

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
Tuesday, February 16, 2010, 7:00 p.m., M.T.

1) Call to order

A) Roll Call: Norm Crume ___ Charlotte Fugate ___ John Gaskill ___
Susann Mills ___ David Sullivan ___ Ron Verini ___
Joe Dominick ___

2) Pledge of Allegiance

This Agenda was sent to the media on Wednesday, February 10, 2010, and a study session was held on Thursday, February 11, 2010. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) Motion to adopt the entire agenda

4) Consent Agenda: Motion Action Approving Consent Agenda Items

A) Approval of Minutes of Regular Meeting of 02/01/10 1-4
B) Ordinance #2638-2010: Amend OMC 4-5 Regarding Maintenance Standards for Buildings; Defining Dangerous Buildings; Revising Penalties and Procedures for Enforcement of Maintenance Standards in Compliance with Senate Bill 915 (Final Reading) 5-20
C) Approval of the Bills

5) Public Comments: Citizens may address the Council on items not on the Agenda. Council may not be able to provide an immediate answer or response, but will direct staff to follow up within three days on any question raised. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

6) New Business:

A) Resolution #2010-110: Reallocation of Expenditures within the Sewer Fund for Eliminating Storm Discharge into the Sanitary Sewer System in Southwest Ontario 21-25
B) Resolution #2010-111: Reallocation of Expenditures within the Sewer and Storm Sewer Funds, Creating an Interfund Loan for an Emergency Storm Drainage Repair 26-30

7) Topics for Discussion: Thursday

A) Nuisance Ordinance Discussion
B) Lawn Parking / Junk Vehicles Discussion
C) Fire Substation Update
D) Public Works Update
E) SREDA Update

8) Correspondence, Comments and Ex-Officio Reports

9) Adjourn

MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE

The City of Ontario does not discriminate in providing access to its programs, services and activities on the basis of race, color, religion, ancestry, national origin, political affiliation, sex, age, marital status, physical or mental disability, or any other inappropriate reason prohibited by law or policy of the state or federal government. Should a person need special accommodations or interpretation services, contact the City at 889-7684 at least one working day prior to the need for services and every reasonable effort to accommodate the need will be made. T.D.D. available by calling 889-7266.

**COUNCIL MEETING MINUTES
February 1, 2010**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, February 1, 2010, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Charlotte Fugate, John Gaskill, Susann Mills, David Sullivan and Ron Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Chuck Mickelson, Mike Kee, Yorick deTassigny, Bob Walker, Dave Walters, and camera operator Erika Hopper.

David Sullivan led everyone in the Pledge of Allegiance.

Ron Verini moved, seconded by Susann Mills, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CONSENT AGENDA

Susann Mills moved, seconded by John Gaskill, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 01/19/2010; Item B: Resolution #2010-107: Receipt of ODOT Traffic Safety Grant for Bike Safety Program; and Item C: Resolution #2010-108: Receipt of ODOT Grant for Speed Enforcement. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Yorick deTassigny, Facilities Maintenance Manager, stated he had applied for a grant from the Oregon Department of Energy. The application had been successful, and the City of Ontario would be receiving a grant in the amount of \$728,000, to replace the heating and cooling system at City Hall, as well as the entire lighting system. It was estimated there would be a savings of approximately \$12,000 annually in electricity. There was about \$100,000 for lighting; the remainder was for the HVAC portion.

NEW BUSINESS

Approval of the Bills

Mayor Dominick recused himself from voting as his business would be receiving payment if approved.

John Gaskill moved, seconded by Charlotte Fugate, to approve the bills. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-abstain. Motion carried 6/0/0/1.

Resolution #2010-105: Declaration of Surplus Property – Firearms

Dave Walters, Ontario Police Sergeant, stated the Ontario Police Department often took possession of guns. Many times the guns had been used in crimes and the courts forfeited them to the department. Other times someone might find an abandoned gun, and would turn it into the department for safe keeping; or, citizens simply gave guns to the department because they no longer wanted them. In previous years, the surplus guns had been traded with reputable, licensed gun dealers for equipment that could be used by the department. The department once again had enough surplus guns to purchase needed equipment for the Patrol Division. Legal notice was placed in the Argus Observer regarding the surplus resolution, inviting anyone with a claim for a firearm to contact the police department. Also, a notice of surplus property would be placed in three separate public locations for 30 days. The combined value of the 50 surplus weapons had an approximate value of \$3,000.

