and deposited in the RRI Account hi an amount not less than $3,300, less the amount, if any, deposited in the Junior Lien Bond Reserve Account at the beginning of the same Fiscal Year quarter. Moneys in the RRI Account shall be used and disbursed only for the purpose of paying the cost of (a) repairing any damage to and emergency maintenance of the System, (b) repairing or replacing obsolete, deteriorating, deteriorated or worn out portions of the System, (c) acquiring and constructing extensions and improvements to the System and (d) when necessary, for the purpose of making payments of principal and interest on the Series 2007 Bonds. If the amount in the Junior Lien Bond and Interest Redemption Account and the Junior Lien Bond Reserve Account is not sufficient to pay the principal of and interest on the Series 2007 Bonds when due, the moneys in the RRI Account shall be transferred to the Junior Lien Bond and Interest Redemption Account and used for that purpose. Moneys in the RRI Account may be invested in accordance with Section 13 of this Ordinance.

(2) REVERSE FLOW OF FUNDS; SURPLUS MONEY. In the event the moneys in the Receiving Account are insufficient to provide for the current requirements of the Operation and Maintenance Account, the Series II and Series III debt retirement accounts, the Junior Lien Bond and Interest Redemption Account (including the Junior Lien Bond Reserve Account), or the RRI Account, any moneys and/or securities in the funds of the System described by this Ordinance and the Outstanding Ordinances shall be transferred, first, to the Operation and Maintenance Account, second, the Series II debt retirement account as required by Ordinance No. 115, third, to the Series III debt retirement account as provided in Ordinance No. 123; fourth the Junior Lien Bond and Interest Redemption Account, and fifth, the RRI Account.

All moneys remaining in the Receiving Account at the end of any Fiscal Year after satisfying the above requirements for the deposit of moneys into the Operation and Maintenance Account, the Junior Lien Bond and Interest Redemption Account, and the RRI Account may be transferred to the Junior Lien Bond and Interest Redemption Account and used to call Series 2007 Bonds or portions thereof for redemption, or at the option of the City, transferred to the RRI Account and used for the purpose for which the funds were established; provided, however, that if there should be a deficit in the Operation and Maintenance Account, the Junior Lien Bond and Interest Redemption Account, the Junior Lien Bond Reserve Account, or the RRI Account, on account of defaults in setting aside therein the amounts hereinbefore required, then transfers shall be made from such moneys remaining in the Receiving Account to such funds in the priority and order named in this Section, to the extent of such deficits.

Section 13. Investments. Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds may be invested by the legislative body of the City on behalf of the City in the obligations and instruments permitted for investment by Section 24 of Act 94, as the same may be amended from time to time; provided, however, that as long as the Bonds are held by the Government, then the investment may be limited to the obligations and instruments authorized by the Government. Investment of moneys in the Junior Lien Bond and Interest Redemption Account being accumulated for payment on the next maturing principal or interest payment on the Bonds shall be limited to obligations and instruments bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bonds. Investment of moneys in the Junior Lien Bond Reserve Account shall be limited to Government obligations and instruments bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than five (5) years from the date of the investment. In the event investments are made, any securities representing the same shall be kept on deposit with the Depository Bank. Interest income earned on investment of funds in the Receiving Account, the Operation and Maintenance Account and the Junior Lien Bond and Interest Redemption Account (except the Junior Lien Bond Reserve Account), shall be deposited in or credited to the Receiving Account. Interest income earned on the investment of funds in the Junior Lien Bond Reserve Account shall be deposited in the Junior Lien Bond and Interest Redemption Account.

Section 14. Rates and Charges. Rates and charges for the services of the System have been fixed by ordinance in an amount sufficient to pay the costs of operating, maintaining and administering the System, to pay the principal of and interest on the Bonds and the Outstanding Bonds and to meet the requirements for repair, replacement, reconstruction and improvement and all other requirements provided herein, and otherwise comply with the covenants herein provided. The City hereby covenants and agrees to fix and maintain at all times while any of the Bonds shall be outstanding such rates for service furnished by the System as shall be sufficient to provide for the foregoing expenses, requirements and covenants, and to create a Junior Lien Bond and Interest Redemption Account (including a bond reserve account) for all such Bonds. The rates and charges for all services and facilities rendered by the System shall be reasonable and just, taking into consideration the cost and value of the System and the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all of the Bonds and the Outstanding Bonds, and accruing interest on all of the Bonds and the Outstanding

Bonds, and there shall be charged such rates and charges as shall be adequate to meet the

requirements of this Section and Section 12 of this Ordinance.

Section 15. No Free Service. No free service shall be furnished by the System to any individual, firm or corporation, public or private or to any public agency or instrumentality.

Section 16. Covenants. The City covenants and agrees, so long as any of the Bonds hereby authorized remain unpaid, as follows:

(a) It will comply with applicable State laws and regulations and continually operate and maintain the System in good condition.

(b)(i) It will maintain complete books and records relating to the operation and financial affairs of the System. If the Government is the holder of any of the Bonds, the Government shall have the right to inspect the System and the records, accounts, and data relating thereto at all reasonable times.

(ii) It will file with the Department of Treasury and the Government each year, as soon as is possible, not later than one hundred eighty (180) days after the close of the Fiscal Year, a report, on forms prepared by the Department of Treasury, made in accordance with the accounting method of the City, completely setting forth the financial operation of such Fiscal Year.

(iii) It will cause an annual audit of such books of record and account for the preceding Fiscal Year to be made each year by a recognized independent certified public accountant, and will cause such accountant to mail a copy of such audit to the Government, without request of the Government, or to the manager of the syndicate or account purchasing the Bonds. Such audit shall be completed and so made available not later than one hundred fifty (150) days after the close of each Fiscal Year, and said audit may, at the option of the City, be used in lieu of the statement on forms prepared by the Department of Treasury and all purposes for which said forms are required to be used by this Ordinance.

(a) It will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar systems. The amount^of said insurance shall be approved by the Government. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of calling Bonds.

(b) It will not borrow any money from any source or enter into any contract or agreement to incur any other liabilities that may in any way be a lien upon the Revenues or otherwise encumber the System so as to impair Revenues therefrom, without obtaining the prior written consent of the Government, nor shall it transfer or use any portion of the Revenues derived in the operation of the System for any purpose not herein specifically authorized.

(a) It will not voluntarily dispose of or transfer its title to the System or any part thereof, including lands and interest in land, sale, mortgage, lease or other encumbrances, without obtaining the prior written consent of the Government.

(b) Any extensions to or improvements of the System shall be made according to sound engineering principles and specifications shall be submitted to the Government for prior review.

(c) To the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest on the Bonds from adjusted gross income for general federal income tax purposes under the Internal Revenue Code of 1986, as amended, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of proceeds of the Bonds and moneys deemed to be proceeds of the Bonds.

Section 17. Additional Bonds. The City may issue additional bonds of equal standing with the Bonds for the following purposes and on the following conditions:

(a) To complete construction of the Project according to the plans referred to in Section 2, additional bonds may be issued in the amount necessary therefor.

(b) For the purpose of making reasonable replacement or extension of the System or refunding any outstanding Bonds, additional bonds of equal standing may be issued if:

(i) The augmented net revenues of the System for the Fiscal Year preceding the year in which such additional bonds are to be issued were 120 percent of the average annual debt service requirements on all bonds then outstanding and those proposed to be issued net of any bonds to be refunded by the new issue; or

(ii) The holders of at least 75 percent of the then outstanding Bonds consent to such issue in writing.

For purposes of this Section the term "augmented net revenues" shall mean the Net Revenues of the System for a year, adjusted to reflect the effect of any rate increase placed in effect during that year (but not in effect for the whole year), placed in effect subsequent to the year or scheduled, at the time the new Bonds are authorized, to be placed in effect before principal of and interest on the new Bonds become payable from Revenues of the System, and augmented by any increase in Revenues or decrease in expenses estimated to accrue from the improvements to be acquired from the new Bonds. The adjustments and augmentations provided for in the preceding sentence shall be established by certificate of an independent consulting engineer filed with the Clerk of the City. If new Bonds are issued within 4 months of the end of a Fiscal Year, the determination made in subsection (b)(i) of this Section may be based upon the results of a Fiscal Year ending within 16 months of the date of issuance of the new Bonds.

The funds herein established shall be applied to all additional bonds issued pursuant to

this Section as if said bonds were part of the original bond issue and all Revenue from any such extension or replacement constructed by the proceeds of an additional bond issue shall be paid to the Receiving Account mentioned in this Ordinance.

Except as otherwise specifically provided so long as any of such Bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the Revenues of the System on a parity with the Bonds shall be incurred or issued by the City unless the same shall be junior and subordinate in all respects to the Bonds herein authorized.

Section 18. Ordinance Shall Constitute Contract. The provisions of this Ordinance shall constitute a contract between the City and the bondholders and after the issuance of the Bonds this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interests of the holders nor shall the City adopt any law, ordinance or resolution in any way adversely affecting the rights or the holders so long as the Bonds or interest thereon remains unpaid.

Section 19. Refunding of Bonds. If at any time it shall appear to the Government that the City is able to refund upon call for redemption or with consent of the Government the then outstanding Bonds by obtaining a loan for such purposes from responsible cooperative or private credit sources at reasonable rates and terms for loans for similar purposes and periods of time, the City will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government, and will take all such actions as may be required in connection with such loans.

Section 20. Default of City. If there shall be default in the Junior Lien Bond and Interest Redemption Account, provisions of this Ordinance or in the payment of principal of or interest on any of the Bonds, upon the filing of a suit by 20 percent of the holders of the Bonds, any court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the City with power to charge and collect rates sufficient to provide for the payment of the Bonds and for the payment of operation, maintenance and administrative expenses and to apply Revenues in accordance with this Ordinance and the laws of the State of Michigan.

The City hereby agrees to transfer to any bona fide receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the City's obligations, all contracts and other rights of the City, conditionally, for such time only as such receiver or operation shall operate by authority of the court.

The holders of 20 percent of the Bonds in the event of default may require by mandatory injunction the raising of rates in a reasonable amount.

Section 21. Ordinance Subject to Michigan Law and Government Regulations. The provisions of this Ordinance is subject to the laws of the State of Michigan and to the present and future regulations of the Government not inconsistent with the express provisions hereof and Michigan law.

Section 22. Fiscal Year of System. The fiscal year for operating the System shall be the Fiscal Year.

Section 23. City Subject to Loan Resolution. So long as the Government is holder of any of the Bonds, the City shall be subject to the loan resolution (RUS Bulletin 1780-27) and shall comply with all provisions thereof.

Section 24. Covenant Not to Defease. So long as the Government is the holder of any of the Bonds, the City covenants that it will not defease any of the Bonds held by the Government.

Section 25. Approval by the Michigan Department of Treasury. The City Manager (or interim City Manager, as may be appropriate) is hereby authorized to obtain any necessary waivers or approvals from the Department of Treasury in order to effectuate the sale and delivery of the Bonds as contemplated by this Ordinance (if such approval is then required).

Section 26. Conflict and Severability. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed, and each section of this Ordinance and each subdivision of any section hereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Ordinance.

Section 27. Paragraph Headings. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

Section 28. Publication and Recordation. This Ordinance shall be published in full in *Gladwin County Record*, a newspaper of general circulation in the City, qualified under State law to publish., legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the Clerk.

Section 29. Certain Determinations. The Mayor, Clerk and City Manager (or interim City Manager, as may be appropriate) are each hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transactions authorized herein, and in pursuance of the foregoing each is authorized to exercise the authority and make the determinations authorized pursuant to Section 7a(l)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters, *provided* that the aggregate principal amount of Bonds issued hereunder shall not exceed $1,257,000 and the interest rate on the Bonds shall not exceed four and one-eighths percent (4.125%) per annum. The Mayor and Clerk are authorized to confirm the terms of the sale of the Bonds issued hereunder and final bond specifications with respect to such Bonds by the execution of the form of bond and/or an appropriate form of sale order acceptable to bond counsel.

Section 30. Negotiated Sale to the Government. The City determines to the sell the Series 2007 Bond to the Government at a negotiated sale in order to obtain terms not generally available from conventional municipal bond market sources and for the opportunities provided by a negotiated sale to the Government to select and adjust the terms of the Series 2007 Bond,

including the prepayment of the principal of the Series 2007 Bond at any time without premium.

Section 31. Effective Date. This Ordinance is hereby determined by the City Council to be immediately necessary for the preservation of the peace, health and safety of the City and shall be in full force and effect from and after its passage and publication as required by law.

Passed and adopted by the City of Beaverton, County of Gladwin, State of Michigan, on June 18, 2007.

Mayor

(Seal)

Attest:

Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, at a regular meeting held on the 18th day of June, 2007, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting:

_____

_____and that the following Members were absent:_____

I further certify that Member moved adoption of said Ordinance, and that said motion was supported by Member _____.

I further certify that the following Members voted for adoption of said Ordinance:

_____

_____and that the following Members voted against adoption of said Ordinance: _____

_____

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and the Clerk.

_____

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Clerk

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DRAFT 06/14/07 12:06 PM

Position 5

RUS BULLETIN 1780-27

APPROVED
/ OMB. No. 0575-0015

(Automated 8-97)

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE CITY COUNCIL

OFTHE CITY OF BEAVERTON

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

WATER SYSTEM

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the CITY OF BEAVERTON >
(Public Body) (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of
ONE MILLION ONE HUNDRED TWENTY-FIVE THOUSAND and XX/100 Dollars ($1.125,000.00)

pursuant to the provisions of P. A. NO. 94 of Public Acts of 1933, as amended ;and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required*by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
1. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
2. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly per missible source.
3. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
4. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
5. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
1. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
2. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and mainte nance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to overage 1 hour per response, including the time for reviewing instructions, searching enisling data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250: and to the Office ofManagement and Budget, Paperwork Reduction Project fOMB No. 0575-0015), Washington, DC 20503..

1. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
2. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government c copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
3. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
4. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
5. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
6. To comply with the measures identified in the Government's environmental impact analysis for this facility for the pur pose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
7. To accept a grant in an amount not to exceed $ __

under the terms offered by the Government; that the

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and of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas Nays Absent

IN WITNESS WHEREOF, the CITY COUNCIL of ^

^ GITY OF BEAVERTON has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this , day of.

CITY OF BEAVERTON

(SEAL) By

NILA FREI, MAYOR

Attest: Title

Title

CERTD1CATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as of the CITY OF BEAVERTON

hereby certify that the CITY COUNCIL of such Association is composed of

members, of whom , constituting a quorum, were present at a meeting thereof duly called and

held on the day of ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of ,
the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this day of

Title

ORDINANCE NO. 12-2007

AN ORDINANCE TO AMEND ORDINANCE NO. 06-2007, ENTITLED:

"AN ORDINANCE TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF IMPROVEMENTS AND EXTENSIONS TO THE WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM OF THE CITY OF BEAVERTON; TO PROVIDE FOR THE ISSUANCE AND SALE OF JUNIOR LIEN REVENUE BONDS TO PAY THE COSTS THEREOF; TO PRESCRIBE THE FORM OF THE JUNIOR LIEN REVENUE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE JUNIOR LIEN REVENUE BONDS; TO PROVIDE AN ADEQUATE RESERVE ACCOUNT FOR THE JUNIOR LIEN REVENUE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE JUNIOR LIEN REVENUE BONDS AND THE SYSTEM"

FOR THE PURPOSE OF MODIFYING THE CITY OF BEAVERTON'S RESERVE AND RRI ACCOUNT DEPOSIT REQUIREMENTS UNDER SAID ORDINANCE.

THE CITY OF BEAVERTON ORDAINS:

Section 1. Amendments to Section 12 of Ordinance No. 06-2007. Subsections B(3) and B(4) of Section 12 of Ordinance No. 06-2007are each hereby amended and restated to provide as follows:

Section 12. Custodian of Funds; Funds.

(3) Water Supply and Sewage Disposal System Revenue Bonds-Junior Lien Bond and Interest Redemption Account. The Series IV Junior Lien Revenue Bond — Bond and Interest Redemption Fund of the City is hereby re-designated as the JUNIOR LIEN BOND AND INTEREST REDEMPTION ACCOUNT (the "Junior Lien Bond and Interest Redemption Account") and the moneys on deposit therein from time to time used solely for the purpose of paying the principal of and interest on the Junior Lien Bonds. After the transfers required in (1) and (2) above, in addition to the transfer requirements of Ordinance No. 141, Revenues shall be transferred at the time of delivery of the first installment of the Series 2007 Bond and on the first day of each quarter of the Fiscal Year thereafter from the Receiving Account, before any other expenditures or transfer therefrom, and deposited in the Junior Lien Bond and Interest Redemption Account for payment of principal of and interest on the Series 2007 Bonds and to fund the Junior Lien Bond Reserve Account as required by this Ordinance.

Upon any delivery of an installment of the Series 2007 Bonds there shall be set aside at the time of delivery and on the first day of each quarter of the Fiscal Year thereafter to the next interest payment date an amount equal to that fraction of the amount of interest due on the next interest payment date on

said installment so delivered, the numerator of which is 1 and the denominator of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next interest payment date.

There shall be set aside each Fiscal Year quarter on or after January 1, 2008, an amount not less than 1/2 of the amount of interest due on the next interest payment date on all outstanding installments of the Series 2007 Bonds not delivered during the then current interest payment period.

Upon any delivery of an installment of the Series 2007 Bonds there shall be set aside at the time of such delivery and on the first day of each quarter of the Fiscal Year thereafter to the next principal payment date an amount equal to that fraction of the amount of principal due on the next principal payment date on said installment so delivered, the numerator of which is 1 and the denominator of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next principal payment date. There shall also be set aside each Fiscal Year quarter on or after the first day of the Fiscal Year quarter after payment of the first principal installment of the Series 2007 Bonds, an amount not less man 1/4 of the amount of principal due on the next principal payment date. Except as hereinafter provided and as required by Ordinance No. 141, no further deposits shall be made into the Junior Lien Bond and Interest Redemption Account (excluding the Junior Lien Bond Reserve Account) once the aforesaid sums have been deposited therein. Any amount on deposit in the Junior Lien Bond and Interest Redemption Account (excluding the Junior Lien Bond Reserve Account) in excess of (a.) the amount needed for payment of principal installments of the Series 2007 Bonds for the then current principal payment period, plus (b.) interest on the Series 2007 Bonds for the then current interest payment period, shall be used by the City for redemption of principal installments of the Series 2007 Bonds in the manner set forth in Section 10 hereof, if such use is impracticable, shall be deposited in or credited to the Receiving Account.

If for any reason there is a failure to make such quarterly deposit in the amounts required, then the entire amount of the deficiency shall be set aside and deposited hi the Junior Lien Bond and Interest Redemption Account out of the Revenues first received thereafter which are not required by the Outstanding Ordinances and this Ordinance to be deposited in the Operation and Maintenance Account or in the Series II or Series HI debt retirement account, or in the Junior Lien Bond and Interest Redemption Account, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter or quarters.

The Series IV Junior Lien Bond Reserve Account created by Ordinance No. 141 is hereby re-designated as the JUNIOR LIEN BOND RESERVE ACCOUNT (the "Junior Lien Bond Reserve Account"). In addition to the requirements of Ordinance No. 141, transfers shall be made to the Junior Lien Bond Reserve Account shall as follows: Commencing January 1, 2008, there shall be withdrawn from the Receiving Account at the beginning of each Fiscal Year quarter and set aside hi and transferred to the Junior Lien Bond Reserve Account, after provision has been made for the Operation and Maintenance Account and the current requirements of the Junior Lien Bond and Interest Redemption Account, the sum of at least $1,450 per quarter ($5,800 annually for the Bond) until there is accumulated hi the Junior Lien Bond Reserve Account the lesser of the sum of $58,000 or the Reserve Amount. Except as hereinafter provided, no further deposits shall be made into the Junior Lien Bond Reserve Account for the purpose of providing additional reserve funds for the Series 2007 Bonds once the lesser of the sum of $58,000 or the Reserve Amount has been deposited therein as herein provided. The moneys in the Junior Lien Bond Reserve Account shall be used solely for the payment of the principal installments of and interest on the Series 2007 Bonds as to which there would otherwise be

default; provided however, that in the event the amount on deposit in the Junior Lien Bond Reserve Account exceeds the Reserve Amount, the moneys in excess of the Reserve Amount shall be used to pay principal installment of and interest on the Series 2007 Bonds on the next payment date.

If at any time it shall be necessary to use moneys in the Junior Lien Bond Reserve Account for such payment, then the moneys so used shall be replaced from the Net Revenues first received thereafter which are not required by this Ordinance and the Outstanding Ordinances to be used for operation and maintenance or for current principal and interest requirements for the Series 2007 Bonds and the Outstanding Bonds.

Except as may be required by Ordinance No. 141, no further payments need be made into the Junior Lien Bond and Interest Redemption Account after enough of the principal installments of the Series 2007 Bonds have been retired so that the amount then held hi the Junior Lien Bond and Interest Redemption Account (including the Junior Lien Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the principal installments of the Series 2007 Bonds then remaining outstanding.

The moneys hi the Junior Lien Bond and Interest Redemption Account and the Junior Lien Bond Reserve Account shall be invested in accordance with the Outstanding Ordinances and Section 13 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in the Outstanding Ordinances and Section 13 of this Ordinance.

(4) Repair. Replacement and Improvement Account. The Replacement Fund continued by Ordinance No. 141 is hereby re-designated as the REPAIR, REPLACEMENT AND IMPROVEMENT ACCOUNT (the "RRI Account"). After the transfers required in (1), (2) and (3) above, in addition to the transfer requirements of Ordinance No. 141, revenues shall be transferred each Fiscal Year quarter from the Receiving Account and deposited in the RRI Account hi an amount not less than $3,125, less the amount, if any, deposited in the Junior Lien Bond Reserve Account at the beginning of the same Fiscal Year quarter. Moneys hi the RRI Account shall be used and disbursed only for the purpose of paying the cost of (a) repairing any damage to and emergency maintenance of the System, (b) repairing or replacing obsolete, deteriorating, deteriorated or worn out portions of the System, (c) acquiring and constructing extensions and improvements to the System and (d) when necessary, for the purpose of making payments of principal and interest on the Series 2007 Bonds. If the amount hi the Junior Lien Bond and Interest Redemption Account and the Junior Lien Bond Reserve Account is not sufficient to pay the principal of and interest on the Series 2007 Bonds when due, the moneys hi the RRI Account shall be transferred to the Junior Lien Bond and Interest Redemption Account and used for that purpose. Moneys hi the RRI Account may be invested in accordance with Section 13 of this Ordinance.

Section 2. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 3. Publication and Recordation. This Ordinance shall be published in full in the Gladwin County Record, a newspaper of general circulation in the City ofBeaverton, qualified under State law to publish legal notices, promptly after its adoption, shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the Clerk.

<u>Section 4. Effective Date.</u> Pursuant to the provisions of Act 94 Public Acts of Michigan, 1933, as amended, this Ordinance shall be approved on the date of first reading and accordingly this Ordinance shall immediately be effective upon its adoption.

Passed and adopted by the City of Beaverton, County of Gladwin, State of Michigan, on December 17, 2007.

Mayor

(Seal)

Attest:

Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, at a regular meeting held on the 17th day of December, 2007, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting:

and that the following Members were absent:

I further certify that Member moved adoption of said Ordinance, and that said motion was supported by Member .

I further certify that the following Members voted for adoption of said Ordinance:

and that the folio wing Members voted against adoption of said Ordinance:

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and the Clerk.

Clerk

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TITLE II

UTILITIES AND SERVICES

CHAPTER 25

PRIVATE WELLS

§2.531 Definitions. The term "private well" as used herein shall mean any well or excavation for purposes of taking artesian water, drilled or dug on any privately owned lands to a depth of more than twelve (12) feet.

§2.532 Permit Required. No person shall dig or drill a private well upon any lands within the City of Beaverton without having first secured a permit therefore from the City Council nor shall any private well be extended or enlarged without having first secured a permit hereunder.

§2.533 Application Fee. Any person desiring to dig, drill, extend or enlarge any private well shall make application therefore to the City Council. Such application shall be in writing and shall contain all pertinent information concerning the size and location of the proposed well or extension thereof with a statement of the purpose or purposes for which water there from will be used. Such application shall be accompanied by a permit fee in the amount established by resolution of the City Council, which fee shall be returned in the event the permit be not granted.

§2.534 Hearing. The City Council shall hold such hearing on said application as it may deem necessary, and may grant or deny issuance of a permit. If a permit is granted, the same shall contain such reasonable terms and conditions as the Council may deem necessary, relative to the depth or size of such private well, and the use and disposal of water taken there from.

§2.535 Regulations. When any permit is granted for the drilling of any private well, such well shall be drilled in strict conformity and compliance with regulations contained in such permit and such well, both at the time of drilling and subsequent thereto shall be subject to inspection at all reasonable times by the Water Department of the City of Beaverton.

§2.536 Meter. The City Council may, as a condition precedent to the granting of any permit, require installation on any private well of a meter measuring the amount of water taken there from. Such meter if so required shall be installed by the City Water Department, and all costs in connection therewith shall be borne by the owner of said premises and shall be an additional charge over and above the permit fee herein provided.

§2.537 Disposition of Waste. No water from private wells within the City of Beaverton shall be permitted to enter the sewer system of said City unless the same first passes through a meter duly installed and approved by the City Water Department.

§2.538 Sewer Charges. Water from private wells deposited in the

sewer system of the City of Beaverton shall be subject to the same charges as are provided for sewage treatment of water from the City Water System.

§2.539 Revocation. Any permit granted hereunder shall be revocable at the will of the Council; provided that the Council, prior to revoking such permit, shall give to the owner or operator of such well at least ninety (90) days written notice of its intent to revoke such permit. Such notice shall be deemed sufficient if served on such owner personally or by registered or regular mail and by posting a copy thereof on the premises where such well is located. Use of water shall be discontinued forthwith on revocation of said permit and said well shall be capped or otherwise treated as required by order of the Council.

§2.540 Water Sales. It shall be unlawful to sell water from any private well, except by express permission of the City Council, or to use water for any purpose or purposes other than those specified in the permit granted therefore.

§2.541 Purpose.

(a) The regulation of private wells is intended to prevent waste, in unreasonable manner, of water from artesian wells, or use thereof which may in any way cause depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells in the City of Beaverton.

(b) Any private well dug or drilled, or operated and maintained in violation of any provision of this ordinance or of the permit for such well, shall be a public nuisance, and the same shall be abated forthwith.

(c) Any person who shall dig, drill, or operate a private well in violation of this act, or of the permit for said well, shall be deemed to have committed a civil infraction subject to disposition under Title I, Chapter 7, of this Code.

TITLE II

UTILITIES AND SERVICES

CHAPTER 26

CABLE TELEVISION

§2.670 Franchises Continued. The franchises granted under Ordinance No. 121 of 1982 and pursuant to cable franchise agreements now in place are hereby continued; and for the term stated therein, each shall be governed by the terms thereby incorporated.

§2.671 Franchises Granted. The City of Beaverton grants pursuant to those documents to the parties named and to their successors and assigns the franchise right and authority to install, maintain, replace and operate a reception, transmission and distribution system for television in, over, on, and under the sidewalks, highways, streets, bridges, alleys, easements and rights-of-way as not existing, and belonging to the City; to erect thereon poles, with or without cross arms, transformers, amplifiers, underground conduits, manholes and other electronic television signal conductors and fixtures; to stretch wire and cables on, across and under all streets; and to maintain and use the same for the purpose of construction and operating a transmitting and distribution system for television.

§2.672 Construction Standards. All poles, cables, wires, antennas, conduits or appurtenances shall be constructed and erected in a workmanlike manner. The City shall not be held liable for any disturbance of Grantee's installation resulting from the altering, repairing or installation of streets or sewer or water installation. Grantee shall, at its own expense, move or relocate any of Grantee's installations at the request of the City whenever or wherever Grantee's installations are found by the City to interfere with the City's streets, street grade, sewer or water installations, or any proposed changes thereof, or extensions thereto. This Chapter shall not be construed as to deprive the City of any rights or privileges it now has, or may hereafter have, to regulate the use and control of its streets. The City must approve any plans before actual construction begins.

§2.673 Compliance with Codes. All construction of the Grantee, including installations, shall conform to the National Electric Safety Code, the statutes of the State of Michigan, and all Ordinances of the City. Grantee shall provide the City with a map designating the location of cable television facilities; said map shall be available for public examination and shall be corrected annually by Grantee to show all extensions and changes in said facilities.

§2.674 Rates and Charges. Grantee shall lay all cable., wire, and lines both on the public and private properties of the City at its own expense, but Grantee shall have the privilege of charging its customers both connection fees to bring the service to their properties and monthly fees for their continued use of the service. Maximum authorized rates and charges for services within the franchise area shall not be increased by the Grantee without prior approval of

the City Council granted pursuant to properly noticed public hearings.

§2.675 Bond. During the term this Chapter remains in effect, Granted shall post with the City a bond to be approved as to form by the City Attorney in the sum of Five Thousand ($5,000.00) Dollars conditioned upon the faithful performance of the conditions and terms of the franchise and permit and providing a recovery on the bond in case of failure to perform the terms and conditions hereof.

§2.676 Indemnity and Insurance. Grantee shall indemnify and save the City harmless from any and all liability, damage or expense from accident or damage, either to itself, or to persons or property of others which may occur by reason of Grantee's activities in the cable television business. For this purpose and prior to commencing construction of any kind, grantee shall have in full force and effect and thereafter so maintain the same at all times, and file evidence thereof with the City Clerk, a good and sufficient policy of insurance with liability limits of Fifty Thousand ($50,000.00) Dollars for personal injury to each person, and Three Hundred Thousand ($300,000.00) Dollars for each accident. The said policy shall protect the City from and against any and all claims, actions, suits, liability, expense or damage of any kind or description which may accrue to or be suffered by the City or anyone by reason of the construction, maintenance or operation of Grantee's facilities, whether or not such claim is based upon the independent acts of the City.

§2.677 Compensation to City. Grantee shall pay to the City a reasonable percentage of the gross subscriber revenue received by Grantee for cable television service provided to subscribers within the limits of the City as now or hereafter constituted. Said payments shall be made quarterly, on or before the first day of the first, fourth, seven, and tenth month of each year. This (fee shall be credited against any business or occupation tax or franchise fee or tax or other City tax required to be paid by Grantee. The legislative body of the City shall have the right to inspect the records of the Grantee at any reasonable time for the purpose of ascertaining accurately what the actual gross receipts of Grantee may have been for cable television service for the past years and/or for the present year.

§2.678 Safety Inspections. The City reserves the general right to see that the system of the Grantee is constructed and maintained in a safe condition. If the City at any time finds that an unsafe condition does exist, it may order Grantee to make necessary repairs forthwith, and if the Grantee shall fail to forthwith make the necessary repairs, the City may make them or have them made and collect all cost and expense thereof from the Grantee.

§2.679 Complaints and Records. The Grantee shall maintain records of all user and other complaints regarding the quality of service, equipment, malfunctions and similar matters. Grantee shall make every good faith effort to respond to all such complaints within seventy-two (72) hours after receipt of same, excluding Sundays and holidays. Written records of all such complaints and resolution of same shall be maintained by Grantee for a twelve (12) month period after origination of Same, and shall include notation of the reasons

why any response is made later than seventy-two (72) hour period. All such records shall be open to inspection by the City Council or its designee at any reasonable time.

§2.680 Acceptance by Grantee. This Chapter shall be null and void unless the Grantee shall within thirty (30) days after its effective date file with the City Clerk its written acceptance of all terms and conditions hereof. Within ninety (90) days of said acceptance Grantee shall commence construction of a coaxial cable system, or shall have applied to the Federal Communications Commission for issuance of a certificate of compliance as required by applicable FCC regulations for said system. Within one (1) year subsequent to receipt of said certificate of compliance Grantee shall complete construction of said system, including extension of energized trunk cable through out the franchised area and shall make system connections available to all potential customers within the franchise area, potential customers being determined consonant with economic feasibility. If said schedules are not met, the surety bond required by Section 2.675 may be forfeited at the discretion of the City Council.

§2.681 Term of Franchise. This franchise and the rights, privileges and authorities hereby granted shall take effect and be in full force after legal publication and in accordance with the Code of the City of Beaverton, and shall continue in full force and effect for a term of fifteen (15) years, provided that the Grantee shall accept this franchise in accordance with the provisions of Section 2.680. Any modification to Federal Communication Commission regulations governing municipal cable television franchising after the effective date hereof and required by applicable law to be incorporated herein shall be deemed a part hereof and shall be incorporated herein within one (1) year after Federal Communication Commission adoption of same.

§2.682 Revocation of Franchise. The City reserves the right to revoke this franchise and all rights and privileges of the Grantee hereunder in the event that the Grantee:

(a) substantially violates any provision of this franchise where such violations shall remain uncured for a period of thirty (30) days subsequent to receipt by Grantee of written notice of said violations, except where such violation is without fault or is the result of excusable neglect,

(b) fails substantially to maintain the system herein contemplated in accordance with applicable Federal Communications Commission operational and technical regulations.

Such revocation shall be by Ordinance duly adopted after sixty (60) days' notice to the Grantee. In the event that such termination and cancellation depends upon a finding of fact, such finding of tact as made by an arbitrator selected from a list furnished by, and in accordance with the procedures of the American Arbitration Association, shall be conclusive; provided, however, that before this franchise may be revoked under this section, the Grantee must be

provided with an opportunity to be heard before the City Council.

TITLE II

UTILITIES AND SERVICES

CHAPTER 28

TELECOMMUNICATIONS

An ordinance to comply with Public Act 48 of 2002 relating to permits for telecommunications companies to use public rights-of-way.

§2.800 Purpose. The purposes of this ordinance are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

§2.801 Conflict. Nothing in this ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

§2.802 Terms Defined. The terms used in this ordinance shall have the following meanings:

(1) “Act” means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

(2) “City” means the City of Beaverton.

(3) “City Council” means the City Council of the City of Beaverton or its designee. This Section does not authorize delegation of any decision or function that is required by law to be made by the City Council.

(4) “City Manager” means the City Manager or other designated City official, if no City Manager, or his or her designee.

(5) “Permit” means a non-exclusive permit issued pursuant to the Act and this ordinance to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

All other terms used in this ordinance shall have the same meaning as defined or as provided in the Act, including without limitation the following:

(1) “Authority” means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

(2) “MPSC” means the Michigan Public Service Council in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Council" in the Act.

(3) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(4) "Public Right-of-Way" means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

(5) "Telecommunications Facilities or Facilities" means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

(6) "Telecommunications Provider, Provider and Telecommunications Services" mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part 1 of the Communications At f o1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this ordinance only, a provider also includes all of the following:

(a) A Cable television operator that provides a telecommunications service.

(b) Except as otherwise provided by the Act, a person who owns telecommunications facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service.

§2.803 Permit Required.

(a) Permit Required. Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public right-or-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this ordinance.

(b) Application. Telecommunications providers shall apply for

a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Manager and one copy with the City Attorney. Upon receipt, the City Manager shall make three (3) copies of the application and distribute a copy to each City Department affected. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(c) Confidential Information. If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MLC 15.231 to 15.246, pursuant to Section 6(5) if the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(d) Application Fee. Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of $500.00.

(e) Additional Information. The City Manager may request an applicant to submit such additional information which the City Manager deems reasonable necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(f) Previously Issued Permits. Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 if the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this ordinance.

(g) Existing Providers. Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 if the Michigan Telecommunications Ct, 1991 PA 179, MCL 484.2251, shall submit to the City an application for a permit in accordance with the requirements of this ordinance. Pursuant to Section 5(3) of the Act, a telecommunications provider submitted an application under this subsection is not required to pay the $500.00 application fee required under subsection (d) above. A

provider under this subsection shall be given up to an additional 180 days to submit the permit application of allowed by the Authority, as provided in Section 5(4) of the Act.

§2.804 Issuance of Permit.

(a) Approval or Denial. The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 4(b) of this ordinance for access to a public right-of-way within the City. Pursuant to Section 6(6) of the Act, the City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City manager shall not unreasonably deny an application for a permit.

(b) Form of Permit. If an application for permit is approved, the City Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Section 6(1), 6(2) and 15 of the Act.

(c) Conditions. Pursuant to Section 15(4) if the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) Bond Requirements. Pursuant to Section 15(3) of the Act, and without limitation on subsection(c) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

§2.805 Construction/Engineering Permit. A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the City without first obtaining a construction or engineering permit as required elsewhere in this Code, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

§2.806 Conduit or Utility Poles. Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this ordinance does not give a telecommunications provider a right to use conduit or utility poles.

§2.807 Route Maps. Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the

City, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the City. The route maps should be in (paper or electronic) format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

§2.808 Repair of Damage. Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-or-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

§2.809 Establishment and payment of Maintenance Fee. In addition to the non-refundable application fee paid to the City set forth in subsection 4(d) above, a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

§2.810 Modification of Existing Fees. In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public right-of-ways, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of his ordinance, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error.

§2.811 Savings Clause. Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 11 above shall be void from the date the modification was made.

§2.812 User of Funds. Pursuant to Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the City from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the City under Act No. 51 of the Public Acts of 1951.

§2.813 Annual Report. Pursuant to Section 10(5) of the Act, if required, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by

the Authority. If filing of an annual report is permissive under the Act, the City manager may, in his discretion, elect not to file an annual report.

§2.814 Cable Television Operators. Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenue for charges the cable operator received for cable modem services provided through broadband internet transport access services.

§2.815 Existing Rights. Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this ordinance shall not affect any existing rights that a telecommunications provider or the City may have under a permit issued by the City or under a contract between the City and a telecommunications provider related to the use of the public rights-of-way.

§2.816 Compliance. The City hereby declares that its policy and intent in adopting this ordinance is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:

(a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 4(c) of this ordinance;

(b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 4(f) of this ordinance;

(c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the $500.00 application fee, in accordance with Section 4(g) of this ordinance;

(d) Approving or denying an application for a permit within forth-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with Section 5(a) of this ordinance;

(e) Notifying the MPSC when the City has granted or denied a permit, in accordance with Section 5(a) of this ordinance;

(f) Not unreasonably denying an application for a permit, in accordance with Section 5(a) of this ordinance;

(g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 5(b) of this ordinance;

(h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider’s access and usage of the

public right-of-way, in accordance with Section 5(c) of this ordinance;

(i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 5(d) of this ordinance;

(j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 6 of this ordinance;

(k) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this ordinance, in accordance with Section 11 of this ordinance;

(l) Submitting an annual report to the Authority, in accordance with Section 14 of this ordinance; and

(m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 15 of this ordinance.

§2.817 Reservation of Police Powers. Pursuant to Section 15(2) of the Act, this ordinance shall not limit the City's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the City's authority to ensure and protect the health, safety, and welfare of the public.

§2.818 Severability. The various parts, sentences, paragraphs, sections, and clauses of this ordinance are herby declared to be severable. If any part, sentence, paragraph, section, or clause of this ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this ordinance.

§2.819 Authorized City Officials. The City Manager or his or her designee is hereby designated as the authorized City official to issue municipal citations for violations under this ordinance as provided by the City Code.

§2.820 Violations. A person who violates any provision of this ordinance or the terms or conditions of a permit is guilty of a municipal civil infraction and shall be subject to penalties provided elsewhere in this code. Nothing in this Section 2.720 shall be construed to limit the remedies available to the City in the event of a violation by a person of this ordinance or a permit.

§2.821 Repealer. All ordinances and portions of ordinances inconsistent with this ordinance are hereby repealed.

§2.822 Effective Date. This ordinance shall take effect on October 22, 2002.

TITLE III

PARKS AND PUBLIC GROUNDS

CHAPTER 31

PARKS – GENERAL REGULATIONS

§3.100 Purpose and Ordinance continued. The purpose of this ordinance is to provide rules and regulations for the use and conduct in the parks and recreation areas of the City. The provisions of City of Beaverton Ordinance number 142 are hereby continued and adopted, where not inconsistent herewith.

§3.101 Applicability. This ordinance shall apply in all parks and recreation areas under the jurisdiction of the City, unless expressly exempted. For the issuance of permits, temporary designations, authorizations, granting of approval and other actions the approving governing agency shall be the Parks and Recreation Board, or its designee.

§3.102 City of Beaverton Park Lands, Regulation:

(a) General Unlawful Acts. It shall be unlawful for any person in a public park to:

(1) Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings, or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six years shall use the restrooms and washrooms designated for the opposite sex. Hot water shall not be taken from buildings for camp use.

(3) Dig or remove any soil, rock, sand, stones, trees, shrubs, or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(4) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon, or across such lands, except on written permit issued hereunder.

(5) Damage, cut, carve, mark, transplant or remove any

plant or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area.

(6) Climb any tree or walk; climb, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purpose.

(7) Attach any rope or cable or other contrivance to any tree, fence, failing, bridge, bench or other structure.

(8) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountains, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm, sewer, or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(9) Take into, carry through, or put into any park, any rubbish, refuse, garbage or other material. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(10) Bring any glass container into any beach or lakefront recreation area.

(11) Cause or permit any animal to run loose.

(12) Tie or hitch an animal to any tree or plant.

(13) Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile, or bird; nor shall he have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird. Exception to the foregoing is that snakes known to be deadly poisonous may be killed on sight.

(14) Walk a dog, or any other domestic animal, without a leash, said leash to be no longer than six feet. Further, the owner of said animal shall be responsible for the removal of any animal solid waste. Nor shall he allow a dog or any other animal within a water or land area designated as a bathing beach or boat dock area; bring a dog, except leader dogs for the blind, or other animal into an enclosed park building. Any dog found not in the possession of, or under the immediate control of, its owner or owner's agent, or any dog creating a nuisance or disturbance maybe removed from the park.

(15) Ride a horse except on designated bridle trails; horses shall be thoroughly broken and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended.

(16) No person shall play an auto radio, portable radio and television set at a volume that interferes with the enjoyment of the park by others.

(b) Regulations regarding vehicles. It shall be unlawful for any person in a public park or recreation area to:

(1) Enter Calhoun Park unless a motor vehicle permit has been obtained and affixed to the vehicle windshield.

(2) Drive any vehicle on any area except the paved park roads or parking areas, or such areas as may on occasion be specifically designated as temporary areas.

(3) Park a vehicle anywhere except on a designated parking area.

(4) Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed.

(5) Leave a bicycle lying on the ground or paving or set against trees, or in any place or position where other persons may trip over or be injured by them.

(6) Ride a bicycle without reasonable regard to the safety of others.

(7) Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available.

(8) Wash any vehicle.

(9) Drive or operate within the parks, park drives, parking places, or parkways for the purpose of demonstrating any vehicles, or for the purpose of instructing another to drive or operate any vehicle, nor shall any person use any park area, including parking places, for the repairing or cleaning of any vehicle, except in an emergency.

(10) No person shall operate any snowmobile in or on any public park or playground in the City.

(c) Firearms, Weapons, Tools, Explosives, Fireworks. It shall be unlawful for any person to bring into or have in his possession in any park or recreation area:

(1) Any pistol, revolver or objects upon which loaded or blank cartridges may be used. Official starters, at

authorized track and field events are excepted from this restriction.

(2) Any burglar tools.

(3) Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow or other weapon in which the propelling force is gunpowder, a spring, or air.

(4) Unlawful fireworks of any description. Permits may be given for conducting properly supervised fireworks in designated park areas.

(d) Regulation of advertising, commerce, assemblages and entertainment. It shall be unlawful to do any of the following without a permit, provided that no permit shall be necessary for events or actions sponsored by the City or the park board:

(1) Post, paint, affix, distribute, deliver, place, cash or leave about, any billboard, placard, ticket, handbill, circular, or advertisement.

(2) Display any advertising signs or other advertising matter, provided that a sign attached to a vehicle to identify the vehicle, or a sign lawfully on a taxi or bus is not prohibited.

(3) Operate for advertising purposes any musical instrument, soundtrack or drum.

(4) Hold public assemblages.

(5) Hold a parade.

(6) Offer for sale any article in any park or recreation area, without a license as a concessionaire.

(e) Regulation ignitable and combustible materials. No person shall kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent adult from the time it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under any tree or in any underbrush.

(f) Regulation of alcoholic beverages, controlled substances, alms, gambling. While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and in particular, no person shall:

(1) Be under the influence of intoxicating liquor or a controlled dangerous substance in a park or recreation area.

(2) Solicit alms or contributions for any purpose, whether public or private.

(3) Play any game of chance or have possession of any instrument or device for gambling.

(4) Play, engage or take part in any game or competitive sport for money, or other valuable thing, without a written permit.

(g) Miscellaneous regulations. It shall be unlawful for any person in a park or recreation area to:

(1) Camp or stay overnight anywhere except in areas designated for camping or staying overnight in vehicles or trailers.

(2) Take part in the playing of any games involving thrown or otherwise propelled objects except in those areas designated for such forms of recreation.

(3) Play football, baseball, basketball, soccer or lacrosse, except in areas designated for such games.

(4) Enter an area posted as "closed to the public."

(5) Engage in threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.

(6) Fail to produce and exhibit any permit he claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

(7) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.

(8) Erect or occupy a tent, stand or other structure in any park or playground, or sell or give away from any such tent, stand or other structure any food, drink or other thing, without a permit.

§3.103 Picnic areas. It shall be unlawful for any person or group of persons to hold a picnic in any park, except in areas set aside or specifically designated as picnic areas. Pavilions may be rented without regard to the size of the party using same. Reservations for same may be made by application to the City Clerk with appropriate rental fee. Rental fees shall be as set from time to time by resolution of the Council.

§3.104 Park hours.

(a) Calhoun Park: No person shall enter or remain in Calhoun Park between the hours of 10:00 p.m. and 8:00 a.m. unless the person is a lawfully registered camper.

(b) Calhoun Park: A non-camper shall not visit campers between the hours of 10:00 p.m. and 8:00 a.m.

(c) Calhoun Park: It shall be the responsibility of the registered camper to report anyone refusing to leave their campsite after 10:00 p.m. or anyone entering onto the campsite before 8:00 a.m..

(d) All other parks shall remain open from 8:00 a.m. to 11:00 p.m.

(Amended April 21, 2008)

§3.105 Regulation of camping in Calhoun Park.

(a) A person shall not camp without a camping permit issued by an authorized representative of the City of Beaverton. A person may camp only in a designated campground or campsite only when the established fee is paid.

(b) A person shall not obtain a camping permit for use by a camping party of which the person is not a member.

(c) A person shall not walk into, or drive a vehicle into or through the campground area, unless he is a registered camper, or legitimately visiting a specific, registered camper.

(d) A registered camping party shall not leave a campsite continuously unoccupied during the first 24 hours of the permit period. A campsite is considered to be occupied if at least one member of the camping party is in attendance during the night-time hours of the initial 24 hour period.

(e) A person shall not use a campground for a permanent residence or as a base of operation of a business.

(f) Capacity of campsites is limited:

(1) Not more than one (1) single family nor more than four (4) unrelated persons shall camp on one campsite. For the purposes of this rule, a single family shall include a mother and father and their children. A single family may include relatives if no more than one shelter is used.

(2) When persons that are not a single family obtain a camp site, all persons shall print and sign their names on the camp registration card.

(3) Persons that are not part of a single family must be at least 18 years old to register or occupy a campsite, unless such persons are part of a chaperoned group, i.e. scouts, cyclists, church or athletic teams.

(g) A person shall not allow, place or drive more than one

motor vehicle onto one campsite, except four motorcycles are permitted if each is operated by a registered camper. Additional vehicles must be parked in parking lot areas.

(h) Where campgrounds are laid out in defined lots, not more than one camp will be permitted on a lot.

(i) Camp permits provide a license to use the developed facilities and are not a lease or rental agreement for specified land. A camper may be relocated at the discretion of the Park Manager.

(j) No camping equipment will be placed on any camp lot while that lot is occupied by another camping party.

(k) The use of camp lots, service building, electrical services, etc. is restricted to registered campers and their bona fide guests.

§3.106 Regulation of Boats. Boats anchored off the park shore or tied on park water frontage, shall be governed by the following rules:

(a) Campers with permits may have a boat tied on park water frontage for a period not longer than the camp permit issued to them.

(b) Day use people may have a boat tied on park water frontage or a period of one day and it must be removed at the time they leave the park.

(c) No boat may be anchored off the park shore or tied on park water frontage in areas set aside for beaches or another use.

§3.107 Rules and regulations. Penalty.

(a) The Council of the City of Beaverton shall from time to time make and adopt such rules and regulations, within its discretion, and upon recommendation of the Parks and Recreation Advisory Board, for the operation of parks regulated by this Chapter. Such rules and regulations, when adopted, shall be and become a part of this Chapter and are enforceable hereunder, and the penalties prescribed for violation of this Code shall apply to the violation of any such rules and regulations the same as though such rules and regulations were incorporated herein. Violation of any such provisions, rules or regulations/ unless otherwise provided, shall be deemed a civil infraction subject to disposition pursuant to Article I, Chapter 7, of this Code.

(b) Violation of any park rule may result in revocation of a camping permit or eviction from the park or both. Violation of any park rule may also result in a criminal complaint being initiated.

(c) No refund of camping fees will be made if a camper is evicted from the park as a result of an infraction of the park rules and regulations. Any unused fees will be forfeited.

(d) Violation of the following provisions shall be deemed a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars _($500.00), and costs of prosecution, or by imprisonment not to exceed Ninety (90) days, or both in the discretion of the court: **§3.102(a)(l), §3.102(a)(13), §3.102(c)(1-4), §3.102(f)(1-4), §3.102(g)(5), and §3.102(g)(7).**

(e) Within the discretion of City officials, any violation of provisions not designated as misdemeanors under the preceding provision may be charged and prosecuted as misdemeanors where the alleged violation involves a danger to human life, a threat to health, safety and welfare, or personal injury is threatened or occurs.

(f) City employees or designees, acting in the line of duty or persons performing specific acts authorized by written permission are exempt from the provisions of these rules.

(g) The City Police Department, Parks and Recreation Advisory Board authorized personnel, and any park attendant shall have the authority to order any person or persons acting in violation of this Code to leave the park or recreation area.

§3.108 Permits. Permits for special events in parks and recreation areas shall be obtained by application to the City Administrator, or their designee in accordance with the following procedure:

(a) A person seeking issuance of a permit hereunder shall file an application stating:

(1) The name and address of the applicant.

(2) The name and address of the person, persons, corporation or association sponsoring the activity, if any.

(3) The day and hours for which the permit is requested.

(4) The park or portion thereof for which the permit is desired, and the number of individuals expected to attend.

(5) Any other information reasonably necessary to make a determination as to whether a permit should be issued hereunder.

(6) Variances required from park rules and regulations.

(b) Standards for issuance of a use permit shall include the

following findings:

(1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.

(2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety or recreation.

(3) That the proposed activity or uses that are reasonably anticipated will not include crime, violence or disorderly conduct.

(4) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the City.

(5) That the facilities desired have not been reserved for other use on the date and hour requested in the application.

(c) Appeal. Within ten days after the receipt of an application the Administrator shall tell an applicant in writing of its decision to grant or deny a permit; in the event of a denial the notification shall include the reason for the denial. Any aggrieved person shall have the right to appeal to the City Council by serving written notice thereof on the City Clerk within five working days of said refusal.

A copy of said notice shall also be served upon the City Administrator, who shall immediately forward the application and the reasons for its refusal to the City Council. The City Council shall decide within ten days from the receipt of the appeal by the City Clerk, or at its first meeting after the appeal, whichever is later. The decision of the City Council shall be final.

(d) A permittee shall be bound by all park rules and regulations, and all applicable ordinances fully as though same were inserted in said permits.

(e) An applicant may be required to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined prior to the commencement of any activity or issuance of any permit.

(f) The City Council shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.

TITLE III

PARKS AND PUBLIC GROUNDS

CHAPTER 32

CITY CEMETERIES

§3.200 Cemetery Board Created and continued. The City of Beaverton Board of Cemetery Trustees is hereby created and continued, pursuant to Public Act 1895, Number 215.

(a) Membership. The Mayor of the City of Beaverton shall appoint, by and with the consent of the; Council, five (5) Trustees who shall be freeholders and electors of the City, and who shall constitute and be referred to as the Board of Cemetery Trustees. The term of office shall be five (5) years, except that at the first appointment, one shall be appointed for one (1) year, one for two (2) years, one for the term of three (3) years, one for the term of four (4) years, and one for the term of five (5) years from the third Monday in December of the year when appointed. The Council may remove any Trustee so appointed, for inattention to his duties, want of proper judgment, skill, or taste for the proper discharge of the duties required of him, or other good cause. Said Board shall serve without compensation.

(Amended April 21, 2008)

(b) Officers. The Board shall appoint one of their number as Chairperson. The City Clerk shall be the Clerk of the Board.

(c) Powers. The Cemetery Board shall have such powers and authority as may be necessary for the care, management, and preservation of such cemetery and grounds, and monuments therein, and appurtenances thereof, in addition to such duties as the council may from time to time prescribe. The Board shall have he power in its discretion to take and hold any property, real or personal, by devise or otherwise, which may be granted, conveyed, or devised to said Board in trust for the purpose of caring for and keeping in good order and repair any given lot or lots, or portions thereof, specified in such trust. The Board shall advise the City Council in setting the price of lots and make the sales thereof. The conveyances of such lots shall be executed on behalf of the City by the City Clerk, and be recorded in his office at the expense of the purchasers. The board shall expend the money for the care and improvement of the grounds, enforce the ordinances of the City made for the management and care thereof, and make such regulations for the burial of the dead, the care and protection of the grounds, monuments, and appurtenances of the cemetery, orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the

City and laws of the State.

(d) Duties. The Board shall direct the improvements and embellishments to the cemetery grounds.

(e) Sexton. The cemetery superintendent, whose title shall be that of Sexton shall be the City Department of Public Works Supervisor.

§3.221 City Cemeteries. The City cemeteries which have been or may hereafter be established by the City and maintained either within or without its limits, of which plats have been or shall be filed in the office of the City Clerk, shall be under the management, supervision and care of the Cemetery Board. Said Board shall, if necessary, cause such cemeteries to be laid out in lots, drives and walks; the lots to be numbered, the drives and walks to be named, and plats thereof to be made. The City Council shall fix a price of lots upon the advice of the Board, and other services necessary thereto, from time to time by resolution.

§3.222 All provisions of the City Code now in force or hereinafter enacted, relating to and defining public offenses in the City, shall, insofar as the same shall be applicable, be in full force and effect in the City Cemetery.

§3.223 General Regulations.

(a) Unlawful Entry. It shall be unlawful for any person or persons, other than duly authorized officers, officials or employees of the City, to enter into or be upon the cemetery grounds of the City during the time after sunset and before sunrise of any day without first obtaining the permission of the Sexton or City officer in charge of said cemetery. It shall further be unlawful at all times for any person to enter or leave said grounds other than by the established and open entrances and gateways.

(b) Trespass, loitering; exceptions. It shall be unlawful for any person to loiter or trespass upon lots and graves of the City cemetery or for the parent or guardian of a child under the age of sixteen to permit such child to be within said cemetery grounds unless accompanied by an adult person. Provided, nothing herein shall be construed to prohibit any person having lawful business in the cemetery in connection with improvement thereof or persons visiting the graves of relatives or friends from being in said cemetery in accordance with the rules.

(c) Speed of vehicles. It shall be unlawful for any person to drive any vehicle in said cemetery faster than ten (10) miles per hour.

(d) (d) Operation of vehicles and parking. No person shall drive or move any vehicle within said cemetery except over a roadway open for vehicular traffic, or obstruct any path or driveway within the cemetery open to vehicular traffic. No person shall use the cemetery grounds or any driveway

therein as a public thoroughfare or drive any vehicle through said grounds except for the purpose of making deliveries in the cemetery or visiting any grave site. No person shall disobey the directives of the Sexton relating to the movement or standing of vehicles within said cemetery.

(e) Rubbish, debris. It shall be unlawful for any person to dispose of any rubbish, trash, waste materials, litter, or debris of any kind in the City Cemetery.

(f) Property damage. No person shall remove, molest, injure, mar, deface, throw down or destroy any headstone, monument, survey marker, corner marker, tomb, vault, or mausoleum, or molest any grave or place of burial therein. This shall not prohibit acts by cemetery officers and employees, or public officials in carrying out their duties.

(g) Trees, shrubs and flowers. It shall be unlawful for any unauthorized person to plant any tree, shrub or other plant in the cemetery except those permitted by the general landscape plan approved by the Board. It shall be unlawful for any unauthorized person to cut down, injure, break, or destroy any tree, shrub, or other plant growing in the cemetery, or to pick, pluck, or cut any flower or decorative plant except as authorized by the cemetery rules.

§ 3.224 Conveyance of lots or burial privileges. Limitation on transferability.

(a) All lots or blocks in the City Cemetery are conveyed to the purchaser by deed for the limited purpose of human burial only. The right of the purchaser is subject to such reasonable rules and regulations as the Cemetery Board may make from time to time.

(b) Cemetery lots may be transferred by the owner by gift, sale, descent or devise only to the following members of his or her immediate family: spouse, mother, father, sibling, or child. In all other instances, an owner desiring to transfer lots shall reconvey same to the City at the price paid by good and valid deed.

(c) Other transfers of cemetery lots may be permitted at the discretion of the City Council, upon proper application by the owner.

§3.225 Duties of the Sexton.

(a) The Sexton shall be responsible for the day to, day maintenance and care of the cemetery under the direction of the Board.

(b) The Sexton and his assistants shall direct all vehicular traffic, and all parking or standing of vehicles in all cemeteries.

§3.226 Grave decorations. Any grave decoration, other than removable live or artificial flowers, must be authorized by the City Manager or the Sexton. Grave decorations not removed within 30 days may be removed by the Sexton or his designee.

(Amended April 21, 2008)

§3.227 Rules and regulations. Penalty.

(a) The Board shall make such rules and regulations, within its discretion, from time to time as are deemed desirable and necessary in discharge of its duties. Such rules and regulations when adopted shall be and become a part of this Chapter and are enforceable hereunder, and the penalties prescribed for violation of this Code shall apply to the violation of any such rules and regulations the same as though such rules and regulations were incorporated herein. Violation of any such provisions, rules or regulations, unless otherwise provided, shall be deemed a civil infraction subject to disposition pursuant to Article I, Chapter 7, of this Code.

(b) Violation of the following provision shall be deemed a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars ($500.00), and costs of prosecution, or by imprisonment not to exceed 90 days, or both in the discretion of the court: § 3.223(f).

(c) Within the discretion of City officials, any violation of provisions not designated as misdemeanors under the preceding provision may be charged and prosecuted as misdemeanors where the alleged violation involves a danger to human life, a threat to health, safety and welfare, or personal injury is threatened or occurs. City employees or designees, acting in the line of duty or persons performing specific acts authorized by written permission are exempt from the provisions of these rules.

(d) Any Police Agency, Sexton or other Board authorized personnel shall have the authority to order any person or persons acting in violation of this Code to leave the cemetery.

TITLE IV

STREETS AND SIDEWALKS

CHAPTER 41

STREETS

§4.100 Authority. All maintenance and repair of public streets, alleys, sidewalks, and other public ways shall be under the supervision of the City Administrator. The City Administrator or his designee shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinance.

§4.101 Obstructions; Prohibited Acts.

(a) It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk, or other public alley except as may be specified by ordinance or by the City Administrator.

(b) The following acts shall be unlawful:

(1) To allow any defect in any pavement on any City street to remain unguarded without proper barricades and/or lights.

(2) To disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley, or sidewalk.

(3) To use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale, or to write or make any sign or advertisement on any such pavement.

(4) To erect or maintain any building or structure which encroaches upon any public street or property.

(5) To obstruct any drain in any public street or property.

(6) To erect any poles, wires, or maintain any poles or wires over any public place, street, alley or other public way except at the direction of the City Administrator. Utility poles may be places only in such streets and other places as the City Administrator shall direct.

(7) To play any games upon any street, alley, sidewalk or other public place, where such games cause unnecessary noise or interfere with traffic or pedestrians.

(8) To construct or maintain any excavation, opening or

stairway in any public street or sidewalk without a permit from the City Council. All such lawfully maintained excavations and openings shall be guarded by appropriate devices marking the hazard so created. All such lawfully maintained stairways or openings shall be guarded by a suitable strong cover or railing, to the approval of the Department of Public Works Superintendent or Department Head.

