

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

1  
2 ROATS WATER SYSTEM, INC., an active )  
3 Oregon business corporation, )  
4 Complainant, )  
5 vs. )  
6 GOLFSIDE INVESTMENTS, LLC, an active )  
7 Oregon limited liability company, )  
8 Defendant. )

Case No.:  
COMPLAINT (Breach of Contract –  
Development Charges (ORS 756.500))

9 Complainant alleges as follows:

10 1.

11 At all material times herein, Complainant ROATS WATER SYSTEM, INC. (“The  
12 Company”), was and is an Oregon business corporation with its principal place of business  
13 located in Deschutes County, Oregon. The business is regulated by the Public Utility  
14 Commission.

15 2.

16 At all times material herein, defendant GOLFSIDE INVESTMENTS, LLC, (hereinafter  
17 “Golfside”) was and is an Oregon limited liability company with its principal place of business  
18 located in Deschutes County, Oregon. Golfside is the successor-in-interest to 523, LLC,  
19 (hereinafter “523”) of certain real property located at 61055 Parrell Road in Bend, Deschutes  
20 County, Oregon.

21 3.

22 On or about January 31, 2000, Company entered into a Water Service Agreement  
23 (hereinafter “Agreement”) with 523, a copy of which is attached hereto as “**Exhibit A**” and  
24 incorporated herein by this reference. In the Agreement, Company agreed to provide water  
25 services to 523 and 523 agreed to pay development charges pursuant to a schedule of fees.  
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4.

The property subject to the Water Service Agreement was originally one tax lot developed as a manufactured home development. On or about December 18, 2003, the owner of the property recorded a Subdivision Plat which created a 94 tax lot residential subdivision on the property.

5.

The replat alleged in paragraph 4 above, which was approved by the City of Bend pursuant to its Zoning Ordinance and I and Division Ordinance, allows Golfside to build stick-built homes on the property which was previously limited to manufactured dwellings. A copy of the Administrative Review and Decision in Project Number 05-58 is attached hereto as “**Exhibit B**” and incorporated herein by this reference.

6.

Pursuant to the Water Service Agreement between the Company and 523, the owner of the property is responsible for paying residential development charges in conformance with the Oregon Public Utility Commission Tariff Rules and Regulations. These charges are listed on the Company’s Schedule 5, and explained in the Company’s Rule 9a, which was approved by the Commission in Commission Order No. 05-811 (UW 107), dated June 24, 2005. The residential development charge and rule (originally recorded as Rule 6a) were previously filed with the Commission in December 1999. A copy of a letter from Marc Hellman, Administrator, Economic Research and Financial Analysis with the PUC dated June 27, 2005, and the approved Naming Rates For Roats Water System, Inc., is attached hereto as “**Exhibit C**” and incorporated herein by this reference.

7.

The Agreement signed by 523 LLC, on page 3 of 3, lists the Residential/Multi-Residential Development Charge and states:

1 "As per OPUC tariff rules & regulations schedule No. 5 and rule  
2 6a."

3 8.

4 The applicable tariff provides for the following residential development charges:

5 Lots less than 4,000 square feet:	\$ 975.00
6 Lots of at least 4,000 but less than 6,000 square feet:	\$1,375.00
7 Lots of at least 6,000 but less than 9,999 square feet:	\$1,975.00

8 Upon information and belief obtained by reviewing Golfside's replatted PUD dated  
9 June 24, 2005 and approved by the City of Bend effective October 19, 2005, the Company  
10 believes Golfside's subdivision consists of 13 lots less than 4,000 square feet; 71 lots of at least  
11 4,000 square feet but less than 6,000 square feet; and 10 lots of at least 6,000 square feet but  
12 less than 9,999 square feet. The total PUC tariff for this development is \$130,050.00.

13 9.

14 As part of its existing tariffs, the Company has an approved rule (Rule 9a) that  
15 addresses the residential/multi-residential charge. The rule states in part:

16 "The residential development charge is assessed (based on the lot  
17 size) on any lot or lots for which a permanent new water service  
18 is established to serve one or more residential dwellings. The  
19 residential development charge is assessed in addition to the  
20 meter set charge.

21 A residential development located on a single tax lot for which a  
22 metered water service is established to serve multiple residences,  
23 shall (in lieu of the charge based on lot size) be assessed a  
24 residential development charge based on the size of the master  
25 water meter required to serve the development (including all area  
26 to be served in future phases of the development).

Subsequent to setting the meter(s) or master meter and payment  
of fees, if lots within the development become separately  
identified tax lots, the developer(s) of the separately identified tax  
lots will then be assessed an additional charge equal to the greater  
of (a) or (b), and reduced by (c); where (a) is a residential  
development charge (based on each individual new lot size), (b)  
is the master meter set charge, and (c) is the fee previously paid

1 to set the master meter for this development. In the event that  
2 this calculation produces a number less than zero, no refund will  
3 be given, and the amount of the fee shall be zero.”

4 10.

5 Payment of the residential charge is recorded as contributions in aid of construction  
6 (CIAC). CIAC is a liability to the Company that reduces rate base. Pursuant to Oregon  
7 Administrative Rule (OAR) 860-036-0756, CIAC and its resulting depreciation is excluded  
8 from water utility ratemaking. As such, when the Company receives payment for the  
9 residential development charge, the Company records a reduction to rate base. This will have  
10 the effect of reduced revenue requirement because the Company's rate base is lower than it  
11 would have been without the CIAC. Additionally, cash received for the payments increases the  
12 Company's cash flow, which in turn, allows the Company an increased opportunity to invest in  
13 future plant improvements.

14 11.

15 Pursuant to ORS 757.225, the Company is obligated to collect the residential  
16 development charge since it is recorded in a Commission approved rate schedule. ORS  
17 757.225 states:

18 “No public utility shall charge, demand, collect or receive a  
19 greater or less compensation for any service performed by it  
20 within the state, or for any service in connection therewith, than  
21 is specified in printed rate schedules as may at the time be in  
22 force, or demand, collect or receive any rate not specified in such  
23 schedule. The rates named therein are the lawful rates until they  
24 are changed as provided in ORS 757.210 to 757.220.”

25 12.

26 The total amount the Company believes is owed by Golfside is \$129,250.00 for  
residential development charges pursuant to the Water Service Agreement and the applicable  
tariffs.

////

4 – COMPLAINT  
430-025.503.doc

BRYANT, LOVLIE & JARVIS, PC  
ATTORNEYS AT LAW, ESTABLISHED 1915

591 SW Mill View Way PO Box 1151 Bend, Oregon 97709-1151 (541) 382-4331 fax (541) 389-3386 WWW.BLJLAWYERS.COM

Golfside has refused to pay the development charges specified in the tariffs, nor any part thereof.

WHEREFORE, Company prays for an order requiring Golfside Investments to pay Company the amounts identified in the tariffs for the hook-up charges for each newly platted lot and for Company's costs and disbursements incurred herein, and for any further relief the Court deems just and equitable.

DATED THIS 9<sup>th</sup> day of February, 2006.

BRYANT, LOVLIE & JARVIS,

  
MARK G. REINECKE, OSB 91407  
Of Attorneys for Roats Water Systems

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WATER SERVICE AGREEMENT

Roats Water System, Inc., an Oregon corporation, hereinafter called "COMPANY" and SR3 LLC, hereinafter called "USER" agree as follows:

1. USER has received, read and understands COMPANY'S water policy which is attached to and incorporated as a part of this Water Service Agreement. The terms used in this agreement have the meanings assigned to them by COMPANY'S water policy unless specifically provided otherwise.
2. USER desires water service to the property described on Exhibit "A" which is attached to and made a part of this agreement.
3. COMPANY agrees to supply USER with water service to this property on the following terms and conditions:
  - 3.1 Service shall be supplied only through water facilities constructed and installed to COMPANY standards and specifications. COMPANY Standards and Specifications may be obtained from the COMPANY. All water facilities except USER'S service connection lines shall be the property of COMPANY (upon COMPANY'S acceptance in writing if they are installed by someone other than COMPANY) and shall be installed within public ways or COMPANY easements.
  - 3.2 USER shall promptly pay all charges for COMPANY water service when due. Charges shall be as prescribed by the appropriate schedule, and charges may be changed from time to time as approved by the Oregon Public Utilities Commission.
  - 3.3 No other use of COMPANY water or COMPANY water facilities except as provided in this agreement shall be permitted without express consent of COMPANY.
  - 3.4 USER shall comply with all applicable governmental laws, rules and regulations, including but not limited to the City of Bend Urban Growth Area related ordinances and resolutions, and the provisions of COMPANY water policies as they now exist and as they may be changed from time to time.

EXHIBIT   A  

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WATER SERVICE AGREEMENT (Continued)

4. This water service may be terminated by COMPANY for any failure to comply with terms and conditions of this agreement or the COMPANY'S water policy.
5. The following special conditions shall apply to the construction of all related on site facilities of the USER'S water service:
  - 5.1 USER agrees to perform all work necessary to install at property line or a location approved by COMPANY, a backflow prevention device approved by the Oregon State Health Division. This device must pass inspection by a certified backflow prevention inspector. USER agrees to have test cocks installed on this device. USER also agrees to comply with the annual requirement for checking the backflow protection valves at USER'S expense.
  - 5.2 The person or firm doing the work shall maintain, during the life of the contract, Construction Liability Insurance and appropriate Workers Compensation coverage. The coverage shall apply to his work and that of any subcontractor who performs work under this contract. COMPANY shall be held harmless from any liability of any kind resulting from or in connection with activities connected with this project.
  - 5.3 COMPANY will perform the following work as required: Connection, Inspection, Testing, Chlorination and Flushing. USER shall reimburse COMPANY for the actual cost of the above described work including labor, material and equipment. Overhead will be charged on all labor and material.
  - 5.4 USER agrees to perform all work necessary to install water service lines.
  - 5.5 USER agrees to obtain Oregon State Highway Street Cut Permit, prior to any construction, if applicable.

EXHIBIT

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OF

2 <sup>A</sup> 3

WATER SERVICE AGREEMENT (Continued)

5.6 Connection charge for new service under OPUC approved tariff service charges:

Standard 5/8 X 3/4 service	\$300
Larger than 5/8 X 3/4 service	\$300 plus add'l cost.
Fireflow Charge	50 cents per sq. ft. measured by building outside dimensions.
Residential/Multi-Residential Development Charge	As per OPUC tariff rules & regulations schedule No. 5 and rule 6a.

5.7 The total amount of this contract is due and payable with the written acceptance of COMPANY for the water facilities constructed under this agreement.

6. USER agrees to call COMPANY at (541) 382-3029 and schedule a pre-construction meeting with COMPANY personnel. 24 hour notice is required. No construction shall occur prior to this meeting.

7. USER warrants that the undersigned has the authority to commit the USER to the terms of this Water Service Agreement.

USER billing address P.O. Box 87547 Vancouver, WA 98687

Dated this 31 day of JAN, 2000.

COMPANY

USER

W.K. Roats

W. K. Roats

BY: Walter Musa Jr

WALTER MUSA JR

Signature

Name

Pres. Mg Mgr

Title

EXHIBIT A

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ADMINISTRATIVE REVIEW AND DECISION

PROJECT NUMBER: 05-58

SUBMITTAL DATE: February 4, 2005

DATE MAILED: March 17, 2005

APPLICANT: Walt Musa  
P.O. Box 137  
Ambroy, WA 98601-0137

OWNER: Golfside Park LLC  
P.O. Box 87547  
Vancouver, WA 98687

ENGINEER: John Kahlie/ Hickman Williams and Associates  
805 SW Industrial Way #10  
Bend OR 97702

ATTORNEY: Liz Fancher  
644 NW Broadway  
Bend, OR 97701

LOCATION: The subject property is located in between Parrell Road and Highway 97 and has a street address of 61055 Parrell Road. The subject property is also identified on Deschutes County Assessor's Map 18-12-17-BD; Tax Lots 1100, 1200, 1300, 1400, 1400, 1600, 1700, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600, 3700, 3800, 3900, 4000, 4100, 4200, 4300, 4400, 4500, 4600, 4700, 4800, 4900, 5000, 5100, 5200, 5300, 5400, 5500, 5600, 5700, 5800, 5900, 6000, 6100, 6200, 6300, 6400, 6500, 6600, 6700, 6800, 6900, 7000, 7100, 7200, 7300, 7400, 7500, 7600, 7700, 7800, 7900, 8000, 8100, 8200, 8300, 8400, 8500, 8600, 8700, 8800, 8900, 9000, 9100, 9200, 9300, 9400, 9500, 9600.

Assessor's Map 18-12-17CA; Tax Lots 3500, 3600, 3700, 3800, 3900, 4000, 4100, 4200, 4300, 4400 and 4500.

**REQUEST:** An application for a tentative plan for a replat of Golfside Manufactured Home Park subdivision, Phases 1 and 2 and a conditional use permit for a Planned Unit Development. The property is zoned Urban Standard Residential (RS) Zone.

**PROJECT MANAGER:** Heidi Kennedy AICP, Senior Planner

**APPLICABLE CRITERIA:**

- (1) City of Bend Zoning Ordinance, NS-1178, Chapter 10;
  - (a) Section 10-10.10, Urban Standard Residential (RS) Zone
  - (b) Section 10-10.29, Conditional Use
  - (c) Section 10-10.30, Planned Unit Development Approval
- (2) City of Bend Land Division Ordinance, NS-1786.
  - (a) Article III, Sections 3.010 –3.090 Application Procedures
  - (b) Article VI, Design Standards and Improvements.
- (3) City of Bend Land Use Permit and Review Procedures Ordinance, NS-1775.

**FINDINGS OF FACT:**

1. **LOCATION:** The subject property is located at 61055 Parrell Road in Bend, Oregon. It is developed as a manufactured home park. It has been platted as the Golfside Manufactured Home Park Subdivision (Phases 1 and 2). According to the application, the Phase 3 and 4 area of the approved manufactured home park and manufactured home park subdivision has been sold to a third party who is proposing to develop a standard subdivision on the property.
2. **ZONING:** The subject property is zoned RS. The plan designation is Standard Urban Density Residential.
3. **SITE DESCRIPTION:** Staff conducted a site visit on March 15, 2005 and provides the following findings based on observations made on the site and the submitted application materials:

The subject property includes lots legally created by the recording of the final plat for the Golfside Manufactured Home Park Subdivision. Access to the existing subdivision lots is from Parrell Road via private roads that were created through the platting process.

