

**CITY OF LA PINE
ORDINANCE NO. 2015-05**

AN ORDINANCE CONCERNING THE CITY OF LA PINE’S SEWER SYSTEM UTILITY; ADOPTING CERTAIN RULES, REGULATIONS, RATES, AND CHARGES CONCERNING THE SEWER SYSTEM UTILITY; AMENDING, REPLACING, AND/OR SUPERSEDING ANY AND ALL ORDINANCES, RESOLUTIONS, AND/OR POLICIES IN CONFLICT WITH THIS ORDINANCE, INCLUDING CERTAIN SEWER SYSTEM UTILITY RULES AND REGULATIONS ADOPTED UNDER ORDINANCE NO. 2012-06; AND DECLARING AN EMERGENCY.

WHEREAS, on June 20, 2012, the City of La Pine (“City”) adopted Ordinance No. 2012-06 (the “Sewer Ordinance”), which Sewer Ordinance (a) established City’s sewer system utility, and (b) adopted the rules, regulations, rates, and charges of the former La Pine Special Sewer District (the “Sewer District”) as the initial rules, regulations, rates, and charges for City’s sewer system utility; and

WHEREAS, the La Pine City Council has determined that the operative provisions of the adopted Sewer District rules, regulations, rates, and charges are outdated, difficult to administer, and must be amended, replaced, and/or superseded; and

WHEREAS, subject to the terms and conditions contained in this Ordinance No. 2015-05 (this “Ordinance”), this Ordinance amends, replaces, and/or supersedes the Sewer Ordinance.

NOW, THEREFORE, the City of La Pine ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance may be referred to and cited as the “Sewer Use Regulations Ordinance.”
3. Definitions. Unless the context requires otherwise, when used in this Ordinance the following terms and phrases have the meanings assigned to them below:

“Applicant(s)” means a person applying for sewer service.

“Biochemical oxygen demand” or “BOD” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees (20°) Celsius, expressed in milligrams per liter (mg/L).

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

“Building sewer” means the sewer line extending from the building drain to the public sewer or other place of disposal.

“City engineer” means City’s city engineer or his or her designee.

“City manager” means City’s city manager or his or her designee.

“City system,” “sewer system,” or “system” consists of all facilities for collecting, pumping, treating, and disposing of sewage under City’s control (including, without limitation, pipes and conduits for carrying sewage).

“City council” or “council” means the La Pine City Council.

“Customer(s)” means a person receiving sewer service from the system.

“Fee schedule” means the rates, charges, and any related regulations established by council resolution from time to time in accordance with this Ordinance.

“Floatable oil” means oil, fat, and/or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater will be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

“Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

“Manager” means City’s public works manager or his or her designee.

“Natural outlet” means any outlet into a watercourse, pond, ditch, lake, and/or other body of surface or ground water.

“Person(s)” means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency, or political subdivision, or any other entity.

“Public sewer” means any sewer main and/or connection owned and/or controlled by City. A building sewer is not a public sewer.

“Premises” or “property” includes the subject real property and all improvements located thereon.

“Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

“Sewage” or “wastewater” means a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm water as may be present.

“Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.

“Sewage works” means all facilities for collecting, pumping, treating, and disposing of sewage.

“Sewer” means a pipe or conduit for carrying sewage.

“Slug” means any pollutant (including BOD) released in a non-routine, episodic, or non-customary batch discharge at a flow rate or concentration which has the potential to cause a violation of the specific discharge prohibitions in this Ordinance.

“Storm sewer” or “storm drain” means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

“Suspended solid(s)” means a total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

“System development charge(s)” means a reimbursement fee, an improvement fee, or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit, or connection to the capital improvement. “System development charge(s)” includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities.

“Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

4. Use of Public Sewers Required.

4.1 Except as provided in Section 5 of this Ordinance, it is unlawful to construct and/or maintain any privy, privy vault, septic tank, cesspool, and/or other facility intended or used for the disposal and treatment of sewage. Existing private sewage disposal systems may be used and maintained if connection to the system is not available or if continued use is authorized under Section 5.