(9) To plant any tree or shrub in any public street, parkway, or other public place without having secured a permit therefore. Applications for such permits shall be made to the City Clerk and referred by him to the City Administrator. All trees and shrubs so planted shall be placed subject to the direction and the approval of the Council. No rock gardens, boulders, benches or fences shall be built or maintained in any parkway, except by the City or with the permission of the City Council.

(10) To attach any sign, advertisement, or notice to any tree or shrub in any such public place.

§4.102 Dangerous trees.

(a) Any tree or shrub which overhangs any sidewalk, street or other public place in the City in such a way as to impede or interfere with traffic or travel, or within ten feet of a street or seven feet of a sidewalk level, shall be trimmed by the owner of the premises abutting or of the premises on which such tree or shrub grows so that the obstruction shall cease.

(b) Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

(c) The City may trim any such tree or shrub or remove any such tree or branch thereof so that the obstruction or danger to traffic or passage shall be done away with.

§4.103 Dangerous deposits on Streets. It shall be unlawful to deposit on any street any material which may be harmful to the pavement thereof or any waste material or other articles which may do injury to any person, animal or property.

§4.104 Permits and Bonds.

(a) Where permits are authorized in this Chapter, they shall be obtained upon application to the City Clerk upon such forms as he shall prescribe, and there shall be a charge as established by a resolution of the City Council for each such permit. Such permit shall be revocable by the City Administrator for failure to comply with this Chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the City Administrator and shall be valid

only for the period of time endorsed thereon.

(b) Application for a permit under the provisions of this Chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the City in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the City from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be not less than the following amounts, except as otherwise.' specified in this Chapter.

(c) Every such insurance policy shall name the City as an additional insured. A duplicate executed copy or photocopy of the original of such insurance policy, approved as to form by the City Attorney, shall be filed with the City Clerk. Where cash deposits are required with the application for any permit hereunder, such deposit shall be as established by resolution from time to time by the City Council, except as otherwise specified in this Chapter, and such deposit shall be used to defray all expenses to the City arising out of the granting of the permit and work done under the permit or in connection therewith. Six (6) months after the completion of the work done under the permit, any balance of such cash deposit unexpended, shall be refunded. In any case where the deposit does not cover all costs and expenses of the City, the deficit shall be paid by the applicant.

§4.105 Emergency Openings. The City Administrator may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided, that a permit shall be obtained on the following business day and the provisions of this Chapter shall be complied with.

§4.106 Backfilling. All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with rules and regulations adopted pursuant to this Chapter. Any settlement shall be corrected within eight (8) hours after notification to do so.

§4.107 Curb Cuts. No opening in or through any curb or any street shall be made without first obtaining a written permit from the City Clerk. Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

(a) No single curb cut shall be less than ten (10) feet.

(b) The minimum distance between curb cuts, except those serving residential property shall be twenty five (25) feet.

(c) The maximum number of lineal feet of sidewalk driveway crossings permitted for, any lot, parcel of land, business or enterprise, shall be forty-five 45% of the total abutting street frontage up to and including two hundred (200) lineal feet of street frontage plus twenty percent (20%) of the lineal feet of street frontage in excess of two hundred (200) feet.

(d) The minimum distance between curb cuts, except those serving residential property, shall be twenty five (25) feet.

(e) The necessary adjustments to utility poles, light standards, fire; hydrants, catch basins, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the City.

(f) All construction shall be in accordance with plans and specifications approved by the City Administrator.

§4.108 House Moving. No person shall move, transport, or convey any building, machinery, truck, or trailer more than eight (8) feet eight (8) inches wide or higher than thirteen (13) feet six (6) inches, above the surface of the roadway, into, across or along any street, or other public place in the City, without first obtaining a permit from the City Administrator. The applicant shall file written clearances from the light, telephone, gas and water utilities saying that all connections have been cut off and, where necessary, all obstructions along the proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the Police Department, approving the proposed route through the City streets and the time of moving, together with an estimated cost to the Police Department due to the moving operations. The applicant shall deposit with the City the total estimated cost to the Police Department and other City Departments, plus a cash deposit as required by Section 4.104, and shall file with the City Clerk a liability insurance policy in the amount of one hundred thousand dollars ($100,000.00) for injury to more than one (1) person and three hundred thousand dollars ($300,000.00) for injury to more than one person, and property damage insurance in the amount of fifty thousand ($50,000.00).

§4.109 Clearing Ice and Snow.

(a) Placing Snow in Streets. It shall be unlawful for any person to remove snow from private property and deposit it upon any roadway, alley or sidewalk of the City of Beaverton, except when said person, shall have contracted with the City of Beaverton for the removal of said snow and has paid the City the cost of said removal. The contracting, supervision, cost and method of removal shall be determined from time to time by the City Administrator.

(b) Evidence. The existence of any deposit of snow or ice deposited by artificial means in the traveled portion of any street or sidewalk or within any ditch or gutter in any

street shall, be *prima facie* evidence that the occupant of the abutting property closest thereto placed or deposited the snow or ice therein.

§4.110 [Reserved.]

§4.111 Removal of encroachment. Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting land owner when made or permitted by him or suffered to remain by him, otherwise than in accordance with the terms and conditions of this Chapter. Such charges shall become a lien upon said abutting land if uncollected, pursuant to the provisions of this Code and applicable laws.

§4.112 Temporary Street Closings. The City Administrator shall have the authority to temporarily close any street, or portion thereof; when such street shall be deemed to be unsafe or temporarily unsuitable for use for any reason. He shall cause suitable barriers and signs to be erected on said street, indicating that the same is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over said street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the City Administrator.

§4.113 Rules and regulations. Penalty.

The Council of the City of Beaverton shall from time to time make and adopt such rules and regulations, within its discretion, as are required to assure the public health, safety and welfare within the purposes of this Chapter. Such rules and regulations when adopted shall be and become a part of this Chapter and are enforceable hereunder, and the penalties prescribed for violation of this Code shall apply to the violation of any such rules and regulations the same as though such rules and regulations were incorporated herein.

Violation of the provisions of this Chapter shall be deemed a civil infraction subject to disposition pursuant to Article I, Chapter 7, of this Code.

Within the discretion of City officials, any violation of the provisions of this Chapter may be deemed a misdemeanor, charged and prosecuted as such, where the alleged violation involves a danger to human life, a threat to health, safety, and welfare, or personal injury is threatened or occurs.

TITLE IV

STREETS AND SIDEWALKS

CHAPTER 42

SIDEWALKS

§4.200 Authority to construct, repair and maintain sidewalks as provided in Ordinance 1 of 1896, Ordinance 17 of 1903, and Ordinance 70 of 1959 is hereby continued where not inconsistent herewith, as amended. The City reserves all powers and authorities granted it, pursuant to Public Act 1895 #215.

§4.201 Specifications and Permits.

(a) No person shall construct, rebuild, or repair any sidewalk except in accordance with the line, grade, slope and specifications established by the City Administrator, nor without first obtaining a permit from the City Clerk, except that sidewalk repairs of less than fifty (50) square feet of sidewalk may be made without a permit.

(b) Written permits shall be prominently displayed on the construction site.

(c) The fee for such permit shall be set by the City Council from time to time by resolution.

§4.202 Line and Grade Stakes. The City Administrator shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the City Administrator. Where it is necessary to replace engineer's stakes disturbed or destroyed without fault on the part of the City, or its employees, a charge of $1.00 per stake shall be paid.

§4.203 Sidewalk Specifications. Sidewalks shall not be less than four (4) inches in thickness and bituminous expansion paper 3/8 inch thick shall be placed in the joints, and at the conjunction of other walks, drives and curbs. All concrete used in sidewalk construction shall, twenty eight (28) days after placement, be capable of resisting a pressure of twenty five hundred (2,500) pounds per square inch without failure. The concrete shall be a five (5) bag mix with grade "A" aggregate or its equivalent. The sub-base shall be of four inch (4") tamped sand. Residential walks shall be five (5) feet wide with a slope of one fourth (.25) inch per foot toward the street unless otherwise authorized by the City Administrator.

§4.204 Permit Revocation. The City Administrator may revoke any permit issued under the terms of this Chapter for incompetency or the failure to comply with the terms of this Chapter, or the rules and regulations, plans and

specifications established by the City.

§4.205 Ordering Construction. Pursuant to the Ordinances referenced above the City Council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon such lots and premises.

§4.206 Construction by City. If the owner of any lot of premises shall fail to build any particular sidewalk as described in said notice, and within the time and in the manner required thereby, the City Administrator is hereby authorized and required, immediately after the expiration .of the time limited for the construction or rebuilding by the owner, to cause such sidewalk to be constructed and one-half of the expense thereof shall be charged to such premises and the owner thereof, and collected as provided by this Code, and under other applicable laws.

§4.207 Duty to Clear. The occupant of every lot or premises adjoining any street, or the owner of such lot or premises, if same are not occupied, shall clear and keep cleared all sidewalks adjoining such lot or premises from snow, ice, filth and other obstructions.

§4.208 Failure to Clear. If any occupant or owner shall neglect or fail to clear ice, snow, filth, or other obstructions from the sidewalk adjoining his premises, for a period of twenty four (24) consecutive hours or more, he shall be guilty of a violation of this Chapter, and in addition the City Administrator may cause such sidewalk to be cleared and the expense of clearing shall become a debt to the City from the occupant or owner of such premises and shall be collected as a single lot assessment in accordance with applicable law and provisions of this Code.

§4.209 Rules and regulations; Penalty. The Council of the City of Beaverton shall from time to time make and adopt such rules and regulations, within its discretion, as are required to assure the public health, safety and welfare within the purposes of this Chapter. Such rules and regulations when adopted shall be and become a part of this Chapter and are enforceable hereunder, and the penalties prescribed for violation of this Code shall apply to the violation of any such rules and regulations the same as though such rules and regulations were incorporated herein.

Violation of Section 4.201 or Section 4.208 shall be deemed a civil infraction subject to disposition pursuant to Article I, Chapter 7, of this Code.

Third or subsequent violations, by any individual, of Section 4.201 or Section 4.208 may be deemed a misdemeanor, charged and prosecuted as such, within the sound discretion of City officials.

TITLE V

LAND USE

CHAPTER 51

CITY OF BEAVERTON ZONING

ARTICLE I

AUTHORITY AND PURPOSE

§5.100 Purpose. An ordinance regulating the location and use of structures and land for residence trade, industry and other purposes; the height and size of structures; the size of yards, courts and other open spaces; the density of population; creating districts for said purposes and establishing boundaries thereof; providing for changes in regulations, restrictions, and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration, for the repeal of all ordinances in conflict with this ordinance. This Chapter is enacted in conformity with and under the authority of State of Michigan Act 207 Public Acts 1921, as amended from time to time.

§5.101 Authority Preserved and Continued. Ordinance number 86 is hereby preserved and continued. All zoning created there under is continued by this Chapter, where not inconsistent herewith.

ARTICLE II

DEFINITIONS AND CONSTRUCTION

§5.102 Short Title. This Ordinance shall be known as the "Beaverton Zoning Ordinance" and shall be referred to herein as "this Ordinance."

§5103 Definitions. For the purpose of this Ordinance the following definitions shall apply to words and phrases used in the text:

(a) Accessory uses and structures. Uses and structures which are customarily accessory and clearly incidental and subordinate to, and on the same zoning lot as permitted principal or special uses and structures in any zoning district, and which do not alter or change the character of the district.

(b) Board of appeals. The Zoning Board of Appeals of the City of Beaverton.

(c) Drive-in facilities. Any place or premises which offers the sale of goods or services to customers in vehicles including those establishments where customers may serve themselves and use the goods or services on the premises.

(d) Dwelling, single-family. A building containing not more

than one dwelling unit designed for residential use, complying with the following standards:

(1) It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.

(2) It has a minimum width across any front, side or rear elevation of 20 feet arid complies in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972, P.A. 230, as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state, standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972, P.A. 230, as amended, then and in that event such federal or state standard or regulation shall apply.

(3) It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972, P.A. 230, as amended, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

(4) In the event that the dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.

(5) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.

(6) The dwelling contains a storage; capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.

(7) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all side's, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the City Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than twenty (20%) percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the City. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

(8) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(9) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, et seq., and as from time to time such standards may be amended. Additionally, all dwelling shall meet or exceed all applicable roof snow load and strength requirements.

(10) The foregoing standards shall not apply to a mobile

home located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required in the ordinance of the City pertaining to such parks.

(11) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.

(e) **Dwelling. two-family.** A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

(f) **Dwelling, multiple-family.** A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

(g) **Dwelling unit.** One or more habitable rooms which are occupied or intended for occupancy by one family with facilities for living, sleeping, cooking and eating.

(h) **Essential services.** Equipment and accessories reasonably necessary for the furnishing of adequate service by public utilities or governmental departments or commissions or for the public health or safety or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the essential service equipment.

(i) **Family.** An individual or two or more persons related by blood or marriage or a group of not more than two (2) persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

(j) **Fraternity house. See rooming house.**

(k) **Gasoline service station.** Any structure or premises arranged, designed or used for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles and including the customary space and facilities for the installation of such commodities on or in such vehicles and for the washing or polishing of such vehicles but not including the use of space or facilities for the refinishing of motor vehicles or for the; dismantling for the purpose of reuse or resale of motor' vehicles or parts thereof or for the outdoor storage or repair of motor vehicles or parts thereof.

(l) **Height of structure.** The vertical distance measured from the established grade at the center of the front of the structure to the highest point of the structure whether it be a roof, wall, parapet or similar appurtenance of the structure.

(m) Home occupation. Any occupation customarily conducted

within a dwelling unit by its occupants as a subordinate use and clearly incidental to residential use, within one room thereof; provided that:

(1) No stock in trade may be kept or article sold or offered for sale in the dwelling except such as are produced by such home occupation.

(2) No display of goods or signs pertaining to such uses are visible from any public way.

(3) No persons shall be employed other than dwelling occupants.

(4) No such home occupation shall be conducted in any accessory building.

(5) No such home occupation shall require interior or exterior alterations or the use of mechanical equipment except that customarily utilized for residential or office purposes.

(6) No home occupation shall utilize the yard, drive or other outdoor area for the storage of vehicles or other equipment.

(n) Junk yard. An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles and also including an auto wrecking yard but not including uses established entirely within closed buildings.

(o) Kennel. Any premise on which more than three (in any combination) dogs, cats or other household pets are maintained, boarded, bred or cared for.

(p) Loading space, off-street. Space logically and conveniently located for merchandise or passenger pickups and deliveries, located on the same lot with the use which it is to serve for the temporary parking of vehicles which are performing the said pickups and deliveries.

(q) Lot. A parcel, tract or portion of land separated from other parcels or portions of land by description on a recorded plat or by metes and bounds description.

(r) Lot, corner. Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. Any lot line separating the lot from any street shall be construed as a front lot line.

(s) Lot, double frontage. Any lot including a corner lot, as defined herein, having two (2) or more sides abutting on

one (1) or more streets. Any lot line separating the lot from any street shall be construed as being a front lot line.

(t) Lot line. Any line bounding a lot.

(1) Front Lot Line. The lot line separating the lot from the street.

(2) Rear Lot Line. The lot line opposite to and most distant from the front lot line as designated for each lot; in the case of irregularly-shaped lots, an imaginary line parallel to the front lot line but not less than ten (10) feet long measured within said lot.

(3) Side Lot Line. Any lot line other than a front or rear lot line.

(u) Mobile home. For the purpose of this Ordinance a mobile home shall be defined as a dwelling unit which is designed to be transportable from one location to another on a permanently attached undercarriage, has a length of forty-five (45) feet or more and is licensable by the Michigan Secretary of State as a "Mobile Home" to be transported on designated roadways in Michigan. This definition does not include "trailer coach", "travel trailer" or "modular homes".

(v) Modular home. A dwelling which consists of prefabricated units transported to the site on a removable undercarriage or flat-bed and assembled for permanent location on the lot.

(w) Mobile home park. A lot, parcel or tract of land used as the site of occupied mobile homes, including any structure, vehicle or enclosure used as part of the equipment of such mobile home park and licensed or licensable under the provision so of act No. 243, Public Acts of 1959, State of Michigan, as amended.

(x) Non-conforming use or structure. Any use or structure which was lawfully existing, immediately prior to the time this Ordinance No. 86 became effective and which does not now comply with the requirements thereof.

(y) Parking space, off-street. Any space used for the off-street parking of motor vehicles in all districts in accordance with this Code.

(z) Pool, private swimming. Any artificially constructed basin or other structure for the holding of five hundred (500) or more gallons of water for the use by the owner, his family or guests for aquatic sports or recreation.

(aa) Principal use. The primary or chief purpose for which a lot is used

(bb) Public recreation facility. Any facility designed for the amusement, recreation or sports activity by the public, including but not limited to miniature golf, adventure golf, golf courses, batting cages and bumper boats. Public Recreation Facilities do not include race tracks, go-kart tracks or the like.

(cc) Public utility. Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing to the public under Federal, state or municipal regulations, electricity, gas, steam, communications, transportation, or water.

(dd) Public utilities facilities. Electric transformer stations, gas regulator stations, gas valve houses, booster stations and other similar utility uses.

(ee) Rooming house. Also referred to as a boarding home, bed and breakfast lodging house, fraternity house, sorority house or dormitory. A dwelling having one kitchen and used for the purpose of providing lodging or lodging and meals for pay or compensation of any kind, to more than two persons other than members of the family occupying such dwelling.

(ff) Setback line. The line limiting the minimum horizontal distance between the front of a structure and any lot or property line.

(gg) Sign. Any device designed or intended to inform or attract the attention of any person, in accordance with Section 9.300 et seq., of Chapter 116 of this Code.

(hh) Sorority house. See rooming house.

(ii) Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground including buildings, walls, fences, and signs.

(jj) Special use. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, location, size or relation to the surrounding area would be in the best interest of the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in accordance with the provisions set forth in Title V, Chapter 51, Article IX.

(kk) Trailer coach. Any movable dwelling or mobile dwelling except as defined as a "mobile home" elsewhere in this ordinance. Included as trailer coaches are travel trailers, campers and similar recreation-type equipment used for temporary or recreation dwelling.

(ll) Trailer coach park. An area or premises on which space

available is rented, held for rent, or on which free occupancy or camping is' permitted for trailer coach owners or users on a temporary basis according to the provisions of Act 243, P.A. of 1959, State of Michigan as amended.

(mm) Yard. An open space on the same lot with a structure, unoccupied and unobstructed on or above grade level which extends along a lot line and to a depth or width specified in the yard requirements for the zoning district in which it is located.

(nn) Yard, required front. The open space extending the full width between the side lot lines and also the full depth between the front lot line and the required setback line as specified for each zoning district.

(oo) Yard, required rear. The open space extending the full width between the side lot lines and also the full depth from the rear lot line to the line specified as the minimum distance a structure may be located from the rear lot line as specified for each zoning district.

(pp) Yard, required side. The open spaces on either side of a structure extending from the required front yard (setback line) to the required rear yard and also the full width from the side lot lines to the line specified as the minimum distance a structure may be located from the side lot line as specified for each zoning district.

(qq) Zoning districts. The areas into which the City of Beaverton has been divided and for which the regulations and requirements governing use and size of lots and structures are specified in this Ordinance.

(rr) Zoning administrator. The duly authorized official of the City of Beaverton who is responsible for the administering and enforcing of this Ordinance.

§5.104 Construction.

(a) In case of any difference of meaning or implication between the text and any caption or illustration, the text shall take precedence.

(b) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(c) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the text clearly indicates the contrary. The masculine or feminine gender shall be construed in a gender neutral manner.

(d) The phrase "used for" includes "arranged for", "designed for", "maintained for" or "occupied for".

(e) The word "person" includes an individual, a corporation, a

partnership, an incorporated association or any similar entity.

(f) The word "occupied" and the word "used" shall be considered to be followed by the words "or intended, arranged or designed to be used or occupied".

(g) Terms not herein defined shall have the meaning customarily assigned to them.

ARTICLE III

ZONING DISTRICTS AND SCOPE

§5.110 Zoning Districts. The following zoning districts previously established are continued, and the purpose or intended use of each district is stated. Permitted uses in each district are listed in Section 5.130, et seq. of this Chapter.

(a) The R-l District is established to provide areas of low density residential development. Desired development includes single-family dwellings. Facilities and uses incidental or accessory to dwellings are included. It is not intended to permit residential dwelling with two or more families, commercial, industrial or similar uses except as authorized by this Ordinance.

(b) The R-2 District is established to provide areas of higher density of residential development than is permitted in the R-l District. Regulations include uses permitted in the R-l District plus residential dwellings with two or more families. Services, facilities and uses incidental or accessory to multiple family dwellings are included. It is not intended to permit commercial, industrial or similar uses except as authorized by this Ordinance.

(c) The A-l District is established in recognition of the areas of sparse development customarily occurring in the fringe of the City. This area is separated from concentrated development by prominent natural or man-made barriers and is intended to serve as a transition between urban and rural development. It is not intended to permit high concentrations of development except as authorized by this Ordinance.

(d) The C-l District is established to provide areas of high concentrations of pedestrian-oriented retail activities. Desired development includes commercial uses accompanied by off-street parking. It is not intended to permit residential or industrial development or commercial development requiring vehicular movement except as authorized by £his Ordinance.

(e) The C-2 District is established to provide areas of commercial development which require large exterior spaces for storage, display or sale of merchandise or commercial uses which depend upon continual movement of vehicular

traffic. It is not intended to permit single family residential or industrial development except as authorized by this Ordinance.

(f) The IND District is established to provide areas of light industrial development in which the uses do not emit excessive noise, fumes, smoke, vibrations, odors, or other similar nuisances which are not compatible with the general residential atmosphere of the total community. It is not intended to permit residential or commercial development or similar uses except as authorized by this Ordinance.

§5.111 Zoning Map. The areas comprising the zoning districts and the boundaries of said districts are hereby established as shown on the official zoning map entitled "ZONING MAP, BEAVERTON, MICHIGAN."

(a) The Zoning Map, which together with any explanatory matter thereon is hereby adopted by reference and declared to be a part of this Ordinance.

(b) The Zoning Map shall be maintained in the Beaverton City Hall and shall show all changes which are made in district boundaries according to procedures set forth in this Ordinance.

(c) District boundary lines as shown on the Zoning Map, unless otherwise indicated, shall be construed as following lot lines, Beaverton corporate limits lines, centerlines of highways, streets, roads, alleys, easements, railroads, streams, rivers, lakes or these centerlines extended or projected.

(d) Questions concerning district boundary lines as shown on the Zoning Map shall be decided by the Zoning Board of Appeals after recommendation by the Planning Commission.

§5.112 Scope of Ordinance Regulations.

(a) Minimum Requirements. The provisions of this Ordinance shall be held to be the minimum requirements and shall apply uniformly to each kind or class of structure or land.

(b) More Restrictive Provision to Apply. Where the conditions imposed by any provision of this Ordinance upon the use of structures or land are either more or less restrictive than comparable conditions imposed by the provisions of any other lawful ordinance or of any law, resolution, rule, or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

(c) More Restrictive to Apply. This Ordinance is not intended to abrogate any easement, covenant or any other private agreement, provided that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants or other

private agreements, the regulations of this Ordinance shall govern.

(d) Unlawful Structures. Structures or uses which were unlawfully existing at the time of the adoption of this Ordinance shall not become or be made lawful solely by reason of adoption of this Ordinance.

(e) Regulations Effective. All structures erected hereafter, all uses of land or structures established hereafter, all structural alterations or relocations of existing structures occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such structures, uses or land shall be located.

(f) Consent Not Implied. Nothing contained in this Ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to conduct any trade, industry, occupation or activity.

(g) Existing or Issued Building Permits. Any building permits issued prior to the effective date of this Code shall be considered valid and structure may be completed and used or occupied in accordance with plans provided hat use or occupancy is on the basis for which building permit was originally designated and provided that construction is begun within sixty (60) days. Any such use which would become non-conforming by virtue of the passage of this Ordinance shall thereafter be considered non-conforming and subject to the provisions of this Ordinance.

(h) Non-conforming Uses. Any structure or use lawfully existing at the time of adoption of this Ordinance may be continued except as hereinafter provided in the regulations concerning non-conforming uses in this Ordinance.

(i) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any structure of part thereof declared to be unsafe by any official charged with protecting the public safety upon such order of such official.

(j) All land, property or territory hereafter to be annexed to the City of Beaverton shall be considered to be zoned the most restrictive of all contiguous zoning districts, until otherwise classified.

§5.113 Scope of District Regulations.

(a) No yard or lot existing at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements of this Ordinance.

(b) No part of a yard or other open space or off-street or loading space required about or in connection with any structure for the purpose of complying with this Code, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other structure or use.

(c) In case of a lot having a side yard along any zoning district boundary line, on the other side of which is a more restrictive district, said side yard shall have a width of not less than that required for the more restrictive district.

(d) No part of any required yard except a rear yard shall be occupied for any accessory use or structure or for the storage of vehicles.

(e) On any corner lot in the R-l, R-2, and A-l Districts nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) feet and eight (8) feet above the established curb grade within a triangle formed by the twp street right-of-way lines and a line connecting them at points twenty-five (25) feet from the intersection of the right-of-way lines.

(f) On double-frontage lots, a front yard as prescribed for the district as herein established shall be provided on both streets.

(g) Every structure hereafter erected or relocated shall be on a lot adjacent to a public street or with access to an approved private street and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

(h) In any district, more than one structure housing a permitted or permissible principal use or a structure housing more than one permitted or permissible use may be erected or maintained on a single 1ot provided that all other requirements of this Ordinance shall be met for each structure or for each use as though it were on an individual lot.

(i) Exception to Lot Width and Area. Dwellings may be constructed on any officially plotted lot and/or recorded lot which is less than the minimum width or area or both, required by this Chapter provided that the yard set backs and all other requirements of this Chapter are met.

(j) Accessory Buildings, Height and Setback. No part of a detached accessory building shall be erected in other than a rear yard. Accessory building side-walls shall not exceed twelve (12') feet in height and shall be distant at least six (6') feet from any other separate structure on the same lot and shall not be closer than ten (10') feet to

any lot line. In no case shall an accessory building for the storage of vehicles be closer to any street line than twenty (20') feet.

Private garages attached to a building used for a residence may be constructed in the R-l District with the following provisions:

(i) The front of the garage, when facing the front of the lot shall not extend beyond the established building line.

(ii) The garage shall be at least ten (10’) feet, including the eaves, from the side property line.

(iii) The garage, at no time, may be converted to living quarters.

(iv) No garage shall have side-walls that exceed twelve (12') feet in height.

ARTICLE IV

R-l REGULATIONS

§5.130 R-l District: Permitted Uses and Structures. Within any R-l District, no structure or premises shall hereafter be used, erected, converted or altered externally in whole or in part if said use is not in accordance with the intent of Section 5.110, of this Chapter, unless herein provided, for any other than one or more of the following permitted uses.

§5.131 Principal Uses and Structures. All principal uses and structures shall be subject to the regulations set forth in the schedule of District regulations. Principal uses for R-l District shall be:

(a) Single Family Dwelling

(b) Cemeteries

§5.131.01 Restrictions. The following restrictions apply in R-l Districts:

(a) Maximum height: 35 feet

(b) Minimum front yard: 25 feet

(c) Minimum rear yard: 30 feet

(d) Minimum side yard: 10 feet

(e) Minimum lot width: 80 feet

(f) Minimum acreage for cemeteries: 10 acres

(g) Minimum living space area: 1000 square feet

§5.132 Accessory Uses and Structures.

(a) Private garages and carports.

(b) Private swimming pools.

(c) Playground equipment and play house

(d) Home occupations.

(e) Private gardens and/or greenhouses when plants, flowers, or produce are not offered for sale.

§5.133 Special Uses. All special uses in the R-l district shall be subject to site plan review under Article XIV of this Chapter, prior to approval.

(a) Public governmental administrative facilities.

(b) Public and private schools.

(c) Public medical and health facilities.

(d) Public recreational and social facilities.

(e) Religious institutions.

(f) Kennels operated not on a "for profit" basis.

§5.133.01 Requirements. The following standards apply to Special Uses in R-l Districts:

(a) Public governmental facilities:

(i) Minimum area: 2 acres

(ii) Minimum front yard: 30 feet

(iii) Minimum rear yard: 30 feet

(iv) Minimum side yard: 30 feet

(b) Public and Private Schools and Public Medical-and Health facilities:

(i) Minimum area: 10 acres

(ii) Minimum front yard: 50 feet

(iii) Minimum rear yard: 50 feet

(iv) Minimum side yard: 50 feet

(c) Public Recreational facilities:

(i) Minimum area: 3 acres

(ii) Minimum front yard: 50 feet

(iii) Minimum rear yard: 50 feet

(iv) Minimum side yard: 50 feet

(v) Maximum height: 35 feet

(d) Religious institutions:

(i) Minimum area: 24,000 square feet

(ii) Minimum front yard: 50 feet

(iii) Minimum rear yard: 50 feet

(iv) Minimum side yard: 50 feet

(v) Maximum height: 35 feet

ARTICLE V

R-2 REGULATIONS

§5.134 R-2 District. Permitted Uses and Structures. Within any R-2 District, no structure or premises shall hereafter be used, erected, converted or altered externally in whole or in part if said use is not in accordance with the intent of Section 5.110, this Chapter, unless herein provided, for any other than one or more of the following permitted uses.

§5.135 Principal Uses and Structures. All principal uses, accessory uses, and special uses in the R-2 District shall be subject to Area, Height, and Location Regulations as specified on the accompanying schedule and also Off-Street Parking Regulations according to Title V, Chapter 51, Section 5.163, et seq., of this Code. The following restrictions shall apply in R-2 Districts:

(a) Principal uses as permitted in R-l District shall have the same requirements as required therein.

(b) Two-family dwellings:

(i) Minimum lot area: 8,000 square feet

(ii) Minimum lot width: 80 feet

(iii) Minimum front yard: 25 feet

(iv) Minimum rear yard: 30 feet

(v) Minimum side yard: 8 feet

(vi) Maximum height: 40 feet

(c) Multiple-family dwellings and condominiums:

(i) Minimum lot area: 3,000 square feet each unit

(ii) Minimum lot width: not required

(iii) Minimum front yard: 25 feet

(iv) Minimum rear yard: 30 feet

(v) Minimum side yard: 20 feet

(vi) Maximum height: 40 feet

(d) Rooming houses:

(i) Minimum lot area: 8,000 square feet each unit

(ii) Minimum lot width: 80 feet

(iii) Minimum front yard: 25 feet

(iv) Minimum rear yard: 30 feet

(v) Minimum side yard: 8 feet

(vi) Maximum height: 40 feet

(e) Homes for the elderly and Nursery schools:

(i) Minimum area: 12,000 square feet

(ii) Minimum front yard: 100 feet

(iii) Minimum rear yard: 100 feet

(iv) Minimum side yard: 25 feet

(v) Maximum height: 35 feet

§5.136 Accessory Uses and Structures.

(a) Accessory uses as permitted in R-l District.

(b) Signs in accordance with Section 9.300, of Chapter 116, et seq., of this Code.

(c) Other uses customarily incidental and accessory to principal permitted uses.

§5.137 Special Uses and Structures. The following standards apply to special uses in R-2 Districts:

(a) Standards as set forth in R-l District for special uses authorized by those provisions.

(b) Professional offices and clinics:

(i) Minimum area: 2 acres

(ii) Minimum front yard: 30 feet

(iii) Minimum rear yard: 30 feet

(iv) Minimum side yard: 30 feet

(v) Maximum height: 35 feet

(c) Clubs or lodges:

(i) Minimum area: not required

(ii) Minimum front yard: 100 feet

(iii) Minimum rear yard: 100 feet

(iv) Minimum side yard: 100 feet

(v) Maximum height: 35 feet

(d) Nursing homes.

(i) Minimum area: 2 acres

(ii) Minimum front yard: 100 feet

(iii) Minimum rear yard: 100 feet

(iv) Minimum side yard: 25 feet

(v) Maximum height: 35 feet

(e) Playhouses and summerhouses.

(f) Signs in accordance with Section 9.300 et seq., of Chapter 116.

(g) The keeping of not more than two (2) roomers or boarders by a resident family.

(h) Other uses customarily incidental and accessory to principal permitted uses.

§5.138 All principal uses, accessory uses and special uses in the R-2 District shall be subject to Site Plan Review according to Article XIV of this Chapter.

§5.139 A-l District. Permitted Uses and Structures. Within any A-l District, no structure or premises shall hereafter be used, erected, converted or altered externally in whole or in part if said use is not in accordance with the intent of Section 5.110, of this Chapter, unless herein provided, for any other than one or more of the following permitted uses.

§5.140 Principal Uses and Structures. All principal uses and

accessory uses in the A-l District shall be subject to Area, Height and Location Regulations as specified on the accompanying schedule and also to Off-Street Parking and Loading Regulations according to Title V, Chapter 51, §5.163, et seq., of this Code.

(a) Single family detached dwellings, as provided in §5.131.

(b) Facilities to be utilized in general farming and truck gardening, or nurseries:

(i) Minimum area: 3 acres

(ii) Minimum front yard: 25 feet

(iii) Minimum rear yard: 50 feet

(iv) Minimum side yard: 10 feet

(v) Maximum height: no requirement

(c) Kennels:

(i) Minimum area: 3 acres

(ii) Minimum front yard: 100 feet

(iii) Minimum rear yard: 100 feet

(iv) Minimum side yard: 100 feet

(v) Maximum height: no requirement

(d) Radio and television stations and public utilities without storage yards:

(i) Minimum area: 2 acres

(ii) Minimum front yard: 50 feet

(iii) Minimum rear yard: 50 feet

(iv) Minimum side yard: 50 feet

(v) Maximum height: 35 feet

(e) Trailer coaches and travel trailers located in trailer coach parks, as provided in Article XII of this Chapter:

(i) Minimum area: 5 acres

(ii) Minimum front yard: 100 feet

(iii) Minimum rear yard: 100 feet

(iv) Minimum side yard: 100 feet

(v) Maximum height: 35 feet

(f) Golf courses and country clubs:

(i) Minimum area: 5 acres

(ii) Minimum front yard: 100 feet

(iii) Minimum rear yard: 100 feet

(iv) Minimum side yard: 100 feet

(v) Maximum height: 35 feet

§5.141 Accessory Uses and Structures.

(a) Private garages and storage sheds.

(b) Farm equipment buildings without storage yards.

(c) Stands for display or sale of agricultural products raised on the premises provided that the number of stands shall be limited to one (1) for each lot and provided that the size of any such stand shall not exceed four hundred (400) square feet of floor area.

(d) The keeping of not more than two (2) roomers or boarders by a resident family.

(e) Signs in accordance with Section 9.300 et seq., of Chapter 116.

(f) Other uses customarily incidental and accessory to principal permitted uses.

§5.142 Special Uses.

(a) Mobile home or seasonal recreational parks, subject to compliance with Article XII of this Code.

§5.143 All principal uses, accessory uses and special uses in the A-l District shall be subject to Site Plan Review according to Article XIV of this Chapter.

ARTICLE VI

C-l REGULATIONS

§5.144 C-l District. Permitted Uses and Structures. With any C-l District, no structure or premises shall hereafter be used, erected, converted or altered in whole or in part if said use is not in accordance with the intent of Section 5.110, this Code, unless herein provided, for any other than one or more of the following permitted uses.

§5.145 Principal Uses and Structures.

(a) Retail sales establishments (except drive-in) including or

similar to but not limited to:

- book stores
- camera stores
- clothing stores
- drug stores
- food stores
- gift shops
- hardware and appliance stores
- variety stores

(b) Personal services establishments (except drive-in) including or similar to but not limited to:

- banks, financial and loan institutions
- barber shops, beauty salons
- dry cleaning and laundry service including self-service but not
- including processing plants
- dressmaking, tailor shops, clothing repair
- photographic studios
- printing shops
- public utilities administration offices

(c) Clinics

(d) Offices

(e) Public utility facilities without storage yards

(f) Dwelling units when located only in the second or higher floor level above another principal use.

§5.146 Accessory Uses and Structures.

(a) Signs in accordance with Section 9.300 et seq., of Chapter 116.

(b) Other uses customarily incidental and accessory to principal permitted uses.

§5.147 Special Uses and Structures.

(a) Drive-in banks.

(b) Drive-in cleaners and laundries.

(c) Gasoline service stations.

All principal uses, accessory uses and special uses in the C-l District shall be subject to site plan review according to Article XIV of this Chapter, prior to approval.

§5.148 Requirements.

(a) There shall be no minimum requirements for lot area, lot width, front yards, rear yards, or side yards in the C-l District.

(b) Maximum height for all structures in the C-l District shall be forty (40) feet.

(c) All dumpsters must be located in an enclosed area. The enclosed area shall be constructed of sculptured cement block or substitute approved by the Planning Commission. The enclosure must be at least (6’5”) six feet five inches high on three sides. The width will be large enough to remove and replace dumpster. A gate will be placed on the fourth side with a height of at least (6' 5") six feet five inches with vinyl slats or fabric insets. The Planning Commission may wave this requirement if it is determined that it is in the best interest of the public.

Ordinance 2004-3 amended September 20, 2004.

ARTICLE VII

C-2 RECULATIONS

§5.149 C-2 District. Permitted Uses and Structures. Within a C-2 District, no structure or premises shall hereafter be used, erected, converted or altered externally in whole or in part if said use is not in accordance with the intent of Section 5.110, this Code, unless herein provided, for any other than one or more of the following permitted uses:

§5.150 Principal Uses and Structures.

(a) Principal uses as permitted in C-l District.

(b) Motels, hotels.

(c) Commercial recreational activities.

(d) New and used automobile sales and service.

(e) Gasoline service stations.

(f) Theaters including drive-in.

(g) Radio and television broadcasting studies without antenna,

(h) Drive-in retail establishments.

(i) Drive-in service establishments.

(j) New and used mobile home sales and service.

(k) New and used trailer coach sales and service.

(l) Any other similar commercial use provided such use is not hazardous or objectionable but excluding those uses in the IND District.

§5.151 Accessory Uses and Structures.

(a) Accessory uses as permitted in C-l District.

(b) Signs in accordance with Section 9.300 et seq., of Chapter 116, of this Code.

(c) Dumpster enclosure as specified in C-1.

Ordinance 2004-3 amended September 20, 2004.

All principal uses and accessory uses in the C-2 District shall be subject to Off-Street Parking and Loading Regulations as specified in Title V, Chapter 51, §5.163, et seq., of this Code.

§5.152 Requirements.

(a) There shall be no minimum requirements for lot area, lot widths front yards, rear yards, or side yards in the C-2 District.

(b) There shall be no maximum height restrictions in the C-2 District except as specified elsewhere in this Code.

(c) Dumpster requirements as specified in C-l District.

§5.153 All principal uses, accessory uses and special uses in the C-2 District shall be subject to Site Plan Review according to Article XIV of this Code.

ARTICLE VIII

IND DISTRICT REGULATIONS

§5.154 IND District. Permitted Uses and Structures. Within any IND District, no structure or premises shall hereafter be used, erected, converted, or altered externally in whole or in part if said use is not in accordance with the intent of Section 5.110, this Code, unless herein provided, for any other than one or more of the following uses.

§5.155 Principal Uses and Structures.

(a) Offices

(b) Industrial research facilities

(c) Public utilities facilities

(d) Trade contractors, building materials suppliers and wholesalers

(e) Radio and television antennae (towers, masts, etc.)

(f) Warehousing

(g) Storage yards

(h) Junk yards when surrounded by a solid fence or wall with a height equal to items stored therein but in no case less than ten (10) feet high

(i) Transportation, maintenance and servicing facilities

(j) Cleaning and dyeing plant

(k) Industrial plants for manufacturing, processing and assembling

(l) Machine shops and welding shops

(m) Monuments, cut stone and stone products

(n) Sanitary landfill when operated by the City and providing there is no burning of waste products.

(o) Gasoline service stations

(p) Automotive body shops

(q) Any other uses having performance characteristics similar to those listed proving they emit only a minimum of noise, vibration, smoke, offensive odors or gases or other similar offensive odor or objectionable by-product and no toxic gases or similar by-product.

§5.156 Accessory Uses and Structures.

(a) Signs in accordance with Section 9.300 et seq., of Chapter 116, of this Code.

(b) Other uses customarily incidental and accessory to principal permitted uses.

All principal uses and accessory uses in the IND District shall be subject to Off-Street Parking and Loading Regulations as specified in Title V, Chapter 51, §5.163, et seq., of this Code.

§5.157 Requirements. The following restrictions apply in IND Districts:

(a) Rear yards shall be at least twenty-five (25') feet. Side yards shall be at least fifteen (15') feet. Minimum front yard or front "setback" shall be not less than fifty (50') feet.

(b) The total floor area of all buildings on a building site shall not exceed fifty percent (50%) of the total area of the building site.

(c) Screening shall be constructed and maintained along all boundaries adjoining any other zoning district. Screening shall comply with Chapter 55, §5.506.

§5.158 All principal uses, accessory uses and special uses in the IND District shall be subject to Site Plan Review according to Article XIV of this Code.

ARTICLE IX

SPECIAL USES

§5.160 Special Uses: Intent and Purpose. Special Use Standards. In order to make this Code a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the City, the Planning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses designated as Special Uses within the various zoning classifications set forth in the ordinance.

Such Special Uses have been selected because of the unique characteristic of the use which, in the particular zone involved, under certain physical circumstances and without proper controls and limitations, might cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.

With this in mind, such Special uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Planning Commission is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefore, and imposed by said Commission, would be compatible with the other uses expressly permitted within said district, with the natural environment and the capacities of public services and facilities affected by the land use; would not, in any manner, be detrimental or injurious to the use or development of adjacent properties to the occupants thereof or to the general neighborhood; would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; and that the standards required by the Commission for the allowance of such Special Use can and will, in its judgment, be met at all times by the applicant. Such Special Uses, once approved by the Planning Commission, will be sent to City Council for final approval.

(Amended April 21, 2008)

The burden of proof of facts which might establish a right to a Special Use Permit under the foregoing standards shall be upon the applicant.

§5.161 Special Use Procedure:

(a) All applications for Special Use Permits shall be filed with the City Clerk and shall include all pertinent plans, specifications, and other data upon which the applicant intends to rely for a Special Use Permit.

(b) The Planning Commission shall, upon receipt of the application in, proper form, schedule and hold a hearing upon the request preceded by notification to the applicant, the owner of the property proposed for consideration and the owners and occupants of all property within 300 feet Of the boundary of the property to be proposed for consideration as shown by the latest assessment roll. If the name of an occupant is not known, the term "occupant" may be used in the notice. The notice shall be mailed or personally delivered and published in a local newspaper between five (5) and fifteen (15') days prior to the hearing. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different "individuals, partnership, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnership, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(c) All notices shall describe the nature of the special land use request, state when and where the special land use request will be considered, and indicate when and where written comments will be received concerning the request.

(d) Following such hearing, said Commission shall either grant or deny a permit for such Special Use and shall state its reasons for its decision in the matter. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said Commission in its decision and shall be filed with the Zoning Enforcement Officer of the City. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare of the land and the social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are effected by the proposed use or activity; be consistent

with the intent and purpose of the zoning ordinance; designed to insure compatibility with adjacent uses of land and the natural environment; and designed, to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

(e) The Planning Commission shall have the right to limit the duration of a Special Use where the same is of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of said Commission after a hearing upon application of any aggrieved party.

(f) The plot plan and specifications and all conditions, limitations and requirements imposed by the Commission shall be recorded with the City and shall be incorporated as a part of the special exception permit. Violations of any of these at any time shall cause revocation of said permit and such special use shall cease to be a lawful use.

(g) Any property which is the subject of a special use permit which has not been used for a period of six (6) months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission) for the purposes for which such special use was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special use shall thereupon terminate.

(h) To insure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare and the residents of the City and future users or inhabitants of the proposed project or project area, the Planning Commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the City Clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six (6) months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportions to the ratio of the work completed as the work progresses.

ARTICLE X

NON-CONFORMING USES

§5.162 Non-Conforming Uses. The following regulations shall control lawful non-conforming uses in existence at the time of passage of this ordinance.

(a) Lawful non-conforming uses or structures in existence at the time of passage of this ordinance may be continued but shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this Code.

(b) If the cost of repair or replacement of a non-conforming use or structure which has been destroyed by reason of windstorm, fire, explosion or any act of God or the public enemy exceeds fifty (50%) percent of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this Code.

(c) If the non-conforming use of any land or structure shall terminate for a continuous period of time exceeding one year, such use shall not be re-established and any future use of land and structure shall be in conformity with this Code.

(d) If a non-conforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a non-conforming less restrictive use.

(e) Notwithstanding the foregoing, a home located in a zone which does not permit the same may still be altered, expanded and/or rebuilt.

(f) In the event lands which are presently public lands shall become privately owned lands or shall become effectively utilized or primarily leased for private use, those lands shall be immediately classified as the most restrictive zoning classification of those lands immediately adjacent thereto.

ARTICLE XI

PARKING AND LOADING SPACE REQUIREMENTS

§5.163 Off-Street Parking and Loading Facilities.

(a) For all structures erected and all uses of land established after the effective date of this Ordinance, accessory parking and loading facilities shall be provided as required by this section.

(b) Exception: The area described as follows shall be exempt from these requirements:

Block 4, Lots 21, 22, 23 and all lands lying eastward up to Ross Street.

Ross Brothers Addition to Beaverton, Lots 1-16 and 18-22.

§5.164 Minimum Number of Parking Spaces Required. The minimum number of off-street parking spaces shall be provided in all districts accessory to permitted uses as follows:

(a) Automobile sales and service garages: one (1) space for each five hundred (500) square feet of useable floor area.

(b) Barber and beauty shops: three (3) spaces for each chair or booth.

(c) Bowling alleys: six (6) spaces for each alley.

(d) Churches: one (I) space for each three (3) seats.

(e) Commercial Amusements (outdoor): twenty-five percent (25%) percent of lot area, but in no case less than ten (10) spaces.

(f) Dance Hall, Assembly Hall, Exhibition Hall (without fixed seats): one (1) space for each one-hundred (100) square feet of useable floor area.

(g) Drive-in facilities:

- Banks (and similar financial institutions): four (4) spaces for each drive-in window.
- Dry Cleaners, Drug Stores (and other retail services with drive-in service facilities): three (3) storage spaces for each drive-in window.

(h) Dwelling: two (2) spaces per family or dwelling unit.

(i) Funeral Home or Mortuaries: one (1) space for each twenty-five (25) square feet in service parlors or chapels plus one (1) space for each funeral vehicle maintained on the premises.

(j) Furniture Sales (retail): One (1) space for each five hundred (500) square feet of useable floor area.

(k) Hospital: One (1) space for each two (2) beds plus one space for each doctor plus one (1) space for each two employees other than doctors.

(l) Hotels, Motels, Tourist Home: one (1) space for each lodging room plus one (1) space per three (3) full time employees.

(m) Laundromat: one (1) space per washer unit.

(n) Libraries, Museums, Governmental Administration Buildings:

provide adequate parking facilities as approved by the Planning Commission.

(o) Manufacturing and Industrial Uses: two (2) spaces for each employee on the largest shift.

(p) Medical Clinics (including veterinary): four (4) spaces for each doctor or veterinarian plus one (1) space for each two employees.

(q) Office buildings including Banks, Business and Professional Offices: one (1) space for each two hundred (200) square feet of useable floor area.

(r) Restaurants, Bars (and similar establishments): one (1) space for each three (3) seats provided for patron use plus one (1) space for each two (2) employees.

(s) Retail Sales and Personal Services (except supermarkets and self-service stores): one (1) space for each two hundred (200) square feet of useable floor area.

Ordinance 2004-4 amended September 20, 2004.

(t) Schools: one (1) space for each two (2) employees (staff and faculty) plus one (I) space for each five (5) fixed seats in the auditorium or gymnasium.

(u) Service Stations: One (1) space for each two (2) employees plus one (1) space for owner or manager plus one (1) space for each service stall.

(v) Supermarket or Self-Service Store: one (1) space for each one hundred (100) square feet of useable floor area.

(w) Theaters and Auditoriums (not incidental to schools): one (1) space for each four (4) seats plus one (1) space for each two (2) employees.

(x) Warehouses, Storage Buildings, Lumber and Supply yards, Wholesale outlets: two (2) parking spaces for each employee.

§5.165 Minimum Loading Space Required. The minimum amount of off-street loading space shall be required in all districts as accessory to permitted uses as follows:

(a) Industrial and Commercial Uses:
10,000-20,000 square feet of floor area one (1) space
20,000-50,000 square feet of floor area: two (2) spaces
50,000-100,000 square feet of floor area three (3) spaces

(b) Schools: provide adequate space for safe loading and unloading of students from vehicles as approved by the Planning Commission.

(c) Medical Facilities: provide adequate space for safe loading

and unloading of patients as approved by the Planning Commission.

§5.166 Minimum Standards for Off-Street Parking Facilities. Parking or storage of motor vehicles shall be required in all districts and for all uses, except single family dwellings, subject to the following standards and regulations:

(a) Any person desiring to establish, maintain or alter an off-street parking area shall submit plans to the Zoning Administrator showing the location, design, size, shape, landscaping, surface material, marking, lighting, drainage, curb, cuts, entrances, exits, and any other pertinent features of the parking facility.

(b) In the case of a structure or premises, which is not specifically mentioned in Section 5.164, the provisions of a structure or use which is most similar shall apply.

(c) In the case of mixed or combined uses in the same structure or on the same zoning lot, the total requirements for off-street parking shall be the sum of the requirements for the individual uses computed separately.

(d) Required parking spaces for a permitted use shall be computed relative to the entire first floor area of the building; parking for uses on additional floors including basement shall be added to the total required for the first floor.

(e) Each off-street parking space shall have a minimum unobstructed area of one-hundred eighty (180) square feet with a minimum width of nine (9) feet and a minimum length of twenty (20) feet. Access drives to and from a parking space shall not be considered as part of the required parking area.

(f) If the use of a structure or premises changes, the minimum parking requirements shall apply to the new use.

(g) If a structure or premises is enlarged, the minimum parking requirements shall be applicable to the total area of the structure of premises.

(h) All off-street parking spaces shall be provided adequate access by means of maneuvering lanes. Backing onto a street or onto or across a public walk shall be prohibited.

(i) There shall be a curb or bumper rail provided wherever an off-street parking space is adjacent to a public sidewalk or right-of-way so designed to prevent any portion of the vehicle from extending beyond the limits of the required parking area.

(j) Any lighting used to illuminate any off-street parking area shall be so installed and maintained as to confine light

within the parking area and direct light away from adjoining premises.

(k) Off-street parking area including access drives shall have a hard surface (concrete or bituminous) and shall be sloped and drained to dispose of all surface water.

(l) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to one-half (1/2) shall be disregarded and fractions of one-half (1/2) and over shall be construed to mean one (1) space.

(m) In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Zoning Board of Appeals may grant an exception.

(n) Any off-street parking area containing ten (10) or more spaces shall contain one (1) suitably hardy tree for each ten (10) spaces. Trees shall be spaced not less than fifty (50) feet apart and shall be planted in a curbed planter with dimensions not less than six (6) feet by six (6) feet.

(o) Any construction or rearrangement of existing drives which involve the ingress and/or egress of vehicular traffic to or from a public street shall be so arranged so as to ensure the maximum of safety and the least interference of traffic upon said streets.

(p) All parking areas shall be screened on all sides which abut an A-l or R-l district or a street right-of-way with an ornamental fence or compact hedge not less than three (3) feet or more than six (6) feet of a type which will, at all seasons obscure vision from adjoining premises but will not interfere with corner vision as stipulated in Sub-Section 5.113(e) of this Ordinance.

(q) Each entrance and exit to and from any off-street parking area shall be by clearly limited and defined drives and shall be at least twenty (20) feet distant from adjacent property lines in an A-l or R-2 district.

(r) No parking area shall be used for parking or storing of any commercial vehicle exceeding one-ton capacity in an R-l district.

(s) The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited in any required parking area.

(t) The location of required off-street parking facilities shall be within five hundred (500) feet of the structure containing the use they are intending to serve, measured from the nearest point of the structure.

(u) Parking areas shall not be located-in any required front yard or required side yard.

(v) The Zoning Administrator shall require such assurance, surety or performance bonds in the form, manner and amount, as in his discretion may be required to compel compliance with and performance of all off-street parking requirements of this Code provided however, that such assurance, surety or performance bond shall not be for amounts greater than the reasonable cost of complying with the off-street parking requirements of this Code.

(w) A permit issued for a parking area under the provisions of this Code shall be revocable, subject to compliance with all requirements and conditions as stipulated.

§5.167 Off-Street Parking Requirements for Single-Family Dwellings. Parking areas to serve single family dwellings shall be required in all districts in which they are permitted subject to the following standards and regulations.

(a) Parking areas shall not be located in any required front yard or required side yard except that the driveway in the required front yard leading to a garage or parking area may be used for parking.

(b) No commercial repair work, servicing or selling of any kind shall be conducted in such areas and no sign of any kind shall be erected thereon. No charge shall be made for parking or storage of vehicles.

§5.168 Minimum Standards for Off-Street Loading Facilities. Loading and unloading spaces shall be provided in all C-l, C-2 and IND districts in connection with commercial and industrial uses subject to the following standards and regulations:

(a) Off-street loading areas shall be surfaced with a concrete or bituminous mix pavement and shall be sloped and drained to dispose of surface water.

(b) Any lighting used to illuminate off-street loading areas' shall be so arranged as to direct light away from adjoining premises.

(c) Each loading space shall be at least ten (10) feet wide; twenty-five (25) feet long and shall have a clearance of fourteen (1) feet: above grade.

(d) Required loading areas shall be in addition to required off-street parking areas.

(e) Loading spaces may occupy all or any part of any required yard or court space.

(f) No loading spaces shall be located closer than fifty (50) feet to any lot in any A-l, or R-l district unless wholly within an enclosed building or enclosed on all sides facing A-l or R-l districts, by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than six (6) feet in height.

ARTICLE XII

MOBILE HOME PARKS

§5.170 Conditions Relative to Mobile Home Parks. Mobile Home Parks may be permitted as a Special Use in any A-l District subject to the following procedures and conditions:

§5.171 Purpose. The purpose of these conditions is to provide for the development of mobile home parks, and to promote mobile home parks with the character of residential neighborhoods. It is the intent of this Code that mobile home parks be located in areas which are served adequately by essential public facilities and services such as access streets, police and fire protection, and public water, sanitary sewer, and storm drainage facilities.

§5.172 Permitted Uses. The following buildings and structures, and uses of lots, buildings, and structures may be permitted as Special Uses in this district.

(a) Mobile home dwelling units.

(b) Lines and structures of essential services in accordance with this Code.

(c) Signs, in accordance with this Code.

(d) Accessory structures such as sheds and community buildings.

§5.173 Regulations and Performance Standards. The following regulations shall apply to all mobile home parks.

(a) Lot Area: The minimum area of the lot that comprises the mobile home park shall be fifteen (15) acres.

(b) Height Requirements: No building or structure shall exceed a height of 2 1/2 stories or 35 feet.

(c) The following required yards shall apply:

(i) Minimum front yard: 50 feet

(ii) Minimum rear yard: 50 feet

(iii) Minimum side yard: 50 feet

(iv) Maximum height: 20 feet

(d) Each boundary adjoining a parcel zoned R-l or R-2, if any, shall be adequately fenced or screened as provided in Chapter 55, of this code.

§5.174 Planning and Development Regulations for Mobile Home Parks.

(a) Prohibitions. The business of selling new and/or used mobile homes as a commercial operation in connection with

the operation of mobile home parks shall be prohibited. New or used mobile homes located on lots within the mobile home park to be used and occupied on that site may be sold by a licensed dealer or broker. This section shall not prohibit the sale of a used mobile home by a resident of the mobile home park provided the park's regulations permit the sale.

(b) Compliance. A mobile home shall be in compliance: with the following minimum distances:

(1) Twenty (20) feet from any part of an attached or detached structure of an adjacent mobile home, which is used for living purposes.

(2) Ten (10) feet from an on-site parking space of an adjacent site.

(3) Ten (10) feet from either of the following: An attached or detached structure or accessory of an adjacent mobile home which is not used for living purposes.

(4) Fifty (50) feet from any permanent building.

(5) Ten (10) feet from the edge of an internal street.

(6) Twenty (20) feet from the right-of-way line of a dedicated public street within the mobile home park.

(7) Seven and one-half (7 1/2) feet from a parking bay.

(8) Seven (7) feet from a common pedestrian walkway.

(c) Maximum height of accessory structures. The maximum height of accessory structures in a mobile home park shall be fifteen (15) feet. The height of a storage building on a mobile home site shall not exceed the lesser of fifteen (15) feet or the height of the mobile home.

(d) Parking Requirements.

(1) A minimum of two (2) parking spaces shall be provided for each mobile home site.

(2) Additional parking facilities shall be provided as follows:

(a) for storage of maintenance vehicles:

(b) at the park office location for office visitors:

(c) for general visitor parking, at the ratio of one (1) parking space for every three (3) mobile home sites in the park, in a convenient location for mobile home sites served thereby.

(e) Streets.

(1) Vehicular access to a mobile home park shall be provided by at least one hard, surface public road.

(2) Only streets within the mobile home park shall provide vehicular access to individual mobile home sites in the mobile home park.

(3) Two-way streets shall have a minimum width of twenty one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted, along one side of the street, and forty-one (41) feet where parallel parking is permitted along both sides of the street.

(4) The minimum width of a one-way street shall be thirteen (13) feet where no parallel parking is permitted, twenty three (23) feet where parallel parking is permitted along one side, and thirty three (33) feet where parallel parking is permitted along both sides.

(5) A dead-end road shall -terminate with an adequate turning area. A blunt-end road is prohibited. Parking shall not be permitted within the turning area.

(f) Outdoor Storage. Common storage areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a mobile home park, but shall be limited to use only by residents of the mobile home park. The location of such storage area shall be shown on the site plan required herein. No part of such storage area shall be located in any yard required on the perimeter of the mobile home park. Such storage area shall be screened from view from adjacent residential properties.

(g) Site Constructed Buildings. All buildings constructed on site within a mobile home park must be constructed in compliance with the City of Beaverton City Code. Any addition to a mobile home unit that is not certified as meeting the standards of the US Department of Housing and Urban Development for mobile homes shall comply with the City of Beaverton City Code. Certificates and permits shall be required as provided herein. A final site plan shall be approved prior to construction of any principal structure, not including mobile home units, as provided by this Code.

(h) Placement of a Mobile Home Unit.

(1) It shall be unlawful to park a mobile home unit so that any part of such unit will obstruct a street or pedestrian walkway.

(2) A building permit shall be issued by the City

Building Department before a mobile home may be placed on, a site in a mobile home park.

(i) Site Plan Review Required. Construction of a mobile home park shall require prior approval of a site plan by the City Planning Commission. For purposes of this section only, a site plan shall provide the following information.

(1) The site plan shall be prepared on standard 24-inch by 36-inch sheets and shall be of a scale not greater than one inch equals 20 feet or less than one inch equals 200 feet, and of such accuracy that the Planning Commission can readily interpret the plan.

(2) Scale, north arrow, name and date, plus date of any revisions.

(3) Name and address of property owner and applicant; interest of applicant in the property; name and address of developer.

(4) Name and address of designer. A site plan shall be prepared by a community planner, architect, landscape architect, engineer, or land surveyor registered in the State of Michigan.

(5) A vicinity map, legal description of the property; dimensions and area; lot line dimensions and bearings. A metes and bounds description shall be based on a boundary survey prepared by a registered surveyor.

(6) Existing topography, at minimum of two (2) foot contour intervals; existing natural features such as trees, wooded areas, streams, and wetlands; natural features to remain or to be removed; 100 year flood hazard area.

(7) Existing buildings, structures, and other improvements, including drives, utility poles and sewers, easements,(pipelines, excavations, ditches, bridges, culverts; existing improvements to remain or to be removed, deed restrictions, if any.

(8) Name and address of owners of adjacent properties; use and zoning of adjacent properties; location and outline of buildings, drives, parking lots, and other improvements on adjacent properties.

