

City of Sherwood, Oregon
RESOLUTION NO. 93-538

A RESOLUTION ADOPTING ADMINISTRATIVE AND JUDICIAL ENFORCEMENT PROCEDURES FOR VIOLATIONS AND ADMINISTRATIVE APPEAL PROCEDURES GOVERNING THE USE AND OPERATION FOR STORM AND SURFACE WATER MANAGEMENT, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City is a participant in regional storm water and sanitary sewer management systems established and operated through the Unified Sewerage Agency (USA), and

WHEREAS, the City has previously adopted USA standards, regulations, and practices for storm water and sanitary sewer facilities within its boundaries, and

WHEREAS, USA Resolution and Order No. 90-63 and Ordinance No. 18 establish administrative and judicial enforcement procedures for violations and administrative appeal procedures governing the use and operation for storm and surface water management.

NOW THEREFORE THE CITY RESOLVES AS FOLLOWS:

Section 1. New Standards Adopted.

That the Unified Sewerage Agency Resolution and Order No. 90-63 and Ordinance No. 18 attached hereto as Exhibit A, is hereby APPROVED and ADOPTED in its entirety.

Section 2. Existed Standards Confirmed.


That all other standards, policies, and practices adopted by USA as part of the regional storm water and sanitary sewer management system shall continue in force in the City, except as specifically amended by USA Resolution and Order No. 90-63 and Ordinance No. 18.

Section 3. Effective Date.

This Resolution shall become effective upon approval and adoption.

Duly passed by the City Council on February 24, 1993.

Attest:


Polly Blankenbaker, City Recorder


Walter Hitchcock, Mayor

1980 MAY 22 PM 12: 21

IN THE BOARD OF DIRECTORS
FOR THE UNIFIED SEWERAGE AGENCY
OF THE COUNTY OF WASHINGTON

RECORDS DEPARTMENT
UNIFIED SEWERAGE AGENCY

ORDINANCE NO. 18

(An Ordinance Prescribing the Rules and
(Regulations Governing the Use and
(Operation of the Sanitary Sewerage
(System; Prescribing the Rules and
(Regulations Governing the Storm and
(Surface Water System; Imposing Charges
(for Connection to and Use of These
(Systems; Adopting Appeals Procedures and
(Enforcement Provisions; Repealing
(Ordinance 9; 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 purpose of this Ordinance is to authorize rules,
regulations, and charges of the sanitary sewerage system; rules,
regulations, and charges of the storm and surface water system; to
provide a process for adopting additional and more detailed rules
and regulations for these systems; to provide a process for
appeals from 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 activities affecting point and nonpoint

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1 discharges of pollutants, and which affect the timing, quantity
2 and quality of all pollutant, storm water and waste water
3 discharges to public facilities, USA treatment facilities, the
4 Tualatin River and its tributaries.

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

10 SECTION 2. DEFINITIONS

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

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

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

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

24 D. "Building Sewer" shall mean that portion of the sanitary
25 sewer extending from a point five (5) feet outside the established
26 line of the building or structure in question (including any

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1 structural projection except eaves) to the public right-of-way or
2 easement line.

3 E. "Connection" to the sanitary sewer system shall mean the
4 physical act or process of tapping a public sewer line, or joining
5 onto an existing side sewer, for the purpose of connecting private
6 plumbing or industrial systems to the public sewer system; and
7 shall also include the increasing of fixtures or increasing the
8 quantity or strength of the sewage discharge to the sanitary
9 system. Connection to the storm and surface water system shall
10 mean the construction or other human activity that causes or is
11 likely to cause, an increase from the natural state of storm water
12 runoff quantity or pollution, a decrease in water quality, or a
13 combination thereof, to the storm and surface water system.

14 F. "Days" shall mean calendar days unless otherwise
15 specified.

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

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

24 I. "Flood Fringe" or "Floodplain Fringe" shall mean the area
25 outside the floodway, but inside the flood plain.

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

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

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

15 M. "General Manager" shall mean the General Manager of the
16 Unified Sewerage Agency, the chief administrative officer of the
17 Agency.

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

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

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

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

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

17 S. "Pollutant" shall be as defined in Oregon Revised
18 Statutes Section 468.700, (1989 Edition).

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

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

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

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

9 X. "Standards" shall mean the standards and conditions of
10 use of the storm and surface water system and the sanitary sewer
11 system as specified and adopted by the Agency, and shall also mean
12 applicable statutes and rules of the United States and of the
13 State of Oregon.

14 Y. "Sanitary Sewerage System" or "Agency Sewerage System"
15 shall mean all treatment works, pumping or lift facilities, sewer
16 pipe, force mains, laterals, manholes, side sewers, laboratory
17 facilities and equipment, and related facilities for the
18 collection, conveyance, treatment, recycling, reclamation and
19 disposal of sewage, comprising the total publicly owned sanitary
20 sewerage system within Agency jurisdiction, to which storm,
21 surface and ground waters are not intentionally admitted.

22 Z. "Storm" shall mean the disturbance of the ordinary
23 average conditions of the atmosphere, which may include, but is
24 not limited to, any or all disturbances such as wind, rain, snow,
25 hail, or thunder.

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

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

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

19 DD. "The System" or "The Wastewater System" shall include
20 both the sanitary sewerage system and the storm and surface water
21 system.

22 EE. "This Ordinance" shall include Ordinance No. 18, any and
23 all Resolutions and Orders adopted pursuant hereto; any rule or
24 Resolution and Order adopted pursuant thereto; Resolution and
25 Order Numbers 88-72, 89-15, and 89-34, unless expressly repealed;
26 and including any amendments thereto.

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

8 GG. "USAAC" shall mean the Unified Sewerage Agency Advisory
9 Commission.

10 HH. "User" shall mean any person owning or having a
11 possessory interest in property which is connected to and/or being
12 serviced by the Agency system.

13 II. "Wastewater" shall include sanitary sewage entering the
14 sanitary sewer system, and storm and surface waters entering the
15 storm and surface water system.

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

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

1 SECTION 3. RULES AND REGULATIONS GOVERNING THE WASTEWATER

2 SYSTEM

3 A. General Discharge Prohibition

4 1. No user shall contribute or discharge or cause to be
5 contributed or discharged, directly or indirectly, any of the
6 following described substances into the sanitary sewerage system,
7 the storm and surface water system, or otherwise to the facilities
8 of the Agency:

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

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

16 c. Any wastewater having an acidic or alkaline
17 strength or corrosive property capable of causing damage or hazard
18 to structures, equipment, or personnel of the system, unless the
19 Agency approves such waste in variance because of special
20 conditions in the system.

21 d. Any wastewater containing toxic pollutants or
22 other wastes in sufficient quantity, either singly or by
23 interaction, to injure or interfere with any wastewater treatment
24 process, to constitute a hazard to humans or animals, or to exceed
25 any limitations adopted as federal categorical pretreatment
26 standards. A toxic pollutant shall include, but not be limited

1 to, any pollutant identified in the Toxic Pollutant List set forth
2 in Resolution and Order 89-15, and as may be further prescribed by
3 rule. All toxic pollutants shall be deemed to be "prohibited or
4 regulated substances" for purposes of this Ordinance.

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

9 f. Any substance which may cause the system's
10 effluent or treatment residues, sludges, or scums, to be
11 unsuitable for reclamation and reuse or to interfere with the
12 reclamation process. Any substance which may cause the system to
13 be in noncompliance with sludge use or disposal criteria,
14 guidelines, or regulations affecting sludge use or disposal
15 developed pursuant to the Solid Waste Disposal Act; the Clean Air
16 Act; the Toxic Substances Control Act; the Resource Conservation
17 and Recovery Act; the Comprehensive Environmental Response,
18 Compensation and Liability Act; or State standards applicable to
19 the sludge management methods used by the Agency.