4. **PROPOSAL:** The applicant is seeking permission to replat Phases 1 and 2 of the Golfside Manufactured Home Park Subdivision under City of Bend PUD and subdivision rules. The replat will reduce the number of buildable lots from 97 to 94 lots. The replat will create two common area lots from three of the 97 platted lots.
5. **SURROUNDING LAND USES:** All adjoining properties are located within the City of Bend.

**North:** The land between Murphy Road and the northern boundary of the Musa property is designated CH, Highway Commercial and RS, Urban Standard Density Residential on the comprehensive plan map for the Bend urban area. The property is currently zoned CH and RS, Urban Standard Density Residential. The RS property has been subdivided into a small lot residential subdivision. The land zoned CH has been developed with a number of commercial businesses.

**West:** The site abuts Highway 97 on its western property line. Properties located on the west side of Highway 97 are zoned CH, Highway Commercial and are developed with commercial businesses.

**South:** The property directly south of and abutting the subject property is designated RS by the comprehensive plan and is zoned RS. It is the remainder parcel created when Phases 1 and 2 were platted. The parcel has received permission to be developed as a manufactured home park and to be subdivided as a manufactured home park subdivision.

**East:** The majority of the land located to the east of the subject property is zoned RS. The RS-zoned land includes the golf course of the Bend Golf and Country club and residential subdivisions. A thin strip of approximately three to four RL-zoned lots are located across from the northern section of the eastern boundary of the subject property. These lots are a part of the Bend Golf Club Addition subdivision. These lots are developed with single-family houses. The lots are smaller (10,000 to 15,000 square feet) than the minimum lot size of the RL zone (20,000 square feet). Immediately to the east of these lots is the RS-zoned Bend Golf and Country Club.

6. **PUBLIC NOTICE AND COMMENTS:** The City of Bend Planning Division sent notices of the request to surrounding property owners of record within

100 feet of the subject property as shown on the most recent property tax assessment roll. No comments were received in response to the public notice. Various agencies were also sent notices. Their comments and recommendations are listed below in italics and made a part of this Review and Decision.

## **AGENCY COMMENTS**

*The following are comments and recommendations received by various agencies and are not necessarily reflective of the Conditions of Approval for the proposed project.*

### **Fire Department Comments**

By: *Cindy Kettering, City of Bend Fire Inspector*

Date: *February 25, 2005*

File Number: *05-58*

### **Water Supply - 2004 Oregon IFC Appendix B**

*The required water supply for fire suppression for this building shall be 1,000 gallons per minute at 20 psi residual pressure. This flow requirement is based on Type V-B building construction not to exceed 3,600 square feet.*

### **Fire Hydrant Spacing - 2004 Oregon IFC Section 508 and Appendix C**

*Fire hydrants shall be located along the route of the fire apparatus access roadway and spacing of hydrants shall not exceed 500 feet.*

### **Obstruction & Protection of Fire Hydrant - 2004 Oregon IFC 508.5.4 through 508.5.6**

*A 3-foot clear space shall be maintained around the circumference of fire hydrants. When exposed to vehicular damage, concrete curbing, sidewalks, or 4 inch concrete filled bollards placed 3 feet from hydrants shall suitably protect fire hydrants. Hydrants shall be coated with approved red paint color and markings.*

### **Premises Identification - 2004 Oregon IFC 505.1**

*Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background and visible at night. Dwellings and Foster Homes that are located off of street frontage shall post a visible approved reflective address sign at the entrance to their driveway. (Signs are available at local Fire Stations)*

### **Street or Road Signs - 2004 Oregon IFC 505.2**

*Streets and roads shall be identified with approved signs. Signs shall be of an approved size and weather resistive construction.*

**Fire Lanes - 2004 Oregon IFC 503.3**

Approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Such signs or notices shall be kept in legible condition at all times. Fire lane curbs shall be painted bright red with white letters. The stroke shall be 1 inch with letters 6 inches high to read "No Parking Fire Lane". Spacing for signage shall be every 50 feet.

**Fire Apparatus Access Roads (General) - 2004 Oregon IFC Section 503 and Appendix D**

Fire apparatus access roads shall be placed within 150 of all exterior walls of the first floor of all buildings. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet designed with a uniform all-weather driving surface to support the imposed GVW of 75,000 lbs. and a vertical clearance of not less than 13 feet 6 inches. Turning radius shall not be less than 45 feet and gradient shall not exceed 12 percent unless the authorities having jurisdiction approve a variance. Dead-end access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus. A cul-de-sac, hammerhead or other means for the turning around of fire apparatus may be approved.

**Gas Meters & Piping - 2004 Oregon IFC Section 312**

Aboveground gas meters, regulators and piping exposed to vehicular damage due to proximity to alleys, driveways or parking areas shall be protected in an approved manner.

**Smoke Detection - ORS 479.2515**

Smoke detectors shall be in compliance with Oregon State Laws and the International Building Code. Oregon IFC 907.2.10.1.2

**Additional Comments:**

Developments of one or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved fire apparatus access roads. Oregon IFC Appendix D, D107.1 and D104.3

**ENGINEERING DIVISION COMMENTS:**

DATE: 02/16/05 PROJECT # 05-058

BY: City Engineer

Streets:

Provide sidewalks along lot frontage(s) in accordance with City standards and specifications.

EXHIBIT

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*Sidewalks to be installed property tight.*

*Replace any substandard or damaged curb or sidewalk with City standard curb or sidewalk.*

*Provide a handicap ramp at the intersection in accordance with City of Bend standards.*

*Construct drive aprons to City of Bend standards for all approved drive accesses.*

**General:**

*Comply with all previous site plan requirements.*

*Provide for a street light in accordance with City of Bend policy - At all intersections.*

*Coordinate development with the irrigation companies.*

*Pave parking lot and/or access roads on project.*

*All required public improvements shall be incorporated into a single plan submittal.*

*Submit engineered sewer, water, street and/or Grading/Drainage Plans for public improvements on-site to City Policy and Standards & Specifications. Water system shall meet Fire Code and domestic needs. All water and sewer plans that are part of a site plan, or are being constructed outside of a public way, shall include any and all site features of the development, existing or proposed that may affect the City facilities.*

**Water and Sewer:**

*All City maintained facilities shall have full width exclusive utility easements at 20 feet each for water and sewer outside of any right-of-way areas.*

*Meet the water flow requirements of the Fire Code. System shall meet Fire Code and domestic needs.*

*All water service lines to the property not being utilized shall be cut at the main and abandoned.*

*All sewer service lines to the property not being utilized shall be cut at the main and abandoned. Especially for common lots.*

**ADDITIONAL COMMENTS:**

EXHIBIT

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Engineering plans shall be designed using Deschutes County datum and coordinates, with benchmarks and controls shown on plans.

Streets shall be constructed to current City of Bend Standards and Specifications including curb and sidewalks along both sides.

Improve Parrell Road to current collector standards including 26' of asphalt widening from centerline to curb line.

**DEVELOPMENT SERVICES DEPARTMENT COMMENTS:**

SDCs shall be payable under City ordinance, Resolution and policy upon issuance of building permit and signing Sewer and or Water Agreements for projects.

**TRAFFIC ENGINEERING REVIEW COMMENTS**

BY ROBIN LEWIS, P.E. - 330-4025 PROJECT NUMBER: 05-058

PROJECT NAME: Golfside Park DATE: 2/16/05

**GENERAL:**

Comply with the Bend Transportation System Plan. Connectivity-should require a stub street to the tax lot 1812170002306 in order to ensure orderly development, ease of access to services and reduced vehicle miles traveled-all goals of the Transportation System Plan. Can be designed to restrict trucks.

Comply with City Standards and Specifications for construction

**STREETS:**

Access to the lots shall be by City standard driveway aprons. Location shall meet City Ordinances and Policies. Show on the plans.

Project shall comply with the Arterial Access Policy (Street Policy #2). No direct vehicular access to Highway 97, pedestrian connection preferred.

Project shall comply with the Joint City/County/State Principal Arterial Access Management Policy (Street Policy #4). Coordinate with Peter Russell at ODOT 388-6046.

Install sidewalk property tight along street frontages. Including Parrell & 3<sup>rd</sup> streets and internal local streets. Sidewalks required on both sides of these private streets.

Provide bike lanes along arterial and collector streets. Pavement 18' from center line on Parrell.

**DEDICATIONS:**

Dedicate: 40' to center line or Parrell.

**SITE VISIT COMMENTS:**

Install pedestrian ramps meeting requirements of ADA and City at: all intersections.

Comply with Clear Vision Ordinance. Show clear vision areas on plan.

**TRAFFIC:**

Comply with the Traffic Impact Analysis Policy (Street Policy #6). Okay.

**ADA PLAN REVIEW**

**PROJECT NUMBER:** 05-58

Date: 2/28/05

ADA Coordinator Checklist & Comments

**REFERENCED CODES:**

**INTERNATIONAL BUILDING CODE (IBC) CHAPTER 11, WITH OREGON AMENDMENTS, 2004**

**AMERICANS WITH DISABILITIES ACT ARCHITECTURAL GUIDELINES (ADAAG) CHAPTER 4**

**ACCESS ROUTE**

At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking, and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public. (ADAAG 4.3.2; OSSC 1103, 1109.4)

The minimum clear width of an accessible route shall be 36 in (915 mm) except at doors (see 4.13.5 and 4.13.6). If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Fig. 7(a) and (b). (ADAAG Standards 4.3.3; UBC 1103; OSSC 1103.2.2.2, 1109.4.2)

Ground and floor surfaces along accessible routes and in accessible rooms and spaces including floors, walks, ramps, stairs, and curb ramps, shall be stable,



firm, slip-resistant, and shall comply with 4.5. (ADAAG Standards 4.5.1; OSSC 1103.2.2.7, 1109.6)

Driveway aprons shall be designed and constructed according to City of Bend Standards and Specs, under sheet 2-5.

An accessible route with a running slope greater than 1:20 is a ramp and shall comply with 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50. (ADAAG Standards 4.3.7; OSSC 1103.2.4.3, 1109.4.4)

Curb ramps complying with 4.7 shall be provided wherever an accessible route crosses a curb. Slopes of curb ramps shall comply with 4.8.2. The slope shall be measured as shown in Fig. 11. (OSSC 1109.7, 1103.2.2)

Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20.

The least possible slope shall be used for any ramp. (ADAAG Standards 4.7; 4.8)

#### DETECTABLE WARNINGS

**IN PUBLIC RIGHT OF WAY:** Detectable warnings shall consist of approved texture in the form of raised truncated domes with a diameter of nominal 0.9 in (23 mm), a height of nominal 0.2 in (5 mm) and a center-to-center spacing of nominal 2.35 in (60 mm) and shall contrast visually with adjoining surfaces, either **light-on-dark, or dark-on-light**. (City of Bend Standards and Specifications, ADAAG 4.29.1)

A curb ramp shall have a detectable warning complying with ADAAG 4.29.2. The detectable warning shall extend the full width and depth of the curb ramp. (ADAAG 4.7.7)

If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings, or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by a continuous detectable warning which is 36" wide, complying with ADAAG 4.29.2, OSSC 1103.2.3, 1105.2.6, and 1109.16. (OSSC 1103.2.3.2, ADAAG 4.29.5)

Comments: Show driveway aprons on plans at intersections and locations of ADA ramps in relation to those lots.

#### GRADING/DRAINAGE COMMENTS:

**DATE: 02/16/05 PROJECT # 05-058 BY: City of Bend Engineering Division  
541-388-5538**

**Storm Drainage:**

Show any natural or existing drainage routes.

Submit a storm drainage control plan for existing impervious surface showing storm drainage contained on-site or routed to an approved drainage facility. Including drainage basins and storm runoff calculations.

For private storm water management systems: prior to approval of Final Plat the Engineer of Record shall provide written documentation stating that storm water management systems have been designed and installed per Oregon DEQ and current City of Bend approved design requirements.

**ADDITIONAL COMMENTS:**

Prior to approval of Final Plat, all requirements of the City of Bend Grading Ordinance shall be met.

Proposed site plan does not provide sufficient information for grading/drainage approval. Submit detailed grading/drainage plan for approval to City of Bend Engineering Division.

Submit copy of DEQ drywell registration for private drywells to the City of Bend Engineering Division.

**LONG RANGE PLANNING COMMENTS:**

**FILE NUMBER:** 05-58  
**APPLICANT:** Walt Musa

1. no comment – WR

**ARNOLD IRRIGATION DISTRICT:** In answer to the above request, these properties do not have any water rights. However, there is an Arnold Irrigation District easement which is 15' in width which already appears on the plat that has been submitted to our office. No construction or building of any type may occur on this easement.

There is a \$500.00 Subdivision Review Fee and a \$50.00 Plat Signing Fee. These fees must be paid before approval of this plat will be given.

If you have any questions, please feel free to call our office. Sincerely, Shawn Gerdes Secretary/Manager

EXHIBIT     B    

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**POLICE:** O.K. Steve

**SIGNS:** No signs shown. 2/16 KV

**ASSISTANT BUILDING OFFICIAL:** All building code issues will be addressed when plans are submitted for permits for new dwellings. Existing dwellings must meet building code setbacks from proposed lot lines.

7. **APPLICATION ACCEPTANCE DATE:** The applications for a conditional use permit and subdivision tentative plan for a subdivision/PUD was submitted on February 4, 2005 and deemed complete and formally accepted on March 4, 2005.

**CONCLUSIONARY FINDINGS:**

**CONFORMANCE WITH CITY OF BEND ORDINANCE CHAPTER 10;  
SECTION 10.10.10, URBAN STANDARD DENSITY RESIDENTIAL (RS) ZONE**

**CONCLUSIONARY FINDINGS:**

**A. City of Bend Zoning Ordinance No. NS-1178, Section 10.10.10,  
Urban Standard Density Residential (RS)**

(1) Purpose: The RS Zone is intended to provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living.

**FINDING:** The applicant is proposing to convert an existing manufactured home park into a residential planned unit development subdivision. According to the burden of proof, the applicant is not changing the size of any of the "buildable" lots in the subdivision.

Standard city or urban services, including sewer and water (Roats), are already provided to all the proposed residential lots.

(2) Permitted Uses. The following uses are permitted:

a) Single Family Dwelling

**FINDING:** The applicant has proposed the development of residential lots for the placement of single-family dwellings, which are allowed outright under the RS zone.

(3) **Conditional Uses.** The following conditional uses may be permitted subject to a conditional use permit and the provisions of Section 29.

(i) **Planned Unit Developments** subject to provisions of Section 30.

**FINDING:** The applicant has proposed to convert the manufactured home park into a subdivision through the PUD process and has submitted a conditional use application. The provisions of Sections 29 and 30 are addressed below.