Ron Verini moved, seconded by Susann Mills, to adopt Resolution #2010-105, A RESOLUTION DECLARING THE ATTACHED LIST OF FIREARMS AS SURPLUS PROPERTY, AND FURTHER AUTHORIZING THE POLICE DEPARTMENT TO USE THOSE SURPLUS FIREARMS IN A TRADE WITH A LICENSED FIREARMS DEALER TO OBTAIN EQUIPMENT FOR THE DEPARTMENT. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Resolution #2010-106: Authorize Carry-Forward of Project Expenditures within the Reserve Fund: Public Works for Capital Improvements Projects Wat-2 and Wat-3

Bob Walker, Deputy Public Works Director, stated he had spoken to the Council in December, discussing the financial need to increase the available cash on hand and the project budgets for Wat-2 and Wat-3 in the 09-11 budget. Two well rehabilitation projects were approved in the 2007-2009 Biennial Budget; inspection and rehabilitation of Wells #1 and #2, and inspection and rehabilitation of Wells #4 and #6. The 2009-2011 Biennial Budget included capital project carry-forward budgets based on estimated project completion schedules. In 2009, following a TV inspection of Wells #1 and #2, it was determined that rehabilitation would be questionable due to the condition of the casings. Consequently, a 6-inch pilot hole was drilled in the vicinity of Wells #1 and #2 during the spring of 2009 in order to properly design a new production well. Public Works staff projected a budget carry-forward for the remainder of the project in the amount of \$40,000 in the 2009-2011 Biennial Budget to complete the project. This was done based on the assumption that \$60,000 of the \$100,000 project would be expended by June 30, 2009. However, only \$16,292 of the original \$100,000 project budget was actually expended within the 2007-2009 Biennial Budget period. Based upon the testing of the pilot well, a new well (#15) was designed, and construction began in late September of 2009. It was now necessary for the remaining project funds that were not carried forward to the 2009-2011 Biennial Budget, specifically \$43,708, to be identified within the Reserve Fund Available Cash and appropriated to complete the project, WAT-2 New Well #15. This would put the full project budget (\$100,000 less the \$16,292 expended less the \$40,000 already budgeted as carry-forward) back into the 2009-2011 Biennial Budget as originally approved.

The rehabilitation of Wells #4 and #6 remained unchanged in the 2007-2009 Biennial Budget, with only \$1,428 of the \$60,000 project budget being expended by June 30, 2009. Public Works staff projected a budget carry-forward for the remainder of the Wells #4 and #6 project in the amount of \$20,000 in the 2009-2011 Biennial Budget to complete well inspections. This was done based on the assumption that \$40,000 of the \$60,000 project would be expended by June 30, 2009. However, only \$1,428 of the original \$60,000 project budget was actually expended within the 2007-2009 Biennial Budget period.

Based upon the work completed for Wells #15 and #16, staff believed that this project funding would better serve the City if utilized for the rehabilitation of Wells #1 and #2 to use as additional water sources immediately adjacent to the new Wells #15 and #16. To accomplish this, it would be necessary for the remaining project funds that were not carried forward to the 2009-2011 Biennial Budget for what was originally the Well #4 and #6 Project, \$38,572, be identified within the Reserve Fund Available Cash and appropriated to complete the project, WAT-3 Well #1 and #2 Rehabilitation. This would put the full project budget (\$60,000 less the \$1,428 expended less the \$20,000 already budgeted as carry-forward) back into the 2009-2011 Biennial Budget as originally approved.

To date, Wells #15 and #16 had been drilled, test pumped, and the submersible pumps had been installed. All that remained for these two projects to be completed was the installation of the piping to inter-tie to the treatment plant; the installation of the required flush piping; the installation of the required power cables and SCADA equipment; and the installation of the existing buildings over both wells.

The recommended changes to the budget would result in Wells #4 and #6 not being completed during the 2009-2011 Biennium as they are located on the opposite side of the Water Treatment Plant. It would be proposed that the 2009-2011 Biennial Budget include projects that could be completed within the same vicinity, specifically Wells #1, #2, #15 and #16. In order to complete the new Well #15, the Available Cash and the Project WAT-2 expense needed to be increased by \$43,708. To complete the rehabilitation of Wells #1 and #2, the Available Cash and the Project WAT-3 expense needed to be increased by \$38,572.

