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IN THE BOARD OF DIRECTORS

FOR THE UNIFIED SEWERAGE AGENCY

OF WASHINGTON COUNTY, OREGON

(An Ordinance Prescribing the Rules and
(Regulations Governing the Use and
(Operation of the Sanitary Sewerage
(System and the Storm and Surface
(Water Management System; Requiring
(Permits for Use of each System;
(Adopting Certain Appeals Procedures
(and Enforcement Provisions;
(Repealing Ordinances 21 and 24 and
(Declaring an Emergency

ORDINANCE NO. 27

The Board of Directors of the Unified Sewerage Agency of Washington County, Oregon ordains:

SECTION 1. PURPOSE AND FINDINGS

A. The purpose of this Ordinance is to authorize rules and regulations for the sanitary sewerage system and for the storm and surface water system; to provide a process for adopting additional and more detailed rules and regulations for such systems; to provide a process for appeals from certain decisions of the Agency; and to provide a comprehensive enforcement program and procedures therefor.

B. The Unified Sewerage Agency was duly established pursuant to ORS Chapter 451, and has authority for sanitary sewerage, and storm and surface water, including drainage. In order to enhance and maintain the water quality of the Tualatin River and its tributaries within and without the USA, to meet state and federal permit and regulatory requirements, and to
promote the health, safety, and welfare of the community, this Board deems it necessary to regulate 1) the discharge of water, wastewater, and pollutants to public sanitary sewerage facilities and to USA treatment facilities; 2) the timing, quantity and quality of such discharges; 3) the construction, operation, and maintenance of public and private sewerage and stormwater facilities within the Agency or otherwise within the Agency's jurisdiction; 4) to regulate activities affecting discharges of stormwater and nonpoint sources of pollution, and which affect the timing, quantity and quality of all pollutant, storm water and waste water discharges to public facilities, the Tualatin River, its tributaries and other waters of the state within the Agency; and 5) to provide for related matters.

C. This Ordinance shall be broadly interpreted to accomplish the objectives of protecting the health and safety of the public, preventing pollution of the waters of the Tualatin River basin, and furthering the objectives and purposes of the Federal Water Pollution Control Act, 33 USC Sec 1251-1387.

SECTION 2. DEFINITIONS

The following words shall have the following definitions when used in this Ordinance and any Resolution and Order adopted pursuant hereto, unless the context requires otherwise or unless such word is expressly defined otherwise:

A. "Agency" shall mean the Unified Sewerage Agency of Washington County, Oregon, and shall include any representative /////
or employee of the Agency authorized to act in its behalf. "USA"
shall have the same meaning as "Agency".

B. "Base Flood or Base Storm" shall mean the 100 year
storm, and the floods resulting or predicted from that storm.

C. "Board" shall mean the Board of Commissioners of
Washington County, Oregon, in its capacity as the Board of
Directors of the Unified Sewerage Agency.

D. "Building Sewer" shall mean that portion of the sanitary
sewer extending from a point five (5) feet outside the
established line of the building or structure in question
(including any structural projection except eaves) to the public
right-of-way or easement line.

E. "Connection" (sanitary sewer) system shall mean the
physical act or process of tapping a public sewer line, or
joining onto an existing side sewer, for the purpose of
connecting private plumbing or industrial systems to the public
sewer system; and shall also include the increasing of fixtures
or increasing the quantity or strength of the sewage discharge to
the sanitary system.

F. "Connection" (storm and surface) water system shall mean
the physical act or process of tapping a public storm sewer line,
or joining onto an existing side sewer, for the purpose of
connecting private impervious surface or other storm and surface
water sources or systems to the public storm sewer system; and
shall also include the increasing of the quantity or strength of
the storm water sewage discharge to the storm and surface water
system. Connection to the storm and surface water system also
shall mean the construction or creation of impervious surface, or
other human activity that causes or is likely to cause, an
increase from the natural state of storm water runoff quantity or
pollution, a decrease in water quality, or a combination thereof,
to the storm and surface water system.

G. "Days" shall mean calendar days unless otherwise
specified.

H. "Domestic Wastewater" shall mean the liquid and
waterborne wastes derived from the ordinary living processes in a
dwelling unit, and being of such character as to permit
satisfactory disposal, without special treatment, into a public
sewer.

I. "Erosion" shall mean the movement of soil particles
resulting from the flow or pressure from storm water, irrigation
water, other water, or wind.

J. "Flood Fringe or Flood plain Fringe" shall mean the area
outside the floodway, but inside the floodplain.

K. "Flood Plain" shall mean the land area that has been or
may be covered temporarily by water as identified and designated
by the Agency pursuant to this Ordinance, and shall identify the
frequency of the storm event.

L. "Flood Plain Elevation" shall mean the measured or
predicted elevation of storm water in the flood plain for a given
frequency storm at a given location.

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M. "Floodway" for a given storm event shall mean the portion of a creek, river, stream, or watercourse required for the passage or conveyance of the storm event, as identified and designated by the Agency pursuant to this Ordinance. The floodway shall include the channel of a river and the adjacent floodplain that must be reserved in an unobstructed condition in order to discharge the base flood without increasing flood levels by more than one foot.

N. "General Manager" shall mean the General Manager of the Unified Sewerage Agency, the chief administrative officer of the Agency.

O. "Industrial User" shall mean any user of the Agency sewerage system who discharges an effluent other than domestic wastewater into the Agency Wastewater System by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto.

P. "Industrial Waste" shall mean any wastewater other than domestic wastewater, whether the source is domestic, industrial, commercial, institutional, or other.

Q. "Inflow and Infiltration" shall mean the volume of both infiltration water and inflow water found in the sanitary sewer system. Infiltration is the volume of groundwater entering sanitary sewerage facilities from the soil, through defective joints, broken or cracked pipe, improper connections, manhole
walls, etc. Inflow is the volume of surface water discharged
into sanitary lines from such sources as roof leaders, cellar and
yard area drains, foundation drains, manhole lids in the low
lying areas, and cross-connections from the storm and surface
water system to the sanitary sewerage system.

R. "Owner" shall mean the legal owner(s) of record as shown
on the tax rolls of the appropriate county, or where there is a
recorded land sale contract, the purchaser thereunder.

S. "Person" shall mean any individual, public or private
corporation, political subdivision, governmental agency,
municipality, partnership, association, firm, trust, or any other
legal entity whatsoever.

T. "Pollutant" shall be as defined as in Oregon Revised

U. "Review authority" shall be the person or entity
designated in this Ordinance to review a rule, application for
permit, enforcement action, or other action of the Agency.

V. "Rule" shall mean any written standard, directive,
interpretation, policy, regulation, procedure or other provision,
adopted by the Board of Directors as a Resolution and Order to
carry out the provisions of this Ordinance.

W. "Sanitary Sewerage System" or "Agency Sewerage System"
shall mean all publicly owned treatment works, pumping or lift
facilities, interceptor and main sewer pipe lines, force mains,
manholes, laboratory facilities and equipment, and related public
facilities for the collection, conveyance, treatment, recycling,
reclamation and disposal of sewage, comprising the total publicly
owned sanitary sewerage system within Agency jurisdiction, to
which storm, surface and ground waters are not intentionally
admitted.

For purposes of initial construction or reconstruction of
public sewer main or interceptor lines, the Agency sewer system
may also include the portion of a service lateral sewer line
within the public right of way or easement. Upon acceptance by
the Agency of a completed public sewer project, the
responsibility for maintenance and reconstruction of the service
lateral sewer line shall be borne by the owner of the property to
which service is provided.

X. "Sewage" shall mean water-carried human wastes or a
combination of water-carried wastes from residences, commercial
buildings, institutions, industrial establishments or other
places together with such ground, surface, storm or other waters
as may be present.

Y. "Side Sewer" shall mean that portion of the sanitary
sewer extending from the public sewer main to the public
right-of-way or easement line.