20 g. Any substance discharged in such strength as to
21 potentially cause the Agency system to violate its National
22 Pollution Discharge Elimination System Permit (NPDES Permit) or
23 other Disposal System Permits.

24 h. Any ashes, antifreeze, cinders, sand, mud, straw,
25 insoluble shavings, metal, glass, rags, feathers, tar, creosote,
26 plastics, wood, animal paunch contents, offal, blood, bones, meat

1 trimmings and wastes, lard, tallow, baking dough, chemicals, paint
2 residues, cannery waste bulk solids, hair and fleshings, plastic
3 or paper dishes, cups, or food or beverage containers, whether
4 whole or ground; gasoline, motor oil, or other petroleum product,
5 unless prior written approval has been obtained from the Agency.

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

11 j. Any discharge of sanitary sewage into the storm
12 and surface water system.

13 2. The Board may by rule adopt additional discharge
14 prohibitions, regulations, and limitations for the sanitary and
15 storm and surface water systems, for all or any class of users.

16 B. Pretreatment of Wastewater by Industrial Users; Sanitary
17 System

18 The Board may adopt additional rules setting forth
19 uniform requirements for Industrial Users of the Agency's
20 wastewater collection and treatment system, in accordance with
21 Section 9 of this Ordinance. Such rules shall be aimed at
22 enabling the Agency to protect the public health in the following
23 manners:

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

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

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

8 c. Commercial and Industrial Nonpoint Sources

9 The Board may by rule adopt standards for non-domestic
10 activities which cause or may cause nonpoint source pollution.
11 Such rules may require non-domestic activities, including but not
12 limited to, commercial and industrial activities, to obtain a
13 permit for such activities.

14 SECTION 4. DESIGN AND CONSTRUCTION STANDARDS FOR PUBLIC
15 FACILITIES

16 A. Sanitary System Facilities

17 No person shall connect to any part of the sanitary sewer
18 system or construct or extend any such part without first making
19 an application and securing a permit from the Agency for such
20 connection, construction or extension, nor may any person
21 substantially increase the flow, or alter the character of sewage,
22 without first obtaining an additional permit and paying such
23 charges therefor as may be described in Section 8. No person
24 shall discharge any wastewater to the sanitary sewer system prior
25 to obtaining such permit.

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1 1. Upon approval of the application and payment of all
2 charges, the Agency will issue a sewer connection, construction or
3 extension permit, as applicable, for the premises covered in the
4 application. The application and permit shall be on forms
5 provided by the Agency.

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

12 3. The applicant's signature on the application for any
13 permit as set forth, shall constitute an agreement to comply with
14 all of the provisions, terms and requirements of this ordinance
15 and any other applicable federal, state or local law, and with the
16 plans and specifications filed with the application if any,
17 together with such corrections or modifications as may be made or
18 permitted by the Agency, if any. Such agreement shall be binding
19 upon the applicant and may be altered only by the Agency upon
20 written request for alteration from the applicant. All rules
21 adopted pursuant to this section regarding standards for
22 construction of the components of the Unified Sewerage Agency
23 system must be met to the satisfaction of the Agency prior to any
24 connection to the Agency's sewer system.

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1 B. Storm and Surface Water System Facilities

2 No person shall connect to, substantially increase the flow
3 to, or alter the character of storm and surface water flowing to,
4 any part of the storm and surface water system or construct or
5 extend any such part, cause erosion, or alter a designated
6 wetland, floodplain or floodway without first making an
7 application and securing a permit from the Agency for such action,
8 and paying such charges therefor as are more fully described in
9 Section 8.

10 1. Upon approval of the application and payment of all
11 charges, the Agency will issue a connection, construction,
12 extension, wetland, floodplain or floodway alteration or erosion
13 control permit, as applicable, for the premises covered in the
14 application. The application and permit shall be on forms
15 provided by the Agency.

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

22 3. The applicant's signature on the application for any
23 permit as set forth, shall constitute an agreement to comply with
24 all of the provisions, terms and requirements of this Ordinance
25 and any other applicable federal, state or local law, and with the
26 plans and specifications filed with the application if any,

1 together with such corrections or modifications as may be made or
2 permitted by the Agency, if any. Such agreement shall be binding
3 upon the applicant and may be altered only by the Agency upon
4 written request for alteration from the applicant. All rules
5 adopted pursuant to this section regarding standards for
6 construction of the components of the Unified Sewerage Agency
7 system must be met to the satisfaction of the Agency prior to any
8 connection to the Agency system.

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

13 SECTION 5. DESIGNATION OF WETLAND, FLOOD PLAIN, AND OTHER
14 LANDS

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

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

25 C. The Board may by rule exempt certain classes of
26 activities from the requirements of Subsection B of this Section,

1 upon a finding that such activities, in the aggregate within the
2 Agency, would have no substantial adverse effect on public safety
3 and water quality.

4 SECTION 6. STANDARDS FOR SEPTIC TANK PERFORMANCE

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

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

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

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

23 E. Within three years of such time as a public sewer becomes
24 available to a property served by a private sewage disposal
25 system, a direct connection shall be made to the public sewer in
26 compliance with the rules and regulations of the Agency, and any

1 septic tanks, cesspools, and similar private sewage disposal
2 facilities shall be abandoned and filled with suitable material as
3 required by Oregon law.

4 SECTION 7. INFILTRATION AND INFLOW

5 A. Drainage from roofs, foundation drains, gutters,
6 uncontaminated cooling water or surface or ground water drains
7 shall not be permitted to enter the Agency sanitary sewer system.
8 Leaks from private sewage systems including, but not limited to
9 building and side sewers, into the Agency sanitary sewer system
10 shall not be permitted. Neither temporary nor permanent drainage
11 from excavations into the Agency sanitary sewer system shall be
12 allowed. Overflows or drains from private or public swimming
13 pools shall not be permitted without prior written approval of the
14 Agency.

15 B. Violation of subsection A of this Section is hereby
16 deemed to be a public nuisance, and shall be subject to the
17 remedies and enforcement of Section 11.

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

21 SECTION 8. CHARGES, FEES, AND PENALTIES

22 A. Charges and Fees

23 Upon the recommendation of the General Manager, USAAC, or
24 upon its own motion, the Board may adopt by rule charges, rates,
25 and fees for the use of or connection to the Agency system, and

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1 for services provided by the Agency. Such rules may include
2 delinquency and interest charges and penalties. Such charges and
3 fees shall be just and equitable based upon the anticipated costs
4 of operation, maintenance, acquisition, extension and replacement
5 of the Agency system, regulation and administration, services of
6 the Agency and the costs of bond repayment.

7 1. All permit charges so adopted shall become due and
8 payable and shall be a debt due the Agency from the date of
9 approved application. Service fees shall be due and payable in
10 advance. If such charges and fees are not paid when due, the
11 amounts thereof, together with applicable penalties, interest and
12 costs may be recovered in an action at law, or may be certified as
13 delinquent to the tax assessor in the manner prescribed and
14 authorized by ORS 454.225.

15 2. In addition to any other remedies provided by this
16 ordinance or by law, the Agency may refuse to issue any permit to
17 any person who is delinquent in any payment.

18 B. Penalties for Late Payment or Nonpayment of charges

19 1. It shall be unlawful and a violation of this
20 Ordinance for any person to use or connect to the Agency system
21 without paying the appropriate charge(s) or fee(s) established in
22 this Section or any rule adopted pursuant hereto or to fail to pay
23 such fee(s) on time.