4.2 Unless otherwise permitted by this Section 4, all properties used for human occupancy, employment, recreation, and/or other purposes will hook up to the system provided that the public sewer is within six hundred (600) feet of the property line. The owner may apply to the manager for a temporary waiver of this connection requirement, and the manager may grant a temporary waiver under special circumstances, but will set time limits for compliance.

4.3 Each owner of a property used for human occupancy, employment, recreation, and/or other purposes connected to the system is required, at the owner's expense, to install suitable toilet facilities, building sewer, and sewer connections and to keep such facilities in proper repair at all times; each owner is responsible to maintain and repair the sewer connection from the property to the sewer tank outlet.

4.4 It is unlawful for any person to place, deposit, and/or permit to be deposited in any unsanitary manner on public or private property within City, or in any area under the jurisdiction of City, any human or animal excrement, garbage, and/or other objectionable waste.

4.5 It is unlawful to discharge to any natural outlet within City, or in any area under the jurisdiction of City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

5. Private Sewage Disposal.

5.1 Where a public sanitary sewer is not available under the provisions of Section 4, the building sewer will be connected to a private sewage disposal system complying with this Section 5 and all applicable federal, state, county, and local laws, regulations, and ordinances, including, without limitation, those imposed by City.

5.2 All applicable federal, state, county, and City permits and approvals must be obtained before commencement of construction of a private sewage disposal system.

5.3 A private sewage disposal system will not be used until the installation is approved by responsible state and county departments.

5.4 The type, capacities, location, and layout of a private sewage disposal system will comply with all state regulations. No private sewage disposal system may discharge into any natural outlet.

5.5 When a property with a private sewage disposal system is connected to the public sewer, the private sewage disposal facilities must be abandoned in accordance with state regulations at no expense to City if the private sewage disposal system fails to meet any applicable standards and/or regulations, including those imposed by City.

5.6 The owner will operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to City.

6. Building Sewer Connections and Responsibilities.

6.1 No unauthorized person will uncover, connect with, use, alter, and/or disturb any public sewer without first obtaining a written permit from City.

6.2 City will initially have the following two classes of building sewer permits: (a) residential users, which mean users concerning detached single family residences and duplexes (dwellings) designed for permanent occupation and which include kitchens and bathroom facilities; and (b) commercial users, which mean users not meeting the definition of a residential user. In either case, the owner or his or her agent will make application for a sewer connection on a form furnished by City. The permit application must be accompanied by plans, specifications, and any other information requested by City, as well as a properly executed easement approved by City, which permits City access to the owner's property for the purpose of installing, constructing, maintaining, and/or inspecting service lines and/or septic tanks serving the owner's property. Permit and inspection fees (which will be set by resolution) will be paid to City at the time the application is filed. City may modify its building sewer permit classifications and/or establish additional building sewer permit classifications from time to time by council ordinance or resolution.

6.3 The owner is responsible for all costs and expenses relating to the installation and connection of the building sewer, service connection, and septic tank, if any. The owner will indemnify City from any loss or damage that may directly or indirectly result from the installation of the building sewer.

6.4 A separate and independent building sewer will be provided for each lot or parcel.

6.5 Existing building sewers may be used in connection with new buildings only if City determines that they meet all requirements of this Ordinance and the applicable plumbing code.

6.6 The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, will all conform to the requirements of the building and plumbing code or other applicable rules and regulations of City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials ("ASTM") and/or the Water Pollution Control Federation ("WPCF"), Manual of Practice No. 9, as amended, will apply.

6.7 Whenever possible, the building sewer will be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit

gravity flow to the public sewer, sanitary sewage carried by such building drain will be lifted by an approved means and discharged to the building sewer.

6.8 No person will make connection of roof downspouts, exterior foundation drains, areaway drains, and/or other sources of surface runoff or ground water to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

6.9 The connection of the building sewer into the public sewer will conform to the requirements of the building and plumbing code or other applicable rules and regulations of City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections will be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the manager before installation.

6.10 The applicant for the building sewer permit will notify the manager when the building sewer, service connection, and/or septic tank is ready for inspection and connection to the public sewer. The connection will be made under the supervision of the manager or his or her authorized representative. Back-filling of trenches prior to City approval is prohibited.