(5) **Lot Requirements:** The following requirements shall be observed:

(a) **Lot Area:** A lot in a subdivision or Planned Unit Development approved after December 2, 1998, shall have a minimum area of 4,000 square feet provided that the overall density does not exceed 7.3 dwellings per gross acre. All other lots shall have a minimum area of 6,000 square feet. New lot development is subject to Section 10-10.10(8) below and shall have an overall density range of 2.0 - 7.3 units per gross acre.

**FINDING:** The applicant is not changing the size of any of the "buildable" lots in the subdivision. Three of the lots are being converted to common property but no change is proposed to any of the other lots. Staff finds that 12 of the lots are less than 4,000 square feet in size. The vast majority of the proposed lots are larger than 4,000 square feet in size.

The applicant has proposed to plat 94 residential lots on an approximately 13.03 acre property, which calculates out to 7.21 units per acre. Therefore, the overall density of the subdivision does not exceed 7.3 dwellings per gross acre. The proposed lot sizes will be addressed below under the PUD standards and new lot development standards in Section 10-10.10(8) are also addressed below.

(b) **Lot Width:** Lots shall have a minimum width of 60 feet except in subdivisions or planned unit developments approved after December 2, 1998, where the minimum width is 40 feet.

**FINDING:** The proposed tentative plan demonstrates that all lots will be at least 40 feet in width.

(c) **Front Yard:** The front yard shall be either a minimum of 20 feet except an existing 40 or 50 foot corner may have one front yard of 10 feet, provided the garage or carport is at least 20 feet from the property line, or a minimum of 10 feet from the property line when the following conditions exist:

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- A The lot is within a subdivision platted after August 6, 1997 and the garage is setback a minimum of 20 feet from the front property line, and
- B. The lot fronts on a local public or private street.

**FINDING:** According to the submitted application, a front yard of 10 feet for garages and homes was approved for this property along its Parrell Road and Highway 97 frontage by File 99-153. This approval was granted, in part, because these "front" yards serve as rear yard areas for development homes. The applicant has indicated that they will honor this previously approved setback.

The front yards for existing dwellings in the manufactured home park are controlled by the standards of the 1997 Oregon Manufactured Dwelling Standard. A copy of this document was Exhibit C of the manufactured home park conditional use and site plan application. It is included herein as **Exhibit R**. The applicant requests approval of an exception, under the authority of the PUD criteria, to allow it to continue to place homes in the park using the setbacks specified on Table 903 of the 1997 Oregon Manufactured Dwelling Standard. This will provide a public benefit by allowing new development in the park to be compatible with existing dwellings. Additionally, the lots in the park were designed around the Dwelling Standard setbacks. According to the applicant, approval of these setbacks for the PUD will allow the applicant to make use of the water and sewer facilities that have been stubbed to each lot and to provide housing to area residents at a reasonable cost. The applicant owns all of the lots in the park and leases them. In addition, approval of this application is needed to enable the applicant to offer renters a higher quality home, such as a modular or stick-built home.

All applicable PUD criteria are reviewed below.

- (d) **Side Yard:** A side yard shall be a minimum of 5 feet and the sum of the two side yards shall be a minimum of 15 feet except that in subdivisions or Planned Unit Developments (PUDs) approved after December 2, 1998, a side yard shall be a minimum of at least 5 feet and the sum of the two side yards shall be a minimum of 10 feet except for zero lot line subdivisions approved pursuant to the City's subdivision ordinance.

**FINDING:** The applicant is seeking approval of the setbacks contained in the 1997 Oregon Manufactured Dwelling Standard for use in the subdivision for the reasons discussed above in the discussion of the front yard setback. For sake of clarity, in the setting of a subdivision, the applicant proposes a side yard setback of three feet. This setback will supplement Table 903. Table 903 may require

more onerous setback requirements from structures already established in the subdivision up to a side yard of six feet.

Staff received comments from the Building Division which state that all building code issues will be addressed when plans are submitted for permits for new dwellings and existing dwellings must meet building code setbacks from proposed lot lines. But no specific issues were identified with this proposal from the building division. Therefore, staff finds that the setbacks contained in the 1997 Oregon Manufactured Dwelling Standards are reasonable provided that the Building Division can find that these proposed setbacks comply with the Building code regulations.

**(e) Rear Yard: The rear yard shall be a minimum of 5 feet.**

**FINDING:** The applicant is seeking approval of the setbacks contained in the 1997 Oregon Manufactured Dwelling Standard for use in the subdivision for the reasons discussed above in the discussion of the front yard setback. For sake of clarity and for ease of enforcement, the applicant proposes a rear yard setback of three feet to supplement Table 903. Table 903 may require a more onerous setback from structures already established in the subdivision up to six feet in depth. The applicant also requests an exception to the yard requirements to allow tenants to place portable storage units against the rear fence line. These units are required to be placed in this location by the CC&Rs for the subdivision. Staff finds that the setbacks contained in the 1997 Oregon Manufactured Dwelling Standards are reasonable provided that the Building Division can find that these proposed setbacks comply with the Building code regulations.

**(f) Lot Coverage: Maximum lot coverage by buildings and structures shall be 35 percent of the lot area.**

**FINDING:** According to the submitted burden of proof, *"The City has previously applied the 35 percent lot coverage standard to the entire subject property. This is a much less restrictive lot coverage standard than allowed in a standard RS subdivision because park road areas and common areas are included when lot coverage is calculated. The applicant, therefore, requests approval of an exception to the 35 percent standard of the RS zone. Approval of this exception will enable the applicant to continue to put the platted lots to their intended use as a single-family dwelling lot. It will also allow new development to be similar to and compatible with existing development in terms of lot coverage."*

*"A lot coverage standard of 50% is requested for lots 5000 square feet and larger and 60% for lots that are less than 5000 square feet in size. That standard will, in most cases, be sufficient to offset the loss of the road area in making the lot coverage calculation. In the recently approved Cascade View Partners LLC application for approval of a manufactured home park conversion PUD, the City*

approved a 50% lot coverage standard. This approval was granted without any request by the applicant for the exception."

"The lots in this subdivision are sized in reliance on the City's 1999 site plan approval that allowed the area under park roadways to be counted in determining compliance with the lot coverage standard. In order to assure that the lots in the subdivision can be "buildable," this exception is of critical importance."

Based on the size of the lots, the existing development of the property, staff finds that the proposed increase in lot coverage is reasonable.

- (8) Residential Compatibility Standards The following standards shall apply to new subdivision lots created after February 20, 2004 and shall be observed:
- (a) Purpose. The residential compatibility standards in this section are intended to provide added protection to residentially zoned properties and existing neighborhoods from potential impacts sometimes associated with increased residential density development.
  - (b) Applicability. The residential compatibility standards shall apply to all RS zoned development properties that are abutting existing residential lots, excluding lots in the RM and RH zoning districts, that have been legally created through a subdivision plat and have a minimum lot size of 8,000 square feet or greater.

**FINDING:** The subject property abuts existing residential lots created by a subdivision plat on a part of the north side of the subject property. The adjoining subdivision is the South Village Subdivision. None of the adjoining lots in the South Village Subdivision are 8,000 square feet or greater in size. The largest adjoining lot is Lot 9, South Village. It is 7926 square feet in size. As a result, the residential compatibility rules do not apply to this replat.

**CITY OF BEND SUBDIVISION ORDINANCE NO. NS-1349  
ARTICLE III, SUBDIVISION – APPLICATION PROCEDURE**

**Section 3.060 REQUIRED FINDINGS FOR APPROVAL.** The Review Authority shall not approve a tentative plan for a proposed subdivision or partition unless the Review Authority finds, in addition to other requirements and standards set forth in this ordinance, that the land division as proposed or modified will satisfy the intent and requirements of this ordinance, and Bend Zoning Ordinance, and be in compliance with the Bend Area General Plan. Such findings shall include the following:

1. No application for subdivision or partition shall be approved unless the following requirements are met:

**A. The land division contributes to orderly development and land use patterns in the area, and provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, and other natural resources to the maximum degree practicable as determined by the City of Bend.**

**FINDING:** According to the submitted application, *"The applicant's proposal is to replat an existing manufactured home park subdivision. It does nothing to alter the land use pattern of the area or to change the order of development. All of the property has been approved for development with single-family homes. The replat will create two common area lots in place of home sites."*

*"The replat will resolve a dispute between the applicant and the City regarding the legal effect of the City's approval of the manufactured home park subdivision. The applicant obtained approval of its tentative plan prior to a change in State law that restricts the development of manufactured home park subdivision lots to manufactured homes only. The City has advised the applicant that it plans to apply this law retroactively to development in Golfside Manufactured Home Park. Rather than engage in lengthy and costly litigation over this issue, the applicant and City staff have agreed that a replat of the subdivision is an effective way to solve this problem."*

*"The new "manufactured homes only" law is so restrictive that it prevents the applicant from installing modular homes in the park. It also prevents the applicant from building modest site-built homes. The market for manufactured homes, due to a number of economic and financial factors, has become severely depressed. New home buyers want to purchase modular or site-built homes. Lending practices and rates also favor modular and site-built homes over manufactured homes. This PUD approval is essential to allow the applicant to fill the existing subdivision with homes and residents. The use of the existing infrastructure to serve new development is orderly development."*

*"The property contains no Goal 5 inventoried natural features. "*

*"The proposed subdivision is consistent with the development pattern of the area to the north. The property is separated from larger lots to the east by Parrell Road. The property to the south is being sold and will be developed with site built homes. The approval of this application will allow the applicant to develop his property with homes that are more compatible with the likely development of that property."*

*"As a legal matter, this code subsection is not a relevant approval criterion for the review of this application. State law prohibits the City of Bend from treating this criterion as an approval criterion because it is not clear and objective on its face. The subject property is a part of the City's inventory of land designated for development with "needed housing," as the term is defined by ORS 197.303(1). The subdivision will create lots that will be developed with needed housing units."*



*The review of the project, therefore, is limited to a review for compliance with City approval standards that are clear and objective on their face. ORS 197.307(6); ORS 227.173; OAR 660-008-0015."*

In response to Applicant's assertion that the City is applying the restriction against stick built homes, staff notes that this interpretation is based on the advice of Brian DeMarco of the Oregon Real Estate Commission, the author of the bill that allowed conversions. Mr. DeMarco has threatened that his agency would seek an enforcement order against the City if we proceed to issue building permits for stick built dwellings.

Staff finds that the proposal is to convert an existing manufactured home subdivision into a Planned Unit Development. The development pattern of single family dwellings on small lots is consistent with the existing land use pattern on the property and the residential property to the north. Natural features such as streams, lakes, natural vegetation, special terrain features, and other natural resources are not present on the property and would not be negatively impacted by this proposal.

**B. The land subdivision will not create excessive demand on public facilities and services required to serve the development.**

**FINDING:** With City file PZ99-153, staff found the proposed subdivision would not create any additional demand upon public facilities. The proposed use is the same as the current use that was approved by the City of Bend in 1999. All needed utility services have been provided to the subdivision by the applicant. No change is proposed by this PUD.

**C. The land division contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and does not conflict with existing public access easements within or adjacent to the land division.**

**FINDING:** The site is zoned RS and is developed as a residential manufactured home park. The property is surrounded by lands with similar single-family small lot residential development. Utilities and services are currently in the area. The replat does not propose to change the road system. Therefore, staff finds that this criterion is not applicable.

**F. Each lot or parcel is suited for the use intended or offered.**

**FINDING:** Staff finds that the lots are currently being used for single-family residential uses which is in compliance with the designed RS zoning on the property.

**G. An approved water rights division plan.**

**FINDING:** According to the applicant, there are not water rights on the subject parcel. In addition, staff received comments from the Arnold Irrigation District confirming this fact.

**H. If the land division adjoins an SM or SMR Zone, the existence and location of such zone shall be entered on the deed for the lots or parcels created by the land division.**

**FINDING:** According to the Bend Area Zoning Map, the subject property does not adjoin an SM or SMR Zone.

**G. The tentative plan for the proposed subdivision meets the requirements of ORS 92.090.**

**FINDING:** Oregon Revised Statute 92.090 sets forth the requirements for tentative plan and final plat procedures. These requirements are incorporated into the City of Bend Land Division Ordinance, No. NS-1786. The applicant is required to prepare the final subdivision plat in accordance with the City Subdivision Ordinance and ORS 92.090 to meet this criterion. Conformance with these requirements will be checked as part of the final plat review process. By meeting these requirements, this criterion will be satisfied.

**H. If the tentative plan is approved with phasing, the final plat for each phase shall be filed in accordance with the applicable provisions of Article IV of this ordinance.**

**FINDING:** No phasing is proposed with this application. Therefore, staff finds that this criterion is not applicable to the proposed project.

**CONFORMANCE WITH CITY OF LAND SUBDIVISION ORD. NS-1786,  
ARTICLE VI, DESIGN STANDARDS AND IMPROVEMENTS**

**SECTION 6.010 Compliance required. All land divisions shall be in compliance with the design standards set forth in this article and Appendix "A" which is attached hereto and incorporated by reference.**

**FINDING:** The subdivision is existing. According to the application, a planned unit development approval is being requested to allow the applicant certain exceptions to City design standards. A PUD approval is also being requested to assure the City that the private roads in the development are properly maintained by private parties, rather than by the City.

**SECTION 6.020 Streets, Sidewalks, and Bikeways**

1. General. Facilities providing safe and convenient motor vehicle, pedestrian and bicycle access shall be provided within new subdivisions, partitions, and planned unit developments. Where appropriate and reasonable such facilities may be required from new subdivisions, partitions, and planned unit developments to nearby residential areas, transit stops, and neighborhood activity centers such as parks, schools and shopping.

**FINDING:** The PUD provides safe and convenient motor vehicle, pedestrian and bicycle access to homes in the subdivision on established, existing roads and sidewalks as previously determined in City File PZ99-153. Staff finds that no change is needed to satisfy this approval criterion.

2. New Streets. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. The subdivision shall provide for the continuation of the principal streets existing in the adjoining subdivision or of their proper projection. Where, in the opinion of the Hearings Body, topographic conditions make such continuation or conformity impractical, exception may be made. In cases where the City may adopt a plan or plat of a neighborhood or area of which the subdivision is a part, the subdivision shall conform to such adopted neighborhood or area plan. All streets shall be improved to City standards with curbs, paving, and drainage facilities.

**FINDING:** The applicant is not proposing new streets. This code section, therefore, does not apply. According to the applicant, the existing streets were improved to meet City private road standards in effect when the property was developed as a manufactured home park. Roads are 30 feet wide. Staff finds that the street width exceeds current City standards for private streets.