24 2. Nothing contained herein shall in any way limit the
25 right of the Agency or any other entity, to bring a civil action

1 for legal or equitable remedies or damages in connection with
2 failure to pay or late payment of any charge or fee established
3 herein or the right of the Agency to deny sewer service through
4 the discontinuance of water service and/or disconnection to the
5 lateral(s). The expense of such a discontinuance or disconnection
6 as well as the cost of restoring service shall be a debt due the
7 agency and shall be recoverable in the same manner as other
8 delinquent charges and fees.

9 SECTION 9 ADOPTION OF RULES; INTERPRETATIONS AND APPEALS

10 A. Adoption of Rules.

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

15 2. Any rule adopted pursuant to this Section shall
16 require a public hearing. Not less than five nor more than thirty
17 days before such hearing, public notice of such hearing shall be
18 given by publication in a newspaper of general circulation within
19 the Agency. Such notice shall include the place, time, and
20 purpose of the hearing and the location at which copies of the
21 full text of the proposed rules may be obtained.

22 3. At the public hearing, the Board shall hear testimony
23 concerning the proposed rules. At the conclusion of the public
24 hearing, the Board shall either adopt the proposal, modify or
25 reject it. If a modification is made, an additional public
26 hearing shall be held but no additional notice shall be required

1 if such additional hearing is announced at the meeting at which
2 the modification is made. Unless otherwise states, all rules
3 shall be effective upon adoption by the Board and shall be filed
4 in the Office of the Unified Sewerage Agency.

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

12 B. Administrative Appeal.

13 1. This Ordinance, all rules, regulations, fees, and
14 applications thereof shall be initially interpreted by the Agency.
15 For the purposes of this section, "Agency" shall be defined as any
16 employee or representative authorized and designated by the
17 General Manager to render interpretive rulings of this Ordinance.

18 2. Any person aggrieved by a ruling or interpretation
19 of, and requesting a variance or exception from the provisions of
20 this Ordinance, shall submit a written appeal to the General
21 Manager together with the applicable fee. The appeal shall set
22 forth the facts and circumstances leading to the appeal, the
23 Agency rule or interpretation at issue, the nature of the
24 interpretation from which relief is sought, the impact of the rule
25 or ruling on the appellant, together with any other reasons for
26 the appeal. No review of the application of any rule,

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1 interpretation, or variance from a rule shall be authorized under
2 this section unless the person seeking the review has first
3 requested in writing an interpretation by the Agency.

4 3. The General Manager shall review each complete appeal
5 request. He may designate a USA staff member to investigate the
6 matter. He may request additional information from the appellant,
7 and from Agency staff. The General Manager shall cause to be
8 prepared a written decision on the matter within 30 days of
9 receipt of a complete appeal. The General Manager's written
10 decision shall be mailed or delivered to the appellant.

11 4. If the appellant is dissatisfied with the General
12 Manager's decision, he may appeal the matter to the Agency Review
13 Authority, who may be the Unified Sewerage Agency Advisory
14 Commission, a hearing officer appointed by the Agency, or as
15 otherwise provided by rule. Such appeal shall be in writing, be
16 accompanied by the required fee, and shall be actually received by
17 the Agency within 30 days of the date of mailing or delivery
18 (whichever occurs first) of the General Manager's decision.
19 Failure of an appeal to conform to the requirements of this
20 subsection shall be grounds for dismissal of the appeal.

21 5. The Agency review authority shall review the written
22 appeal, and any written material submitted by Agency staff, and
23 the Agency Ordinance, rule or decision at issue. The authority
24 may schedule a hearing by written notice not less than 14 days in
25 advance to hear testimony and further information. The appeal
26 authority may uphold, set aside, or modify the decision of the

1 Agency. The decision of the Agency may be rejected or modified
2 only if:

3 a. It exceeded the authority of the Agency; or

4 b. It was based upon an incorrect interpretation of
5 law or Agency ordinance; or

6 c. It was not supported by substantial evidence in
7 the record.

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

11 7. Subsection B of this section shall not apply to
12 actions or decisions of the Agency under Section 11 of this
13 Ordinance.

14 SECTION 10. MISCELLANEOUS PROVISIONS REGARDING USE OF AGENCY
15 WASTEWATER SYSTEM

16 A. Hold Harmless

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

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1 the costs of defense of such claims including attorney fees.

2 B. Compliance with Laws

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

7 C. Ordinance and Rules as Contract

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

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

17 A user or connector to the Agency system does not thereby
18 acquire a vested property interest in continued use or connection
19 to the system. Such use of connection is conditional always upon
20 such user or connector complying with all applicable terms and
21 conditions contained in this Ordinance and all Resolutions and
22 Orders adopted pursuant hereto and, further, upon compliance with
23 all federal, state or local requirements which are or may
24 hereafter be imposed upon such user or collector. Nothing
25 contained herein shall require the Agency to provide service or
26 access to the system to such user or collector when any federal,

1 state or local agency having jurisdiction over the Agency has
2 imposed limitations on such service or access or when the Agency,
3 in its discretion, has determined that the public interest
4 requires any such limitation.

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

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

16 F. Administration of this Ordinance

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

21 SECTION 11. ENFORCEMENT AND REMEDIES

22 A. Jurisdiction

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

1 element of any violation of this Ordinance.

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

5 B. Civil Penalties

6 1. The Board may by rule establish a schedule of civil
7 penalties to be assessed against persons who violate this
8 Ordinance. For violations pertaining to industrial users and
9 industrial waste, the maximum civil penalty shall not exceed
10 \$25,000 per day, and the minimum shall not be less than \$100 per
11 day. The Board may set higher minimum penalties by rule.

12 C. Hearings Officer

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

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

23 D. Abatement

24 1. In addition to other enforcement actions and remedies
25 which may be available to the Agency for violation of this
26 Ordinance, the remedy of abatement may be utilized to address the

1 following:

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

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

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

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

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

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

25 /////
26 /////
27

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

4 2) Directing that the condition be abated within
5 15 days of the date of the notice;

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

10 4) Stating that, if the prohibited condition has
11 not been fully abated within 15 days of the notice, the USA may
12 cause the prohibited condition to be abated, and may bill the cost
13 to the property owner.

14 b. If the General Manager determines that the
15 prohibited condition or nuisance constitutes an imminent threat to
16 public health or safety he may cause the condition to be abated,
17 provide notice of the abatement as described in 2(a) above as soon
18 as practicable, and charge the cost of abatement to the property
19 owner.

20 c. Upon receipt by the Agency of a written request
21 for a hearing, including the applicable fee, the General Manager
22 shall set a time and place for a hearing on the abatement order,
23 which shall be not more than ten days from the date of filing of
24 the request for hearing, and shall so notify the person requesting
25 hearing. The owner or person in charge of the property may
26 present evidence before the General Manager or his designee

1 pertinent to the prohibited condition or its abatement. The
2 General Manager or his designee shall also appear and present
3 evidence pertinent to its abatement. Failure of the person
4 requesting hearing to appear at the hearing shall constitute a
5 waiver of the right to a hearing.

6 d. After the hearing the General Manager or his
7 designee shall enter an order containing his findings as to
8 whether the alleged nuisance or prohibited condition exists, and
9 may confirm or extend the time in which the condition is to be
10 abated. If the nuisance has been abated under D.(2)(b) of this
11 Section, the hearing regarding the abatement order may be combined
12 with the hearing on objection to cost, if any.