6.11 To the extent reasonably possible, all excavations for building sewer installation will be adequately guarded with barricades and lights so as to protect from hazard. Streets, sidewalks, and other public property disturbed in the course of the work will be restored in a manner satisfactory to City.

6.12 The owner of property served by a building sewer will be responsible for maintenance and repair of the building sewer to the point where the building sewer is connected to a City sewer main. This responsibility includes responsibility for any costs of maintenance, repair, damage, and/or injury. The owner will be liable for any damage to the City system caused by an act of the owner and/or its tenants(s), agent(s), employee(s), contractor(s), licensee(s), and/or permittee(s). If any break, leak, and/or other damage to a building sewer occurs, the owner of the property served by the building sewer will cause repairs to be made immediately to minimize any sewer spillage.

7. Use of Public Sewers.

7.1 No person will discharge, or cause to be discharged, any of the following described waters, objects, substances, products, and/or wastes to any public sewers:

7.1.1 Any storm water, surface water, ground water, roof runoff, subsurface drainage, unreasonably large amounts of uncontaminated cooling water, and/or unpolluted process waters to any sanitary sewer;

7.1.2 Any gasoline, benzene, naphtha, fuel oil, and/or other flammable or explosive liquid, solid, and/or gas;

7.1.3 Any waters or wastes containing toxic or poisonous solids, liquids, and/or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, and/or create any hazard in the effluent disposal system of the sewage treatment plant, including, without limitation, cyanides in excess of 0.5 mg/l as CN in the wastes as discharged to the public sewer;

7.1.4 Any water or wastes having a pH lower than 5.5 or greater than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the sewage works;

7.1.5 Solid or viscous substances in quantities or of such size capable of causing obstruction of the flow in sewers, or other interference with the proper operation of the sewage works, including, without limitation, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, un-ground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, and milk containers, either whole or ground by garbage grinders;

7.1.6 Ceramic dusts or particles or other abrasive substances; and/or

7.1.7 Any water received through infiltration or inflow.

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

7.2.1 Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius);

7.2.2 Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, and/or product of mineral oil origin;

7.2.3 Wastewater from industrial plants containing floatable oil, fat, and/or grease;

7.2.4 Any garbage that has not been property shredded. Garbage grinders are discouraged;

7.2.5 Any waters or wastes containing iron, chromium, copper, zinc, lead, and/or similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds established City limits;

7.2.6 Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by City as necessary, after treatment of the composite sewage, to meet the requirements of the state or federal government;

7.2.7 Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by state or federal regulations;

7.2.8 Quantities of flow, concentrations, or both which constitute "slug" as defined in this Ordinance;

7.2.9 Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, and/or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the state and federal agencies having jurisdiction over discharge to the receiving water; and/or

7.2.10 Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, and/or create a condition deleterious to structures or treatment processes.

7.3 If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 7.2, and which in the judgment of City may have a deleterious effect upon the sewage works, process, equipment, and/or receiving water, or which otherwise create a hazard to life or constitute a public nuisance, City may:

7.3.1 Reject the wastes;

7.3.2 Require pretreatment to an acceptable condition for discharge to the public sewers;

7.3.3 Require control over the quantities and rates of discharge; and/or

7.3.4 Require payment to cover the added costs of abating, handling, and/or treating the waste not covered by sewer charges. Such costs may be collected in the manner provided by ORS 454.225 by certification and presentation to the Deschutes County Tax Assessor for assessment on the general tax roll and/or any other manner permitted under this Ordinance and/or applicable law.

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

7.4 Grease, oil, and sand interceptors will be provided when, in the opinion of City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors will not be required for private living quarters or dwelling units. All interceptors will be of a type and capacity approved by City and will be located as to be readily and easily accessible for cleaning and inspection. Interceptors will be inspected, cleaned, and repaired regularly, as needed and in accordance with applicable law, by the user at the user's expense. All records for inspections, cleaning, and repair must be maintained and readily available for review by City staff. Inspection, cleaning, and hauling will be performed by certified and licensed septic haulers or recyclers.

If an owner fails to properly remove and dispose of captured material by appropriate means, as determined by City, City may perform any and all such necessary removal and disposal and the property owner will be responsible for any and all costs incurred by City. City may collect any incurred charges or costs in the manner provided by ORS 454.225 by certification and presentation to the Deschutes County Tax Assessor for assessment on the general tax roll and/or any other manner permitted under this Ordinance and/or applicable law.