Z. "Standards" shall mean the standards and conditions of
use of the storm and surface water system and the sanitary sewer
system as specified and adopted by the Agency, and shall also
mean applicable statutes and rules of the United States and of
the State of Oregon.
AA. "Storm" shall mean the disturbance of the ordinary average conditions of the atmosphere, which may include, but is not limited to any or all disturbances such as wind, rain, snow, hail, or thunder.

BB. "Storm and Surface Water System" and "Stormwater System" mean any combination of publicly owned storm and surface water quality treatment facilities, pumping, or lift facilities, storm drain pipes and culverts, open channels, creeks and rivers, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water comprising the total publicly owned storm and surface water system within the Agency jurisdiction, to which sanitary sewage flows are not intentionally admitted.

CC. "10-Year Storm" shall mean a rainfall storm that has a probability of occurrence on an average of once every 10 years.

DD. "100-Year Storm" shall mean a rainfall storm that has a probability of occurrence on an average of once every 100 years, and shall include storm events, or sequences of events that produce a flood level with a one percent or greater change of being equaled or exceeded in any given year.

EE. "The System" or "The Wastewater System" shall include both the sanitary sewerage system and the storm and surface water system.

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FF. "This Ordinance" shall include Ordinance No. 27, any and all resolution and orders adopted pursuant hereto; any rule or Resolution and Order adopted pursuant thereto; Resolution and Order Nos. 90-63, 91-47, and 92-60, unless expressly repealed; and including any amendments thereto.

GG. "Upset" shall mean an exceptional incident in which an Industrial User unintentionally and temporarily is in a state of noncompliance with this Ordinance due to factors beyond the reasonable control of the Industrial User, and excluding noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

HH. "USAAC" shall mean the Unified Sewerage Agency Advisory Commission.

II. "User" shall mean any person owning, managing or having a possessory interest in property which is connected to and/or being serviced by the Agency sewerage system or storm and surface water management system.

JJ. "Wastewater" shall include sanitary sewage entering the sanitary sewer system, and storm and surface waters entering the storm and surface water system.

KK. "Watercourse" shall mean a channel, creek, stream, river, swale, or storm drain pipe in which a flow of water occurs either continuously or intermittently; and if the latter, with some degree of regularity. Such flow must be in a definite
direction. Watercourses may be either natural or artificial, and the former may occur either on the surface or underground.

LL. "Wetlands" shall mean those areas designated by the Agency that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 3. RULES AND REGULATIONS GOVERNING THE SEWERAGE SYSTEM AND STORMWATER SYSTEM

A. Sewerage System

1. No person shall contribute or discharge or cause to be contributed or discharged, directly or indirectly, any of the following described substances into the sanitary sewerage system, or otherwise to the facilities of the Agency:

   a. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operations of the Agency.

   b. Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system.

   c. Any wastewater having an acidic or alkaline strength or corrosive property capable of causing damage or hazard to structures equipment, or personnel of the system unless the Agency approves such waste in variance because of special conditions in the system.
d. Any wastewater containing toxic pollutants or other wastes in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, to constitute a hazard to humans or animals, or to exceed any limitations adopted as federal categorical pretreatment standards.

A toxic pollutant shall include, but not be limited to, any pollutant identified in the Toxic Pollutant List set forth in Resolution and Order 92-60, and as may be further prescribed by rule. All toxic pollutants shall be deemed to be "prohibited or regulated substances" for purposes of this Ordinance.

e. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the systems for their maintenance and repair.

f. Any substance which may cause the system's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. Any substance which may cause the system to be in noncompliance with sludge use or disposal 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; the Resource Conservation and Recovery Act; the Comprehensive Environmental Response,
Compensation and Liability Act; or State standards applicable to
the sludge management methods used by the Agency.

g. Any substance discharged in such strength as to
potentially cause the Agency system to violate its NPDES or other
Disposal System Permits.

h. Any ashes, antifreeze, cinders, sand, mud,
straw, insoluble shavings, metal, glass, rags, feathers, tar,
creosote, plastics, wood, animal paunch contents, offal, blood,
bones, meat trimmings and wastes, lard, tallow, baking dough,
chemicals, paint residues, cannery waste bulk solids, hair and
fleshings, plastic or paper dishes, cups, or food or beverage
containers, whether whole or ground; gasoline, motor oil, or
other petroleum product, unless prior written approval has been
obtained from the Agency.

i. Any of the following discharged into the
sanitary system: noncontact cooling water, rainwater,
groundwater, surface drainage, roof drainage, water from yard
fountains, ponds or pools, except filter backwash from swimming
pools, unless prior written approval has been obtained from the
Agency.

2. Pretreatment of Wastewater by Industrial Users;
Sanitary System

The Board may adopt additional rules setting forth
uniform requirements for Industrial Users of the Agency's
wastewater collection and treatment system, in accordance with
Section 8 of this Ordinance. Such rules shall be aimed at
enabling the Agency to protect the public health in the following manners:

a. By preventing the introduction of pollutants into the Agency wastewater system which will interfere with the normal operation of the system or contaminate the resulting sludge;

b. By preventing the introduction of pollutants into the Agency wastewater system which do not receive adequate treatment and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;

c. By improving the opportunity to recycle and reclaim wastewater and sludge from the system.

B. Stormwater System

No user shall contribute or discharge or cause to be contributed or discharged, directly or indirectly, into the storm and surface water system of the Agency, sanitary sewage, septic tank leakage or overflow, animal waste, or any other substance, the discharge of which is prohibited or limited under Section 3A above, except: noncontact cooling water, rainwater, groundwater, surface drainage, roof drainage, water from yard fountains, ponds or pools, except filter backwash from swimming pools, subject to regulation of the quantity, quality, and timing as further provided in this Ordinance.
C. **Additional Rules**

The Board may by rule adopt additional discharge prohibitions, regulations, and limitations for the sanitary sewerage system, storm and surface water system and for all or any class of users.

**SECTION 4. DESIGN AND CONSTRUCTION STANDARDS FOR PUBLIC FACILITIES**

**A. Sanitary System Facilities**

No person shall connect to any part of the sanitary sewer system or construct or extend any such part without first making an application and securing a permit from the Agency for such connection, construction or extension, nor may any person substantially increase the flow, or alter the character of sewage, without first obtaining an additional permit and paying the applicable charges therefor as may be prescribed by Agency Ordinance. No person shall discharge any wastewater to the sanitary sewer system prior to obtaining such permit.

**B. Storm and Surface Water System Facilities**

No person shall connect to, substantially increase the flow to, or alter the character of storm and surface water flowing to, any part of the storm and surface water system or construct or extend any such part, cause erosion, or alter a designated wetland, floodplain or floodway without first making an application and securing a permit from the Agency for such action, and paying such charges therefor as are required by Agency ordinance.
C. **Permits**

Upon approval of the application and payment of charges, the Agency will issue the applicable permit for the premises covered in the application. The application and permit shall be on forms provided by the Agency.

D. **Permit Conditions**

After approval of the application, evidenced by the issuance of a permit, no change shall be made in the location of the work, activities, the grade, materials, or other details from those described in the permit or as shown on the plans and specifications for which the permit was issued except with written permission from the Agency.

The applicant's signature on the application for any permit as set forth, shall constitute an agreement to comply with all of the provisions, terms and requirements of this ordinance and any other applicable federal, state or local law, and with the plans and specifications filed with the application if any, together with such corrections or modifications as may be made or permitted by the Agency, if any. Such agreement shall be binding upon the applicant and may be altered only by the Agency upon written request for alteration from the applicant. All rules adopted pursuant to this section regarding standards for construction of the components of the Unified Sewerage Agency system must be met to the satisfaction of the Agency prior to any connection to the Agency's sewer system or storm and surface water system.
E. **Prohibition of Occupancy**

No building, industrial facility, or other structure to be served by the sanitary sewer system or storm and surface water system shall be occupied until the Owner of the premises has complied with all applicable rules and regulations of the Agency.

**SECTION 5. STANDARDS FOR SEPTIC TANK PERFORMANCE**

A. The Board may by rule establish criteria for septic tank performance for the purpose of preventing the introduction of pollutants into storm and surface waters within the Agency.