3. Street Layout and Cul-de-sacs. Residential local streets shall be developed whenever practicable to increase connectivity within and between neighborhoods. The street layout shall be generally in a rectangular grid pattern to provide or continue a network of inter-connecting streets. The subdivision streets shall be oriented on an east/west axis to the greatest extent possible to ensure solar access for lots within the land division. The grid pattern may be modified to adapt to topography and natural conditions. Cul-de-sac and dead end streets shall only be permitted when the following conditions are met:

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- A. One or more of the following conditions prevent a required street connection:
- \* natural slopes of 18% or more where it is not practical to construct streets with grades of 12%; or
  - \* presence of a wetland or water body which cannot be crossed; or
  - \* existing development on adjacent property prevents a street connection; or
  - \* to reduce access to arterial streets, and
- B. A street which either meets standards for connections and spacing or requires less deviation from standards is not possible; and
- C. Access Corridors are provided consistent with the standards for such corridors; and
- D. The cul-de-sac(s) shall be as short as possible and shall not exceed 600 feet in length between the center of the cul-de-sac bulb and the centerline of a through street.

**FINDING:** According to the submitted application, *"The street layout was established by prior land use reviews and by the prior subdivision of the subject property. It is not being changed by the proposed replat. As a result, this criterion is not applicable."*

*"In the event the City applies this approval criterion to the review of the replat, the applicant offers the following proposed findings. The street pattern is generally in a rectangular grid pattern to provide or continue a network of inter-connecting streets. Streets are oriented on an east-west axis to the greatest extent possible to ensure solar access for lots within the land division."*

*"This criterion is keyed to providing "connectivity" between neighborhoods. This term implies residential areas designed for housing. The CH-zoned areas to the north and east of the subject property are not neighborhoods. They are oriented to Highway 97 and served by access driveways and Highway 97. ODOT, the regulatory agency that controls access to Highway 97, has previously declined to approve a highway access permit for this property. The permit request, made by a prior property owner, was denied because the property is located at the terminus of the Bend Parkway and because the property has alternative access on Parrell Road. ODOT comments filed with Deschutes County and the City of Bend since that time have reinforced this position. This means that it is impossible for the applicant to provide any street connections to Highway 97. This is why no street connections exist in the platted subdivision."*

*"The applicant is unable to provide for a street connection to the residential neighborhood to the north, the South Village subdivision. That subdivision was developed without providing any street stub to the north boundary of the subject property."*

*"Street stubs have been provided to the south. The applicant has also provided a street connection to Parrell Road is sufficient as the block length for Geary Drive north and south of Hawes Lane does not exceed 600 feet."*

*"The applicant does not believe that access corridors are appropriate for this property, as discussed later under the access corridor requirements. In the event the City's code is found to require access corridors, the applicant requests an exception to that requirement under the authority of the City's PUD ordinance."*

Based on the above findings, staff finds that this criterion is satisfied. The requirement for access corridors will be reviewed below.

4. **Existing Streets.** Whenever existing streets, adjacent to or within a tract, are of inadequate width to accommodate the increase in expected traffic for the subdivision, partition or the City's transportation policies, additional right-of-way shall be provided at the time of the land division by the applicant. During consideration of the tentative plan for the subdivision or partition, the Subdivision Committee shall determine whether improvements to existing streets, adjacent to or within the tract, are required. If so determined, such improvement shall be required as a condition of approval of the tentative plan. Improvements to adjacent streets shall be required where traffic on said streets shall be directly affected by the proposed subdivision.

**FINDING:** The applicant has already been required to dedicate roadway and to make road improvements to Parrell Road by prior land use decisions. Additional improvements are not required because traffic on existing streets will not be materially affected by approval of the replat. In fact, the replat will reduce the number of homes that may be built on the property. Staff finds that 10 feet of right of way along the property line fronting Parrell Road was dedicated with the original plat to create 40 feet to the centerline of Parrell Road. Staff finds that the right of way existing complies with the request of the Transportation Engineer.

5. **Intersection Angles.** Street intersections shall be as near right angles as possible except where topography requires a lesser angle, but in no case shall the acute angle be less than 80°.

**FINDING:** Based on the submitted tentative plan, staff finds that all street intersections comply with this criterion.

6. **Alignment.** Staggered street alignment shall, whenever practicable, leave a minimum of 200 feet distance between the center line of the streets, but in no case be less than 125 feet.

**FINDING:** No staggered street alignments are proposed. Therefore, staff finds that this criterion is not applicable.

7. **Minimum Right-of-Way and Roadway Width.** The street right-of-way and roadway surfacing widths shall be in conformance with standards and specifications set forth in Appendix "A", "B" and "C".

**FINDING:** Staff finds that no right-of-way is required for private streets. The roadway surface width complies with the City's private road width standards set out in Appendix B.

8. **Reserve Strips.**

**FINDING:** No reserve strips are proposed. Therefore, staff finds that this criterion is not applicable.

9. **Future Extension of Streets.** When necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead end streets less than 150 feet in length may be approved without a permanent turnaround.

**FINDING:** Streets have been extended to the eastern and southern boundaries of the subdivision. Staff finds that this allows for street extensions to the south and will permit a satisfactory division of the adjoining land located to the south of the subject property. The resulting dead end streets are less than 150 feet in length and, therefore, may be approved without a permanent turnaround.

10. **Frontage Roads.**

**FINDING:** Frontage roads are not proposed. Staff finds that they are not appropriate for this subdivision as no access to Highway 97 is allowed.

11. **Streets Adjacent to Railroads, Freeways and Parkways.** When parallel streets intersect with streets crossing a railroad or controlled access expressway where grade separation is contemplated, consideration of the design requirements for the grade separated crossing shall be taken into consideration when determining the location of the street intersection.

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**FINDING:** Staff finds that this code section does not apply. The applicant is not proposing new streets. No subdivision streets will cross Highway 97 or the Bend Parkway. Parrell Road is a parallel street to Highway 97 and the Bend Parkway but Parrell Road does not cross either controlled access roadway.

12. **Continuation of Streets:** Streets which constitute the continuation of streets in contiguous territory shall be aligned so that their center lines coincide. Where straight line continuations are not possible, such center lines shall be continued as curves. These streets or the continuation of streets in contiguous territory may be required by the Review Authority where such continuation is necessary to maintain the function of the street or desirable existing pattern of development of streets and blocks in the surrounding area.

**FINDING:** No streets in this subdivision constitute the continuation of streets in contiguous territory. Staff finds that this section does not apply.

13. **Street Names.** Except for extension of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street in a nearby city or in the County. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Fire Department.

**FINDING:** The street names in the subdivision have been approved with the existing subdivision plat approval and, according to the applicant, will not be changed.

14. **Sidewalks.** Sidewalks shall be installed at the property line. The Review Authority may allow a sidewalk to meander between the property line and street curb to avoid rock outcroppings, trees, steep side slopes or to provide variety where there is a wide planter strip, or to connect with adjoining sidewalks. Sidewalks are required to be installed on both sides of a public street and in any special pedestrian way within a subdivision except that in the case of collectors, arterials, cul-de-sacs, industrial districts, or in steep terrain, the Hearings Body may approve a subdivision with a sidewalk on one side only. When reasonable and appropriate the Hearings Body shall consider alternate pedestrian facilities or access corridors. The construction of off-site sidewalks may be required along routes to existing school and park sites.

**FINDING:** This code section requires sidewalks for public streets only. The applicant has, however, installed a 5.5'-wide sidewalk on one side of the street, as allowed by the manufactured home park site plan and prior subdivision approvals. The sidewalk is property line tight. In addition, based on a site visit to the property, the property frontage along Parrell Road contains a sidewalk.

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15. **Bikeways.** If appropriate to the extension of a system of bikeways, existing or planned, the Review Authority may require the installation of separate bicycle lanes within local streets and/or separate bikeways in addition to the requirements of Tables "A", "B" and "C".

**FINDING:** According to the Bend Urban Area Bicycle and Primary Trail System Plan map, there is an existing bike lane along the Parrell Road right-of-way. Therefore, staff finds that this criterion will be satisfied.

16. **Performance Standards for Local Residential Streets.**

**FINDING:** Staff finds that these performance standards apply to a request for permission to reduce public street widths to less than 32 feet in width. No public streets are proposed with this application. Therefore, staff finds that this criterion is not applicable to the proposed project.

#### SECTION 6.030 BLOCKS

1. **General.** The length, width, and shape of blocks shall accommodate the need for adequate building site size and street width and shall be compatible with the limitations of the topography.

**FINDING:** The tentative plan indicates that the streets will be designed to facilitate the grid street system as much as possible. The rectangular lots have side lot lines that are perpendicular to the street rights-of-way in all areas where this design is feasible. In addition, as is evidenced by the existing development on the existing lots, the proposed lot sizes will permit development that provides as much solar access as practicable considering the limitations of the dimensions and configuration of the existing parcels. The size and shape of the proposed lots will accommodate typical development permitted in a PUD in the RS Zone. Based on these findings, this criterion is satisfied.

2. **Size.** No block shall be longer than 1,200 feet between the centerline of through cross streets except in residential subdivisions where no block shall be longer than 600 feet between the centerline of through cross streets and where street location is restricted by natural topography, wetlands, or other bodies of water.

**FINDING:** Staff finds that the block length does not exceed 600 feet between street intersections. While many of the intersections are 3-way street intersections, the creation of a four-way intersection is not possible or is specifically excused by the terms of the City's subdivision ordinance by existing development that prevents a street connection (Highway 97 and the subdivision development to the north). As a result, staff finds the proposed subdivision complies with this criterion.



3. Connecting access corridors. Where appropriate at cul-de-sacs, dead end streets, or along blocks more than 600 feet in length, pedestrian and bicycle access corridors shall be provided to minimize travel distance between subdivisions, parks, schools and collector and arterial streets. Access corridors shall be located to provide a reasonably direct connection between likely pedestrian destinations. A reasonably direct connection is a route which minimizes out of direction travel for people likely to use the connection considering terrain, safety and likely destination. The Hearings Body may determine based on evidence in the record that construction of a separate access corridor is inappropriate or impracticable. Such evidence may include but is not limited to:

- A. When the nature of abutting existing development makes construction of an Access Corridor impracticable.
- B. When the access corridor would cross a natural area with significant natural habitat and construction would be incompatible with protection of natural values.
- C. When the access corridor would cross topography where slopes exceed 30% or where path grades would exceed 18% slope; or
- D. When a cul-de-sac or dead end street abuts rural resource land at the urban growth boundary except where the adjoining land is designated as an urban reserve area.

**FINDING:** Staff finds that no block exceeds 600 feet in length as discussed above. In addition, staff received comments from the Transportation Engineering Division, requesting a stub street to the tax lot 1812170002306 in order to ensure orderly development, ease of access to services and reduced vehicle miles traveled - all goals of the Transportation System Plan. The street stub could be designed to restrict trucks. In addition, Transportation Engineering Division has requested the project comply with the Arterial Access Policy (Street Policy #2). No direct vehicular access to Highway 97 will be allowed and a pedestrian connection is preferred.

Staff finds that a pedestrian connection to Highway 97 would more than likely be extremely costly to build that would meet ADA standards due to the steep change in topography that occurs between the subject property and the highway. The highway is located high above the elevation of the subject property. In addition, there is a common area proposed along the north property boundary that could possibly include a pedestrian connection to the north. However, the land adjacent to the north boundary is private property and is not likely to be developed with public ways.

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Therefore, staff concludes that no access to 97 will be required based on the findings above.

**SECTION 6.040 LOTS: SIZE AND SHAPE.** The size, width, and orientation of lots shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the lot size provisions of the zoning ordinance, with the following exceptions:

1. In areas not to be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and County Sanitarian, and shall be sufficient to permit adequate sewage disposal. Any problems posed by soil structure and water table as related to sewage disposal by septic tank shall be addressed and resolved in the applicant's initial plan.
2. Where property is zoned and planned for business or industrial use, other widths and areas may be permitted by Hearings Body. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
3. In steep terrain, increased lot sizes may be required to avoid excessive cuts, fills, and steep driveways.

**FINDING:** The subject property is served by public sewer currently. In addition, the subject property is not zoned or planned for business or industrial uses and the property does not contain any natural water courses. Therefore, staff finds that this criterion is satisfied.

**SECTION 6.050 LOTS AND PARCELS, GENERAL REQUIREMENTS.**

1. **Frontage.** Each lot shall abut upon a street or an officially approved way other than an alley for at least 50 feet, except for lots fronting on the bulb of a cul-de-sac, then the minimum frontage shall be 30 feet.

**FINDING:** Staff finds the proposed lots meet this requirement. The lots abut upon a street for a minimum of over 40 feet in width, the minimum lot width of the RS Zone with the exception of cul-de-sacs. Based on the submitted plan, Staff finds that this criterion is satisfied.

2. All side lot or parcel lines shall be at right angles to street

lines or radial to curved streets wherever practical.

**FINDING:** Staff finds that all proposed lots are at right angles to linear streets wherever practicable thereby meeting this criterion.

3. Through lots or parcels shall be avoided except where they are essential to provide separation of residential development from major street or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet in width and across which there shall be no right of access may be required along the lines of lots abutting such traffic artery or other incompatible use.

**FINDING:** Staff finds that through streets are avoided except where essential to separate the subdivision from major streets – Highway 97 and Parrell Road. Staff finds that a planting screen is not needed along Highway 97 due to the difference in elevation and a wide, undeveloped right-of-way area along the Highway. In addition, there is an existing solid fence abutting Parrell Road. Therefore, staff finds this criterion will be satisfied.

4. Corner lots or parcels shall be five feet more in width than the minimum lot width allowed in the underlying zone.

**FINDING:** The tentative subdivision plan indicates that the proposed corner lots will have at least 5 feet more in width than the non-corner lots on at least one side. Based on these findings, the applicant has satisfied this criterion.

5. Solar Access Performance Standard. As much solar access as feasible shall be provided each lot in every new subdivision, considering topography, development pattern, and existing vegetation.

**FINDING:** Based on the street pattern being laid out primarily on an east-west axis, staff finds that as much solar access as feasible will be provided to each lot.

6. Underground Utilities. All permanent utility service to lots in a subdivision shall be provided from underground facilities.

**FINDING:** All existing utility services to the lots are provided from underground facilities.

#### SECTION 6.060 GENERAL PROVISIONS.

1. Lighting. The subdivider shall provide underground wiring for street lights to City standards and a base for any proposed

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ornamental street lights. Locations of the wiring and any base shall be approved by the City in coordination with the affected utility company.