13 e. If the nuisance or prohibited condition has not
14 been abated within the time provided in the Notice of Abatement or
15 as modified at the hearing, the General Manager may cause the
16 condition or nuisance to be abated. Accurate records shall be
17 kept of the direct expense for the cost of personnel, real and
18 personal property, equipment, and materials of the Agency utilized
19 for the abatement. A surcharge of twenty five percent of the
20 direct cost shall be added to reflect administrative and overhead
21 costs. A billing for the amount of said costs shall be forwarded
22 by registered or certified mail to the owner or person in charge
23 of the property, or both of them, for full payment. Payment shall
24 be due within 30 days of the date of mailing.

25 /////
26 /////
27

1 2. In addition to other remedies and enforcement
2 provisions herein, the District Court shall have jurisdiction of
3 all violations of this Ordinance. Upon conviction of any person of
4 a violation of this Ordinance, such person may be punished by a
5 fine of not more than \$500. Each day of a continuing violation
6 shall constitute a separate violation of this Ordinance. Nothing
7 contained herein shall in any way limit the right of the Agency or
8 any other entity, to bring a civil action for legal, equitable or
9 administrative remedies or damages in connection with any such
10 violation.

11 3. Upon conviction of any person for failure to pay a
12 connection fee prescribed by this Ordinance, in addition to a
13 fine, the Court imposing such fine shall have the authority to
14 order any person convicted of connecting without payment of all
15 applicable charges to pay all back charges including interest,
16 penalties and delinquency charges to the Agency.

17 G. Enforcement of Industrial User Standards Through
18 Administrative and Civil Penalties

19 1. Imposition of Civil Penalties

20 The Agency may impose civil penalties including, but
21 not limited to, fines, modification or revocation of permits,
22 and/or cessation of services when any Industrial User:

- 23 a. fails to factually report the wastewater
- 24 constituents and characteristics of its discharge;
- 25 b. fails to report significant changes in
- 26 wastewater constituents or characteristics;

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

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

16 E. Search Warrant

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

20 F. District Court Enforcement of Violations

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

25 //

26 //

1 c. refuses reasonable access to the User's premises
2 by representatives of the Agency for the purpose of inspection or
3 monitoring; or

4 d. violates any condition or provision of its
5 permit, this Ordinance, any rule adopted pursuant hereto or any
6 final judicial order entered with respect thereto.

7 2. Procedure for Imposition of Civil Penalties

8 a. Whenever the Agency finds that any Industrial
9 User has engaged in conduct which violates any provision of this
10 Ordinance, the Agency shall serve or cause to be served upon such
11 Industrial User a written notice either personally, by office or
12 substitute service, as those terms are defined in the Oregon Rules
13 of Civil Procedure, or by certified or registered mail, return
14 receipt requested, stating the nature of the alleged violation and
15 the civil penalty contemplated by the Agency. Within 30 days of
16 the date of receipt of the notice, the Industrial User shall
17 respond in writing to the Agency advising of its position with
18 respect to the allegations. Thereafter, the parties may meet to
19 ascertain the veracity of the allegations and where necessary,
20 establish a plan for the satisfactory correction thereof. Nothing
21 contained in this Section shall be deemed to preclude the Agency,
22 in its sole discretion, from beginning the show cause proceeding
23 described in Section 11.G.2.b. at any time.

24 b. Show Cause Hearing

25 Where the violation alleged is not corrected
26 within a reasonable time pursuant to the procedure contained in

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1 Section 11.G.2.a., the Agency may order any Industrial User which
2 causes or allows the violation alleged to continue, to show cause
3 before the Agency, its General Manager or other authorized
4 representative or designee, why the proposed civil penalties
5 should not be imposed. As used throughout Section 11.G. of this
6 Ordinance, a "reasonable time" shall be determined in good faith
7 by the Agency taking into consideration the totality of the
8 circumstances involved. A written notice shall be served on the
9 Industrial User by personal service, office or substitute service,
10 as those terms are defined in the Oregon Rules of Civil Procedure,
11 or by certified or registered mail, return receipt requested,
12 specifying the time and place of a Show Cause hearing to be held
13 by the Agency or its designee regarding the violation, the reasons
14 why the enforcement action, including any proposed civil penalty
15 assessment, is to be taken and directing the Industrial User to
16 show cause why the proposed enforcement action should not be
17 taken. The notice of hearing shall be served no less than ten
18 days before the hearing. Service may be made on any agent,
19 officer, or authorized representative of an Industrial User. The
20 proceedings at the hearing shall be considered by the Agency which
21 shall then enter appropriate orders including any civil penalty
22 being imposed with respect to the alleged improper activities of
23 the Industrial User. Appeal of such orders may be taken by the
24 Industrial User as provided in Section 11.G.2.d. below.

25 //

26 //

1 c. Schedule of Civil Penalties

2 In addition to any liability, duty or other
3 penalty provided by law, the Agency, its General Manager or other
4 authorized representative or designee, as the case may be, may
5 assess, in conjunction with the show cause proceeding described
6 above, a civil penalty for any violation contained in Section
7 11.G.2.a. above, by service of a written notice of assessment of
8 civil penalty upon the Industrial User as provided in Section
9 11.G.2.a. above. Each day of a continuing violation shall
10 constitute a separate offense for purposes of the civil penalties
11 assessable for such violation.

12 d. Appeal

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

21 2) Every notice of review shall at a minimum
22 contain:

- 23 a) A reference to the matter to be
24 reviewed;
25 b) A statement of the interest of the
26 appellant/User; and

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1 c) The specific grounds relied upon as to
2 why the decision being appealed is improper or erroneous.

3 3) Appeals to the Board of Directors shall be de
4 novo and not limited to the record below.

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

7 5) The requirements of G.2(d)(1-4) of this
8 Section shall be jurisdictional.

9 6) The Board shall have the authority, upon
10 review, to set aside or modify a civil penalty if it finds, based
11 upon the evidence presented, that a violation of the Ordinance did
12 not occur, that the appellant sustained an operational upset as
13 defined in this Ordinance, or that another penalty is appropriate
14 under all the circumstances. A civil penalty may not be reduced
15 below the minimum penalty established by rule for a violation.

16 e. Enforcement of the Civil Penalty

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

22 2) If full payment is not made within such
23 15-day period, the Agency may commence further proceedings under
24 this ordinance for such violation. Alternatively, counsel for the
25 Agency may commence an action for appropriate legal and/or
26 equitable relief in the Circuit Court.

1 f. Emergency Suspension of Service and Permits

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

1 by the User of the elimination of the non-complying discharge or
2 conditions creating the threat of imminent or substantial danger
3 as set forth above.

4 3. Operation Upsets

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

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

16 b. Duration of non-compliance, and if the
17 non-compliance continues, the time by which compliance is
18 reasonably expected to occur.

19 c. All steps taken or to be taken to reduce,
20 eliminate and prevent recurrence of such an upset or other
21 conditions of non-compliance.

22 d. A documented, verified and bonafide operation
23 upset, including good faith and reasonable remedial efforts to
24 rectify the same, shall be an affirmative defense to any
25 enforcement action brought by the Agency against an Industrial
26 User for any non-compliance with this Ordinance or any rule

1 adopted or permit issued pursuant hereto, which arises out of
2 violations alleged to have occurred during the period of the
3 upset.