B. Upon a determination by the Agency that a septic system is not meeting established performance standards, such property may be compelled to correct the system to meet the standards or connect to the Agency sanitary sewer system.

C. Except as provided by rule or otherwise in this section, no person shall construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facility intended or used for the disposal of sewage.

D. The owner of any building within the Agency boundaries within 300 feet of any street or sewer easement in which there is located a public sewer of the Agency, is hereby required at his expense to connect such building directly to the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after the date of official notice from the Agency to do so.

E. Within three years of such time as a public sewer becomes available to a property served by a private sewage
disposal system, a direct connection shall be made to the public
sewer in compliance with the rules and regulations of the Agency,
and any septic tanks, cesspools, and similar private sewage
disposal facilities shall be abandoned and filled with suitable
material as required by Oregon law.

SECTION 6. INFILTRATION AND INFLOW

A. Drainage from roofs, foundation drains, gutters,
uncontaminated cooling water or surface or ground water drains
shall not be permitted to enter the Agency Sanitary Sewer System.
Leaks from private sewage systems, including but not limited to
building and side sewers, into the Agency Sanitary Sewer System
shall not be permitted. Neither temporary nor permanent drainage
from excavations into the Agency Sanitary Sewer System shall be
allowed. Overflows or drains from private or public swimming
pools shall not be permitted without prior written approval of
the Agency.

B. Violation of subsection A of this section is hereby
deemed to be a public nuisance, and shall be subject to the
remedies and enforcement of Section 10.

C. The Board may by rule establish standards and criteria
for Infiltration and Inflow for the purpose of preventing and
removing these from the Agency sanitary sewer system.

SECTION 7. DESIGNATION OF WETLAND, FLOOD PLAIN, AND OTHER LANDS

A. The Board may by rule consistent with applicable
statutes, rules, and other laws, designate wetlands, flood plains
and floodways, and other lands subject to the influence of
surface waters within the Agency. Such designation may be based in whole or in part upon the inventory of any federal or state agency, inventory of the Agency or other local government, information from any source which the Agency deems to be reliable, or criteria for such designation as the Board may adopt.

B. Upon designation of wetlands, floodplains or floodways, no person shall alter, dredge, fill, or deposit material onto designated lands without obtaining a permit from the Agency.

C. The Board may by rule exempt certain classes of activities from the requirements of subsection B of this section, upon a finding that such activities, in the aggregate within the Agency, would have no substantial adverse effect on public safety and water quality.

SECTION 8. ADOPTION OF RULES; INTERPRETATIONS AND APPEALS

A. Adoption of Rules

1. Upon the recommendation of the General Manager, the Unified Sewerage Agency Advisory Commission (USAAC), or upon its own motion, the Board may, by Resolution and Order, promulgate rules pertaining to matters within the scope of this Ordinance.

2. Any rule adopted pursuant to this section shall require a public hearing. Not less than five nor more than thirty days before such hearing, public notice of such hearing shall be given by publication in a newspaper of general circulation within the Agency. Such notice shall include the

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place, time, and purpose of the hearing and the location at which copies of the full text of the proposed rules may be obtained.

3. At the public hearing, the Board shall hear testimony concerning the proposed rules. At the conclusion of the public hearing, the Board shall either adopt the proposal, modify or reject it. If a modification is made, an additional public hearing shall be held but no additional notice shall be required if such additional hearing is announced at the meeting at which the modification is made. All rules shall be effective upon adoption by the Board and shall be filed in the Office of the Unified Sewerage Agency.

4. Notwithstanding subsections 2 and 3 of this section, a rule may be adopted without prior notice upon a finding that failure of the Board to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.

B. Administrative Appeal

1. This Ordinance, all rules, regulations, and applications and interpretations thereof shall be initially made by the Agency. For the purposes of this subsection, "Agency" shall be defined as any employee or representative authorized and designated by the General Manager to render interpretive rulings of this Ordinance. No review of the application of any rule, interpretation, or variance from a rule shall be authorized under
this section unless the person seeking the review has first requested in writing an interpretation by the Agency.

2. Any person aggrieved by a ruling or interpretation of the Agency under this Ordinance and requesting review of such decision shall submit a written statement of the appeal to the General Manager together with the applicable fee. The appeal shall contain:

a. The applicant's name and address;

b. The facts and circumstances leading to the appeal;

c. The specific Agency rule, provision, or interpretation at issue;

d. The impact of the rule or ruling on the appellant; and

e. The relief requested.

The appellant shall bear the burden of proof.

3. The General Manager shall review each complete appeal request. He may designate a USA staff member to investigate the matter. He may request additional information from the appellant, and from Agency staff. The General Manager's decision on the matter shall be made in writing within 30 days of receipt of a complete appeal and mailed or delivered to the appellant.

4. If the appellant is dissatisfied with the General Manager's decision, he may appeal the matter to the Agency Review Authority, which may be a subcommittee of the Unified Sewerage
Agency Advisory Commission, excluding any persons then serving on
the USA Budget Committee; a hearings officer appointed by the
Agency; or as otherwise provided by rule. Such appeal shall be
in writing, be accompanied by the required fee, shall be actually
received by the Agency within 30 days of the date of mailing or
delivery of the General Manager's decision, and shall be limited
to the issues raised in the original written appeal. Failure of
an appeal to conform to the requirements of this subsection shall
be grounds for dismissal of the appeal.

5. The Agency review authority shall review the written
appeal, and any written material submitted by Agency staff, and
the Agency Ordinance, rule or decision at issue. The authority
may schedule a hearing by written notice not less than 14 days in
advance to hear testimony and further information. The review
authority may uphold, set aside, or modify the decision of the
Agency. The decision of the Agency may be rejected or modified
only if:

a. It exceeded the authority of the Agency; or
b. It was based upon an incorrect interpretation of

   law or Agency ordinance; or

c. It was based upon a mistake of fact made by the

   Agency; or

   d. It was not supported by substantial evidence in

      the record.

6. Neither the General Manager nor the Agency review
authority shall have authority to waive or set aside any standard
or requirement of the Agency imposed pursuant to this Ordinance, state or federal law or permit. The General Manager or review authority may grant a variance of a standard or requirement imposed solely under Agency requirements, provided that such variance does not impose additional cost or risk to the Agency, does not endanger public health or the environment, and substantially meets or exceeds the function or purpose of the standard or requirement.

The decision of the Agency review authority shall be made in writing, and shall be sent to the applicant not more than sixty (60) days from receipt of the appeal.

7. The following matters are not subject to appeal under this subsection:

a. Actions or decisions of the Agency taken under Section 10 of this Ordinance; and

b. the establishment of a rule, regulation or standard by the Board.

8. Failure to properly exhaust the administrative remedy provided for herein shall constitute a bar to judicial relief.

SECTION 9. MISCELLANEOUS PROVISIONS REGARDING USE OF AGENCY WASTEWATER SYSTEM

A. Hold Harmless

All users of the system, all contractors who may perform work on the system in any manner and all other persons or entities whose actions may affect the system shall indemnify and
hold harmless the Agency, its officers, employees, and representatives from and against all suits, actions or claims of any character or nature brought because of any injuries or damages received or sustained by any person or property or alleged to have been so received or sustained on account of the actions or failure to act of such users, contractors or other persons, their subcontractors, employees or representatives. Such indemnification shall include the costs of defense of such claims including attorney fees.

B. Compliance with Laws

All users of the system and any person or entity whose actions may affect the system shall comply with all applicable federal, state and local laws. This Ordinance shall in no way substitute for or eliminate the necessity for such compliance.

C. Ordinance and Rules as Contract

The terms and conditions contained in this Ordinance shall constitute a contract between the Agency and all users, contractors and connectors to the system. The consideration for the conditions, pecuniary or otherwise, imposed upon such users and connectors shall be the privilege of the use of and connection to the Agency's sanitary sewerage system or storm and surface water system.