(9) Locations and size of existing public utilities on or surrounding the property; location of existing fire hydrants; inverts of sanitary and storm sewers; location of existing manholes and catch basins; location of existing wells, septic tanks, and drain fields, if applicable.

(10) Names and rights of way of existing streets on or adjacent to the property; surface type and width; spot elevations of street surface at intersections with streets and drives of the proposed development.

(11) Zoning classification of the subject property; location of required yards; total property area; dwelling unit density; schedule of dwelling units, by type; phasing information.

(12) Grading plan, at a minimum contour interval of two (2) feet.

(13) Location and exterior dimensions of proposed buildings and structures other than mobile home dwellings; height and finished floor elevations of such buildings and structures; location of mobile home and parking spaces on each mobile home site.

(14) Location and alignment of all proposed streets and drives; right of way, where applicable; surface type and width; typical street sections; location and details of curbs; curb radii.

(15) Location and dimensions of proposed parking lots; number of spaces in each lot; dimensions of spaces and aisles; typical section of parking lot surface.

(16) Location, width, and surface of proposed sidewalks and pedestrian paths.

(17) Location, use, size, and proposed improvements of open space and recreation areas.

(18) Location and type of proposed screens and fences; height, typical elevations, and vertical section of screens, showing materials and dimensions.

(19) Location, type, size, area, and height of proposed signs.

(20) General proposed utility layout for sanitary sewer, water and storm water systems.

(21) An overall map at a smaller scale showing how this property ties in with all other surrounding propertied should be developed to include:

(a) existing and proposed water mains, sanitary and storm sewers in the area including sanitary sewer service areas;

(b) the road network in the area;

(c) the relationship of existing and proposed drainage courses and retention basins in the general area that impact or are impacted by this

development as well as an area wide drainage map showing all the sub-areas that affect this site (all drainage , must be directed to retention ponds);

(d) the map should also be on a twenty-four (24”) inch by thirty-six (36”) inch sheet.

(1) Landscape plan showing location, type, and size of plant materials.

(2) Location, dimension, and materials of proposed retaining walls; fill materials; typical vertical section.

(j) Occupancy. A mobile home in a mobile home park shall not be occupied until all required approvals have been obtained from the State of Michigan and a Certificate of Occupancy is issued by the Beaverton City Zoning Administrator.

ARTICLE XIII

PERMITS

§5.180 Building Permits and Certificates of Occupancy. No structure shall be erected, altered, or excavation started until a building permit for such erection or alteration shall have been issued by the City Zoning Administrator and the County Building Inspector. Fees for such City permits shall be established by the City Council by resolution.

§5.181 Unlawful occupancy. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged wholly or partly until a certificate of occupancy has been issued for that premises certifying that the structure or use complies with the provisions of this ordinance. Such occupancy permits shall be granted or denied by the County Building Inspector.

§5.182 Issuance of Certificate of Occupancy. Prior to the issuance of such certificate of occupancy, the County Building Inspector shall be satisfied that the building erected or that the alterations done shall comply in all respects with the building and health laws and ordinances and the provisions of these regulations. It shall be the duty of the applicant for such certificate of occupancy or permit to furnish to the County Building Inspector such plans or other information as the County Building Inspector may require in order to be reasonably satisfied that the building erected or altered will so comply.

§5.183 Permit expiration. All permits shall expire twelve (12) months from the date of issuance. The exterior construction of a building shall be completed within twelve (12) months following issuance of the building permit. No fee shall be required where the cost of remodeling, repairing or altering is less than $1,500.00. All expired permits may be renewed for an additional one-year term at a fee of fifty (50%) percent of the original fee.

ARTICLE XIV

SITE PLAN REVIEW

§5.184 Purpose.

(a) The intent of this section is to provide for consultation and cooperation between the land developer and the City Planning Commission in order that the developer may accomplish his objectives in the utilization of his land within the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

(b) The City Planning Commission may delegate its authority for site plan reviews of single family residence site plans to the zoning administrator.

§5.185 Scope. Except as hereinafter set forth, the Zoning Administrator shall not issue a permit for any construction or uses until a site plan, when required by this Code, submitted in accordance with this section, shall have been reviewed and approved by the City Planning Commission.

(a) Single or two-family homes under separate ownership on an individual and separate lot for each home.

(b) Interior accessory and subordinate buildings requiring no new or additional means of access thereto from adjoining public roads or highways and complying with all zoning ordinance requirements.

(c) Projects involving the expansion, remodeling or enlargement of existing buildings which comply with all zoning ordinance requirements and involve no new or additional means of access thereto from adjoining public roads or highways.

§5.186 Optional Sketch Plan Review. Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final approval. The purpose of such procedure is to allow discussion between a developer and the Planning Commission to better inform the developer of the acceptability of his proposed plans prior to incurring extensive engineering 'and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following:

(a) The name and address of the applicant or developer, including the names and addresses -of any officers of a corporation or partners of a partnership.

(b) A legal description of the property.

(c) Sketch plans showing tentative site and development plans.

The Planning Commission shall not be bound by any tentative approval

given at this time.

§5.187 Application procedure. Requests for final site plan review shall be made by filing with the City Clerk the following:

(a) A review fee as determined by resolution of the City Council based upon the cost of processing the review and as shall be on file with the City Clerk for public information.

(b) Seven copies of the completed application form for site plan review which shall contain as a minimum the following:

(1) the name and address of applicant:

(2) the legal description of the subject parcel of land:

(3) the area of the subject parcel of land stated in acres or, if less that an acre, in square feet:

(4) the present zoning classification of the subject parcel:

(5) a general description of the proposed development.

(c) Seven copies of the proposed site plan which shall include as a minimum the following:

A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer; the topography of the site and its relationship to adjoining land; existing man-made features; dimensions of setbacks, locations, heights and size of structures and other important features; percentage of land covered by buildings and that reserved for open space; dwelling unit density where pertinent; location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the site; curb-cuts, driving lanes, parking and1 loading areas; location and type of drainage, sanitary sewers, storm sewers, and other facilities; fences; landscaping; screening; proposed earth changes; environmental impact of the project; signs and on-site illumination; and any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may , be demanded by the Zoning Administrator and County Building Inspector or the Planning Commission.

§5.188 Action on Application and Plans.

(a) Upon receipt of the application and plans, the City Clerk shall record the date of the receipt thereof and transmit five copies thereof to the chairman of the Planning Commission; one copy to the City Zoning Administrator and one copy to the City Administrator.

(b) A hearing shall be scheduled by the Chairman of the Planning Commission for a review of the application and plans as well as the recommendations of the City Administrator and the City Zoning Administrator with regard thereto. Members of the Planning Commission shall be delivered copies of the same prior to the hearing for their preliminary information and study. The hearing shall be scheduled within not more than 45 days following the date of the receipt of the plans and application of the City Clerk.

(c) The applicant shall be notified of the date, time and place of the hearing on his application not less than three (3) days prior to such date.

(d) Following the hearing, the Planning Commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of the City Zoning Ordinance and criteria therein contained. Any required modification or alteration shall be stated in writing, together with the reasons therefore, and delivered to the applicant. The Planning Commission may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the same have been included in the proposed plans for the applicant. The decision of the Planning Commission shall be made by said Commission within 100 days of the receipt of the application by the City Clerk.

(e) Two copies of the approved final site plan with any required modifications thereon shall be maintained as part of the City records for future review and enforcement. One copy, shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the chairman of the Planning Commission for identification of the finally approved plans. If any variances from the zoning ordinance have been obtained from the Planning Commission, the minutes concerning the variance, duly signed, shall also be filed with the City records as a part of the site plan and delivered to the applicant for his information and direction.

§5.189 Criteria for Review. In reviewing the application and site plan and approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:

(a) That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to assure the safety and convenience of pedestrian and vehicular traffic.

(b) That the buildings, structures and entryways thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects there from upon owners and occupants of adjacent properties and the

neighborhood.

(c) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

(d) That any adverse effects of the proposed development and activities emanating there from upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping.

(e) That all provisions of the City Zoning Ordinance are complied with unless an appropriate variance there from has been granted by the Zoning Board of Appeals.

(f) That all buildings and structures are accessible to emergency vehicles.

(g) That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its particular suitability for particular uses and the general and appropriate trend and character of land, building and population development.

§5.190 Conformity to Approved Site plan. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the approval thereof shall be forthwith revoked by the City Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application of the developer and after a hearing, approve a modification in the site plan to coincide with the developer's construction provided such construction complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the City Zoning Ordinance.

Approval of the site plan shall be valid for a period of one (1) year

after the date of approval. If a building permit has not been obtained and on-site development actually commenced within said one (1) year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval shall be required and obtained before any construction or earth change is commenced upon the site.

§5.191 Amendment to Site Plan. A proposed amendment, modification or alteration to a previously approved site plan shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

ARTICLE XV

PLANNED UNIT DEVELOPMENT

§5.192 Intent. The intent of this article is to provide an optional method for land development, which allows for flexibility in the application of the standards governing the type of structures permitted and their placement on the property. A Planned Unit Development will provide for the development of land as an integral unit which incorporates within a single plan the location and arrangement of all buildings, drives, parking areas, utilities, landscaping, and any other improvements or changes within the site. Deviation from the specific site development standards of this Zoning Ordinance may be allowed, so long as the general purposes for the standards are achieved and the general provisions of the zoning regulations observed. A Planned Unit Development shall be designed to achieve compatibility with the surrounding area, and shall also be designed to encourage innovation and variety in the design, layout, and type of development; to achieve economy and efficiency in the use of land, natural resources, and energy; to provide for efficiencies and economies in providing public services and utilities and to encourage the development of more useful open space.

The total area comprising a Planned Unit Development is to be planned and developed as a unified and coordinated project.

§5.192.01 Definitions.

(a) "Planned Unit Development" shall mean a development, planned and developed as a unit, under unified control, developed according to comprehensive and detailed plans, including a program providing for the continual maintenance and operation of such improvements, facilities, and services which will be for the common use of the occupants of the planned Unit Development.

(b) "Common Open Space" shall mean lands within the Planned Unit Development, under the common ownership of all residents in the Planned Unit Development, to be used for park, recreation, or environmental amenity. These lands shall not include public or private streets, driveways, or parking areas. Within these lands only facilities and structures for recreational purposes may be constructed, With the total impervious area of roofs and paving constituting not more than ten (10%) percent of the total

open space.

(c) "Attached Single-Family Dwelling" shall mean a single-family dwelling unit attached to one or more other single-family dwelling units by means of a common party wall or by a connecting wall or similar architectural feature such as a garage or carport, and with such dwelling having its own doors which open to the outdoors.

(d) "Home Owners Associations" shall mean an association of all owners of a project organized for the purpose of administering, managing, and maintaining the common open space and common property and facilities. This association shall be described in all covenants, deeds, or other recorded legal documents which affect the title to any land within the development.

§5.192.02 Development Standards and Modifications. A Planned Unit Development will be developed in accord with the following standards except that, upon recommendation of the City Planning Commission, the City Council may waive a part or all of these requirements, where, because of parcel size or shape, or other extenuating factors, such a restriction would be to the detriment of quality development, properly can be eliminated.

(a) Minimum Size Requirement: 3 acres

(b) Permitted Principal Uses:

(1) Residential R-l Districts:
Single-Family Dwellings
Attached single-family dwellings limited to a cluster of units not more than 150 feet in length.

(2) Residential R-2 Districts:
Single-Family Dwellings
Attached single-family dwellings limited to a cluster of units not more than 150 feet in length.

(3) C-l, C-2, or IND commercial:
Strip Malls
Shopping Malls
Restaurant or food courts
Entertainment facilities not including defined public recreation facilities, not to include race tracks or go-kart tracks
Office parks

(c) Allowable residential densities:

The maximum density permitted in a Planned Unit Development shall be:

R-l 5.0 Dwelling Units per Acre

R-2 15.0 Dwelling Units per Acre

Where a Planned Unit Development includes lands in more than one zoning district, the dwelling units must be distributed throughout the project in accord with the allowable density of the zoning district in which they are located.

(d) Permitted Accessory Uses:

(1) Common open space for passive or active recreation, and golf course area specifically for the residents of the Planned Unit Development.

(2) Streams or Ponds

(3) Parking lots

(4) Other uses which, as the result of the plan review process, are determined to be designed to serve the residents of the Planned Unit Development.

(e) Common Open Space: At least forty (40%) percent of total land area within a Planned Unit Development shall be in common open space, and it shall be distributed more or less uniformly throughout the total site area.

(f) Unified Control: All lands within a proposed Planned Unit Development shall be under the control of a single applicant, with that applicant being an individual, partnership, corporation, or group of individuals, partnerships or corporations. All buildings, structures, landscaping and other improvements in a Planned Unit Development shall be under the unified control of the same applicant.

(g) Access and Circulation:

(1) Roadway access for Planned Unit Developments will be reviewed in accord with standards set forth in the Subdivision Regulations of the City of Beaverton

(2) Private Roadway Width: Minimum, twenty (20') feet. Roadways will be paved in accord with specifications approved by the City.

(3) Improved walkways will be provided within the Planned Unit Development as dictated by internal circulation requirements, and walkways shall connect to external walks providing access to schools, parks, and other pedestrian traffic generators.

(h) Parking Standards:

(1) Spaces Required:
1 bedroom units' one and one-half spaces
2+ bedroom units' two spaces
Guest parking as dictated by project design
Commercial parking as dictated by project design

(2) Design and Layout, Residential R-l Zoning Districts:

(i) Parking in a residential R-l District must be arranged so as to be compatible with the surrounding development in that residential district. Parking for residents and guests must be considered in the overall design. Private drives and garages are allowed.

(ii) Parking Lot Size:

(a) Parking space dimensions shall be no less than ten (10') feet in width or twenty (20') feet in length.

(b) A single parking area shall contain no more than twenty (20) parking spaces

(c) Within a parking area, no more than ten (10) spaces shall be permitted in a continuous row without being interrupted by landscaping.

(iii) Parking Storage Areas: Separate parking or storage areas may be provided to accommodate motor homes, campers, boats, and similar vehicles and equipment. Such areas will be screened from both within and without the Planned Unit Development.

(3) Design and Layout, all other districts:

(i) Parking space dimensions shall be no less than ten (10') feet in width or twenty (20') in length.

(ii) Parking Lot Sizes:

(a) Not more than forty (40) parking spaces shall be accommodated in a single parking area.

(b) More than ten (10) parking spaces shall be permitted in a continuous row without being interrupted by landscaping.

(4) Parking Lot Screening: Parking areas shall be screened from adjacent roads and buildings with hedged, fences, wails, dense plantings or berms.

(5) Lighting: All areas shall be adequately lighted. Lighting shall be so arranged as to direct away from any residential buildings.

(i) Yard Requirements, Site perimeter:

(1) Where a Planned Unit Development abuts a Residential

R-l Zoning District, all structures shall be at least thirty (30') feet from any perimeter boundary line, except that such structures in excess of forty (40') feet in length shall be set back an additional foot for every five (51) feet of building length parallel to said boundary line.

(2) Where a Planned Unit Development abuts a zoning district other and a Residential R-l or R-2 Zoning District, all structures shall be set back at least twenty-five (25') feet from any perimeter boundary line.

(3) Where a Planned Unit Development abuts a Residential R-l zoning District, no intensive recreational building or facility shall be located within fifty (50') feet of any perimeter boundary line.

(4) Except for single-family detached dwelling units, where a Planned Unit Development abuts a Residential R-l zoning District, no parking area shall be within fifty (50') feet of any perimeter boundary line.

(j) Yard Requirements: Interior: Yards in the interior of a Planned Unit Development may be less than those required in the zoning district within which located. Development may occur without any provision for interior yards, but in no case shall buildings be closer than ten (10') feet from each other (zero lot line development).

(k) Underground Utilities: All utilities within a Planned Unit Development shall be constructed underground.

(l) Lot Sizes: Lot sizes may be reduced from the regulations of the specific zoning district. Provisions may be made for developments without lot area.

(m) Dwelling Unit Access: Dwelling units may front on and take access from private roadways which are part of the commonly held lands within the development.

§5.192.03 Applications procedure. Applications are to be filed with the City Administrator, City of Beaverton.

(a) Applicant: An application for approval of a Planned Unit Development shall be submitted by or on behalf of an applicant who has a demonstrable legal interest in all of the lands within the proposed development.

(b) Pre-application Conference: An applicant shall meet with the City Administrator prior to the submission of a formal application. The purpose of the conference is to review procedures necessary for the submission of an application. Special problems concerning utilities, street access, site design, and zoning will be identified to enable the developer to better plan for the project. Time requirements for plan approval will be reviewed.

(c) Preliminary Plan Application: Before submitting a final plan, an applicant shall submit a preliminary plan of the Planned Unit Development, in accord with requirements set forth in Section 5.192.03(e). This plan shall show the name, location, and principal design elements so as to enable the City to make a determination as to whether the Planned Unit Development is in conformance with the requirements of the Zoning Ordinance. The approval of a preliminary plan shall confer on the applicant the conditional right that the general terms and conditions under which the preliminary plat approval was granted will not be changed.

(d) Final Plan Application: Upon approval of a preliminary plan application, a developer shall prepare and submit a final plan application in accordance with the requirements set forth in Section 5.192.03(f). A final plan submitted in accord with an approved preliminary plan shall warrant approval by the City Planning Commission and the City Council. Upon approval of a final plan application by the City Council, the developer may obtain necessary building permits for the construction of the Planned Unit Development.

(e) Submission Requirements Preliminary Plan Application:

(1) Applicant's name, address, phone number, proof of property interest, and the name, address, and the phone number of the architect, engineer, or designer preparing the application. (2 copies)

(2) A written legal description of the total site area proposed for development. (2 copies)

(3) A site plan and supporting maps and drawings containing the following information at a scale of not more than 1" = 100' and sufficiently dimensioned so as to identify the size and location of the various elements of the plan. (5 copies)

(i) Location map

(ii) Site topography, existing and proposed, interval no greater than two (21) feet.

(iii) The location of all existing and proposed buildings and structures.

(iv) Public and private roadways within and adjacent to the site.

(v) Walkways within and adjacent to the site.

(vi) Park areas, driveways, and loading and service areas.

(vii) Open areas, and a description as to use.

(viii) A written tabulation of statistical data concerning the site, including the number of dwelling units by type, the area of all parcels created, the area of all common open space, and the number of parking spaces provided.

(ix) A general landscape plan of landscaping within the site. Specific details o(f plant size shall be shown for any landscaping provided to comply with any required screening within the project.

(x) The location and screening of any outside trash containers.

(xi) The location and size of all existing utilities and drainage facilities.

(xii) The general location and size of all proposed utilities and drainage facilities.

(xiii) The dimensions of all parcels to be created as a part of the development.

(4) Building elevation drawings showing the architectural style to be used in the development. (2 copies)

(5) A submittal fee as determined by resolution of the Beaverton City Council from time to time.

(f) Submission Requirements: Final Plan Application:

(1) Applicant's name, address, phone number, proof of property interest, and the name, address, and phone number of the architect, engineer, or designer preparing the application. (2 copies)

(2) A written legal description of the total site area proposed for development. (2 copies)

(3) A letter of transmittal setting forth the proposed development schedule, including the sequence of any phases of development. (2 copies)

(4) A site plan and supporting maps and drawings containing- the following information at a scale of not more than 1" = 100', and dimensioned so as to identify the size and location for the various elements of the plan. (5 copies)

(i) A location map.

(ii) Site topography, existing and proposed, interval nor greater than two (2') feet.

(iii) The location of all existing and proposed buildings and structures.

(iv) Public and private roadways within and adjacent to the site.

(v) Walkways within and adjacent to the site.

(vi) Park areas, driveways, and loading and service areas.

(vii) Open areas, and a description as to use.

(viii) A written tabulation of statistical data concerning the site, including the number of dwelling units by type, the area of all parcels created, the area of all common open space, and the number of parking spaces provided.

(ix) A general landscape plan of landscaping within the site. Specific details of plant size shall be shown for any landscaping provided to comply with any required screening within the project.

(x) The location and screening of any outside trash containers.

(xi) The dimensions of all parcels to be created as a part of the development.

(5) The organizational structure of the homeowner's association to be formed for the operation and maintenance of all common open space and common property and facilities within the development. (2 copies)

(6) A copy of all covenants pertaining to the development. (2 copies)

(7) Plans and specifications for all sanitary sewer, storm drainage, water and roadways within the project. Said plans and specifications shall be prepared by a professional engineer in accord with the standards of the Department of Public Health of the State of Michigan, as they pertain to public utilities.

§5.192.04 Preliminary Plan: Planning Commission Review and Approval.

(a) Public Hearing and Notice: The Planning Commission shall conduct a public hearing on the proposed Planned Unit Development. Notice of said public hearing shall be published in the local newspaper not less than five (5), but not more than fifteen (15) days prior to the date of the public hearing. All property owners of lands within three hundred (330') feet of the property in question shall be notified by first class mail.

(b) Commission Action: After a study of the application for a

Planned Unit Development, and within sixty (60) days of receipt of said application, the Planning Commission shall recommend to the City Council the approval, approval with modification, or disapproval of the project. The Planning Commission shall prepare a report explaining its action and any modifications and conditions of approval or denial. The decisions of the Planning Commission shall be based on: (1) the standards incorporated in Section 5.192.02 of this Chapter and any other applicable standards set forth in ordinances and regulations of the City of Beaverton; (2) a determination that the development is not detrimental to the health, safety, and welfare of the community; and (3) determination that the development shall not be detrimental or injurious to the character of the neighborhood in which located and that the development is compatible with said neighborhood. The value of the housing units, if any, in the proposed Planned Unit Development and the aesthetic quality (i.e., architectural design, landscaping, construction materials, etc.) of the PUD shall be comparable to said neighborhood in determining compatibility.

The review period may be extended upon a written request of the applicant.

§5.192.05 City Council Review and Approval: Preliminary Plan

(a) Public Hearing and Notice: Upon receipt of a recommendation from the Planning Commission, the City Council shall conduct a public hearing on the proposed Planned Unit Development. Notice of said public hearing shall be published in the local newspaper not less than five (5) days but not more than fifteen (15) days prior to the date of the public hearing. All property owners of lands within three hundred (300') feet of the property in question and the occupants of all structures within three hundred (300') feet of the property in question shall be notified by first class mail.

(b) City Council Action: Within forty-five (45) days after receipt of a recommendation from the Planning Commission shall conduct a public hearing and shall approve, approve with modification, or disapprove the proposed Planned Unit Development. The basis for the Council action and any modifications or conditions of the approval of the Planned Unit Development shall be set forth in writing as a part of the official Council action.

(c) This review and approval of the City Council shall be based on: (1) the standards incorporated in Section5.192.02 of this Article and any other applicable standards set forth in ordinances and regulations of the City of Beaverton; (2) a determination that the development is not detrimental to the health, safety, and welfare of the community; (3) a determination that the development shall not be detrimental or injurious to the character of the neighborhood in which located and that the development is compatible with said

neighborhood. The value of the housing units in the proposed Planned Unit Development and the aesthetic quality (i.e., architectural design, landscaping, construction materials, etc.) of the PUD shall be comparable to said neighborhood in determining compatibility.

(d) Developer Action: after receiving City Council approval of the preliminary plan, the developer may proceed with the installation of any public works improvements, as defined in Title II of the Code of Ordinances of the City of Beaverton, required to serve the development. Said improvements shall be in accord with the approved preliminary plan, and plans and specifications shall be approved by the City Engineer. The developer shall have paid to the City the required fee for said engineering inspection prior to the City Engineer's performance of inspection services. In no event will the developer be permitted to proceed with any further or additional construction or development until receiving final plan approval.

§5.192.06 Final Plan: Review and Approval.

(a) Developers submission. A developer may submit to the City Administrator for final approval all or part of the plan for which preliminary approval has been received. Any final plan for a part of the larger development shall be such that its proportional share of the common space shall be included in and contiguous to the area to be developed, and said partial development shall be capable of standing on its own with respect to necessary improvements, circulation, facilities and open space.

(b) Planning Commission Action: After a study of the proposed final plan for 'a Planned Unit Development or part thereof, the Planning Commission shall, within thirty (30) days of the receipt of said plan, recommend to the City Council approval, approval with modification, or disapproval of project. The Planning Commission shall prepare a report explaining its action. The Planning Commission shall recommend approval of a final plan unless it is determined that said final plan is not in accordance with the approved preliminary plan or unless said final plan, when a part of a total proposed plan does not represent a proportion of all critical elements of said plan.

(c) City Council Action: Within thirty (30) days of the receipt of a recommendation from the City Planning Commission, and after the execution of the agreement by the developer, as required in Section 5.192.06(d), the City Council shall approve, approve with modification, or disapprove the final plan. A final plan shall be approved unless it is determined that it is not in conformance with the approved preliminary plan or that said final plan, when a part of the total proposed plan does not represent a proportional part of all the critical elements of said

plan. The Council shall set forth in writing the basis for its' decision and any conditions relating to an affirmative decision.

(d) Agreement Required: Prior to final plan approval by the City Council, the developer shall have executed, and submitted in duplicate to the City Administrator, an agreement with the City setting forth: (1) the specific location and use of all common lands and common facilities within the development; (2) the organizational structure of the homeowner's association and provisions for implementation of transfer of control to said association from the developer; (3) the methods for levying taxes and operation maintenance fee; (4) provisions enabling the City to enter in and maintain such common lands and facilities when the developer or homeowner's association has failed to do so, along with procedures for assessing such costs back to the development; (5) provisions whereby the County Building Inspector shall not issue a Certificate of Occupancy until all the required improvements as set forth in the site plan have been completed, or a financial guarantee sufficient to cover the cost of any improvements not completed, has been provided to the City as prescribed in accordance with the provisions of Section 5.192.08; (6) provisions to allow the City to enter and complete such improvements if the developer has failed to do so within the stated period of time.

This agreement shall be approved as to form and content by the City Attorney.

§5.192.07 Approval Period.

(a) Preliminary Plan: The length of approval of a preliminary plan for a Planned Unit Development shall be eighteen (18) months from the date of City Council Action. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by the City Council twice, each for a period of one (1) year.

(b) Final Plan: The length of approval of a final plan for a Planned Unit Development shall be two (2) years from the date of City Council action. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by the City Council twice, each for a period of one (1) year. Where a Planned Unit Development is being developed in phases, the initiation of each new development phase shall automatically extend the approval for two (2) years form the date of issuance of a building permit.

§5.192.08 Performance Guarantee.

(a) Condition for Issuance of Temporary Certificate of Occupancy: If, when a Certificate of Occupancy is requested, all required site improvements have not been

completed, the Building Official may issue a temporary certificate of occupancy upon receipt from the developer by the City Clerk of a financial guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount sufficient to cover the cost of outstanding improvements.

(b) Covered Improvements: The amount of the performance guarantee shall be limited to cover the estimated cost of improvements necessary to comply with provisions of the Zoning Ordinance and any conditions attached to the Planned Unit Development approval, and said improvements shall include, but not be limited to, roadways, lighting, utilities, sidewalks, screening, and drainage.

(c) Exemptions: This section shall not be applicable to improvements for which a, cash deposit, certified check, irrevocable bank letter of credit or surety bond has been deposited pursuant to Act No. 288 of the public Acts of 1967, as amended, being Sections 560.101 to 560.293 of MCL.

(d) Completion Time: All required improvements covered by the performance guarantee shall be completed within two hundred forty (240) days of the issuance of the temporary Certificate of Occupancy. In the event all required improvements are not completed within the time period provided, the City, by resolution of the City Council, may proceed to have such work completed and reimburse itself for the cost thereof from the security furnished by the proprietor.

(e) Release of Performance Guarantee: Upon the written request of the developer for a release of all or a portion of the financial security provided for the completion of the improvements, and upon certification by the County Building Inspector that the proportion of the financial security requested to be released is equal to or less than the proportion of the improvements installed at the date of such request, the City Administrator may authorize the release of such financial security to the developer or to such other source as shall be directed by the developer. Any written request from the developer seeking a release of a portion of the financial security shall be accompanied by a written certification from the developer's engineer or architect certifying what part of the improvements have, in fact, been completed.

§5.192.09 Amendments to Plans. Minor changes in the location, sitting, or character of buildings and structures may be authorized by the City Administrator, if required by engineering or other circumstances not foreseen at the time the final development program was approved. No change authorized under this Section may increase by more than ten (10%) percent, or decrease by more than twenty (20%) percent, the size of any building or structure, nor change the location of any building or structure by more than ten (10') feet in any direction; provided, notwithstanding anything in the foregoing, the City Administrator may not permit changes beyond the minimum or

maximum requirements set forth in this Ordinance.

All other changes in the Planned Unit Development, including changes in the site plan and in the development schedule, must be made under the procedures that are applicable to the initial approval of a Planned Unit Development.

§5.192.10 Subdivision Requirements. Any Planned Unit Development which will result in the creation of parcels of land under separate ownership, as defined in Act 288 of 1967, the Subdivision Control Act, or Act 59 of 1978, the Condominium Act, shall comply with the provisions of those Acts.

ARTICLE XVI

AUTHORITY

§5.193.01 Establishment and Authority. The City Council is established by provisions of the Fourth Class Cities Act by which all powers of the City shall be vested and all matters of policy of the City shall be determined by the Council. For the purposes of this Ordinance, the City Council, as provided in Michigan State Statutes as amended, Act 285 P.A. 1931 and Act 207 P.A. 1921 may develop and maintain or may appoint a Planning Commission, Zoning Board of Appeals and a Zoning Administrator to develop and maintain a Zoning Ordinance and to report any findings, violations and recommendations to the City Council for appropriate legislative action.

§5.193.02 Duties and Procedures. For the purposes of administering this Ordinance all matters concerning Zoning shall be directed to the City Council by its duly appointed Zoning Administrator, for referral to the appropriate official, commission or board for proper action. In any case which will involve an amendment or change to the text or map of this Ordinance the City Council shall adopt a resolution directing the Planning Commission to conduct a public hearing and to make recommendations back to the City Council for final legislative action. In all matters pertaining to the administering of this Ordinance, the decision of the City Council shall be final except for appeals which have been decided by the Zoning Board of Appeals in accordance with Section 5.194.02 and Section 5.195.06, this Ordinance and Section 5, Act 207 P.A. 1921, as amended.

CITY PLANNING COMMISSION

§5.193.04 City Planning Commission, Appointment and Establishment. The City Planning Commission is authorized by the provisions of the Municipal Planning Commission Act being Act 285, P.A. 1931 State of Michigan which states that the Planning Commission shall be appointed by the City Council. For the purposes of administering this Ordinance and by authority of the City and Village Zoning Act, being Act 207, P.A. 1921 State of Michigan, the City Council may appoint the City Planning Commission to perform the duties as specified in said Act.

§5.193.05 Planning Commission Duties and Responsibilities. The Planning Commission is authorized to adopt Rules of Procedure

consistent with the statutes of Michigan and the provisions of this Ordinance. The Planning Commission as directed by the City Council shall develop and administer this Ordinance; all site plan review shall be by the Planning Commission. All matters pertaining to the amendment or the changing of the Ordinance text or map or for a Special Use Permit request shall be referred to the Planning Commission. For each request for an amendment or change of the Ordinance or for Special Use Permit the Planning Commission shall review the request, conduct a Public Hearing and forward recommendations for approval, conditional approval or denial to the City Council which shall make the final decision on the request.

ARTICLE XVII

ZONING BOARD OF APPEALS

§5.194.01 Zoning Board of Appeals, Appointment and Establishment. The Zoning Board of Appeals is authorized by the provisions of the City and Village Zoning Act, being Act 207, P.A. 1921 State of Michigan which states that the City Council may act as a Zoning Board of Appeals or the City Council may appoint the Zoning Board of Appeals. The Board of Appeals shall be constituted consistent with that Act. Such Board of Appeals shall consist of not less than five (5) members and it may fix rules and regulations to govern its procedures.

§5.194.02 Zoning Board of Appeals, Duties and Responsibilities. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decision or determinations made by an administrative official charged with the enforcement of this Ordinance, and appeals from decisions of the Planning Commission. The Zoning Board of Appeals shall not have the power to alter or change the Zoning district classification of any property, nor to make any change in the terms of this Ordinance but does have the power to act on those matters where this Ordinance provides for administrative review or interpretation and to authorize a variance after proper review and public hearing. Any decision of the Zoning Board of Appeals, after following correct and lawful procedure, shall be final after the expiration of five (5) days from the date of entry of such decision unless the Zoning Board of Appeals shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

§5.194.03 Time for Appeal. Any person aggrieved by a decision under this Chapter must take an appeal within twenty one (21) days. Failure to do so will bar any and all claim or appeal.

ARTICLE XVIII

ZONING ADMINISTRATOR

§5.195.01 Zoning Administrator, Appointment and Authority. The Zoning Administrator may also be the Building Inspector, City Supervisor, City Administrator or any other official who shall be charged with administering this Ordinance. The Zoning Administrator may be employed in accordance with Section 5 of Act 285 Michigan P.A. 1931, as amended.

§5.195.02 Zoning Administrator, Duties and Responsibilities. The Zoning Administrator shall be responsible for the updating and maintenance of the "master copy" of the Zoning Ordinance text and map. He shall be thoroughly familiar with the provisions of this Ordinance in order to administer it adequately.

The Zoning Administrator shall make periodic checks of all properties in the City to assure compliance with this Ordinance. Any violations of this Ordinance shall be reported in writing to the City Council for further action.

The Zoning Administrator shall review all applications for Building Permits to assure that the proposed use is in compliance with the terms of this Ordinance.

The Zoning Administrator shall receive all requests for rezoning, Ordinance amendments, variances, Special Use Permits and forward these requests to the proper official, commission or council. He shall, under no circumstances, be permitted to make changes in any part of this Ordinance or to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.

Prior to the occupancy of any structure or use permitted by t*he provisions of this Ordinance, the Zoning Administrator shall issue a Certificate of Occupancy stating that the proposed use is in compliance with the provisions of this Ordinance.

The Zoning Administrator shall act as a non-voting advisor to the City Council, Planning Commission and Zoning Board of Appeals. Any information, data or statements presented to these bodies by the Zoning Administrator shall be purely advisory in nature for the purpose of clarification and coordination and will not restrict decisions made by these bodies.

§5.195.03 Public Hearing. Official Public Hearings shall be conducted by the respective agency, board, commission, board of appeals or legislative body at any time this Ordinance is amended, supplemented, changed or otherwise 'altered or in any circumstance in which a Public Hearing is required by State enabling legislation or this Ordinance.

Each Public Hearing shall be for the purpose of permitting residents and property owners to state views, opinions, suggestions and questions about the item for which the Hearing is being held. Public Hearings shall be open for public attendance and participation within the procedures adopted for conducting such Hearing.

Each Public Hearing shall be conducted in accordance with the procedures adopted by the respective board, commission or council. An official record of each Public Hearing shall be made by means of either a verbatim transcript or an electronic recording, a copy of which shall be maintained as a public record.

§5.195.04 Zoning Ordinance Amendment Hearings. For each proposed amendment to this Ordinance the City Council, by resolution, shall direct the Planning Commission to conduct at least one (1) Public Hearing and to forward its recommendations for approval or

denial to the City Council. For each proposed amendment for which the Planning, Commission has forwarded its recommendation, the City Council shall conduct at least one (1) Public Hearing.

Each Public Hearing shall be announced not less than fifteen (15) days prior to the date of the Hearing by publication in a newspaper of general circulation in the community and by registered mail to all public utilities and railroads operating within the Corporate Limits of the City. Each Public Hearing notice shall state the date, time and place of the Public Hearing.

§5.195.05 Special Use Permit Hearings. For each application for a Special Use Permit the Planning Commission shall conduct a Public Hearing in accordance with procedures outlined in Articles IX and XV of this Chapter. Matters to be considered shall be the provisions as stipulated for respective uses in accordance with Articles IX and XV of this Chapter, as applicable.

§5.195.06 Appeals Hearings for Interpretation, Administrative Review or Variance. For each case in which the Zoning Board of Appeals has the authority to act on matters concerning interpretation, administrative review or a variance the Board of Appeals shall conduct a Public Hearing.

Each Public Hearing shall be announced not less than fifteen (15) days prior to the date of the Hearing by publication in a newspaper of general circulation in the community and by personal delivery or by U.S. Mail to the appellant, to the officer from whom the appeal is taken, to the respective owners on record of real property within three hundred (300) feet of the property in question and to the occupants of all single and two family dwellings within three hundred (300) feet at the addresses given in the last assessment roll. If the tenants name is not known, the term "Occupant" may be used.

TITLE V

LAND USE

CHAPTER 52

SUBDIVISION CONTROL

§5.200 Definitions. The following definitions shall apply in the interpretation of this Chapter:

(a) The word "subdivide" as used herein shall have the same meaning as defined in Act 288 of the public Acts of 1967, State of Michigan, and amendments thereto.

(b) A parking space shall mean an area of not less than one hundred sixty (160) square feet, exclusive of drives or aisles, giving access thereto, accessible from streets or alleys, and to be usable for the storage or parking of self-propelled passenger automobiles.

PROCEDURE FOR THE PREPARATION AND FILING OF PLATS

§5.201 Application. An application in writing shall be submitted to the City Planning Commission by the owner or his authorized representative for approval of a preliminary plat of any proposed subdivision lying in the limits of the City of Beaverton.

§5.202 Preliminary Plat. Three (3) copies of the preliminary plat at a scale of not more than two hundred (200') feet to the inch showing the following shall be submitted with the application:

(a) Title under which proposed subdivision is to be recorded, description of land to be platted, name and address of owner and technical author of the plan.

(b) Location of existing property lines, streets, buildings, watercourses, railroads, utilities and other physical features.

(c) The location of the adjoining streets, utilities, buildings and other physical features which relate to the development of the subdivision.

(d) The location, name and width of proposed streets, alleys, easements and public utilities, parks, plantings, lots and building lines on the property to be subdivided.

(e) Any engineering data deemed necessary relative to the topography, street cross-section, sewer elevations, water elevations, etc.

(f) Proposed use of property.

(g) Areas proposed to be dedicated for public purposes.

(h) Proposed grade elevations at street intersections or breaks

of grades.

(i) Date, north point and graphic scale.

§5.203 Tentative Approval of Preliminary Plat. Preliminary plats shall be subject to the tentative approval of the City Planning Commission which shall take into consideration the City's requirements and the most appropriate use of the land. Particular attention will be given to the standards of design, the justification for the development of public improvements and the subdivision's conformity to the existing street plan. The width, location and arrangement of streets, the dimensions of lots, the location of utilities and other features will be studied.

If the preliminary plat is approved by the Planning Commission, it shall be forwarded to the City Council.

If the preliminary plat meets the approval of the City Council, then the subdivider may proceed to make an accurate survey of the property and prepare the final plat. Plans thus tentatively approved by the City Council shall bear the signature of the City Clerk and one copy shall be filed in the file of the City Planning Commission, one copy in the office of the City Clerk, and the third signed copy returned to the subdivider.

The approval of a preliminary plat shall not constitute an acceptance of the subdivision. The final or record subdivision plat shall be submitted to the City Planning Commission in triplicate, within one (1) year after approval of the preliminary plat; otherwise the approval of the preliminary plat shall become null and void unless an extension of time is applied for and the application is granted by the Commission.

§5.204 Record or Final Plat. The final plat shall be prepared and presented in accordance with the provisions of Act 288, Public Acts of Michigan for 1967, as amended, and in addition shall show:

(a) Any private restrictions shall be shown on plat or reference to them made thereon; and plats shall contain proper acknowledgments of owner and mortgagees accepting said plating restrictions.

(b) In addition to the above the City Planning Commission will require a statement from each subdivider indicating:

(i) Ownership of the property proposed to be subdivided as evidenced by an abstract of title certified to date, or, __at the option of the proprietor, a policy of title insurance.

(ii) The improvements and utilities to be installed by the subdivider.

(iii) The restrictions to be imposed upon the property after subdivision.

(iv) The streets, alleys, parks and easements as agreed

upon with the City Council, with a recital that same are dedicated to the use of the public.

(v) The total area in acres of the tract to be subdivided.

(vi) The net area in lots.

(vii) The total lot frontage in feet, classified as to:

(1) residential frontage,

(2) business frontage,

(3) Industrial frontage.

(viii) The area in streets.

(ix) The area in parks.

§5.205 Plat Development Plan. In addition to the foregoing the City Council will require from each subdivider a plat development plan drawn to a scale of one inch to thirty feet, (1"=30') or one inch to forty feet (1"=40'). Such plan shall show the following:

(a) Streets and names thereof.

(b) Lots: numbers and dimensions thereof.

(c) The storm sewer system.

(d) Sanitary sewers.

(e) Proposed elevations at each corner of each lot.

(f) The finished grade of each proposed home.

(g) House numbers.

(h) Approximate setback and approximate side yard clearance.

(i) Sidewalk grades.

(j) Arrows on each lot indicating the ultimate direction of flow, of the surface water as controlled by the planned grading and layout.

Said plat development shall be approved by the City Planning Commission and the City Council.

§5.206 Certificate of Compliance. A certificate showing compliance with such plat development plan, issued by the City Zoning Administrator, shall be required before a certificate of occupancy and compliance shall be issued under the provisions of Chapter 51 (Zoning) of the City Code. The City Zoning Administrator shall make inspections and enforce compliance with said plat development plan.

§5.207 Completion Bond. As a protection to the City's catch basins and drainage system and to ensure compliance with said plat development plan, a surety bond may be required to be given by the owner or developer of the subdivision upon the recommendation of the Planning Commission, Zoning Administrator or the Building official, on the condition that such plat development plan will be followed, and that, in the event the subdivision shall be vacated, in whole or in part, or development thereof postponed the developer will adopt temporary or permanent measures to protect the surrounding area against water damage and to prevent the flow of dirt, earth or debris into catch basins and the drainage system. The Building official may specify measures to be taken to prevent such damage or injury. The amount of such bond shall be fixed by the City Council and the filing of same, when required, shall be a condition precedent to the approval of the plat and the plat development plan by said Council.

§5.208 Failure to Comply with Plan. Failure or refusal to comply with such plat development plan or deviation therefrom shall be a violation of this Code, punishable as provided in Article 1, Chapter 7.

The provisions of this Chapter shall not bar any aggrieved party from any remedy existing under the common law and statutes of" this State against any subdivider, developer, builder or other person for injury to his person or property, or from any other right of action.

The City Attorney is hereby authorized and directed to file a civil suit for injunction against any person who maintains, establishes or conducts a violation, or aids and abets therein, and the agent or lessee of any interest in any violation, together with the persons in control of, any such violation. Such action shall be brought in the name of the City. Upon receiving notice pursuant to this Section, such persons are deemed to have knowledge of the violation and are liable for its maintenance.

§5.209 Hearing. Any plat submitted to the City Council shall contain the name and address of a person to whom notice of a hearing shall be sent and no plat shall be acted on by the Planning Commission without affording a hearing thereon. Notice shall be sent to said person at the said address by registered mail of the time and place of such hearing not .less than five (6) days before the date fixed therefore. Similar notice shall be 'mailed to the owners of land immediately adjoining the platted land, as their names and addresses appear upon the latest City tax record.

§5.210 Approval. The Planning Commission shall, examine the map for compliance with the preliminary plat and required changes thereof and shall forward it to the City Council if in compliance therewith and with this Chapter, within sixty (60) days after submission thereof to it, provided that the applicant may waive this requirement and consent to an extension to such period.

PLATTING REGULATIONS AND REQUIREMENTS

§5.211 Conformity to the City Plan. Subdivisions shall be in harmony with the Master Thoroughfare Plan of the City.

STREETS

§5.212 Relation to Adjoining Street System. The arrangement of streets in a new subdivision shall make provision for the continuation of principal existing streets in adjoining or adjacent subdivision, insofar as they may be necessary for public requirements. In general, such streets shall be of a width as great as that of the street so continued or projected. The center line of such streets shall continue with the centerline of existing streets.

In general, the streets shall extend to the boundary of the subdivision to provide the proper access to adjoining property, and provide for proper connection with the highway system for contiguous land.

Where the plat submitted covers only a part of the subdivider's tract, a sketch of a proposed future street system of the unsubmitted part shall be considered in the light of adjustments and connections with the street system of the part not submitted.

§5.213 Access to Property. Each residential lot within a subdivision shall be provided with a satisfactory means of access. Building permits shall not be issued for the construction of buildings which do not have access on a public street. There shall be no-reserve strips controlling access to a street, except where the control of such strips is definitely placed with the City Council.

§5.214 Large Allotments. Where the parcel is subdivided into larger tracts than for building lots, the platting shall not be such as to stop the opening of major streets and the extension of adjacent minor streets, which in the judgment of the Council shall ultimately be opened and extended.

§5.215 Street Intersections. Streets shall be required to intersect each other at as nearly right angles as practicable. Streets converging at one (1) point shall be reduced to the least practicable number.

§5.216 Streets in Relation to Railroads. Whenever a subdivision is to be laid cat adjacent to a railroad right-of-way, a street shall be placed parallel to the railroad.

The intersection of the center line of the parallel street with that of any street which crosses the railroad shall not be less than three hundred (300') feet from the line of the railroad right-of-way.

§5.217 Dedication of Half-Streets. The dedication of half-streets will be permitted where a subdivision adjoins undeveloped property and wherever there already exists a dedicated and recorded half-street or alley on an adjoining plat, the other half must be dedicated on the proposed plat to make the street or alley complete.

§5.218 Dead End Streets. Dead end streets will net be approved if they exceed four hundred (400') feet in length. Every permanently dead end street shall be of such width at the closed end as will permit a turning radius of not less than forty-five (45') feet.

§5.219 Building Lines and Setback Lines. Building lines shall conform to the requirements of Chapter 51 and the Master Thoroughfare Plan. The minimum width for minor streets shall be sixty (60') feet except in cases where the topography or special conditions make a street of less width more suitable, the City Council may waive the above requirement.

§5.220 Street Grades. Profiles may be required of all streets at the discretion of the City Council. The minimum grade allowed shall be one-half (.5%) percent.

§5.221 Corner Radii. Curb corners shall be rounded with a radius of not less than twenty-five (25') feet. Intersections where the interior angle is less than sixty (60°) degrees shall have the curb corners rounded with at least a thirty (30') foot radius and when the interior angle is less than one hundred thirty-five (135) degrees it is recommended that the corner be rounded with a minimum radius of ten (10') feet. Property lines at such corners shall be rounded or otherwise set back sufficiently to permit such construction.

§5.222 Access to Streets Across Ditches. Subdivider shall provide access to all proposed streets across watercourses or ditches in a standard manner approved by the City, and applicable State and Federal regulations.

§5.223 Street and Subdivision Names. All proposed streets obviously in alignment with another already existing and named, must bear the same name. New street names shall not duplicate existing street names and all names must be approved by the City Council. Duplication of proposed subdivision name, with the names of those already existing, will not be permitted.

§5.224 Alleys. Alleys, having a minimum width of twenty (20') feet, will be required in the rear of all local business and commercial lots. A diagonal cut-off shall be made at all acute and right-angle intersections of alleys sufficient to provide an inside turning radius of thirty (30') feet. At the intersection of alley lines with street lines, a corner cut-off line shall be provided between points established by measuring a distance of five (5') feet in both directions along the alley line and the street line from the point of their intersection.

§5.225 Easements. Where alleys are not provided, easements of not less than six (6') feet in width, shall be provided on each side of rear lot lines and of side lot lines, where necessary, for utilities and shall be noted on the record plat. These easements should be direct and continuous from block to block. Easements of greater width may be required along natural watercourses and channels, such easements to conform substantially to the lines of such natural waterways.

§5.226 Monuments. Monuments shall conform to and shall be placed as required by Act 288 of 1967.

§5.227 Blocks. Residential blocks shall not be less than two hundred (200') feet wide; they shall not be less than six hundred

sixty (660') feet long nor more than twelve hundred (1200') feet. Where blocks are more than eight hundred (800') feet long, a ten (10') foot crosswalk shall be provided near the center of the block.

Business, commercial and industrial blocks shall not be less than two hundred eighty (280') feet wide; they shall not be less than two hundred eighty (280') feet long. Where blocks are more than two hundred eighty (280') feet long a ten (10') foot crosswalk shall-be provided near the center of the block.

§5.228 Lots.

(1) Size of Lots.

(a) No lot classified as residential shall be platted that is less than eighty (80') feet in width and less than twelve thousand (12/000) square feet in area.

(b) No lot classified as business, commercial or industrial shall be platted that is less than forty (40') feet in width and less than five thousand (5,000) square feet in area.

(c) The subdivider and the Planning Commission shall consider the off-street parking provisions as provided in Chapter 51 (Zoning) and make adequate allowance for same.

(2) Lot Lines. All side lot lines should be at right angles to straight street lines, or radial to curved street lines, unless a variation from this rule will give a better street and lot plan.

(3) Lots with Double Frontage. Lots with double frontage shall be avoided, but if provided, the corner lots must have sufficient depth so that a reasonable front yard may be provided on both street frontages to protect similar frontages on adjacent lots in each direction.

(4) Corner Lots. Corner lots shall have extra width sufficient to permit the maintenance of building lines on both front and side. In normal cases, the width required will not be less than the amount of the established building line on the side street, plus the irreducible buildable width and such side yard requirements as are provided for by Chapter 51.

§5.229 Open spaces, Parks, Schools, Playground Sites, etc. Due consideration shall be given by the subdivider and the Planning Commission to the dedication or reservation of suitable sites for future schools, parks, and playgrounds, the location of these features to conform as nearly as possible to the Master Plan of the City. No property shall, be subdivided for residential use if such is considered unsuitable for building purposes by the City Council.

§5.230 Use.

(1) Wherever property is subdivided with the intention that it shall have a use more restrictive than that designated in Chapter 51, such use shall be stated either in an application for amendment to Chapter 51 or in a separate statement filed with the Council.

(2) Property use and area restrictions must be in accordance with Chapter 51.

(3) Business lots when platted shall bear a reasonable relation in number to the probable future number of families constituting the purchasing power of the neighborhood.

The Council will reserve the right to allocate business lots in accordance with its Master Plan and Chapter 51.

§5.231 Variances. Wherever it shall appear to the City Council that a variance from or relaxation of the requirements of this Chapter is reasonably desirable to permit property or efficient use of property, or promote the public "safety, health, convenience, comfort, prosperity or general welfare, such variance from or relaxation of said requirements may be granted; provided, such variance or relaxation shall be finally approved by the City Council before same shall be effective.

UTILITIES AND IMPROVEMENTS

§5.232 Street Surfacing, Sidewalks, Sewer and Water. A plat will not be approved or dedication of a street accepted unless the following improvements are made or a bond furnished to guarantee the improvements.

The installation of storm sewers and sanitary sewers, storm water inlets, house connections from sewers to beyond the curb location, water mains with house connections to beyond the curb location, off-street parking facilities in conjunction with business lots, sidewalks and the construction of roadways to the approved grade, together with street curbs, gutters and street pavements of concrete or bituminous concrete. House connections from sewers to beyond the curb location for storm sewers shall be required where soil of poor absorptive capacity exists. Where soil of good absorptive capacity exists, and on recommendation of the City Engineer, the City Council may waive the requirement for house connections from sewers to beyond the curb location for storm sewers. Plans and specifications must be approved by the City Engineer. The fee for so reviewing plans and specifications will be in the amount of one and one-half (1-1/2%) percent of the estimated cost of construction. Such fees shall be paid by the proprietor to the City Treasurer on or before the date of submission of the improvement plans and may be used for the purpose of engaging the aid of engineering consultants. The cost of improvements shall be determined by the City Administrator. Fee adjustment will be allowed at determination of final actual cost of construction as determined by the City Administrator. The construction must be carried out under the direction of the office of the City Engineer in strict accordance with standard City

specifications for the various kinds of improvements, as established by this Code or resolution adopted by the City Council. The City Engineer will assign a City inspector to the work for such time as may be necessary to insure full compliance with specifications, and the fees for those inspection services shall be as established by resolution of the City Council of the City of Beaverton. Such fees shall be paid by the proprietor prior to construction and may be used to defray the costs of day-to-day inspection and the expense of engaging consulting engineers in connection with the inspection of said improvements. Fees will be adjusted upon Determination of final actual cost of construction or number of inspection days as determined by the City Administrator.

§5.233 Grades. All manholes, water gates, hydrants and shut off boxes are to be adjusted to proper grade in relation to curb, sidewalk or easement grade.

§5.234 Monuments. All subdivision monuments are to be checked after all improvements are installed and to be corrected or replaced as necessary and set to within two (2") inches of finish grade.

§5.235 Street Signs. When in the opinion of the City Council it appears desirable, the placing of street signs of the same type and design in general use within the community shall be required.

§5.236 Street Trees. Wherever the Planning Commission deems it desirable in order to insure the continuity of purpose, street trees shall be planted in conformance with a planting plan approved by the Planning Commission.

ENFORCEMENT

§5.237 Submission to and Approval by City Council Required. No plat shall be transmitted to any County or State approving authority for official action as required by the State platting procedure until each plat shall have, in the first instance, been approved by the City Council, in accordance with the regulations of this Chapter and Act 288 of the Public Acts of 1967, State of Michigan.

§5.238 Recording of Plat. No person shall sell or convey any lot in any plat by reference thereto until such plat has been duly recorded in the office of the County Register of Deeds. Every plat approved by the City Council shall, by virtue of such approval, be deemed to be an amendment of, or an addition to, or a detail of the City Plan and a part thereof.

§5.239 Metes and Bounds Platting. The description of any lot or parcel in a plat of a subdivision, filed hereafter, by metes and bounds in the instrument of transfer or other document use in the process of selling or transfer, is a violation of these regulations.

§5.240 Sales Contrary to Requirements. Any sale of or option or contract to sell land subdivided contrary to the provisions of these regulations, shall be voidable as provided in Public Acts 288 of 1967.

§5.241 Public Water and Sewer Service. Public sewer or water

service shall not be provided for any dwelling or other structure located on a lot or plot subdivided or sold in violation of these regulations, excepting that such service may be installed in any structure when deemed necessary by the Health Department for the protection of the public health.

§5.242 Filing Fees. The subdivider shall pay a filing fee to the City Treasurer at the time a preliminary plat is filed with the City Council. Such fee shall be established by resolution of the City Council and shall cover the cost of advertising and notices, cost of checking statements, and cost of recording the approved plat.

§5.243 The City may avail itself, in addition to the remedies provided herein, of any and all remedies provided in title V, Chapter 51 of this code.

§5.244 A person aggrieved by an adverse decision under any provision of this Chapter shall take his appeal as provided in Title V, Chapter 51 of this Code.

TITLE V

LAND USE

CHAPTER 53

FLOOD PLAIN DISTRICTS

§5.300 General provisions.

(a) Lands to which ordinance applies. This ordinance shall apply to all lands within the jurisdiction of the City identified on the City's floodplain map. In all areas covered by this ordinance, development authority may be granted by the City Council only under such safeguards and restriction's as the council may impose for the promotion and maintenance of the general welfare and health of the inhabitants of the City.

(b) Enforcement officer. The building official of the City is hereby designated as the Council's duly designated enforcement officer under this ordinance.

(c) Rules for interpretation of district boundaries. The boundaries of the flood district shall be determined by scaling distances on the floodplain map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the building official shall make the necessary interpretation. In cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given an opportunity to present his case to the Board and to submit his own evidence, if he so desires.

(d) Building. No improvements or buildings shall be constructed in or moved into the floodplain district except as specifically permitted in this ordinance.

(e) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside flood district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City or any officer or 'employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

§5.301 Permit.

(a) **Development Permit.** No person, firm or corporation shall initiate any development or construction within the area regulated by this ordinance, or cause the same to be done, without first obtaining a permit therefore on the forms provided by the City. The permit application shall contain all of the following information:

(1) A legal description of the property.

(2) A description of the proposed permanent structure.

(3) A topographic map of the property in sufficient detail to allow review.

(4) The means to be undertaken to prevent property loss.

(5) The signature and address of the applicant.

(6) The plans for development must be accompanied by elevations in relation to mean sea level of the lowest habitable floor including basement or in the case of flood proofed nonresidential structures, the elevation to which it has been flood proofed. Documentation or certification of such elevations will be maintained by the building official.

(7) Other information as reasonably may be required by the building official.

(b) A permit application for a new permanent structure on a parcel, any portion of which is in a designated flood risk area, shall be approved if it meets or exceeds the minimum requirements established in §5.32 of this section.

(c) Approval of a permit does not exempt the applicant from complying with other statutes, ordinances, or rules and regulations.

§5.302 Standards.

(a) New residential structures in a flood risk area shall have the lowest floor, including the basement, not lower than the elevation defining the flood risk area, except that the basement or any portion thereof may be located below the elevation defining the flood risk area if both of the following provisions are complied with:

(1) The basement, together with attendant utility and facilities, is certified by a professional engineer or architect to have been designed to be watertight and able to withstand hydrostatic pressures from a water level equal to the elevation defining the flood risk area.

(2) The lowest floor of the residential structure,

excluding the basement, is at least 1 foot above the elevation defining the flood risk area.

(b) New nonresidential structures in a flood risk area shall have the lowest floor, including the basement, not lower than the elevation defining the ^flood risk area or shall, together with attendant utility and sanitary facilities, be certified by a professional engineer or architect to have been designed so that, below the elevation defining the flood risk areas, the structure is watertight and able to withstand hydrostatic pressures from a water level equal to the elevation defining the flood risk area.

(c) An existing structure which is not in conformity with the elevation requirements of a designated flood risk area shall not be altered, enlarged, or otherwise extended in a manner that increases its nonconformity. If a nonconforming structure deteriorates or becomes damaged, it may be restored to its condition before the deterioration or damage if the repair costs do not exceed 60% of its replacement value, otherwise the requirements for new permanent structures shall apply.

§5.303 Appeal. Any aggrieved party that contests the designation of a flood risk area or the disapproval of a permit application shall be granted a hearing before the City Planning Commission if a petition is filed with the City not more than 60 days after notice of designation or notice of disapproval is sent.

§5.304 Offenses.

(a) Any person who is found in violation of this Chapter shall be deemed to have committed a misdemeanor and shall be fined no less than $100.00 per day that said offense continues. A new offense may be deemed to be committed each day that a person is in violation of this Chapter.

(b) In addition the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit of law against persons found in violation of this Chapter.

(c) Any person who knowingly makes any statements, representation or certification in any application, record, report, plan or other document filed or required to be filed under this Chapter, or who falsifies, tampers with, or knowingly renders any inaccurate information in conjunction therewith shall, upon conviction, be punished by a fine not more than $500.00 or by imprisonment for not more than 90 days, or by both.

(d) Injunctive Relief.

(i) The City Attorney is hereby authorized and directed to file a civil suit for injunction against any person who maintains, establishes or conducts a violation of this Chapter, or aids and abets therein.

Such action shall be brought in the name of the City. Upon receiving notice pursuant to Sub-Section (ii) hereof, such persons are deemed to have knowledge of the violation and are liable for its maintenance.

(ii) Notice. Before filing any action in court under this ordinance, the City Attorney shall serve a written notice, stating that the condition occurring or planned to take place is a violation and must be abated in accordance with this ordinance. The notice shall describe the material, property, or conduct objected to with sufficient clarity so a person of average intelligence receiving the notice will understand what material, property, or conduct is covered by the notice. The notice shall be delivered, provided if no person can be found to deliver the notice during business hours posted at the premises, or between nine a.m. and five p.m. Monday through Saturday if no hours are posted, notice may be given by posting the same at the premises. Such notice shall state that court action may be filed if the person responsible does not abate the violation immediately. No waiting period is required after the service of such notice, provided that if the violation is discontinued no court action shall be filed. After any such- action; is discontinued and no court action is filed, if the violation described in the notice again occurs at the same location, no additional notice shall be required before filing an action in court.

(iii) Temporary Restraining Order. The City Attorney shall seek temporary relief, including a temporary restraining order or a temporary injunction, in addition to the other relief referred to in this ordinance.

TITLE V

LAND USE

CHAPTER 54

BLIGHT CONTROL

§5.400 Blight. It is hereby determined by the City Commission of the City of Beaverton that the public peace, health, safety, and welfare of the inhabitants of the City is threatened by virtue of the accumulation of junk; that the public investment in highways, parks and the ability to attract tourists, which is necessary to the economic prosperity of the City is being injured and impaired by the accumulation of junk, debris, waste; dismantled and wrecked farm machinery and motor vehicles and the existence of derelict and otherwise uninhabitable structures.