7.5 Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they will be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

7.6 When required by City, the owner of any property serviced by a building sewer carrying industrial wastes will install an industrial waste water monitoring station together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such stations, when required, will be accessible and safely located, and will be constructed in accordance with plans approved by City. The station will be installed by the owner at the owner's expense, and will be maintained by the owner so as to be safe and accessible at all times.

7.7 All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Section 7 will be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies will be determined on an individual basis, subject to approval by City.

7.8 No statement contained in this Section 7 will be construed as preventing any special agreement or arrangement between City and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by City for treatment, subject to payment therefore by the industrial concern.

7.9 City's acceptance of wastes identified in Section 7.2, with any conditions attached pursuant to Sections 7.3 through 7.8, will be memorialized in a signed agreement with terms acceptable to City.

8. Powers and Authority of Inspectors. City will have the right to enter all private properties through which City holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement will be done in accordance with the terms of the duly negotiated easement pertaining to the private property involved. This Section 8 does not limit or impair the access provided City under Section 11.

9. Appeals Procedure.

9.1 Any person aggrieved by a ruling or interpretation of Sections 1-8 of this Ordinance may appeal the ruling or interpretation by filing a notice of appeal with the city manager. The notice of appeal must be filed within ten (10) business days after the date notice of the ruling or interpretation is delivered to the person. The notice of appeal must contain (a) the name, address, and telephone number of the appellant, (b) a copy of the ruling or interpretation being appealed, and (c) the basis for the appeal, describing with reasonable specificity why the ruling or interpretation was issued in error.

9.2 The city manager will conduct an informal hearing on the matter and after consideration of the material presented by the appellant as well as material from City, the city manager will decide whether to approve or deny the appeal. If necessary, the city manager will prepare a written decision based upon the city manager's findings. The city manager will send his or her written decision, if applicable, to the appellant and the council.

9.3 If the appellant determines that his or her appeal has not been handled to his or her satisfaction by the city manager, he or she may, within thirty (30) days after receipt of the city manager's decision, request that the council complete an independent review of his or her appeal. The city manager will forward to the council his or her entire file on the case for review of the council. The council will, within thirty (30) days after receipt of the request for an independent review, prepare a written decision on the matter and send the decision to the appellant and the city manager. The council's decision is final, conclusive, and binding.

10. Application for Service.

10.1 Application. Each applicant for sewer service will complete and sign an application form provided by City, which will include the date of application, location of premises, whether the applicant has been served before, the date on which service is to begin, the purpose for which service is to be used, the address for mailing or delivery of bills, the applicant's address, and such other information as City may require. In signing the application, an applicant agrees to abide by City's

rules and regulations for use of the sewer system. An application constitutes a written request for service and does not bind City to provide sewer services.

10.2 Non-Owner Occupied Premises. The owner(s) of a non-owner occupied premises will be jointly and severally liable for any and all sewer service related fees, charges, expenses, losses, damages, and/or fines incurred by any and all tenant(s)/applicant(s) of the owner(s) non-owner occupied premises, including, without limitation, any late and/or penalty fees. Upon the earlier of City's request or when application is made for sewer service at a non-owner occupied premises, the owner(s) of the non-owner occupied premises will sign an agreement, in a form and substance approved by the city manager, providing that the owner(s) will, in the event of nonpayment or delinquency, be jointly and severally liable to City for the full payment of any and all sewer service related fees, charges, expenses, losses, damages, and/or fines incurred by the tenant(s)/applicant(s) of the owner(s), including, without limitation, any late and/or penalty fees. An owner's signature on the aforementioned agreement constitutes the owner's written consent, including, without limitation, for purposes of ORS 91.255, to City's transfer of a claim against any owner tenant(s)/applicant(s) to the owner in accordance with Section 12.5. The council may establish by resolution at any time and from time to time a process for collecting outstanding sewer charges, expenses, losses, damages, and/or fines from the responsible parties.