4 SECTION 12. SEVERABILITY

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

13 SECTION 13. JUDICIAL REVIEW

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

18 SECTION 14. REPEAL OF ORDINANCE 9; DECLARATION OF EMERGENCY

19 Ordinance 9 is hereby repealed, provided however, that
20 Resolution and Order Numbers 88-72, 89-15, and 89-34 shall remain
21 in full force and effect unless expressly repealed or superseded.
22 All permits issued pursuant to Ordinance 9, and all conditions
23 thereof, shall remain in full force and effect; and all violations
24 of Ordinance 9, any Resolution and Order, or permit thereunder,
25 shall be subject to enforcement under this Ordinance.

26 //

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1 SECTION 15. DECLARATION OF EMERGENCY

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

6 ENACTED this 5th day of June , 1990, being the date of the
7 third reading and first public hearing before the governing body of
8 the Unified Sewerage Agency of Washington County, Oregon.

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

13 APPROVED

14 *Bonnie L. Hays*
Chairman

16 *Don Pichart*
Recording Secretary

	<u>READING</u>	<u>PUBLIC HEARING</u>
18 1	<u>May 22, 1990</u>	<u>June 5, 1990</u>
19 2	<u>May 31, 1990</u>	<u> </u>
20 3	<u>June 5, 1990</u>	<u> </u>

21 VOTE: AYE Hays, Killpack, Meek, Rogers, Larrance
22 NAY None

23 *Don Pichart*
RECORDING SECRETARY

24 DATE June 5, 1990



AGENDA

UNIFIED SEWERAGE AGENCY BOARD OF DIRECTORS

PUBLIC HEARING
Third Reading, First Public Hearing--Proposed Ordinance
No. 18*

Agenda Title _____

To be presented by Gary F. Krahmer, General Manager *K*

SUMMARY (Attach Supporting Documents if Necessary)

*An Ordinance Prescribing the Rules and Regulations Governing the Use and Operation of the Sanitary Sewerage System; Prescribing the Rules and Regulations Governing the Storm and Surface Water System; Imposing Charges for Connection to and Use of These Systems; Adopting Appeals Procedures and Enforcement Provisions; Repealing Ordinance 9; and Declaring an Emergency.

FISCAL IMPACT: NA

REQUESTED ACTION:

Conduct third reading, first public hearing and Ordinance No. 18 and adopt Ordinance No. 18.

APPROVED

Agenda Item No.	4.a.
Date:	6/5/90 003

(201 98)

FILED
NOV 14 PM 12:55
REGISTRATION DEPARTMENT
UNIFIED SEWERAGE AGENCY

IN THE UNIFIED SEWERAGE AGENCY
OF WASHINGTON COUNTY, OREGON

In the Matter of the Adoption of)
Administrative and Judicial)
Enforcement Procedures for)
Violations; Adoption of Administrative)
Appeal Procedures; all Pursuant to)
Ordinance 18, Rules and Regulations)
Adopted Thereunder.)

RESOLUTION AND ORDER
No. 90-63

The above-entitled matter came on regularly before the Board
at its meeting of November 6, 1990; and,

It appearing that this Board did, on June 5, 1990, adopt
Ordinance No. 18 of the Unified Sewerage Agency, which prescribes
Rules and Regulations Governing the Use and Operation for Storm
and Surface Water Management for the Unified Sewerage Agency of
Washington County, Oregon; Imposing Charges for the Use thereof;
and Adopting appeals Procedures and Enforcement Provisions"; and

It appearing to this Board that according to Section 9 of
Ordinance 18, this Board may adopt rules pursuant to any provision
of the Ordinance, and that under Section 11 of the Ordinance may
adopt a schedule of civil penalties to be assessed against persons
who violate the ordinance, for civil citation, imposition of
penalties, notice, hearing, and decision; and that the provisions
of Exhibit A attached hereto contain administrative and judicial
enforcement provisions, and administrative appeal procedures
carrying out the functions and provisions of Ordinance 18; and

It appearing to this Board that it has conducted a public
hearing regarding the adoption of these rules and regulations this

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1 date and that any person affected by the proposed rules had an
2 opportunity to testify, and that public notice of such hearing was
3 given in accordance with Section 9 of the aforesaid Ordinance; and

4 It appearing to this Board that it is necessary and
5 appropriate to the effective implementation of Ordinance 18 to
6 adopt the rules contained in Exhibit "A" relating to
7 administrative and judicial enforcement for violation of said
8 Ordinance together with provisions for administrative appeals; and
9 the Board being fully advised in the premises; it is therefore

10 RESOLVED AND ORDERED that the rules contained in Exhibit "A"
11 are adopted and promulgated by this Board, effective as of this
12 date; and it is further

13 RESOLVED AND ORDERED that the General Manager shall make
14 available such rules in the Office of the Unified Sewerage Agency.

15 DATED this 6th day of November, 1990

UNIFIED SEWERAGE AGENCY OF
WASHINGTON COUNTY, OREGON
By its Board of Directors

Ronnie L. Hays
Chairman

Nancy Pinke

Recording Secretary

	AYE	NAV	ABSENT
HAYS	✓		
KULLBACK			✓
LAPRANCE	✓		
NEEK	✓		
ROGERS	✓		

CHAPTER I - ADMINISTRATIVE ENFORCEMENT

Section 1 Purpose; Scope; Definitions

1.01 The purpose of this Chapter is to establish an administrative process by which the Agency may take civil, administrative action to enforce compliance with, and penalize noncompliance with Ordinance 18. This Chapter is intended to supplement, and not to substitute for, judicial enforcement of the Ordinance by the Agency, and enforcement of subjects relating to the Ordinance by other local, state, and federal authorities. Agency enforcement action pursuant to Chapter I of this rule shall be in addition to, and not in lieu of, any other action, penalty or remedy provided by law.

The Agency has regulatory jurisdiction within incorporated cities within its boundaries. The Agency may take enforcement action under this Chapter for violations occurring within cities and within unincorporated areas of the Agency. Definitions shall apply throughout this rule.

1.02 "Administrative Orders" shall mean orders of the Agency issued pursuant to this rule, including orders to cease and desist or stop work, orders to remedy a violation, orders terminating or suspending a permit or suspending issuance of further permits, and orders to pay a penalty.

1.03 "Civil Citation" shall mean a citation conforming to the requirements of this chapter, charging a person with one or more violations of this Ordinance.

1.04 "Defendant" means the person charged with a violation, pursuant to Chapter II of this rule.

1.05 "Mitigating and Aggravating Factors" shall mean those factual matters which are not an element of a violation of this ordinance, but which are to be considered as provided in this rule, in a determination of the civil penalty to be assessed for a violation.

1.06 "Respondent" means the person against whom a civil citation is filed.

1.07 "This Ordinance" and "Ordinance 18" shall mean Ordinance No. 18, this Resolution and Order, any other Resolution and Order or rule of the Agency adopted pursuant to Ordinance 18, any permit issued thereunder, and any provision of any such permit.

1.08 "This Rule" shall mean this Resolution and Order.

1.09 "Uniform Citation" shall mean a citation conforming to the requirements of Chapter 3 of this rule, charging a person with one or more violations of this Ordinance.

1.10 "Violation" means a transgression of any provision of this ordinance, and includes: violation of any regulation or rule adopted thereunder; any permit or term of a permit issued thereunder; any activity for which a permit is required but for which no permit has been obtained, or for which a permit has expired, been revoked, or suspended; failure to comply with an administrative compliance order of the Agency issued pursuant to this rule. The term includes both acts and omissions. Except as specifically provided in this rule, intent is not an element of any violation.

Section 2 - Civil Citation Form

2.01 A Citation conforming to the requirements of this section may be used for all violations committed within the boundaries of the Agency for which enforcement action is to be taken by the Agency under sections 2 through 4 of this Chapter.