John Gaskill moved, seconded by Charlotte Fugate, to adopt Resolution #2010-106, A RESOLUTION AUTHORIZING A CARRY-FORWARD OF PROJECT EXPENDITURES WITHIN THE RESERVE FUND, PUBLIC WORKS DEPARTMENT, FOR CAPITAL IMPROVEMENT PROJECTS WAT-2 AND WAT-3. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Resolution #2010-109: Receive PetSmart Charities Grant for Feral Cat Program

Mike Kee, Ontario Police Chief, stated he wanted to provide an overview again, even though the resolution had been approved at the work session last Thursday. For the TNR program, at the end of last week, they had trapped 75 feral cats, and had returned the majority. A few died from anesthesia or were ill and had to be euthanized. There were still another seven colonies identified, with 122 cats. The average expense per cat was \$45. Elizabeth Lyon, on behalf of the Ontario Feral Cat Trap-Neuter-Return Project, applied for a grant through PetSmart Charities for funds to expand the program, and last week they had been notified that the grant had been approved in the amount of \$19,960 over the course of two years. In each of the two years, \$9,980.00 would be expended and would provide \$7,875.00 for the spay/neuter of 162 free-roaming cats at an average cost of \$48.61; \$555.00 for 8 traps at an average cost of \$69.33; and \$1,550.00 for materials for 62 winter shelters at an average cost of \$25.00. The organization felt confident that they had the necessary infrastructure to expand the current program and to expend not only the \$10,000 originally budgeted, but also the annual \$9,980 that was now available from PetSmart Charities.

Mayor Dominick, on behalf of the entire Council, thanked Chief Kee, and especially Ms. Lyons, for their work on applying for, and receiving, the grant from PetSmart. Because of their work, the program would continue to be successful. He also thanked PetSmart for their grant in support of the program.

Ordinance #2638-2010: Amend OMC 4-6 Regarding Maintenance Standards for Buildings; Defining Dangerous Buildings; Revising Penalties and Procedures for Enforcement of Maintenance Standards in Compliance with Senate Bill 915 (First Reading)

Henry Lawrence, City Manager, stated the proposed ordinance was a substantial revision of Title 4, Chapter 5, of the Ontario City Code, the "Ontario Residential Maintenance Code." The ordinance expanded the Chapter to set maintenance standards for all buildings in Ontario, not just residences; it authorized the Building Inspector to regulate all dangerous buildings, not just substandard residences; and it changed the penalties and procedures for building code violations, to bring the City Code into compliance with a new state law governing the enforcement of building code violations.

Currently, there were a number of buildings in Ontario that were in a state of disrepair. The current City Code did not impose maintenance standards for nonresidential buildings. Staff and Council discussed expanding the scope of the Code to allow the Building Inspector to take remedial action against all building owners and occupants who allowed their buildings to fall into a state of disrepair. The proposed ordinance addressed those issues.

Ordinance 2638-2010 also addressed Senate Bill 915, which the Oregon legislature enacted in 2009, effective January 1, 2010. SB915 restricted the penalties imposed by cities for building code violations and it required cities to follow certain procedures in assessing penalties. The current version of City Code Title 4, Chapter 5, was not in compliance with SB915 in certain respects, which would be corrected by Ordinance 2638-2010. The League of Oregon Cities prepared a model ordinance to deal with the requirements of SB915, and Ordinance 2638-2010 adapted the language of the model ordinance to Chapter 5.

Norm Crume moved, seconded by Susann Mills, to approve Ordinance #2638-2010, AN ORDINANCE REGULATING MAINTENANCE STANDARDS FOR BUILDINGS; DEFINING DANGEROUS BUILDINGS; AND REVISING PENTALTIES AND PROCEDURES FOR ENFORCEMENT OF MAINTENANCE STANDARDS IN COMPLIANCE WITH SENTATE BILL 915, as amended in Draft #5, on First Reading by Title Only. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Mayor Dominick announced that there were still some committees in the City that had vacancies, namely the Airport Committee, the Business Loan Fund Committee, the Compensation Committee, the Public works Committee, and the Recreation Board. Anyone interested in serving, please submit a letter of interest to the City Recorder or any City Councillor.
- Chief Kee distributed a quarterly report to the Council regarding the activity in the Ontario Police Department.