10.3 Sewer Use Agreements. If the applicant's intended use of the public sewer triggers the requirement for a sewer use agreement as described in Section 7.9, the applicant will provide additional detail regarding the substances to be discharged and propose pre-treatment, flow-equalizing facilities, and other measures as necessary to mitigate the impacts of the applicant's use on the system. The city manager will then develop a sewer use agreement setting out the terms and conditions of service. Such agreement must be signed by the applicant and returned to City or the application will be deemed incomplete.

10.4 Deposit. The city manager may require an applicant to provide a deposit for the receipt of sewer service at the time of application and/or re-application for sewer service. No interest will be earned on any deposit and the amount thereof will be calculated so as to ensure that all City costs associated with the provision of sewer to the applicant by City will be covered.

10.5 Refund of Deposits. Deposits will be refunded to a customer if the customer has timely and fully paid all amounts due City from the customer for a period of at least twelve (12) consecutive months.

10.6 Refusal of Service. An application may be denied for any of the following reasons:

10.6.1 The application is incomplete, not signed by the customer, or is in eligible;

10.6.2 The application requests service to a property location which would be difficult or impossible to provide without obtaining right-of-way or extending sewer lines;

10.6.3 The applicant, owner, and/or occupant has previously failed to pay duly imposed charges for City sewer and/or other services. City may refuse sewer service to the subject premises until such time as City is provided adequate financial security (in a form approved by the city manager) by the applicant, owner, and/or occupant that the delinquencies will be paid;

10.6.4 The sewer system is unable to supply the demand created by the proposed use without capital improvements to the existing system;

10.6.5 The applicant has been found in violation of any water and/or sewer ordinances, rules, and/or regulations two or more times;

10.6.6 The plumbing on the premises where services will be provided does not meet the standards required by any applicable federal, state, and/or local laws, regulations, and/or ordinances; and/or

10.6.7 If applicable, the applicant has not agreed to the terms and conditions of a sewer use agreement as described in Section 10.3.

Applicants whose applications are denied will be notified in writing. The notice will state the reasons for denial, and explain the applicant's right of appeal. Such appeal rights and processes will be the same as that described in Section 13. Applicants whose application has been denied under Section 10.6.2 or 10.6.4 will be informed of the procedure for creating a reimbursement district to extend existing sewer lines, if applicable. Notice of denial will be mailed to the applicant's address as shown on the application. Notice will be effective as of the date of mailing.

11. Access to Premises. Notwithstanding anything contained in this Ordinance to the contrary, by requesting and receiving sewer service from City, every customer grants City and its authorized agents and employees the right and ability at all reasonable times to enter onto the customer's premises to determine the customer's compliance with City's rules and regulations, including, without limitation, those rules and regulations concerning repairs, maintenance, delivery, and/or the receipt of sewer service.

12. Rates and Payments for Services.

12.1 Sewer Rates. The council may establish and/or modify from time to time such sewer rates, fees, charges, fines, and penalties (which may or may not be contained in the fee schedule) related to the sewer system as the council deems necessary or appropriate by council resolution, including, without limitation, late fees and penalties.

12.1.1 Residential users may be considered to be one class of user and an equitable service charge may be determined for each such user based upon meter size and the winter average of the prior year. City may classify industrial, commercial, and other non-residential establishments as a residential user provided that the wastes from such establishments are equivalent to the wastes from the average residential user.

12.1.2 Each non-residential (commercial) user's wastewater treatment cost contribution will be determined on the basis of water meter size and monthly water usage. City may charge the owner or user where the common facilities are located for each tenancy in lieu of charging each tenant individually.

12.1.3 If City elects, City may classify certain users not satisfying or meeting the residential or commercial classifications as special users. Special users will be placed in an open class and charged according to the user's wastewater contribution, as determined by the city engineer, and the fees established from time to time by resolution of the council.

12.1.4 The sewer charge for new development will commence immediately upon connection to the sewer system. No sewer charge credit will be given for any vacancy thereafter.