D. No Property Interest Acquired by Purchase of Permit or Connection to System

A user or connector to the Agency wastewater system does not thereby acquire a vested property interest in continued use...
or connection to the system. Such use or connection is
conditional always upon such user or connector complying with all
applicable terms and conditions contained in this Ordinance and
all resolutions and orders adopted pursuant hereto and, further,
upon compliance with all federal, state of local requirements
which are or may hereafter be imposed upon such user or
connector. Nothing contained herein shall require the Agency to
provide service, access, or connection to the system to any
person when any federal, state or local agency having
jurisdiction over the Agency has imposed limitations on such
service or access or when the Agency, in its discretion, has
determined that the public interest requires any such limitation
in the manner provided by law.

E. Conflicts with Existing and Future Regulatory
Requirements of Other Agencies

Any provisions or limitations of this Ordinance and any
rules adopted pursuant hereto are superseded and supplemented by
any applicable federal, state or local requirements existing or
adopted subsequent hereto, which are more stringent than the
provisions and limitations contained here. Any provision of this
Ordinance and rules adopted pursuant hereto which are more
stringent than any such applicable federal, state or local
requirement shall prevail and shall be the standard for
compliance by the users of and connectors to the Agency's system.
F. Administration of this Ordinance

The Agency, through its General Manager or other authorized designee or representative shall have the authority to do all things necessary to administer the provisions of this Ordinance and any rules adopted pursuant hereto.

G. Conformance to Standards

To the extent that any provision in this Ordinance or a rule adopted hereunder may impose a standard of operation, maintenance, use or care of private property, conformance to the standard is necessary to meet the routine obligations of ownership of such property, as contemplated by Section 11b, Article XI of the Oregon Constitution.

SECTION 10. ENFORCEMENT AND REMEDIES

A. Jurisdiction

1. Except as specifically provided in this Ordinance, the Agency may take enforcement action against any person or activity in violation of this Ordinance, utilizing any procedure or remedy provided herein. A culpable mental state is not an element of any violation of this Ordinance.

2. The Agency has concurrent jurisdiction with incorporated cities within the Agency, over enforcement of this ordinance within such cities.

B. Civil Penalties

The Board may by rule establish a schedule of civil penalties to be assessed against persons who violate this ordinance.
C. Hearings Officer

1. The Agency may designate an employee or other person to hear and determine complaints of violation of this ordinance, including imposition of civil penalties, issuance of an administrative cease and desist order, and issuance of an administrative compliance order, suspension or revocation of any permit issued under the authority of this Ordinance.

2. The Board may provide by rule for procedures for civil citation, imposition of penalties, notice, hearing, and decision. Decision of a hearings officer under this section shall be the final decision of the Agency.

D. Abatement

1. In addition to other enforcement actions and remedies which may be available to USA for violation of this ordinance, the remedy of abatement may be utilized to address the following:

   a. Any condition of the privately owned sanitary or public storm and surface water system which is declared to be a nuisance under this ordinance;

   b. Any failure of a privately owned side sewer, building sewer, septic tank, grease trap, or other structure, to meet performance standards established under this ordinance;

   c. Any illegal connection to the public sanitary or public storm and surface water system;

   d. Any condition on property which causes, or threatens to cause, a public health hazard, or a discharge of...
pollutants to the sanitary system, the storm and surface water
system, or the waters of the state, not otherwise permitted by
this ordinance or appropriate state, federal, or USA permit.

2. The General Manager or his authorized representative
shall have the authority to conduct such inspections as deemed
necessary to insure compliance with this ordinance, at any
reasonable hour, to investigate complaints, and to abate a
nuisance or prohibited condition as defined in this section.

a. Upon determination by inspection that a nuisance
or other prohibited condition exists, the General Manager or his
authorized representative shall state the substance of this
determination in written form, cause to be delivered to the owner
of the premises and to post on the premises:

1) A notice of nuisance or prohibited
condition, describing with reasonable certainty the nature of the
condition, and the action necessary to abate the condition;

2) Directing that the condition be abated
within 15 days of the date of the notice;

3) Stating that the owner or person in charge
of the property may request a hearing on the abatement order by
filing a written request for hearing within seven (7) days of the
date of the notice.

4) Stating that, if the prohibited condition
has not been fully abated within 15 days of the notice, the USA
may cause the prohibited condition to be abated, and may bill the
cost to the property owner.
b. If the General Manager determines that the prohibited condition or nuisance constitutes an imminent threat to public health or safety he may cause the condition to be abated, provide notice of the abatement as described in a above as soon as practicable, and charge the cost of abatement to the property owner.

c. Upon receipt by the Agency of a written request for a hearing, including the applicable fee, the General Manager shall set a time and place for a hearing on the abatement order, which shall be not more than ten days from the date of filing of the request for hearing, and shall so notify the person requesting hearing. The owner or person in charge of the property may present evidence before the General Manager or his designee pertinent to the prohibited condition or its abatement. The General Manager or his designee shall also appear and present evidence pertinent to its abatement. Failure of the person requesting hearing to appear at the hearing shall constitute a waiver of the right to a hearing.

d. After the hearing the General Manager or his designee shall enter an order containing his findings as to whether the alleged nuisance or prohibited condition exists, and may confirm or extend the time in which the condition is to be abated. If the nuisance has been abated under subsection b of this section, the hearing regarding the abatement order may be combined with the hearing on objection to cost, if any.
e. If the nuisance or prohibited condition has not been abated within the time provided in the Notice of Abatement or as modified at the hearing, the General Manager may cause the condition or nuisance to be abated. Accurate records shall be kept of the direct expense for the cost of personnel, real and personal property, equipment, and materials of the Agency utilized for the abatement. A surcharge of 25 percent of the direct cost or such other amount as the Board may establish by resolution and order shall be added to reflect administrative and overhead costs. A billing for the amount of said costs shall be forwarded by registered or certified mail to the owner or person in charge of the property, or both of them, for full payment. Payment shall be due within 30 days of the date of mailing.

f. If the owner or person in charge of the property objects to the cost of the abatement, he may file a written objection, including any applicable fee, with the Agency within a period not to exceed ten days from the date of the billing. The General Manager shall set a time and place for hearing the objection, notify the objector of said time and place, and make the determination based upon evidence presented at said hearing. The General Manager's order of determination shall be the final and binding decision of the Agency.

g. After the date payment is due, the cost of abatement shall be a debt due and owing to the Agency. The Agency may cause a lien to be filed against the subject property in the real property records of the appropriate county reflecting
the abatement debt. The Agency may proceed to collect the debt in any manner provided by law.

E. Search Warrant

Any judge of the State of Oregon may issue a search warrant upon a sworn affidavit that a violation of this ordinance has occurred or will occur.

F. District Court Enforcement of Violations

1. It shall be unlawful and a violation of this Ordinance for any person to fail to comply with any provision or requirement of this Ordinance or any Resolution and Order adopted pursuant thereto.

2. In addition to other remedies and enforcement provisions herein, the District Court shall have jurisdiction of all violations of this Ordinance. Upon conviction of any person of a violation of this Ordinance, such person may be punished by a fine of not more than $500.00. Each day of a continuing violation shall constitute a separate violation of this Ordinance. Nothing contained herein shall in any way limit the right of the Agency or any other entity, to bring a civil action for legal, equitable or administrative remedies or damages in connection with any such violation.
G. Enforcement of Industrial User Standards Through Administrative and Civil Penalties

1. Imposition of Civil Penalties

   The Agency may impose civil penalties including, but not limited to, fines, modification or revocation of permits, and/or cessation of services when any Industrial User:
   a. fails to factually report the wastewater constituents and characteristics of its discharge;
   b. fails to report significant changes in wastewater constituents or characteristics;
   c. refuses reasonable access to the User's premises by representatives of the Agency for the purpose of inspection or monitoring; or
   d. violates any condition or provision of its permit, this ordinance, any rule adopted pursuant hereto or any final judicial order entered with respect thereto.