It is further determined that such accumulation of junk constitutes a nuisance and that it is essential to protect the public peace, health, safety, and welfare of the people of the City of Beaverton, that City regulation of these blighting factors be provided.

§5.401 Control Code. This Chapter shall be known and cited as the Beaverton City Blight Control Code.

§5.402 Purpose. It is the purpose of this Chapter to supplement state laws and other applicable laws to regulate the storage of junk and existence of blighting factors.

§5.403 Definitions. For the purpose of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) A "Blighting Factor" is defined and includes any, each or all of the following:

(b) "Blighted Structure" includes, without limitation, any dwelling, garage or outbuilding, warehouse or any other structure or part of a structure which because of deterioration, demolition or partial demolition when said demolition is not carried out within a reasonable period of time, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended, or has uncovered openings which may provide for unrestrained access to enter the structure.

(c) "Junk" includes, without limitation, old or scrap, ferrous or nonferrous materials, rope, rags, batteries, papers, plastic, rubber, junked, dismantled or wrecked farm machinery or equipment or automobiles, appliances or other manufactured items, and all other trash or waste materials; and includes unusable trailers, and mobile homes not meeting the minimum standards for inhabitation by humans.

(d) "Junked", "dismantled" or "wrecked" farm machinery and automobiles includes any farm machinery or automobiles or

other motor vehicle (to include boats, boat trailers, snowmobiles or other ORVs) that is not currently licensed as required by state law, is inoperable for the purpose for which it was intended or designated, or which has not been used as originally intended; unless such shall be kept in a wholly enclosed garage or other structure. Junked, dismantled, or wrecked farm machinery may be stored or otherwise allowed to remain upon premises, during a period of repair, not to exceed an aggregate of 30 days, or for an additional period of 14 days for any such dismantled or partially dismantled automobile or farm machinery if proper permit is acquired according to the terms of this Chapter.

(e) "Building materials blight" includes the storage, outside of a completely enclosed building, for a period in excess of thirty (30) days, not including building materials stored on the site of property for which a valid building permit has been issued by the appropriate building official and where said materials are intended for use in connection with such construction. Building materials includes, without limitation, lumber, bricks, cinder blocks, plumbing materials, electrical or wiring equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.

§5.404 Regulation. No person, firm, corporation or other entity shall maintain or allow to be maintained upon any property in the City of Beaverton, owned, leased, rented, occupied, or possessed by such person or entity, any blighting factor or blighting structure, which tends to blight or cause undesirable neighborhoods, and threaten the public health, safety and welfare.

§5.405 Permits. Upon application duly made by the registered owner of a motor vehicle and upon a showing of hardship, the City through its Code Enforcement Officer or other person duly authorized, may issue permits authorizing an extension of 14 days for repair of dismantled or partially dismantled automobiles, wrecked or junk farm machinery or the like. The City Council shall set a fee by resolution, from time to time, for each such permit issued. Said fee shall be collected and paid into the general fund. Only two such permits shall issue to any individual in one calendar year.

§5.406 Declaration of Nuisance. The presence of a blighting factor is hereby declared to constitute a nuisance per se.

§5.407 Notice to Remedy Prohibited Conditions. Upon the discovery of a prohibited blighting condition existing, the Code Enforcement Officer, or the duly authorized representative of the City,_ shall notify the owner of the property of such condition and require that it be remedied within ten (10) calendar days. The notification may be given in person, or by first class mail, addressed to the last known address of the property owner, or by posting the premises.

§5.408 Failure to Remedy Prohibited Condition. Should the Owner fail to remedy the condition after notice as described in Section

5.407, the Code Enforcement Officer or the duly authorized representative of the City, may take any or all of the following actions, within his discretion:

(a) The Officer may remedy the condition or cause the same to be remedied by personnel of the City, or by private contractor, and the actual cost of remedying the blighting condition plus 10% for inspection and overhead and other additional costs in connection therewith, shall be collected as a special assessment against the premises as provided in applicable statutes, and shall become a lien against such property. Levying or collecting such a special assessment shall not relieve a person offending against this Chapter from the penalty prescribed for violation of same.

(b) If, within the judgment of the Code Enforcement Officer the blighting condition is not an attractive nuisance posing and/or poses an immediate threat to the health and safety of individuals, but is nonetheless a blighting factor as described above, a civil infraction citation may issue according to Chapter 7 of this Code, and subject to a minimum $50.00 civil fine, for each day of continuing violation.

(c) If, within the judgment of the Code Enforcement Officer the blighting condition is an attractive nuisance and/or poses an immediate threat to the health and safety of individuals a Second Notice may issue, which shall contain the following legend:

"A MISDEMEANOR WARRANT HAS BEEN SOUGHT IN CONNECTION WITH THIS ENFORCEMENT ACTION."

A misdemeanor warrant application shall be filed with the City Attorney concurrent with this second notice.

§5.409 Construction. This Chapter shall not apply to any junk yards, salvage yards, garages, auto sales, body or paint shops operating within the City of Beaverton, which shall be licensed pursuant to governing State, City or Township provisions.

§5.410 Saving Clause. The provisions of this Chapter are hereby declared to be severable and if any portion, clause or provision is declared to be in contravention of a law, Constitution or void by any court of competent jurisdiction, the remaining portions of said Chapter shall remain in force.

§5.411 Penalty. Any person, committing criminal violation of this Chapter shall be subject to a fine of not more than $500.00 or imprisonment for not more than ninety days, or both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate violation of this Chapter.

TITLE V

LAND USE

CHAPTER 55

FENCES

§5.500 Height Restrictions. It shall be unlawful for any person to erect or construct on any premises within the City a fence exceeding eight (8) feet in height.

§5.501 Electric Fences. It shall be unlawful for any person to erect, install or maintain any electrically charged fence within the City, except that the Zoning Administrator may issue a permit for an electrically charged fence to retain animals upon proof that the fence will not be hazardous to life.

§5.502 Barbed Wire Fencing. It shall be unlawful for any person to erect, construct or maintain any barbed wire fencing within the City except;

(a) One course of barbed wire may be installed above the top line of a six (6) foot chain link fence located in a district zoned for industrial purposes or on property used for industrial purposes under a valid nonconforming use.

(b) Barbed wire fences which comply with the state statutes may be erected, constructed and maintained on premises zoned for agricultural uses.

§5.503 Fences Creating Safety Hazards Prohibited. It shall be unlawful for any person to erect, install, or maintain a fence which obscures clear view of traffic at intersections or driveways or which creates a safety hazard to pedestrians or vehicular traffic.

§5.504 Permits. It shall be unlawful for any person to install, erect, construct, relocate or alter a fence within the City without first obtaining a permit therefore from the City Zoning Administrator. No permit shall be issued if the City Zoning Administrator determines that the proposed fence does not meet the requirements of this Section. A sketch or design of the proposed fence including a description of materials to be used and specification of height shall be submitted with the application for a permit.

§5.505 Exemptions. This Section does not apply to fences in existence before the passage of this ordinance, except that on sale or transfer of the property on which a nonconforming fence is located, such fence shall be made to conform to the requirements of this ordinance, or removed within thirty (30) days of closing or transfer.

§5.506 Screening Requirements for Districts Abutting R-l. Screening shall be constructed and maintained along all adjoining boundaries with single family residentially zoned or used property. An obscuring screen shall be a berm, wall, landscaping, or other

screening device, or combination thereof, that obstructs seventy-five (75%) percent of the field of vision from the ground to height of six (6) feet when viewed from a distance of five (5) feet or more. Open spaces within such screening shall not exceed a one (1) foot square. Such screen shall be constructed in accordance with one (1) of a combination of the following:

(a) Berm. A mound of earth no less than six (6) feet high and contoured to a gradient of no less than three to one (3 to 1). The berm will be planned with grasses and/or shrubs and trees so as to be attractively landscaped.

(b) Wall or Solid Fence. A solid wall or fence with a finished surface fronting on the residential district. All materials shall be new or other material if approved by the Zoning Administrator.

(c) Landscape Buffer. A landscape buffer not less than six (6) feet in width consisting of not less than seventy-five (75%) percent evergreen material. Plant material shall be of a variety which shall maintain an "obscuring screen".

(d) Planning Commission/City Council Modifications. Any of the requirements of this Section may be waived or modified through Site Plan approval, provided the Planning Commission or City Council first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

(e) Zoning Board of Appeals. The Zoning Board of Appeals may waive or modify these requirements at its sole discretion, if strict application of the requirements would constitute an undue hardship or burden upon property owners.

§5.507 Construction materials. All fences and walls should be constructed of standard materials, design and construction, and shall not constitute an undue eyesore.

§5.508 Essential Retaining Walls. Essential retaining walls which do not extend above the ground being retained by more than eighteen (18) inches are permitted in any yard of all zoning districts.

§5.509 Decorative Fences. Subject to Planning Commission approval, decorative fences of up to three (3) feet in height and not more than fifty (50%) percent solid are permitted in front yards of R-l, R-2 and C-l zoning districts.

§5.510 Ingress and Egress; Roadways. Any and all screens constructed along boundaries adjoining R-l shall be constructed to within twenty (20) feet of any and all roads which would otherwise bisect said boundary, or no closer than twenty (20) feet to any point at which a vehicle is required to stop before proceeding onto another drive or road.

§5.511 Any person in violation of this Chapter shall be subject to a civil fine of not more than $100.00. Each day that a violation continues to exist shall constitute a separate violation of this Chapter.

(Amended April 21, 2008)

TITLE V

LAND USE

CHAPTER 56

DANGEROUS STRUCTURES

City of Beaverton Ordinance Number 2004-01

An ordinance to promote the health, safety and welfare of the people of the City of Beaverton by providing for the regulation, removal, or rehabilitation of dangerous structures within the City; to establish administrative requirements and to establish remedies and fix penalties for the violation thereof.

THE CITY OF BEAVERTON ORDAINS:

§5.601 Prohibition. It is unlawful for any owner or agent thereof to keep or maintain any structure or part thereof, which is a dangerous building as defined in Section 5.062.

§5.602 Definition. As used in this Ordinance "dangerous structure" means any building or structure, which has any of the following defects or is in any of the following conditions:

(a) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the City, it shall be considered that such dwelling does not meet the requirements of this Ordinance.

(b) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this Ordinance or any building code of the City for a new building or similar structure, purpose or location.

(c) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure or damage property.

(d) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by this Ordinance or the building code of the City.

(e) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

(f) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(g) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.

(h) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidations, decay, damage or age, faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease, when so determined by the Central Michigan District Health Department or its successors, or is likely to cause injury to the health, safety or general welfare of those living within.

(i) Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

§5.603 Notices

(a) Notwithstanding any other provision of this Ordinance, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the enforcing agency shall issue a notice of the dangerous and unsafe condition.

(b) Such notice shall be directed to the owner, agent, or lessee or party in interest in the building in whose name the property appears on the last local tax assessment records.

(c) The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

(d) The hearing officer shall be the City Manager or his/her appointee and shall serve at the pleasure of the City Council. The enforcing agency, if appropriate, shall file a copy of the notice of the dangerous and unsafe condition with the hearing officer.

(e) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail - return receipt requested, addressed to such owner or party

in interest at the address shown on the tax records, at least ten (10) days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

§5.604 Findings and Order of Hearing Officer: Hearing: Costs

(a) The hearing officer shall take testimony of the enforcing agency, the owner of the property and any interested party. The hearing officer shall render his decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

(b) If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, he shall so order, fixing a time in the order for the owner, agent or lessee to comply therewith.

(c) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of his findings and a copy of his order with the City Council of the City and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed in Section 5.603.

(d) The City Council shall fix a date for hearing, reviewing the finding and order of the hearing officer and shall give notice to the owner, agent or lessee in the manner prescribed in Section 5.603 of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the City Council shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure:

(e) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the City who shall assess the cost against the property on which the building or structure is located.

(f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within ninety (90) days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the City and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the City.

§5.605 Appeal. An owner aggrieved by any final decision or order of the City Council under Section 5.604 may appeal the decision or order to the circuit court by filing a petition for an order of

superintending control within twenty (20) days from the date of the decision.

§5.606 Severability. The provisions of this Ordinance are hereby declared to be severable. If any clause, section, subsection, paragraph or sentence is declared to be void or inoperable for any reason, it shall not affect any portion thereof.

§5.607 Repeal. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

§5.608 Effective Date. This ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Adopted by the City Council of the City of Beaverton this 21 day of June 2004.

TITLE VI

FOOD AND HEALTH

CHAPTER 61

DRIVE-IN RESTAURANTS

§6.101 Definitions. In the interpretation of this Chapter the following definitions shall apply:

(a) "Drive-in Restaurant" shall mean a restaurant wherein food, drink, ice cream, confections or dairy products, are dispensed to patrons who mainly arrive by vehicle and are served therein, and shall include restaurants offering drive-thru service.

(b) "Health Department" shall mean the Gladwin County Health Department.

§6.102 License Required. No drive-in restaurant shall operate in the City without a current restaurant license issued by the Health Department. License fees shall be as provided in Title VII Chapter 72 of this Code.

§6.103 Drive-in Restaurants.

(a) A retaining wall or barrier of a minimum of twenty-six (26) inches in height, and of a design approved by the Building Official and subject to all requirements of Title VIII of this Code (Existing Structures) shall be erected around the periphery of the area utilized for parking or dispensing, and such other places as are necessary, for the purpose of containing debris and refuse, provided, however, that such wall or barrier, when erected on a aide of the premises adjacent to residential property, shall be of solid construction and a minimum of forty-eight (48) inches in height, so as to prevent spillage of light from headlamps of vehicles utilizing the premises, onto said adjacent residential property, provided, further, that said wall or barrier shall be of such type as to maintain harmony, insofar as is practicable, with the character of the surrounding properties, and shall not be allowed to fall into disrepair and shall be maintained and/or painted so as not to become an eyesore.

(b) There shall be one (1) ingress and one (1) egress (minimum fifteen (15’) feet; maximum thirty (30’) feet) unless the physical conditions will permit more or less, as determined by the Zoning Administrator. The ingress and egress shall not be on residential streets. There shall be a proper sign denoting each entrance and exit.

(c) Waste Paper Containers. Waste paper containers shall be available and be spaced in such a fashion that one (1) covered container will service four (4) vehicles. Minimum capacity per container will be thirty (30) gallons bulk

material. Containers shall be painted and properly identified and be of self-closing type.

(d) No drive-in restaurant licensee shall permit the sounding of horns or other devices that produce loud and harsh noises on the premises and to this end one or more plainly legible signs shall be posted notifying all patrons that horn blowing or sounding of other devices is not permitted on the premises to attract attention in order to obtain service.

(e) Noise and Other Disturbances by Patrons. No person on the premises of a drive-in restaurant shall race the motor of any motor vehicle, blow his horn, needlessly bring to a sudden stop or start any motor vehicle, block any traffic aisle, remain on the premise for purposes other than the purchasing and consumption of food products or beverages sold by such restaurant, or make or cause to be made any other loud unseemly noise, nuisances or disturbances whereby the quiet and good order of the premises or of the neighborhood is disturbed.

(f) Any violation of the provisions of this Chapter shall be deemed a civil infraction subject to disposition according to Title I, Chapter 7 of this Code.

TITLE VII

BUSINESS AND TRADES

CHAPTER 71

LICENSES

§7.101 Licenses Required. No person shall engage, or be engaged, in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining a license from the City in the manner provided for in this Chapter. Any person duly licensed on the effective date of this Code shall be deemed licensed hereunder for the balance of the current license year.

§7.102 Multiple Businesses. The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself, or is composed of, trades, professions, businesses or privileges which are recurred by this Code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each other such trade, profession, business or privilege, except as specifically provided elsewhere in this Code.

§7.103 State Licensed Businesses. The fact that a license or permit has been granted to any person by the State of Michigan to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license or permit from the City if such license or permit is required by this Code.

§7.104 License Application. Unless otherwise provided in this Code, every person required to obtain a license from the City to engage in the operation, conduct or carrying on of any trade, profession, business, or privilege shall make application for said license to the City Clerk upon forms provided by the City Clerk and shall state under oath or affirmation such facts, as may be required for, or be applicable to the granting of such license. No person shall make false statement or representation in connection with any application for a license under this Code.

§7.105 License Year. Except as otherwise herein, provided as to certain licenses, the license year shall begin July 1st of each year and shall terminate at midnight on June 30th of the following year. Original licenses shall be issued for the balance of the license year at the full license fee except that after January 1st, the fee for any license shall be one-half the full amount, if the full fee is $10.00 or more. License applications for license renewals shall be accepted and licenses issued for a period of fifteen (15) days prior to the annual expiration date. In all cases where the provisions of this Code permit the issuance of licenses for periods of less than one (1) year, the effective date of such licenses shall commence upon the date of issuance thereof.

§7.106 Conditions for Issuance. No license or permit required

by this Code shall be issued to any person who is required to have a license or permit from the State of Michigan, until such person shall submit evidence of such State license or permit and proof that all fees appertaining thereto have been paid. No license shall be granted to any applicant therefore until such applicant has complied with all of the provisions of this Code applicable to the trade, profession, business or privilege for which application for license is made, nor unless the applicant agrees in writing to permit inspection of the licensed premises at reasonable hours by authorized officers of the City.

§7.107 Where Certification Required. No license shall be granted where the certification of any officer of the City is required prior to the issuance thereof until such certification is made.

§7.108 Health Officer's Certificate. In all cases where the certification of the Gladwin County Public Health Officer is required prior to the issuance of any license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he proposes to conduct or is conducting the trade, profession, business or privilege comply with all the sanitary requirements of the State of Michigan and of the City.

§7.109 Fire Chief's Certificate. In all cases where the certification of the Fire Chief is required prior to the issuance of any license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct or is conducting the trade, profession, business or privilege comply with all the fire regulations of the State of Michigan and of the City.

§7.110 Police Chief's Certificate. In all cases where the certification of the Chief of Police is required prior to the issuance of any license by the City Clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character. Any certification of the Chief of Police may also be satisfied by certification of the County Sheriff or City Marshall.

§7.111 Building Inspector's Certificate. In all cases where the carrying on of the trade, profession, business or privilege involves the use of any structure or land, a license therefore shall not be issued until the Building Inspector and/or Zoning Administrator shall certify that the proposed use is not prohibited by Title V of this Code, or other Zoning regulations of the City.

§7.112 Bonds. Where the provisions of this Code require that the applicant for any license or permit furnish a bond, such bond shall be furnished in an amount deemed adequate by the proper City officer, or where the amount thereof is specified in the schedule of fees and bonds set out in Chapter 72 or elsewhere in the Code, in the amount so required; then form or such bond snail be acceptable to the City Attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in any such

bond; any such policies of insurance shall be approved as to substance by the City official issuing said license or permit and as to form by the City Attorney.

§7.113 Late Renewals. All fees for the renewal of any license which are not paid at the time said fees shall be due, shall be paid as "late fees" with an additional twenty-five (25%) percent of the license fee required for such licenses under the provisions of Chapter 72, for the first fifteen (15) days that such license fee remains unpaid and thereafter the license fee shall be that stipulated for such licenses under Chapter 72, plus fifty (50%) percent of such fee.

§7.114 Right to Issuance. If the application for any license is approved by the proper officers of the City, as provided in this Code, said license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.

§7.115 Fees - When Paid. The fee required by this Code for any license or permit shall be paid at the office of the issuing authority prescribed in this Code upon or before the granting of said license or permit.

§7.116 Exempt Persons. No license fee shall be required from any person exempt from such fee by State or Federal law. Such person shall comply with all other provisions of this Chapter. The City Clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to said exemption and the reason therefore.

§7.117 Suspension or Revocation. Any license issued by the City may be suspended by the City Administrator for cause, and any permit issued by the City may be suspended or revoked by the issuing authority for cause. The licensee shall have the right to a hearing before the City Council on any such action of the City Administrator, provided a written request therefore is filed with the City Clerk within five (5) days after receipt of said notice of such suspension. The City Council may confirm such suspension or revoke or reinstate such license. The action taken by the City Council shall be final. Upon suspension or revocation of any license or permit, the fee thereof shall not be refunded.

§7.118 "Cause" Defined. The term "cause", as used in this Chapter, shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license or permit is granted under the provisions of this Code, or upon any premises or facilities used in connection therewith, which act, omission or condition which is:

(a) Contrary to the health, morals, safety or welfare of the public;

(b) Unlawful, irregular or fraudulent in nature;

(c) Unauthorized or beyond the scope of the license or permit granted; or

(d) Forbidden by the provisions of this Code or any duly established rule or regulation of the City applicable to the trade, profession, business or privilege for which the license or permit has been granted.

§7.119 License Renewal. Unless otherwise provided in this Code, an application for renewal of the license shall be considered in the same manner as an original application.

§7.120 Exhibition of License. No licensee shall fail to carry any license issued in accordance with the provisions of this Chapter upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his place of business. Every licensee shall produce his license for examination when applying for a renewal thereof or when requested to do so by any City police officer or by any person representing the issuing authority.

§7.121 Exhibition of Vehicle and Machine. No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this Code such tags or stickers as are furnished by the City Clerk.

§7.122 Displaying Invalid License. No person shall display any expired license or any license for which a duplicate has been issued.

§7.123 Transferability; Misuse. No license or permit issued under the provisions of this Code, shall be transferable unless specifically authorized by the provisions of this Code. No licensee or permittee shall, unless specifically authorized by the provisions of this Code, transfer or attempt to transfer his license or permit to another nor shall he make any improper use of the same.

§7.124 Misuse; Automatic Revocation. In addition to the general penalty provisions for violation thereof, any attempt by a licensee or permittee to transfer his license or permit to another, unless specifically authorized by the provisions of this Code, or to use the same improperly shall be void and result in the automatic revocation of such license or permit.

TITLE VII

BUSINESS AND TRADES

CHAPTER 72

FEES AND BONDS REQUIRED

§7.201 Schedule Established. The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege for which a license is required by the provisions of this Code shall be as hereinafter provided in this Chapter. No license shall be issued to any applicant unless he first pays to the City Clerk the fee and posts a bond or evidence of insurance coverage in the amount required for the type of license desired.

§7.202 Fees for Licenses. Fees for licenses shall be as prescribed in the following sections of this Chapter under the business, trade, occupation or privilege to be licensed. Bonds or insurance coverage, where required, shall be in the amounts listed beneath the license fee prescribed for such business.

The City Council shall have the power to change fees and bond and insurance coverage limits from time to time by resolution.

§7.203 Licenses for (A-D).

Amusement Park

For each day without sponsor	$	150.00
For each day with sponsor	$	10.00

(The City Council having determined that the duty of inspection and regulating is substantially decreased when the license is locally sponsored).

Liability Insurance $1,000,000.00

Per occurrence and/or aggregate single limit for personal injury, bodily injury and property damage

Auctions

Auctioneer

Single sale	$	20.00

(Amended April 21, 2008)

Carnivals

For each day without sponsor	$	150.00
For each day with sponsor	$	10.00

(The City Council having determined that the duty of

inspection and regulating is substantially decreased when the license is locally sponsored).

Liability Insurance $1,000,000.00

Per occurrence and/or aggregate single limit for personal injury, bodily injury and property damage

Circuses

For each day without sponsor	$ 150.00
For each day with sponsor	$ 10.00

(The City Council having determined that the duty of inspection and regulating is substantially decreased when the license is locally sponsored).

Liability Insurance $1,000,000.00

Per occurrence and/or aggregate single limit for personal injury, bodily injury and property damage

Dances

Teenage dances

Registration $No charge

Dogs

Kennel fee

Kennels not allowed

(Amended April 21, 2008)

Drive In Restaurants

Annual fee $ 25.00

§7.204 Licenses for (E-H)

Garage Sale $ 3.00

Garbage Collector

(See Refuse Collector)

§7.205 Licenses for (I-T)

Junk Dealer

Annual Fee	$ 10.00
Bond	$ 200.00

Peddler

1 day $ 10.00

2 days	$	15.00
3 days	$	20.00
1 week	$	25.00
1 month	$	75.00

Pool Room

Annual fee	$	5.00

Secondhand Dealers

Annual fee	$	10.00
Bond	$	200.00

Solicitor

1 day	$	10.00
2 days	$	15.00
3 days	$	20.00
1 week	$	25.00
1 month	$	75.00

Transient Merchant

1 day	$	10.00
2 days	$	15.00
3 days	$	20.00
1 week	$	25.00
1 month	$	75.00

§7.206 Licenses for (U-Z)

(Section Reserved)

TITLE VII

BUSINESS AND TRADES

CHAPTER 73

PEDDLERS

§7.300 Peddlers Defined. The word "peddler" as used in this Chapter shall include any person traveling by foot, wagon, automotive vehicle or other conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering articles to purchasers, or who, without traveling from place, to place, shall sell or offer the same for sale from a wagon, automotive vehicle, or other vehicle or conveyance. Any person, who solicits orders and, as a separate transaction, makes deliveries to purchasers as part of a scheme or design to evade the provisions of this Chapter, shall be deemed a peddler. The word "peddler" shall include the words "hawker" and "huckster".

§7.301 License Required. No person shall engage in the business of peddler without first obtaining a license therefore. No such license shall be granted except upon certification of the Chief of Police, Sheriff, or City Marshall.

§7.302 Fixed Stands Prohibited. No licensee shall stop or remain in any one place upon any street, alley or public place, longer than necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his vehicle parallel to and within twelve (12) inches of the curb and shall depart from such place as soon as he has completed sales with customers actually present.

§7.303 Prohibited Areas. No peddler, in the sale of goods, wares and merchandise, shall obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a sale, nor remain, barter, sell, offer or expose for sale any goods, wares or merchandise in front of or at the side of any property against the wish or desire of the property owner or the tenant or occupant of such property. No peddler shall engage in peddling on any street, alley or public place after having been requested to desist by any police officer of the City because of congested or dangerous traffic conditions.

§7.304 Practices Prohibited. No peddler shall shout or pry out his goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

§7.305 Curb Service Prohibited. No person shall operate or maintain any stand, vehicle, store or place of business on or near to any highway in such a manner that the customers of or traders with such person occupy or congregate within the limits of any street, lane, highway, or public place within the City. No person shall be permitted to use the streets, alley, lanes or public places of the City for the service of customers or for the transaction of business,

or to use any stands, stores or other places of business in any manner that shall require the customer, when transacting said business, to stand within the limits of the streets, highways, alleys or public places of the City.

§7.306 Exempt Persons. The following shall be exempt from the licensing requirements of this Chapter but shall be subject to the other provisions hereof.

(a) Farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated.

(b) Any person under eighteen (18) years of age, when engaged in peddling on foot in the neighborhood of his residence under the direct supervision of any school or recognized charitable or religious organization.

TITLE VII

BUSINESS AND TRADES

CHAPTER 74

SOLICITORS

§7.400 Solicitors and Canvassers Defined. For the purpose of this ordinance, the following words as used herein shall be considered to have the meaning herein ascribed thereto:

"Soliciting" shall mean and include any one or more of the following activities:

(a) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatever; or

(b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or

(c) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or

(d) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project.

The word "solicitor" shall include the word "canvasser".

§7.401 Certificate of Registration. Every person desiring to engage in soliciting as herein defined from persons in residences within the City, is hereby required to make written application for a certificate of registration as hereinafter provided, which certificate shall not be granted except upon approval of the Chief of Police. Such certificate shall be carried by the solicitor.

No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the state or any other state, or federal laws of the United States within five (5) years of the date of the application; or to any person who has been convicted of a violation of any of the provisions of this ordinance; nor to any person whose certificate of registration issued hereunder has previously been revoked.

(Amended April 21, 2008)

§7.402 Application for Certificate of Registration. Application for a certificate of registration shall be made upon a form provided by the City. The applicant shall truthfully state in full the information requested on the application, to-wit;

(a) Name;

(b) Permanent home address and full local address of the applicant;

(c) A brief description of the nature of the business and the goods to be sold;

(d) Name, address and phone number of the person, firm or corporation or association whom the applicant is employed by or represents;

(e) Period of time for which certificate is applied;

(f) Has a certificate of registration issued to the applicant under this ordinance ever been revoked?

(g) Has the applicant ever been convicted of a violation of a felony under the laws of the state or any other state or federal
law of the United States?

(h) Names of all other persons which will be soliciting on behalf of the firm or organization;

(i) Names of three most recent communities where the applicant has so solicited;

(j) Proposed method of operation;

(k) Signature of applicant;

(l) Driver's License number or Social Security number;

(m) Statement of profit/non-profit status, including tax exempt IRS number if fee waiver is requested.

Each person shall at all times while soliciting or canvassing in the City, carry upon his person the registration certificate and the same shall be exhibited by such registrant whenever he is required to do so by any police officer or by any person solicited.

§7.403 Fee. Each registrant shall pay to the City Clerk a registration fee as determined by resolution as prescribed by Chapter 72. Any person engaged in soliciting on behalf of and solely for the benefit of any recognized charitable, educational, religious, governmental, or non-profit purpose shall, after meeting all other requirements shall be granted a certificate of registration without payment of the fee required by this action.

§7.404 Revocation. Any such registration may be revoked by the City Administrator or Chief of Police because of any violation by the registrant of this ordinance or of any other ordinance, or if the registrant has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate of registration under the terms of this ordinance.

TITLE VII

BUSINESS AND TRADES

CHAPTER 75

AUCTIONS

§7.500 Auction Sale Defined. "Auction Sale" as used in this Chapter shall mean the offering for sale or selling of personal property to the highest bidder or offering for sale at a high price and then offering the same at successive lower prices until a buyer is secured.

§7.591 Auction License Required. Except as otherwise provided an this Chapter it shall be unlawful for any person to sell, dispose of or offer for sale at public auction within the City of Beaverton any personal property whatsoever, unless and until such person and the person acting or intending to act as auctioneer, shall have first obtained a license from the City Clerk in accordance with the provisions of Chapter 71, regulations and requirements of this Chapter.

§7.502 Application. Any person desiring to conduct an auction, at least ten (10) days prior to any single proposed auction sale, or at least ten (10) days prior to the opening and commencement of any auction business on a continuing basis, shall file with the City Clerk an application in writing duly verified by the applicant, which application shall state the following facts:

(a) The name, residence and post office address of the person making the application, and if a firm or corporation, the name and post office address of the members of the firm or officers of the corporation, as the case may be.

(b) The address at which the auction sale or sales will be conducted.

(c) The name, residence and post office address of the auctioneer who will conduct such sale or sales.

(d) A detailed inventory of all new merchandise to be offered for sale and a valuation thereof.

(e) If it is proposed to conduct auction sales on any other basis than a single sale of the property on hand at the time of application, then in such event the applicant shall submit a statement covering the kind and nature of property to be offered for sale and a fair estimate of the average value of property to remain on hand for sale from day to day.

(f) If the license applied for covers only the sale of property then on hand the statement shall disclose whether the sale will be with or without reservation.

(g) All information required under Chapter 71 of this Code.

§7.503 Continuing Auctions. Where the license applied for covers a continuing business the sale shall be conducted without reservation.

§7.504 License Fees. The fees for licenses issued under the provisions of this Chapter shall be as prescribed in Chapter 72 of this Code.

§7.505 Reports. Within ten (10) days after completing any auction or sales extending for a period of not more than six (6) days the applicant shall file in duplicate with the City Clerk a listing of all property sold at such sale and the prices received on each separate bid and sale, together with a detailed inventory of all property unsold at the end of such auction. In all other cases such listing of sales shall be filed on or before the tenth (10th) day of each month to cover all such business for the preceding calendar month.

§7.506 Fraudulent Practices. At any sale by auction, no person shall act as a "bidder" commonly known as a "capper," "booster" or "shill" or offer to make any false bid, or falsely offer or pretend to buy any article sold or offered for sale by auction.

§7.507 False Representations. It shall be unlawful for any person to sell or attempt to sell by auction, or to advertise for sale any personal property by falsely representing the whole or a part thereof to be bankrupt or insolvent stock, or damaged goods, or goods saved from fire or to make any false statements as to the previous history or character of such property.

§7.508 Street Sales. It shall be unlawful for any person to conduct auction sales on any street, sidewalk or other public place.

§7.509 Hours. It shall be unlawful to conduct any auction sale except on weekdays or Saturdays between the hours of 8:00 a.m. and 10:30 p.m..

§7.510 Exempt Sales. The provisions of this Chapter shall not extend or apply to the following sales:

(a) To sales under mortgage foreclosure; or sales under direction of a court or court officers.

(b) Sales by or on behalf or under authority of the City of Beaverton, the United States, the State of Michigan, or any political subdivision, branch, board, agency or commission of such governmental bodies.

(c) Sales made pursuant to judgment, decree, order or authority of any court or seizure of any officer.

(d) Sales by receivers appointed by law or by a general assignment for the benefit of creditors.

TITLE VII

BUSINESS AND TRADES

CHAPTER 76

TRANSIENT MERCHANTS

§7.600 License Required. No person shall engage in a temporary business of selling goods, wares or merchandise at a retail within the City from any lot, premises, building, room or structure, including railroad cars, without first obtaining a license therefore. No such license shall be granted except upon certification of the Chief of Police, Sheriff or City Marshall, and the City Treasurer.

§7.601 Temporary Business Defined. Every person engaged in the retail sale and delivery of goods, wares or merchandise, shall be deemed to be engaged in carrying on a temporary business unless his goods, wares or merchandise shall have been assessed for taxation in the City during the current year.

§7.602 Indebtedness to the City. No license shall be granted to any person owing any personal property taxes or other indebtedness to the City, or who contemplates using any personal property on which personal property taxes are owing, in the operation of such business.

§7.603 Benefit Sales. Any person selling or offering for sale any goods, wares or merchandise on behalf of and solely for the benefit of any recognized charitable or religious purpose shall, after meeting all other requirements, be granted a license without payment of the fee required by Chapter 72 of this Code.

§7.604 Exemption. Farmers and truck gardeners who sell farm products and produce of their own raising exclusively shall be exempt from the requirements of this Chapter.

TITLE VII

BUSINESS AND TRADES

CHAPTER 77

YARD SALES

§7.700 Definitions. As used in this chapter:

(a) "Goods" means any goods, warehouse merchandise or other property capable of being the object of a sale regulated under this chapter.

(b) "Yard sale" means all sales entitled "yard sale, "lawn sale," "garage sale," "attic sale," "rummage sale" or "flea market sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale.

§7.701 Duration and Frequency. No person shall conduct a yard sale in the City without first obtaining from the City Treasurer a permit. The City Treasurer shall provide forms for use in applying for said permit and collect the fee, as set by the City Commission from time to time. The Treasurer shall issue no permit for a yard sale at any premises more than twice within a twelve month period. Memorial Day, the days incorporated with the July 4th celebration and Labor Day weekends are free days of City wide Yard Sales: not to affect the Yard Sale permits sold to residents and limited to three time a year. The City Treasurer shall issue no permit for a period exceeding three consecutive calendar days.

§7.702 Signs. The following rules will apply to the display of any sign displayed for the purpose of advertising a yard sale:

(a) Yard sale signs are permitted in all zoning districts.

(b) Yard sale signs may not exceed six square feet per sign face or have more than two faces.

(c) Yard sale signs may not exceed eight feet in height.

(d) Yard sale signs may be displayed free-standing, on a wall or in a window.

(e) One yard sale sign is permitted per sale and/or location.

(f) Yard sale signs may be displayed during the sale period only.

(g) Yard sale signs may be displayed during the sale period only.

§7.703 Publication of Requirements. Not less than annually, the City Clerk shall publish an advertisement in a newspaper of general circulation in the City, which advertisement will clearly define the

rules and regulations contained in this chapter.

§7.704 Exceptions to Chapter. This chapter shall not apply to or affect:

(a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

(b) Persons acting in accordance with their powers and duties as public officials; or

(c) Persons selling or advertising for sale items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

§7.705 Appearance Tickets. The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2); MSA 28.868(3)(2)). Violation of any provision of this Chapter shall be deemed a1 civil infraction subject to disposition according to Title I, Chapter 7 of this Code, or subsequent violations shall be deemed a misdemeanor offense.

§7.706 Penalty. Whoever violates or fails to comply with any of the provisions of this chapter, shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) or imprisoned not more than ten days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

TITLE VII

BUSINESS AND TRADES

CHAPTER 78

SECONDHAND AND JUNK DEALERS

§7.720 License Required. No person shall engage in the business of dealer in secondhand goods or junk dealer without first obtaining a license therefore. Such license shall be issued by the City Clerk in accordance with the provisions of Act 350 of Public Acts of 1917, as amended (MCL 445.401 et seq.). The fee for such licenses shall be as specified in Chapter 72 of this Code.

§7.721 Statutes Applicable. Except as otherwise provided in this Chapter, the provisions of Act 350 of the Public Acts of 1917, as amended, and the provisions of Act 231 of the Public Acts of 145, as amended (MCL 445.471 et seq.), shall apply to licensees under this Chapter. Any licensee who shall violate any provision of said statutes shall be guilty of a violation of this Code and punished as prescribed in Title I, Chapter 7 hereof. Second and subsequent violations shall be deemed a misdemeanor offense.

TITLE VII

BUSINESS AND TRADES

CHAPTER 79

TAXICABS

§7.730 Definition. "Taxicab" shall have the meaning defined in Chapter 126 of this Code.

§7.731 Taxicab License. No person shall engage in the business of operating or causing to be operated, any taxicab upon the streets, alleys or public ways of the City without having first obtained a license for each such taxicab. No such license shall be granted except upon certification of the City Marshall and upon approval of the City Council. Upon application made for any new taxicab license, as distinguished from any renewal thereof, the Council shall consider the question of whether public convenience and necessity require the operation of such taxicab. The Council shall consider the number of taxi cabs operating in the City and whether the demands of the public require additional taxicab service; traffic conditions on the streets of the City and whether the additional taxicab service will result in a greater hazard to the public and such other relevant facts as the Council may deem advisable. The judgment of the Council on the question of public necessity and convenience shall be conclusive. The fee for such license shall be as prescribed in Chapter 72 of this Code.

§7.732 Insurance. Before any such license is issued, the applicant therefore shall furnish one or more policies of insurance, prepaid for at least the period of the license, issued by responsible insurance companies providing indemnity for the insured in the amounts specified herein and agreeing to pay, within the limits of said amounts on behalf of the, insured, all sums which the insured shall become obligated to pay by reason of the liability imposed upon the insured by law, for damages; because of bodily injury, including death, at any time resulting therefrom or for damages to property, or both, sustained by any person other than the employees of the insured and arising out of the ownership, maintenance or uses of said licensed taxicab. The minimum requirements for insurance shall be as stated in Chapter 72.

§7.733 Cancellation Notice. Every such insurance policy shall contain a clause obligating the insurer or surety to give the City Clerk, by registered mail, at least ten (10) days written notice before the cancellation, expiration, lapse or other termination of such insurance or bond or the withdrawal of surety from any such bond.

§7.734 License Transfers. When the ownership of any taxicab shall change (whether by operation of law or otherwise) the taxicab license pertaining to such taxicab shall be automatically revoked. Any transfer, or attempt to transfer, of a taxicab license to any other person shall automatically void the license.

§7.735 Transfer Between Vehicles. The owner of any licensed

taxicab who desires to transfer such license to another vehicle owned by him, shall make application to the City Clerk on forms provided therefore, and shall state under oath or affirmation such facts as may be required for, or applicable to, such transfer. Upon approval of the City Council, such transfer shall be granted.

§7.736 Rates. All fares and charges for the use of taxicabs shall be determined by resolution of the City Council following a hearing held by said Council at a regular meeting. All taxicab licensees shall be notified of any such hearing by mail.

§7.737 Unused Licenses. In addition to the grounds for suspension and revocation of licenses in Chapter 71 of this Code, the fact that the owner shall cease to operate any taxicab for a period of thirty (30) days without having obtained permission for cessation of such operation from the City shall constitute an automatic revocation of the license for such taxicab.

§7.738 Taxicab Driver Permits. No person shall drive a taxicab on the streets of the City without first having obtained-a taxicab driver permit therefore. No such license shall be granted except upon certification of the City Marshall and unless a photograph and complete set of fingerprints of the applicant therefore are on file in the non-criminal identification file of the Police Department. Two (2) photographic pictures of each applicant shall be furnished at the time of application. The size and form hereof shall be prescribed by the City Clerk. The license issued to a taxicab driver shall be conspicuously displayed on the inside of the taxicab operated by him so that it may be easily illuminated at night.

§7.739 Physical Examination. Each applicant for a taxicab driver permit shall, at his own expense be required to submit to a medical examination by a duly licensed physician of his own choosing, and the results of such examination shall be reduced to writing by such physician on a form furnished by the City Clerk. Such report of examination signed by the physician shall be attached to the application for a taxicab driver permit.

§7.740 Permit Renewal. Upon any application for a taxicab driver permit from a person who then holds such a permit, the physical examination required by Section 7.739 shall not be required, unless no such examination shall have been had and a report thereof furnished to the City for longer than two (2) years immediately preceding such application.

§7.741 Transfer of Driver Permits. No person having a taxicab driver permit shall allow any other person to use or attempt to use such permit, for any purpose. No person shall use or have in his possession while operating a taxicab in the City, any taxicab driver permit which has been issued to any other person.

§7.742 Lost Articles. Every driver of a taxicab shall search the interior of such taxicab at the termination of each trip, for any article of value which may have been left in such taxicab by a passenger. Any article found therein shall immediately be returned to the passenger owning it, if he be known, otherwise it shall be deposited with the owner of the taxicab at the conclusion of the

driver's tour of duty. A report of the finding of such article shall be made by the owner of the taxicab within twenty-four (24) hours thereafter to the City Police.

§7.743 Passengers. No driver or owner of a taxicab shall refuse or neglect to convey any orderly person or persons upon request by signal or telephone call, unless the taxicab is previously engaged. ; When a taxicab has been engaged by a passenger, no additional passengers shall be received therein except with the express consent of the first passenger. No person other than passengers for hire, except employees or members of the immediate family of any person licensed hereunder to engage in the business of operating a taxicab, shall be transported therein.

§7.744 Rules and Regulations. The City Council shall be empowered to make such rules and regulations regarding the dress and conduct of drivers, the maintenance and marking of taxicabs, as may be necessary in the interest of providing safe and orderly service to passengers, and no person shall fail to comply with any such rule or regulation. The City Council may require periodic reports to be submitted by operators and drivers in order to assist in the enforcement of such rules and regulations or the terms of this Chapter.

TITLE VII

BUSINESS AND TRADES

CHAPTER 79-1

POOL ROOMS

§7.750 Definition. "Pool Room" as used in this Chapter shall mean any place open to the public for playing pool or billiards.

§7.751 License Required. No person shall engage in the business of operating a pool room without first obtaining a license therefore. No license shall be granted except upon certification of the City Marshall and unless a complete set of fingerprints of the applicant therefore are on file in the non-criminal identification file of the Police Department. Each license shall designate the number of pool or billiard tables permitted thereunder, and no licensee shall keep or maintain more tables then permitted by such license.

§7.752 Hours. No person shall keep open any pool room on any day between the hours of 2:00 a.m. and 7:00 a.m., or on Sunday between 7:00 a.m. and 12:00 noon.

§7.753 Public Institutions Excepted. This Chapter shall not be applicable to pool rooms operated and owned by public institutions.

TITLE VII

BUSINESS AND TRADES

CHAPTER 79-2

DANCES AND DANCE HALLS

§7.760 Definitions. In the interpretation of this Chapter, the following definitions shall apply:

(a) "Public Dance" shall mean any dance to which the general public is invited, expressly or impliedly, except dances sponsored by the City.

(b) "Teenage Dance" shall mean any public dance where minors under seventeen (17) years of age are permitted to attend.

§7.761 Sanitary Facilities. Every dance hall or place where public dances are held, shall make proper provisions for ventilation, either natural or mechanical, so that each person in the hall will be supplied with twelve hundred (1200) cubic feet of; air per hour, and sufficient toilet conveniences shall be provided so that there will be at least one (1) women's toilet in good sanitary condition per two thousand (2000) square feet of floor space, or fraction thereof; at least one (1) men's toilet and urinal in good sanitary condition per four thousand (4000) square feet of floor space or fraction thereof, and provision made for privacy therein; at least one (1) wash stand in each toilet provided with soap and sanitary towels; at least one (1) sanitary drinking fountain, either on the dance floor or reasonable accessible thereto for each four thousand (4000) square feet of floor space or fraction thereof. Every dance hall shall have sufficient fire exits free from all rubbish and inflammable material as required by the regulations of the State Fire Marshall, and at least one (I) free and unobstructed means of exit from the premises in addition to the main entrance thereto.

§7.762 Building Code Requirements. Any place in which public dances are held shall comply with all Building Code requirements of the City.

§7.763 Registration of Teenage Dances. No person shall conduct or permit any teenage dance to be conducted on premises under his control unless each such teenage dance is registered with the Police Department not less than twenty-four (24) hours prior to the holding thereof.

§7.764 General Regulations. The following general regulations shall apply to the conduct of all teenage dances:

(a) No minor admitted to a teenage dance shall be permitted to leave and thereafter enter the dancing premises during the course of the event and no pass-out checks shall be issued except in emergencies and when authorized specifically by the adult person responsible for conducting the dance or a special police officer in charge of the premises as hereinafter provided.

(b) No alcoholic liquor shall be sold, consumed or be available on the premises in or about which any teenage dance is held. Admission to a teenage dance shall be denied any person showing any evidence of drinking any alcoholic liquor or who has any alcoholic liquor on his person.

(c) Sufficient supervisors shall be provided at every teenage dance in order to keep law and order and properly supervise and obtain acceptable standards of social behavior at all times. At all times during the course of every teenage dance there shall be on the premises at least one supervisor who is a special police officer in uniform, provided at the expense of the adult person registering such teenage dance, which officer may be either an off-duty police officer of the City or a Deputy Sheriff.

(d) No person of the age of twenty (20) years or more shall attend or be permitted to attend any teenage dance as a participant; provided, however, that this regulation, shall not prevent or interfere with the attendance of supervisors) parents or sponsors who do not participate in the dance nor shall it prohibit persons employed as entertainers, musicians, waitresses or other attendants at such dances. No person under the age of fourteen (14) years shall attend or be permitted to attend any teenage dance.

(e) No dance which must be registered as a teenage dance shall be conducted in any place other than a dance hall conforming with the requirements of this Chapter.

§7.765 Police Regulations. The location, conduct and performance of teenage dances shall be subject, to such additional reasonable and proper rules, regulations and orders as shall be imposed by the Police Department. If, for any stated reason, the Police Department shall find and determine that, a dance hall is not a fit and proper place for the holding of a teenage dance, no such teenage dance shall be held therein until the situation or circumstances making such location improper have been corrected. If the Police Department shall determine that the supervisors provided are not satisfactory or adequate, such supervisors shall be replaced or supplemented as required. It shall be the obligation of the persons sponsoring and registering the teenage dance and all persons participating in such dance to obey and comply with the rules, regulations and orders of the Police Department in the conduct of such dance. Any such person failing or refusing to obey and comply with any such rule, regulation or order shall be guilty of a violation of this Code.

TITLE VII

BUSINESS AND TRADES

CHAPTER 79-3

CARNIVALS AND CIRCUSES

§7.770 License Required. It shall be unlawful for any person to operate or maintain within the City limits of Beaverton, a carnival, amusement park or circus, unless the owner, licensee, bailee or person in possession thereof has obtained, from the City, a license to operate the same and has displayed said license in a prominent place on the premises.

§7.771 Application. Application shall be made on a form furnished by the City Clerk which shall set forth the owner's name, address, and the type and amount of liability insurance carried and the name of the insurance carrier, and whether or not the applicant is sponsored by a civic, religious, service or fraternal organization in the City of Beaverton. Applicant shall also state the place within the City where the applicant proposes to carry on his entertainment.

§7.772 License Fee. Every licensee hereunder shall pay the inspection, regulation, and license fee as established in Chapter 72.

§7.773 Approval. No license hereunder shall be issued except on certification by the City Administrator who shall consult the City Police. Location of any carnival, amusement park or circus type of entertainment shall be subject to the approval of the City Administrator.

TITLE VIII

BUILDING CODE ENFORCEMENT

CHAPTER 81

EXISTING STRUCTURES

§8.200 Code Adopted. The City of Beaverton adopts the BOCA/National Existing Structure Code and all amendments thereto as adopted.

§8.201 Board of Appeals Qualifications. The Mayor shall attempt to appoint, to the Board persons with the qualifications set forth-in the BOCA/National Existing Structure Code. If people with the appropriate qualifications cannot be found, then the Mayor may appoint to the Board those applicants best qualified to serve as members.

§8.202 Violations.

(a) Designated Misdemeanors. Any person, firm or corporation, who shall violate any provision of this Code for which a criminal penalty is provided shall, upon a finding of responsibility therefore, be subject to a fine of not less than One Hundred Fifty Dollars ($150.00) nor more than Five Hundred ($500.00) dollars and/or imprisonment for a term not to exceed 90 days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

(b) Civil Infractions. Violation of any provision of this Code, not specifically designated as a misdemeanor, unless otherwise provided, shall be deemed a civil infraction subject to disposition pursuant to Article I, Chapter 7, of this Code.

§8.203 Demolition. Anyone affected by an order to raze a structure without option to repair, as set forth in Section ES-112.0 Demolition of BOCA/National Existing Structure Code, and who desires to seek legal recourse to restrain the order, shall within twenty (20) days after service of such order apply to a Court of record for an order restraining the Code Official from razing and removing such structure or parts thereof.

§8.204 Enforcement. The City Administrator and his designees shall act as the Code Enforcement Officer of the City of Beaverton, and are hereby designated as the enforcing agency to discharge the responsibilities of the City under this Chapter.

§8.205 Inspections. Any person, firm, corporation, or other entity who shall sell, or contract to sell an existing structure within the City of Beaverton shall secure a home inspection conducted by a qualified housing inspector.

§8.210 Appeals. The Board of Appeals shall sit upon and decide all matters disputed under Chapters 81 and 82. The Board shall make available its rules and procedures and shall make such rules as are deemed prudent and appropriate.

TITLE VIII

BUILDING CODE ENFORCEMENT

CHAPTER 82

RENTAL HOUSING BUSINESS

§8.300 Certificate of Compliance Required. It shall be unlawful for any person, firm, or other business entity to conduct or operate or cause to be rented either as owner, lessee, agent, or manager within the City, any rental units used for human habitation without having first obtained a Certificate of Compliance or temporary certificate to do so as hereafter provided. A unit is a space intended for family occupancy, or a sleeping room in a dormitory, boarding house, hotel or motel, or dwelling. This ordinance shall not apply to hospitals, nursing homes, or other rental units used for human habitation which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of the users, patients, or tenants.

§8.301 Application. Owners of premises held for rental shall make application for inspection upon the earlier of the following dates:

(a) Within ninety (90) days after the effective date of this ordinance, the owner of each rental dwelling unit existing on the effective date of this section shall make written application to the Building Code Enforcement Officer for a Certificate for such use on a form supplied by the City, and containing such information as necessary as to administer and enforce the provisions of, and to insure compliance with, the provisions of this ordinance, and the housing code in its entirety.

(b) In addition, the legal owner of record of each rental unit, as hereinbefore stated, constructed or acquired after the effective date of this ordinance shall make written application for a Certificate for such use as required and prescribed above, within sixty days following the day on which the owner offers the dwelling unit for occupancy, or prior to initial occupancy if the rental unit is newly constructed.

(c) An application for Certificate of Compliance shall be made within sixty days prior to the two-year automatic expiration of a Certificate of Compliance, but not less than thirty days prior to such Certificate expiration.

(d) Upon the vacation of any rental premises by any tenant, the owner, or lessor, of said premises shall make application for a Certificate of Compliance prior to re-occupancy by a new or different tenant. Rental units that are inspected by the Department of Housing and Urban Development every two (2) years shall be exempted from the City’s Rental Inspection Ordinance.

Amended April 17, 2006. Moved by Lois Mitchell supported by Mark Schultz. Approved by Lois Mitchell, Terry Patsey, Mark Schultz, Jerry Malosh and Clark Wentz. Absent Mike Bassage.

(e) Said application shall be accompanied by the appropriate inspection fee, which shall be set by the City Council from time to time.

(f) After such application is made, if the owner, lessor or agent changes residence or his or her usual place of business, he shall provide the new address to the Building Code Enforcement Officer within fifteen days of such change. The owner shall provide such other information as may be required by the Code Enforcement Department.

§8.302 Inspections.

(a) The Building Code Enforcement Officer shall inspect, on a periodic basis, all dwellings and units required to be registered under this section. In no event shall the period between inspections be longer than two years, except as otherwise provided in this section. Inspections shall be conducted in the manner best calculated to secure compliance with this Chapter and appropriate to the needs of the community. The Enforcement Officer may request permission to enter any premises regulated by this Chapter at reasonable hours to undertake an inspection. Upon an emergency, the Officer may enter at any time.

(b) Inspections may be conducted on one or: more of the following basis:

(1) An area basis, such that all regulated premises in a predetermined geographical area will be inspected simultaneously or within a short period of time.

(2) A complaint basis, such that complaints of violations will be inspected within a reasonable time; and

(3) A recurrent violation basis, such that those premises which are found to have a high incidence of recurrent or uncorrected violations will be inspected more frequently.

(c) The owner or agent shall ensure that the premises regulated by this section are accessible for inspection during normal working hours of the Building Code Enforcement Officer, except that an occupant of the premises may allow inspection at any time.

(d) The City shall charge non-refundable fees for inspection and/or registration, which fees shall be set by resolution of Council and which shall be paid at the time of registration and in advance of inspection.

§8.303 Warrants.

(a) In a non-emergency situation, if the owner or occupant demands a warrant for inspection of the premises, the Enforcement Officer shall obtain a warrant from a court of competent jurisdiction. The Enforcement Officer shall prepare the warrant, stating the address of the building to be inspected, the nature of the inspection, as defined in this section or other applicable codes or statutes, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g. complaint, area or recurrent violation basis) established in this section. If the warrant is issued pursuant to this section, it shall state that it is for the purposes set forth in this section.

(b) If the court finds that the warrant is in proper form and in accordance with this section, it shall be issued forthwith.

(c) In the event of an emergency, no warrant shall be required.

§8.304 Procedures.

(a) The inspection procedures set forth in this chapter are established in the public interest, to secure the health and safety of the occupants of dwellings and of the general public.

(b) The Building Code Enforcement Officer shall keep a record of all inspections.

(c) **Checklists.** The Building Code Enforcement Officer shall make available to the general public a checklist of commonly recurring violations for use in examining premises offered for occupancy.

(d) **Certificates of Compliance.** Rental dwellings or units required by this Chapter to be licensed shall not be occupied unless a Certificate of Compliance or temporary certificate for occupancy has been issued by the Building Code Enforcement Department. The Certificate shall be issued only upon an inspection of the premises by the Enforcement Officer, except as provided in subsection (h) hereof. The Certificate shall be issued within fifteen (15) days after written application therefore if the dwelling, at the time of the application, meets the requirements of this Chapter.

(e) **Findings by Inspection.**

(1) A violation of this Chapter shall not prevent the issuance of a Certificate, but the Building Code Enforcement Department shall not issue a Certificate when the existing conditions constitute a hazard to the health or safety of those who may occupy the premises. Upon a finding that there is a violation of this Chapter, but that the violation does not constitute a hazard to the health and safety of the

occupants, a temporary certificate shall be issued, but such certificate shall not affect enforcement actions taken in regard to the violation under this Chapter.

(2) Upon a finding that there is no condition that would constitute a hazard to health and safety of occupants and that the premises are otherwise fit for occupancy, the certificate shall be issued.

(3) If the Enforcement Officer finds that a condition exists that would constitute a hazard to health or safety, no certificate shall be issued, and an order to comply with this Chapter shall be issued immediately and served upon the owner. On re-inspection and proof of compliance, the order shall be rescinded and a certificate issued.

(f) Inspection Intervals.

(1) In the case of new construction, inspections shall be made prior to first occupancy, if the construction or alteration is completed and the first date of occupancy will occur after the effective date of this ordinance. Structures inspected under this section prior to first occupancy shall be first re-inspected within six years and thereafter at two-year intervals.

(2) Where first occupancy of a single-family or two-family dwelling has occurred before such effective date, the first inspection shall be made within four years after the effective date of this ordinance. Thereafter, inspections shall be made at two- year intervals.

(g) Certificates withheld.

(1) When a certificate is withheld pending compliance, premises which have not been occupied or are not occupied for dwelling purposes shall not be occupied, and those premises which are occupied for dwelling purposes may be ordered vacated until re-inspection and proof of compliance, at the discretion of the Code Enforcement Officer.

(2) A certificate of compliance shall be issued on the condition that the premises remain in a safe, healthful and fit condition for occupancy. If, upon re-inspection, the Enforcement Officer determines that conditions that exist which constitute a hazard to health or safety, the Certificate shall be immediately revoked as to the affected premises, and the premises may be ordered vacated as provided in paragraph (g)(l) above.

(h) Temporary Certificates.

(1) Once proper application and fees have been received by the Department according to the requirements of §8.21 the Building Code Enforcement Department may make a search of its records and determine whether there are violations of record for the subject premises. The Enforcement Officer may authorize the issuance of Temporary Certificates for occupancy without inspection for those premises in which there are no violations of record as of the date of the application, and shall issue such Temporary Certificates for occupancy, upon application in cases where inspections are not conducted within a reasonable time.

(2) Temporary Certificates shall also be issued for premises with violations of record, when the owner can show proof of having undertaken to correct such conditions, or when an owner rehabilitation plan has been accepted by the Code Enforcement Officer.

(i) Violation Correction and Inspection.

(1) If, upon inspection, the premises or any part thereof is found to be in violation of any of the provisions of this Chapter, the violation shall be recorded by the Building Code Enforcement Department in the Registry of Owners and Premises.

(2) The owner, at the discretion of the Building Safety Division, and the occupants shall be notified, in writing, of the existence of the violation and shall be ordered to correct the violation as provided in this Chapter.

(3) The Building Code Enforcement Department shall re-inspect after a reasonable time for the purpose of ascertaining whether or not the violation has been corrected.

(4) If any Certificate of Compliance or Temporary Certificate for occupancy is revoked because of the condition of any dwelling unit, the registered owner or agent may appeal such revocation as provided by Title VIII, Chapter 81.

(j) Enforcement.

(1) Remedies not limited. This section shall not limit or eliminate any rights at common law or any enforcement of statutes regulating the subject matter of this Chapter.

(2) Civil Infraction. Violation of any provisions of this Chapter unless otherwise provided, shall be deemed a civil infraction subject to disposition pursuant to Article I, Chapter 7, of this Code.

(3) Criminal Penalties. A second or subsequent violation of §8.300, or §8.301 shall be deemed a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars ($500.00), and costs of prosecution, or by imprisonment not to exceed 90 days, or both in the discretion of the court.

TITLE IX

POLICE REGULATIONS

CHAPTER 106

RADIO, TV INTERFERENCE

§9.120 Preventable Interference Unlawful. It shall be unlawful for any person knowingly or wantonly to operate or cause to be operated, any machine, device, apparatus, or instrument of any kind whatsoever within the corporate limits of the City of Beaverton between the hours of 6:00 a.m. and 12:00 midnight, the operation of which shall cause reasonably preventable electrical .interference with radio or television reception, within said Municipal limits; provided, however, that x-ray pictures, examinations or treatments may be made at any time if the machine or apparatus used therefore are properly equipped to avoid all unnecessary or reasonably preventable interference with radio or 'television reception and are not negligently operated.

This section shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting or receiving instrument, apparatus, or device used or useful in interstate commerce or the operation of which instrument, apparatus, or device is licensed by or under the provisions of any act of the Congress of the United States.

TITLE IX

POLICE REGULATIONS

CHAPTER 107

NOISE CONTROL

§9.130 Noises. Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive, namely:

(a) Animal and Bird Noises. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.

(b) Construction Noises. The erection (including excavating thereof), demolition, alteration, or repair of any building, and the excavation of streets and highways, on Sundays and other days, except between the hours of 7:00 a.m. and 6:00 p.m., unless a permit be first obtained from the City Clerk.