2.02. The Uniform Citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

1. Complaint
2. Agency Counsel's record of violation
3. Agency record of violation
4. Summons

2.03 Each of the parts shall contain the following information or blanks in which such information shall be entered:

1. Name of the person cited;
2. Section of the Agency Ordinance, Resolution, rule, permit, or Order violated;
3. Brief description of the violation of which the person is charged such as can be readily understood by a person making a reasonable effort to do so;
4. The date and place at which the violation is alleged to have occurred, the date on which the citation was issued, and the name of the Agency employee issuing the citation;
5. The time and place where the person is to appear before the Agency Hearings Officer.
6. The maximum penalty amount fixed for the violation. The minimum penalty amount respondent is required to pay, unless a hearing is requested by the respondent or set by the Hearings Officer.
7. The designation of the method of service and certification that such service has been made.
8. Each of the parts shall also contain such identifying and additional information as may be necessary or appropriate for the Agency to administer its ordinances, standards, and orders.
9. The summons also shall contain a notice to the person that the complaint will be filed with the Agency. The reverse side of the summons shall contain the following in a form substantially as follows:

READ CAREFULLY

You have been charged with a violation of Unified Sewerage Agency Ordinance, or Order. You MUST do ONE of the following:

1. Mail or otherwise deliver to the Agency this summons, and request a hearing. THIS SUMMONS MUST REACH THE AGENCY WITHIN 14 DAYS OF THE DATE OF SERVICE OF THIS CITATION, OR THE HEARING WILL BE DEEMED WAIVED.

2. If you don't want a hearing, but wish to explain your side, send your explanation with the summons and payment of the penalty by check or money order. The Hearings Officer will then consider your explanation and may retain the penalty payment or any part of it on the basis of your explanation and information provided by the Agency.

3. Sign the "Admission or No Contest" form and send this summons and check or money order in the amount of the penalty indicated on the other side of this summons to the Agency. THIS SUMMONS AND THE PENALTY PAYMENT MUST REACH THE AGENCY BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR BEFORE THE HEARINGS OFFICER.

APPEARANCE, "ADMISSION OR NO CONTEST," AND WAIVER

I, the undersigned, do hereby enter my appearance on the complaint of the violation charged on the other side of this summons. I understand that I have a right to a hearing before the Agency. I understand that my signature to this admission or no contest will have the same force and effect as a judgment of the Agency hearings officer. I do hereby ADMIT, or give NO CONTEST to said violation as charged, WAIVE my right to a HEARING by the Agency Hearings Officer, and agree to pay the penalty prescribed for my violation.

Respondent

Respondent's Address

Mail your summons and remittance to:

Unified Sewerage Agency
155 North First Avenue Suite 270
Hillsboro, Oregon 97124

2.04. Any error in transcribing information into the blanks provided in the citation form when determined by the Agency or Hearings Officer to be nonprejudicial to the respondent's defense, may be corrected at the time of hearing or prior to time of hearing with notice being given to the respondent.

Section 3 - Civil Citation Process

3.01 A. The General Manager or his designee may issue a Civil Citation for a violation committed in his presence, and when committed at any location within the boundary of the Agency.

B. The General Manager or his designee may in addition issue a Civil Citation for a violation based upon evidence presented to him including but not limited to a sworn statement of a witness, and subject to the discretion and judgment of the Agency legal counsel.

3.02 If a Civil Citation is issued under Section 3.01, the General Manager or his designee, or a peace officer or Agency legal counsel, shall serve or cause to be served, the summons portion of such citation in the manner provided in the Oregon Rules of Civil Procedure (1989 Edition) for service of summons and complaint.

3.03 The respondent shall, by the time indicated in the summons, deliver to the Agency one of the following:

- A. A request for a hearing; or
- B. A statement of matters and explanation offered in mitigation of the offense charged; together with the penalty prescribed for the violation, as indicated on the summons; or
- C. The executed appearance, waiver of hearing and the "Admission or No Contest" form appearing on the summons, together with the penalty prescribed for the violation, as indicated on the summons.

3.04 If a respondent has submitted to the Agency a written statement as provided in Section 3.03B or C, it constitutes a waiver of hearing and consent to decision by the Hearings Officer declaring a forfeiture of all or any part of the penalty as determined by the Hearings Officer on the basis of such statement and any testimony or pertinent information which may be presented to the Hearings Officer.

3.05 If the respondent requests a hearing, or pursuant to Section 3.07 of this Chapter the Hearings Officer directs that a hearing be held, the Hearings Officer shall fix a date and time for hearing and, unless notice is waived, shall at least ten days in advance of the hearing, mail to respondent a notice of the date and time so fixed. The notice shall set forth a warning that for failure to appear for the hearing, the respondent may be found in default and a penalty assessed without hearing.

3.06 Upon a finding by the Hearings Officer that respondent did not make appearance as required without due and good cause, the respondent shall be deemed to have waived his right to a hearing and decision may be entered based upon information presented to the Hearings Officer.

3.07 The Hearings Officer may direct that a hearing be held on any Uniform Citation Issued. No penalty may be imposed in excess of the amount of the basic penalty unless a hearing is held.

3.08 A. Each and every violation is a separate and distinct offense, and in cases of continuing violation, each day's continuance is a separate and distinct violation, subject to a separate and distinct penalty under this rule.

B. Proceedings for the citation, hearing, and determination of a civil penalty for multiple violations may be consolidated into a single proceeding.

3.09 Each element of a violation shall be established by a preponderance of the evidence. The Agency shall bear the burden of proof as to elements of any violation. The party contending that aggravating or mitigating circumstances exist bears the burden of establishing the facts of such circumstances. The Agency may adopt additional rules governing the conduct of hearings for the purpose of providing a complete and orderly presentation of relevant evidence and argument. Hearings are public and may be recorded on video or audio tape by the Agency.

3.10 The General Manager may appoint one or more hearings officers to conduct hearings under this ordinance and rule. The General Manager may, in addition, appoint or designate a group of persons to serve as Hearings Officer. The person or persons serving as Hearings Officer may be an Agency employee or an independent contractor, but shall have no personal interest in the case. If an Agency employee, he or she shall not be a direct supervisor of the employee issuing the citation or any person serving as a witness in the case. If a private individual, the Agency may contract with that person for service as Hearings Officer, according to the contracting procedures of the Agency.

3.11 Upon a finding by the Hearings Officer that the Respondent committed a violation, he shall assess a civil penalty, as provided in Section 4.

Section 4 - Civil Penalties

4.01 Penalties shall be assessed by the Hearings Officer according to this Chapter. For each violation, the basic penalty shall be assessed, unless aggravating or mitigating factors are established by a preponderance of the evidence. The maximum penalty for any violation pursuant to this Chapter shall be \$1,000.

4.02 When the Hearings Officer finds that a violation is accompanied by aggravating or mitigating factors as defined herein, the penalty otherwise provided may be adjusted as provided in this section.