2. Procedure for Imposition of Civil Penalties

   a. Whenever the Agency finds that any Industrial User has engaged in conduct which violates any provision of this Ordinance, the Agency shall serve or cause to be served upon such Industrial User a written notice either personally, by office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, stating the nature of the alleged violation and the civil penalty contemplated by the Agency. Within 30 days of the date of receipt of the notice, the
Industrial User shall respond in writing to the Agency advising of its position with respect to the allegations. Thereafter, the parties may meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof. Nothing contained in this section shall be deemed to preclude the Agency, in its sole discretion, from beginning the show cause proceeding described in Section 10.G.2.b. at any time.

b. Show Cause Hearing

Where the violation alleged is not corrected within a reasonable time pursuant to the procedure contained in Section 10.G.2.a., the Agency may order any Industrial User which causes or allows the violation alleged to continue, to show cause before the Agency, its General Manager or other authorized representative or designee, why the proposed civil penalties should not be imposed. As used throughout Section 10.G. of this Ordinance, a "reasonable time" shall be determined in good faith by the Agency taking into consideration the totality of the circumstances involved. A written notice shall be served on the Industrial User by personal service, office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the time and place of a show cause hearing to be held by the Agency or its designee regarding the violation, the reasons why the enforcement action, including any proposed civil penalty assessment, is to be taken and directing the Industrial User to show cause why the proposed enforcement action
should not be taken. The notice of hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of an Industrial User. The proceedings at the hearing shall be considered by the Agency which shall then enter appropriate orders including any civil penalty being imposed with respect to the alleged improper activities of the Industrial User. Appeal of such orders may be taken by the Industrial User as provided in Section 10.G.2.d. below.

c. Schedule of Civil Penalties

In addition to any liability, duty or other penalty provided by law, the Agency, its General Manager or other authorized representative or designee, as the case may be, may assess, in conjunction with the show cause proceeding described above, a civil penalty for any violation contained in Section 10.G.2.a. above, by service of a written notice of assessment of civil penalty upon the Industrial User as provided in Section 10.G.2.a. above. The amount of such civil penalty shall be not less than $100.00 nor more than $25,000.00. Each day of a continuing violation shall constitute a separate offense for purposes of the civil penalties assessable for such violation.

d. Appeal

1) The decision of the Agency shall be sent to the Industrial User by registered mail, return receipt requested. This decision shall be final unless a notice of review from the Industrial User is received by the Agency within 10 days of the
decision of the Show Cause hearing being received by registered mail by the Industrial User. The signed return receipt of delivery of the decision by registered mail shall be conclusive proof for determination of the 10 day appeal period.

2) Every notice of review shall contain:
   (a) A reference to the matter to be reviewed.
   (b) A statement of the interest of the appellant/User.
   (c) The specific grounds relied upon as to why the decision being appealed is improper or erroneous.

3) Appeals shall be heard by the Agency Review Authority designated under Section 8B4 above. Appeals shall be de novo and not limited to the record below.

4) Fees. The notice for review shall be accompanied by the applicable filing fee.

5) The requirements of subsections 1 through 4 above shall be jurisdictional.

6) The Review Authority shall have the authority, upon review, to set aside or modify a civil penalty if he finds, based upon the evidence presented, that a violation of the ordinance did not occur, that the appellant sustained an operational upset as defined in this ordinance, or that another penalty is appropriate under all the circumstances.

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7) The Industrial User may appeal the decision of the Review Authority to the Board of Directors in the manner provided in paragraphs 1 - 6 of this subsection.

e. Enforcement of the Civil Penalty

1) Any civil penalty imposed shall be paid in full within fifteen (15) days of the date the imposition is final. Payment shall be made either in cash or by certified check made payable to the Agency, and submitted to the Agency's General Manager.

2) If full payment is not made within such 15-day period, the Agency may commence further proceedings under this ordinance for such violation. Alternatively, counsel for the Agency may, following the authorization of such action by the Board, commence an action for appropriate legal and/or equitable relief in the Circuit Court.

f. Emergency Suspension of Service and Permits

Notwithstanding any other provision of this ordinance, the Agency may suspend the wastewater treatment service and/or the sewer permit of an Industrial User when it appears to the Agency that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons or to the environment, interferes with the operation of the Agency's sewage system or violates any pretreatment limits imposed by this ordinance, any rule adopted or any permit issued pursuant hereto, or any other applicable law. The suspension notice shall be served upon the Industrial User by personal,
office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, unless the emergency nature of the suspension makes service impracticable. Any Industrial User notified of the suspension of the Industrial User's permit and/or service, shall within a reasonable period of time, as determined by the Agency and specified in the suspension notice, cease all discharges. In the event of failure by the Industrial User to comply voluntarily and timely with the notice of suspension, the Agency may immediately seek a temporary restraining order in the Circuit Court to compel compliance and thereafter may proceed judicially or administratively as set forth in this ordinance or otherwise to insure compliance with this ordinance. The Agency may reinstate the permit and/or service of the Industrial User and may terminate, in its discretion, any proceedings brought upon proof by the User of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

3. Operation Upsets

Any Industrial User which experiences an upset in operations which places the Industrial User in a temporary state of noncompliance with this ordinance, any rule adopted, or permit issued pursuant hereto shall inform the Agency thereof as soon as practicable but no later than 24 hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the
Industrial User with the Agency within five days. The report shall include the following:

a. Description of the upset, the cause thereof and the upset's impact on an Industrial User's compliance status.

b. Duration of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur.

c. All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

A documented, verified and bona fide operation upset, including good faith and reasonable remedial efforts to rectify the same, shall be an affirmative defense to any enforcement action brought by the Agency against an Industrial User for any noncompliance with this ordinance or any rule adopted or permit issued pursuant hereto, which arises out of violations alleged to have occurred during the period of the upset.

SECTION 11. SEVERABILITY

If any section, subsection, provision, clause, or paragraph of this Ordinance, or rules adopted pursuant hereto, shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules; and it is hereby declared that every other section,
subsection, provision, clause, or paragraph is and shall remain in effect irrespective of the validity of any other provision.

SECTION 12. JUDICIAL REVIEW

Final decisions of the Board, the General Manager, the Agency, or its designated review authority under this Ordinance shall be reviewable solely and exclusively under the provisions of ORS 34.010 through 34.100.

SECTION 13. REPEAL; SAVINGS; DECLARATION OF EMERGENCY

Ordinance Nos. 21 and 24 are hereby repealed, provided however, that all resolution and orders, (including but not limited to Resolution and Order Nos. 90-63, 91-47 as amended, and 92-60) rules, permits, enforcement actions, fees, and other actions of the Agency undertaken pursuant to such ordinances shall remain in full force and effect unless expressly repealed, superseded or amended. All such actions of the Agency and any violations of Ordinance Nos. 21 and 24 prior to the effective date of this Ordinance shall be continued under, and shall be subject to enforcement under this Ordinance.

SECTION 14. DECLARATION OF EMERGENCY

This Ordinance being necessary for the immediate preservation of public health, safety, and welfare of the citizens of the Unified Sewerage Agency, an emergency is hereby

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declared to exist, and this Ordinance shall take effect upon its passage.

ENACTED this 19th day of April, 1994, being the date of the fifth reading and third public hearing before the governing body of the Unified Sewerage Agency of Washington County, Oregon.

UNIFIED SEWERAGE AGENCY OF WASHINGTON COUNTY, OREGON
By the Board of County Commissioners of Washington County, Oregon,
As Its Governing Body

ADOPTED

Chairman

Recording Secretary

READING PUBLIC HEARING

1 March 15, 1994 April 5, 1994
2 March 22, 1994 April 12, 1994
3 April 5, 1994 April 19, 1994
4 April 12, 1994
5 April 19, 1994

VOTE: AYE Hays, Christy, Rogers, Katsion, Peters

NAY

Barbara Hejtmanek
RECORDING SECRETARY

DATE April 19, 1994
ORDINANCE NO. 29
IN THE BOARD OF DIRECTORS
FOR THE UNIFIED SEWERAGE AGENCY
OF THE COUNTY OF WASHINGTON

(An Ordinance Relating to Charges for
Use of the Unified Sewerage Agency
(Sanitary Sewer System, Surface Water
Management System; Describing Procedures
for Payment of Charges; Amending Ordinance
Nos. 26, 27 and 28; and Declaring an
Emergency.