**FINDING:** As a condition of approval, the applicant will be required to provide street lights in accordance with City Engineering Standards and Specifications.

2. **Fire Hazards.** Wherever possible, a minimum of two points of access to the subdivision or partition shall be provided to ensure access for emergency vehicles and ease resident evacuation.

**FINDING:** The development provides one existing point of access to Parrell Road and has stubbed streets to the south to allow for a second point of access to the subdivision in the future.

**SECTION 6.070 GRADING OF LOTS AND PARCELS.** Grading of lots or parcels shall conform to the following standards unless physical conditions demonstrate the practicality of other standards. Such grading shall be in conformance with the applicable provisions of the Uniform Building Code, Chapter 33, and any other City of Bend provisions pertaining to grading.

1. Cut slope ratios shall not exceed one foot vertically to one-half feet horizontally.
2. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.
3. The composition of soil or fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.
4. When filling or grading is contemplated by the subdivider, he shall submit plans showing existing and finished grades for the approval of the City Engineer. In reviewing these plans, the City Engineer shall consider the need for drainage and effect of filling on adjacent property. Grading shall be finished in such a manner as not to create steep banks or unsightly areas to adjacent property.

**FINDING:** The applicant has submitted a grading plan and no new construction is proposed with this application. Therefore, staff finds that this criterion is satisfied.

**Section 6.120** Park and Trail Development and Dedication.

1. All lots or parcels that are developed with residential structures shall pay an applicable system development charge for park development as provided for under Bend Code Sections 1.900-932 and ORS 223.297-314. The amount of the system development charge shall be pursuant to a City of Bend Resolution adopted under the aforementioned Code. The System development charge shall be payable at the time of issuance of the building permit.

**FINDING:** At such time as building permits are applied for on the proposed lots, the applicant will be responsible for applicable system development charges.

2. No subdivision or partition of land lying within the Bend Urban Growth Boundary, but outside the boundaries of the Bend Metro Park and Recreation District, shall be approved unless the land owner has signed an annexation agreement with the Bend Metro Parks and Recreation District.

**FINDING:** Staff finds that the subject property is located within the Bend Metro Park and Recreation District according to a map provided by the District to the City of Bend showing the District boundaries. Therefore, staff finds that the land owner will not be required to sign an annexation agreement.

3. Trails. Applicants for a land division may be required to dedicate either right-of-way or an access easement to the public for a primary or connector trail as a condition of land division to the extent allowed by law as outlined below.

**FINDING:** The City of Bend Urban Area Bicycle and Primary Trail System Plan does not call for new trails or bike paths to be established on the subject property.

7. Neighborhood Parks.

**FINDING:** This section does not apply as the applicant is proposing a replat rather than a new subdivision. In addition, staff received comments from Bend Metro Parks and Recreation indicating that there are no park or trail issues with this property.

#### Section 6.130 Natural Features and Open Space

In order to promote livability through the preservation of natural features and vegetation, and the development of public or private open spaces, no subdivisions shall be approved unless the following requirements are met:

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1. Areas of Special Interest as identified on the Bend Urban Area General Plan Map shall be preserved to the maximum extent practicable so as to maintain the integrity of the feature. Such areas shall be incorporated as open space within the subdivision.

**FINDING:** The subject property does not contain areas of special interest per the Bend Urban Area General Plan Map.

2. As a means of retaining the natural character and visual quality of the community, significant rock outcrops, stands of native trees or other prominent natural features shall be maintained to the maximum extent practicable.

**FINDING:** No significant rock outcrops, stands of native trees or prominent natural features identified for Goal 5 protection exist on the subject property. In order to require preservation of such features the City must list the features for protection on its Goal 5 inventory. The City has completed that inventory and has not included this property on the inventory.

3. Natural tree cover shall be preserved along streets, both within and along the dedicated street right-of-way, to the maximum extent practicable. Streets, sidewalks and other public services and utilities constructed within the rights-of-way may meander within the public right-of-way to allow preservation of trees as deemed appropriate by the City of Bend Engineer.

**FINDING:** The property lacks natural tree cover as it is already developed.

#### CITY OF BEND ZONING ORDINANCE, CHAPTER 10-10.30, PLANNED UNIT DEVELOPMENT APPROVAL

Planned Unit Development Approval. The purpose of Planned Unit Development Approval is to allow and to make possible greater variety and diversification in the relationships between buildings and open spaces in planned building groups, while insuring compliance with the purposes and objectives of the various zoning regulations and the intent and purpose of this ordinance.

(1) Approval Authority Required. Where use is made of the Planned Unit Development process as provided in this section, no building or other permit shall be issued for such development or part thereof until the Planned Unit Development has been approved as a Type II development.

**FINDING:** Development on the site has already occurred in accordance with the manufactured home park subdivision previously approved by the City of Bend.

(2) Application. The owner or authorized agent may file an application for Planned Unit Development Approval. The application shall be accompanied by a filing fee in an amount established by the City Council.

**FINDING:** All required applications and fees have been supplied, including applications and Burdens of Proof for a Conditional Use Permit and for a Planned Unit Development.

(3) Minimum Size for Planned Unit Developments. No application shall be made for an area of less than 5 acres in any "R" Zone, or for an area of less than 4 acres in any other zone.

**FINDING:** The subject property is zoned RS and is approximately 13.03 acres, thus meeting this standard.

(4) Limitation on Application. No application shall be accepted for a use which will require a change of zone unless accompanied by an application for a zoning amendment as set forth in Section 33.

**FINDING:** The applicant is proposing single-family residential development. Staff finds that this use is allowed as a use permitted outright in the RS zoning district.

(5) Plan Required. All applications shall be accompanied by a general development plan drawn to scale showing the use or uses, dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses, landscaping and other open spaces, and drawings and sketches demonstrating the design and character of the proposed uses and the physical relationships of the uses. Such other pertinent information shall be included as may be considered necessary by the Approval Authority to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this ordinance and the Subdivision Ordinance.

**FINDING:** Staff finds that the PUD has already been developed. A tentative plan has, however, been provided to show where the common areas will be located. Staff notes that the existing dwellings and carports on the property appear to exceed the 35% lot coverage limitation of the RS zone.

The applicant has requested an exception to the lot coverage limitation. It is apparent that such will be necessary in order that the existing dwellings/buildings are nonconforming and new dwellings to be located within the subdivision are similar in size to those already in place. Thus, based on the open space recreation facilities provided within the development, this approval will allow lot coverage as proposed.

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**(6) Standards for Approval.** In granting approval for Planned Unit Developments the Approval Authority shall be guided by the following:

- (a) The applicant has, through investigation, planning and programming, demonstrated the soundness of his proposal and his ability to carry out the project as proposed, and that the construction shall begin within six months of the conclusion of any necessary action by the City, or within such longer period of time as may be established by the Hearings Body.

**FINDING:** The subject property has been platted and partially developed as approved through City File PZ999-153.

The purpose of this application is to convert the existing manufactured home park subdivision into a PUD subdivision. Since the improvements related to this project currently exist, the applicant has a sound proposal and ability to carry out the project.

- (b) The proposal conforms with the general plans of the City in terms of location and general development standards.

**FINDING:** The subject property is zoned RS and is intended for residential development. Properties in the surrounding area are also zoned RS for residential uses except for some property to the north that is commercially zoned. Construction of improvements have conformed with City of Bend requirements.

- (c) The project will accrue benefits to the City and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the Zoning and Subdivision Ordinance.

**FINDING:** Staff finds that the main benefit of the subdivision to the City and general public from this development will be the proposed common areas and flexibility to do both manufactured and stick built homes, allowing future park tenants flexibility.

- (d) The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street right-of-way and improvements and any other traffic facilities required.

**FINDING:** Staff finds that the subdivision will satisfactorily take care of subdivision traffic by providing sufficient room for on-street parking on one side of each street. The project also includes a sidewalk on one side of each street to meet pedestrian needs. The development has access to Parrell Road. This access is adequate for the project. Additionally, two streets have been stubbed to the south so that additional points of access will be provided



when the adjoining property to the south develops. No new traffic will be generated by the proposed PUD. The applicant has already been required to make improvements to and dedicate land for Parrell Road.

The applicant and, ultimately, the homeowners association, will maintain all PUD private roadways. The applicant has formed an owners association and has recorded a declaration and CC&Rs. Copies of these documents are Exhibits N, O, P and Q of this application.

- (e) The project will be compatible with adjacent developments and will not adversely affect the character of the area.

**FINDING:** The area is residential with a mix of households types and lot sizes ranging from manufactured homes on small lots, to stick-built subdivisions, and single-family dwellings on larger lots. This proposal does not alter the existing land-use pattern in the area since the development is currently in place.

- (f) The project will satisfactorily take care of sewer and water needs consistent with City policy and plans.

**FINDING:** Cascade View is currently served by City of Bend sewer and Roats Water District. These services are in place and were constructed to the applicable installation standards.

- (g) A Planned Unit Development shall not be approved in any "R" Zone if the housing density of the proposed development will result in an intensity of land use greater than permitted by the Comprehensive Plan.

**FINDING:** The Comprehensive Plan has classified the subject property as RS zoning. The maximum density allowed in this zone is 7.3 units/gross acre. The subject property is 13.03 acres resulting in a density of 7.2 units/gross acre if approved.

(7) Standards and Requirements. Approval of a request for a Planned Unit Development is dependent upon the submission of an acceptable plan and satisfactory assurance that it will be carried out. The following minimum standards and requirements shall apply:

- (a) A dwelling use permitted in any zone may be permitted in a PUD.

**FINDING:** Single-family dwellings are allowed in the RS zone.

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- (b) A mobile home may be permitted in a PUD. However, mobile home parks shall not be allowed in any commercial or industrial zone.

**FINDING:** The subject property is located in a residential zone. Therefore, this requirement does not apply to this application.

- (c) Developments which either provide for or contemplate private streets and ways and common areas which will be or are proposed to be maintained by the owners of units or lots within a development must organize and maintain an owner's association. The owner's association shall consist of all the owners of units or lots within the development and membership in the association must be required of all owners; adopt and record bylaws as provided by ORS 91.555; adopt bylaws that contain the provisions required by ORS 91.560; and have the power to create a lien upon the unit or lot for services, labor or material lawfully chargeable as common expenses as provided in ORS 91.580. The association's power to create such a lien shall exist whether or not the property is submitted to the Oregon Unit Ownership Law (ORS 91.505 - 91.675).

**FINDING:** The PUD will include private roads and common areas. A homeowners association has already been formed to maintain the roads and common areas. Bylaws and covenants will be adopted to empower the association to create a lien for common expenses.

According to the application, the PUD was organized and developed as a planned community under the provisions of the Oregon Planned Community Act (ORS 94.550-.783). This law, together with the condominium law found in ORS Chapter 100, replaces the laws referenced by the PUD ordinance. Copies of the documents that formed the planned community are included as Exhibits N, O, P and Q of the submitted application materials.

- (d) If the property is not submitted to the Unit Ownership Law the association shall also create by contract the right to claim a lien upon any unit or lot for services, labor or material chargeable as common expenses. This lien may be created by covenants between the association and the property owners and shall supplement the lien created by (c) above, be approved by the City and require all owners of units or lots within the development to consent to and pay the reasonable value of services, labor or material expended by the City for common expenses where such City expenditures are made because the owners or the owner's association does not provide the necessary services, labor or material for common expenses.

**FINDING:** According to the submitted burden of proof, the PUD will be "submitted to" ownership under the Oregon Planned Community Act, the law that replaces the Unit Ownership Law for planned developments of the type planned by the applicant. As a result, this code provision does not apply.

- (e) Streets and roads in PUD designated developments shall be public roads and ways developed to City standards or be private roads of a minimum 14 feet wide paved surface for one-way traffic; minimum 20 feet wide paved surface for two-way traffic; parallel parking as permitted shall require minimum additional 8 feet of width for each side of parking; if pedestrian walkways or bikeways are included in the road an additional 5 feet of pavement width on each side of the roadway shall be provided and striped to separate such use from motor vehicle traffic and parking. In addition to these requirements the hearings body may specify other requirements including but not limited to increased or decreased pavement width.

**FINDING:** The existing street network will remain in private ownership. The subdivision's roadways are 30 feet wide. Pedestrian walkways are not included in the roadways. An adjacent sidewalk is provided on one side of each street.

- (f) Pedestrian walkways and bikeways shall be provided for adequate internal pedestrian and bicycle traffic and shall connect to any adjacent existing or planned sidewalks, bikeways, access corridors, or public trails. Off-street pedestrian walkways and bikeways shall be at least 10 feet in width to accommodate two way traffic and shall be constructed with portland cement or asphaltic concrete to City standards except as varied by the provisions of this section or by the Approval Authority.

**FINDING:** An existing 5.5' wide pedestrian sidewalk is provided along one side of the internal street system. In addition, the roadways are of sufficient width to safely accommodate bicyclists.

- (g) All utility facilities shall be installed underground and in accordance with City standards.

**FINDING:** The City of Bend Engineering Department reviewed and approved the road, sewer, and water plans for original subdivision. These utility facilities, as well as electric, television, and telephone services are installed underground.

- (h) The design of all PUD projects shall provide direct access for all units and lots to open space areas and facilities. Open space areas and facilities include such things as landscaped areas, natural areas, golf courses, and other recreational facilities, but do not include streets, sidewalks, bikeways, access corridors, or trails.

**FINDING:** All PUD lots will have direct access to the common space areas via PUD roads and sidewalks as shown on the submitted tentative plan.

- (i) A statement relative to the solar access to be provided by the Planned Unit Development.

**FINDING:** Homes would be oriented in a north/south direction, with the fronts of the homes facing the street will insure sufficient solar access.

- (j) Notwithstanding Section 30(4) or the requirements of the underlying zone, a facility providing services in support of approved residential or commercial uses within a Planned Unit Development may be permitted in either commercial or residential zones within the same Planned Unit Development. Services in support of residential or commercial uses include such services as housekeeping, landscape maintenance, security, meeting rooms, clubhouses, swimming pools, tennis courts, catered food service facilities, parking, offices, and related facilities for staff, administrators, owners associations, and owners and their guests. Provisions shall be made to buffer these uses from incompatible uses or adjoining properties.

**FINDING:** No facilities providing services are proposed with the submitted application.

#### Section 29. Conditional Use Permits.

(1) Purpose. In certain zones, conditional uses may be permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties.

(2) Approval Authority. The Approval Authority shall have the authority to approve, approve with conditions, or disapprove Conditional Use Permit subject to the provisions of this section.