12.2 Place of Payment. All payments will be made to City at the place designated on the most recent utility bill.

12.3 Bill Payment. Bills for use of sewer services and property of City will be due, payable, and delinquent in accordance with the fee schedule and any related resolution(s) described under Section 12.1. All bills will be due and payable upon receipt. Accounts which have not been paid in full within fifteen (15) days of the due date indicated on the bill will incur the then applicable late fees and penalties. A late notice will be sent out on or about the thirtieth (30th) day following the due date indicating the amount of any late fee and penalties, the date a "door hangar notice" will be posted, and the date that water and/or sewer service(s) will be terminated if the account is not paid in full. Accounts which have not been paid in full within forty (40) days of the due date will be assigned a place on the "door hangar" list created by City. Delinquent accounts assigned to the "door hangar list" will be assessed additional fees established by City from time to time. A termination notice will be placed upon the customer's premises if an account has not been paid in full within fifty (50) days of the due date advising the customer that water and/or sewer service(s) will be terminated within seven days from the posting of the termination notice unless the entire balance due and owing, including interest and delinquent fees, is paid in full within the aforementioned seven-day period. All bills for other fees and charges are due and payable at the time such fees or charges are assessed.

12.4 Delinquent Accounts. City may turn off the water supply to the premises (and/or disconnect sewer services) being served with sewer services if any sewer service payment is delinquent after the owner(s) and/or occupant(s) (if different) is given the chance to challenge the validity of delinquency and/or the amount thereof before the city manager consistent with the process

set out in Section 13. If water service and/or sewer service is terminated, it will be restored after terms of payment are arranged satisfactory to City.

12.5 Tenant Accounts. An owner of any non-owner occupied premises will immediately notify City if the non-owner occupied premises (or any unit thereof) becomes vacant. Until the owner provides the vacancy notice required under the immediately preceding sentence, the owner(s) will be required to pay for the sewer service made available and/or provided to the vacant non-owner occupied premises (or unit thereof). Prior to transferring a claim against an occupant/applicant to the owner(s) of the premises, City will provide notice of the delinquent status to the occupant/applicant and mail a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with City within thirty (30) days from the time the payment is due on the account. The transferred claim will be a lien against the premises served from the date the notice of delinquent status is mailed to the owner or owner's agent of the premises. The transfer does not relieve the tenant of the obligation to pay the claim.

12.6 System Development Charges. Pursuant to City Ordinance No. 2012-07, system development charges will be levied upon each new building, structure, or fixture unit attached to the sewer system at the time of initial attachment, or upon resizing of a connection to accommodate a new service pipe larger than three-quarters inch ($\frac{3}{4}$ ") inside diameter.

13. Notice and Right to Challenge Application Denial/Service Termination.

13.1 Notice. Notice for termination of water service and/or sewer service as a result of a violation of this Ordinance will be as described in Section 12.3 of this Ordinance and Section 9.3 of City Ordinance No. 2015-04.

13.2 Appeals Process. The process and procedures for denial of an application and termination of service will be as described in Section 9.4 of City Ordinance No. 2015-04.

13.3 Liability. City is not liable or responsible for any actual, consequential, and/or other damage(s) to person(s) or property resulting from its decision or the decision(s) of its employees or agents to terminate water service and/or sewer service to any person(s) or premises that is done consistent with or pursuant to this Ordinance, Ordinance No. 2015-04, and/or applicable law, including, without limitation, any termination occurring after the city manager's determination under Section 9.4.2 of Ordinance No. 2015-04.

14. Declaration of Sewer Emergency-Water Restrictions. The city manager may, upon receiving reliable information that system function and/or capacity is about to be impaired or has been impaired, declare a sewer emergency. Upon declaration of a sewer emergency, the city manager may impose such restrictions upon the use of the sewer system as is deemed necessary or appropriate to protect the health, safety, and welfare of the citizens of the affected area. The city manager will use reasonable means to notify the public of the restrictions imposed. At the next council meeting following

imposition of the restrictions, the city manager will present a report describing the nature of the emergency, the expected duration of the emergency, and the steps taken to alleviate the emergency. The council may, at any meeting subsequent to the emergency, confirm, alter, amend, and/or terminate the restrictions imposed by the city manager by resolution. No person will violate the terms of any restriction or condition placed upon the use of water by the city manager or the council pursuant to this Section 14. It will be no defense to a charge of violation that the person cited had no knowledge of the terms of the restriction.

15. Authority of City Manager. Unless otherwise stated herein, the city manager or his or her designee will have the exclusive authority to make any discretionary determination allowed by this Ordinance, including, without limitation, determinations as to approvals, authorizations, judgments, adjustments, requirements, options, and/or impacts upon the sewer system and/or customers thereof.