The Board of Directors of the Unified Sewerage Agency of
Washington County, Oregon ordains:

SECTION 1. PURPOSE AND FINDINGS.

A. The purposes of this Ordinance are: 1) to amend provisions of
Ordinances 26, 27 and 28 to allow the Agency and member cities
to implement sanitary sewer service charges based on the
customer's volume of water consumption; 2) to facilitate
billing of sanitary sewer service charges and storm and surface
water management system user charges by intergovernmental
agreement; 3) to amend the formal administrative review
process for actions of the Agency; and 4) to revise
administrative procedures and collection remedies relating to
service charges.

B. The Board hereby finds that it is necessary and appropriate to
adopt a system of sewer use charges based upon water
consumption to the extent practicable. A rate structure based
on average measured volume of water usage for a representative
time period will result in a more equitable and proportional
distribution of the costs of operation, maintenance, extension
and replacement of the sanitary sewer transportation and
treatment system, and of the costs of providing sanitary
sewerage service.

SECTION 2. REPEAL.

Ordinance 26, Sections 2P, 6, 8, and 9B; and Ordinance 28,
Sections 3G and 5 are hereby repealed.

SECTION 3. DEFINITIONS.

A. Billing Period. Shall mean a regular period of time for which
service charges are imposed and billed.

B. Customer. Shall have the same meaning as "user."

C. Occupant. Shall mean the person or persons residing or doing
business on the property. In a family or household situation,
the occupant responsible for the obligations herein imposed
shall be the adult heads of the household, jointly and
severally. In a dwelling or office sharing situation, the
adult occupant legally responsible for the management or
condition of the property shall be responsible.

D. This Ordinance. Shall include Ordinance No. 29, any rule or
Resolution and Order adopted pursuant thereto.

E. User. Shall mean any person who uses property which maintains
connection to, or discharges to, the Agency sanitary sewerage
or surface water management system, or otherwise receives
services from either system. If the property has domestic
water service from a water purveyor, the person who is
responsible for the water meter serving the property is deemed to be the user. If the property is not served by a water purveyor, the occupant of occupied property is deemed the user. If such property is not occupied, the person who controls or has the right to occupy it shall be deemed the user.

E. **Water Purveyor.** Shall mean a city, district, or other entity, public or private, independent of the user that furnishes water to a user, meters the quantity of water used, and provides customer water usage data to the Agency.

**SECTION 4. AMENDMENTS TO ORDINANCE 26.**

A. Ordinance 26, Section 2, Subsection D is hereby amended to read:

D. **Date of Imposition or Imposition Date.** Shall mean the first day of each billing period or such other date designated by the Board at which time a user charge is imposed and becomes the legal obligation of the user. The obligation may include the cost of services to be provided during the billing period or for services previously provided to the same person under this Ordinance.

B. Ordinance 26, Section 2, Subsection I is hereby amended to read:

I. **Improved Single Dwelling Parcel.** Means a lot or parcel on which a single family dwelling or duplex exists at any time during the same billing cycle as the imposition of the charge.
C. Ordinance 26, Section 4, is hereby amended to read:

SECTION 4. SURFACE WATER MANAGEMENT SYSTEM USER CHARGE.

A. The surface water management system user charge is imposed on every user within the Agency of the storm and surface water system on the imposition date. The charge may be billed during or after the provision of service, with payment due after provision of service; or may be required to be paid in advance of the provision of service for the billing period. The charge due for the billing period shall be the obligation of the user of the public storm system on the imposition date, notwithstanding whether the user is the addressee of the bill.

B. The surface water management user charge shall be imposed upon any person who uses or discharges stormwater to the public storm and surface water system by: 1) maintaining impervious surface connected to (directly or indirectly) and capable of discharge to the public surface water management systems; or 2) actually discharging storm or surface water into the system; or 3) for which a specific request for surface water management service has been made. Said charge shall be charged for all users of properties covered in whole or in part by impervious surface area within the boundaries of Agency, including incorporated cities. A property containing impervious surface is presumed to
discharge wastewater to the storm and surface water system, and to generate a demand for public storm and surface water management services, unless that property has an on-site disposal system which meets the standards of Section 8 and any rules adopted thereunder.

D. Ordinance 26, Section 5, is hereby amended to read:

SECTION 5. CALCULATION OF IMPERVIOUS SURFACE AND AMOUNT OF CHARGE.

A. The determination of the existence for all parcels and of quantity for nonsingle dwelling unit parcels of impervious surface for a lot or parcel shall be estimated using one or more of the following: aerial photographs, assessment records, building permits, construction plans, site visits, ad valorem property tax records, storm and surface water system connection permits, field surveys, or other sources deemed reliable by the Agency.

B. All improved single dwelling units shall be charged a uniform charge based on one ESU. Each unit of a duplex shall be charged uniformly based on one ESU.

C. Impervious surface for each improved multi-family, condominium, commercial, industrial or institutional parcel shall be estimated individually. The amount of impervious surface for each such parcel shall be divided by 2640 square feet. The quotient shall be the number of ESUs for each parcel. Impervious surface
shall include a proportionate share of any common areas, private streets, parking lot or other facilities serving the use. Fractional values may be rounded.

D. The rate for the service charge shall be calculated in accordance with Section 3 and in accordance with the procedure set forth in Section 9A, so as not to exceed the estimated surface water management program costs, less other projected revenue, divided by the estimated total number of ESUs connected to the Agency storm and surface water management system.

E. The Board may prescribe by rule further detail regarding determination, calculations, and classification of impervious surfaces; and for payment of a deposit not to exceed one year's estimated surface water management service charge as a condition of connection of property to the Agency system, or for continued maintenance of connection to the system.

SECTION 5. AMENDMENTS TO ORDINANCE 27.

A. Ordinance 27, Section 8.B.1 is hereby amended to read:

B. Administrative Appeal.

1. This Ordinance, all rules, regulations, applications and interpretations thereof shall be initially made by the Agency. For the purposes of this subsection, "Agency" shall be defined as any employee or representative authorized and designated by the General Manager to render
interpretive rulings of this Ordinance. No review of the application of any rule, interpretation, or variance from a rule shall be authorized under this section unless the person seeking the review has first requested in writing an interpretation by the Agency. The appeal shall be filed in writing and must be actually received by the Agency no later than the thirtieth day following the Agency's written decision under this subsection.

SECTION 6. AMENDMENTS TO ORDINANCE 28.

A. Ordinance 28, Section 5, is hereby amended to read:

SECTION 5. SANITARY SEWER SERVICE CHARGE.

A. The sanitary sewer service charge shall be imposed where one or more of the following conditions are present: 1) for the occupancy of property which maintains connection to the public sanitary sewerage system; 2) for the actual discharge of wastewater into the system; or 3) for maintenance of water service including a privately owned well or other domestic, commercial, or industrial water service to a property which is connected to the sewer system; 4) following issuance of a sewer system connection permit and installation of a domestic water meter. Imposition of the charge shall be subject to the limitations and exceptions
provided in this Ordinance and established by Resolution and Order.

B. The sanitary sewer service charge rates may be established by classes of users having generally similar wastewater characteristics, such as volume, strength, or other factors. Rates may be established for units of service which reasonably approximate the cost of providing service, taking into consideration available information, cost of measurement and administration, and the cost of converting to an alternative system. Such units of service include, but are not limited to, dwelling units, equivalent dwelling units, fixture units, and measurement of water usage.

C. Rates may be established including base (fixed) and use (variable) components, based on elements of the estimated cost of services. For the use component such as domestic water usage, measurement of usage may be based on a period of time which is representative of typical usage for the subject group of customers. Rates may be set at fixed average amounts for those users whose water use is impractical to measure, or for which water usage data is not readily available to the Agency. The sewer user charge rate structure may

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include both fixed rates, and consumption-based rates composed of base and use charges.