(3) General Conditional Use Permit Criteria. A Conditional Use Permit may be granted only upon findings by the Approval Authority that the proposal meets all of the criteria in this section, as well as all other applicable criteria contained in this ordinance. The general criteria are:

**FINDING:** The City has already issued a conditional use permit for the manufactured home park development that exists on the subject property in File #99-153. In that review, the City found that the existing arrangement of lots and roadway met all of the City's conditional use criteria. Staff finds that the proposed replat will not alter the approved development plan other than to allow modular and stick-built homes and to provide open space areas in Phases 1 and 2 of the development.

- (a) That the location, size, design and operating characteristics of the proposed use are such that it will have a minimal adverse impact on the property value, livability and permissible development of the surrounding area. Consideration shall be given to compatibility in terms of scale, coverage, and density, to the alteration of traffic patterns and the capacity of surrounding streets, and to any other relevant impact of the proposed use.

**FINDING:** Staff finds that the location size, design and operating characteristics of the proposed use are such that the PUD will have a minimal adverse impact on the value, livability and permissible development of the surrounding area as the development is already existing. The approval of the PUD will make it clear that the applicant may construct both modular and stick-built homes in this approved subdivision. It will also create two new common areas and eliminate three buildable lots. Other than that, the subdivision will remain the same as platted.

The use of site-built and modular homes, in addition to manufactured homes, is a change that will make the subdivision more compatible with other area development. Other area developments are developed with conventional, site-built homes. In addition, staff finds that the approval of the subdivision will not alter traffic patterns. No changes to the existing street system are proposed. Finally, two common areas have been provided to provide small pocket parks for subdivision residents. This is a feature not typically found in residential subdivisions – particular where the park is provided without cost to the public.

Based on the above findings and the applicant's ability to meet the conditions of approval, this criterion is satisfied.

- (b) That the site planning of the proposed use will, as far as reasonably possible, provide an aesthetically pleasing and functional environment to the highest degree consistent with the nature of the use and the given setting.

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**FINDING:** Staff finds that the replat will not change the aesthetic or functional qualities of the existing, approved subdivision and park. The park is currently arranged to create a functional environment. Therefore, staff finds that this criterion will be satisfied.

Specific features of the proposal include paved streets, private driveways and separate pedestrian walkways. As proposed, the design and layout of the proposal will be functional for existing and future residents of the subdivision and aesthetically pleasing for both residents and neighbors.

- (c) If the use is permitted outright in another zone, that there is substantial reason for locating the use in an area where it is only conditionally allowed, as opposed to an area where it is permitted outright.

**FINDING:** Because the subdivision's roads, utilities, sidewalks, and other improvements are currently in place, receiving a conditional use permit for a PUD in this location would create less disturbance to the existing tenants and neighborhood while achieving the aims of the applicant. A PUD is appropriate because the roadway standards as constructed meet private but not public road standards.

- (d) That the proposed use will be consistent with the purposes of this ordinance, the Comprehensive Plan, Statewide Goals, and any other statutes, ordinances or policies that may be applicable.

**FINDING:** The purpose of the City of Bend zoning ordinance is to implement the goals and policies of the Bend Area General Plan. The purpose of the RS Zone is "to provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living." The purpose of the Conditional Use Permit section of the zoning ordinance is "because of their unusual characteristics, or the special characteristics of the area in which they are located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties".

Throughout the body of this review and decision, findings have been made which indicate that the proposal has met the development review criteria intended to implement the policies of the comprehensive plan and the purpose of the sections of the zoning ordinance listed above.

Based on all findings of this review and decision, which are incorporated by reference herein, the proposed use is consistent with the applicable purposes of the City of Bend zoning ordinance and the policies of the Bend Area

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General Plan. This application is consistent with the purposes of this ordinance and the Comprehensive Plan, and thus satisfies the requirements of Statewide Goals as expressed through local rules. The Comprehensive Plan has classified the zoning of the subject property as RS. This proposal is to continue using the property for residential uses. This proposal provides compact urban development using existing public services and also provides affordable housing in the Bend area.

## SIGNS

Approval of this Land Use Decision does not constitute sign permit approval. Signs are reviewed for approval through a separate permit application procedure. Signs shall comply with all applicable Oregon codes and City of Bend ordinances including the Sign Ordinance.

## DECISION:

Based on the findings stated below, the conditional use and subdivision tentative plan approval to convert the existing manufactured home subdivision into a residential subdivision/PUD (96 lots) is **approved**, subject to the following conditions of approval:

1. Approval is based on the submitted plans and the improvements to the site and public facilities as depicted thereon. Where specific improvements have been proposed and approved as submitted, the construction of those improvements may not be spelled out as a specific condition of approval except as to the timing of the improvements. Any substantial alterations of the approved plans, other than those that may be required to comply with conditions of this approval, will require a new application.
2. Verify that separate private sewer and water services have been provided to each lot. Provide easements for City water and sewer lines, if necessary, for any City facilities located outside of the public right of way.
3. Verify that underground utility services, including electric and telephone, have been provided to each lot.
4. All city maintained facilities that are constructed outside of public rights-of-way in conjunction with this proposal (if necessary) shall have exclusive easements as determined by the City Engineering Division. Such easements shall be shown on the final plat.
5. Submit closure sheets with the final plat.
6. Show individual lot sizes on the final plat.

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7. Comply with the requirements of ORS 92.090 for preparation of the final plat.
8. Prepare the final plat in accordance with the City subdivision ordinance, NS-1786.
9. Lot coverage by structures shall be permitted to be as high as 50% for lots 5,000 square feet and larger and 60% for lots that are less than 5,000 square feet in size. All yard setbacks shall be the setbacks specified on Table 903 of the 1997 Oregon Manufactured Dwelling Standard.
10. The applicant shall submit a copy of the CCRs for the Planned Unit Development to the Planning Division. The CCRs shall include measures as follows and as submitted by the applicant with this application: maintenance of common areas and private streets; exterior lighting which faces the exterior boundaries of the subdivision shall be shielded and directed downward; each lot shall be landscaped within 6 months of occupancy and maintained by the lot owner. The PUD shall be organized and developed as a planned community under the provisions of the Oregon Planned Community Act (ORS 94.550-.783) together with the condominium law found in ORS Chapter 100.
11. The applicant shall make provisions for organization and implementation of an owners association. The association shall be created according to applicable State Law. Copies of documentation indicating that an owners association has been created shall be submitted to the Planning Division.

**DURATION OF APPROVAL:** The applicant shall meet all conditions of this approval and submit an application for final plat review within one year following the date this decision becomes final or obtain an extension of time pursuant to the City of Bend Procedures Ordinance.

**This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest.**

Written by: \_\_\_\_\_  
Heidi Kennedy AIC<sup>2</sup>, Senior Planner

Reviewed by: \_\_\_\_\_  
Dale VanValkenburg, Current Planning Manager

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# Oregon

Theodore R. Kulongoaki, Governor

*Neil*

**Public Utility Commission**  
550 Capitol Street NE, Suite 215  
Mailing Address: PO Box 2148  
Salem, OR 97308-2148  
**Consumer Services**  
1-800-522-2404  
Local: 503-378-6600  
**Administrative Services**  
503-373-7394

June 27, 2005

WILLIAM K ROATS, PRESIDENT  
ROATS WATER SYSTEM INC  
61147 HAMILTON LN  
BEND OR 97702

RE: Docket No. UW 107/Advice No. 05-33

On June 24, 2005, Roats Water System, Inc., filed original sheets for inclusion in its tariff, PUC OR No. 3.

This filing provides a general rate increase in the amount of \$83,691, or 14.2 percent.

Pursuant to Order No. 05-811 the sheets filed under Advice No. 05-33 are accepted and will become effective with service rendered on and after July 1, 2005:

- Original Sheet No. 1
- Original Sheet No. 2
- Original Sheet No. 3
- Original Sheet No. 4
- Original Sheet No. 5
- Original Sheet No. 6
- Original Sheet No. 7
- Original Sheet No. 8
- Original Sheet No. 9
- Original Sheet No. 10
- Original Sheet No. 11
- Original Sheet No. 12
- Original Sheet No. 13
- Original Sheet No. 14
- Original Sheet No. 15
- Original Sheet No. 16
- Original Sheet No. 17

EXHIBIT         

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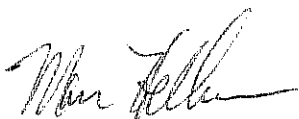
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Roats Water System, Inc.  
June 28, 2005  
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Original Sheet No. 18  
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Original Sheet No. 20  
Original Sheet No. 21  
Original Sheet No. 22  
Original Sheet No. 23  
Original Sheet No. 24  
Original Sheet No. 25  
Original Sheet No. 26

One receipted copy of each sheet is returned for your files.



Marc Hellman  
Administrator  
Economic Research & Financial Analysis  
(503) 378-6355  
Fax: (503) 373-7752

Uw107

Enclosures

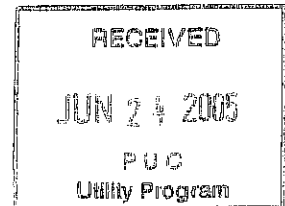
EXHIBIT   c    
PAGE   2   OF   28

Containing Rules and Regulations  
Govern ng Water Utility Service

NAMING RATES FOR

ROATS WATER SYSTEM, INC  
61147 Hamilton Lane  
Bend, OR 97702

541-382-3029



EXHIBIT           

Serv ng water in the vicinity of PAGE 3 OF 28  
Bend, Oregon

Issue Date		Effective Date	JULY 1, 2005
Issued By	ROATS WATER SYSTEM, INC.		
Signed By	William K. Roats		

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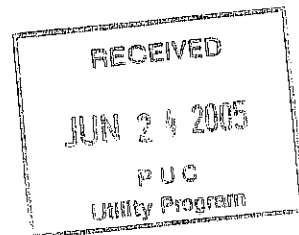


EXHIBIT     C      
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Issue Date		Effective Date	JULY 1, 2005
Issued By	ROATS WATER SYSTEM, INC.		
Signed By	William K. Roats		

**SCHEDULE NO. 1**

**RESIDENTIAL AND COMMERCIAL METERED RATES**

Available: To customers of the Utility at Bend, Oregon, and vicinity.

Applicable: To residential and commercial premises.

**Monthly Base Rate**

Meter Size	Monthly Base Rate	Usage Allowance	Unit of Measure
5/8 or 3/4 inch	\$26.30	NONE	cubic feet
1 inch	\$32.16	NONE	cubic feet
1 1/2 inches	\$38.59	NONE	cubic feet
2 inches	\$49.58	NONE	cubic feet

**Multi-Residential Metered rates**

Meter Size	Monthly Base Rate	Usage Allowance	Unit of Measure
Includes all meters	\$26.80 x No. of Dwelling Units	NONE	cubic feet

**Commodity Usage Rate**

Commodity Rate	Per	Number of Units	Unit of Measure	Above	Usage Allowance	Unit of Measure
\$0.762	Per	100	cubic foot	Above	None	cubic feet

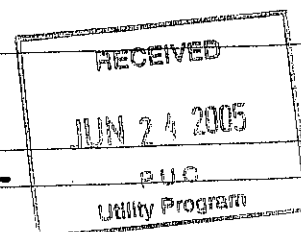
Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

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**SCHEDULE NO. 2**

**CROSS CONNECTION CONTROL PROGRAM**

**BACKFLOW PREVENTION DEVICE TESTING FEES**

**PURPOSE**

Roats desires to offer backflow prevention device testing to customers who own backflow prevention devices.

**AVAILABLE**

To customers of Roats Water System Inc., in Bend, Oregon, and vicinity.

**APPLICABLE**

To residential and commercial/industrial premises with backflow prevention devices installed at the meter.

**PROGRAM DESCRIPTION**

Service plans include:

The required annual testing of backflow prevention devices by a state certified tester pursuant to Oregon Administrative Rules 333-061-0070 through OAR 333-061-0072.

Roats offers two plans and payment options for services provided by the Company:

1. The \$2.50 Easy Monthly Amount
2. The \$30.00 Automatic Renewal Plan

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**BILLING RATES**

The \$2.50 Easy Monthly Amount

This option includes testing on 1" or smaller customer-owned backflow device installed with the water meter. Annual tests are automatically scheduled at the customer's convenience prior to the annual backflow prevention device testing deadline. The customer will be billed \$2.50 per month as a separate line item on the Customer's monthly water bill. The customer will be charged \$15 (\$1.25 per month) for each additional device at the same location.

The agreement will automatically renew annually, unless the customer notifies Roats in writing, 15 days prior to termination, that he/she wishes to terminate the contract. Customers may withdraw from this tariff at any time with a 15-day written notice to Roats.

Under this plan, the customer agrees that if the water account closes or if the agreement is terminated after the required annual test of the device has been completed; but prior to the completion of the 12 month period, the customer agrees to pay any difference owing to cover the annual \$30.00 cost (and \$15 for additional devices).

The \$30.00 Automatic Renewal Plan

The \$30.00 Automatic Renewal Plan includes testing on 1" or smaller customer-owned backflow prevention devices installed with the water meter. The Customer will be billed annually upon completion of the test. Customers will only be billed once per year. The \$30 charge will be listed separately on the customer's billing. Annual tests are automatically scheduled at the customer's convenience prior to the annual backflow device test deadline. The customer will be charged \$15 for each additional device at the same location.

The agreement will automatically renew annually, unless the Customer notifies Roats in writing, 15 days prior to termination, that he/she wishes to terminate the contract. Customers may withdraw from this tariff at any time with a 15-day written notice to Roats.

Under this plan, the customer agrees that if the water account closes or if the agreement is terminated after the required annual test of the device has been completed, the customer agrees to pay the annual \$30.00 cost.

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**Special Provisions**

General

1. The customer is under no obligation to use the Company's backflow protection device testing services.
2. The customer can choose any qualified company or individual to test his/her backflow prevention device.
3. The Company will provide each customer with notification of the backflow prevention service options being offered. The notification shall include (1) an agreement for service that allows the customer to indicate which plan and payment arrangement the customer chooses, and (2) a written refusal of Roats' service.
4. Customers who choose not to use Roats' backflow prevention services must sign the written refusal and return it to the Company.
5. Customers who choose not to use Roats' backflow prevention services must notify Roats of the name of the company chosen and date backflow test is scheduled.
6. To receive the Company's backflow prevention device service, the customer must sign an agreement for the service and payment plan requested. By signing the agreement, the customer is giving Roats permission to test the customer-owned backflow prevention device(s).
7. Roats reserves the right to propose before the OPUC any change in the amount charged for the backflow prevention device testing maintenance, and repair services.
8. Customers will be given the choice of accepting or rejecting a new agreement in advance of any rate increase.
9. Roats will separately itemize the backflow prevention device service fee on customer bills.