4.03 Basic Penalties

<u>Nature of Violation</u>	<u>Basic Penalty</u>
A. Any provision of this Ordinance, except failure to pay an Agency fee, and violations pursuant to Section 11G, (Industrial Users).	\$100
B. Second violation, same type, within any 12 month period.	\$250
C. Third violation, same type, within any 12 month period.	\$500
D. Fourth and succeeding violations, same type, within a 12 month period.	\$1000

4.04 Penalty Adjustments for Aggravating Factors

For violations accompanied by aggravating factors, the hearings officer may add an amount to the basic penalty reflecting the aggravating factors, as follows:

<u>Factor</u>	<u>Added Penalty</u>
A. Second violation of any kind within any 12 month period.	\$150
B. Third violation of any kind within a 12 month period.	\$400
C. Fourth and succeeding violations of any kind within a 12 month period.	\$900
D. When the violator has avoided an otherwise necessary expense or effort in committing the violation.	\$100 up to \$900
E. When the violation caused demonstrated harm to the environment, Agency or other public facilities, requiring repair or cleanup.	\$100 up to \$900
F. Based upon the seriousness or magnitude of the harm caused.	\$100 up to \$900
G. When the violation was intentional.	\$100 up to \$900

4.05 Penalty Adjustments for Mitigating Factors

For violations accompanied by mitigating factors, the hearings officer may reduce the basic penalty amount to reflect the mitigating factors, as follows:

<u>Factor</u>	<u>Penalty</u>
A. Cooperation of Respondent in Correcting the Violation	up to the applicable basic penalty.
B. Completion of Beneficial Actions in Addition to Correcting the Violation.	up to the applicable basic penalty.

4.06 The Hearings Officer shall render a written opinion within 30 days of the date of the hearing, or if no hearing was held, within 30 days of receipt of a summons by the Agency, or within 30 days of the date provided in the summons for a response to the Agency. In the event a basic penalty is modified due to aggravating or mitigating circumstances, the decision shall state which factors were established. The decision shall be mailed to the Respondent by registered or certified mail, and shall state that it is the final decision of the Agency. A final decision under this Section shall be subject to review solely and exclusively under the provisions of ORS 34.010 through 34.100 (1989 Edition).

Section 5 - Administrative Orders

5.01 Order to Cease and Desist Activity (Stop Work)

The General Manager or his designee may issue an administrative order under this chapter to any person found by the Agency to be in apparent violation of this ordinance. Any such administrative order shall be in writing, shall be addressed to the person or persons apparently committing the violation, and shall state the provision of this ordinance alleged to be violated. It shall state the date, location, and manner of the activity constituting the apparent violation, and direct that all activity causing or contributing to the violation cease (Stop work order). Such order may also direct the person to remedy the violation by a time certain, as further provided in Section 6.02. If applicable, the order shall state that activities on the property to remedy the violation are permitted.

5.02 Order to Remedy Violation

The General Manager or his designee may issue an administrative order under this chapter to remedy an apparent violation of this Ordinance. Any such order shall be in writing, and shall be addressed to the person or persons apparently committing the violation. If there is no person apparently committing the violation, the order may be addressed to the property owner, occupant, person apparently in charge of the property, or permittee under Agency permit.

5.03 Termination and Suspension of Permits

The General Manager or his designee may terminate or suspend any permit issued by the Agency upon a finding that any of the following conditions are present:

a) terms and conditions of any Agency permit are being violated; or

b) work under the permit, or at the site of the permit, is in violation of applicable Agency Ordinance or administrative order issued pursuant to this section.

5.04 Each administrative order issued under this chapter shall be delivered and filed in the manner provided in this section. A copy of the order shall be delivered by personal delivery to the person committing the apparent violation, if that person can be found at the property. A copy shall be sent by registered or certified mail to the property owner, and to the permittee under current Agency permit, if applicable, at their last known address. A copy shall be posted on the property in a conspicuous place.

5.05 Such orders may in addition be sent by regular mail or other convenient means to any person with an interest in the property or the work on the property, and to any state or local government agency having jurisdiction over the activity or condition on the property.

5.06 In addition to other matters provided in this section, each administrative order shall contain the following notice:

NOTICE OF APPARENT VIOLATION OF USA ORDINANCE

This is an administrative order of the Unified Sewerage Agency (USA or Agency). It has been issued upon the apparent violation of USA Ordinance 18 and regulations adopted thereunder, pertaining to the subject property. In addition to issuance of this Order, the Agency may issue a civil citation and assess a penalty of up to \$1000 per day for violation of the Ordinance, and may take other enforcement action provided by USA Ordinance and other laws.

Failure to follow the terms of this order may result in further enforcement action.

If you wish to request modification of this order, believe it was entered in error, request its removal due to correction of the apparent violation, or wish to appeal this order contact the Unified Sewerage Agency at (503) 648-8621, or at 155 North First, Room 270, Hillsboro, Oregon 97124. Any such request or appeal must be in writing and received by the Agency within thirty (30) days of the date of this Order.

5.07 A copy of the order shall be filed in the records of the Agency.

5.08 An administrative order under this Chapter shall be binding upon the permittee and as to any person with actual notice of the Order. Any order issued under this section shall be effective immediately upon:

1. posting at the site;
2. actual delivery to or receipt by the person committing the apparent violation or the person to which a USA permit related to the subject property has been issued; and
3. filing of the order in the USA office.

The Order may by its own terms provide for a later effective date, not to exceed 14 days from issuance of the order.

Section 6 - Modification, Removal, and Appeal of Administrative Order

6.01 Administrative Orders issued under this Chapter shall be subject to appeal in the manner provided in Ordinance 18, Section 9B, provided that any appeal shall be filed with the Agency within 30 days of issuance of the Administrative Order appealed.

6.02 The General Manager or his designee may modify or remove any administrative order issued under this section when, after Agency inspection of the property or demonstration through other clear and objective evidence, the apparent violation on the property has been corrected, or the order was issued in error.

6.03 Modification or removal of an Order under this Section shall be by additional written order. Such order shall identify any prior order affected, and shall be delivered and filed in the manner provided in section 5.04 and 5.07.

CHAPTER II - JUDICIAL ENFORCEMENT OF VIOLATIONS

1.01 Scope

The Agency has regulatory jurisdiction within incorporated cities within its boundaries. The Agency may take enforcement action under this Chapter for violations occurring within cities and within unincorporated areas of the Agency.

The provisions of this Chapter are in addition to and not in lieu of any criminal prosecution, penalties, or remedies provided within USA Ordinance 18 or other applicable law.

1.02 Citation Form

A. A Uniform Citation conforming to the requirements of this section may be used for all violations committed within the boundaries of the Agency, for which enforcement action is to be taken by the Agency under the provisions of this Chapter.

B. The Uniform Citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

1. Complaint
2. Agency Counsel's record of violation
3. Agency record of violation
4. Summons

C. Each of the parts shall contain the following information or blanks in which such information shall be entered:

1. Name of the person cited;
2. Section of the Agency Ordinance, or Order violated;
3. Brief description of the violation of which the person is charged in such a manner as can be readily understood by a person making a reasonable effort to do so, the date and place at which the violation occurred, the date on which the citation was issued, and the name of the complainant;
4. The time and place where the person is to appear before the Court, which shall be not more than fourteen (14) days from the date of issuance of the citation. The maximum penalty amount, if any, fixed for the violation.
5. The designation of the method of service and certification that such service has been made.
6. The bail, if any, fixed for the violation.

D. Each of the parts shall also contain such identifying and additional information as may be necessary or appropriate for the Agency to administer its ordinances, standards, and orders.

E. The summons shall contain a notice to the person that the complaint will be filed with the Agency. The reverse side of the summons shall contain the following in a form substantially as follows:

READ CAREFULLY

You have been charged with a violation of Unified Sewerage Agency Ordinance or Orders. You **MUST** do **ONE** of the following:

1. Appear in Court at the time mentioned in this summons and request a hearing. The Court will then set a time for a hearing.
2. Mail to the Court this summons, together with a check or money order in the amount of the penalty indicated on the other side of this summons, and tell the Court you request a hearing. **THIS SUMMONS AND THE PENALTY MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT.** If you don't want a hearing, but wish to explain your side, send your explanation with the summons and payment of the penalty. The Court will then consider your explanation and may retain your penalty or any part of it on the basis of your explanation and what the Agency employee tells the Court.