(c) Engine Exhausts. The discharge into the open air of the exhaust of a steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(d) Handling Merchandise. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(e) Blowers. The discharge into the open air from any noise creating blower or power fan unless the noise from such blower or fan is muffled sufficiently to deaden such noise.

(f) Horns and Signal Devices. The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(g) Radio and Musical Instruments. The playing of any radio, television set, stereo device, or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., or at any time or place, so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(h) Shouting and Whistling. Yelling, shouting, hooting, whistling, or singing or the making of any other loud noise on the public street, between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort, or repose of persons in any school, place of worship, or office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

§9.131 Exceptions. None of the terms or prohibitions of §9.130 of this Chapter shall apply to:

(a) Any police or fire vehicle or any ambulance, while engaged upon emergency business.

(b) Excavations or repair of bridges, streets, or highways by or on behalf of the City, County, or the State of Michigan, during the night, when the public safety, welfare, and convenience renders it impossible to perform such work during the day.

§9.132 Violations.

(a) Violation of any provision of this ordinance may be enforced either as a misdemeanor criminal infraction or by civil suit for abatement of nuisance at the discretion of the City.

(b) Any person, firm or corporation violating any provision of this ordinance shall be fined not less than $5.00 nor more than $500.00 for each offense and a separate offense shall be deemed committed on each day on or during which a violation occurs or continues.

TITLE IX

POLICE REGULATIONS

CHAPTER 108

WEED CONTROL

§9.140 Weed Growth Prohibited. No person occupying any premises, and no person owning any unoccupied premises shall permit or maintain on any such premises any growth of noxious weeds; nor any growth of grass or other rank vegetation to a greater height than twelve (12) inches on the average; nor any accumulation of dead weeds, grass or brush. "Noxious weeds" shall included Canada thistle (Circum arvense), dodders (any species of Cuscata), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (ambrosia elatior 1.) and poison ivy (rhus toxicodendron), poison sumac (toxicodendron vernix).

§9.141 Duty of Occupant or Owner. It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the City, to cut and remove or destroy by lawful means all such noxious weeds and grass, as often as may be necessary to comply with the provisions of §9.140; provided that the cutting, removing or destroying of such weeds and grass at least once in every three (3) weeks between May 15th and September 15th of each year, shall be deemed to be compliance with this Chapter.

§9.142 When City to do Work. If the provisions of §9.140 and §9.141 are not complied with, the City Clerk shall notify the occupant, or owner of unoccupied premises, to comply with the provisions of said sections within a time to be specified in said notice which notice shall be given in accordance with Section 1.11 of this Code. Said notice shall require compliance with this Chapter within five (5) days after service of such notice, and if such notice is not complied with within the time limited, the Clerk shall cause such weeds, grass and other vegetation to be removed or destroyed and the actual cost of such cutting, removal or destruction including supervision and overhead costs, shall be a lien against the premises and collected in the manner prescribed in Chapter 1 of this Code. The City Clerk shall be Commissioner of Noxious Weeds of the City, and shall serve as such without additional compensation.

§9.143 Exemptions. Exempted from the provisions of this Chapter are flower gardens, plots of shrubbery, vegetable gardens and small grain plots. An exemption under the terms of this Section cannot be claimed unless the land has been cultivated and cared for in a manner appropriate to such exempt categories.

§9.144 Violations. Violations of this Chapter shall be punishable as prescribed in Title I, Chapter 7 of this Code.

TITLE IX

POLICE REGULATIONS

CHAPTER 109

ABANDONED REFRIGERATORS

§9.150 Abandoned Refrigerators. No person shall leave outside of any building or dwelling in a place accessible to children, any abandoned, unattended, available or discarded icebox, refrigerator or any other container of any kind which has an airtight door or lock remaining upon it.

§9.151 Lock Removal. No person shall leave outside of any building or dwelling in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any container of any kind, or compartment of any kind, which has a snap lock or other device thereon, without first removing the doors of said icebox, refrigerator, container or compartment, unless the doors thereto are securely fastened by the use of chains, locks or other devices adequate to prevent the opening of said doors.

TITLE IX

POLICE REGULATIONS

CHAPTER 110

ANIMALS

§9.160 Cruelty to Animals. No person shall cruelly treat or abuse any animal or bird.

§9.161 Poisoning Animals. No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers, or is likely to endanger, any animal or bird.

§9.162 Birds and Birds Nests. No person, except a public officer acting in his official capacity, shall molest, injure, kill or capture any wild bird, or molest or disturb any wild bird's nest or the contents thereof.

§9.163 Domestic Animals and Fowl. No person shall keep or house any animal or domestic fowl within the City except dogs, cats, birds, fowl or animals commonly classified as pets. No person shall keep any animal in the City which is not of a domesticated species.

DOGS, CATS & OTHER DOMESTIC ANIMALS

§9.164 License: Control of Dogs. It shall be unlawful for any person to own, possess or harbor a dog six months of age or over, in the City of Beaverton without first having obtained a license therefore from Gladwin County. Any person in possession of any dog, or who shall suffer such dog to remain about his premises for the space of ten days, shall for the purpose of this Chapter be deemed to be the owner thereof. No dog shall be permitted on the public streets, or off the premises of the owner, unless such dog has been immunized against rabies in a manner approved by authorized animal control officials, or unless such dog is confined in the process of being transported to or from the premises of the owner. No dog, cat or domestic animal shall be allowed to run at large in the City of Beaverton, unless such animal is under reasonable control of the owner. For the purpose of this Chapter an animal shall be deemed to be under such reasonable control of the owner when said dog is with the owner, or some member of the owner's family.

For the purpose of this Chapter an animal shall be deemed not under the reasonable control of the owner when such animal commits damage to the person or property of any other than the owner, except in the defense of the owner, his family or his property, or in the case of a female animal in heat off the premises of the owner, unless confined in the process of being transported to or from the premises of the owner.

§9.165 Dog Kennel License. It shall be unlawful to operate a dog kennel in the City of Beaverton without having obtained from the City Treasurer a kennel license. Any person owning, harboring or keeping for pleasure or profit five or more dogs shall be deemed to operate a dog kennel. The City Treasurer shall, upon application,

issue such kennel license upon payment as set forth in Title VII Chapter 72 and amended by resolution from time to time, and such kennel license shall obviate the necessity of procuring individual licenses for said dogs. The application for such kennel license shall give the name and address of the owner of said kennel, the location where the kennel is to be kept, and the number of dogs proposed to be kept. Before the application is granted the Mayor or his representative shall investigate the premises and shall approve the same if he finds the place proposed is suitable for a dog kennel and that such kennel may be kept without the probability of its becoming a public or neighborhood nuisance. Before the application is granted the City Administrator shall certify that such application is in conformity with City of Beaverton Zoning. No kennel shall be permitted within one hundred (100) feet of any dwelling house, unless the occupants of such dwelling house consent to the same. Each kennel license shall be kept posted conspicuously on the premises where said kennel is kept. Such kennel license shall not be transferable and shall terminate on the 31 of December following its issuance. With each kennel license the Treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. Such tags shall bear the number of the kennel license and shall be readily distinguishable from the individual license.

§9.166 Keeping of Vicious, Barking Dogs and Crying Cats. It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood, or any animal whatsoever that materially disturbs, chases, annoys, threatens or intimidates persons in the neighborhood who are of ordinary sensibilities.

(a) Wild or Vicious Animals. It shall be unlawful for any person to keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposed, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.

(b) It shall be unlawful for any person to keep or permit to be kept any wild animal as a pet, unless a permit is granted by the Michigan Department of Natural Resources, or other State authority.

(c) It shall be unlawful for any person to harbor or keep a vicious animal within the City. Any animal which is found off the premises of its owner may be seized by any police officer, humane officer or County Animal Control Officer and upon establishment, to the satisfaction of any court of competent jurisdiction, of the vicious character of said animal, it may be killed by a police officer, humane officer or county animal control officer; provided however, that this section shall not apply to an animal under the control of law enforcement or military agency.

(d) "Wild Animal" shall mean any live monkey or other primate, raccoon, skunk, fox, snake, or other reptile, leopard,

panther, tiger, lion, lynx, wolves, part-wolves, coyotes or other animal or any bird of prey which can normally be found in the wild state.

(e) "Vicious Animal" shall mean any animal which has previously attacked or bitten any person or which has behaved in such a manner that the person who harbors such animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite person.

(f) Any animal which has historically been bred for fighting, and can reasonably be expected to exhibit aggressive tendencies, such as, but not limited to: Pit Bull Dogs, Doberman Pincers, Rottweilers, and the like, shall be kept in a securely enclosed area or on a leash and muzzled at all times. In addition to the other requirements of the law, the owner of such an animal shall register such dog with the Beaverton City Police Department. The registration shall be made on a form furnished by the Police Department for that purpose and shall provide for the name and address of the dog's owner, the address of where the dog is kept, and shall identify or describe the dog as much as is reasonably possible.

§9.167 Kennel Maintenance. No person shall operate a kennel without keeping the same at all times in a clean and sanitary condition. No dog kennel shall be permitted in case the dogs kept, at such kennel by loud, frequent or habitual barking, yelping or howling, cause annoyance to the neighborhood or to the general public. The license for any dog kennel which permits such kennel to become a nuisance by reason of filth or uncleanliness, or by reason of noise, may be suspended or revoked as provided in Chapter 71.

§9.168 Dog Warden. A member of the City Police Department or other Administrator shall be designated Dog Warden and shall be charged with enforcement of this Chapter.

§9.169 Impounding Dogs. It shall be the duty of the Dog Warden to make diligent inquiry as to the number of dogs owned, harbored or kept by all persons in the City, and whether any such dogs are unlicensed. Any dog found by said Dog Warden or other police officer unlicensed after March 1st of each year, or running at large at any time, shall be seized by such officer and impounded in the Dog Pound and shall not be released until all impounding fees are paid. The Dog Warden shall report to the City Clerk all dogs found unlicensed after March 1st of each year.

§9.170 Release from Pound. No dog shall be released from the pound unless the owner or person entitled to demand the same shall pay to the Dog Warden the sum of One and 50/100 ($1.50) Dollars for the care, custody and feeding of said dog on the part of such Dog Warden and procure a proper license for said dog in the event such dog is not licensed.

§9.171 Disposition of Unclaimed Dogs. All dogs not claimed and released within one week after being impounded shall be destroyed; or, if the animal is worthy and valuable, the Dog Warden shall

thereafter sell said dog at public auction at the Dog Pound to the highest bidder at the hour of noon on the second day succeeding the week aforesaid; provided that dogs impounded having been exposed to rabies, or any dog that has attacked a person, shall be kept until such time and under such conditions as shall be required by the Health Officer and it shall be the duty of the Dog Warden to notify the Health Officer when he has any good reason to believe that he has such dog in his possession. If the Dog garden shall be at any extra expense in keeping said dog over and above the customary cost for feeding and care, any person procuring the release of such dog shall, in addition to the pound fees, pay such additional expense to the City of Beaverton.

§9.172 Rabid Dogs. Any person having in his or her possession a dog which has contacted rabies or has been exposed to or is suspected or having the same, shall upon demand of the Police Department or the Health Officer of the City of Beaverton, produce and surrender up such dog to the Police Department or Health Officer of the City to be held for observation and treatment.

§9.173 Complaints for Violations.

(a) It shall be the duty of the Dog Warden to enforce all provisions of this Chapter and carry out the duties herein provided by him to be performed. In the furtherance of such duties he may make any-complaints he deems necessary to the Court having jurisdiction in regard to any violation of this Chapter of which he has knowledge.

(b) Whenever any person shall complain to the police department that a dog which habitually barks, howls, yelps; or a cat which habitually cries or howls is being kept by any person in the City; or a person complains of an animal that is otherwise a material annoyance or vicious; or a person complains that an animal is not provided with minimum care within definition of the Section prohibiting cruelty to animals; the police department shall notify the owner of said dog or cat that a complaint has been received and that the person should take whatever steps necessary to alleviate the howling, yelping, crying or other annoying behavior.

(c) If the warning given to the person alleged to be keeping a dog or cat as set forth in (a) above is ineffective, then a verified complaint of at least two citizens not from the same family may be presented to the police department, alleging that a vicious dog or a dog which habitually cries or howls is being kept by any person within the City. The police department shall inform the owner of such dog or cat that said petition has been received and shall cite the owner of the dog or cat for violation alleged in said petition.

§9.174 Penalty.

(a) Violation of any provision of this ordinance may be enforced either as a misdemeanor criminal infraction, or by

civil suit for abatement of nuisance, at the discretion of the City.

(b) Any person, firm, or corporation violating any provision of this ordinance shall be fined not less than five dollars $5.00, nor more than five hundred dollars $500.00, for each offense, and a separate offense shall be deemed committed on each day on or during which a violation occurs or continues.

(c) Any reasonable costs incurred by the Public Safety Department in seizing, impounding, and for confining any dangerous or wild animal shall be charged against the owner, keeper, or harborer of such animal and shall be collected by the City Attorney. Such charge shall be in addition to any fine or penalty provided for violating this Ordinance.

TITLE IX

POLICE REGULATIONS

CHAPTER 111

DISORDERLY CONDUCT

§9.201 Definitions. The term "public place" as used in this Chapter shall mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which the public has access.

§9.202 Acts Prohibited. No person within the City of Beaverton shall:

(1) Commit an assault, or an assault and battery on any person.

(2) No person shall be intoxicated in a public place and either endangering directly the safety of another person or of property by acting in a manner that causes a public disturbance.

(3) No person shall be present in any public place with his ability to walk, talk, or see significantly impaired by the use of any controlled substance as defined by Article 7 of this Michigan Public Health Code (MCL 333.7101 et seq.; MSA 14.15 (7101) et seq.) as amended, provided however, that this subsection shall not be construed to apply to a person whose faculties have been impaired by medication prescribed by a physician and taken as directed.

(4) Discharge of any firearms, air rifle, air pistol or cross-bow.

(5) Fire, discharge, display, or possess any fireworks except of the type and under the conditions permitted by Chapter 39 of the Penal Code of the State of Michigan, as amended.

(6) Engage in peeping in the windows of any inhabited place.

(7) Beg in any public place.

(8) Swim or bathe in any public place without wearing proper apparel.

(9) Engage in fortune telling or pretend to tell fortunes for hire, gain, or reward.

(10) Make any immoral exhibition or indecent exposure of his or her person.

(11) Willfully destroy, damage, or in any manner deface any property not his own, or any public school building, or any public building, bridge, fire hydrant, street light, street sign or parking meter, or mark or post handbills on, or in any manner mar the walls of any public building, or

destroy, take, or meddle with any property belonging to the City or remove the same from the building or place where it may be kept, placed,, or stored, without proper authority.

(12) Insult, accost, molest, or otherwise annoy, either by word of mouth, sign, or motion, any person in any public place.

(13) Engage in any disturbance, fight, or quarrel in a public place.

(14) Jostle or roughly crowd persons in any street, alley, park, or public building.

(15) Play any ball game in any public street or sidewalk or otherwise obstruct traffic on any street or sidewalk by collecting in groups thereon, for any purpose.

(16) Engage in any act of prostitution.

(17) Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor, or any other illegal or immoral business or occupation is permitted or conducted.

(18) Solicit or accost any person for the purpose of inducing the commission of an illegal or immoral act.

(19) Knowingly transport any person to a place where prostitution or gambling is practiced, encouraged, or allowed for the purpose of enabling such person to engage in gambling or in any illegal or immoral act.

(20) Keep or maintain a gaming room, gaming tables, or any policy or pool tickets, used for gaming; or knowingly suffer a gaming room, gaming tables, or any policy or pool tickets to be kept, maintained, played, or sold on any premises occupied or controlled by him.

(21) Disturb the public peace and quiet by loud, boisterous, or vulgar conduct.

(22) Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly person.

(23) Obstruct, resist, hinder, or oppose any member of the police force, or any peace officer in the discharge of his duties as such.

(24) Wander about the streets, either by day or night, without any lawful means of support or without being able to give a satisfactory account of himself.

(25) Prowl about any alley or the private premises of any other person in the nighttime, without authority or the permission of the owner of such premises.

(26) Spit on any sidewalk or on the floor or seat of any public

carrier, or on any floor, wall, seat or equipment o any place of public assemblage.

(27) Disturb any school, meeting, or congregation lawfully assembled, whether religious, political, or otherwise.

(28) Flirt, willfully annoy, or make or extend offensive advances or invitation by word or act to any person to whom he or she is unknown, in any public place.

(29) Wrongfully throw or propel any snowball, missile or object from any moving automobile.

(30) Wrongfully throw or propel any snowball, missile or object toward any person or automobile.

(31) Neglect or fail to support his wife, children or family, if he shall have sufficient ability to do so, or leave or desert his wife, children or family without sufficient means of support.

(32) Summon, as a joke or prank or otherwise without any good reason therefore, by telephone or otherwise, the Police, or Fire Department or any public or private ambulance to go to any address where the service called for is not needed.

(Amended April 21, 2008)

§9.203 Obstructing Public Passage. Any person who shall collect or stand in crowds, or arrange, encourage, or abet the collection of persons in crowds in any public place for any unlawful or mischievous purpose, or who shall loiter on any street or sidewalk, or any park or public building, or conduct himself in any public place so as to obstruct the free and uninterrupted passage of the public, create a disturbance by which the peace and good order of the neighborhood is disturbed, or interfere with the peaceful and lawful conduct of any public or private business, and who shall fail to disperse upon reguest of a law enforcement officer of the City of Beaverton, County of Gladwin, or State of Michigan, shall be guilty of a violation of the Code.

§9.204 Loitering.

(a) Definition, as used in this section, "loitering" on private property, shall include the concepts of spending time idly, loafing, or walking aimlessly, and shall also include knowingly or willingly entering upon the property of another without consent of the owner, lessee or other person rightfully in charge or possession thereof, if either of the following conditions exist:

(1) the premises are fenced or enclosed in a manner to exclude intruders; or

(2) Notice against trespass is given by posting the premises in a conspicuous manner.

(b) Other types of loitering prohibited. No person shall loiter in a public place in such manner as to:

(1) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person;

(2) Create or cause to be created a danger of breach of the peace;

(3) Obstruct the free passage of pedestrians or vehicles;

(4) Obstruct, molest or, interfere with any person lawfully in any public place.

This paragraph shall include the making of any unsolicited remarks of an offensive, disgusting, or insulting nature or which are calculated to annoy or disturb the person to, or in whose hearing they are made.

(c) Request to Leave. Whenever the presence of any person in any public place is causing any of the conditions enumerated in Section 2, the owner, lessee, or person rightfully in charge or possession thereof, or any police officer may order that person to leave that place. Any person who shall refuse to leave after being ordered to do so shall be guilty of a violation .of this section.

§9.205 Harassment by Telephone.

(a) It shall be unlawful for any person or persons to telephone any other person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing or molesting such other person or his family, whether or not conversation ensures, except for telephone calls made for legitimate business purposes.

(b) It shall be unlawful for any person or persons to use any threatening, vulgar, indecent, obscene, immoral or insulting language over any telephone.

TITLE IX

POLICE REGULATIONS

CHAPTER 112

PARADES AND DEMONSTRATIONS

§9.220 Demonstrations. The City of Beaverton ordains that any person, group or organization desiring or planning to hold any public assembly or demonstration on the highways, streets, sidewalks, alleys, and/or any other public grounds of the City of Beaverton, shall first register their organization at the City Hall.

§9.221 Purpose. The purpose for this registration is to simply allow the City of Beaverton to know who will be responsible for the subsequent activities. In this matter the City shall protect itself from the responsibility of any harmful activity engaged in or any injury sustained during the demonstration or assembly. The full responsibility will belong in the hands of the organization designated on the registration form.

§9.222 Regulation. The City, however, shall retain the right, and is obligated under its police powers, to regulate the demonstration if circumstances deem this to be necessary. The City's primary concern is to the time, place and manner of this demonstration. The City retains the right to discuss these matters of interest with the said demonstrators after reviewing the registration form shown below.

§9.223 Form. The following is the registration form the City of Beaverton requires each demonstrating party to fill out completely.

Public Assembly or Demonstration Form

This form is required to have the necessary information about the individual(s), group, or organization involved in the public demonstration.

1. Name of Organization:_____

   Address of Principal Office:_____

   Telephone Number:_____

2. Name, Address and phone Number(s) of Officers and Executives, if any:_____

   _____

3. Requested Assembly Date(s):_____

   Day(s) of Week:_____ Time:_____

   Start:_____ Finish:_____

4. Assembly area:_____

   Location:_____

5. Number of Individuals and/or Groups involved:_____
   Estimated

6. What portion of the streets or sidewalks will be occupied by the assembly?:_____

7. I certify that I am an authorized representative of _____ and have the power to execute this form on behalf of the above named organization.* All of the above statements are true to the best of my knowledge, information and belief. All questions have been answered, and if any change in fact or method occurs subsequent to the data of this form, the organization will notify the City Administrator in writing within twenty-four (24) hours after such change. I further certify that should the City incur expenses as a result of the demonstration that our organization will fully reimburse the City of Beaverton.

   Signed by:_____

   Name:_____ Title:_____

   Address:_____

   Phone Number:_____

   *If the public assembly is to be held by, on the behalf of, or for any other person or organization than the designated person on this form, attach a copy or written authorization to fill this form out correctly on behalf of such person or organization.

PARADE APPLICATION

§9.224 License Required. No person shall form, conduct, promote, or organize any parade on the highways, streets, and/or alleys or any other public grounds of the City of Beaverton, without first securing a license therefore.

§9.225 Application; Fees. anyone desiring a license for any such parade shall make written application therefore to the City Clerk, which application shall be in writing and shall be signed by the person responsible therefore; and shall give the names and permanent addresses of the organization desiring the license, and name, the address and phone number of the three (3) highest officials in the organization; the purpose of the licensee in parading; and shall be accompanied by a license fee of $50.00 to be used to defray the cost of policing the same. Should the parade require extraordinary policing, the licensee shall pay to the City Clerk the cost thereof.

§9.226 Bond. Before any license is issued by the City Clerk, there shall be posted with said City Clerk a corporate surety bond in the amount of $25,000.00 to insure payment of any and all damages to any property, public or private, done in the course of said parade, by either the licensee, his supporters, or other opposing the parade; and said licensee shall be personally responsible for all such damages.

§9.227 Reduction, Waiver of Fee, Bond. The City shall have the right to reduce and/or waive the license fee and/or surety bond for parades, etc. provided the applicant appears personally at the Council meeting or before the official to be delegated by the Council, and shows to the satisfaction of the Council or said official that applicant's parade would require only minimal policing. The City maintains that principled standards shall be used in determining exemptions.

§9.228 Conduct of Parade. Every licensee shall conduct such parade in a manner set forth as shall comply with the rules and regulation set forth by the City Council or delegate official granting the license for said parade. Namely, the City is concerned with the time, place, manner and route of said parade.

§9.229 Responsibility. Any person securing a license must set forth in the application therefore the name of the person or persons who will be in charge of said parade, and that said person(s) shall be available at all times during the course of the parade.

The following is a license each parade applicant shall fill out completely.

Parade License application Form.

Together with any supplementary information as may be required by the City of Beaverton, this form must be filed with the office of the City Administrator, not more than ninety (90) days, nor less than five (5) days prior to the parade date to insure proper processing. The license shall be issued after the following departments (listed below) have checked over the time, place, and route of said parade:

Police
Fire
Public Works
Traffic Manager
City Administrator

1. Name of Organization:_____

Address of Principal Office:_____

Telephone:_____

2. Name, Address and Phone Number(s) of Officers and Executives, if any:_____

3. Parade Marshall:_____

   Address:_____

Person in Charge (day of parade):_____

4. Requested Parade Date:_____

   Time/Start:_____ Finish:_____

5. Assembly Area:_____

   Assembly Time:_____

6. Parade Route: (Attach map)

7. Dispersion Area:_____

   Dispersion Complete time:_____
   Estimated

8. Number of Units: (Estimated*):_____

   a. Individuals and/or groups on foot*:_____
   b. Marching Bands*:_____
   c. Motor Driven*:_____
   d. Animals (describe)*:_____
   e. Other (describe)*:_____

9. Arrangements for disposal of combustible material:_____

_____

_____

_____

10. What portion of the streets traversed will be occupied by the parade (estimated):_____

11. What interval of space will be maintained between units of the parade(estimated):_____

12. How long will it take the parade to clear the broadest intersection (estimated):_____

13. I verify that I am an authorized representative of _____ and have the power to execute this application on behalf of the above named organization.* All of the above statements are true to the best of my knowledge, information and belief. All questions have been answered, and if any change in fact or method occurs subsequent to the date of this application, or the issuance of a license, the applicant will notify the City Administrator in writing twenty-four (24) hours after such change.

Signed by:_____

Name:_____ Title:_____

Address:_____

Telephone:_____

*If the parade is to be held by, on the behalf of, or for any other person or organization than the designated person on this application, attach a copy of written authorization to fill this application out correctly on behalf of such person or organization.

TITLE IX

POLICE REGULATIONS

CHAPTER 113

CURFEW

§9.241 Minors under 17 years of age. It shall be unlawful for any person under the age of seventeen (17) years to loiter or remain in or upon any streets, alleys, or public places in the City of Beaverton between the hours of 10 o'clock p.m. and 5 o'clock a.m. of the following day on Sunday, Monday, Tuesday, Wednesday, and Thursday of each week, and between the hours of 11 o'clock p.m. and 5 o'clock a.m. of the following day on Friday and Saturday of each week, unless such person is accompanied by his parent, guardian, or other person having legal custody and control of such minor, or unless such person is in the pursuance of an errand directed by his parents, or guardian or other person having his care or custody, or while the performance of some lawful employment of such minor makes it necessary that said minor be upon said streets, alleys or other public places during the night time, after such specified hours.

§9.242 Parental Responsibility. It shall hereafter be unlawful for any parent, guardian or other person having the legal care and custody of any minor under the age of seventeen (17) years, to allow or permit any such child, ward or other person under such age while in his legal custody, to loiter or remain, unaccompanied, upon any of the streets, alleys or other public places in said City, within the time prohibited in §9.241 of this Chapter, unless there exists a reasonable necessity therefore.

§9.243 Powers of Police. Each member of the police force, while on duty, is hereby authorized to arrest without warrant any person within his presence violating any of the provisions of §9.141 and detain such person for a reasonable time until complaint can be made and warrant issued and served. No child or minor person arrested under the provision of this Chapter shall be placed in confinement until the parents wishes or the wishes of such guardian or legal custodian have been ascertained, and the said parents, guardians or legal custodian shall refuse to be held responsible for the observance of said Chapter by said minor person.

§9.244 Aiding Underage Children to Violate Law. Any person of the age of seventeen (17) years or over who shall assist, aid, abet, allow, permit or encourage any minor under the age of seventeen (17) years to violate the provisions of §9.241, or shall harbor any such child in any other public place or on its premises, contrary to the provisions of §9.241 hereof, shall be guilty of a violation of the City Code and punished as provided in Title I, Chapter 7 hereof.

§9.245 Parents, Guardians, Etc. Any parent, guardian, or other person having the legal care or custody of any minor child under the age of seventeen (17) years who shall allow or permit such minor child while in his legal custody, to loiter, idle, or congregate in or upon any public street, highway, alley, park, or other public place, contrary to 9.241, shall be guilty of a violation of this Code

and punished as provided in Title I, Chapter 7 hereof.

§9.246 Juvenile Arrest Procedure. Arrests and prosecution of minors under the age of seventeen (17) years for violation of this Chapter shall be in accordance with Section 14 and the other provisions of Chapter XIIA (MSA Sec. 27.3178 (598.1) et seq.) of Act 288 of the Public Acts of 1939, State of Michigan, as amended.

(a) The word "loiter" as used herein, shall include aimlessly driving, or riding in or on any automobile, motorcycle, motor driven cycle, or any other motor driven vehicle, on the streets, alleys, highways, or public thoroughfares of the City without an immediate and predetermined destination.

(b) The phrase "other public places" shall include privately owned places of business, and the premises thereof, serving the public or open to the public, such as restaurants, laundromats, gas stations, theaters, and other places of public amusement.

(c) The word "harbor" shall include the tacit or express permission to said child by the owner, proprietor, occupancy, or any of their agents to remain on or about the premises for a time longer than reasonably necessary for said child to transact such business as he may there have.

TITLE IX

POLICE REGULATIONS

CHAPTER 114

ALCOHOLIC LIQUOR

§9.261 Definitions. The meaning of "alcoholic liquor" and "license" when used in this Chapter shall be as defined in Act 8, Public Acts of Michigan, 1933 Extra Session, as amended.

§9.262 Consumption in Public. No alcoholic liquor shall be consumed on the public streets, or in any other public places, including any store or establishment doing business with the public or licensed to sell alcoholic liquor for consumption on the premises; nor shall anyone who owns, operated or controls any such public establishment or store permit the consumption of alcoholic liquor therein.

§9.263 Liquor Sales. No licensee, by himself, or another, shall sell, furnish, give or deliver any alcoholic liquor to any person:

(a) Who is so intoxicated as not to be in control of all his faculties.

(b) On any day during the hours not permitted by state law or the Liquor Control Commission of the State of Michigan.

§9.264 Bars - Rules of Conduct. No licensee shall permit on licensed premises:

(a) Spirits to be consumed if licensed to sell only beer or wine or both.

(b) Any disorderly conduct or action which disturbs the peace and good order of the neighborhood.

(c) Any resorting of thieves, prostitutes or other disorderly persons.

(d) Any gambling, or the placing or using of any gambling apparatus or paraphernalia therein.

§9.265 Sale to Persons Under Twenty-One (21); Intoxicated persons; Purchases by Minors.

(a) No person, either directly or indirectly, by himself or any clerk, agent, servant or employee, shall at any time sell, furnish, give or deliver any alcoholic liquor to any person unless such person shall have attained the age of twenty-one (21) years, nor shall any person, either directly or indirectly, by himself or by any clerk, agent, servant or employee, at any time sell, furnish, give or deliver any alcoholic liquor to any person who is so intoxicated as not to be in control of all his faculties. In any criminal prosecution for any violation of this subsection, proof

that the defendant licensee, or his agent or employee, demanded and was shown, before furnishing any alcoholic liquor to a minor, a motor vehicle operator's license or other bona fide documentary evidence of the age and identity of such person, may be offered as evidence in a defense to such prosecution.

(b) A person less than twenty-one (21) years of age shall not purchase or consume alcoholic liquor. A person less than twenty-one (21) years of age who violates this subsection is liable for the following civil fines:

(1) For the first violation, a fine of not more than Twenty-five ($25.00) Dollars.

(2) For a second violation, a fine of not more than Fifty ($50.00) Dollars, and participation in substance abuse prevention services as defined in Michigan Complied Laws, Section 333.6107.

(3) For a third or subsequent violation, a fine of not more than One Hundred ($100.00) Dollars, or participation in substance abuse prevention services as defined in MCLA 333.6107, or both.

(c) A person who furnishes fraudulent identification to a person less than twenty-one (21) years of age, or a person less than twenty-one 21) years of age who uses a fraudulent identification to purchase alcoholic liquor, is guilty of a violation of this Code.

(d) This, section shall not be construed to prohibit a person less than twenty-one (21) years of age from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by the State Liquor Control Commission, the Liquor Control Commission or by an agent of the Liquor Control Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(e) This section shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent or employee for a violation of this Code.

(f) The consumption of alcoholic beverages by a person under twenty-one (21) years of age who is enrolled in a course offered by an accredited post secondary educational institution in an academic building of the institution under the supervision of a faculty member shall not be prohibited by this act and if the purpose is solely educational and a necessary ingredient of the course.

§9.266 Violations; Appearance Tickets.

(a) A member of the City Police who witnesses a person violating §9.265 may stop and detain the person for purposes of obtaining satisfactory identification, seizing

illegally possessed alcoholic beverages, and issuing an appearance ticket.

(b) As used in this Section, "appearance ticket" means a complaint or written notice issued and subscribed by a law enforcement officer directing a designated person to appear in a designated district court, at a designated time in connection with the alleged violation for which a civil fines in prescribed. The appearance ticket shall consist of the following parts:

(1) The original which shall be a complaint or notice to appear by the officer and filed with the court.

(2) The first copy which shall be the abstract of court record.

(3) The second copy which shall be delivered to the alleged violator.

(4) The third copy which shall be retained by the law enforcement agency.

(c) A judge may accept an admission of the allegations of an appearance ticket, defendant and the judge shall then direct the civil sanctions imposed by §9.265. If the defendant denies the allegations of the appearance ticket the judge shall set a date for trial. If a person fails to appear on the date specified on the appearance ticket the judge shall enter a default judgment against the defendant.

§9.267 Possession in Motor Vehicle.

(a) No person under the age of twenty-one (21) years of age shall knowingly possess, transport, or have under his control in any motor vehicle any alcoholic liquor unless said person is employed by a licensee under and as defined by the Compiled Laws of the State of Michigan and is possessing, transporting or having such alcoholic liquor in a motor vehicle under his control during regular working hours and in the course of his employment.

(b) At any time within thirty (30) days following the conviction of any such person for a violation of the provisions of this section, which conviction has become final, complaint may be made by the arresting officer or his superior before the court from which was issued the warrant, which complaint shall be under oath and shall contain a description of the motor vehicle in which such alcoholic liquor was possessed or transported by said minor in committing such offense and praying that said motor vehicle be impounded as provided in this section. Upon the filing of said complaint said court shall issue an order to the owner of such property to show cause, if any, why said motor vehicle shall not be impounded as provided herein. Such order to show cause shall have a date and time fixed therein for the hearing thereof, which date shall not be

less than ten (10) days from its issuance and shall be served by delivering a true copy thereof to said owner at any time not less than three (3) full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the last known address of said owner. In case said owner is a non-resident of the State of Michigan, service thereof may be made upon the Secretary of State as provided in Section 403 of Act No 300 of the Public Acts of 1949.

(c) If the court determines upon the hearing of said order to show cause, from competent and relevant evidence, that at the time of the commission of said offense said motor vehicle was being driven by said minor with the express or implied consent or knowledge of said owner, and that the use of said motor vehicle is not needed by the owner in the direct pursuit of his employment or the actual operation of his business, the court shall authorize the impounding of said vehicle for a period to be determined by the Court, of not less than fifteen (15) days nor more than thirty (30) days. The court's order authorizing the impounding of said vehicle shall authorize any peace officer to take possession without other process of said car wherever located and to store the same in a public or private garage at the expense of and at the risk of the owner of said vehicle. Appeal shall lie from such order to the circuit court of said County and the provisions governing the taking of appeals from judgments for damages shall be applicable thereto; provided that nothing herein shall prevent any bona fide lien holder from exercising any rights under such lien.

(d) Any person who shall knowingly transfer title to any motor vehicle for the purpose of avoiding the provisions of this section shall be guilty of a violation of this Code.

TITLE IX

POLICE REGULATIONS

CHAPTER 115

FIRE PREVENTION

§9.281 False Alarm. No person shall willfully turn in, sound or cause to be communicated to the fire department, a false alarm of fire.

§9.282 Injury to Fire Equipment. No person shall willfully molest, take for his own private use, or damage in any manner, any fire fighting equipment or apparatus or anything pertaining to the fire fighting system, or drive any vehicle upon or against any hose or equipment of the Fire Department.

§9.283 Obstruction of Fire Hydrants. No person shall place any obstruction whatever, nor shall any person responsible for such obstruction permit it to remain within fifteen (15) feet of any fire hydrant.

§9.284 Fire Hydrant - Openings. No person, except authorized City officers and employees, shall use any fire hydrant, except in case of emergency, without first securing permission from the Department of Public Works for such use, and paying or agreeing to pay for the water to be used. In no case shall any wrench or tool be used on any fire hydrant other than a regulation City hydrant wrench.

§9.285 Fire Inspection. The Fire Chief is hereby empowered to enter at any and all reasonable times upon and into any premises, building or structure for the purpose of examining and inspecting the same to ascertain the conditions thereof with regard to fire hazards and the condition, size, arrangement and efficiency of any and all appliances for fire fighting. If such inspection shall disclose any fire hazard or any deficiency in fire fighting appliances, the Fire Chief shall order the condition remedied. Every order made by the Fire Chief shall be promptly obeyed and complied with.

§9.286 Waste Receptacles and Storage. No person, owning or being responsible for any premises, shall permit any wastepaper, ashes, oil, rags, waste rags, excelsior or any material of a similar nature to accumulate thereon, unless contained in fireproof receptacles.

§9.287 Fire Exits. The following rules relative to passageways, stairs and fire exits shall be applicable to all public buildings, places of assembly, commercial and business buildings, hotels, apartment buildings, lodging houses, tourist homes and all other buildings including two-family and multiple-family dwellings, except as otherwise expressly limited herein to a particular type of building.

(a) No fire escape, stairway, balcony or ladder on any building shall be obstructed, out of repair, or maintained in a hazardous condition. Doors and windows leading to any fire

escape shall open easily from the inside.

(b) No combustible material shall be stored, placed or kept under or upon any passageway, stairs, or elevator shaft, nor shall any such material be stored, placed or kept in any other part of any building in such a position as to obstruct or render hazardous egress therefrom.

(c) All doors, hallways and stairways shall be unobstructed at all times.

(d) In all theaters, churches, schools and other places of public assembly, no door, aisle or passageway shall be obstructed with any furniture or article; nor shall any person sit or stand or be permitted to sit or stand in any aisle, or in any exit or passageway; and all exits and the sidewalks leading therefrom shall be unobstructed while such places of public assembly are in use.

(e) No person shall do any act which causes any violation of any of the rules set forth in this section, nor shall any person owning any building or in charge thereof, as agent, employee or otherwise permit any of said rules to be violated.

§9.288 Rubbish Fires; Incinerators. It shall hereafter be unlawful for anyone to use, operate, or construct an incinerator within the City, or to burn any rubbish or combustible materials out-of-doors within the City without complying with the following provisions:

(a) Any person desiring to locate, construct and build, or use an incinerator, or to burn any rubbish or combustible materials out-of-doors within the City shall make application to the City Clerk, who shall refer the matter to the chief of the Fire Department or other properly designated official, for inspection.

(b) Inspection shall be made by the Chief of the Fire Department, other properly designated official, or by the State Fire Marshal. Such inspection shall conform to the standards of the American Insurance Association for incinerators, as set forth in their Pamphlet No. 82, and such amendments and recommendations as they shall from time to time make.

(c) In the event the applicant shall meet the inspection requirements, he shall be issued a permit to use and operate an incinerator, or to burn rubbish or combustible materials out-of-doors.

(d) Inspection shall be made from time to time by the Chief of the Fire Department, other properly designated official, or by the State Fire Marshal, and, in the event requirements are not met by the holder of the permit, the permit may be canceled by the Chief of the Fire Department, or by the State Fire Marshal.

§9.289 Starting Fires by Smoking. It shall be unlawful for any person smoking or attempting to light or to smoke a cigarette, cigar or pipe, to set fire to any bed, bedding, furniture, curtains or draperies in any hotel, lodging house or tourist home in the City.

§9.290 Blasting. No person shall blast or carry on any blasting operation without first having obtained a written permit from the City Clerk. Before any such permit is issued, the applicant therefore shall file with the City Clerk a policy of insurance in the amount specified by the Clerk, which amount shall be reasonably commensurate with the risk of damage to property and injury or death to such persons arising out of the proposed blasting operation. Such policy of insurance shall indemnify the applicant with respect to sums which the applicant shall become obligated to pay by reason of the liability imposed upon him by law, for damages because of bodily injury, including death at any time resulting therefrom, or for damages to property, or both, sustained by any person or persons and arising out of the blasting operation.

It shall be unlawful for any person to keep or store any dynamite, blasting powder, nitroglycerine or other high explosives within Six Hundred Sixty (660) feet of any residence within the City of Beaverton.

§9.291 User Fees. The City Council shall have the power to provide for user fees from time to time by resolution.

§9.292 Penalty. Violations of Sections 9.281, 9.282, 9.283, 9.284, 9.285, 9.286, 9.287, 9.288, 9.289, and 9.290 shall be punishable as provided in Title I, Chapter 7 of this Code.

TITLE X

TRAFFIC

CHAPTER 126

TRAFFIC

§10.100 Code Adopted.

(a) Adoption of the revised Uniform Traffic Code for Cities, Townships and Villages is hereby ratified and continues as adopted in Ordinance 85 of October 25, 1971.

(b) Adoption of the revised Motor Vehicle Code of Michigan is hereby adopted.

(c) Adoption of the Michigan Snowmobile Regulations is hereby adopted.

(d) Adoption of the Michigan compiled laws pertaining to drugs is hereby adopted.

(e) Adoption of the current revised Michigan abandoned Vehicle Code is hereby adopted.

(Amended April 21, 2008)

§10.101 References in Code. References in the Uniform Traffic Code for Michigan Cities, Townships and Villages to "governmental unit" shall mean the City of Beaverton.

§10.102 All Night Parking Prohibited. It shall be unlawful for the owner or operator of any motor vehicle to park such motor vehicle upon any of the streets or avenues of said City between the hours of 2:00 a.m. and 6:00 a.m.

§10.103 Temporary Signs. The City Police of the City of Beaverton are hereby authorized to place movable "No Parking" signs on any street in the City of Beaverton for a period of three (3) hours at any one time for emergency purposes, and for snow removal purposes.

§10.104 Maximum Parking Time. No vehicle shall be parked on the streets of the City of Beaverton for more than twenty-four (24) hours without being moved to a new parking location by the owner or operator thereof.

A person who violates this Section shall be responsible for a civil infraction.

§10.105 Impounding Vehicle. It shall be the duty of the operator of the snow removal equipment of the City or any Police Official to remove any motor vehicle parked in violation of the preceding Sections of this Chapter, at the expense of the owner or operator of such motor vehicle, and such expense shall constitute a lien upon such motor vehicle, which the City may foreclose in the

same manner as provided by Act No. 290 of the Public Acts of 1939 as amended.

§10.106 Parking Tickets. The issuance of a traffic ticket or notice of violation by a police officer of the City shall be deemed an allegation of a parking violation. Such length of time in which the person to whom the same was issued must respond before the Municipal Ordinance Violations Bureau. It shall also indicate that address of the Bureau, the hours during which the Bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such a person fails to respond within the time limited.

§10.107 Schedule

UNIFORM TRAFFIC CODE VIOLATIONS

OFFENSE	UTC 'SECTION	PENALTY
Parking too far from curb	(8.1, 8.2)	$ 25.00
Obstructing traffic	(8.5)	25.00
Prohibited parking	(8.10)	25.00
Parking in alley.	(8.13)	25.00
Loading zone violation	(8.16, 8.17)	25.00
All night parking		25.00
Parking between sidewalk and curb		25.00
Parking in Handicapped space		50.00
Parking too close to fire hydrant		25.00

The Beaverton City Council shall have the power to change penalties from time to time by resolution.

§10.108 Snowmobile Operation. A person shall not operate a snowmobile within the City of Beaverton between the hours of 12:00 midnight and 7:00 a.m.

TITLE X

TRAFFIC

CHAPTER 127

TRAFFIC – STREET CLOSINGS

§127.1

(a) Tonkin Street from the corner of Ross Street to a point 550 feet west on Tonkin Street to the school crosswalks at the western most schools drive shall be closed Monday through Friday while school is in and in session for a period in the morning not to exceed one-half (1/2) hour for the arrival of students and other school traffic, and for a like period in the afternoon for the same purposes, or other times as may be necessary due to late school openings, early dismissal and the like. The exact time of this closure shall be set each year by the City Council by resolution.

(b) This closure shall not be deemed to prohibit residents of the two residential dwellings located on said street from ingress and egress during the closure period. Likewise all vehicles owned by the Beaverton Rural School are exempt from this order of closure.

This ordinance shall take effect twenty (20) days after its final passage by the city Council of the City of Beaverton, Michigan.

Ordinance No. 1998-1

Introduced and read this 5th day of October, 1998.

Passed, ordained and ordered published this 5th day of October, 1998.

Approved by: Lois Mitchell, John Schofield, Dick Smith, Charles Smith Jr., Mike Brown, Nila Frei.

2002
General Obligation Limited Tax Bonds

RESOLUTION AUTHORIZING
2002 GENERAL OBLIGATION LIMITED TAX BONDS

City of Beaverton
County of Gladwin, State of Michigan

Minutes over regular meeting of the City Council of the City of Beaverton, County of Gladwin, State of Michigan, held onto life 15th 2002 at 7:00 o'clock PM, prevailing Eastern Daylight Time.

PRESENT: Members Shiffer, Hooper, Smith Jr. Frei.

ABSENT: Members Schofield, Mitchell.

The following preamble and resolution were offered by Member Shiffer in supported by Member Hooper:

WHEREAS, the City of Beaverton (the "City") does hereby determined that it is necessary to acquire, construct, furnish and equip certain capital improvement items, consisting of various road and water improvements described in Exhibit A attached hereto and made a part hereof in all appurtenances and attachments thereto (the "Project"); and

WHEREAS, the cost of the Project along with the costs of issuance are estimated to not exceed Five Hundred Thirty Thousand Dollars ($530,000); and

WHEREAS, to finance the cost Project, the City Council deems it necessary to borrow the principal sum of Five Hundred Thirty Thousand Dollars ($530,000) and issue capital improvement bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended ("Act 34") to pay part of the cost of the Project; and

WHEREAS, a notice of intent was published in accordance with Act 34 which provides that the bonds may be issued with out a vote of the electors of the City unless a proper petition for an election on the question of the issuance of the bonds is filed with the City Clerk within a period of forty-five (45) days from the date of publication, and no petitions for referendum were filed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization of Bonds; Bond Terms. Bonds of the City designated 2002 GENERAL OBLIGATION LIMITED TAX BONDS (the "Bonds") are authorized to be issued in the aggregate principal sum of not to exceed Five Hundred Thirty Thousand Dollars ($530,000) for the purpose of paying part of the cost of the Project, including the costs incidental to the issuance, sale and delivery of the Bonds. The issue shall consist of bonds in fully-registered form of the denomination of $5,000, or multiples thereof not exceeding for each maturity the maximum principal amount of that maturity, numbered consecutively in order of registration, dated as of August 1, 2002. The bonds cap word shall bear interest, mature, and the payable at

the times and in the manner set forth in Sections 6 and 7 hereof.

The Bonds shall be sold at public sale at a price not less than 98.5% principal amount thereof.

The bonds cap word shall be subject to redemption prior to maturity in the manner and at the times and prices set forth in sections 6 and 7 hereof.

Interest shall be payable to the registered owner of record as of the 15th day of the month prior to the payment date for each interest payment. The record date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the City to conform to market practice in the future. Interest shall be payable to the registered owner of record as of the 15th day of the month preceding the payment date for each interest payment. A principle of the bonds cap word shall be payable at a bank or trust company as a registrar in transfer agent for the Bonds to be selected by the City Administrator (the "Transfer Agent").

The bonds cap word may be issued in book-entry only form through The Depository Trust Company in New York, New York ("DTC") and the City Administrator and City Treasurer are each authorized to execute such custodial or other agreement with the DTC as may be necessary to accomplish the issuance of the Bonds in book-entry only form and to make such changes in the Bond Form within the parameters of this resolution as may be required to accomplish foregoing.

2. Execution of Bonds. The bonds cap word of this issue shall be executed in the name of the City with a Manual for facsimile signatures of the Mayor and Clerk of the City and shall have the seal of the City, or a facsimile thereof, printed or impressed on the Bonds. No bond shall be valid until on the tick aided by an authorized officer or representative of the transfer agent. The bonds cap word shall be delivered to the Transfer Agent for authentication and be delivered by the Transfer Agent to the purchaser or other person in accordance with the instructions from the City Administrator or City Treasurer of the City upon payment of the purchase price for the Bonds in accordance with the bid therefore when accepted.

3. Transfer of Bonds. The Transfer Agent shall keep the books of registration for this issue on behalf of the City. Any Bond may be transferred upon such registration books by the registered owner of record, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Transfer Agent shall authenticate and deliver a new Bond or Bonds, for life aggregate principal amount. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer.

Unless waived by any registered owner of Bonds to be redeemed, official notice of redemption shall be given by the Transfer Agent on

behalf of the City. Such notice shall be dated and shall contain at a minimum the following information: original issue date; maturity dates; interest rates; CUSIP numbers, if any; certificates numbers (and in the case of partial redemption) called amounts of each certificates; the place where the Bonds called for redemption are to be surrendered for payment; and that interest on the Bonds or portions thereof called for redemption shall cease to accrue from and after the redemption date.

In addition, further notice shall be given by the Transfer Agent in such manner as may be required or suggested by regulations or market practice at the applicable time, but no defect in such further notice nor any failure to give all or in the portion of such further notice shall in any manner defeat the effectiveness of a call for redemption and notice their of is given as prescribed herein.

4. Limited Tax Pledge; Debt Retirement Fund; Defeasance of Bonds. The City hereby a pledge is its limited tax full faith and credit for the prompt payment of the Bonds. The City shall each year budget the amount of the debt service coming due in the next fiscal year on the principle of an interest on the Bonds and shell in manse as a first budget obligation from its general funds available therefore, or, as necessary, levy taxes upon all taxable property in the City subject to applicable constitutional, statutory and charter tax rate limitations, such sums as may be necessary to pay such debt service in said fiscal year.

The City Administrator or City Treasurer is authorized and directed to open depository account with a bank or trust company to be designated 2002 GENERAL OBLIGATION LIMITED TAX BONDS DEBT RETIREMENT FUND (the “Debt Retirement Fund”), the moneys to be deposited into the Debt Retirement Fund to be specifically earmarked and used solely for the purpose of paying principal of an interest on the Bonds as they mature.

In the event cash are direct obligations of the United States or obligations the principle of an interest on which are guaranteed by the United States, or a combination thereof, the principle of an interest on which, without reinvestment, come due at times and in amounts sufficient to pay at maturity or irrevocable call for earlier optional redemption, principal of, premium, if any, and interest on the Bonds, shall be deposited interest, this resolution shall be defeased end the owners of the Bonds shall have no further rights under this resolution except to receive payment of the principal of, premium, if any, and interest on the Bonds from the cash or securities deposited interest and the interest and gains thereon into transfer and exchange Bonds as provided herein.

5. Construction Fund; Proceeds of Bond Sale. The City Treasurer is authorized and directed to open a separate depository account with a bank or trust company or to create a separate account on the books of the City to be designated 2002 GENERAL OBLIGATION LIMITED TAX BONDS CONSTRUCTION FUND (the “Construction Fund”) and deposit into said Construction Fund the proceeds of the Bonds less accrued interest and premium, if any, which shall be deposited into the Debt Retirement Fund. The moneys in the Construction Fund shall be used solely to pay the costs of the Project and the costs of

issuance of the Bonds.

6. Bond Form. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF GLADWIN

CITY OF BEAVERTON
2002 GENERAL OBLIGATION LIMITED TAX BOND

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	April 1, ____	August 1, 2002	

Registered Owner:

Principal Amount: Dollars

The City of Beaverton, County of Gladwin, State of Michigan (the "City"), acknowledges itself to owe and for value received hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above, in lawful money of the United States of America, on the Maturity Date specified above, and less prepaid prior thereto as hereinafter provided, with interest thereon from the Date of Original Issue specified above or such later date to which interest has been paid, until paid, at the Interest Rate per annum specified above, first payable on April 1, 2003 and semiannually thereafter. Principle of this bond is payable at the designated office of _____, _____, Michigan, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner not less than sixty (60) days prior to any interest payment date (the "Transfer Agent"). Interest on this bond is payable to the registered owner of record as of the fifteenth (15^{th}) day of the month preceding the interest payment date as shown on the registration books of the City kept by the Transfer Agent by check or draft mailed to the registered owner of record at the registered address. For prompt payment of this bond, both principal and interest, the full faith, credit and resources of the City are hereby irrevocably pledged.

This bond is one of a series of bonds aggregating the principle some of $530,000, issued for the purpose of paying all or part of the cost of certain capital improvements for the City. This bond is issued under the provisions of Act 34, Public Acts of Michigan, 2001, as amended, and a duly adopted resolution of the City.

Bonds of this issue maturing in the years 2003 to 2011, inclusive, shall not be subject to redemption prior to maturity. Bonds or portions of bonds of this issue in multiples of $5,000 maturing in the years 2012 and thereafter shall be subject to redemption prior to maturity, at the option of the City, in any order of maturity and by locked within in the maturity, on any interest

payment date on or after April 1, 2011, at par and accrued interest to the date fixed for redemption.

In case less than the full amount of an outstanding bond is called for redemption, the Transfer Agent, upon presentation of the bond called in part for redemption, shall register, authenticate and deliver to the registered owner of record on new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owner of any bond or portion thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. A bond or portion thereof so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the Transfer Agent to redeem said bond or portion thereof.

This bond is transferable only upon the registration books of the City kept by the Transfer Agent by the registered owner of record in person, or by the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principle of mount and of the same maturity shall be issued to the transferee in exchange therefore as provided in the resolution authorizing this bond and upon the payment of the charges, if any, therein prescribed.

This bond, including the interest thereon, is payable as a first budget obligation from the general funds of the City, and the City is required, if necessary, to lead the ad valorem taxes on all taxable property in the City for the payment thereof, subject to applicable constitutional, statutory and charter tax rate limitation.

It is hereby certified and recited that all acts, conditions and things required by law to be done, precedent to and in the issuance of this bond and the series of bonds of which this is one, exist and have been done and performed in regular and do the form and time as required by law, and that the total indebtedness of the City, including this bond, does not exceed any constitutional, statutory or charter debt limitation.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESSED WHEREOF, the City, by its City Council, has caused this bond to be signed in the name of the City by the manual or facsimile signatures of its Mayor and Clerk and a facsimile of its corporate seal to be printed hereon, as of the Date of Original Issue.

CITY OF BEAVERTON
County of Gladwin
State of Michigan

By:___[facsimile]____

Its Mayor

(SEAL)

By:___[facsimile]____

Its Clerk

(Form of Transfer Agent’s Certificate of Authentication)

DATE OF AUTHENTICATION;

CERTIFICATES OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned resolution.

_____

_____, Michigan

By _____

Authorised Signatory

[Bond printer to insert form of assignment]

7. Notice of Sale. The City Administrator and City Treasurer are each authorized to fix a date of sale for the Bonds and to publish a notice of sales of the Bonds in ***The Bond Buyer,*** New York, New York, which notice a sale shall be substantially the following form:

OFFICIAL NOTICE OF SALE

$530,000
CITY OF BEAVERTON
COUNTY OF GLADWIN, STATE OF MICHIGAN
2002 GENERAL OBLIGATION LIMITED TAX BONDS

SEALED BIDS for the purchase of the above bonds will be received by the undersigned at the Offices of the City If Ministry Dir located at 124 West Brown Street, Beaverton, Michigan 48612 on _____, the ____ day of _____, 2002 until _____ _.m., Eastern Daylight Time, at which time and place said bids will be publicly opened and read.

SEALED BIDS will also be received on the same date and until the same time at the offices of the Municipal Advisory Council of Michigan, 1445 First National Building, 600 Woodward Ave., Detroit, Michigan 48226, when, simultaneously, that bids will be opened in read.

FAXED BIDS: Signed bids may be submitted by fax to the City at the fax number (989) 435-3223, Attention: City Clerk or to the Municipal Advisory Council of Michigan at (313) 963-0943; provided that faxed bids must arrive before the time of sale and the bitter bears all risks of transmission failure in the GOOD FAITH DEPOSIT MUST BE MADE AND RECEIVED as described in the section contained “GOOD FAITH” below.

BOND DETAILS: The bonds will be registered bonds of the denomination of $5,000 or multiples thereof not exceeding for into maturity the maximum principal amount of that maturity, originally dated as of August 1, 2002, numbered in order of registration, and will bear interest from their date payable on April 1, 2003 and semiannually thereafter.

The bonds will mature on the first day of April in each of the years, as follows:

Year	Amount
2003	$30,000
2004	30,000
2005	30,000
2006	30,000
2007	30,000
2008	30,000
2009	35,000
2010	35,000
2011	35,000
2012	35,000
2013	40,000
2014	40,000
2015	40,000
2016	45,000
2017	45,000

PRIOR REDEMPTION OF BONDS: Bonds maturing in the years 2003 to 2011, inclusive, shall not be subject to redemption prior to maturity. Bonds or portions of bonds in multiples of $5,000 maturing in the years 2012 and thereafter shall be subject to redemption prior to maturity, at the option of the City, in any order of maturity and by lot within any maturity, on any interest payment date on or after April 1, 2011, at par and accrued interest to the date fixed for redemption.

In case less than the full amount of an outstanding bond is called for redemption, the transfer agent, upon presentation of the bond called for redemption, shall register, authenticate and deliver to the registered owner of record a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owner of any bond or portion thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. A bond or portion thereof so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the transfer agent to redeem said bond or portion thereof.

INTEREST RATE AND BIDDING DETAILS: The bonds shall bear interest at rate or rates not exceeding 7% per annum, to be fixed by the bids therefor breast in multiples of 1/8 or 1/20 of 1%, or boat. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. The difference between highest and lowest interest rates bid shall not exceed two percent (2%) per annum. The interest rate on the bonds maturing in any one year shall not be higher than bonds maturing in subsequent years. No proposal for the purchase of less than all of the bonds or at a price less than 98.5% of their par value will be considered.

BOOK-ENTRY ONLY: The bonds will be issued in book-entry only form as one fully registered bond for maturity and will be registered in the name of Cede & Co., As bondholder and nominee for The

Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the bonds. Purchase of the bonds will be made in book-entry-only form, in the denomination of $5,000 or any multiple thereof. Purchasers will not receive certificates representing their interest in bonds purchased.

TRANSFER AGENT AND REGISTRATION: Principle shall be payable at the principal corporate trust office of _____, _____, Michigan, are such a the transfer agent as the City made here after designate by notice mailed to the registered owner of record not less than 60 days prior to an interest payment date. Interest shell be paid by check mailed to the registered owner of record as shown on the registration books of the City as of the 15th day prior to an interest payment date. The bonds will be transferred only upon the registration books of the City kept by the transfer agent.

PURPOSE AND SECURITY: The bonds are authorized for the purpose of paying all or part of the cost of acquiring, constructing, furnishing and equipping certain capital improvements of the City. The bonds will be a first budget obligation of the City, payable as a first budget obligation from the general funds of the City including the collection of ad valorem taxes on all possible property in the City subject to applicable constitutional, statutory and charter tax rate limitation. The rights in and remedies of bondholders may be affected by bankruptcy insolvency, fraudulent conveyance or other laws affecting creditors' rights generally now existing or hereafter enacted and by the application of general principles of equity including those relating to equitable subordination.

GOOD FAITH: A certified or cashier's check drawn upon an incorporated bank or trust company or a Financial Surety Bond, in the amount of $5,300, and payable to the order of the Treasurer of the City is required for each bid as a guaranty of good faith on the part of the bidder, to be forfeited as a portion of the City's damage is it such been the accepted and the bidder fails to take up and pay for the bonds. If a check is used, it must accompany each bid. If all Financial Surety Bond is used, it must be from an insurance company licensed to issue such a bond in the State of Michigan and such a Bond must be submitted to the City's financial adviser at least one on hour prior to the opening of the bids. The Financial Surety Bond must identify each bidder whose good faith deposit is guaranteed by such Financial Surety Bond. If the bonds are awarded to a bidder utilizing a Financial Surety Bond, then that purchaser (the "Purchaser") is required to submit its good faith deposit to the City in the form of a cashier's check (or wire transfer) such amount as instructed by the City not later than Noon, prevailing Eastern Time, on the next business day following such award. In such good faith deposit is not received by that time, the Financial Surety Bond may be drawn upon by the City to satisfy the good faith deposit requirement. The good faith deposit will be applied to the purchase price of the bond. In the event the purchaser fails to honor its accepted did, good faith deposit will be retained by the City. No interest shall be allowed on the good faith check and checks of the unsuccessful bidders will be returned to each bidder's representative by overnight delivery. The good faith check of the successful bidder will be cash and payment for the balance of the purchase price of the bonds shall be made at close.