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**SCHEDULE NO. 3**

**MISCELLANEOUS SERVICE CHARGES**

This schedule lists the miscellaneous charges included in the utility's Rules and Regulations; refer to the appropriate rules for an explanation of charges and conditions under which they apply.

<u>Connection Charge for New Service</u> (Rule No. 9)	\$450.00
Standard 3/4-inch service	At cost
Nonstandard 3/4 inch service	\$450.00 (plus additional costs)
Larger than 3/4-inch	\$450.00
Irrigation hookup (if provided on separate system)	\$1.00 per square foot measured by
Connection Fireflow Charge	Building outside dimensions
<u>Meter Test</u> (Rule No. 21)	N/C
First test within 12-month period	\$35
Second test within 12-month period	
<u>Pressure Test</u> (Rule No. 40)	N/C
First test within 12-month period	\$35
Second test within 12-month period	
<u>Late-Payment Charge</u> (Rule No. 22)	Pursuant to OAR 860-036-0130
Charged on amounts more than 30 days past due	(as of 1/1/05 - 1.7%)
<u>Deposit for Service</u> (Rule No. 5)	Pursuant to OAR 860-036-0050
Pursuant to OAR 860-036-0040(2)	(as of 1/1/05 - 2%)
<u>Returned-Check Charge</u> (Rule No. 23)	\$20
<u>Trouble-Call Charge</u> (Rule No. 36)	\$25 per hour
During normal office hours	\$50 per hour
After normal office hours on special request	
<u>Disconnection/Reconnect Charge</u> (Rule No. 28 & 29)	\$20
During normal office hours	50
After normal office hours on special request	
<u>Unauthorized Restoration of Service</u> (Rule No. 30)	Reconnection charge plus costs
<u>Damage/Tampering Charge</u> (Rule No. 34)	At cost
<u>Disconnect-Visit Charge</u> (Rule No. 29)	\$30
<u>Backflow Prevention Device Repairs</u> (Rule No. 43)	Materials - at cost
	Labor - \$25 per hour

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SCHEDULE NO. 4

FIRE SERVICE RATES

Available: To fire service customers of the Company in the area of Deschutes County.

Applicable: To fire service customers with privately-owned and maintained fire service lines and standpipes connected to company mains. Also to include Company owned fire hydrants or standpipes benefiting commercial companies.

Base Charge Per Month: Dependent upon the size of service installed.

FIRE SERVICES

4" Supply and smaller	\$5.00
6" Supply	\$11.00
8" Supply	\$15.00
10" Supply and larger	\$25.00

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SCHEDULE NO. 5

RESIDENTIAL/MULTI-RESIDENTIAL DEVELOPMENT CHARGE

Applicable: For residential development.

Residential Development Charge (Rule 9a)

Charge Based on Lot Size:	\$	975.00
Less than 4,000 sq. ft.		1,375.00
At least 4,000 sq. ft., but less than 6,000 sq. ft.		1,975.00
At least 6,000 sq. ft., but less than 10,000 sq. ft.		2,675.00
At least 10,000 sq. ft., but less than 20,000 sq. ft.		3,175.00
20,000 sq. ft. or more		

Master Meter Development Charge (Rule 9a)

Meter Size	\$	1,560.00
1" meter – serves up to 2 households		3,120.00
1 ½" meter – serves up to 4 households		6,240.00
2" meter – serves up to 8 households		9,360.00
3" meter – serves up to 12 households		25,740.00
4" meter – serves up to 33 households		52,260.00
6" meter – serves up to 67 households		91,260.00
8" meter – serves up to 117 households		142,740.00
10" meter – serves up to 183 households		

For development projects with household counts falling between the above meter count range, the Master Meter Development Charge will be prorated at \$780 per household.

Example: 20 households = 4" meter  
 20 x \$780 = \$15,600

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**RULES AND REGULATIONS**

**Rule 1: Jurisdiction of the Commission**

The Rules and Regulations herein shall be subject to the rules and regulations of the Public Utility Commission of Oregon.

**Rule 2: Definitions**

- A. "Utility" shall mean **ROATS WATER SYSTEM INC.**
- B. "Applicant" shall mean any person, business, or organization who applies for service or reapplies for service at a new existing location after service has been discontinued, except as noted in the definition of "Customer."
- C. "Commission" shall mean the Public Utility Commission of Oregon.
- D. "Customer" shall mean any person, business, or organization who has applied for, been accepted to receive, or is currently receiving service. A customer who voluntarily discontinues service at the same or different premises within 20 (twenty) days after discontinuance retains customer status.
- E. "Residential customer premises" shall mean any dwelling and its land including, but not limited to, a house, apartment, condominium, townhouse, cottage, cabin, mobile home, or trailer house.
- F. "Commercial customer premises" shall mean any premises at which a customer carries on any major activity of gaining a livelihood or performing a public service. Such activity may be of a business, industrial, professional, or public nature.
- G. "Main" shall mean the pipe laid in the street, alley, or other right-of-way for the distribution of water to customers. It shall not include service lines.
- H. "Service connection" shall mean the pipe, stops, fittings, meter, and meter box laid from the main to the property line of the premises served.
- I. "Customer line" shall mean the pipe, stops, and fittings leading from the property line to the premises served.

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J. Point of Delivery is the property line or the outlet swivel/union of the meter defining where the service connection stops and the customer line starts.

### APPLICATION FOR SERVICE

Rule 3: Customer/Applicant Information (OAR 860-036-0015)

The utility shall provide or be able to provide customers or applicants with the following information:

- A. Instructions on how to read meters, either in writing or by explanation;
- B. Application and contract forms;
- C. Utility rules and regulations;
- D. Commission rules and regulations;
- E. Approved tariffs;
- F. Rights and Responsibilities Summary for Oregon Utility Consumers;
- G. Notices in foreign languages, if applicable;
- H. The utility's business address, telephone number, and emergency telephone number; and
- I. Notices approved by the Commission.

Rule 4: Application for Service (OAR 860-036-0035)

Application for water service must be made for each individual service. The application shall identify the applicant, the premises to be served, the billing address if different, the type of use to which the water is to be put, and an agreement to conform to the Rules and Regulations of the utility as a condition for receiving such service. The applicant shall, at this time, pay any scheduled fees or deposits. An application is a request for water utility service and shall not be accepted until the applicant establishes credit as set forth in OAR 860-036-0041).

An application for water service must be made where:

- A. An applicant who has not previously been served by the water utility requests service;
- B. Service has been involuntarily discontinued in accordance with the utility and Commission rules, and service is sought;

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- C. Service has been voluntarily discontinued and a request to restore service has not been made within 20 days; or
- D. There is a change in the identity of a customer, the type of use to which the water is put, or the number of premises served.

Rule 5: Deposit for Service (OAR 860-036-0040)

In accordance with the Commission's rules for credit establishment and deposit waiver, an applicant or a customer may be required to make a deposit to secure payment of bills for service. The deposit shall not exceed one-sixth (1/6) the amount of reasonable estimated billings for one year's use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service. (OAR 860-036-0040)

The utility shall pay interest on deposits at the rate established by the Commission. After the customer has paid bills for service for 12 consecutive months without having had service discontinued for nonpayment, or more than two occasions in which a shut-off notice was issued, and the customer is not then delinquent in the payment of bills, the utility shall promptly and automatically refund the deposit plus accrued interest by):

- 1) issuing the customer a refund check

Rule 6: Customer Service Line

The customer shall own and maintain the customer service line and promptly repair all breaks and leaks. The utility shall not be responsible for any damage or poor service due to inadequacy of the customer line or any portion of the customer's plumbing. All leaks in the customer line, faucets, and all other parts of the plumbing owned or controlled by the customer shall be promptly repaired so as not to waste water.

Rule 7: Separate Control of Service

All premises supplied with water will be served through service lines so placed as to enable the utility to control the supply to each individual premises using a valve placed within and near the line of the street, the utility right-of-way, or at the meter.

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Rule 8: Service Connections (OAR 800-036-0060)

The utility shall furnish and install at its own expense all necessary trenching, pipe, valves, and fittings between its main line and the customer's service line. Such installation shall be designated as the service connection. The utility shall own, operate, maintain, and replace the service connection when necessary and promptly repair all breaks and leaks. The customer shall not be responsible for any damage or poor service due to inadequacy of the service lines or any portion of the utility's plumbing.

Rule 9: Service Connection Charge

An applicant requesting permanent water service to premises not previously supplied with permanent water service by the utility shall be required to pay the service connection charge listed in the utility's Miscellaneous Service Charges Schedule.

The fireflow charge is assessed in addition to the meter set charge and applies to a new water service only when fireflow requirements are imposed by the fire department on a new structure, or a structure being remodeled requiring a building permit, which requires changes in existing fireflow requirements or a structure whose use is changing to the extent that it now for the first time, has fireflow requirements. If the structure being built or remodeled is in addition to an existing structure, which already satisfied fireflow requirements, then the fireflow charge will apply only to the additional structure.

The fireflow charge applies when the imposed fireflow requirements involve either a fire suppression system in the structure or fire hydrant(s) in the vicinity. The fireflow charge also applies when the structure benefits from the fire hydrant(s), which already exist in the vicinity sufficient to satisfy the imposed fireflow requirements.

Rule 9a:

The residential development charge is assessed (based on the lot size) on any lot or lots for which a permanent new water service is established to serve one or more residential dwellings. The residential development charge is assessed in addition to the meter set charge.

A residential development located on a single tax lot for which a metered water service is established to serve multiple residences, shall (in lieu of the charge based on lot size) be assessed a residential development charge based on the size of the master water meter required to serve the development (including all area to be served in future phases of the development).

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Subsequent to setting the meter(s) or master meter and payment of fees, if lots within the development become separately identified tax lots, the developer(s) of the separately identified tax lots will then be assessed an additional charge equal to the greater of (a) or (b), and reduced by (c); where (a) is a residential development charge (Based on each individual new lot size), (b) is the master meter set charge, and (c) is the fee previously paid to set the master meter for this development. In the event that this calculation produces a number less than zero, no refund will be given, and the amount of the fee shall be zero.

Any commercial development within the mastered residential development area shall be assessed a fireflow charge instead of a residential development charge. The fireflow charge shall be assessed on the entire structure containing the commercial enterprise, even though a portion of the structure may be for residential use. The lot occupied by the commercial development shall be excluded from any residential development charge.

Rule 10: Main Line Extension Policy (DAR 860-036-0065)

The utility shall specify the size, character, and location of pipes and appurtenances in any main line extension. Main line extensions shall normally be along streets, roads, highways, or other satisfactory rights-of-way. All construction work shall conform to all applicable rules, regulations, codes, and industry standards. Each main line extension shall normally extend along applicant's property line to the point the applicant's service line would be at a 90-degree angle to the street or main line.

Rule 11: Main Line Advances and Refunds Policy

Definitions

- a) Reach: Any section of a main that contains no connections, branches, etc.
- b) Original customer cost of a main extension: The cost of the smallest size extension necessary to serve the customer(s) who request that extension, plus one-half the cost of any over-sizing up through 12 inches deemed desirable by the utility. The cost of over-sizing over 12 inches, and all costs of loop completion, shall not be included.
- c) Customer cost of the reach: The original customer cost of the main extension of which the reach was a part, times the length of the reach divided by the length of that extension.
- d) Share of a reach: The customer cost of a reach divided by the number of customers to be served through that reach.

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e) Share differential: The amount the share of a reach decreases when a new customer is served through that reach.

Note: Any loop completion installed by the utility shall be deemed closed at its midpoint, when determining which reaches serve a particular customer.

Specifications

The utility shall specify the size, character, and location of pipes and appurtenances in any main extension. Main extensions shall normally be along streets, roads, highways, or other satisfactory rights-of-way. All construction work shall conform to recognized Roats Water System, Inc. standards.

Each main extension shall normally extend at least 100 feet along the frontage of the property to be served, or to the midpoint of that frontage, whichever is less.

Advances and Refunds


Each new customer requesting a main line extension shall advance the utility the share of each reach through which the customer is to be served, including the main extension.

After construction of the requested main extension, the utility shall refund to each new customer the total of the customer costs of the reaches through which the customer is served, times 50 feet divided by the total of the length of those reaches. Further, the utility shall refund to each old customer the share differential of each reach through which the customer is served.

Exceptions: a) No customer shall be refunded more than the amount originally advanced; b) No part of the distribution system installed prior to five years from the request for a main line extension shall be used to calculate any customer advance or refund.

Rule 12: Types of Use

Water service may be supplied for residential, commercial, irrigation, temporary construction, special contracts, fire prevention, and other uses. The utility shall file separate rate schedules for each type of use and basis of supply.

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Rule 13: Multiple Residences

An apartment building, mobile home park, motel, trailer camp, duplex, townhouse, or any other property consisting of more than one residential unit, if served through one service line, shall be considered to be equivalent to the number of dwelling units when determining the customer count.

Rule 14: Utility Access to Private Property (OAR 860-036-0120(3)(b) and OAR 860-036-0205(3))

Customers shall provide access during reasonable hours to utility-owned service lines that extend onto the premises of the customer for the purposes of reading meters, maintenance, inspections, or removal of utility property at the time service is to be discontinued. Where the customer does not cooperate in providing reasonable access to the meter or to the premises, as required by law or to determine if a health or safety hazard exists, it is grounds for disconnection.

Rule 15: Restriction on Entering a Customer Residence (OAR 860-036-0085)

No water utility employee shall enter the residence of its customers without proper authorization except in an emergency when life or property is endangered.

**REFUSAL OF SERVICE**

Rule 16: Refusal of Service Due to Customer Accounts (OAR 860-036-0080(1-3))

The utility may refuse to serve an applicant until receipt of full payment of overdue amounts, or other obligations related to a prior account of the applicant with the utility, when the following circumstances exist:

- A. An overdue amount remains outstanding by a customer at the service address;
- B. The applicant resided at the service address indicated in (A) during the time the overdue charges were incurred; or
- C. The person indicated in (A) will reside at the location to be served under the new application.  
(OAR 860-036-0080)

Service shall not be refused for matters not related to water service. Residential service shall not be refused due to obligations connected with nonresidential service.

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If service is refused under this rule, the utility shall inform the applicant or customer of the reasons for the refusal and of the Commission's dispute resolution process.

Rule 17: Refusal of Service Due to Utility Facilities (OAR 860-036-0080(7))

The utility shall not accept an application for service or materially change service to a customer if the utility does not have adequate facilities or water resources to render the service applied for, or if the desired service is of a character that is likely to unfavorably affect reasonable service to other customers.