B. Ordinance 28, Section 17.A. is hereby amended to read:

A. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. Appeals of any other Agency decision must be filed in writing and actually received by the Agency within 30 days of the date of the Agency's written decision.

SECTION 7. SERVICE CHARGE BILLING.

A. Payment of the sanitary sewer service charge and the storm and surface water management service charge shall be the responsibility of the user. Where water service is furnished to the premises by a water purveyor, the person responsible for payment for such water service is deemed to be the user. Where such water service is not furnished to the premises, the occupant shall be deemed to be the user and responsible for charges for single-unit occupied property. For multi-unit or unoccupied property not receiving water service from a water purveyor, the charge shall be the responsibility of the person who has the authority, direct or indirect, to control occupancy of the property.

B. User charges shall be the personal obligation of the user on the imposition date, regardless of whether that person has any ownership interest in the property. Such charges shall constitute a debt due the Agency as of the date of imposition.

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C. Sewer service charges and surface water management system user charges may be billed individually or together and may be billed with domestic water service charges or such other municipal utility or service charges as the Board may determine by Resolution and Order or by contract.

D. At least 14 days prior to the due date, each user shall be sent a bill for the amount due for applicable Agency service charges. Mailing the bill by regular mail to the person responsible for payment of water service charges, to the occupant at the service address or to the owner of record as shown in the assessor records shall satisfy this requirement. There shall be a rebuttable presumption that the owner of the real property, as shown in the records of the appropriate county assessor, is the occupant.

E. The recipient of a bill for service charges shall have 30 days from the billing date to file a notice of nonoccupancy. The notice shall indicate the relationship of the recipient to the property (e.g., owner, lessor, mortgagee), whether on the imposition date the property was occupied, and if so, by whom.

F. Upon receipt of the notice, the Agency shall determine who is obligated for payment. Based on this determination, the Agency shall:

1. Issue a new bill to the correct user if someone other than the original recipient was the user;

2. Reissue the bill to the recipient if it is found that that person was the user;
3. Issue a bill to the owner as the user if the property was not occupied.

4. Issue no bill for previous service if the previous user cannot be located in a cost-efficient manner.

The Agency may take into account any reasonably reliable information available to it, including utility or water district records.

G. Failure to file the notice such that it is actually received by the Agency within the 30 days of the mailing date of the bill shall conclusively establish that the original addressee was the user on the imposition date.

H. Notwithstanding any other provision of this Ordinance, any person may agree in writing to be responsible for payment of the charge. Upon filing of such a written authorization with the Agency, subsequent bills shall be sent to that person and that person shall be deemed to be the user.

I. It shall be a violation of this Ordinance to knowingly provide false information to the Agency regarding any fact related to billing of a sanitary sewer service charge or surface water management service charge or other charge of the Agency.

J. The Board may prescribe by rule for payment of a deposit not to exceed one year's estimated sewer service charge or storm and surface water management charges or both as a condition of connection of property to the Agency system, or for continued maintenance of connection to the system.

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K. Any person who has paid the full amount due in advance of receiving service shall be entitled to a refund if the person ceases to be the user. The refund shall be effective on the date the property is vacated or sold and based on the number of days remaining in the billing period. The refund is waived unless a written request for refund is filed within 30 days of vacating or selling the property. The request shall include documentation reasonably deemed adequate by the Agency.

L. Nothing in this Ordinance shall be deemed to make the owner of property responsible for the sanitary sewer service charge or storm and surface water management user charge of a tenant; or to require any person to pay service charges incurred by prior occupant or user of property. No person shall be required to pay to reinstate service where that service was terminated due to the delinquency of the account of a prior occupant or user, except where the service connection (sewer or storm system lateral) has been severed or removed.

SECTION 8. DELINQUENCY, COLLECTION, INTEREST AND PENALTIES.

A. Charges imposed under this Ordinance are deemed delinquent when not paid in full by the due date provided in a billing for the charge.

B. It shall be unlawful and a violation of this Ordinance for any person to use, discharge wastewater to, or maintain connection to, the Agency sanitary sewerage system or surface water management system without paying the appropriate charges and fees established in this section or any rule adopted pursuant
hereto. If no billing is sent, such charges are deemed delinquent 30 days from the date services were provided to a user.

C. Delinquent charges, together with applicable interest, late payment charges and penalties may be collected pursuant to this section by the General Manager or his designee, with the assistance of Agency legal counsel, without further action or authorization by the Board. Such charges, interest, and penalties may be recovered by the Agency in any manner provided by law, including an action in the small claims, district or circuit court of Washington County or other appropriate county.

D. In addition to remedies provided for collection of a debt, the Agency may seek a temporary or permanent injunction prohibiting continued occupancy of premises, requiring disconnection of the premises from the public surface water management system, and termination of sanitary sewer service to the user's premises.

E. The Board may prescribe by Resolution and Order a schedule of interest, late payment and penalty charges to be imposed upon delinquent amounts.

F. In a collection action under this Ordinance the prevailing party shall be entitled to its costs and reasonable attorney fees, including at trial and on appeal.

G. In addition to the right of the Agency to bring a civil action to collect any delinquent charges or enforce any provision of this Ordinance, the Agency may take any of the following actions to secure payment:
1. The Agency may refuse to issue any permit to any person who is delinquent in any payment due under this Ordinance;
2. The Agency may terminate provision of storm and surface water service to premises used by the user;
3. The Agency may terminate sanitary sewer service to premises used by the user;
4. The Agency may terminate water service to the premises used by the user, pursuant to agreement with any water service purveyor.

Termination of service pursuant to this subsection shall be according to procedures adopted under Section 9A. If the Agency terminates service as provided in this subsection, the cost of such disconnection may be added to the amount of any other delinquent charges and shall be recoverable in the same manner as are such charges.

H. Nothing in this Ordinance shall be deemed to create a lien against property, except where such lien arises by operation of law following a court judgment. This Ordinance does not authorize collection of delinquent user charges pursuant to ORS 451.510(2) and ORS 454.225 except upon written consent of the property owner.

SECTION 9. REQUEST FOR SERVICE; DISCONNECTION FROM SERVICE; TERMINATION AND SUSPENSION OF USER CHARGES.

A. The issuance of a sanitary sewer service connection permit and issuance of a storm and surface water management system connection permit relating to a property or parcel shall be deemed to be a specific request for provision of sanitary sewer
service or storm and surface water service, respectively, to that property, by the user of the property. In addition, installation of water service including installation of a water meter or a well to serve premises connected to the sanitary sewer system shall constitute a specific request for sanitary sewer services by the user of the property.

B. Any user of the public sanitary sewer system or surface water management system may disconnect from service the property served by the system and terminate further user charges by utilizing the procedure in Ordinance 26 Section 8 as to surface water management user charges, and the provisions of this section for sanitary sewer user charges.

C. Any user or owner of property connected to the public sanitary sewer system may disconnect the property from service and terminate further user charges relating to that property solely and exclusively by using the process in this subsection. The person desiring to disconnect the property shall make application on a form provided by the Agency and pay the fee established therefor. The application shall be signed by the requestor and by the occupant and owner of the property; shall provide evidence that water service to the property has been disabled or otherwise terminated. For property not served by a water purveyor, the application shall also include evidence of a demolition permit or removal permit for any structure on the property connected to the sanitary sewer system; or disabling or removal of the lateral sewer connecting the
structure to the public sewer system, or of approval of an alternative wastewater disposal system approved by an appropriate public authority. Upon receipt of a complete application for disconnection and verification of information thereon, the Agency shall issue a permit for disconnection. Whether performed by the Agency or other person, the Agency shall inspect the disconnection.

D. The Board may adopt by Resolution and Order additional provisions, criteria and administrative procedures relating to:
1. disconnection from sewer service; and
2. suspension and proration of fixed rate user charges and base and use charge portions of consumption-based sewer service charges upon the establishment of a new service account or a change in the user.

SECTION 10. ADOPTION OF RULES; INTERPRETATIONS AND APPEALS.