CITY OF ONTARIO 444 SW 4TH STREET ONTARIO OREGON 97914

- Henry Lawrence reminded the Council of the special study session scheduled for Thursday, February 4th, at noon. The Council would be hearing a presentation by Waldo Insurance about the different options for health insurance. On February 11th, a regular study session, staff would bring back the lawn parking ordinance for further discussion and discussion. On Thursday, February 25th, at noon, SREDA would be sending a representative to speak with the Council at the study session. They would also be back on that following Monday, March 1st, to request financial support.
- Mayor Dominick reminded everyone that 13 student delegates from Ontario's Sister City, Osakasayama, Japan, would be in town March 19-April 1, and there was still a need for six host families. They were also looking for people interested on serving on the committees, or to join them on their tours. The students were 15-21 years of age.
- Mayor Dominick stated Ontario was a great community, and urged everyone to support local businesses. He encouraged the citizens to shop in Ontario. The City continued to be committed to being business-friendly.

ADJOURN

Ron Verini moved, seconded by David Sullivan, that the meeting be adjourned. Roll call vote: Crume-yes; Fugate-yes; Gaskill-yes; Mills-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

CONSENT AGENDA
February 16, 2010

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Henry Lawrence, City Manager

SUBJECT: **ORDINANCE #2638-2010: AMENDING OMC 4-5 REGULATING MAINTENANCE STANDARDS FOR BUILDINGS; DEFINING DANGEROUS BUILDINGS; AND REVISING PENALTIES AND PROCEDURES FOR ENFORCEMENT OF MAINTENANCE STANDARDS IN COMPLIANCE WITH SENATE BILL 915 (FINAL READING)**

DATE: February 2, 2010

SUMMARY:

Attached is the following document:

- Ordinance #2638-2010

Proposed Ordinance #2638-2010 is a substantial revision of Title 4, Chapter 5 of the Ontario City Code, the "Ontario Residential Maintenance Code." This ordinance expands the Chapter to set maintenance standards for all buildings in Ontario, not just residences; it authorizes the Building Inspector to regulate all dangerous buildings, not just substandard residences; and it changes the penalties and procedures for building code violations, to bring the City Code into compliance with a new state law governing the enforcement of building code violations.

PREVIOUS COUNCIL ACTION:

02/01/2010 Council passed Ordinance #2638-2010 on 1st reading.

STAFF RECOMMENDATION:

Staff recommends the Council adopt Ordinance #2638-2010, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 4, CHAPTER 5, REGULATING MAINTENANCE STANDARDS FOR BUILDINGS, DEFINING DANGEROUS BUILDINGS; AND REVISING PENALTIES AND PROCEDURES FOR ENFORCEMENT OF MAINTENANCE STANDARDS IN COMPLIANT WITH SENATE BILL 915, on Second and Final Reading.

ORDINANCE NO. 2638-2010

**AN ORDINANCE REGULATING MAINTENANCE STANDARDS
FOR BUILDINGS; DEFINING DANGEROUS BUILDINGS; AND REVISING
PENALTIES AND PROCEDURES FOR ENFORCEMENT OF MAINTENANCE STANDARDS IN
COMPLIANCE WITH SENATE BILL 915**

- WHEREAS,** Chapter 5 of Title 4 of the Ontario City Code is a Residential Maintenance Code regulating maintenance standards for residential buildings and structures; and
- WHEREAS,** the City Council finds that maintenance standards should also be enacted for other buildings and structures and that the Residential Maintenance Code should be expanded to apply to all buildings and structures in the City; and
- WHEREAS,** explicit standards should be established to authorize the City to take remedial action when the City's Building Inspector determines that a building is a dangerous building; and
- WHEREAS,** persons who fail to timely comply with a notice from the Building Inspector to remediate a dangerous building should be subject to a penalty for failure to comply; and
- WHEREAS,** Senate Bill 915, enacted by the Oregon Legislature in 2009 and effective on January 1, 2010, regulates the procedures and penalties that may be imposed in connection with violations of a municipal building code; and
- WHEREAS,** it is necessary to revise Chapter 5 of Title 4 to bring it into compliance with Senate Bill 915.