3. Sign the "Admission or No Contest" form and send this summons and check or money order in the amount of the penalty indicated on the other side of this summons to the Court. THIS SUMMONS AND THE PENALTY MUST REACH THE COURT BEFORE THE TIME WHEN THIS SUMMONS REQUIRES YOU TO APPEAR IN COURT.

APPEARANCE, "ADMISSION OR NO CONTEST", AND WAIVER

I, the undersigned, do hereby enter my appearance on the complaint of the violation charged on the other side of this summons. I have been informed of my right to a trial, that my signature to this admission or no contest will have the same force and effect as a judgment of the Court. I do hereby ADMIT, or give NO CONTEST to said violation as charged, WAIVE my right to a HEARING by the Court and agree to pay the penalty prescribed for my violation.

Defendant

Defendant's Address

Mail your summons and remittance to:

Washington County District Court
Courthouse
Hillsboro, Oregon 97124

NOTICE

IF YOU FAIL TO DO ONE OF THE THREE FOREGOING PROCEDURES, OR FAIL TO APPEAR FOR TRIAL AT THE TIME SET BY THE COURT YOU MAY BE CHARGED WITH THE ADDITIONAL AND SEPARATE VIOLATION OF FAILURE TO MAKE REQUIRED APPEARANCE.

THE COURT MAY, IN ANY CASE, AFTER NOTICE, REQUIRE YOU TO APPEAR FOR A HEARING.

G. Any error in transcribing information into the blanks provided in the citation form when determined by the Agency or Court to be nonprejudicial to the defendant's defense, may be corrected at the time of hearing or prior to time of hearing with notice being given to the respondent. For violations committed outside Washington County, the name and address of the appropriate Court may be substituted in the summons and complaint.

1.03 Issuance

A. The General Manager or his designee may issue a Uniform Citation for violation of Agency Ordinance, standards, or order committed in his presence or in the presence of his designee, and when committed at any location within the boundary of the Agency.

B. The General Manager or his designee may in addition issue a Uniform Citation for a violation based upon evidence presented to him including but not limited to a sworn statement of a witness and subject to the discretion and judgment of the Agency legal counsel.

1.04 Service

If a Uniform Citation is issued under Section 1.03A or B, the General Manager or his designee, or a peace officer of the Agency counsel, respectively, shall serve or cause to be served, the summons portion of such citation in any manner provided in the Oregon Rules of Civil Procedure (1989 Edition) for service of summons and complaint.

1.05 Appearance by Defendant

The defendant shall either appear before the Court at the time indicated in the summons, or prior to such time shall deliver to the Court the summons, together with a check or money order in the amount of the penalty set forth on the summons, together with:

- A. A request of a hearing; or
- B. A statement of matters and explanation of mitigation of the offense charged; or
- C. The executed appearance, waiver of hearing and the "Admission or No Contest" form appearing on the summons.

1.06 Effect of Statement and Explanation in Mitigation

If a defendant has submitted to the Court a written statement as provided in Sections 1.05 B or C, it constitutes a waiver of hearing and consent to judgment by the Court declaring a forfeiture of all or any part of the penalty as determined by the Court on the basis of such statement and any testimony or written statement of complainant or other witness which may be presented to the Court.

1.07 Hearing Date

If the defendant requests a hearing, or pursuant to Section 1.09 the Court directs that a hearing be held, the Court shall fix a date and time for hearing and, unless notice is waived, shall at least five days in advance of the hearing, mail to defendant, a notice of the date and time so fixed. The notice shall set forth a warning that for failure to appear for the hearing, the defendant may be charged with a separate and additional offense of failure to appear.

1.08 Failure to Appear

Upon a finding by the Court that defendant did not make appearance as required without due and good cause, the defendant shall be guilty of failure to appear. The fine for conviction of failure to appear shall be in addition to the fine and court costs of the violation for which defendant failed to appear, and shall be not less than twice the amount of bail for such violation nor more than \$1,000.

1.09 Hearing Discretionary -- Exception

A. The Court may direct that a hearing be held on any Uniform Citation Issued.

B. No fine may be imposed in excess of the amount of the basic penalty or bail established by the Court, and deposited by the defendant, unless a hearing is held.

1.10 Warrant for Arrest

A. If a person cited fails to comply with the provision of Section 1.05 or if he fails to appear at any time fixed by the Court, a warrant for his arrest may be issued by a judge of the appropriate county District Court pursuant to ORS 133.060. A warrant issued by the district court may be served without further endorsement, in any county in this state. Arrest and release decision shall comply with ORS 133.450.

B. No warrant of arrest may be issued after a period of sixty days from the date of the entry of an order declaring a forfeiture of bail or other security given by the Defendant. In such case, the order declaring forfeiture of bail or other security shall be deemed the final disposition of the case.

1.11 Consolidation of Proceedings

A. Each and every violation is a separate and distinct offense, and in cases of continuing violation, each day's continuance is a separate and distinct violation.

B. Proceeding for the assessment of multiple penalties for multiple violations may be consolidated into a single proceeding.

1.12 Maximum Penalty

The maximum penalty for each and every violation of Ordinance 18 shall be \$1,000.

CHAPTER III - ADMINISTRATIVE APPEALS OF AGENCY ACTION

1.01. This Chapter contains additional provisions regarding administrative appeals of Agency action pursuant to Section 9B of Ordinance 18.

1.02 The Agency General Manager and any other review authority shall render a written decision on any appeal submitted pursuant to Ordinance 18, Section 9B3, within 30 days of receipt by the Agency of a complete appeal thereunder. The General Manager or his designee may request, and the appellant may agree, to extend the time for decision not to exceed 90 days from the date of receipt of the appeal.

1.03 In the event of a timely appeal of the General Manager's decision pursuant to Section 9B4 and 9B5, the Agency review authority shall render a written decision within 60 days of receipt of the appeal by the Agency. The General Manager, his designee, or the Agency Review Authority may request, and the appellant may agree, to extend the time for decision not to exceed 120 days from the date of receipt of the appeal.

AGENDA

UNIFIED SEWERAGE AGENCY BOARD OF DIRECTORS

"PH" Resolution and Order in the Matter of the Adoption of
Administrative and Judicial Enforcement Procedures for
Violations, and Additional Appeals Procedures; all Pursuant
Agenda Title to Ordinance 18 and Regulations Adopted thereunder.

To be presented by Gary F. Krahmer, General Manager

SUMMARY (Attach Supporting Documents if Necessary)

The Board, on June 5, 1990, and following a Public Hearing, adopted Ordinance 18. This ordinance prescribes regulations governing the use of the sewerage and surface water systems, and provides for adopting appeals procedures and enforcement provisions. The subject resolution and order provides for specific enforcement procedures, outlined as follows:

1. Administrative enforcement, including orders to stop work, to correct a violation, revocation of USA permits, and assessment of civil penalties.
2. Judicial enforcement, including the levying of fines, injunctions, and other court remedies.

The resolution also contains a provision pursuant to the Board's direction upon adopting Ordinance 18. This requires the General Manager to act upon administrative appeals under Ordinance 18 by a time certain.

Copies of the Resolution and Order will be available at the clerk's desk.

FISCAL IMPACT: NA

REQUESTED ACTION: Hold a Public Hearing on the subject Resolution and Order and subject to public testimony, adopt it.

USA RD 90-63

Agenda Item No. 3.C.
Date: 11-6-90