16. Sewer Charge Liens. Sewer service charges will be a lien against the premises served from and after the date of billing and entry on the ledger or other records of City pertaining to the sewer system, and such ledger or other records will remain accessible for inspection by anyone interested to ascertain the amount of such charges against the premises. Whenever a bill for sewer service remains unpaid ninety (90) days after it has been rendered, the lien thereby created will be collectible using one or more of the following procedures at City's option: (a) foreclosure in a manner provided for in ORS 223.610; (b) in the manner provided under ORS 454.225, as amended, by certification and presentation to the Deschutes County Tax Assessor for assessment on the general tax roll; and/or (c) any other manner or action provided for by law or City ordinance.

17. Prohibited Acts. Unless authorized by City, it is unlawful for any person to do, commit, and/or assist in committing any of the following things or acts in City: (a) to make any connection to the system without the prior approval of City; (b) to interfere with, destroy, deface, impair, injure, and/or force open any structure, appurtenance, or equipment appertaining to the sewer system; (c) to excavate within any area subject to a recorded easement granting City access and installation rights for wastewater facilities without first obtaining City's approval; (d) to construct any structure over or within ten (10) feet of any wastewater facility without first obtaining City's approval; (e) to resort to any fraudulent device or arrangement for the purpose of procuring sewer service for a customer or others from private connections on premises contrary to City regulations or ordinances; and/or (f) to violate any emergency sewer restriction issued by the city manager or council.

18. City Enforcement, Violation - Civil Penalty; Other Relief. City will enforce the provisions of this Ordinance by administrative, civil, and/or criminal action as necessary to obtain compliance with this Ordinance. Any person violating any provision of Section 17, or any other provision of this Ordinance, will be subject to a civil penalty not to exceed the sum of Two Thousand Five Hundred Dollars (\$2,500.00) for each violation. Each violation of a provision of this Ordinance, and every day that such Ordinance violation exists, will be considered a separate violation. In addition to the foregoing civil penalties, City may seek, in a court of competent jurisdiction, such other and additional relief (including all legal and equitable relief and remedies) available under applicable law as well as recovery of its costs

and attorney fees. City will be entitled to collect from any person violating or otherwise failing to comply with this Ordinance City's reasonable attorney fees and other fees, costs, and expenses incurred by City to enforce this Ordinance. The remedies provided in this Section 18 are not exclusive and will not prevent City from exercising any other rights and/or remedies available under law.

Compliance with this Ordinance will in no way be a substitute for or eliminate the necessity of compliance with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the public health as now in force or hereafter amended.

19. Amend, Replace, and Supersede. This Ordinance amends, replaces, and/or supersedes the Sewer Ordinance and all ordinances, resolutions, and/or policies in conflict with this Ordinance; provided, however, (a) this Ordinance does not affect the transfer of the Sewer District to City and/or City's establishment of the sewer system utility under Section 2 of the Sewer Ordinance, (b) this Ordinance does not relieve any person of any obligations that may have accrued under the Sewer Ordinance prior to the effective date of this Ordinance, (c) City may continue the enforcement, prosecution, conviction, and/or punishment of any person who has or will violate the Sewer Ordinance prior to the effective date of this Ordinance, and (d) the water rates, fees, deposits, and/or other charges provided or contemplated under the Sewer Ordinance will continue in full force and effect until amended, repealed, and/or superseded by council resolution.

20. Interpretation; Severability; Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the council to cure editorial and/or clerical errors.

21. Emergency Declaration. The council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens by insuring that uniform rules and equitable rates are prescribed for the furnishing and use of sewer services. The council further finds that a delay of thirty (30) days prior to the effective date of this Ordinance may result in acts, omissions, and/or conditions detrimental to the public welfare. Therefore, an emergency is declared to exist and this Ordinance will be in full force and effect upon its adoption by the council and signing by the mayor.

IN WITNESS WHEREOF, this Ordinance was PASSED by the council by a vote of ____ “for” and ____ “against” and APPROVED by the mayor on May 12, 2015.

Ken Mulenex, Mayor

ATTEST:

Richard L. Allen, Interim City Manager