For refusal of service under this rule, the utility shall provide a written letter of refusal to the applicant informing applicant that the details upon which the utility's decision was based may be requested. A copy of such notice will be sent to the Commission. The details will include, but not be limited to:

- A. Current capacity and load measured in gallons or cubic feet per minute;
- B. Current capacity and load measured in pounds per square inch;
- C. Cost to the utility for additional capacity in order to provide the additional service; and
- D. Information regarding the appeal process of the utility's refusal to provide service is available through the Commission's dispute resolution process pursuant to OAR 860-036-0025.

Rule 18: Refusal of Service Due to Customer Facilities (OAR 860-036-0080(4-6))

The utility shall refuse service to an applicant or customer whose facilities do not comply with applicable plumbing codes or, if in the best judgment of the utility, are of such a character that safe and satisfactory service cannot be given.

If service is refused under this rule, the utility will provide written notification to the customer within 10 working days stating the reason(s) for refusal and providing information regarding the Commission's complaint process. A copy of the notification will also be sent to the Commission.

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**METERS**

Rule 19: Utility Meters (OAR 860-036-0105)

The utility shall own, maintain, and operate all meters. Meters placed in service shall be adequate in size and design for the type of service, set at convenient locations, accessible to the utility, subject to the utility's control, and placed in a meter box or vault between the street curb and property line. Each meter box or vault shall be provided with a suitable cover.

Where additional meters are furnished by the utility or relocated for the convenience of the customer, a reasonable charge may be made in accordance with a schedule approved by the Commission.

The water utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste without notice to the customer.

Each customer shall provide the utility with regular access to the meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice by the utility requesting access is grounds for disconnection. (OAR 860-036-0120) Should damage result to the meter from molesting, tampering, or willful neglect on the part of the customer, the utility shall repair or replace the meter and may bill the customer for the reasonable cost. (OAR 860-036-0105(6))

Rule 20: Meter Testing (OAR 860-036-0110)

The meter shall be tested prior to or within 30 (thirty) days of installation to determine it is accurate to register not more than 2 percent error. No meter shall be allowed to remain in service if it registers an error in excess of 2 percent under normal operating conditions. The utility shall maintain a record of all meter tests and results. Meter test result records shall include:

- A. Information necessary to identify the meter;
- B. Reason for making the test;
- C. Date of test;
- D. Method of testing;
- E. Meter readings;
- F. Test results; and
- G. Any other information required to permit convenient checking of methods employed.

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Rule 21: Customer-Requested Meter Test (OAR 860-036-0115)

A customer may request that the utility test the service meter; such test shall be made within 20 working days of the receipt of such request at no cost to the customer. The customer has the right to be present during said test, which is to be scheduled at a mutually agreeable time. A written report shall be provided to the customer stating:

- A. Customer's name;
- B. Date of the customer's request;
- C. Address at which the meter has been installed;
- D. Meter identification number;
- E. Date of actual test; and
- F. Test results.

If a customer requests a meter test more often than once in any 12-month period, the deposit listed on the Miscellaneous Service Charges Schedule may be required to recover the cost of the test. If the meter is found to register more than 2 percent fast under conditions of normal operation, the utility shall refund the deposit to the customer.

**BILLING**

Rule 22: Billing Information/Late-Payment Charge (OAR 860-036-0120 and OAR 860-036-0125)

Bills are due and payable when rendered by deposit in the mail or other reasonable means of delivery. As near as practical, **meters shall be read at monthly intervals** on the corresponding day of each meter reading or billing period. The bill shall be rendered immediately thereafter. (OAR 860-036-0120(3) requires water utilities to bill at monthly intervals. A utility may request upon application special authority by the Commission to bill at intervals other than monthly.) The utility shall make reasonable efforts to prepare opening and closing bills from actual meter readings. When there is good reason for doing so, estimated bills may be submitted. Any estimated billings shall be clearly designated as such.

The late-payment charge determined by the Commission and listed on the Miscellaneous Service Charges Schedule shall be applied to all overdue balances at the time of preparing the subsequent months' bill or balances owing that are 30 days old.

All bills become delinquent if not paid within 15 days of the date of transmittal of the bill. (OAR 860-036-0125 requires a minimum of 15 days.) If permitted to become delinquent, water service may be terminated after proper notice as provided in Rule 29, Disconnection/Reconnection Visit Charge.

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All water service bills shall show:

- A. Beginning and ending meter readings for the billing period;
- B. Beginning and ending dates of the period of service to which the bill applies;
- C. For all metered bills, beginning and ending meter readings for the period for which the bill is rendered;
- D. Number of units of service supplied stated in gallons or cubic feet;
- E. Schedule number under which the bill was computed;
- F. Delinquent date of the bill;
- G. Total amount due; and
- H. Any other information necessary for the computation of the bill.

Rule 23: Returned-Check Charge

The returned-check charge listed on the Miscellaneous Service Charges Schedule shall be billed for each occasion a customer submits a check for payment that is not honored, for any reason, by a bank or other financial institution.

Rule 24: Prorating of Bills

Initial and final bills will be prorated according to the number of days service was rendered and on the basis of a 31-day month. For metered services, the meter will be read upon opening and closing a customer's account. Consumption will be charged at scheduled rates. Any minimum monthly charge will be prorated.

Rule 25: Adjustment of Bills (860-036-0135)

When an underbilling or overbilling occurs, the utility shall provide written notice to the customer detailing the circumstances, period of time, and the amount of the adjustment. If it can be shown that the error was due to an identifiable cause, the date of which can be fixed, the overcharge or undercharge shall be computed back to such date. If no date can be fixed, the utility shall refund the overcharge or rebill the undercharge for no more than six months' usage. In no event shall an overbilling or underbilling be for more than three years' usage. No billing adjustment shall be required if a meter registers less than 2 percent error under conditions of normal operation.

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When a customer is required to repay an underbilling, the customer shall be entitled to enter into a time-payment agreement without regard to whether the customer already participates in such an agreement. If the customer and the utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The utility shall provide written notice advising the customer of the opportunity to enter into a time-payment agreement and of the Commission's complaint process.

**DISCONNECTION OF WATER SERVICE**

Rule 26: Voluntary Discontinuance (CAR 860-036-0210)

Except for emergencies, customers who (for any reason) wish to have service discontinued shall provide the utility with at least five days' advance notice of the requested date of discontinuance of service. Until the utility receives such notice, the customer shall be held responsible for all service rendered. Should the customer wish to recommence service within 12 months at the same premises, the customer will be required to pay the customary minimum monthly charge as if service had been continuous. The reconnection charge listed on the Miscellaneous Service Charges Schedule will be applicable at the time of reconnection.

Rule 27: Emergency Disconnection (OAR 860-036-0215)

The utility may terminate service in emergencies when life or property is endangered without following the procedures set forth in OAR 860-036-0245. Immediately thereafter, the utility will notify the customer and the Commission. When the emergency termination was through no fault of the customer, there shall be no charge made for restoration of service.

Rule 28: Disconnection of Water Service Charge for Cause (OAR 860-036-0205 and 0245)

When a customer fails to comply with the utility's rules and regulations, or permits a bill or charge for regulated services to become delinquent (except for nonpayment of a time-payment agreement\*), the utility shall give at least five days' written notice before water may be shut off. The notice shall state:

- A. The reason(s) for the proposed disconnection;
- B. The earliest date for disconnection;

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- C. The amount to be paid to avoid disconnection;
- D. An explanation of the time-payment provision of OAR 860-036-0125;
- E. Information regarding the Commission's dispute resolution process; and
- F. The Commission's Consumer Services toll-free number, 1-800-522-2404.

Prior to disconnection on the day that the water utility expects to disconnect service, the utility must make a good-faith effort to physically contact the customer to be disconnected or an adult at the customer's premise to be disconnected to advise the customer or adult of the proposed disconnection. If contact is not made, the utility shall leave a notice in a conspicuous place at the customer's premise informing the customer that service has been or is about to be disconnected. The utility shall document its efforts to provide notice and make that documentation available to the customer upon request.

Service shall not be shut off for nonemergencies on a Friday or the day of a state- or utility-recognized holiday or the day prior to such holiday. (OAR 860-036-0220)

The utility shall not disconnect residential service due to the failure to pay or meet obligations associated with nonresidential service. (OAR 860-036-0225) water utility may not disconnect residential service for nonpayment if a customer enters into a written time-payment plan. The utility will offer such customers a choice of payment agreements between a levelized-payment plan and an equal-pay arrearage plan or some other mutually agreeable alternate payment arrangement agreed to in writing. (OAR 860-036-0125)

When a customer fails to comply with the terms of a written time-payment agreement between the customer and/or the utility permits a time-payment agreement charge to become delinquent, the utility shall give at least 15 days' written notice before the water may be shut off.

Rule 29: Reconnection Charge and Disconnection Visit Charge (OAR 860-036-0080 and 0245(7))

Service shall not be restored until the utility's rules and regulations are complied with and/or payment is made in the amount overdue and any additional disconnection, reconnection, or disconnection visit charges incurred as listed on the Miscellaneous Service Charges Schedule are paid.

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Rule 30: Unauthorized Restoration of Service

After the water has been disconnected or shut off at the curb stop or at the meter, if any person not authorized by the utility should turn it on, the water service line may be disconnected without notice. Service shall not be reconnected until all arrearages, all cost-of-service disconnection and reconnection, and the reconnection charge listed on the Miscellaneous Service Charges Schedule are paid in full.

Rule 31: Unauthorized Use

No person shall be allowed to make connection to the utility mains, or to make any alteration to service connections, or to turn a curb stop off or on to any premises, without written permission of the utility. Meter tampering, diverting service, or any other unauthorized use of service will automatically cause a disconnection of the water service and meter removal. All fees, costs of disconnection and reconnection, past-due billings, and service charges listed on the Miscellaneous Service Charges Schedule must be paid in full before any service is restored. An advance deposit for restoration of service may be required.

Rule 32: Interruption of Service (OAR 860-036-0075)

The utility shall have the right to shut off the water supply temporarily for repairs and other necessary purposes. The utility shall use all reasonable and practicable measures to notify affected customers in advance of such discontinuance of service except in the case of emergency repairs. The utility shall not be liable for any inconvenience suffered by the customer or damage to the customer's property arising from such discontinuance of service.

The utility shall keep a record of all service interruptions affecting its whole system or a major section thereof, including the time and date of interruption, duration, and cause or purpose of interruption.

Rule 33: Water Supply/Usage Restrictions (OAR 860-036-0325)

The utility shall exercise due diligence to furnish a continuous and adequate supply of water to its customers. If water restrictions are necessary to equitably apportion its available water supply among its customers with due regard to public health and safety, the utility shall provide written notification to its customers and the Commission including:

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- A. Reason for the restriction;
- B. Nature and extent of the restriction;
- C. Effective date of the restriction; and
- D. Probable date of termination of such restriction.

Rule 34: Damages/Tampering

Should damage result to any of the utility's property from molesting or willful neglect by the customer to a meter or meter box located in the customer's building, the utility will repair or replace such equipment and will bill the customer for the costs incurred.

**SERVICE QUALITY**

Rule 35: System Maintenance (OAR 860-036-0305)

The utility shall have and maintain its entire plant, distribution system, and hydrants in such condition that it will furnish safe, adequate, and reasonable continuous service. The utility shall inspect its facilities in such manner and with such frequency as may be necessary to ensure a reasonably complete knowledge of its condition and adequacy at all times.

The utility shall keep such records of all routine maintenance as considered necessary for the proper maintenance of its system, including regular flushing schedules, exercising of valves, and valve inspections.

Rule 36: Trouble Call

The trouble-call charge listed on the Miscellaneous Service Charges Schedule may be billed whenever a customer requests that the utility visit the customer's premises to remedy a service problem and the problem is due to the customer's facilities.

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Rule 37: Water Purity (OAR 860-036-0310)

The utility shall deliver water for domestic purposes free from bodily injurious physical elements and disease-producing bacteria and shall cause such tests to be made and precautions taken as will ensure the constant purity of its supply.

The utility shall keep a record of all water quality testings, results, monitoring, and reports.

The utility shall deliver domestic water that is reasonably free from elements that cause physical damage to customer property such as pipes, valves, appliances, and personal property. A water supply that causes such damage will be remedied until the conditions are such as to not reasonably justify the necessary investment.

Rule 38: Water Pressure (OAR 860-036-0315)

Each water utility shall maintain pressure at a minimum of 20 pounds per square inch (psi) for health reasons to each customer at all times and not exceed a maximum of 125 psi. The 20 psi and 125 psi standards are not presumed to be adequate service and do not restrict the authority of the Commission to require improvements where water pressure or flow is inadequate.

In general, 40 psi of water pressure in the water mains is usually adequate for the purposes of this rule. Adequate pressure may vary depending on each individual water system and its customers' circumstances. In the case of a dispute, the Commission will determine the appropriate water pressure for the water utility.

Rule 39: Pressure Surveys (OAR 860-036-0320)

The utility shall have a permanently placed pressure gauge located on a main that is representative of the system's pressure. A portable gauge in good working condition shall be available for checking pressure conditions in any part of the distribution area.

Rule 40: Customer-Requested Pressure Test (OAR 860-036-0320)

Upon customer request, the utility will perform a water pressure test within 20 working days of the request at no cost to the customer. If the customer requests more than one pressure test within any 12-month period, a deposit to recover the reasonable cost of the additional test may be required of the customer. The deposit shall be returned if the pressure test indicates less than 20 psi or more

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than 125 psi. The customer or designated representative has the right to be present at the pressure test, and said test shall be conducted at a mutually agreeable time.

For metered service, the pressure will be tested at a point adjacent to the meter on the customer's service line. For nonmetered service, the pressure will be tested at the customer's service line or hose bibb or other reasonable point likely to best reflect the actual service pressure.

Rule 41: Maps/Records (OAR 860-036-0335)

The utility shall keep on file current maps and records of the entire plant showing size, location, character, and date of installation of major plant items, including shut-off valves.

Rule 42: Utility Line Location (One Call Program) (OAR 860-036-0345)

The utility and its customers will comply with the requirements of OAR 952-001-0010 through and including OAR 952-001-0090 (One Call Program) regarding identification and notification of underground facilities.

Rule 43: Cross Connection/Backflow Prevention Program

Pursuant to OAR 333-061, and in accordance with Company Cross Connection Regulation, the Company's Schedule 2, and Oregon Public Utility Commission rules and regulations, the Company may require installation and testing of an approved backflow prevention device. Failure on the part of any customer to comply with these rules and regulations, may result in discontinuance of service in accordance with Rule 28..

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