NOW THEREFORE, The Common Council For The City Of Ontario Ordains As Follows:

Section 1. The title of Chapter 5 of Title 4 of the Ontario City Code is renamed the "Building Maintenance Code."

Section 2. The following Sections of Chapter 5 of Title 4 are amended by adding those provisions which are underlined and deleting those provisions which are stricken:

4-5-1 Title.

This Chapter shall be known as the Ontario ~~Residential~~ Building Maintenance Code, may be cited as such, and will be referred to herein as "this Code".

4-5-2 Purpose.

The purpose of this Code is to provide minimum requirements for the protection of life, limb, health, property, safety, and welfare of the general public and the owners and occupants of residential, commercial and industrial buildings.

4-5-3 Definitions.

For the purpose of this Code, certain abbreviations, terms, phrases, words, and their derivatives shall be construed as specified in this Code. Words used in the singular include the plural and plural the singular. Words used in the masculine gender include the feminine, and the feminine the masculine.

~~APARTMENT: Apartment shall mean a dwelling unit as defined in this Code.~~

~~APARTMENT HOUSE: Apartment house is any building, or portion thereof which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other in dwelling units.~~

APPROVED: Approved as to materials and types of constructed, refers to approval by the Building Inspector as the result of investigation and tests conducted by him, or by reason of accepted principles or tests by national authorities, technical or scientific organizations.

~~BOARDING HOUSE: Boarding house is a lodging house in which meals are provided.~~

BUILDING: Building is any building or structure, or portion thereof which is used, or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes or any combination thereof for residential, commercial or industrial purposes.

BUILDING, EXISTING: Existing building is a building erected prior to the adoption of this Code, or one for which a legal building permit has been issued.

BUILDING INSPECTOR: Building Inspector shall mean the City official designated by the City to be charged with the administration and enforcement of this Code, or his regularly authorized representatives.

~~CELLAR: Cellar means that portion of a building, the ceiling of which is entirely below grade or less than four feet six inches (4'6") above grade.~~

DANGEROUS BUILDING: A building, structure or premises defined in Section 4-5-7A(B) of this Chapter.

~~DWELLING: Dwelling is any building or any portion thereof, which is not an apartment house, a lodging house, or a hotel as defined in this Code, which may contain not more than two (2) dwelling units or guest rooms, used, intended or designed to be used, or occupied for living purposes.~~

DWELLING UNIT: Dwelling unit is one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

EXIT: An exit, as referred to in this Code, shall be a way of departure from the interior of a building. It may comprise vertical and horizontal means of travel such as doorways, stairways, escalators, ramps, corridors, passageways and fire escapes, including all elements necessary for the purpose of emergency escape from the building or structures. An exit begins at any doorway or other point of access to an exit from which occupants may proceed to a public way.

~~EXTERMINATION: The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.~~

GUEST: Guest is any person ~~hiring and occupying~~ a room for living or sleeping purposes, exclusive of any member of a family occupying a dwelling unit.

GUEST ROOM: Guest room is any room or rooms used, or intended to be used by a guest for sleeping purposes.

HABITABLE ROOM: Habitable room means a room occupied by one or more persons for living, eating or sleeping purposes. It does not include toilets, laundries, serving and storage pantries, corridors, cellars, and spaces that are not used frequently or during extended periods.

HOTEL: ~~Hotel is any building containing six (6) or more guest rooms intended or de- signed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home, or other institution in which human beings are housed and detained under legal restraint.~~

INFESTATION: ~~The presence, within or contiguous to a dwelling unit, rooming house, rooming unit, or premises, or insects, rodents, vermin or other pests.~~

KITCHEN: ~~Kitchen shall mean a room used or designed to be used for the preparation of food.~~

LODGING HOUSE: Lodging house is any building or portion thereof, containing not more than five (5) guest rooms, which are used by not more than five (5) guests where rent is paid in money, goods, labor or otherwise.

NUISANCE: The following shall be defined as nuisances:

(A) Any public nuisance known at common law or in equity jurisprudence.

(B) Any attractive nuisance which may prove detrimental to children whether in a building, or the premises of a building, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris, or vegetation which may prove a hazard for inquisitive minors.