AWARD OF BOND – **TRUE INTEREST COST**: The bonds will be awarded to the bidder news did produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (called counted on April 1, 2003 and semiannually therafter) necessary to discount the debt service payments from their respective payment due date to _____, 2002 in an amount equal to a price bid, excluding accrued interest.

TAX MATTERS: In the opinion of bond counsel, assuming compliance certain covenants, interest on the bonds is excluded from gross income for Federal income tax purposes as described in the opinion, and the bonds and interest thereon are exempt from all taxation in the State of Michigan except inheritance and estate taxes and taxes on gains realized from the sale, payment or other disposition thereof. The successful bidder will be required to furnish, prior to the delivery of the bonds, certificates in a form acceptable to bond counsel as to the "issue price" of the bonds within the meaning of Section 1273 of the Internal Revenue Code of 1986.

"QUALIFIED TAX EXEMPT OBLIGATIONS": The City **has** designated the bonds as "qualified tax exempt obligation" for purposes of deduction of interest by financial institutions.

LEGAL OPINION: The IDs shall be conditioned upon the approving opinion of Miller, Canfield, Paddock and Stone, P.L.C., attorneys of Detroit, Michigan, a copy of which the pain will be furnished with on expense to the purchaser of the bonds at the delivery thereof. The fees of Miller, Canfield, Paddock and Stone, P.L.C. for services rendered in connection with such approving opinion are expected to be paid from bond proceeds set to the extent necessary to issue its approving opinion as to validity of the above bonds, Miller, Canfield, Paddock and Stone, P.L.C. Has not been requested to examine for review and has not examined or reviewed any financial documents, statements or materials that have been or maybe furnished in connection with the authorization, issuance or marketing of the bonds, and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials.

DELIVERY OF BONDS: The City will furnish bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser at New York, New York, or such other place to be a agreed upon. The usual closing documents, including the certificates but no litigation is pending affecting the issuance of the bonds, will be delivered at the time of delivery of the bonds. If the bonds are not tendered for delivery by twelve o'clock noon, prevailing Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful bidder may on that day, or any time thereafter until delivery of the bonds, withdrawal his proposal by serving notice of cancellation, in writing, on the undersigned in which event the City shall promptly returned the good faith deposit. Payment for the bonds shall be made in Federal Reserve Funds. Accrued interest to the date of delivery of the bonds shall be paid by the purchaser at time of delivery.

CUSIP NUMBERS: It is anticipated that CUSIP identification

numbers will be printed on the bonds, but neither the failure to print such numbers on any bonds nor any error with respect thereto shall cost to cause for a failure or refusal by the purchaser thereof to accept delivery of and paid for the bonds in accordance with terms of the purchase contract. All expenses in relation to the printing of CUSIP numbers on the bonds shall be paid for by the City; provided, however, that the CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of an shall be paid for by the purchaser.

MICHIGAN PROPERTY TAX REFORM: Legislation has been introduced in the Michigan legislature which, if enacted in its present form, would exempt either $10,000, $15,000, $20,000 or $25,000 taxable value of personal property from collection. The final forms and thus the ultimate impact of this legislation, if enacted, on the City's finances can not be determined at this time. In addition, the Michigan Department of Treasury approved revisions to the State's personal property tax tables which became a fact if in the year 2000 and which may reduce overall personal property tax revenues in some jurisdiction. The State Tax Tribunal informally indicated that it might allow the new multipliers to be applied retroactively intending personal property tax appeals. In anticipation of the new multipliers, many personal property taxpayers filed appeals of their existing tax assessed. Financial impact of the change in multipliers and any appeals, if successful, on the City's operating revenues and revenues available for debt service is unknown. The ultimate nature, extent an impact of the legislation or administrative action and of other tax and revenue measures which are still under consideration cannot currently been predicted. No assurance can be given that any future legislation or administrative action, if enacted or implemented, will not adversely affect the market price or marketability of the Bonds, or otherwise prevent bondholders from realizing the full current benefit of an investment therein. Purchasers of the Bonds offered herein should be alert to the potential effect of such measures upon the Bonds, the security therefor, and the operations of the City.

NO CONTINUING DISCLOSURE: The City will not undertake a continuing disclosure undertaking with respect to this issue of bonds.

NO OFFICIAL STATEMENT: The City will not provide an official statement with respect to the bonds.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL BIDS.

ENVELOPE containing the bids should be plainly marked "Proposal for 2002 General Obligation Limited Tax Bonds".

Rose–Marie Devlin
City Clerk
City of Beaverton

8. Useful Life of Project. The estimated. Usefulness of the Project is hereby declared to be not less than fifteen (15) years.

9. Tax Covenant; Qualified Tax Exempt Obligation. The City to

the extent permitted by law, take all action within its control necessary to maintain the exclusion of the interest on the Bonds from gross income for Federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings in the expenditures and investment of Bond proceeds and moneys deemed to be Bond proceeds. The City **hereby designate** the Bonds as "qualified tax exempt obligation" for purposes of deduction of interest expense by financial institutions pursuant to the Code.

10. Authorization of Other Actions. The City Administrator and City Treasurer each is authorized and directed to take all other actions necessary or advisable, and to make such other filings with the Michigan Department of Treasury or with other parties, to an able to sail and delivery of the Bonds as contemplated herein.

11. Rescission. All resolutions and parts of resolution insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members Shiffer, Hooper, Smith Jr., Frei.

Nays Members

RESOLUTION DECLARED ADOPTED.

Rose–Marie Devlin
City Clerk

STATE OF MICHIGAN
CITY OF BEAVERTON FIREWORKS ORDINANCE
ORDINANCE TITLE IX, CHAPTER 119
CONSUMER GRADE FIREWORKS

An ordinance adopted for the purpose of authorizing and regulating the use of consumer fireworks in the City of Beaverton, Michigan.

THE CITY OF BEAVERTON ORDAINS:

Section 1. As used in this Ordinance, the following definitions shall apply:

a. "City" means the City of Beaverton.

b. "Consumer Fireworks" means firework devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

c. "Low-impact fireworks" means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

d. "Minor" means an individual who is less than 18 years of age.

Section 2. Use of consumer fireworks, except as provided in paragraph (a), it shall be unlawful for any person to ignite, discharge, or use consumer fireworks, as such defined.

a. A person may ignite, discharge, or use consumer fireworks only between the hours of 8:00 a.m. and 1:00 a.m. on the day preceding, the day of, and the day after the following national holidays:

(1) New Years Day, January 1
(2) Martin Luther King Jr. Day, the third Monday in January
(3) Washington's Birthday, the third Monday in February
(4) Memorial Day, the last Monday in May
(5) Independence Day, July 4
(6) Labor Day, the first Monday in September
(7) Columbus Day, the second Monday in October
(8) Veteran's Day, November 11
(9) Thanksgiving Day, the fourth Thursday in November
(10) Christmas Day, December 25

b. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use fireworks on those premises. Except as otherwise provided in this subsection, a person that violates this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $500.00.

c. Consumer fireworks shall not be ignited, discharged, or used by any person that is a minor.

d. Consumer fireworks shall not be ignited, discharged, or used by any person under the influence of any alcoholic substance, controlled substance, or a combination or both.

e. Low impact fireworks shall not be ignited, discharged, or used by any person under the influence of any alcoholic substance, controlled substance, or a combination or both.

f. Any unmanned free-floating devices (sky lanterns), which requires a fire underneath to propel it and is not moored to the ground while aloft, has an uncontrolled and unpredictable flight path, and descent area so as to pose a potential fire risk and are therefore prohibited.

g. A person who violates paragraph a, above, is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $500.00 for each violation.

h. Unless otherwise provided in this section, if a person knowingly, intentionally, or recklessly violates this section, the person is guilty of a crime as follows:

(1.) Except as otherwise provided in this section, a misdemeanor, punishable by imprisonment for not more than 30 days or a fine of not more than $500.00, or both.

(2.) If the violation causes damage to the property of another person, a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

Section 3. Severability. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is

adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. This Ordinance shall take immediate force and effect.

The foregoing Ordinance was offered by Council Member _____ and supported by Council Member _____.

Dated _____.

Roll Call Vote:
Ayes:
Nays:
Absent:
Abstain:

_____
Ray Nau, Mayor

_____
Christopher Olson, City Clerk

STATE OF MICHIGAN
CITY OF BEAVERTON ORV ORDINANCE
ORDINANCE TITLE IX, CHAPTER 118
GOLF CART USE

An ordinance adopted for the purpose of authorizing and regulating the operation of Golf Cart on roads in the City of Beaverton, Michigan.

THE CITY OF BEAVERTON ORDAINS:

Section 1. As used in this Ordinance, the following definitions shall apply:

a. "City" means the City of Beaverton.

b. "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to MCL 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

c. "Operate" means to ride in or on, or be in actual physical control of the operation of the Golf Cart.

d. "Operator" means a person who operates or is actual physical control of the operation of a Golf Cart.

e. "Maintained portion" means that portion of a road improved, designated or ordinarily used for vehicular traffic.

f. "Road" means a road or street which is in the City of Beaverton street system. Road does not include a private road. Street and road are intended to be interchangeable phrases.

g. "Sunset" and "Sunrise" means that time as determined by the national weather service.

Section 2. Golf carts are permitted upon the City streets subject to the following restrictions.

a. Golf carts and operators of the golf carts are to be recorded on a list maintained by the City Clerk.

b. Golf carts shall not be operated on any City streets by any person who has not attained the age of sixteen(16) years old and who is licensed to operate a motor vehicle.

c. The golf cart and its operator shall comply with the signal requirement of section 257.648 that are imposed by State Law.

d. A person operating a golf cart upon a City roadway shall ride as near to the right of the roadway as is practicable, exercising due care when passing a standing vehicle of proceeding in the same direction.

e. Golf cart shall not be operated on state trunk line highways (M-18) except insofar as is necessary to cross a state trunk line highway when operating a golf cart on a city street by using the most direct line of crossing.

f. Where a usable and designated path for golf carts is provided adjacent to a street, a person operating the golf cart must use the path.

g. A person operating a golf cart shall not pass between lines of traffic, but may pass on the left of traffic moving in his/hers direction in the case of a two-way street or on the left or right of traffic in the case of a one-way street in an unoccupied lane.

h. A golf cart shall not be operated on a sidewalk constructed for pedestrian use.

i. A golf cart shall be operated at a speed not to exceed fifteen (15) miles per hour and shall not be operated on a highway or street with a speed limit of more than thirty (30) miles per hour, except to cross that highway or street by the most direct line of crossing.

j. A golf cart shall not be operated during any period when visibility is substantially reduced due to weather conditions, nor during the hours of 1/2 hour before sunset to 1/2 hour after sunrise.

k. A person operating a golf cart or who is a passenger in a golf cart is not required to wear a crash helmet.

l. A golf cart operated on City streets is not required to be registered as a vehicle under the Motor Vehicle Act or under the Michigan Insurance Code.

Section 3. This Ordinance shall take immediate force and effect.

The foregoing Ordinance was offered by Council Member __ANDRIST__ and supported by Council Member __NEVILLE__.

Dated __6-15-2015_____.

Roll Call Vote: Andrist (Y) Neville (Y) Oard (Y) Jefferson (Y) Lang (Y) List (Y)

_____

TITLE II

UTILITIES AND SERVICES

CHAPTER 27

HAZARDOUS MATERIALS

CITY OF BEAVERTON
Ordinance NO. 1998-

The City of Beaverton ordains that Chapter 27 of the City Code is hereby added as follows:

§2.27.1 Purpose.

In order to protect the City from incurring extraordinary expenses resulting from utilization of City resources to respond to an incident involving hazardous materials, the City Council authorizes the imposition of charges to recover reasonable and actual costs incurred by the City in responding to calls for assistance in connection with a hazardous materials release.

§2.27.2 "Hazardous Material" Defined.

Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment.

§2.27.4 "Responsible Party" Defined.

Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a release of a hazardous material, actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.

§2.27.5 Charge Imposed Upon Responsible Party.

Where the City Fire Department responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by the City responding to such a call shall be imposed upon responsible parties, including, but not limited to:

A. Charge per hour or fraction thereof, for each pumper required, in the opinion of the officer in command, to stand by at the hazardous materials incident. For each hour, or fraction thereof, that the pumps are activated, an additional sum per hour shall be charged.

B. Charge per hour or fraction thereof, for each water tanker required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

C. Charge per hour, or fraction thereof, for each additional City-owned Fire Department vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

D. All personnel-related costs incurred by the City as a result of responding to the hazardous materials incident, such costs may include, but are not limited to, wages, salaries and fringe benefits and insurance for full-time and part-time fire fighters; overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on-call fire fighters. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous materials incident, and shall continue until all City personnel have concluded hazardous materials incident-related responsibilities.

E. Other expenses incurred by the City in responding to the hazardous materials incident, including but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, medical and hospitalization costs, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.

F. Charges to the City imposed by any local, state or federal government entities related to the hazardous materials incident.

G. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing collection costs.

§2.27.6 Billing Procedure.

Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the City Treasurer, who shall prepare an invoice to the responsible party for payment. The Treasure's invoice shall demand full payment within thirty (30) days of receipt of the bill. ny additional expenses that become known to the City Fire Chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after thirty (30) days, the City shall impose a late charge of one (1%) percent per month or fraction thereof.

§2.27.7 Other Remedies

The City may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this ordinance. The recovery of charges imposed under this ordinance does not limit liability of responsible parties under local ordinance or state or federal law, rule or regulation.

§2.27.8 Severability.

Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not effect the validity of the balance of this ordinance which shall remain in full force and effect.

§2.27.9 Effective Date.

This ordinance shall take effect twenty (20) days after its final passage by the City Council of the City of Beaverton, Michigan. All ordinances or parts of ordinances in conflict are hereby repealed.

Introduced and read this 7th day of December, 1998.

Passed, ordained and ordered published this 7th day of December, 1998.

Madonna L. Asch

Beaverton City Clerk

Council Present: Smith, Jr., Mitchell, Frei, Brown, and Smith
Council Absent: Schofield
Committee reports: Smith, Jr. representing the Fireboard brought to Council's attention the need to adopt a Hazard Waste Ordinance along with Tobacco and Beaverton Townships. The following ordinance moved by Smith, Jr. and Frei was carried.

STATE OF MICHIGAN
CITY OF BEAVERTON ORV ORDINANCE
ORDINANCE TITLE IX, CHAPTER 117
ORV USE

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORV's) on roads in the City of Beaverton, Michigan, for the purpose of providing for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to PA 240 of 2008, MCL 324.81131.

THE CITY OF BEAVERTON ORDAINS:

Section 1. As used in this Ordinance, the following definitions shall apply:

a. "City" means the City of Beaverton.

b. "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to MCL 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

c. "Operate" means to ride in or on, or be in actual physical control of the operation of the ORV.

d. "Operator" means a person who operates or is actual physical control of the operation of an ORV.

e. "ORV" or "vehicle" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi wheel drive vehicle, an ATV [as defined in MCL 324.81101(a)], a motorcycle or related 2-wheel, 3-wheel or 4 wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means or transportation deriving motive power from a source other than muscle or wind. ORV does not include a registered snowmobile, nor golfcart, unless such golfcart shall satisfy the criteria of an "ORV".

f. "Maintained portion" means that portion of a road improved, designated or ordinarily used for vehicular traffic.

g. "Road" means a road or street which is in the City of Beaverton street syatem. Road does not include a private road. Street and road are intended to be interchangeable phrases.

h. "Safety certificate" means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another State or a province of Canada.

i."Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate of the operator.

Section 2. This Ordinance is not intended to authorize the operation of an ORV on a street or highway, which is a State trunkline highway.

Section 3. No person shall operate an ORV on a road unless as follows:

a. At a speed of no more than 25 miles per hour or at a lower posted ORV speed limit, if such lower speed limit be established.

b. With the flow of traffic on the far right of the maintained portion of the road.

c. In a manner which does not interfere with traffic on the road.

d. Not during any period when visibility is substantially redused due to weather conditions nor during the hours of 1/2 hour after sunset to 1/2 hours before sunrise, unless with the display of lighted headlight and lighted taillight, and beginning January 1, 2015, such lighted headlight and lighted taillight shall be displayed during all periods of operation of an ORV upon a road.

e. If such person is not at least 18 years of age, such person shall not operate an ORV on a road unless:

i. The person shall have in possession an ORV safety certificate and either of the following:

(a) Possess a valid driver license.

(b) Be at least 12 years of age and be under the direct visual supervision of a parent or guardian.

ii. Operation of an ORV by a person between the ages 12 years and 16 years is limited to crossing a highway or street or an operation upon the right-of-way or shoulder of roads (not the maintained portion).

f. All operation shall be in single file except that an ORV may travel abreast of another ORV in the course of overtaking and passing, or being overtaken and passed, by another ORV.

Section 4. Not with standing any provision to the contrary, this ordinance does not allow for any of the following:

a. Operation on a road by person under the age of 12 years.

b. Operation of a 3-wheeled ATV by any person under the age of 16 years.

c. Operation of an ORV which is registered as a motor vehicle under Chapter II of the Michigan Vehicle Code and is either more then 60 inches wide or has 3-wheels, unless such person shall posses a license as defined in Section 25 of the Michigan Vehicle Code.

d. Any operation of an ORV, which contravenes State law.

Section 5. Any person who shall violate this ordinance shall be reasonable for the cost of repairing any damage to the environment, road or street or public property, which is a result of such violation.

Section 6. A violation of this Ordinance shall be a municipal civil infraction, with a fine of up to $500, together with Court costs; the Court may further order restitution. Fines and restitution shall be deposited by the County Treasurer into the ORV fund with such funds to be distributed to the agencies and for the purposes set forth in MCL 324.81131(14).

Section 7. This Ordinance shall take immediate force and effect.

The foregoing Ordinance was offered by Council Member __ANDRIST____and supported by Council Member _NEVILLE_.

Dated _7-20-15__.

Roll Call Vote:
Ayes: Andrist, Neville, Oard, List, Lang, Jefferson
Nays: None

TITLE IX

POLICE REGULATIONS

CHAPTER 105

NUISANCES

§9.100 Nuisances Defined and Prohibited. Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Chapter. No person shall commit, create, or maintain any nuisance.

ARTICLE 1

NUISANCES PER SE

§9.101 Nuisances Per Se. The following acts, services, apparatus and structures are hereby declared to be public nuisances:

(a) The maintenance of any pond, pool of water, or vessel holding stagnant water (including discarded vehicle tires).

(b) The throwing, placing, depositing or leaving in any street, highway, lane, alley, public place, square or sidewalk, or in any private place or premises where such throwing, placing, depositing or leaving is in the opinion of the City Administrator dangerous or detrimental to public health, or likely to cause sickness or attract flies, insects, rodents and/or vermin, by any person, of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass, or other rubbish, dirt, excrement, filth, rot, unclean or nauseous water, liquid, or gaseous fluids, hay, straw, soot, garbage, swill, animal bones, hides or horns, rotten soap, grease or tallow, offal or any other offensive article or substance whatever.

(c) The pollution of any stream, lake or body of water by or the depositing into or upon any highway, street, lane, alley, public street or square, or into any adjacent lot or grounds of, or depositing or permitting to be deposited any refuse, foul, or nauseous liquid or water, creamery or industrial waste, or forcing or discharging into any public or private sewer or drain any steam, vapor or gas.

(d) The emission of noxious fumes or gas in such quantities as to render occupancy of property uncomfortable to a person of ordinary sensibilities.

(e) Any vehicle used for any immoral or illegal purpose.

(f) Betting, bookmaking, and all apparatus used in such occupations.

(g) All gambling devices, slot machines, and punch boards.

(h) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdyhouses.

(i) The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person.

(j) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount contrary to the provisions of this Code, or statute of the State of Michigan.

(k) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/or sidewalks.

(l) All buildings, walls and other structures which have been damaged by fire, decay, or otherwise and all excavations remaining unfilled or uncovered for a period of ninety (90) days or longer, and which are so situated as to endanger the safety of the public.

(m) All dangerous, unguarded excavations or machinery in any public place, or so situated, left or operated in private property as to attract the public.

(n) The owning, driving or moving upon the public streets and alleys of trucks or other motor vehicles which are constructed or loaded so as to permit any part of its load or contents to blow, fall, or be deposited upon any street, alley, sidewalk, or other public or private place, or which deposits from its wheels, tires, or other parts onto the street, alley, sidewalk or other public or private place, dirt, grease, sticky substances or foreign matter of any kind. Provided, however, that under circumstances determined by the City Administrator to be in the public interest, he may grant persons temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the violating condition at least once daily and execution of an agreement by such person to reimburse the City for any extraordinary maintenance expense incurred by the City in connection with such violation.

§9.102 Maintenance of Property. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any person keep or maintain such premises in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.

§9.103 Dwelling Units. Any dwelling unit which shall be found to have any of the following defects shall be considered as a nuisance:

(a) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infected that it creates a serious hazard

to the health or safety of the occupants or the public.

(b) One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety or the occupants of the public.

(c) One which, because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of the occupants or the public.

§9.104 Exterior Storage of Non-operative Vehicles. Unless otherwise permitted, no person or corporation, whether he be the owner, tenant or manager of private property, or whether he be the last registered owner of the vehicle or transferee on the bill of sale covering the vehicle, shall permit the accumulation on private property of one or more motor vehicles which do not meet the following conditions:

(a) Any motor vehicle must be in operating condition and eligible for use in accordance with the requirements of the Michigan Vehicle Code being Act No. 300 of 1949, as amended. Provided that any such vehicle may not comply with these regulations for a period not exceeding fourteen (14) calendar days.

(b) These requirements include, but are not limited to, an engine that runs, four wheels and four pneumatic tires capable of holding air, current license places, and a working battery.

(c) Any person enumerated in this Section who, under special conditions of hardship, or for valid reasons such as the preservation of a historic or classic vehicle, may request an extension of the fourteen (14) calendar days limitation above described by filing a timely request with the City Council. Said City Council may, at its discretion, after review of all the circumstances and after holding any hearing it deem necessary, grant said applicant any reasonable extension of time.

(d) These provisions shall apply in all areas except where the storage of said vehicles is in a completely enclosed building or is by a licensed junk dealer.

§9.105 Motor Vehicle Repairs. No person shall undertake any extensive or complex motor vehicle repairs except in a completely enclosed building located in an area where such activity is permitted under the provisions of Chapter 51 of this Code (Zoning).

§9.106 Injunctive Relief.

(a) The City Attorney is hereby authorized and directed to file a civil suit for injunction against any person who maintains, establishes or conducts a nuisance, or aids and any nuisance, together with the persons in abets therein, and the agent or lessee of any interest in control of any such nuisance. Such action shall be brought in the name of

the City. Upon receiving notice pursuant to Section (b) hereof, such persons are deemed to have knowledge of the nuisance and are liable for its maintenance.

(b) Notice. Before filing any action in court under this ordinance, the City Attorney shall serve a written notice, stating that the condition occurring or planned to take place is a nuisance and must be abated in accordance with this ordinance. The notice shall describe the material, property, or conduct objected to with sufficient clarity so a person of average intelligence receiving the notice will understand what material, property, or conduct is covered by the notice. The notice shall be delivered, provided if no person can be found to deliver the notice during business hours posted at the premises, or between 9:00 a.m. and 5:00 p.m. Monday through Saturday if no hours are posted, notice may be given by posting the same at the premises. Such notice shall state that court action may be filed if the person responsible does not abate the nuisance immediately. No waiting period is required after the service of such notice, provided that if the nuisance is discontinued no court action shall be filed. After any such action is discontinued and no court action is filed, if the nuisance described in the notice again occurs at the same location, no additional notice shall be required before filing an action in court.

(c) Temporary Restraining Order. The City Attorney shall seek temporary relief, including a temporary restraining order or a temporary injunction, in addition to the other relief referred to in this ordinance.

§9.107 A separate offense shall be deemed to have been committed each day that a nuisance continues or is permitted.

TITLE IX

POLICE REGULATIONS

CHAPTER 116

SIGNS

City of Beaverton

Ordinance 2008-1

The City of Beaverton ordains that Chapter 116 of the City Code is hereby added as follows:

§9.300 Purpose. The purpose of this article is to regulate signs and to minimize outdoor advertising within the city so as to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction, and loss of sight distance; promote public convenience; preserve property values; support and complement land use objectives as set forth in the city master plan and this chapter; and enhance the aesthetic appearance and quality of life within the city. The standards contained herein are intended to be content neutral.

These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the city so as to:

(a) Recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.

(b) Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.

(c) Reduce visual pollution and physical obstructions caused by a proliferation of signs which would diminish the city's image, property values and quality of life.

(d) Recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names, or off-premises activities; alternative channels of advertising communication and media are available for advertising which do not create visual blight and compromise traffic safety.

(e) Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.

(f) Prevent placement of signs which will conceal or obscure signs of adjacent uses.

(g) Protect the public right to receive messages, especially noncommercial messages such as religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution.

(h) The regulations and standards of this article are considered the minimum necessary to achieve a substantial government interest for public safety, aesthetics, protection of property values, and are intended to be content neutral.

(i) Prevent off-premises signs from conflicting with other allowed land uses.

(j) Maintain and improve the image of the city by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.

(k) Prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.

(l) Preserve and enhance the image of the city's commercial areas.

§9.301 Sign definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning.

(a) **Accessory sign.** A sign which pertains to the use of the premises on which it is located.

(b) **Animated sign.** A sign which uses lights, moving parts, or other means to depict action, create an image of a living creature or person, or create a special effect or scene.

(c) **Awning or canopy sign.** A non-rigid fabric marquee or awning-type structure which is attached to the building by supporting framework, which includes a business identification message, symbol and/or logo. See "Wall sign."

(d) **Banner.** A fabric, plastic or other sign made of non-rigid material without enclosing structural framework.

(e) **Billboard.** A sign separate from a premises erected for the purpose of advertising a product, event, person, or subject

not related to the premises on which the sign is located. Permitted off-premises directional signs shall not be considered billboards for the purpose of this article.

(f) Business center. A grouping of two or more business establishments on one or more parcels of property which may share parking and access and are linked architecturally or otherwise present the appearance of a unified grouping of businesses. A business center shall be considered one use for the purposes of determining the maximum number of ground signs. An automobile or vehicle dealership shall be considered a business center regardless of the number or type of models or makes available, however, used vehicle sales shall be considered a separate use in determining the maximum number of signs, provided that the used vehicle sales section of the lot includes at least 25 percent of the available sales area.

(g) Changeable message sign. A sign on which the message is changed mechanically, electronically or manually, including time/temperature signs; also called menu board, reader board or bulletin board.

(h) Community special event sign. Signs and banners, including decorations and displays celebrating a traditionally-accepted patriotic or religious holiday, or special municipal, school or other nonprofit activities.

(i) Construction sign. A temporary sign identifying the name(s) of project owners, contractors, developers, realtors representing developers, architects, designers, engineers, landscape architects, and financiers of a project being constructed or improved; and not including any advertising of any product or announcement of availability of leasing space.

(j) Directional sign. A sign which assist motorists in determining or confirming a correct route such as enter, exit and parking signs. Business identification or logo on such a sign is considered and calculated as part of the allowable square footage for a ground sign.

(k) Festoon. A string of ribbons, tinsel, small flags, pinwheels or lights, typically strung overhead in loops.

(l) Flashing sign. A sign which contains an intermittent or sequential flashing light source.

(m) Freestanding sign. A sign which is erected upon or supported by the ground, including "pole or pylon signs" and "ground signs."

(n) Gasoline price sign. A sign which is used to advertise the price of gasoline. In the event that the brand identification sign is attached to or is a part of the sign advertising price, that portion of the sign used for

advertising price shall be considered the gasoline price sign.

(o) Ground or monument sign. A three-dimensional, self-supporting, base-mounted freestanding identification sign, consisting of two or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.

(p) Illegal sign. A sign which does not meet the requirements of this article and does not have legal nonconforming status.

(q) Incidental sign. A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, [signs] used to designate bathrooms, and signs providing information on credit cards and business affiliations.

(r) Integral sign. A memorial sign or commemorative tablet which contains names of buildings, dates of erection, and monumental citations.

(s) Luminous tube. See "Neon (sign)" and "Outline tubing sign."

(t) Mansard. A sloped roof or roof-like facade. Signs mounted on the face of a mansard roof shall be considered wall signs.

(u) Marquee. A permanent roof-like structure or canopy, supported by and extending from the face of the building. A marquee sign is a sign attached to or supported by a marquee structure.

(v) Menu board, reader board or bulletin board. See "Changeable message sign".

(w) Moving sign. A sign in which the sign itself or any portion of the sign moves or revolves. A "rotating sign" is a type of moving sign. Such motion does not refer to the method of changing the message on the sign.

(x) Mural. A design or representation which is painted or drawn on the exterior surface of a structure and which does not advertise a business, product, service, or activity.

(y) Nameplate. A non-electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

(z) Neon sign. See "Outline tubing sign."

(aa) Nonconforming sign. A sign that does not comply with the size, placement, construction or other standards or

regulations of this article, but were lawfully established prior to its adoption. Signs for which the zoning board of appeals has granted a variance are exempt and shall not be defined as nonconforming.

(bb) Obsolete sign. A sign that advertises a product that is no longer made or that advertises a business that has closed.

(cc) Off-premises sign. A sign which identifies a use or advertises products and services not available on the site or parcel on which the sign is located; a sign which directs travelers or provides a message unrelated to the site on which the sign is located, e.g. billboards.

(dd) On-premises sign. A sign providing the address and name of owner of a parcel of land; a sign advertising a business, service or product sold or produced on the same site or parcel.

(ee) Outline tubing sign. A sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it. See "Neon (sign)" and "Luminous tube".

(ff) Parapet. The extension of a false front or wall above a roof line. Signs mounted on the face of a parapet shall be considered wall signs.

(gg) Permanent sign. A sign designed to be installed permanently in the ground a minimum of 42 inches deep by use of a steel post, wood post or other appropriate materials.

(hh) Political sign. A temporary sign used in connection with local, state or national elections or referendums.

(ii) Portable sign. A sign designed to be moved from place to place, whether or not it is permanently attached to the ground or structure. This includes hot-air and gas-filled balloons, banners, pennants, streamers, festoons, ribbons, tinsel, pinwheels, non-government flags, and searchlights; but excludes political signs, real estate signs, construction signs, permanent changeable message signs, and regulatory/government signs.

(jj) Poster panel sign. A type of temporary sign that is used to draw attention to matters, that are temporary in nature, such as price changes or sales"A"-frame or sandwich signs are types of poster panel signs.

(kk) Projecting sign. A sign, other than a wall sign, that is affixed to any building or wall and whose leading edge extends more than 12 inches beyond such building or wall.

(ll) Public sign. A sign erected in the public interest by or upon orders from a city, state, or federal public official. Examples of public signs include: legal notices, safety

signs, traffic signs, memorial plaques, signs of historical interest and similar signs.

(mm) Pylon or pole sign. A sign supported on the ground by a pole, braces or monument, and not attached to any building or other structure.

(nn) Real estate development sign. A sign that is designed to promote the sale or rental of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction on the parcel on which the sign is located.

(oo) Real estate open house sign. Temporary signs which advertise and direct the public to an open house for a building which is available for sale or lease, with the event held on a specific day.

(pp) Real estate sign. An on-premises temporary sign advertising the property or structure's availability for sale or lease.

(qq) Regulatory sign. A sign installed by a public agency to direct traffic flow, regulate traffic operations and provide information in conformance with the Michigan Manual of Uniform Traffic Control Devices.

(rr) Residential entranceway sign. A sign which marks the entrance to a subdivision, apartment complex, condominium development, or other residential development.

(ss) Roof line. The top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

(tt) Roof sign. Any sign that extends above the roof line or is erected over the surface of the roof.

(uu) Rotating sign. See "Moving sign."

(vv) Sign. Any device, structure, fixture, figure, symbol, banner, pennant, flag, balloon, logo, or placard consisting of written copy, symbols, logos and/or graphics, designed for the purpose of bringing attention to, identifying or advertising an establishment, project, goods, services, or other message to the general public. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk, alley, park, or public property, but not signs which are primarily visible to and directed at persons within the premises upon which the sign is located.

(ww) Temporary sign. A sign not constructed or tended for long term use. Examples of temporary signs include signs which announce a coming attraction, a new building under construction, a community or civic project, or other special events that occur for a limited period of time.

(xx) Time and temperature sign. Signs which display the current time and/or temperature.

(yy) Vehicle sign. Signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.

(zz) Wall sign. A sign attached parallel to and extending not more than 12 inches from the wall of a building. Painted signs, signs which consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs. Permanent signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall also be considered wall signs.

(aaa) Window sign. A sign located in or on a window which is intended to be viewed from the outside. Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible form the outside shall be considered wall signs.

§9.302 Exempt signs. The following signs are specifically exempt from the provisions of this article provided they are not located in the public right-of-way or in conflict with the regulations found elsewhere in this chapter:

(a) Address numbers with a numeral height no greater than six inches for residences and 18 inches for businesses.

(b) Banners advertising a public entertainment or event, provided that they receive a permit from the City Manager, are only used in a location designated by the City Manager, and are erected no more than 14 days before the event they advertise and are removed within one business day following the event.

(c) Barber poles, time and temperature signs which do not contain business messages, provided that the maximum square footage of the electronic time/temperature sign does not exceed 32 square feet.

(d) Construction signs provided that there shall be only one such sign per construction project; with a maximum height of six feet; not exceeding 32 square feet in area; set back a minimum 15 feet from any property line or public street right-of-way; and that such signs shall be erected during the construction period only and shall be removed within 14 days of the date a final approval for occupancy is issued.

(e) Corporate flags, provided the maximum height of the flagpole is 25 feet measured from the average surrounding grade, the maximum size of the corporate flag is 35 square feet, there shall be no more than one corporate flag per lot; corporate flags and banners shall be prohibited on buildings, light poles, and freestanding signs.

(f) Flags or insignia of any nation, state, city, community organization, educational institution, noncommercial enterprise, college or university provided that any American flag displayed shall be done so in compliance with Public Law 94-344 and shall never be used for advertising purposes in any manner whatsoever.

(g) Garage and estate sale signs announcing the sale of household goods, provided that there is only one sign per premises; that the sign is placed on-premises only, entirely on private property; that it is set back a minimum of 15 feet from any property line or public street right-of-way; that it does not exceed six square feet in area; and it is erected no more than ten business days before and is removed within one business day after the announced sale.

(h) Gas station pump signs on gas station pump islands or their structural supports identifying "self-serve" and "full-serve" operations, provided that there is no business identification or advertising copy on such signs, that there are no more than two such signs per pump island and that such signs do not exceed four square feet in area.

(i) "Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be a maximum of six square feet.

(j) Historical plaques and sign plaques or signs describing state or national designation as a historic site or structure and/or containing narrative, not exceeding 12 square feet in area.

(k) Incidental signs not exceeding a total of two square feet, a total of two signs per business indicating acceptance of credit cards or describing business affiliations and are attached to a permitted sign, exterior wall, building entrance or window.

(l) Integral signs including memorial signs, names of buildings, dates of erection, monumental citations, commemorative tablets when carved into stone, concrete or similar materials or made of bronze, aluminum or other noncombustible materials and made an integral part of the structure and not exceeding 25 square feet in area.

(m) Open-front restaurant signs provided that such signs are affiliated with a permitted open-front restaurant, are mounted on the wall of the building, are removed when/if the business is closed for the season, and do not exceed six square feet in area.

(n) Parking lot signs indicating restrictions on parking, when placed within a permitted parking lot, are a maximum of six feet in height, and do not exceed three square feet in area.

(o) Permanent signs on vending machines, gas pumps, and ice containers indicating the contents, provided that the sign on each device does not exceed the area of the front of the machine, a limit of one sign per vending machine, gas pump or ice container.

(p) Political signs, provided that the property contains an occupied structure; such signs are not placed within the public street right-of-way line; such signs are spaced at least ten feet apart; such signs do not exceed four square feet in area; and that such signs are removed within one business day following the election for which they are erected.

(q) Public signs including warning signs, such as no trespassing, warning of electrical currents or animals, provided that such signs do not exceed two square feet in area.

(r) Real estate model signs directing the public to a model home or unit, provided that such signs are temporary, set back a minimum of 15 feet from any property line or public right-of-way and are placed on-premise(s) only; a maximum of one model sign per parcel and/or residential unit which does not exceed six square feet in area.

(s) Real estate open house signs provided the following conditions are met:

(1) There shall be only two such signs placed off-premises and one on-premises.

(2) The size of each sign shall be a maximum of four square feet in size and three feet in height above grade.

(3) Signs shall not be affixed to other signs, utility poles, fire hydrants or trees.

(4) Signs may be located in the public right-of-way but shall be placed at least ten feet from the curb or 15 feet from the pavement edge where there is no curb.

(5) The person or firm placing the signs shall obtain the written permission from the owner or occupant of all properties on which such signs are placed.

(6) The signs shall be allowed for a maximum of eight hours per day.

(7) The signs shall be removed within one hour following closing of the open house.

(t) Real estate signs provided that there shall be only one real estate sign per parcel for each public street frontage, such signs are set back a minimum of 15 feet from any

property line or public right-of-way, that the maximum height of any such sign shall be six feet, and such signs shall not exceed six square feet in area within any residential districts; 12 feet in area for all other districts.

(u) Residential nameplates and home occupations signs identifying the occupants of the building or for professional purposes shall be limited to one per dwelling and not to exceed two square feet in area; the sign shall not be illuminated and must be attached to an exterior building wall.

(v) Roadside stand signs provided that such signs are set back a minimum of 15 feet from any property line or public right-of-way, have a maximum height of six feet, that there are a maximum of three such signs on any parcel, that no such sign exceeds 32 square feet in area.

(w) Traffic control signs including regulatory and directional traffic control and street signs erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices.

§9.303 Prohibited signs. The following signs shall be prohibited in any district:

(a) Signs which obstruct free access or egress from any building, including those that obstruct any fire escape, required exit way, window, or door opening or that prevent free access to the roof by firefighters.

(b) Signs having moving members or parts, excluding barber poles, electronic poles and electronic time/temperature signs which do not contain business messages.

(c) Signs using high intensity or flashing lights, festoons, spinners or other animated devices.

(d) Exterior string lights used in connection with a commercial enterprise, other than holiday decorations which are strung no more than 60 days before the holiday and removed within ten days following the holiday for which they were erected.

(e) Signs which in any way simulate or could be confused with the lighting of emergency vehicles or traffic signals; there shall be no flashing, oscillating or intermittent, or red, yellow, or green illumination on any sign located in the same line of vision as a traffic control system, nor interference with vision clearance along any highway, street, or road or at any intersection of two or more streets.

(f) Signs which obstruct or impair the vision of motorists or non-motorized travelers at any intersection, driveway, within a parking lot or loading area.

(g) Non-regulatory signs placed in any public right-of-way; attached to a utility pole; or affixed to a tree, street furniture, or waste receptacles.

(h) Off-premises signs erected for the purpose of advertising a product, event, person, or subject, unless otherwise provided for in this article or covered under the State Highway Act.

(i) Roof signs unless specifically permitted elsewhere in this article.

(j) Portable signs, as defined, not provided for in this article.

(k) Signs affixed to a parked vehicle or truck trailer which is being used principally for advertising purposes, rather than for transportation purposes.

(l) Pylon or pole signs not provided for in this article.

(m) Any sign or sign structure which:

(1) Is structurally unsafe.

(2) Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment.

(3) Is capable of causing electric shock to person who come in contact with it.

(4) Is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights.

(n) Any sign which makes use of the words "stop", "look", or "danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.

§9.304 General standards for permitted signs. Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this article; provided, that no such sign shall be erected or altered until approved by the building official/City Manager and until a sign permit has been issued pursuant to this chapter.

(a) Sign setbacks.

(1) All signs, unless otherwise provided for, shall be set back a minimum of fifteen feet from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.

(2) Side yard setbacks for signs shall be the same as that required for the main structure or building,

provided that all nonresidential signs shall be set back at least 100 feet from any residential district.

(b) Location. Sign location to assure adequate sight distance. In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of 24 inches and six feet within a triangular area measured 25 feet back from intersection of public right-of-way lines. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic-control devices or street signs.

(c) Design and construction. Signs, as permitted in the various zoning districts, shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.

(d) Illumination.

(1) Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign or internal to it.

(2) Use of glaring undiffused lights or bulbs shall be prohibited.

(3) Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.

(4) Underground wiring ,to code, shall be required for all illuminated signs not attached to a building.

(e) Maintenance and construction.

(1) Every sign shall be constructed and maintained in a manner consistent with the building code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal, wood or other materials used for parts and supports.

(2) All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least 20 pounds per square foot or 75 mph.

(3) All signs, including any cables, guy wires, or supports shall have a minimum clearance of four feet from any electric fixture, street light, or other public utility pole or standard.

(f) Measurement. Measurement of allowable sign area:

(1) The allowable area for signs shall be measured by calculating the square footage of the sign face and any frame of other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed as measured by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle.

(2) When a sign has two or more faces, the area of all faces shall be included in calculating the area of the sign.

(3) For purposes of calculating sign area allowed as a wall sign, the wall sign square footage shall be determined by measuring a parallelogram (box) which includes the portion of the canopy which contains a message, symbol and/or logo.

(4) When a sign consists solely of lettering or other sign elements printed, painted or mounted on a wall of a building without any distinguishing border, panel or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram or rectangle.

§9.305 Specific sign standards. The number, display area, and height of signs within the various zoning districts is provided in the Sign Dimensional Standards and Regulations Table and its accompanying footnotes. Additional standards for specific types of signs are given below.

(a) Directional signs. No more than one directional sign shall be permitted for each approved driveway, with a maximum sign area of four square feet per sign, and a maximum height of four feet. Any directional sign which includes a business name, symbol or logo shall be calculated as part of the allowable sign square footage, as specified in the sign dimensional standards and regulations table.

(b) Billboards or off-premises advertising signs. Billboards shall comply with the provisions in article V, Special Land Uses.

(c) Projecting and canopy signs. Projecting signs and canopy signs may be used as an alternative to wall signs listed in the sign dimensional standards and regulations table, provided that they meet the following standards.

(1) Any sign area on a canopy shall be included in calculations of maximum wall sign square footage.

(2) Projecting or canopy signs in the C-1 district shall be set back at least two feet from any street curb line, shall not extend more than six feet over the public right-of-way, and shall leave a minimum clearance of eight feet above the ground.

(3) Projecting or canopy signs, other than those in the C-1 district, shall have a minimum ground clearance of ten feet, shall be set back at least six feet from any adjacent public right-of-way, nor project over an alley or private access lane. A projecting sign shall not extend for more than two feet from the building to which it is attached.

(4) No wall, canopy or projecting sign shall extend above the roof or parapet of the structure to which it is attached by more than one foot.

(5) Wood posts or supporting arms shall not be used in conjunction with any projecting sign.

(6) Projecting signs shall not exceed 32 square feet in area.

(7) Canopy signs shall not be internally illuminated.

(d) Institutional signs. Permanent signs of a religious institution, school, museum, library, community recreation facility or other nonprofit organization or institution, including the use of a changeable message sign, are permitted subject to the following standards:

(1) A minimum setback from the street right-of-way or property line of 15 feet.

(2) Area not to exceed 45 square feet.

(3) A maximum of six feet in height.

(e) Entranceway signs. One permanent sign per vehicular entrance identifying developments such as subdivision, apartment complexes, condominium communities, senior housing complexes, manufactured housing communities, office and industrial parks and similar uses, provided that the sign is set back a minimum of 15 feet from any property line or public right-of-way; has a maximum height of six feet; and does not exceed 24 square feet in area, is permitted.

(f) Signs for temporary uses/seasonal events. Temporary buildings, structures, uses, and special events, shall be permitted to have on- and off-premises signs provided the property contains an occupied structure, and complies with the following:

(1) A maximum two on-premises signs with a combined maximum of 100 square feet.

(2) A maximum 15 off-premises signs advertising the event, each no greater than four square feet in area, per side, and spaced at least 100 feet apart; such signs shall not be placed within the public street right-of-way line; all off-premises signs shall be

erected no earlier than one week prior to the event; and removed within one business day following the event for which they are erected; a map shall be provided to the building and zoning administrator illustrating locations for proposed off-premises signs.

(3) A nonrefundable fee shall be required for all such signs to ensure all signs are removed within one business day following the termination of the temporary use or seasonal event.

(g) Temporary grand opening signs. One on-premises temporary grand opening sign, a maximum of 32 square feet in surface display area per side, a maximum ten feet in height and set back a minimum ten feet from any public street right-of-way may be permitted for a period not to exceed 14 days for those businesses which meet at least one of the following conditions:

(1) The business is new at the particular location.

(2) The business is under new ownership.

(3) The business has undergone a major expansion which has received site plan approval by the planning commission.

(4) The business has reopened after being closed for at least one year.

Note that conditions for a permitted temporary grand opening sign shall not include an additional or change in product line, new services, new management or other situations not expressly provided for above.

(h) Portable A-frame signs. Portable A-frame or sandwich board signs are permitted in the C-1, C-2, and I districts at the public entrances to businesses subject to the following requirements.

(1) Signs. No sign shall be constructed, erected or displayed within any public right-of-way, upon any public land, ground or building, or upon any public utility apparatus or structure within the city without the specific permission and approval of the city planning commission. The administrative process and procedures for such approval shall be in accordance with the site plan application process outlined in article VII.

(2) Off-premises signs. Off-premises signs are prohibited unless approved by the city planning commission.

(3) Sandwich boards. Sandwich boards shall:

(g) Be constructed of durable, weather-resistant material.

(h) Be professionally lettered and painted, and appropriately maintained.

(i) Be freestanding.

(j) Only be displayed during the operating hours of the respective business or commercial activity.

(k) Not exceed five feet in height or three feet in width.

(l) Be displayed within two blocks of the respective business location.

(m) Not be an impediment or obstruction to pedestrian traffic.

(n) Not be erected within 20 feet of another sandwich board.

(o) No objection from the business the sign is put in front of.

(i) **[Limits on wall signs.]** One wall sign shall be allowed per business, in addition to any other allowed ground signs. Businesses located on a corner lot shall be allowed up to two wall signs, one for each front facade. The maximum wall sign area shall not exceed ten percent of the front facade of the building (any facade which faces a public street), per use or business establishment.

(j) **[Limits on ground signs.]** Only one ground sign is permitted per use, including uses which occupy more than one parcel and business centers, with additional signs permitted according to the following table, however, no site shall have more than two ground signs, regardless of the number of street frontages or the amount of frontage.

TABLE INSET:

Frontage along two or more rights-of-way	=	One sign up to the maximum sign face square footage shall be allowed along two frontages
300 feet of frontage along one right-of-way	=	One ground sign along that frontage
Over 300 feet of frontage along one right-of-way	=	Two ground signs

(k) **[Changeable message signs**.] Theaters shall be permitted one changeable message sign, not to exceed 100 square feet, designed for periodic message change to indicate events.

§9.306 Nonconforming signs. Nonconforming signs are those signs that do not comply with the size, placement, construction or other standards or regulations of this chapter, but were lawfully established prior to its adoption. Signs for which the Planning Commission has granted a variance are exempt and shall not be defined as nonconforming. It is the intent of this article to encourage eventual elimination of nonconforming signs in a timely manner. This objective is considered as much a subject of public health, safety and welfare as the prohibition of new signs in violation of this article. Therefore, the purpose of this article is to remove illegal nonconforming signs while avoiding any unreasonable invasion of established private property rights. A nonconforming sign may be continued and shall be maintained in good condition as described elsewhere in this article, however, the following alterations are regulated:

(a) A nonconforming sign shall not be structurally altered or repaired so as to prolong its useful life or so as to change its shape, size, type or design unless such change shall make the sign conforming.

(b) A nonconforming sign shall not be replaced by another non-conforming sign.

(c) A nonconforming sign shall not be reestablished after abandonment as defined in section 9.307, Dangerous, unsafe, abandoned, and illegally erected signs.

(d) A nonconforming sign must not be re-established after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the building official/City Manager or if 50 percent or more of the face of the sign is damaged or destroyed.

§9.307 Dangerous, unsafe, abandoned, and illegally erected signs.

(a) Dangerous signs. Any sign constituting an immediate hazard to health or safety shall be deemed a nuisance and may be immediately removed by the city and the cost thereof charged against the owner of the property on which it was installed.

(b) Unsafe signs. Any sign that becomes insecure, in danger of falling, or otherwise unsafe but not considered an immediate danger by the building official/City Manager to the health or safety of the public shall be removed or repaired according to the process outlined in subsection (e) below.

(c) Abandoned signs. Any sign that advertises a business that has been discontinued for at least 90 days or that advertises a product or service that is no longer offered shall be deemed abandoned. Permanent signs applicable to a business temporarily suspended by a change in ownership or management shall not be deemed abandoned unless the structure remains vacant for at least six months. An abandoned sign shall be removed by the owner or lessee of the premises. If the owner or lessee fails to remove the sign, the City Manager shall initiate the process noted in subsection (e) below.

(d) Illegally erected signs. The City Manager shall order the removal of any sign erected illegally in violation of this article, according to the process outlined in subsection (e) below.

(e) Process for enforcing violations of this section. For violations of subsections (b) through (d), the City Manager shall send notice, by certified mail addressed to the owner of the property on which the sign is located. The notice shall describe the violation and allow seven days for removal. Should the sign not be removed or repaired within the time specified, the City Manager shall have the authority to remove the sign, and the property owner shall be liable for the cost thereof.

§9.308 Administration and appeals of sign ordinance standards.

(a) Generally. The regulations of this article shall be administered and enforced by City Manager or designee.

(b) Violations. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, use or maintain any sign in the city, or cause or permit the same to be done, contrary to or in violation of any of the standards and regulations of this article. Any such violation, including the failure to remove a sign when directed under the authority of this article, shall constitute a misdemeanor punishable in accordance with this Code of Ordinances.

§9.309 Application. Applications for sign permits shall be made upon a form provided by the City for this purpose. The application shall contain the following information:

(1) Name, address, phone, and if available, fax and e-mail, of the person applying for the permit.

(2) Name, address, phone, and if available, fax and e-mail, of the person owning the parcel upon which the sign is proposed to be placed.

(3) Location of the building, structure, and parcel on which the sign is to be attached or erected.

(4) Position of the sign in relation to nearby buildings, structures, property lines, and existing or proposed rights-of-way.

(5) Two copies of the plans and specifications. The method of construction and/or attachment to a building, or in the ground, shall be explained in the plans and specifications.

(6) Name, address, phone, and if available, fax and e-mail of the person erecting the sign.

(7) The zoning district in which the sign is to be placed.

§9.310 Permit fees. Permit fees for signs shall be established by the City Council by resolution from time to time. The permit fees must relate to the cost of issuing the permit and may vary based on the size, type and height of the sign.

§9.311 False information. A person providing false information under this article shall be guilty of a misdemeanor.

1981

Ordinance 115

CERTIFICATE REGARDING ORGANIZATION, POWERS,
TRANSCRIPT, INCUMBENCY AND OTHER MATTERS

I, THE UNDERSIGNED, DO HEREBY CERTIFY AS FOLLOWS:

1. The City of Beaverton, county of Gladwin, State of Michigan (hereinafter called the "City") is a home rule City presently deriving its powers from the general statutes of the State of Michigan, particularly Act 94 of the Public Acts of Michigan, of 1933, as amended, which Act sets forth all rights, powers, privileges and duties of the City and its officers and the procedures for the conduct of the affairs by the City Council and the several City officers.

2. I am the duly appointed, qualified and acting City Ck of the City. In such capacity I am custodian of its records and am familiar with its organization membership and activities.

3. The proper and correct corporate title of the City is City of Beaverton, County of Gladwin, State of Michigan.

4. The City was duly created pursuant to the authority of the Constitution and Statutes of the sovereign State of Michigan, and since the date of its organization there has been no change of its public corporate purposes.

5. The names and offices held and the dates of the beginning and ending of the terms of office of the members of the governing body of the City and of its principal officers are as follows:

Name and Office	Term Begins	Term Ends
Bernard F. Allen, Mayor	January 1, 1979	December 31, 1981
Grace E. Burr, Clerk	January 1, 1979	December 31, 1981
H. James Wesley, Treasurer	January 1, 1979	December 31, 1981
James Burgess, Council member	January 1, 1977	December 31, 1981
Edward Padoba, Council member	January 1, 1977	December 31, 1981
Edwin Adams, Council member	January 1, 1979	December 31, 1983
Earl Nash, Council member	January 1, 1979	December 31, 1983
Tom Randle, Council member	January 1, 1977	December 31, 1981
Darrel Wood, Council member	January 1, 1979	December 31, 1983
Paul J. Pemberton, Attorney	January 1, 1981	December 31, 1981

6. Each of the above named officers required to do so has duly taken and filed his/her oath of office and each of them legally required to give bond or undertaking has filed such bon or undertaking in form and amount as required by law and has otherwise duly qualified to act in the official capacity above designated, and each is the acting officer, holding the re2spective office or offices stated beside his/her name.

7. None of the above named officers is ineligible to hold or disqualified from holding, under the provisions of applicable law, the respective office, specified above, which he holds.

8. Since the acceptance of the loan offer there have been no changes in or amendments to the Bylaws, ordinance, resolutions or proceedings of the City with respect to:

(a) The time and place of and other provisions concerning regular meetings of the City;

(b) The provisions concerning the calling and holding of special meetings of the City and the business which may be taken up at such meetings;

(c) The requirements concerning a quorum;

(d) The manner in which the enabling legislation or Bylaws or the City may be amended;

(e) The requirements regarding the introduction, passage, adoption, approval and publication of resolutions, ordinances or other measures, relating to the approval and execution of contracts and the authorization, award, execution or issuance of bonds, notes, or other obligations or the City;

(f) The officers required to sign, countersign or attest contracts, bonds, notes or other obligations of the City;

(g) The office of the City; or

(h) The seal of the City.

9. The seal impressed below, opposite my signature, is the duly adopted, proper and only official corporate seal of the City.

10. The undersigned has possession of a record of all proceedings taken to date by the City Council preliminary to the issuance of its $100,000 City of Beaverton, Water Supply and Sewage Disposal System Revenue Bonds, Series II, and the papers and documents attached hereto constitute a full, true and complete copy of all such proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and the duly adopted official seal of the City, this 24th day of November, 1981.

[SEAL]

Grace E. Burr, City Clerk
City of Beaverton, Michigan

CERTIFICATE OF RECORDING OFFICER

The undersigned hereby certifies that:

1. She is the duly elected, qualified and acting Clerk of the City of Beaverton, Michigan (herein called the "City") and the keeper of the records thereof, including the minutes of its proceedings.

2. The copies of the resolution and ordinances hereafter following are true, correct, and compared copies of the original documents adopted at the meetings hereinafter referred to, which meetings were duly convened in conformity with all applicable requirements.

3. The following listed copies of resolutions and ordinances are on file and record:

(a) Notice of intent Resolution No. 106-80-2, adopted October 6, 1980, with affidavit of publication and Certificate of No Referendum.

(b) Ordinance No. 99 establishing rates and charges, adopted June 5, 1878, with affidavit of publication.

(c) Ordinance No. 115 authorizing issuance of bonds adopted March 23, 1981, with affidavit of publication.

(d) Ordinance Amendment to Section 10 of Rate Ordinance No. 80 and to Section 1 of Rate Ordinance No. 99 adopted March 16, 1981, with affidavit of publication.

4. She is duly authorized to execute this Certificate.

WITNESS my hand this 24th day of November, 1981

Grace E. Burr
Clerk, City of Beaverton

City of Beaverton
County of Gladwin, Michigan

Resolution 106-80-2

Minutes of a Regular Meeting of the City Council of the City of Beaverton, County of Gladwin, Michigan, held in said City on the 6th day of October, 1980 at 7:00 o'clock p.m., Eastern Daylight Time.

PESENT: Adams, Burgess, Nash, Podoba, Wood.

ABSENT: Beall

The following preamble and resolution were offered by member Wood and supported by member Nash:

WHEREAS, the City Council of the City intends to authorized the issuance and sale of Revenue Bonds of the City pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in the principal amount of not to exceed One Hundred Thousand Dollars ($100,000), for the purpose of paying part of the cost of acquiring and constructing improvements to the Water Supply and Sewage Disposal System of the City: and

WHEREAS, a Notice of Intent to Issue Bonds must be published at least forty-five (45) days before issuance of the same in order to comply with the requirements of Section 33 of Act 94, Public Acts of Michigan, 1933, as amended:

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a Notice of Intent to Issue Bonds into Gladwin County Record, a newspaper of general circulation in this city.

2. Said Notice of Intent so published shall be in the form of a display advertisement at least one-quarter (1/4) page in size and shall be in substantially the following form:

NOTICE TO THE ELECTORS
OF THE CITY OF BEAVERTON AND
USERS OF THE CITY'S WATER SUPPLY AND
SEWAGE DISPOSAL SYSTEM
OF INTENT TO ISSUE
WATER SUPPLY AND SEWAGE DISPOSAL
SYSTEM REVENUE BONDS
PAYABLE SOLELY FROM THE REVENUES
OF SAID SYSTEMA ND THE RIGHT
OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City Council of the City of Beaverton intends to authorize the issuance and sale of Water Supply and Sewage Disposal System Revenue Bonds pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in the principal amount of not to

exceed in total One Hundred Thousand Dollars ($100,000), for the purpose of paying part of the cost of constructing improvements to the City's Water Supply and Sewage Disposal System.

Said bonds will mature in annual installments not to exceed forty (40) in number, and will bear interest at a rate or rates of eight percent (8%) on the unpaid balance from time to time remaining outstanding on said bonds.

SOURCE OF PAYMENT
OF REVENUE BONDS

THE PRINCIPAL OF ANDINTEREST ON SAID REVENUE BONDS shall be payable solely from the net revenues derived from the operation of the City's Water Supply and Sewage Disposal System. Said revenues consist of rates and charges for services supplied by the System which may from time to time be increased in order to provide sufficient revenues to meet expenses of operating and maintaining said system and to pay the principal of and interest on said bonds and to provide reserves therefor. A schedule of said rates and charges currently in effect is on file in the office of the City Clerk.

RIGHT OF REFERENDUM

THE REVENUE BONDS will be issued without vote of the electors unless a petition signed by not less than 10% of the registered electors of the City is filed with the City Clerk within forth-five (45) days after publication of this Notice. If such a petition is filed, the bonds may not be issued unless approved by a majority vote of the electors of the City voting on the question of their issuance.

THIS NOTICE is given pursuant to the requirements of Section 33 of Act 94, Public Acts of Michigan, 1933, as amended.

ADDITIONAL INFORMATION will be furnished at the office of the City Clerk upon request.

Grace E Burr

City Clerk

3. The City Council does hereby determine that the foregoing form of Notice of Intent to Issue Bonds and the manner of publication directed is adequate notice to the Electors of the City and users of the City's Water Supply and Sewage Disposal System and is well calculated to inform them of the intention of the City to issue the bonds, the purpose of the bonds, the security for the bonds and the rights of referendum of the electors with respect thereto, and that the provision of forty-five (45) days within which to file a referendum petition is adequate to insure that the City's electors may exercise their legal rights of referendum.

4. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members Adams, Burgess, Nash, Podoba, Wood.

NAYS: Members

RESOLUTION DECLARED ADOPTED.

Grace E Burr

City Clerk

I hereby certify that the attached is a true and complete copy of a resolution adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, at a Regular Meeting held on October 6, 1980, that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1967, and that the minutes of said meeting have been or will be made available to the public as required by said Act.

Grace E Burr

City Clerk

CERTIVIDATE OF NO REFERENDUM

I, Grace E. Burr, hereby certify that I am the Clerk of the City of Beaverton, County of Gladwin, Michigan, and that a Notice of Intention to Issue Water Supply and Sewage Disposal System Revenue Bonds of the City in the amount of not to exceed $100,000 for the purpose of financing the cost of water system improvements was published in The Gladwin County Record, Gladwin, Michigan, on October 15, 1980, a newspaper of general circulation in the City of Beaverton, County of Gladwin, and that more than forty-five (45) days have elapsed since such publication, and no petition for referendum in connection therewith has been filed with me.