A. Adoption of Rules.
1. Upon the recommendation of the General Manager, the Unified Sewerage Agency Advisory Commission (USAAC), or upon its own motion, the Board may, by Resolution and Order, promulgate rules pertaining to matters within the scope of Ordinance 28 and this Ordinance, in the same manner as provided in Ordinance 27, Section 8A.

B. Appeals.
1. Administrative appeals relating to sanitary sewer service charges and storm and surface water service charges shall be taken according to the procedures and requirements of
Ordinance 27, Section 8B, provided however that the following determinations only may be appealed:

a. A determination that the person is obligated to pay the service charge imposed;

b. A determination of the proper calculation of the amount due from the person. This shall not include, however, an objection to the overall establishment of the sanitary sewer user charge, surface water management charge or the amount per EDU, ESU or other unit of measurement established by the Board; the determination of the fixed and variable portions of the sanitary sewer service charge rate, or the establishment of classes of users or user characteristics under Section 3.

c. A discretionary decision implementing a rule adopted by the Board under this Ordinance if an appeal is provided in the Order adopting the rule.

d. The 30 day period to appeal shall be calculated from the due date of the original or reissued bill in response to a notice of nonoccupancy, whichever is later. Demonstrated failure of a user to receive a bill shall extend the period to appeal until 30 days from the due date of the first bill actually received or 45 days from other actual knowledge of the bill or the charges on the part of the user.

/////
SECTION 11. SEVERABILITY.

If any section, subsection, provision, clause, or paragraph of this Ordinance, or rules adopted pursuant hereto, shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules; and every other portion thereof shall remain in full force and effect.

SECTION 12. JUDICIAL REVIEW.

Final decisions of the Board, the General Manager, the Agency, or its designated review authority under this Ordinance shall be reviewable solely and exclusively under the provisions of ORS 34.010 through 34.100.

SECTION 13. SAVINGS CLAUSE: TRANSITION.

A. All charges, rates and fees imposed and actions of the Agency taken on or before June 30, 1994, pursuant to Ordinances 26 and 28 and other Agency ordinances, on or before June 30, 1994, shall remain in full force and effect and shall be subject to collection under this Ordinance.

B. Notwithstanding any other provision of this ordinance, no charge incurred or imposed prior to July 1, 1994, and no claim of the Agency for payment of such charge, shall be transferred from a tenant to the owner of the real property to which the charge or claim relates, without his or her consent.

SECTION 14. DECLARATION OF EMERGENCY.

This Ordinance being necessary for the immediate preservation of public health, safety, and welfare of the citizens of the
Unified Sewerage Agency, an emergency is hereby declared to exist, and this Ordinance shall take effect upon its passage.

ENACTED this 21st day of June, 1994, being the date of the third reading and first public hearing before the governing body of the Unified Sewerage Agency of Washington County, Oregon.

UNIFIED SEWERAGE AGENCY OF
WASHINGTON COUNTY, OREGON
By the Board of County Commissioners
of Washington County, Oregon,
As Its Governing Body.

ADOPTED

[Signature]
Chairman

[Signature]
Recording Secretary

READING PUBLIC HEARING

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VOTE: AYE 5 Roll Call: Hays, Christy, Rogers, Katsion, Peters

NAY __________

[Signature]
Recording Secretary

Date: June 21, 1994
ORDINANCE NO. 32
IN THE BOARD OF DIRECTORS

FOR THE UNIFIED SEWERAGE AGENCY

OF WASHINGTON COUNTY, OREGON

(An Ordinance Amending Ordinance 27
(to Allow the General Manager to
(Delegate his Authority to Declare

ORDINANCE 32
(the Existence of an Imminent Threat
(to Public Health and Safety which
(Must be Immediately Abated; and
(Declaring an Emergency

The Board of Directors of the Unified Sewerage Agency of
Washington County, Oregon ordains:

SECTION 1. PURPOSE

The purpose of this ordinance is to amend the enforcement
program set out in Ordinance 27 in order to allow the General
Manager to delegate his authority to declare the existence of
an imminent threat to public health and safety and initiate
emergency abatement procedures.

SECTION 2. AMENDMENTS TO ORDINANCE 27

Ordinance 27 is hereby amended as set forth below.

Underlined matter is new. Bracketed material is deleted.

A. Section 2S is amended as follows:

S. "Person" [shall] means any individual,
[person or private corporation, political subdivision,
governmental agency, municipality] firm, partnership,
[association] joint venture, association, [firm, trust]

social, fraternal, educational, religious or charitable
organization, fraternity, sorority, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, municipal corporation, district or political subdivision or any legal entity whatsoever.

Ordinance 27, section 2(FF) shall be replaced with the following:

B. Section 2 (FF) is amended as follows:

FF. "This Ordinance" shall include Ordinances [No.] 27 and 32, any and all resolutions and orders adopted pursuant hereto; any rule or Resolution and Order adopted pursuant hereto; Resolution and Orders Nos. 90-63, 91-47, and 92-60, unless expressly repealed; and including any amendments thereto.

C. Section 10(D)(1)(a), is amended as follows:

D. Abatement

1. . . .

a. Any condition of the privately owned sanitary or [public] storm and surface water system which is declared to be a nuisance under this ordinance;

b. . . .

D. Section 10(D)(2)(b), is amended as follows:

2. . . .

a. . . .
b. If the General Manager, or his authorized representative, determines that the prohibited condition or nuisance constitutes an imminent threat to public health or safety he may cause the condition to be immediately abated, provide notice of the abatement as described in Ordinance 27, section 10(D)(2)(a) [above] as soon as practicable, and charge the cost of abatement to the property owner.

c. . . .

SECTION 3. SEVERABILITY

If any section, subsection, provision, clause, or paragraph of this Ordinance, or rules adopted pursuant hereto, shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules; and it is hereby declared that every other section, subsection, provision, clause, or paragraph is and shall remain in effect irrespective of the validity of any other provision.

SECTION 4. JUDICIAL REVIEW

Final decisions of the Board, the General Manager, the Agency or its designated review authority under this Ordinance
shall be reviewable solely and exclusively under the provisions of ORS 34.010 through 34.100.

SECTION 5. SAVINGS CLAUSE

Except as amended by this Ordinance, Ordinance 27 shall remain in full force and effect unless expressly repealed, superseded or further amended by this Ordinance. All resolution and orders, including but not limited to Resolution and Order Nos. 90-63, 91-47 as amended, and 92-60, rules, permits, enforcement actions, fees, and other actions of the Agency undertaken pursuant to Ordinance 27 shall remain in full force and effect unless expressly, repealed, superseded or amended. Any violations of Ordinance 27 requiring emergency abatement proceedings and occurring prior to the effective date of this Ordinance shall be continued under, and shall be subject to, enforcement under this Ordinance.

SECTION 6. AUTHORIZATION TO CODIFY THE AMENDMENT

Agency legal counsel is authorized and directed to take such steps as are necessary to codify these amendments, including renumbering or correction of technical errors provided that no such changes shall affect the substance of the Ordinance.

SECTION 7. DECLARATION OF EMERGENCY

This Ordinance being necessary for the immediate preservation of public health, safety, and welfare of persons within the Agency's service district boundaries, an emergency
is hereby declared to exist, and this Ordinance shall take
effect upon its enactment.

ENACTED this 4th day of June, 1996,
being the date of the third reading and
first public hearing before the governing body of
the Unified Sewerage Agency of Washington County, Oregon.

UNIFIED SEWERAGE AGENCY OF
WASHINGTON COUNTY, OREGON
By the Board of County Commissioners
of Washington County, Oregon
As its Governing Body

Chairman

ADOPTED

Recording Secretary

READING

First May 21, 1996
Second May 28, 1996
Third June 4, 1996

PUBLIC HEARING

June 4, 1996

VOTE: AYE 5 NAY 0
Peters, Katsion, Rogers,
Christy, Duyck

RECORDING SECRETARY

Barbara Hejtmanek

DATE: June 4, 1996