Grace E Burr

Dated: November 22, 1980

RATE ORDINANCE

ORDINANCE NO. 99

AN ORDINANCE ESTABLISHING RATES, CHARGES AND RULES FOR THE USE AND SERVICE OF THE WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM OF THE CITY OF BEAVERTON, COUNTY OF GLADWIN AND TO PROVIDE FOR THE MANDATORY CONNECTION TO SAID SYSTEM,

THE CITY OF BEAVERTON ORDAINS:

Section 1. There shall be and there is hereby establish quarterly rates and charges for the use of and for the services supplied by the City's Water Supply and Sewage Disposal System (the "System") based upon the meter readings of the amount of water consumed, as follows:

80 cents per 1000 gallons for residential or commercial usage

50 cents per 1000 gallons for industrial usage

Minimum rates: the minimum bill for each premise served shall be $9.80 per quarter. The minimum bill for each commercial promise served shall be $9.80 per quarter.

Sewer Rates

The rate for sewer service for each premise served shall be one half (½) of the later bill for said premise.

Special Rates

For miscellaneous services for which a special rate shall be established such rates shall be fixed by the City Council.

Turn on Charges

There will be imposed a charge of $2.00 when ever the City is requested to turn on or off System Services: Provided, however, whenever the City is requested to provide turn on or turn off service down times other than the regular business hours of the City there

will be imposed an additional charge of time and material plus 10%.

Enforcement

The charges for services which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, made a lien on all premises served thereby, unless notice is given that the tenant is responsible, are hereby recognized to constitute such lien, and whenever any such charge against any piece of property shall be delinquent for six (6) months, the City official or officials in charge of the collection thereof shall certify annually, on March 1st of each year, to the tax-assessing officer of the City the facts of such delinquency, whereupon such charge shall be by him entered upon a tax roll as the charge against such promises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such promises are collected and the lien thereof enforced: Provided, however, where notice is given that a tenant is responsible for such charges and services as provided by Section 21, no further service shall be rendered such promises until a cash deposit in the amount of $100 shall have been made as security for payment of such charges and service.

In addition to the foregoing, the City shall have the right to shut off sewer services to any premises for which charges for sewer services are more than thirty (30) days delinquent, and such service shall not be re-established until all delinquent charges and penalties and a turn-on charge, to be specified by the City Council, have been paid. Further, such charges and penalties may be recovered by the City by court action.

Section 2. Bills for the rates and charges as here in establish by the City shall be sent quarterly two to property owner(s) who will be responsible for payment of same. All bills shall be payable on the 15th day after receipt of the bill, and shall

be paid at the City Water Department. If any charge for the services of the System shall not be paid by the specified day of the month in which it shall become due and payable, a delayed payment charge of ten percent (10%) of the amount of the bill shall be added thereto and collected therewith. If any bills for the service of the System shall remain unpaid after 60 days following the rendition of the bill therefore, the water supply for the lot, parcel of land, or premise affected shall be cut off and shall not be turned on again except on payment in full of the delinquent charges therefore, in addition to the payment of a charge of $10.00.

Section 3. It is hereby made the duty of the City Water Department to render bills for service and all other charges in connection therewith and to collect all moneys due therefore out

Section 4. No free service shall be furnished by said System to any person, firm or corporation, public or private, or to any public agency or instrumentality.

Section 5. All premises to which sanitary sewer services of the System shall be available shall connect to the System within ninety (90) days after the mailing of a notice to such premises by appropriate officials in charge of the System indicating that such services are available and requiring that such connection be made.

Section 6. All ordinances and part of ordinances in conflict with the provisions of this Ordinance are hereby repealed insofar as the conflicting portions thereof are concerned.

Section 7. This Ordinance shall be published in full in The Gladwin County Record, a newspaper of general circulation in the City, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the Signatures of the Mayor and City Clerk.

Section 8. This Ordinance is hereby determined by the City Council to be immediately necessary for the preservation of the peace, health and safety of the City and is therefore declared to have immediate effect.

PASSED and adopted by the City of Beaverton, Michigan, on this 5th day of June, 1978.

Bernard Allen

Mayor

Attest:

YEAS: 4

Grace E. Burr

Nays: 0

City Clerk

ABSENT: 2

I hereby certify that the foregoing is a true and complete copy of Ordnance No. 99, duly adopted by the City council of the City of Beaverton, County of Gladwin, State of Michigan, at a Regular Meeting held on June 5, 1978, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976.

I further certify that the following Councilmen were present at said meeting: Burgess, Nash, Pemberton and Podoba and that the following Councilmen were absent and said meeting Jekel and Friday.

By further certify Councilman Nash move adoption of said Ordnance and that Councilman Burgess supported said notion.

By further certify that the following Councilmen voted for the adoption of said Ordinance: Burgess, Nash, Pemberton and Podoba and that the following Councilmen voted against the adoption of said Ordinance: none.

I further certify that said Ordinance has been recorded in the Ordinance Book of the City in such recording has been authenticated by the signatures of the Mayor and City Clerk.

Grace E Burr

City CLERK

ORDINANCE No. 115

ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF SELF-LIQUIDATING JUNIOR LIEN WATER SUPPLY SYSTEM REVENUE BONDS BY THE CITY OF BEAVERTON, COUNTY OF GLADWIN, MICHIGAN, FOR THE PURPOSE OF CONSTRUCTING ADDITIONS AND IMPROVEMENTS TO ITS WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM, PRESCRIBING THE FORM OF BONDS, PROVIDING FOR THE COLLECTION OF REVENUE FROM SAID SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COST OF OPERATION AND MAINTENANCE THEREOF, PROVIDING AN ADEQUATE RESERVE FUND THEREFOR, PROVIDING FOR THE PAYMENT OF SAID BONDS AND FURTHER PROVIDING POUR THE SEGREGATION AND DISTRIBUTION OF SAID REVENUES, CREATING A STATUTORY LIEN ON SAID REVENUES WHICH WILL BE JUNIOR TO THE STATUTORY LIEN CREATED IN FAVOR OF THE OUTSTANDING WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BONDS AUTHORIZED BY ORDNANCE NO. 80, AS AMENDED, AND, PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS IN ENFORCEMENT THEREOF AND PROVIDING FOR OTHER MATTERS RELATIVE TO SAID BONDS AND SAID THE SYSTEM.

THE CITY OF BEAVERTON ORDAINS:

Section 1. Necessity; Description of Project. It is hereby determined to be necessary to public health and welfare of the City of Beaverton, County of Gladwin, Michigan in accordance with detailed map, plans and specifications therefore prepared by Owen Ayres & Associates, Inc., Consulting Engineers of Midland, Michigan (the “Engineers”), to proceed to acquire and construct the Project (as hereinafter defined).

Section 2. Cost; Useful Life. The cost of the Project has been estimated to be $220,000, including the payment of incidental expenses as specified in Section 3 of this Ordinance which estimate of cost is hereby a approved and confirmed, and the period of usefulness of is estimated to be not less than forty (40) years.

Section 3. Payment of Cost and Authorization of Bonds. To pay part of the cost of the Project including the payment of a legal, engineering and financial expenses, and other expenses incident hereto and incidents to the issuance and sale of the bonds, it is hereby determined that the City borrow the sum of $100,000 and that revenue bonds be issued therefor pursuant to the provisions of the Act 94, Public Acts of Michigan, 1933, as amended.

Section 4. Definitions. In addition to the words and terms elsewhere defined in this Ordinance, the following words and terms as used in this Ordinance shall have the following meanings unless the contact or use indicates another or different meaning or intent:

Whenever the word “acquired” is used in this Ordinance shall be construed to include acquisition by purchase, construction or by any other method.

“Act 94” shall mean Act 94, Public Acts of Michigan, 1933, as amended.

“Bonds” shall mean the $100,000 principal amount City of

Beaverton Water Supply and Sewage Disposal System Revenue Bonds, Series II, authorized to be issued under Section 3 of this Ordinance and in the additional bonds authorized to be issued pursuant to Section 13 thereof.

"City" shall mean the City of Beaverton, County of Gladwin, Michigan

"FmHA" shall mean the Farmers Home Administration, an agency of the United States Department of Agriculture.

"Government" shall mean the government of the United States of America.

"Outstanding Bonds" show me in the Water Supply and Sewage Disposal System Revenue Bonds, dated January 1, 1966, authorized by Ordinance No. 80, as amended by Ordinance No. 81, and any additional bonds which made hereinafter be issued on a parity therewith pursuant to the terms of Ordnance No. 80, as amended.

"Project" shall mean the improvements to the System to be acquired and constructed under the provisions of this Ordnance consisting of wells, pumps, pumphouses and distribution mains in the City, together with appurtenances and attachments thereto as described in the maps, plans and specifications therefor prepared by the Engineers and on file with the City Clerk.

"Revenues" and "Net Revenues" shall have the meanings as defined in Section 3, Act 94, Public Acts of Michigan, 1933 as amended, shall include the investment income to the extent provided in said Section 3 and this Ordinance.

Section 5. Bond Data and Sale. The Bonds shall be designated WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BONDS, SERIES II, shall be dated as of the date of delivery, shall be in the denomination of $1000 each and shall be numbered in order of majority from 1 upwards.

The Bonds will bear interest at five percent (5%) per annum, to be payable on the first day of April or October following the date of the Bonds, and semiannually thereafter. The bonds shall mature on April 1 of each year as follows:

$1,000	1982 through 1985, exclusive;
$2,000	1986, 1987 and 1988;
$1,000	1989 through 2000, inclusive;
$2,000	2001 through 2004, inclusive;
$3,000	2005 through 2010, inclusive;
$4,000	2011 through 2015, inclusive;
$5,000	2016 through 2019, inclusive;
$6,000	2020 and 2021

The Bonds shall be signed by the Mayor and countersigned by the City Clerk and shall have the corporate seal of the City impressed thereon, and as attach interest coupons are requested, said coupon shall bear the facsimile signatures of the Mayor and City Clerk. After execution, the Bonds shall be held by the City

Treasurer for delivery to the FmHA.

The Bonds shall be issued initially as fully-registered Bonds. The fully-registered Bonds shall be payable in lawful money of the United States of America at the address of the registered holder and shown on the registration books of the City Treasurer who shall act as bond registrar. Once registered, the Bonds may, at the holder's expense, be converted to coupon Bonds by the exchange of the Bonds for Bonds which may be registered as to principle with the appropriate coupons attached. In such case the City will designate a bank or trust company situated in Gladwin County to act as paying agent.

The sale of the Bonds to the FmHA at the interest rate of five percent (5%) per annum and at the par value thereof is hereby approved. The City Treasurer is hereby authorized to deliver the Bonds after approval thereof by the Municipal Finance Commission, in accordance with the delivery instructions of the FmHA.

Bonds will be subject to redemption prior to maturity, in the manner and at the times as provided in the form of the bonds set forth in Section 6.

Section 6. Bond Form. The form and tenor of the fully-registered Bonds (and coupons, if requested) shall be substantially as follows:

UNITED STATES OF AMERICA

STATE OF MICHIGAN

COUNTY OF GLADWIN

CITY OF BEAVERTON

WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM

REVENUE BOND, SERIES II

No. $1,000

The City of Beaverton, County of Gladwin, State of Michigan (the “City”), hereby promises to paid to the registered holder hereof, but only out of the hereinafter described net revenues of the Water Supply in Sewage Disposal System of the City, including all aperture and says, additions, extensions and improvements there to (the “system”), the sum of

ONE THOUSAND DOLLAR

On the first day of April A.D.,____, with interest from the date this bond is first registered until paid at the rate of five percent (5%) per annum, payable on_____, 19__, and semiannually thereafter. Both principle of and interest on this bond are payable to the registered holder at the address shown on the registration books of the City and for the prompt payment thereof, rose revenues of the System after provision has been made for reasonable and necessary expenses of operate, administration and maintenance and for the requirements of the outstanding Water Supply and Sewage Disposal System Revenue Bonds (the “Outstanding Bonds”), authorized by Ordinance No. 80, as amended, are hereby irrevocably pledged and a statutory lien thereon is hereby created which is a second lien subject only to the prior lien in favor of Outstanding Bonds.

This bond is one of the series of one hundred (100) bonds are even date and light tenor, except as to date of majority, aggregating the principal sum of $100,000, issued pursuant to Ordinance No.___duly adopted by the City on _____, 1981, and under the Constitution in statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of defraying heart of the cost of acquiring in constructing improvements to the System. For a complete statement of the revenues from which, and the conditions under which this bond is payable, a statement of the conditions under which the additional bonds of equal and prior standing made hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinance.

Bonds maturing in the years 1982 to 1991, inclusive, shall not be subject to redemption prior to maturity. Bonds maturing in the years 1992 to 2021, inclusive will be subject to redemption prior to maturity, in inverse numerical order, at the option of the City on any interest payment date on or after April 1, 1991, at heart and

accrued interest to the date fix for redemption.

Thirty days notice of the call of any bonds for redemption shall be given by mail to the registered holder at the registered address. Bonds so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand to redeem said bonds

This bond shall be registered as to principal and interest on the books kept by the Treasurer of the City as registrar, after which it shall be transferable only upon presentation to such registrar with a written transfer by the registered holder or his attorney in fact. Such transfer shall be noted hereon and upon the books of the City kept for that purpose. This bond is exchangeable at the request of the registered owner and at his sole expense for a negotiable coupon bond payable to bearer, or coupon bond registered as to principle upon surrender of this bond at the office of the Treasurer of the City.

This bond is a self-liquidating bond, and is not a general obligation of the City and is not constitute an indebtedness of the City within any constitutional, statutory or charter limitation, but is payable, both as to principle and interest, solely from the of of-described net revenues of the System.

The City hereby covenants and agrees to fix and maintain at all times all in the of such bonds shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principle of all such bonds payable from the revenue of the System as and when the same become due and payable, and to create a bond and interest redemption fund (including all bond of reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the above-described Ordinance.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this bond and the series of bonds of which this is one have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City of Beaverton, County of Gladwin, State of Michigan, by its City Council, has caused this bond to be signed in the name of said City by its Mayor and to be countersigned by its City Clerk and its corporate seal to be hereunto affixed, all as of _____, 19__.

CITY OF BEAVERTON
COUNTY OF GLADWIN
STATE OF MICHIGAN

_____
Mayor

Countersigned

_____
City Clerk

REGISTRATION
NOTHING TO BE WRITTEN HEREON EXCEPT
BY THE CITY TREASURER AS REGISTRAR

Date of Registration	Name of Registered Owner	Manner of Registration	Registrar
	United States of America Farmers Home Administration	Fully Registered	
	-		

Form of Coupon-
(If requested)

No. _____ $_____

On the first day of _____, A,D,. 19__, the City of Beaverton, County of Gladwin, State of Michigan, will pay to the bearer hereof the sum of _____ Dollars, in the manner and out of the revenues described in said bond at _____ being the semiannual interest to that date on its Water Supply and Sewage Disposal System Revenue Bond, Series II, dated _____, No. _____.

This coupon is not a general obligation of the City, but is payable solely out of certain revenues set forth in the bond to which it pertains.

_____
Mayor

_____
City Clerk

Section 7. Security for Bonds. The bonds hereby authorized, together with interest thereon, shall not be a general obligation of the City but shall be payable solely from the net revenues to be derived from the operation of the System after provision has been made for the Outstanding Bonds. To paying such principal and interest there is hereby created a statutory lien upon the net revenues of the System after provision for the requirements of the Outstanding Bonds, two continue until the payment in full of the principle of and interest on the bonds.

Section 8. Custodian of Funds; Supervised Bank Accounts; Funds. The Treasurer of the City shall be custodian of all funds belonging to and/or associated with the System and such funds shall be deposited in The Gladwin County State Bank, Beaverton, Michigan, which banking is a member of the Federal Deposit Insurance Corporation (hereinafter referred to as “depository bank"). In the event that the government is the holder of any of the bonds here in authorized, all moneys in excess of $10,000 in the supervised bank account shall be secured by the depository bank in advance in accordance with United States Treasury Department Circular No. 176 and the Treasurer of the City shall execute a fidelity bond in an amount of not less than $10,000 with a surety company approved by the government, and the government and the City shall be named as co-obligees in such bond and the amount thereof shall not be a reduced without prior written consent of the government. The Treasurer of the City is hereby directed to create the following funds and accounts into which the bond proceeds and the revenue and income from the System shall be deposited, which accounts shall be established and maintained, it looked as otherwise provided, so long as any of the bonds hereby authorized remain unpaid.

A. CONSTRUCTION ACCOUNT. The proceeds of the Bonds hereby authorized shall be deposited in the Construction Account in the depository bank. Said account shall be established as a supervised bank account and such proceeds shall be withdrawn on the orders of the City only on checks signed by the Treasurer of the City and countersigned by the County Supervisor of the FmHA. Said moneys shall be used solely for the purposes for which the Bonds were issued.

Any unexpended balance of the proceeds of the sale of the Bonds remaining after completion of the Project here an authorized shall be paid immediately into the Junior Lien Redemption Fund as hereinafter specified and shall be used only for the redemption, or purchase at not more than the fair market value, of Bonds.

After completion of the Project and disposition of remaining Bond proceeds that Construction Account shall be closed.

B. RECEIVING FUND ACCOUNT. Pursuant to Section 15 of Ordinance No. 80, as amended the revenues of the System shall continue to be deposited in the Receiving Fund Account established by Ordinance No. 80, as amended (the “Receiving Fund”), and moneys so deposited therein shall be expended and used only in the manner an order as follows:

1.) Operation and Maintenance Fund. There shall first be

withdrawn from the Receiving Fund quarterly and deposited in the Operation and Maintenance Fund established by Ordinance No. 80, as amended, an amount sufficient to meet the requirements of Section 15 of Ordinance No. 80, as amended, relative to the Operation and Maintenance Fund. Prior to the beginning of each fiscal year the City will prepare an annual budget of said System for the ensuing fiscal year itemized on the basis of monthly requirements, a copy of such budget shall be mailed without requests to the FmHA as long as the FmHA is a holder of any of said bonds prior to adoption for review and upon written request to any other Bond holders. There shall be set aside and deposited each quarter pursuant to the budget a sufficient portion of the income and revenue in the Operation and Maintenance Fund to pay the reasonable and necessary current expenses of administering, operating and maintaining said System for the ensuing quarter

2.) Outstanding Bond Requirement. There shall next be withdrawn from the Receiving Fund each quarter and deposited in the Water Supply and Sewage Disposal System Revenue Bond – Bond and Interest Redemption Fund established by Ordinance No. 80, as amended, an amount sufficient to meet all requirements for said Fund as established by Ordinance No. 80, as a amended, and the funds so deposited shall be used as required by Ordinance No. 80, as amended.

3.) Junior Lien Revenue Bond – Bond and Interest Redemption Fund. There is hereby established a separate account known an as the Junior Lien Revenue Bond – Bond and Interest Redemption Fund (the "Junior Lien Redemption Fund"). After the transfers required in (1) and (2) above, and after meeting all the requirements for Outstanding Bonds as specified in Section 15 of Ordinance No. 80, as amended, there shall be transferred each quarter from the Receiving Fund, before in any other expenditures are transfer therefrom, and deposited in the Junior Lien Redemption Fund for payment of principal and interest on the Bonds, not otherwise provided for in this Section, it as a may equal to at least ½ of the amount equal to the interest due on the next ensuing interest due date and not less than ¼ of the principle maturing on the next ensuing principle payment date. If foreign a reason there is a failure to make such quarterly deposit then an amount equal to the deficiency shall be set aside and deposited in the Junior Lien Redemption Fund of the net revenues in the ensuing quarter or quarters, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter or quarters. There is hereby established within the Junior Lien Redemption Fund a separate account known as the Junior Lien Bond Reserve Account (the "Junior Lien Bond Reserves Account") into which there shall be deposited after the above required to deposit to the Junior Lien Redemption Fund the sum of at least $175 per quarter until there is accumulated in such a fund the sum of $7000. Except as hereinafter provided, no further deposits need be made into the Junior Lien Redemption Fund for the purposes of the Junior Lien Bond Reserve Account once the sum of $7000 has been deposited therein. The moneys in the Junior Lien Bond Reserve Account shall be used solely for the payment of the principle of and interest on Bonds as to which there would otherwise be default.

If at anytime it shall be necessary to use moneys in the

Junior Lien Bond Reserve Account for such payment, then the moneys so used shall be replaced from the net revenues first received thereafter which are not required by this Ordinance to be used for operation and maintenance or for principal and interest requirements or bond reserve fund requirements on the Outstanding Bonds or four principal and interest requirements on the Bonds.

No further payments need be made into the Junior Lien Redemption Fund after it enough of the Bonds have been retired so that the amount then held in said Fund (including the Junior Lien Bond Reserve Account), is equal to the entire a mount of principle in interest which will be payable at the time of maturity of the Bonds been outstanding.

4.) Replacement Fund Account. A balance of the income and Revenues after the transfers required in Section 15 and (2) of Ordinance No. 80, as amended, and Sections 8(B)(1),(2) and (3) of this Ordinance, to the extent of $10,000 until the total sum of $15,000 has been accumulated, shall be deposited in the Replacement Fund Account required to be established pursuant to Section 15(c) of Ordinance No. 80, as amended, and used for the purpose is specified in Ordinance No. 80, as a amended.

Section 9. Reserve Flow of Funds and Investment. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, the Bond and Interest Redemption Fund (including the Bond Reserve Account) and the General Purpose Account established by Ordinance No, 80, as amended, or the Junior Lien Redemption Fund (including the Junior Lien Bond Reserve Account) established by this Ordinance, in the moneys and/or securities in the funds of the System established by this Ordinance shall be transferred, first, to the Operation and Maintenance Fund, and second, to the Bond and Interest Redemption Fund, and third, to the Junior Lien Redemption Fund, (including the Junior Lien Bond Reserve Account), and forth to the Replacement Fund Account.

Moneys in each Fund and Account established by this Ordinance shall be invested in accordance with Act 94, an investment income received from such investments of funds in the Junior Lien Redemption Fund and Junior Lien Bond Reserve Account shall be credited to the Receiving Fund at the end of each operating year.

Section 10. Rate and Charges. Prior to the issuance of the Bonds, rates and charges for the services of the System will be fixed in an amount sufficient to pay the cost of operation and maintaining the System and to leave an amount of revenues adequate for the principle and interest requirements on the Bonds and Outstanding Bonds and all other requirements provided by Ordinance No. 80, as amended, and herein. The rates and charges for all services and facilities rendered by the System shall be a reasonable and just, taking into consideration the costs and value of said System and the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all bonds payable therefrom, and there shall be charged such rates and charges as shall be adequate to meet the requirements of this and the preceding section. The charges for utility service which are, under the

provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, made a lien on all premises served thereby unless notice is given that a tenant is responsible or hereby recognized to constitute such lien and whenever any such charges against any piece of property shall be delinquent for six (6) months, the City official or officials in charge of the collection thereof shall certify annually, on March 1 of each year to the City tax assessing officer the fact of such delinquency, whereupon such delinquent charge shall be entered upon the next tax roll as a charge against such promises and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced; provided, however, where notice is given that a tenant is responsible for such charges and service as provided by said Section 21, no further service shall be rendered such premises until a cash deposit of not less than one full years service shall have been made as security for payment of such charges and services.

Section 11. No Free Service. No free service shall be furnished by said System to any individual, firm or corporation, public or private or to any public agency or instrumentality.

Section 12. Covenants. The City covenants and agrees that as long as any of the Bonds hereby authorized remain on paid as follows:

a) It will comply with applicable State laws and regulations and continually operate and maintain the System in good condition.

b) It will comply with provisions and covenants of Ordinance No. 80, as amended, and this Ordinance.

c) (i) It will maintain complete books and records relating to the operation of the System and it’s a nine and chill affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report prepared, and as long as the government is the holder of any of the bonds, will furnish FmHA, without request a copy of each audit report and will furnish any other holder of any Bonds a copy of such report upon written request. As long as the government is the holder of any of the Bonds the FmHA shall have the right to inspect the System and the records, accounts, and that of relating thereto at all reasonable times.

(ii) it will file with the Municipal Finance Commission each year, as soon as is possible, not later than 90 days after the close of the fiscal year, a report, on forms prepared by said Commission, made in accordance with the accounting method of the City, completely setting forth the financial operation of such fiscal year for its own purposes. A copy of such report shall be concurrently furnished the FmHA as long as the government is a holder of any of the Bonds.

(iii) The City Council will also cause an annual audit of such books of record and account for the preceding

operating year to be made each year by unrecognized independent certified public accountant, and will cause such accountant to mail a copy of such audit to the FmHA if it is the holder of any Bonds. Such audit shall be completed and sell made available not later than three (3) months after the close of each operating year, and said audit made, at the option of the City Council be used in lieu of the statement on forms prepared by the Municipal Finance Commission and all purposes for which said forms are required to be used by this Ordinance.

d) The city will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System, of the kinds and in the amounts normally key read by municipalities engaged in the operation of similar systems. All moneys received for losses under such insurance policies shall be applied to the replacement and restoration of the property damaged or destroyed, and to the extent not sell used, shall be used for the purpose of calling bonds. As long as the government is a holder of any of the Bonds then said insurance shall be approved by the FmHA.

e) It will not buy a role in any money from any source or enter into any contract or agreement to incur any other liabilities that Maine in any way be a lien upon the revenues or otherwise encumber the System so as to impair revenues theirfrom, without obtaining the prior written consent of the FmHA if it is a holder of any of the Bonds, nor shall a transfer or use any portion of the revenues derived in the operation of the System for any purpose not herein specifically authorized.

f) It will not voluntarily disposed of or transfer its title to the System or in a part thereof, including lands ANDINTEREST in lands, by sale, mort each, lease or in any other encumbrances, without obtaining the prior written consent of the FmHA if it is a holder of any of the Bonds.

g) In the extensions or improvements of the System shall be made according to sound engineering principles and plans and specifications shall be submitted to the government for prior review, only so long as it is holder of any of the Bonds.

Section 13. Additional Bonds. The City may issue additional bonds of prior standing to the Bonds authorized in the Ordinance under the terms and conditions set forth in Ordinance No. 80, as amended, and may issue additional bonds of equal standing with the Bonds authorized here and for the following purposes and on the following conditions:

a) To complete construction of the Project according to the plans set forth in Section 1.

b) For the purpose of making reasonable repair, replacement or extension of the System additional bonds of

equal standing may be issued as:

(i) The net revenues of the System for the fiscal year preceding the year in which such additional bonds are to be issued were 120 per cent of the average annual debt service requirements on all bonds then outstanding and those proposed to be issued; or,

(ii) The holders of at least 75 per cent of the then outstanding bonds consent to such issue in riding.

The funds here in established shall be applied to all additional bonds issued pursuant to this section as if said bonds were part of the Bonds and all revenue from any such extension or replacement constructed by the proceeds of the additional bonds shall be paid to the Receiving Fund mentioned in this Ordinance.

Except as otherwise specifically provided in this Section and Ordinance No. 80, as amended, so long as any of such Bonds are an outstanding, no additional bonds or other obligations pledging any portion of the revenues of the System shall be incurred or issued by the City unless the same shall be junior and subordinate in all respects to the Bonds.

Section 14. Ordinance Shall Constitute contract. The provisions of the Ordinance shall constitute a contract between the City and the Bondholders and after the issuance of the Bonds this Ordinance shall not be repealed or amended in any respect which will adversely of backed the rights and interests of the Bondholders nor shall the City adopt any law, ordinance or resolution in any way adversely a acting the rights of the Bondholders so long as said Bonds or interest there on remains unpaid.

Section 15. Refunding of Bonds. If at any time that shall up here to the government that the City is able to read fund, of con call for redemption or with consent of the government the then outstanding Bonds by obtaining a loan for such purposes for responsible cooperative are private credit sources, at reasonable rates and terms for loans for similar purposes and period of time, the City will, upon request of the government, apply for and accept such a loan insufficient amount to repay the government, and will take all such actions as may be required in connection with such loans.

Section 16. Default of City. If there shall be default in the Junior Lien Redemption Fund, provisions of this Ordinance or in the payment of principal or interest of any of the Bonds, upon the filing of a suit by the holders of twenty percent (20%) of the Bonds in the court having to wrist IC shun of the action may a point a receiver to administer the System on behalf of the City with power to charge and collect rates at least sufficient to provide for the payment of the Bonds and for the payment of operation and maintenance expenses and the payment of the Outstanding Bonds and to apply income and revenue in accordance with Ordinance No. 80, as amended, this Ordinance and the laws of Michigan.

The City hereby agrees to transfer to any bona fide

receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding brought to enforce collection or payment of City obligations, all contracts and other rights of the City conditionally, for such time only as such receiver or operator shall operate by authority of the court.

The holders of twenty percent (20%) of the Bonds in the event of default may require by mandatory injunction the raising of rates in a reasonable amount.

Section 17. Ordinance Subject to Michigan Law and FmHA Regulations. The provisions of this Ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the FmHA not inconsistent with the express provisions hereof and Michigan Law.

Section 18. City Subject to Loan Agreement. So long as the government is holder of any of the Bonds, the City shall be subject to the loan agreement, formed F.H.A. 442-47, with the FmHA.

Section 19. Municipal Finance Commission Approval. The City Clerk is authorized and directed to make application to the Municipal Finance Commission for authority to issue and sell the Bonds.

Section 20. Conflict and Severability. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed, and each section of this Ordinance and each subsection of any section thereof is hereby declared to be independent, and the findings are holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Ordinance.

Section 21. Paragraph Headings. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part to be a part of this Ordinance.

Section 22. Publication and Recordation. This Ordinance shall be published in full in The Gladwin County Record, a newspaper of general circulation in the City, qualified under State law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and City Clerk.

Section 23. Effective date. This Ordinance is hereby determined by the City Council to be immediately necessary for the preservation of the peace, health and safety of the City and shall be in full force and effect from and after its passage and publication as required by law.

Passed and adopted by the City of Beaverton, County of Gladwin, State of Michigan, on March 23, 1981, and approved by me on March 23, 1981.

Bernard Allen
Mayor
City of Beaverton, Michigan

Attest:
Grace E Burr
City Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance, duly adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, at a special meeting held on March 23, 1981, and that's that meeting was conducted and public notice of said meeting was given pursuant to an in full compliance with the capital Open Meetings Act, being Act 267, Public Act of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by the Act.
I further certify that the following Members were present at said meeting Adams, Podoba, Wood, Burgess and that the following Members were absent Nash, Randle.

I further certify that Member Burgess moved adoption of said Ordinance and that Member Wood supported said motion.

I further certify that the following Members voted for adoption of said Adams, Podoba, Wood, Burgess and that the following Members voted against adoption of said none.

By further certify that said Ordinance has been recorded in the Ordinance Book of the City of Beaverton, and that such recording has been authenticated by the signatures of the Mayor and City Clerk.

Grace E. Burr
City Clerk

1984

Ordinance 123

CITY OF BEAVERTON
COUNTY OF GLADWIN, MICHIGAN

Minutes for Regular Meeting of the City Council of the City of Beaverton, County of Gladwin, Michigan held in the City Hall in the City, on the 7th day of November 1983 at 7:00 PM Eastern Standard Time.

PRESENT: Members: Randle, Podoba, Nash, Wood, Burgess, Tarzwell.

ABSENT: Members:

The following preamble and resolution were offered by Member Burgess and supported by Member Podoba.

WHEREAS, the City Council of the City of Beaverton, County of Gladwin, Michigan (the "Issuer") tends to authorize the issuance and sale of Water Supply and Sewage Disposal System Junior Lien Revenue Bond, pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in an amount not to exceed One Hundred Seventy-eight Thousand Dollars ($178,000) for the purpose of defraying part of the cost of improvements to the water supply system of the Issuer; in

WHEREAS, prior to issuance of bonds the Issuer must either received prior of removal of the bond from the Municipal Finance Commission, or its successor, (the "MFC") of the State of Michigan (the "State") or be exempt from prior approval as provided in Section 27 of Act 94, Public Acts of Michigan, 1933, as amended, and Chapter 111, Section 11 of Act 202, Public Acts of Michigan, 1942, as amended; and

WHEREAS, in order to be exempt from prior approval, that Issuer must notify the Department of Treasury (the "Department") of the State of the Issuer's intent to issue the bonds.

NOW, THEREFORE, THE AGREES ALL THAT:

1. The Clerk of the Issuer is authorized to notify the Department of the Issuer's intent to issue the bonds described in the preamble to this resolution, to paying the related E and to request an order providing an exception for the bonds from prior approval of the MFC.

2. All resolution and parts of resolutions insofar as they conflict with the provision of this resolution be and the same hereby are rescinded.

AYES: Members: Randle, Burgess, Nash, Wood, Podoba, Tarzwell.

NAYS: Members:

RESOLUTION DECLARED ADOPTED.

Grace E Burr
City Clerk

I hereby certify that the attack is it true and complete, and a resolute adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, and a regular meeting held on the 7th day of November, 1983, and that public notice of sale meeting was given pursuant to an in full compliance with Act No. 267, Public Acts of Michigan, 1976 and that minutes of the meeting Were kept and will be or have been made available as required by said Act.

Grace E Burr
City Clerk

ORDINANCE NO. 123

AN ORDINANCE TO AMEND ORDINANCE NO. 115, ENTITLED:

"ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF SELF-LIQUIDATING JUNIOR LIEN WATER SUPPLY SYSTEM REVENUE BONDS BY THE CITY OF BEAVERTON, COUNTY OF GLADWIN, MICHIGAN, A PURPOSE OF CONSTRUCTING ADDITIONS AND IMPROVEMENTS TO ITS WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM; PRESCRIBING THE FORM OF BONDS; PROVIDING FOR THE COLLECTION OF REVENUE FROM SENT SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE THEREOF, PROVIDING AN ADEQUATE RESERVE FUND THEREFORE, PROVIDING FOR THE PAYMENT OF SENT BONDS IN FURTHER PROVIDING FOR THE SEGREGATION AND DISTRIBUTION OF SAID REVENUES, CREATING A STATUTORY LIEN ON SEDRO AVENUES WHICH WILL BE JUNIOR TO THE STATUTORY LIEN CREATED IN FAVOR OF THE OUTSTANDING WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM REVENUE BONDS AUTHORIZED BY ORDINANCE NO. 80, AS AMENDED, AND PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SENT BONDS IN ENFORCEMENT THEREOF IN PROVIDING FOR OTHER MATTERS RELATIVE TO SENT BONDS AND SAID SYSTEM."

AND TO AUTHORIZE THE ISSUANCE AND SALE OF SELF-LIQUIDATING WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM JUNIOR LIEN REVENUE BONDS, SERIES III, BY SAID CITY TO CREATE A STATUTORY LIEN ON THE REVENUES OF SENSE SYSTEM OF EQUAL STANDING WITH THE STATUTORY LIEN CREATED IN FAVOR OF THE OUTSTANDING WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM REVENUE BONDS, SERIES II, AUTHORIZED BY ORDINANCE NO. 115, AND TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF SAID JUNIOR LIEN BONDS, SERIES III, IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID JUNIOR LIEN BONDS, SERIES III AND SAID SYSTEM.

THE CITY OF BEAVERTON ORDAINS:

Section 1. Definition. In addition to the words and terms elsewhere defined in this Ordinance, the following words and terms as used in this Ordinance shall have the following meanings unless context or use indicates another or different meaning or intent:

Whenever the word "acquired" is used in this Ordinance it shall be construed to include acquisition by purchase, construction or by any other method.

"Act 94" shall mean Act 94, Public Acts of Michigan, 1933, as amended.

"Additional Bonds" shall mean Bonds issued pursuant to Section 18 hereof and subject to the terms of this Ordinance and Ordinance No. 115.

"Bonds" shall mean the Junior Lien Bond and any Additional Bonds.

"Department of Treasury" shall mean the Department of Treasury, State of Michigan.

"Depository Bank" shall mean The Gladwin County State Bank, Beaverton, Michigan.

“Fiscal Year” shall mean the fiscal year of the issuer and the operating year of the System commencing April 1, as such year may be changed from time to time.

“FmHA” shall mean the Farmers Home Administration, an agency of the United States Department of Agriculture. Provisions herein referencing the FmHA shall be inapplicable in the event the Junior Lien Bond is not sold to the FmHA and in the event that the Government shall no longer be a holder of any of the Bonds.

“Government” shall mean the government of the United States of America.

“Issuer” or “City” shall mean the City of Beaverton, County of Gladwin, Michigan.

“Junior Lien Bond” shall mean the $178,000 City of Beaverton Water Supply in Sewage Disposal System Junior Lien Revenue Bond, Series III, authorized to be issued under Section 3 of the Ordinance.

“Municipal Finance Commission” shall mean the Municipal Finance Commission, Department of Treasury, or any successor agency.

“Ordinance” shall mean this ordinance and any ordinance of resolution of the Issuer amendatory are supplemental hereto, including ordinances or resolutions authorizing issuance of Additional Bonds.

“Ordinance No. 80” shall mean Ordinance No. 80 of the Issuer adopted June 28, 1965, as amended by Ordinance No. 81, adopted November 18, 1965.

“Ordinance No. 115” shall mean Ordinance No. 115 of the Issuer adopted March 23, 1981.

“Outstanding Bonds” shall mean the Water Supply and Sewage Disposal System Revenue Bonds, dated January 1, 1966, authorized by Ordinance No. 80, and the Water Supply and Sewage Disposal System Revenue Bonds, Series II, dated November 24, 1981, authorized by Ordinance No. 115, and any additional bonds which made hereinafter be issued on a parity therewith pursuant to the terms of Ordinance No. 80 or Ordinance No. 115.

“Project” shall mean the public improvements to the System herein authorized to be acquired and constructed, consisting of elevated tank, pump and pump house, transmission mains, and distribution mains, together with appurtenances and attachments thereto as described in the maps, plans and specification therefore referenced in Section 2 hereof.

“Revenue” and “Net Revenues” shall have the meanings with respect to the System as are set forth in Section 3 of Act 94, and shall include the meanings on the investment of funds of the System (including the Project), and of funds deposited in the Receiving Fund pursuant to Section 12 hereof.

“System” shall mean the Issuer’s water supply in sewage disposal

system, including such facilities thereof as are now existing, are acquired and constructed as the Project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

"Transfer Agent" shall mean the transfer agent and bond registrar for each series of Bonds as appointed from time to time by the Issuer as provided in Section 5 of this Ordinance and who or which shall carry out the duties and responsibilities as set forth in Section 5 and 6 of this Ordinance.

Section 2. Necessity; Description of Project; Consent of Outstanding Bondholder. It is hereby determined to be necessary for the public health and welfare of the Issuer in accordance with detailed maps, lands and specifications therefore prepared by Edmands Engineering Inc., consulting engineers of Bay City, Michigan (the "Engineers"), to proceed to acquire and construct the Project.

It is hereby found and declared that the Issuer has received, as required by Section 13 of Ordinance No. 115, the written consent of the FmHA, the holder of at least 75 percent of the presently outstanding bonds issued pursuant to Ordinance No. 115, to the issuance of the Junior Lien Bond, which shall be of equal standing and priority of lien with the bonds issued pursuant to Ordinance No. 115.

Section 3. Cost; Useful Life. The cost of the Project has been estimated to be $890,000, including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed. The period of usefulness of the Project is estimated to be not less than forty (40) years.

Section 4. Payment of Cost and Authorization of Junior Lien Bond. To pay the part of the cost of acquiring and constructing the Project, including legal, engineering and financial expenses, and other expenses incident thereto and incident to the issuance and sale of the Junior Lien Bond, it is hereby determined that the Issuer bar of the sum of $178,000, and that revenue bonds be issued therefore pursuant to the provisions of Act 94. The balance of the cost of the Project will be paid from other funds of, or available to, the Issuer legally available therefor.

Section 5. Bond Data and Sale. The Junior Lien Bond shall be designated WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM JUNIOR LIEN REVENUE BOND, SERIES III, shall be dated as of April 1, 1984, shall consist of one (1) single fully-registered nonconvertible bond in the denomination of $178,000, and shall be payable in principal installments serially on April 1 of each year as follows:

Principal Installment Amount	Year
$ 1,000	1986 through 1995, inclusive;
2,000	1996 and 1997;
3,000	1998 through 2004, inclusive;
4,000	2005 through 2008, inclusive;
5,000	2009, 2010 and 2011;

6,000	2012, 2013 and 2014;
7,000	2015, 2016 and 2017;
8,000	2018;
9,000	2019;
10,000	2020 and 2021;
11,000	2022;
12,000	2023;
13,000	2024;

The Junior Lien Bond is expected to be delivered to the FmHA as initial purchaser thereof in installments (the "delivery installments") and each delivery installment shall be noted on the registration grid set forth on the Junior Lien Bond. The delivery installments shall be deemed to correspond to the serial principal installments of the Junior Lien Bond indirect chronological order of said serial principle installments.

The serial principle installments of the Junior Lien Bond will each bear interest from the date of delivery of the corresponding delivery installment to the registered holder thereof as shown on registration grid set forth on the Junior Lien Bond at the rate of seven and one-eight percent (7 1/8%) per annum, payable on the first day of April or October following the date of delivery of said installment, and semiannually thereafter on April 1 and October 1 of each year until maturity or earlier prepayment of said installment. The Junior Lien Bond shall not be convertible or exchangeable into more Than one fully-registered bond.

The Junior Lien Bond shall be issued in fully-registered form. Principle of an interest on the Junior Lien Bond shall be payable in lawful money of the United States of America by check or draft mailed By The Transfer Agent to the registered holder at the address of the registered holder as shown on the registration books of the Issuer kept by the Transfer Agent. But Issuer's Treasurer is hereby appointed to act as Transfer Agent. If and at such time as the Junior Lien Bond is transferred to or held by in the registered owner other than the FmHA, the Issuer by resolution may 0. of bank or trust company qualified under Michigan law to act as transfer agent and registrar upon sixty (60) days' notice to the registered owner of the Junior Lien Bond. If the FmHA shall no longer be the registered owner of the Junior Lien Bond, then the principle of an interest on the Junior Lien Bond shall be payable to the registered owner of record as of the fifteenth day of the month preceding the payment date by check or draft mailed to the registered owner at the registered address. Such date of determination of the registered owner for purposes of payment of principle or interest may be changed by the Issuer to conform to future market practice. The Issuer's Treasurer is hereby authorized to execute an agreement with any successor Transfer Agent.

That Transfer Agent shall record on the registration book payment by the Issuer of each installment of principal or interest or boat when made and the canceled checks or drafts representing such payments shall be returned to and retained by the Issuer's Treasurer, which canceled checks or drafts shall be conclusive evidence of such payments and the obligations of the Issuer with respect to such payments shall be discharged to the extent of such payments.

Upon payment by the Issuer of all outstanding principal of an interest on the Junior Lien Bond, the registered owner thereof shall deliver it to the Issuer for cancellation.

The sale of the Junior Lien Bond to the FmHA at an interest rate of seven and one-eighth percent (7 1/8%) per annum and at the par value thereof is hereby approve. The Issuer's Treasurer is hereby authorized to deliver the Junior Lien Bond in accordance with the delivery instructions of the FmHA, after approval of the issuance thereof by the Municipal Finance Commission, if such approval is at the time required, or receipt of an order of the exemption of the Department of Treasury or expiration of the notice period without receipt of an order of denial of the Department of Treasury.

The Junior Lien Bond or installments thereof will be subject to prepayment prior to maturity, in the manner and at the times as provided in the form of the Junior Lien Bond set forth in Section 8.

Section 6. Bond Transfer. Any Bond may be transferred upon the books required to be kept by the Transfer Agent pursuant to this Section, by the person in his name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for transfer, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the Transfer Agent shall record such transfer on the registration books and shall register such transfer on the registration grid attached to the Bond. At the time of such transfer of the Transfer Agent shall note on the Bond the outstanding principal amount thereof at the time of transfer. In the event in the Bond is called for prepayment in part, the transfer agent, upon surrender of the Bond shall note on the Bond the principle amount prepaid and shall return the Bond to the registered owner thereof to gather with the prepayment amount on the prepayment date. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The Issuer shall not be required (i) to issue, register the transfer of, or exchange in the Bond during a period beginning at the opening of business fifteen days before the date of the mailing of a notice of redemption of Bonds or portions thereof selected for redemption under Section 8 of this Ordinance and ending at the close of business on the day of that mailing, or (ii) to register the transfer of or exchange in the Bond or portion thereof so selected for redemption.

The Transfer Agent shall keep or cause to be kept, at its principal office, sufficient books for the registration and transfer of the Bonds, which shall at all times the open to inspection by the Issuer. The Transfer Agent shall transfer or cause to be transferred on said books Bonds presented for transfer, as hereinbefore provided in subject to reasonable regulations as it may prescribe.

Section 7. Execution and Delivery of the Junior Lien Bond. The Junior Lien Bond shall be signed by the Issuer's Mayor and countersigned by the Issuer's Clerk in shall have the corporate seal of the Issuer impressed thereon. After execution, the Junior Lien Bond shall be held by the Issuer's Treasurer for delivery to the FmHA. No Junior Lien Bond or any instrument thereof shall be valid

until registered by the Issuer’s Treasurer, or upon transfer by the FmHA and thereafter, by an authorized representative of the Transfer Agent.

Section 8. Bond Form. The form and tenor of the Junior Lien Bond shall be substantially as follows, subject to appropriate variation upon issuance of Additional Bonds:

UNITED STATES OF AMERICA

STATE OF MICHIGAN

COUNTY OF GLADWIN

CITY OF BEAVERTON

WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM

JUNIOR LIEN REVENUE BOND

SERIES III

No. R-1 $178,000

The City of Beaverton, County of Gladwin, State of Michigan (the "Issuer"), for value received, hereby promises to pay to the registered owner hereof but only out of the hereinafter describe Net Revenues of the Water Supply and Sewage Disposal System of the Issuer, including all appurtenances, additions, extensions and improvements thereto (the "System"), the sum of

ONE HUNDRED SEVENTY-EIGHT THOUSAND DOLLARS

on the dates and in the principle installment amounts set forth in Exhibit A attached hereto and made a part hereof, with interest on said installments from the date each said installment is delivered to the holder hereof and as set forth on the registration grid hereon until paid at the rate of seven and one-eight percent (7 1/8%) per annum, payable on _____, 19__, and semiannually thereafter. Both principal of an interest on this bond are payable in lawful money of the United States of America by check mailed to the registered holder at the address shown on the registration books of the Issuer and for the prompt payment thereof, gross revenues of the System, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance thereof (the "Net Revenues"), and for the requirements of the outstanding Water Supply and Sewage Disposal System Revenue Bonds, dated January 1, 1966, authorized by Ordinance No. 80, as a amended, in the original principle of mount of $175,000 (the "1966 Bonds") and the outstanding Water Supply and Sewage Disposal System Revenue Bonds, Series III, dated November 24, 1981, authorized by Ordinance No. 115 in the original principal amount of $100,000 (the "1981 Bonds") (the 1966 Bonds and the 1981 Bonds sometimes hereinafter referred to as the "Outstanding Bonds"), are hereby irrevocably pledged and a statutory lien thereon is hereby created which is subject only to the prior lien in favor of the 1966 Bonds and of equal standing and priority with the lien in favor of the 1981 Bonds.

This bond is a single, fully-registered, non-convertible bond in the principal sum of $178,000, issued pursuant to Ordnance No. ___, duly adopted by the Issuer on _____, 198_, and under and in full compliance with the Constitution in statutes of the State of

Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, For The Purpose of paying part of the cost of acquiring and constructing improvements to the System, including generally a water tank, transmission and distribution mains and attachments and appurtenances necessary thereto. For a complete statement of the revenue from which, and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal and prior standing may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinances.

Principle installments of this bond are subject to prepayment prior to maturity, in inverse chronological order, at the option of the issuer on any interest payment date on or after April 1, 1986, at R and accrued interest to the date fixed for payment.

Thirty days notice of the call of any principal installments for prepayment shall be given by mail to the registered owner at the registered address. The principal installments so called for prepayment shall not their interest after the date fixed for prepayment, provided funds are on hand to prepay said installments.

This bond shall be registered as two principal and interest on the books of the Issuer kept by the transfer agent and registrar and noted hereon, after which it shall be transferable only upon presentation to such a transfer agent and registrar with a written transfer satisfactory to such transfer agent and registrar by the registered holder or his attorney in fact. Such transfer shall be noted hereon and upon the books of the Issuer kept for that purpose.

This bond is a self-liquidating bond and is not a general obligation of the Issuer and does not constitute in indebtedness of the Issuer within any constitutional, statutory or charter limitation, but is payable, both as two principal and interest, solely from the Net Revenues of the System after provision for the requirements of the Outstanding Bonds.

The Issuer hereby covenants and agrees to fix and maintain at all times well any installments of this bond shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principle of all such installments of this bond payable from the Net Revenues of the System as and when the same become due and payable, and to create a bond and interest redemption fund (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation in such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the above-described Ordnance.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the CITY OF BEAVERTON, County of Gladwin, State of Michigan, by its City Council, has caused this bond to be

signed in the name of the City by its Mayor and to be countersigned by its City Clerk, and its corporate seal to be hereunto affixed, all as of April 1, 1984.

CITY OF BEAVERTON
COUNTY OF GLADWIN
STATE OF MICHIGAN

_____
Mayor

(SEAL)

Countersigned:

_____
City Clerk

REGISTRATION
NOTHING TO BE WRITTEN HEREON EXCEPT
BY THE REGISTRAR AND TRANSFER AGENT

Date of Registration	Name of registered owner	Principal installment Delivered	Signature of Registrar
	United States of America Farmers Home Administration		
	United States of America Farmers Home Administration		

EXHIBIT A

Principal Installment Due on April 1	Amount of Principle Installment
1986	$ 1,000
1987	1,000
1988	1,000
1989	1,000
1990	1,000
1991	1,000
1992	1,000
1993	1,000
1994	1,000
1995	1,000
1996	2,000
1997	2,000
1998	3,000
1999	3,000
2000	3,000
2001	3,000
2002	3,000
2003	3,000
2004	3,000
2005	4,000
2006	4,000
2007	4,000
2008	4,000
2009	5,000
2010	5,000
2011	5,000
2012	6,000
2013	6,000
2014	6,000
2015	7,000
2016	7,000
2017	7,000
2018	8,000
2019	9,000
2020	10,000
2021	10,000
2022	11,000
2023	12,000
2024	13,000

Section 9. Security for Bonds. Neither of the Bonds nor the interest thereon shall be a general obligation of the Issuer that each shall be payable solely from the Net Revenues after provision has been made for the Outstanding Bonds and any additional bonds of equal standing with the Outstanding Bonds. Toupees such principal and interest as and when the same shall become due, there is hereby created a statutory lien upon the whole of the Net Revenues of the System after provision for the requirements of the Outstanding Bonds issued pursuant to Ordnance No. 80, subject only to the prior lien in favor of the Outstanding Bonds issued pursuant to Ordnance No. 80 and any additional bonds of equal standing with the Outstanding Bonds issued pursuant to Ordinance No. 80, and of equal standing with the lien in favor of the Outstanding Bonds issued pursuant to Ordinance No. Are 115 and in the additional bonds of equal standing with the Outstanding Bonds issued pursuant to Ordinance No. 115, to continue until the payment in full of the principle of an interest on the Bonds.

Section 10. Budget. In accordance with the requirements of Ordinance No. Up 115, prior to the beginning of each Fiscal Year the Issuer shall prepare an annual budget of the System for the ensuing fiscal year itemized on the bases of monthly requirements, a copy of which shall be mailed with that request by the FmHA to the FmHA (if and as long as the Government is the holder of any of the Bonds) for review prior to adoption, and upon written request to any other holders of the Bonds.

Section 11. Remedies. The registered owner of the Bonds made, by suit, action, or other proceedings, protect and enforce the statutory lien established by the Ordinance and enforced and compel the performance of all duties of the officials of the Issuer, including, but not limited to, compelling the Issuer by proceedings in a court of competent jurisdiction or other appropriate forum to establish and maintain the rates and charges and to perform the other obligations of the Issuer set forth in the Ordinance.

Section 12. Custodian of Funds; Funds. The Issuer’s Treasurer shall be custodian of all funds belonging to or associated with the System. Such funds shall be deposited in the Depository Bank. The Issuer’s Treasurer shall execute a fidelity bond in an amount not less than $100,000 with a surety company licensed to conduct business in the State of Michigan and approved by the FmHA. The United States of America, acting through the FmHA, and the Issuer shall be named as co-obligees in such bond and the amount thereof shall not be reduced with out the prior written consent of the FmHA. The Issuer’s Treasurer is hereby directed to create and maintain the following funds and accounts into which the proceeds of the Bonds and the Revenues shall be deposited in the manner and at the times provided in the Ordinance, which accounts shall be established and maintained, except as otherwise provided, so long as any of the Bonds remain unpaid, except as otherwise provided in the Ordinance.

(A) CONSTRUCTION FUND. The proceeds of the Junior Lien Bond shall be deposited in the CITY OF BEAVERTON WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM JUNIOR LIEN SERIES III CONSTRUCTION FUND (the “Construction Fund”) in the Depository Bank. In the event the

Government is the holder of the Junior Lien Bond, then, if required by the FmHA, the Construction Fund shall be established as a supervised bank account in such proceeds shall be withdrawn on the orders of the Issuer only on checks signed by the Issuer's Treasurer and countersigned by the District Director of the FmHA. Said moneys shall be used solely for the purposes for which the Junior Lien Bond is issued.

Any unexpended balance of the proceeds of the sale of the Junior Lien Bond remaining after completion of the Project herein authorized may be used for further improvements, enlargements and extensions of the System in the discretion of the Issuer, provided that at the time of such expenditure such use be approved by the Municipal Finance Commission or successor agency (if such approval is then required by law). Any remaining balance after such expenditure shall be paid into the Series III Junior Lien Redemption Fund (as hereinafter provided) and shall be credited to the Series III Junior Lien Bond Reserve Account or used for the prepayment of installments of the Junior Lien Bond.

After completion of the Project and disposition of remaining proceeds, if any, of the Junior Lien Bond pursuant to the provisions of this Section, the Construction Fund shall be closed.

(B) RECEIVING FUND. Pursuant to Section 15 of Ordinance No. 80 and Section 8 of Ordinance No. 115, the Revenues of the System shall continue to be deposited in the Receiving Fund established by Ordinance No. 80 (the "Receiving Fund"), and moneys so deposited therein shall be transferred, expended and used only in the manner and the order as follows:

(1) Operating and Maintenance Account. There shall first be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Operation and Maintenance Account established by Section 15 of Ordinance No. 80 and Section 8 of Ordinance No. 115, an amount sufficient to meet the requirements of Section 15 of Ordinance No. 80 and Section 8 of Ordinance No. 115, relative to the Operation and Maintenance Account, which amount shall be sufficient to pay the reasonable and necessary current expenses for the ensuing quarter of administering, operating and maintaining the System, including the Project.

(2) Outstanding 1966 Bonds Requirements. After the transfer required in (1) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Bond and Interest And Redemption Fund established by Section 15 of Ordinance No. 80 Revenues sufficient to meet all requirements for the Bond and Interest Redemption Fund (including the Bond Reserve Account) as established in Section 15 of Ordinance No. 80 and the Revenues so deposited shall be used as required by Section 15 of Ordinance No. 80.

(3) Series II Junior Lien Revenue Bonds Requirements. After the transfer required in (1) and (2) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Junior Lien Redemption Fund established by Section 8 of Ordinance No. 115, Revenues sufficient to meet all the

requirements of the Junior Lien Redemption Fund (including the Junior Lien Bond Reserve Account) as established in Section 8 of Ordinance No. 115, and the Revenues so deposited shall be used as required by Section 8 of Ordinance No. 115.

(4) Series III Junior Lien Revenue Bond- Bond and Interest Redemption Fund. There is hereby established a separate account known as the SERIES III JUNIOR LIEN REVENUE BOND – BOND AND INTEREST REDEMPTION FUND (the "Series III Junior Lien Redemption Fund"). After the transfer required in (1), (2) and (3) above, and after meeting all the requirements for Outstanding Bonds as specified in Section 15 of Ordinance No. 80 and Section 8 of Ordinance No. 115, Revenues shall be withdrawn quarterly (except as otherwise provided in this paragraph) from the Receiving Fund, before in any other expenditures or transfers therefrom, and set aside in and transferred to the Series III Junior Lien Redemption Fund for payment of principal of an interest on the Junior Lien Bond and to fund the Series III Junior Lien Bond Reserve Account hereinafter establishing. Upon in the delivery of an installment of the Junior Lien Bond there shall be set aside at the time of such delivery and on the first day of each quarter of the Fiscal Year thereafter to the next interest payment date an amount equal to that fraction of the amount of interest to on the next interest payment date on said installment so delivered, the numerator of which is 1 and the denominator of which is the number of full and partial quarters from the date of said delivery to the next interest payment date. There shall also be set aside each quarter of the Fiscal Year and amount not less than ½ of the amount of interest due on the next interest payment date on all outstanding installments of the Junior Lien Bond not delivered during the then current interest payment. Their shall also be set aside at the time of the delivery of the initial installment of the Junior Lien Bond and on the first day of each quarter of the Fiscal Year thereafter to the next principal payment date and amount equal to that fraction of principle of the Junior Lien Bond due on the next principle payment date, the numerator of which is one and the denominate are of which is the number of full and partial quarters of the Fiscal Year from the date of said delivery to the next principle payment date. Commencing on the first day of the Fiscal Year next succeeding the Fiscal Year in which the first installment is delivered there shall be set aside each quarter of the Fiscal Year an amount not less than ¼ amount of the principal installment of the Junior Lien Bond due on the next principal payment date.

If for in a reason there is a failure to make such quarterly deposits in the amounts required, then the entire amount of the deficiency shall be set aside and deposited in the Series III Junior Lien Redemption Fund out of the Revenues first received thereafter which are not required by the Ordinance to be deposited in the Operation and Maintenance Account, in the Bond and Interest Redemption Fund or in the Junior Lien Redemption Fund, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter for quarters.

There is hereby established in the Series III Junior Lien Redemption Fund a separate account known as the SERIES III JUNIOR LIEN BOND RESERVE ACCOUNT (the "Series III Junior Lien Bond Reserve Account"). Commencing April 1, 1985, there shall be withdrawn from

the Receiving Fund quarterly and set aside in and transferred to the Junior Lien Bond Reserve Account the sum of at least $350 per quarter until there is accumulated in such fund the sum of $14,000, after provision for the current requirements of the Series III Junior Lien Redemption Fund. Septa as hereinafter provided, no further deposits need be made into the Series III Junior Lien Redemption Fund for credit to the Series III Junior Lien Bond Reserve Account once the sum of $14,000 has been credited thereto except as hereinafter provided, moneys in the Series III Junior Lien On Reserve Account shall be used solely for the payment of the principal of an interest on Bonds as to which there would otherwise be default.

If at anytime it shall be necessary to use moneys in the Series III Junior Lien By Reserve Account for payment of principal of and interest on the Bonds, then the moneys so used shall being replaced from the Net Revenues first received thereafter which are not required by this Ordinance to be used for current principal and interest requirements for bond reserve fund requirements for the Outstanding Bonds or for current principal and interest requirements for the Bonds.

No further payments need be made into the Series III Junior Lien Redemption Fund after enough of the Bonds have been retired so that the amount then held in the Series III Junior Lien Redemption Fund (including the Series III Junior Lien Bond Reserve Account), is equal to the entire a mount a principal and interest which will be payable at the time of maturity of the Bonds then outstanding.

Any amount on deposit in the Series III Junior Lien Redemption Fund in excess of the requirements for paying principal of an interest on Bonds due during the ensuing 18 months, plus the requirements of the Series III Junior Lien Bond Reserve Account, may be used by the Issuer for redemption of the Bonds in the manner set forth in Section 8 hereof.

The moneys in the Series III Junior Lien Redemption Fund and the Series III Junior Lien Bond Reserve Account shall be invested in accordance with Section 14 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in said Section.

(5) Replacement Fund Account. After the transfer is required in (1), (2), (3) and (4) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Replacement Fund Account established by Section 15(C) of Ordinance No. 80 the balance of the Revenues until the total sum of $65,000 has been accumulated in the Replacement Fund Account, an used for the purpose is specified in Section 15(C) of Ordinance No. 80.

Section 13. Reverse Flow of Funds; Surplus Moneys. In the event the moneys in the Receiving Fund are insufficient to provide for the current replacements of the Operation and Maintenance Account, the Bond and Interest Redemption Fund (including the Bond Reserve Account), the Junior Lien Redemption Fund (including the Junior Lien Bond Reserve Account), the Series III Junior Lien Redemption Fund (including the Series III Junior Lien Bond Reserve Account), or the Replacement Fund Account, any moneys and/or

securities in the funds of the System established by this Ordinance shall be transferred, first, to the Operation and Maintenance Account, and second, to the Bond and Interest Redemption Fund, and third, to the Junior Lien Redemption Fund (including the Junior Lien Bond Reserve Account), and forth to the Series III Junior Lien Redemption Fund (including the Series III Junior Lien Bond Reserve Account), and given to the Replacement Fund Account.

All moneys remaining in the receiving fund at the end of any Fiscal Year after satisfying the requirements of Section 15 of Ordinance No. 80 and Section 8 of Ordinance No. 115, and Section 12(B) of this Ordinance may be transferred to (i) to the Bond and Interest Redemption Fund and used call Outstanding Bonds as provided in Ordinance No. 80, (ii) to the Junior Lien Redemption Fund and used to call Outstanding Bonds as provided in Section 8 of Ordinance No. 115, (iii) to the Series III Junior Lien Redemption Fund, or (iv) to the Replacement Fund Account and used for the purpose for which the Replacement Fund Account was established; provided, however, that if there should be a deficit in the Operation and Maintenance Fund, the Bond and Interest Redemption Fund, the Junior Lien Redemption Fund, or the Series III Junior Lien Redemption Fund, then moneys sole remaining in the Receiving Fund shall be transferred to the extent of such deficit to the funds and the priority set forth in Section 12 hearof.

Section 14. Investments. Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds may be invested by the Issuer's legislative body on behalf of the Issuer in Government obligations or obligations to principle of and interest on which is fully guaranteed by the United States of America, or certificates of deposit of a bank insured by the Federal Deposit Insurance Corporation. Investment of moneys in the Series III Junior Lien Redemption Fund being accumulated for payment of the next maturing principal or interest payment on the Bonds shall be limited to Government obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bonds. Investment of moneys in the Series III Junior Lien Bond Reserve Account shall be limited to Government obligations bearing maturity dates, or subject to redemption at the option of the holder thereof, not later than five years from the date of the investment. Securities representing investments shall be kept on deposit with the Depository Bank. Profit realized or interest income earned on investments of funds in the Series III Junior Lien Redemption Fund and, at any time after is fully funded, the Series III Junior Lien Bond Reserve Account, shall be deposited in or credited to the Receiving Fund.

Moneys in any other fund or account of the System shall be invested and transferred as provided an Ordinance No. 115.

Section 15. Rates and Charges. Rates and charges for the services of the System have been fixed pursuant to Section 10 of Ordinance No. 80 and Section 1 of Ordinance No. 99, as said sections have been amended of, in an amount sufficient to pay the expenses of administration, operation and maintenance of the System, to pay the principal and interest requirements on all bonds payable from Revenues, including the Outstanding Bonds and the Bonds, and to meet

all other requirements and comply with the covenants provided by Ordinance No. 80, Ordinance No. 115 and this Ordinance. The Issuer here by covenants and agrees to fix and maintain at all times while in any of the Outstanding Bonds and the Bonds shall be outstanding such rates for service furnished by the System as shall be sufficient to provide for the foregoing expenses, requirements and covenants, and to create a bond and interest redemption fund (including a bond reserve account) for all such bonds. The rates and charges for all services and facilities rendered by the System shall be a reasonable and just, taking into consideration the costs and value of the System and the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all bonds payable from Revenues and accruing interest on such bonds.

Section 16. No Three Service. No free service shall be furnished by the System to any individual, firm or corporation, public or private or to any public agency or instrumentality.

Section 17. Covenants. The Issuer covenants and agrees that so long as any of the Bonds hereby authorized remain unpaid as follows:

a) It will comply with applicable State laws and regulations and continually operate and maintain the System in good condition.

b) It will comply with provisions and covenants of Ordinance No. 80, Ordinance No. 115 and this Ordinance.

c) (i) It will maintain complete books and records relating to the operation and financial affairs of the System. If the Government is the holder of any of the Bonds, the FmHA shall have the right to inspect the System and the records, accounts, and data relating thereto at all reasonable times.

(ii) It will cause an annual audit of such books of record an account for the preceding Fiscal Year to be made each year by recognized independent certified public accountant, or will prepare a report for such purpose on forms prepared by the Municipal Finance Commission or the Department of Treasury, and we’ll mail a copy of such audit or report to the FmHA, or to the manager of the syndicate or account purchasing the Bonds, and the Municipal Finance Commission or the Department of Treasury. Such audit shall be completed and sell made available not later than three (3) months after the close of each Fiscal Year.

d) The Issuer will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar systems. All moneys received for losses under any such insurance policies shall be applied to the replacement and restoration of the property damaged or destroyed, and to the extent not sell used, shall be used for the purpose of calling Bonds. If the Government is a holder of any of the bonds, then said insurance shall be in amounts not less than such amounts as maybe specified by LETTER OF INTENT TO MEET CONDITIONS, Form FmHA 442.46 and shall be approved by the FmHA.

e) It shall not borrow any money from any source or enter into any contract or agreement to incur any other liabilities that made in any way be a lien upon the Revenues or otherwise encumber the System so as to impair Revenues therefrom, without obtaining the prior written consent of the FmHA (that the Government is a holder of any of the Bonds), nor shallot transfer or use any portion of the Revenues derived in the operation of the System for any purpose not herein specifically authorized.

f) It will not voluntarily dispose of or transfer its title to the System or any part thereof, including lands and interest in lands, by sale, morgue each, lease or other encumbrances, without obtaining the prior written consent of the FmHA if it is a holder of any of the Bonds.

g) Any extensions or improvements of the System shall be made according to sound engineering principles and plans and specifications shall be submitted to the FmHA (if the Government is the holder of any of the Bonds) for prior review.

Section 18. Additional Bonds. The Issuer may issue additional bonds of prior standing to the Bonds authorized by this Ordinance under the terms and conditions set forth in Ordinance No. 80 and Ordinance No. 115. The Issuer may issue additional bonds of equal, but not prior, standing with the Junior Lien Bond for any of the following purposes:

a) To complete construction of the Project according to the plans set forth in Section 2, in the amount necessary therefor; or

b) For the purpose of making reasonable repairs, replacements, improvements, enlargements or extensions of the System; four

c) To refund any Outstanding Bonds.

So long as the Government is the holder of any of the Bonds, Additional Bonds may be issued only if the FmHA consents to such issue in writing. Unless the Government holds all of the Bonds, Additional Bonds may be issued only if the Augmented Net Revenues (as hereinafter defined) of the System were 120 percent of the average annual debt service requirements on all Bonds then outstanding and those Additional Bonds proposed to be issued, net of any Bonds to be refunded by the Additional Bonds.

For the purpose of this Section that term “Augmented Net Revenues” shall mean the Net Revenues of the System for the Fiscal Year preceding the Fiscal Year in which the Additional Bonds are to be issued, adjusted to reflect the affect of any increase in sales and charges (a) placed in a fact during said Fiscal Year (but not in effect for the whole Fiscal Year), (b) placed in effect subsequent to said Fiscal Year, or (c) scheduled, at the time the proposed Additional Bonds are authorized, to be placed in effect before principle of an interest on the proposed Additional Bonds become payable from Revenues, and augmented by any increase in Revenues or decrease in expenses estimated to accrue from the repairs, improvements, enlargements or extensions to be acquired from the

proceeds of the proposed Additional Bonds. Said adjustments and augmentation shall be established by certificate of an independent consulting engineer filed with the Issuer's Clerk. If Additional Bonds are to be issued within four months subsequent to the start of the Fiscal Year, the ratio of Augmented Net Revenues to average annual debt service requirements may be determined based upon the results of either of the two Fiscal Years ending within the sixteen months preceding the date of issuance of the Additional Bonds.

Permission of the Municipal Finance Commission to issue such Additional Bonds shall be conclusive as to the ICS instance of conditions permitting the issuance thereof. In the event permission of the Municipal Finance Commission is not then required to issue such Additional Bonds, then the adoption by the legislative body of the Issuer of an ordinance authorizing the issuance of such Additional Bonds shall be conclusive as to the assistance of conditions permitting the issuance thereof.

The funds established by the Ordinance shall be applied to all Additional Bonds; all Revenues from any such completion, repair, replacement, improvement, enlargement or extension financed from the proceeds of the Additional Bonds shall be paid, as received, into the Receiving Fund.

Except as otherwise specifically provided in this Section, Ordinance No. 80 and Ordinance No. 115, so long as any of the Outstanding Bonds and the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the Revenues of the System shall be incurred or issued by the Issuer and less the same shall be junior and subordinate in all respects to the Bonds.

Section 19. Ordinance Shall Constitute Contract. The provisions of the Ordinance shall constitute a contract between the Issuer and the bondholders. After the issuance of the Bonds the Ordinance shall not be repealed or a amended in any respect which will adversely affect the rights and interests of the bondholders, nor shall the Issuer adopt in the law, ordinance or resolution in any way adversely affecting the rights of the holders of the Bonds so long as the Bonds or interest thereon remains unpaid

Section 20. Refunding of Bonds. If at any time it shall of Pierre to the FmHA (all the Government is a holder of any of the Bonds) that the Issuer is able, upon call for redemption or with the consent of the FmHA, to refund the Bonds by obtaining a loan for such purposes for responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and period of time, upon request of the Government, the Issuer will apply for and accept such loan insufficient amount to repay the Government, and will take all such actions as may be required in connection therewith.

Section 21. Default of Issuer. If there shall be default in the Series III Junior Lien Redemption Fund provisions of the Ordinance or in the payment of principal or interest of any of the Bonds, upon the filing of a suit by any holder of the Bonds, in the court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the Issuer with the power to

charge and collect rates and charges sufficient to provide for the payment of the Bonds payable from Revenues and for the payment of administration, operation and maintenance expenses and the payment of the Outstanding Bonds and to apply Revenues in accordance with Ordinance No. 80, Ordinance No. 115, this Ordinance and the laws of the State of Michigan.

The Issuer hereby agrees to transfer to any bona fide receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding wrought to enforce collection for payment of Issuer obligations, all contracts and other rights of the Issuer conditionally, for such time only and such receiver or operation shall operate by authority of the court.

The holders of twenty percent (20%) of the Bonds may enforce the statutory lien and the covenants of the Issuer in the event of default, and may require by mandatory injunction the raising of rates and charges to the extent permitted by Section 15 hearof.

Section 22. Ordinance Subject to Michigan Law and FmHA Regulations. The provisions of the Ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the FmHA (while the Government is a holder of the any of the Bonds) as are not inconsistent with the express provisions hereof and Michigan Law.

Section 23. Issuer Subject to Loan Agreement. So long as the Government is holder of the any of the Bonds, the Issuer shall be subject to the loan agreement (form FmHA 442-47) with the FmHA and shall comply with all provisions thereof.

Section 24. Municipal Finance Commission Approval; Sale of Bonds. The Issuer's Clerk is authorized and directed to make application to the Municipal Finance Commission for authority to issue in sell the Junior Lien Bond (if the same as required by law), or to give to the Department of Treasury notice of intent to issue and sell the Junior And Bond and to pay the required fees, and after receipt of set approval (if required), or receipt of an order of exception or expiration of the notice. Without receipt of an order of disapproval, privately negotiate the sale of the Junior Lien Bond to the FmHA at the interest rate approved in Section 5 hearof.

Section 25. Conflict in Severability. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of the Ordinance are to the extent of such conflict hereby repealed, and each section of the Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the findings or holding of any section or subdivision thereof to be invalid or avoid shall not be deemed or held to affect the validity of any other section or subsection of the Ordinance.

Section 26. Paragraphs Headings. The paragraph Headings in the Ordinance are furnished for convenience of reference only in shall not be considered to be a part of the Ordinance.

Section 27. Publication and Recordation. The Ordinance shall be published in full promptly after its adoption in The Gladwin

County Record, the newspaper of general circulation in the issuer cap word, qualified under State law to publish legal notices, and shall be recorded in the Ordinance Book of the Issuer, which a recording shall be authenticated by the signatures of the Mayor and City Clerk.

Section 28. Effective Date. The Ordinance is hereby determined by the City Council to be immediately necessary for the preservation of the peace, health and safety of the Issuer and shall be in full force and effect from and after its passage and publication as required by law.

Test and adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, on March 12, 1984, and approved by me on March 14, 1984.

Bernard F. Allen
Mayor

(SEAL)
Nancy L. Roehrs
City Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance, duly adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, at a special meeting held on March 12, 1984, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meeting Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting Wood, Tarzwell, Podoba, Burgess, Morell and that the following Members were absent Nash.

By further certify that Member Podoba moved adoption of said Ordinance and that Number Morell supported said motion.

By further certify that the following Members voted for adoption of said Ordinance Wood, Tarzwell, Podoba, Burgess, Morrell and that the following Members voted against adoption of said Ordinance none.

I further certified that said Ordinance has been recorded in the Ordinance Book of the City of Beaverton and that such recording has been authenticated by the signatures of the Mayor and City Clerk.

Nancy L. Rohers
City Cler

1991
Ordinance 141

CITY OF BEAVERTON
COUNTY OF GLADWIN

Ordinance No 141

AN ORDINANCE TO AMEND ORDINANCE NO. 123, ENTITLED:

"ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF SELF-LIQUIDATING JUNIOR LIEN WATER SUPPLY SYSTEM REVENUE BONDS BY THE CITY OF BEAVERTON, COUNTY OF GLADWIN, MICHIGAN, FOR THE PURPOSE OF CONSTRUCTING ADDITIONS AND IMPROVEMENTS TO ITS WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM; PRESCRIBING THE FORM OF BONDS; PROVIDING FOR THE COLLECTION OF REVENUE FROM SAID SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE THEREOF, PROVIDING AN ADEQUATE RESERVE FUND THEREFORE, PROVIDING FOR THE PAYMENT OF SAID BONDS AND FURTHER PROVIDING FOR THE PAYMENT OF SAID BONDS AND FURTHER PROVIDING FOR THE SEGREGATION AND DISTRIBUTION AS SAID REVENUES, CREATING A STATUTORY LIEN BONDS SAID REVENUES WHICH WILL BE JUNIOR TO THE STATUTORY LIEN CREATED IN FAVOR OF THE OUTSTANDING WATER SUPPLY IN SEWAGE DISPOSAL FOR NEW BONDS AUTHORIZED BY ORDINANCE NO. 80, AS AMENDED, AND PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS IN ENFORCEMENT THEREOF AND PROVIDING FOR OTHER MATTERS RELATIVE TO SAID BONDS AND SAID SYSTEM."

AND TO AUTHORIZE THE ISSUANCE AND SALE OF SELF-LIQUIDATING WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM JUNIOR LIEN REVENUE BOND, SERIES BY IV-A AND WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM JUNIOR LIEN REVENUE BONDS, SERIES IV-B, BY SAID CITY TO CREATE A STATUTORY LEANING ON THE REVENUES OF SAID SYSTEM JUNIOR TO THE STATUTORY LIEN CREATED IN FAVOR OF THE OUTSTANDING WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BONDS AUTHORIZED BY ORDINANCE NO. 80, THE OUTSTANDING WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM REVENUE BONDS, SERIES II, AUTHORIZED BY ORDINANCE NO, 115 AND THE OUTSTANDING WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BONDS, SERIES III, AUTHORIZED BY ORDINANCE NO, 123; AND TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF SAID JUNIOR LIEN REVENUE BONDS, SERIES IV-A AND SERIES IV-B, IN ENFORCEMENT THEREOF; IN TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID JUNIOR LIEN REVENUE BONDS, SERIES IV-A AND SERIES IV-B, AND SAID SYSTEM.

THE CITY OF BEAVERTON ORDAINS:

Section 1. Definitions. The following words in terms used in this Ordinance shall have the meanings assigned in the preamble to this Ordinance and in this section cap word, unless the context clearly indicates otherwise.

The word "acquired", as used in this Ordinance, shall be construed to include acquisition by purchase, construction or by any other method.

"Act 94" shall mean Act 94, Public Acts of Michigan, 1933, as amended.

"Additional Bonds" shall mean Bonds issued pursuant to Section 17 and subject to the terms of this Ordinance, Ordinance No. 80, Ordinance No. 115 and Ordinance No. 123.

“Bonds” shall mean that Junior Lien Bond and in any Additional Bonds.

“Department of Treasury” shall mean the Department of Treasury of the State of Michigan.

“Depository Bank” shall mean Chemical Bank Gladwin County, in Beaverton, Michigan a member of the Federal Deposit Insurance Corporation, or any other financial institution qualified to serve as depository bank and designated by resolution of the City Council of the City.

“Engineer” shall mean Wade-Trim/Edmands, Inc., Consulting engineers of Bay City, Michigan.

“Junior Lien Bonds” shall mean the Series A Junior Lien Bond and the Series B Junior Lien Bond.

“Fiscal Year” shall mean the fiscal year of the Issuer and the operating year of the System, commencing April 1 and ending March 31 of the succeeding year, as such year made the change from time to time.

“FmHA” shall mean the Farmers Home Administration, an agency of the United States Department of Agriculture. Provisions he ran referencing the FmHA shall be inapplicable in the event the Junior Lien Bond is not sold to the FmHA and in the event the Government shall no longer be a holder of any of the Bonds.

“Government” shall mean the government of the United States of America.

“Issuer” or “City” or “City of Beaverton” shall mean the City of Beaverton, County of Gladwin, State of Michigan.

“Net Revenues” shall have the meaning with respect to the System as is set forth in Section 3 of Act 94.

“Ordinance” shall mean this ordinance and any ordinance or resolution of the Issuer amendatory or supplemental to this ordinance, including ordinances or resolutions authorizing issuance of Additional Bonds.

“Ordinance No, 80” shall mean Ordinance No. 80 of the Issuer adopted June 28, 1965, as amended by Ordinance No. 81, adopted November 18, 1965.

“Ordinance No. 115” shall mean Ordinance No. 115 of the Issuer adopted March 23, 1981.

“Ordinance No. 123” shall mean Ordinance No. 123 of the Issuer adopted March 12, 1984.

“Outstanding Bonds” shall mean the Water Supply and Sewage Disposal System Revenue Bonds, Series II, dated November 24, 1981 authorized by Ordinance No. 115, Water Supply and Sewage Disposal System Revenue Bonds, Series III, dated April 1, 1984, authorized by

Ordinance No. 123, and any additional bonds which may hereinafter be issued on a parity therewith pursuant to the terms of Ordinance No. 80, Ordinance No. 115 or Ordinance No. 123.

"Project" shall mean improvements to the System consisting generally of repairs of sanitary gravity sewers, installation of force mains, enlarging and ceiling present lagoons, constructing aerated lagoons and installation of the center pivot irrigation land application system for lagoon effluent discharge, together with the necessary appurtenances and attachments thereto.

The Words "public improvements", as used in this Ordinance, shall be understood to mean the public improvements, as defined in Section 3 of Act 94, which are authorized to be a acquired and constructed under the provisions of this Ordinance.

"Revenues" shall have the meaning with respect to the System as it is set forth in Section 3 of Act 94, and shall include the earnings on the investment of funds of the System (including the Project).

"Series A Junior Lien Bond" shall mean the $960,000 principle amount Water Supply and Sewage Disposal System Revenue Bonds, Series IV-A authorize to be issued under Section 4 of this Ordinance.

"Series B Junior Lien Bond" shall mean the $195,000 principle amount Water Supply and Sewage Disposal System Revenue Bonds, Series IV-B authorized to be issued under Section 4 of this Ordinance.

"System" means the Issuer's Water Supply and Sewage Disposal System, including such facilities thereof as are now existing, are acquired and constructed as the Project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

"Transfer Agent" shall mean the transfer agent in bond registrar for each series of Bonds as appointed from time to time by the Issuer as provided in Section 6 of this Ordinance and who or which shall carry out the duties and responsibilities as set forth in Sections 6 and 7 of this Ordinance.

Section 2. Necessity; Description of project. It is hereby determined to be necessary for the public health and welfare of the Issuer to proceed to acquire and construct the Project in accordance with a detailed maps, plans and specifications therefore prepared by the Engineer.

It is hereby found and declared that the Issuer has received, as required by Section 13 of Ordinance No. 115, the written consent of the holders of at least 75 percent of the presently Outstanding Bonds, to the issuance of the Junior Lien Bonds.

Section 3. Cost; Useful Life. The cost of the Project has been estimated by the Engineer to the Three Million One Hundred Fifty Three Thousand Dollars ($3,153,000), including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than

forty (40) years.

Section 4. Payment of Cost. To pay part of the cost of acquiring in constructing the Project, including the payment of legal, engineering and financial expenses, and other expenses incident thereto and incident to the issuance and sale of the Junior Lien Bonds, it is hereby determined that the Issuer far old the sum of One Million One Hundred Fifty-five Thousand Dollars ($1,155,000) Junior Lien Revenue Bonds be issued therefore pursuant to the provisions of Act 94. The balance of the cost of the Project will be paid from grant funds or other moneys available to the Issuer.

Section 5. Junior Lien Bonds Data. The Series A Junior Lien Bonds shall be designated WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BONDS, SERIES IV-A, shall be dated as sub the date of delivering of the first installment, shall consist of one (1) single fully-registered nonconvertible bond of the denomination of $960,000 and shall be payable in principle installments serially on October 1 of each year as follows:

Year	Principal Amount	Year	Principal Amount	Year	Principal Amount
1992-1997, inclusive;	$1,000	2006;	$15,000	2014;	$26,000
1998 and 1999;	4,000	2007;	17,000	2015-2016;	27,000
2000;	5,000	2008;	18,000	2017;	29,000
2001;	7,000	2009;	19,000	2018;	31,000
2002;	12,000	2010;	20,000	2019;	32,000
2003;	13,000	2011;	21,000	2020;	38,000
2004-2005;	14,000	2012;	22,000	2021-2030; inclusive;	50,000
		2013;	24,000	2031;	15,000

The Series B Junior Lien Bonds shall be designated Water Supply and Sewage Disposal System Revenue Bonds, Series IV-B, shall be dated as of the date of delivery of the first installment, shall consist of one (1) single fully-registered nonconvertible bond of the denomination of $195,000 and shall be payable in principle installments serially on October 1 of each year as follows:

Year	Principal Amount	Year	Principal Amount
1992-2001: inclusive;	$1,000	2025;	$9,000
2002-2014; inclusive;	2,000	2026;	10,000
2015;	3,000	2027;	11,000
2016;	4,000	2028;	14,000
2017, 2018 and 2019;	5,000	2029;	16,000
2020, 2021 and 2022;	6,000	2030;	18,000
2023;	7,000	2031;	26,000
2024;	8,000		

The Junior Lien Bonds are expected to be delivered to the FmHA, as an initial purchaser thereof, in installments (the “delivery

installments”) and each delivery installment shall be noted on the registration grid set forth on the applicable Junior Lien Bonds. The delivery installments shall be deemed correspond to the serial principle installments of the Junior Lien Bonds in direct chronological order of said serial principle install.

The serial principle installments of the Junior Lien Bonds will each their interests from the date of delivery of the corresponding delivery installment to the registered holder thereof as shown on the registration grid set forth on the applicable Junior Lien Bonds at the rate of five percent (5.0%) her annum for the Series A Junior Lien Bonds and at a rate of five percent (5.0%) sees per annum for the Series B Junior Lien Bonds, payable on the first day of April or October following the date of delivery of said delivery installment, and semiannually thereafter on April 1 in October 1 of each year until maturity or earlier payment of said installment. Acceptance of that interest rate on the Junior Lien Bonds shall be made by a execution of the applicable Junior Lien Bonds which so designates the rate specify by FmHA and accepted in writing by the Issuer. The Junior Lien Bonds shall be issued in fully-registered form and shall not be convertible or exchangeable into more than one fully-registered bond period

Section 6. Payment and Sale of Junior Lien Bonds. The Junior Lien Bonds or installments thereof will be subject to prepayment prior to maturity, in the manner and at the times as provided in the form of the Junior Lien Bonds set forth in Section 9 of this Ordinance.

Principle of in interest on the Junior Lien Bonds shall be payable in lawful money of the United States of America by check or draft mailed by the Transfer Agent to the registered owner at the address of the registered owner as shown on the registration books of the Issuer kept by the Transfer Agent. The Issuer’s Treasurer is hereby appointed to act as Transfer Agent. If and at such time as the Series A Junior Lien Bonds or the Series B Junior Lien Bonds is transferred to all held by any registered owner of the than the FmHA, the Issuer by resolution may a point of bank or trust company qualified under Michigan law to act as transfer agent and bond registrar with respect to that series, and the Issuer may thereafter appoint a successor Transfer Agent upon sixty (60) days’ notice to the registered owner of the applicable Junior Lien Bonds. If the FmHA shall no longer be the registered owner of the Series A Junior Lien Bonds or the Series B Junior Lien Bonds, than the principle of an interest on such series shall be payable to the registered owner of record as of the fifteenth day of the month preceding payment date by check or draft mailed to the registered owner at the registered address. Such date of determination of the registered owner for purposes of payment of principal or interest may be changed by the Issuer to conform future market practice. The Issuer’s Treasurer is hereby authorized to execute an agreement with any successor Transfer Agent.

The Transfer Agent shall record on the registration book payment by the Issuer of each installment of principal or interest or both when made and the canceled checks or drafts representing such payments shall be returned to and retained by the Issuer’s Treasurer,

which canceled checks or draft shall be conclusive evidence of such payments and the obligation of the Issuer with respect to such payments shall be discharge to the extent of such payments.

Upon payment by the Issuer of all outstanding principal of and interest on the Series A Junior Lien Bonds or the Series B Junior Lien Bonds, the registered owner thereof shall deliver it to the Issuer for cancellation.

The Issuer's Mayor or City Clerk is authorized and directed to make application to the Department of Treasury for a thaw ready to issue and sell the Junior Lien Bonds, and after receipt of said the approval, to negotiate privately the sale of the Series A Junior Lien Bonds to the FmHA at an interest rate of five percent (5.0%) per annum and of the Series B Junior Lien Bonds at an interest rate of five percent (5.0%) per annum.

The sale of the Series A Junior Lien Bonds to the FmHA at an interest rate of five percent (5.0%) per annum and of the Series B Junior Lien Bonds to FmHA at an interest rate of five percent (5.0%) per annum and at the par value thereof is hereby approved. The Issuer's Treasurer is hereby authorized to deliver the Junior Lien Bonds in accordance with the delivery instructions of the FmHA, after approval of the issuance and sale thereof by the Department of Treasury, if such approval is at that time required, or receipt of an order of exception of the Department of Treasury or expiration of the notice with out receipt of an order of denial of the Department of Treasury.

Section 7. Bond Registration and Transfer. A Transfer Agent shall keep our cause to be kept, at its principal office, sufficient book for the registration and transfer of the Bonds, which shall at all times be a open to inspection by the Issuer. The Transfer Agent shall transfer or cause to be transferred on said book Bonds presented for transfer, as hereinafter provided and subject to such reasonable regulations as it may prescribe.

Any Bond may be transferred on the books required to be kept by the Transfer Agent pursuant to this Section, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for transfer, accompanied by delivery of a duly executed written statement of transfer in a form of prove by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the Transfer Agent shall record such transfer on the registration book in shall register such transfer on the registration grid attached to the Bond. At the time of such transfer the Transfer Agent shall note on the Bond the outstanding principle amount thereof at the time of such transfer. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. That Issuer shall not be required (i) to issue, register the transfer of, or exchange any Bond during a period beginning at the opening of business 15 days before the day of the mailing of a notice of prepayment of Bond or installments thereof selected for redemption under Section 9 of this Ordinance and ending at close of business on the day of that mailing, or (ii) to register the transfer of or exchange any Bond or portion thereof so selected for prepayment. In

the event in the Bond is called for prepayment in part, the Transfer Agent, upon surrender of the Bond, shall note on the Bond principle of mount prepaid and shall return the Bond to the registered owner thereof together with the prepayment of mount on the prepayment date.

Section 8. Execution and delivery of the Junior Lien Bonds. The Junior Lien Bonds shall be signed by the Mayor and countersigned by the City Clerk and shall have the corporate seal of the issuer impressed thereon. After execution, the Junior Lien Bonds shall be held by the Issuer's Treasurer for delivery to the FmHA. No Junior Lien Bonds or any installment thereof shall be valid until registered by the Issuer's Treasurer or by another person designated in writing by the Issuer's Treasurer to act as Bond Registrar, or upon transfer by the FmHA and thereafter by an authorized representative of the Transfer Agent.

Section 9. Bond Form. The form and tenor of the Junior Lien Bonds shall be substantially as follows, subject to the appropriate variation on the issuance of Additional Bond:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF GLADWIN

CITY OF BEAVERTON

WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM
JUNIOR LIEN REVENUE BOND
SERIES IV-

No._____ $_____

KNOW ALL MAN BY THESE PRESENT that the City of Beaverton, County of Gladwin, State of Michigan (the "Issuer"), for value received, nearby promises to pay to the registered owner hereof, but only out of the hereinafter described Net Revenues of the Issuer's Supply and Sewage Disposal System, including all appurtenances, additions, extensions and improvements thereto (the "System"), the sum of

_____ THOUSAND DOLLARS

On the dates and in the principle installment amounts set forth in Exhibit A attached hereto and made a part hereof with interest on said installments from the date eat said installment is delivered to the registered owner hereof and as set forth on the registration grid hereon until paid at the rate of _____ percent (___%) per annum, payable on _____, and semiannually thereafter, provided that the principle repayments required herein to the registered holder shall not exceed a total of the principle installments set for an on the registration grid hereon from time to time hereafter to acknowledge receipt of a payment of the purchase price of this bond up to a total of $_____. Both principle of an interest on this bond are payable in lawful money of the United States of America to the registered owner at the address shown on the Issuer's registration books by check or draft mailed to the registered holder at the address shown on the registration books of the Issuer, and for the prompt payment thereof, the gross revenues of the System, after provision has been made for reasonable and necessary expenses of operation, and ministration and maintenance thereof (the "Net Revenues"), and for the requirements of the outstanding Water Supply and Sewage Disposal System Revenue Bonds, dated January 1, 1966 authorized by Ordnance No. 80, as a amended, in the original principal amount of $175,000 (the "1966 Bonds"), the outstanding Water Supply and Sewage Disposal System Revenue Bonds, Series III, dated November 24, 1981, authorized by Ordinance NO. 115 in the original principal amount of $100,000 (the "1981 Bonds"), and the outstanding Water Supply and Sewage Disposal System Revenue Bonds, Series III, dated April 4, 1984 in the original principal amount of $178,000 (the "1984 Bonds") (the 1966 Bonds, the 1981 Bonds and the 1984 Bonds sometimes hereinafter referred to as the "Outstanding Bonds") are hereby irrevocably pledged and a statutory first lien thereon is hereby created which is subject only to the prior lien of the Outstanding Bond. This bond is of equal standing and priority of lien with the Water Supply and Sewage Disposal System Junior Lien Revenue Bonds, Series IV-___ (the "Series IV____ Bonds") authorized to be issued an Ordinance No. ___ ("Ordinance") duly adopted by the

Issuer on _____, 1991.

This bond is issued as a single, fully–registered, non-convertible bond that is part of an issue in the total aggregate principal sum of $1,155,000, issued pursuant to the Ordinance, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of defraying part of the cost of acquiring and constructing improvements to the System, including generally of repair and replacement of sanitary sewers, installation of force mains, enlarging and ceiling existing lagoons, construction of new lagoons and installation of a center pivot irrigation land application system for lagoon effluent discharge and attachments and appurtenances necessary thereto. For a complete statement of the revenues from which, in the conditions under which, this bond is payable, a statement of the conditions under which the additional bonds of equal standing made hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinances.

Principle installments of this bond are subject to prepayment prior to maturity, in inverse chronological order, at the Issuer's option, on any interest payment date on or after October 1, 1992 at are in accrued interest to the date fixed for prepayment.

Thirty days notice of the call of any principal installments for prepayment shall be given by mail to the registered owner at the registered address. The principle installments so call for prepayment shall not bear interest after the date fixed for prepayment, provided funds are on hand to prepaying said installments.

This bond shall be registered as two principal and interest on the books of the Issuer kept by the Issuer's Treasurer as registrar and transfer agent (the "Transfer Agent") and noted hereon, after which it shall be transferable only upon presentation to the Transfer Agent with a written transfer by the registered owner or his attorney in fact. Such transfer shall be noted hereon and upon the books of the Issuer kept for that purpose by the Transfer Agent.

This bond is a self-liquidating bond and is not a general obligation of the Issuer and does not constitute an indebtedness of the Issuer within any constitutional, statutory or charter limitation, but is payable, both as to principal and interest, solely from the Net Revenues of the System after provision for requirements of the Outstanding Bond.

The issuer hereby covenants and agrees to fix and maintain at all times while any installments of this bond shall be outstanding, such rates for service furnished by the system as shall be sufficient to provide for payment of the interest upon and the principle of all such installments of this bond, the Series IV-___ Bond and the Outstanding Bonds and the Outstanding Bonds payable from the Net Revenues of the System as and when the same become due and payable, and to create a bond and interest redemption fund (including a bond reserve account) for this bond and the Series IV-___ Bond, to provide for the payment of expenses of administration and operation in such

expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

It is hereby certified and recited that all acts, conditions and things required by law president to and in the issuance of this bond have been done and performed in regular in due time and form as required by law.

IN WITNESS WHEREOF, the City of Beaverton, County of Gladwin, State of Michigan, by its City Council, has caused this bond to be signed in its name by its Mayor and to be countersigned by its City Clerk, and its corporate seal to be hereunto affixed, all as of _____, 1991.

CITY OF BEAVERTON
COUNTY OF GLADWIN
STATE OF MICHIGAN

By _____
Mayor

(SEAL)

Countersigned:

_____
City Clerk

REGISTRATION
NOTHING TO BE WRITTEN HEREON EXCEPT
BY THE REGISTRAR/TRANSFER AGENT

Date of Registration Of Delivery	Name of Registered owner	Principal Installment Delivered	Signature of Registrar
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		
	United States of America, Farmers Home Administration		

[EXHIBIT A FOR THE SERIES IV-A BOND]

Principal Installment Due on October 1	Amount of Principal Installment
1992	$ 1,000
1993	1,000
1994	1,000
1995	1,000
1996	1,000
1997	1,000
1998	4,000
1999	4,000
2000	5,000
2001	7,000
2002	12,000
2003	13,000
2004	14,000
2005	14,000
2006	15,000
2007	17,000
2008	18,000
2009	19,000
2010	20,000
2011	21,000
2012	22,000
2013	24,000
2014	26,000
2015	27,000
2016	27,000
2017	29,000
2018	31,000
2019	32,000
2020	38,000
2021	50,000
2022	50,000
2023	50,000
2024	50,000
2025	50,000
2026	50,000
2027	50,000
2028	50,000
2029	50,000
2030	50,000
2031	15,000

[EXHIBIT B FOR THE SERIES BOND IV-B]

Principal Installment Due on October 1	Amount of Principal Installment
1992	$ 1,000
1993	1,000
1994	1,000
1995	1,000
1996	1,000
1997	1,000
1998	1,000
1999	1,000
2000	1,000
2001	1,000
2002	2,000
2003	2,000
2004	2,000
2005	2,000
2006	2,000
2007	2,000
2008	2,000
2009	2,000
2010	2,000
2011	2,000
2012	2,000
2013	2,000
2014	2,000
2015	3,000
2016	4,000
2017	5,000
2018	5,000
2019	5,000
2020	6,000
2021	6,000
2022	6,000
2023	7,000
2024	8,000
2025	9,000
2026	10,000
2027	11,000
2028	14,000
2029	16,000
2030	18,000
2031	26,000

Section 10. Security for Bonds. Neither the Junior Lien Bonds nor the interest there on shall be a general obligation of the Issuer that each shall be payable solely from the Net Revenues after provision has been made for the Outstanding Bonds and any other bonds of equal standing with the Outstanding Bonds. To paint such principal and interest as and when the same shall become do, there is hereby created a statutory lien upon the whole of the Net Revenues of the System after provision for the requirements of the Outstanding Bonds issued pursuant to Ordinance No. 80, Ordinance No. 115 and Ordinance No. 123, subject only to the prior lien in favor of the Outstanding Bonds issued pursuant to Ordinance No. 80 and any additional bonds of equal standing with the Outstanding Bonds issued pursuant to Ordinance No. 80, the Outstanding Bonds issued pursuant to Ordinance No. 115 and any of dish and all bonds of equal standing with the Outstanding Bonds issued pursuant to Ordinance No. 115, and the Outstanding Bonds issued pursuant to Ordinance No. 123, and any additional bonds equal standing with the Outstanding Bonds issued pursuant to Ordinance No. 123, to continue until the payment in full of the principal and interest on the Bonds and said Net Revenues shall be set aside for the purpose and identified as the Series IV Junior Lien Redemption Fund, as hereinafter specified.

Section 11. Budget. Immediately upon the effective date of this Ordinance for the remainder of the current Fiscal Year, and thereafter prior to the beginning of each Fiscal Year, the Issuer shop repair an annual budget for the System for the ensuing Fiscal Year itemized on the basis of monthly requirements. A copy of such budget shall be mailed to the FmHA with out requests from the FmHA for review prior to adoption (as long as the Government is the registered owner of any of the Junior Lien Bonds), and upon written request to any other registered owners of the Junior Lien Bonds.

Section 12. Custodian of Funds; Funds. The Issuer’s Treasurer shall be custodian of all funds belonging to or associated with the System and such funds shall be deposited in the Depository Bank. The Issuer’s Treasurer shall execute a fidelity bond in an amount at least equal to the maximum amount of money the Issuer will have on and at any one time with a surety company approved by the FmHA, and the FmHA and the Issuer shall be named as co-obligees in such bond and the amount thereof shall not be reduced without the prior written consent of the FmHA. The Issuer’s Treasurer is hereby directed to create and maintain the following funds and accounts into which the proceeds of the Bonds and the Revenues from the System shot be deposited in the manner and at the times provided in this Ordinance, which funds and accounts shall be established and maintained, except as otherwise provided, so long as any of the Bonds hereby authorized remain on paid.

(A) CONSTRUCTION ACCOUNT. Proceeds of the Junior Lien Bonds hereby authorized, shall be deposited in the CITY OF BEAVERTON WATER SUPPLY IN SEWAGE DISPOSAL SYSTEM JUNIOR LIEN SERIES IV CONSTRUCTION FUND ACCOUNT (the “Construction Account”), in the Depository Bank. In the event that the Government is a holder of the Junior Lien Bonds, then, if required by the FmHA, the Construction Account shall be established as a supervised bank account and such proceeds shall be withdrawn on the orders of the Issuer only on checks signed by its

Treasurer and the District Director of the FmHA. Moneys in the Construction Account shall be used solely for the purposes for which the Junior Lien Bonds are issued.

Any unexpected balance of the proceeds of sale of the Series A Junior Lien Bond or the Series B Junior Lien Bond remaining after completion of the Project herein authorized may n the discretion of the Issuer be used for further improvements, enlargements and extensions to the System, provided that at the time of such expenditure such use be approved by the Department of Treasury (if such approval is then required by law). Any remaining balance after such expenditure shall be paid into the Series IV Junior Lien Redemption Fund and used as soon as it is practical for the prepayment of installments of the applicable series of the Junior Lien Bonds or for the purchase of installments of such series at not more than the fair market value theirof. Following completion of the Project, any unexpected balance of either series of the Junior Lien Bonds shall be invested at a yield not to exceed the yield on such series of Junior Lien Bond.

After completion of the Project and disposition of remaining proceeds, if any, of the Junior Lien Bonds pursuant to the provisions of this Section, the Construction Account shall be closed.

(B) WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM RECEIVING FUND. Pursuant to Section 15 of Ordnance No. 80, Section 8 of Ordnance No. 115 and Section 12 of Ordnance No. 123, the Revenues of the System shall be deposited in the Receiving Fund established by Ordnance No. 80 (the “Receiving Fund”), and moneys so deposited therein shall be transferred, expanded and used only in the manner in order as follow:

(1) Operation and Maintenance Account. There shall first be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Operation and Maintenance Account established by Section 15 of Ordinance No. 80, Section 8 of the Ordinance No. 115 and Section 12 of Ordinance No. 123 and amount sufficient to meet the requirements of Section 15 of Ordinance No. 80, Sections of Ordinance No 115 and Section 12 of Ordinance No. 123, relative to the Operation and Maintenance Account, which amount shall be sufficient to pay the reasonable and necessary current expenses for the ensuing quarter of administering, operating and maintaining the System including the Project.

(2) Outstanding 1966 Bonds Requirements. After the transfer required in (1) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Bond and Interest Redemption Fund established by Section 15 of Ordnance No. 80 Revenues sufficient to meet all requirements for the Bond and Interest Redemption Fund (including the Bond Reserve Account) as established in Section 15 of Ordinance No. 80 and the Revenues so deposited shall be used as required by Section 15 of Ordinance No. 80.

(3) Series II Junior Lien Revenue Bonds Requirement. After the transfer required in (1) and (2) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Junior Lien Redemption Fund established by Section

8 of Ordinance No. 115, Revenues sufficient to meet all requirements of the Junior Lien Redemption Fund (including the Junior Lien Bond Reserve Account) as established in Section 8 of Ordinance No. 115, and the revenues, said deposited shall be used as required by Section 8 of Ordinance No. 115.

(4) Series III Junior Lien Revenue Bonds Requirements. After the transfer is required in (1), (2) and (3) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Series III Junior Lien Redemption Fund established by Section 12 of Ordinance No. 123, Revenues sufficient to meet all requirements for the Series III Junior Lien Redemption Fund (including the Junior Lien Bond Reserve Account) as established in Section 12 of Ordinance No. 123, and the Revenues so deposited shall be used as required by Section 12 of Ordinance No. 123.

(5) Series IV Junior Lien Revenue Bonds – Bond and Interest Redemption Fund. There is hereby established a separate fund to be designated as the SERIES IV JUNIOR LIEN REVENUE BOND – BOND AND INTEREST REDEMPTION FUND (the "Series IV Junior Lien Redemption Fund"). After the transfer required in (1), (2), (3) and (4) above, and after meeting all the requirements for the Outstanding Bonds as specified in Section 15 of Ordinance No. 80, Section 8 of Ordinance No. 115 and Section 12 of Ordinance No. 123, Revenues shall be withdrawn quarterly, except as provided in this paragraph, from the Receiving Fund, before any other expenditures are transfers therefrom, and deposited in the Series IV Junior Lien Redemption Fund for the payment of principle of and interest on that Junior Lien Bonds and to fund the Series IV Bond Reserve Account hereinafter establish. Upon any delivery of any installment of the Series A Junior Lien Bond or the Series B Junior Lien Bond there shall be set aside at the time of such delivery and on the first day of each quarter of the Fiscal Year thereafter to the next interest payment date an amount equal to that faction of the amount of interest due on the next interest payment date on said installment so delivered, the numerator of which is 1 and the denominate are of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next interest payment date. Their shell also be set aside each Fiscal Year quarter on or after April 1, 1992, an amount not less than ½ of the amount of interest to on the next interest payment date on all outstanding installments of the Series A Junior Lien Bond and the Series B Junior Lien Bond not delivered during the than current interest payment period. There shall also be set aside at the time of the delivery of the initial installment of the Junior Lien Bond and on the first day of each Fiscal year quarter thereafter to the next principle payment date an amount equal to that faction of the principle of the Series A Junior Lien Bond or Series B Junior Lien Bond due on the next principle payment date, the numerator of which is 1 and the din alma mater of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next principle payment date. Michelle also be set aside each Fiscal Year quarter on or after October 1, 1992 an amount not less than ¼ of the amount of principle installment of the Series A Junior Lien Bond and the Series B Junior Lien Bond you on the next principle payment date. Except as hereinafter provided, no further deposits shall be made into the Series IV Junior Lien Redemption Fund (excluding the Series IV Bond Reserve Account) once the aforesaid sums have been

deposited therein. Any amount on deposit in the Series IV Junior Lien Redemption Fund (excluding the SERIES IV Bond Reserve Account) in excess of (a.) the amount needed payment of principal installments of the Series A Junior Lien Bond and the Series B Junior Lien Bond for the than current principal payment period, plus (b.) interest On The Junior Lien Bond and the Series B Junior Lien Bond for the than current interest payment period, shall be used by the Issuer for redemption of principle installments of the Junior Lien Bond in the manner set forth in Section 9 hereof, or if such use is impracticable, shall be deposited in all credited to the Receiving Fund.

If foreign the reason there is a failure to make such quarterly deposit in the amounts required, then the entire amount of the deficiency and deposited in the Series IV Junior Lien Redemption Fund out of the Revenues first received thereafter which are not required by this Ordinance to be deposited in the Operation and Maintenance Fund, the bond and interest of redemption funds for the Outstanding Bonds or in the Series IV Junior Lien Redemption Fund, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter or quarters.

There is hereby established in the Series IV Junior Lien Redemption Fund a separate account to be designated the SERIES IV JUNIOR LIEN BOND RESERVE ACCOUNT (the “Series IV Bond Reserve Account”). Commencing January 1, 1992, there shall be withdrawn from the Receiving Fund at the beginning of each Fiscal Year quarter and set aside in and transferred to the Series IV Bond Reserve Account, after provision has been made for the Operation and Maintenance Fund, the current requirements of the bond and interest redemption funds for the Outstanding Bonds and the current requirements of the Series IV Junior Lien Redemption Fund, the sum of at least $1937.50 per quarter until there is accumulated in such fund the sum of $77,500. Except as hereinafter provided, no further deposits shall be made into the Series IV Junior Lien Redemption Fund for the purposes of the Series IV Bond Reserve Account once the sum of $77,500 has been deposited therein. Except as hereinafter provided, the moneys in the Series IV Junior Lien Bond Reserve Account shall be used solely for the payment of the principal installments of an interest on the Series A Junior Lien Bond and the Series B Junior Lien Bond as to which there would otherwise the default. If moneys in the Series IV Junior Lien Bond Reserve Account are insufficient for the payments required, then the moneys shall be applied pro rata to each series.

If at anytime it shall be necessary to use moneys in the Series IV Junior Lien Bond Reserve account for such payment, than the moneys so used or for current principal and interest requirements shall be replaced from the Net Revenues first received thereafter which are not required by this Ordinance to be used for operation and maintenance or for current principal and interest requirements or on reserve fund requirements for Outstanding Bonds or for current principal and interest requirements for the Series A Junior Lien Bond and the Series B Junior Lien Bond.

No further payments need be made into the Series IV Junior Lien Redemption Fund after enough of the principle installments of the Series A Junior Lien Bond and the Series B Junior Lien Bond have been

retired so that the amount then held in the Series IV Junior Lien Redemption Fund (including the Series IV Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of majority of all the principle installments of the Series A Junior Lien Bond then remaining outstanding.

Any amount on deposit in the Series IV Junior Lien Redemption Fund in excess of the requirements for paying principle of and interest on the Junior Lien Bonds due during the ensuing eighteen months, plus the requirements of the Series IV Junior Lien Bond Reserve Account, may be used by the Issuer for redemption of the Junior Lien Bonds in the manner set forth in Section 8 hereof.

The moneys in the Series IV Junior Lien Redemption Fund and the Series IV Bond Reserve Account shall be invested in accordance with Section 13 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in Section 13 of this Ordinance.

(6) Replacement Fund Account. After the transfer is required in (1), (2), (3), (4) and (5) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Replacement Fund Account established by Section 15(c) of Ordinance No. 80 all of the requirements for the Replacement Fund Account as established by Section 15(c) of the Ordinance No. 80 and the Revenues so designated shall be used for the purpose is specified in Section 15(c) of Ordinance No. 80.

(7) Reserve Flow of Funds; Surplus Moneys. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, the Bond and Interest Redemption Fund (including the Bond Reserve Account), the Junior Lien Redemption fund cap Word (including the Junior Lien Bond Reserve account cap word), the Series III Junior Lien Redemption fund (including the Series IV Junior Lien Bond Reserve Account), the Series IV Junior Lien Redemption Fund (including the Series IV Junior Lien Bond Reserve Account), or the Replacement Fund account any moneys and/or securities in the funds of the System established by this Ordinance shall be transferred, versed, to the Operation and Maintenance Account, and second, to the Bond and Interest Redemption Fund, and third, to the Junior Lien Redemption Fund (including the Junior Lien Bond Reserve Account), and forth to the Series III Junior Lien Redemption Fund (including the Series III Junior Lien Bond Reserve Account), and fifth to the Series IV Junior Lien Redemption Fund (including the Series IV Junior Lien Bond Reserve Account), and sixth to the Replacements Fund Account.

All moneys remaining in the Receiving Fund at the end of any Fiscal Year after satisfying the requirements of Section 15 of Ordnance No. 80, Section 8 of Ordinance No. 115, Section 12(B) of Ordinance No. 123 and Section 12 of this Ordinance may be transferred (i) to the Bond and Interest Redemption Fund and used to call Outstanding Bonds as provided in Ordnance No. 80, (ii) to the Junior Lien Redemption Fund and used to call Outstanding Bonds as provided in Section 8 Of Ordinance No. 115, (iii) To The Series III Junior Lien Redemption Fund in used to call Outstanding Bonds As Provided In Ordinance No. 123, (iv) to the Series IV Junior Lien Redemption Fund,

or (v) to the Replacement Fund Account and used for the purpose for which the Replacement Fund Account was established; provided, however, that if there should be a deficit in the Operation and maintenance Fund, the Bond and Interest Redemption Fund, the Junior Lien Redemption Fund, the Series III Junior Lien Redemption Fund, or the Series IV Junior Lien Redemption Fund, then moneys so remaining in the Receiving Fund shall be transferred to the extent of such deficit to the funds in the priority set forth in Section 12 hereof.

Section 13. Investments. Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds may be invested by the legislative body of the Issuer on behalf of the Issuer in the obligations and instruments permitted for investment by Section 24 of Act 94, as the same may be amended from time to time; provided, however, that as long as the Bonds are held by the U.S. Government, then the investment my be limited to the obligations and instruments authorized by the FmHA. Investment of moneys in the Series IV Junior Lien Redemption Fund being accumulated for payment on the next maturing principal or interest payment on the Bonds shall be limited to obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bonds. Investment of moneys in the Series IV Bond Reserve Account shall be limited to Government obligations bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than 5 years from the date of the investment. In the event investments are made, any securities representing the same shall be kept on deposit with the Depository Bank. Interest income earned on investment of funds in the Series IV Junior Lien Redemption Fund, and at any time after it is fully funded, the Series IV Bond Reserve Account, shall be deposited in or credited to the Receiving Fund.

Moneys in any other fund or account of the System shall be invested and transferred as provided in Ordinance No. 115.

Section 14. Rates and Charges. Rates and charges for the services of the System have been fixed pursuant to Section 10 of Ordinance No. 80 and Section 1 of Ordinance No. 99, as said Sections have been amended, in an amount sufficient to pay the costs of operating, maintaining and administering the System, to tpay the principal of and interest on the Bonds and to meet the improvement and all other requirements provided herein, and otherwise comply with the covenants provided by Ordinance No. 80, Ordinance No. 115, Ordinance No. 123 and this Ordinance. The Issuer hereby covenants and agrees to fix and maintain at all times while any of the Outstanding Bonds and the Bonds shall be outstanding such rates for service furnished by the System as shall be sufficient to provide for the foregoing expenses, requirements and covenants, and to crate a bond and interest redemption fund (including a bond reserve account) and all such Bonds. The rates and charges for all services and facilities rendered by the System shall be reasonable and just, taking into consideration the cost and value of the System and the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all Bonds and accruing interest on all Bonds, and there shall be charged such rates and charges as shall be adequate to meet the requirements of this Section and Section 12 of this Ordinance.

Section 15. No Free Service. No free service shall be furnished by the System to any individual;, firm or corporation, public or private or to any public agency or instrumentality.

Section 16. Covenants. The Issuer covenants and agrees, so long as any of the Bonds hereby authorized remain unpaid, as follows:

(a) It will comply with applicable State laws and regulations and continually operate and maintain the System in good condition.

(b) It will comply with the provisions and covenants of Ordinance No. 80, Ordinance No, 115, Ordinance No. 123 and this Ordinance.

(c) (i) It will maintain complete books and records relating to the operation and financial affairs of the System. If the Government is the holder of any of the Bonds, the FmHA shall have the right to inspect the System and the records, accounts, and data relating thereto at tall reasonable times.

(ii) It will file with the Department of Treasury and the FmHA each year, as soon as is possible, not later than ninety (90) days after the close of the Fiscal Year, a report, on forms prepared by the Department of Treasury, made in accordance with the accounting method of the Issuer, completely setting forth the financial operation of such Fiscal Year.

(iii)It will cause an annual audit of such books of record and account for the preceding Fiscal Year to be made each year by a recognized independent certified public accountant, and will cause such accountant to mail a copy of such audit to the FmHA, without request of the FmHA, or to the manager of the syndicate or account purchasing any series of the Bonds. Such audit shall be comp0leted and so made available not later than ninety (90) days after the close of each Fiscal year, and said audit may, at the option of the Issuer, be used in lieu of the statement on forms prepared by the Department of Treasury and all purposes for which said forms are required to be used by this Ordinance.

(d) It will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of calling Bonds. Said insurance will be in an amount not less than such amount as may be specified by LETTER OF INTENT TO MEET CONDITIONS, Form FmHA 442.46, and said insurance shall be approved by the FmHA.

(e) It will not borrow any money from any source or enter into any contract or agreement to incur any other liabilities that may in any way be a lien upon the Revenues or otherwise encumber the System so as to impair Revenues therefrom, without obtaining the prior written consent of the FmHA, nor shall it transfer or

use any portion of the Revenues derived in the operation of the System for any purpose not herein specifically authorized.

(f) It will not voluntarily dispose of or transfer its title to the System or any part thereof, including lands and interest in land, sale, mortgage, lease or other encumbrances, without obtaining the prior written consent of the FmHA.

(g) Any extensions to or improvements of the System shall be made according to sound engineering principals and specifications shall be submitted to the FmHA for prior review.

(h) To the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest on the Junior Lien Bonds, from adjusted gross income for general federal income tax purposes under the Internal Revenue Code of 1986, as amended, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of proceeds of the Junior Lien Bonds and moneys deemed to be proceeds of the Junior Lien Bonds.

Section 17. Additional Bonds. The Issuer may issue Additional Bonds of prior standing to the Junior Lien Bonds authorized in this Ordinance under the terms and conditions set forth in Ordinance No. 80, Ordinance No. 115 and Ordinance No. 123; and additional Bonds of Equal standing with the Junior Lien Bond for the following purposes and on the following conditions:

(a) To complete construction of the Project courting to the plans referred to in Section 1, Additional Bonds may be issued in the amount necessary therefore.

(b) For the purpose of making reasonable repairs, replacement for extension of the System or refunding any outstanding Bonds, Additional Bonds of equal standing may be issued as:

(i) The augmented net revenues of the System for the Fiscal Year preceding the year in which such Additional Bonds are to be issued were 120 percent of the average annual debt service requirements on all Bonds then outstanding and those proposed to be issued that of any Bonds to be refunded by the new issue; or

(ii) The holders of at least 75 percent of the than outstanding Bonds consent to such issue in writing.

For purposes of this Section that term “augmented net revenues” shall mean the Net Revenues of the System for a year, adjusted to reflect the effect of any rate increase placed in effect during that year (but not in effect for the whole year), placed in effect subsequent to the year or scheduled, at the time the new Bonds are authorized, to be placed in effect before principle of an interest on the new bonds becomes payable from Revenues of the System, and augmented by any increase in Revenues or decrease in expenses estimated to accrue from the improvements to be a acquired from the new Bonds. The adjustments and augmentation provided for in the

preceding sentence shall be established by certificate of an independent consulting engineer filed with the Clerk of the Issuer. If new Bonds are issued within 4 months of the end of the Fiscal Year, the determination made in subsection (b)(i) of this Section may be based upon the results of a Fiscal Year ending within 16 months of the date of issuance of the new Bond.

The funds herein established shall be applied to all Additional Bonds issued pursuant to this Section as if said Bonds were part of the original bond issue and all Revenue from any such extension or replacement constructed by the proceeds of an additional bond issue shall be paid to the Receiving Fund mentioned in this Ordinance.

Set as otherwise specifically provided so long as any of such Bonds herein authorized are outstanding, no Additional Bonds or other obligations pledging any portion of the Revenues of the System shall be incurred or issued by the Issuer unless the same shall beat junior and subordinate in all respects to the Bonds herein authorize.

Section 18. Ordinance Shall Constitute Contract. The provisions of this Ordinance shall constitute a contract between the Issuer and the bondholders and after the issuance of the Junior Lien Bond this Ordinance shall not be weepy yield or amended in any respect which will adversely affect the rights and interests of the holders nor shall be Issuer adopt any law, ordinance of resolution in any way adversely affecting the rights or the holders so long as the Bonds or interest thereon remains on paid.

Section 19. Refunding of Bonds. If at anytime it shall up year to the FmHA that the Issuer is able to refund, upon call for redemption or with consent of the FmHA the then outstanding Bonds by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms or loans for similar purposes and periods of time, the Issuer will, upon request of the Government, apply for and accept such loan insufficient amount to repay the government, and we'll take all such actions as maybe a required in connection with such loan.

Section 20. Default of Issuer. If there shall be default in the Series IV Junior Lien Redemption Fund, provisions of this Ordinance or in the payment of principal of or interest on any of the Bonds, upon the filing of a suit by 20 percent of the holders of the Bonds, in the court having jurisdiction of the action made a point a receiver to administer the System on behalf of the Issuer with power to charge and collect rates sufficient to provide for the payment of the Bond and for the payment of operation, maintenance and administrative expenses and to apply Revenues in accordance with Ordinance No. 80, Ordinance No. 115, Ordinance No. 123 and this Ordinance and the laws of Michigan.

The Issuer hereby agrees to transfer to any bona fide receiver or other subsequent operator of the system cap word, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the Issuer's obligations, all contracts and other rights of the Issuer, conditionally, for such time only as such receiver or operation shall operate by authority of the court.

The holders of 20 percent of the Bonds in the event of default may require by mandatory injunction the raising of rates in a reasonable amount.

Section 21. Ordinance Subject to Michigan Law and FmHA Regulation. The provisions of this Ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the FmHA not inconsistent with the express provisions hereof and Michigan law.

Section 22. Fiscal Year of System. The Fiscal Year for operating the System shall be consistent with that of the Issuer.

Section 23. Issuer Subject to Loan Agreement. So long as the Government is holder of any of the bonds, the Issuer shall be subject to the loan agreement (form FmHA 1942-47) with the FmHA and shall comply with all provisions thereof.

Section 24. Conflict and Severability. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed, in each section of this Ordinance and eat subdivision of any section hereof is hereby declared to be independent, and the finding or holding of any section or subsection thereof to be invalid or avoid shall be deemed or held to affect the validity of any other section or subsection of this Ordinance.

Section 25. Paragraphs Headings. The paragraph Headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

Section 26. Publication and Recordation. This Ordinance shall be published in full in The Gladwin County Record, a newspaper of general circulation in the Issuer, qualified under State law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Issuer and such recording authenticated by the signatures of the Mayor and the City Clerk.

Section 27. Effective Date. This Ordinance is hereby determined by the City Council to be immediately necessary for the preservation of the peace, of the Issuer and shall be in full force and effect from an after its passage and publication as required by law.

Passed and adopted by the City of Beaverton, County of Gladwin, State of Michigan, on November 7, 1991, and approved by me on November 7, 1991.

Bernard Allen
Mayor

(SEAL)
Attest:

Nancy L.Rohers
City Clerk

YEAS: Four (4)
Councilmembers Hicks, Wood, Smith and Daily

NAYS Zero (0)

ABSENT Councilmembers Perry and Martin

By hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the City Council of the City of Beaverton, County of Gladwin, State of Michigan, at a special meeting held on November 7, 1991, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act to 67, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that said Ordinance has been recorded in the Ordinance Book of the City of Beaverton in such recording has been authenticated by the signatures of the Mayor and City Clerk.

Nancy L. Rohers
City Clerk