(C) Whatever is dangerous to human life or is detrimental to health.

(D) Any condition that is either defined as a nuisance or is identified as dangerous to health, safety or morals as defined in by any ordinances of the City.

OWNER: Owner as herein used shall include the owners or owners of the freehold of the premises or any lesser estate therein, a mortgagee or vendee in possession, an assignee for rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

PASSAGEWAY: Means of egress connecting a required exit with a public way.

PERSON: Person is a natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

ROOMING HOUSE: See "lodging house".

SERVICE ROOM: ~~Service room shall mean any room used for storage, bath or utility purposes, and not included in the definition of habitable rooms.~~

STREET: Street is any thoroughfare or public space not less than sixteen feet (16') in width which has been dedicated or deeded to the public for public use.

STRUCTURE: Structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBSTANDARD BUILDING: ~~Any dwelling or dwelling unit in which there exists any conditions less than required by this Code to a degree that endangers the life, limb, health, property, safety or welfare of the public or the occupants.~~

4-5-4 Application, alteration.

(A) Application. ~~The provisions of this Code shall apply to all buildings or portions thereof, used, or designed or intended to be used, for human habitation. Such occupancies in existing buildings may be continued, except such structures as are found to be substandard as defined in this Code. Where any building or portion thereof, is used or intended to be used as a combination apartment house hotel, the provisions of this Code shall apply to the separate portions as if they were separate buildings. The provisions of this chapter shall apply to all matters affecting or relating to buildings, structures, and premises.~~

(B) Alteration. Existing buildings which are altered or enlarged shall be made to conform to this Code insofar as the new work is concerned and in accordance with applicable ordinances of the City.

4-5-5 Building Inspector, inspection of premises

(A) Authority. The Building Inspector is hereby authorized and directed to administer and enforce all of the provisions of this Code.

(B) Inspections: It shall be the duty of the Building Inspector charged with the enforcement of this Code to make routine and periodic inspections of properties and premises within the corporate limits of the City to determine whether there is compliance with the provisions of this Code and it shall also be the duty of such person to make such inspections upon the receipt of complaints or specific or general information indicating the existence of violations or noncompliance with these Code provisions. In the event that any authorized officer or employee charged with the enforcement of this Code shall be denied access to any property or premises for the purpose of making an inspection provided for in this Chapter, then, except as otherwise provided for in this Chapter, such officer or employee shall not inspect such premises unless and until he shall have obtained from the Municipal Judge of the City a search warrant for the inspection of such premises.

(C) Search Warrants. No search warrant shall be issued under the terms of this Chapter for the inspection of any property or premises within the corporate limits of the City unless and until there shall have been filed with the Municipal Court of the City an affidavit showing probable cause for such inspection, by stating the purpose and extent of the proposed inspection, the ordinance or ordinances which form the basis for such inspection, whether it is a routine or periodic inspection or an inspection instituted by complaint or other specific or general information concerning the property or premises or the area in which it is situated. The search warrant issued by the Court shall specify the purpose and extent of the inspection which is proposed to be made and the specific property or premises covered by such warrant.

(D) Emergency. When property or premises exhibit outward manifestations of hazardous and dangerous conditions or when there is other reliable information from which it appears reasonably probable that immediate action is required to protect the safety of persons or property, then an emergency shall be deemed to exist and officers or employees of the City shall have the right to make inspection of the property and premises without the consent of the owner, occupant or other persons in charge of such property or premises and without a search warrant.

(E) Penalty Obstruction Prohibited. It shall be unlawful for any person to hinder, delay or otherwise obstruct the inspection of property or premises when such inspection is authorized by a warrant or emergency as provided in the terms of this Chapter; and upon conviction of violation of any of the terms of this Chapter this provision such person shall be subject to punishment a civil penalty as provided in Sections 4-4-1 4-5-8A and 4-5-8B of this City Code.

4-5-6 Dwelling unit regulations and standards

[Unamended]

4-5-7 Responsibilities of owners and occupants.

(A) Public Areas. Every owner of an apartment house, lodging house or hotel shall be responsible for maintaining in a sanitary condition the shared or public areas of the building and premises thereof.

(B) Sanitation. Every occupant of a dwelling unit shall keep in a sanitary condition that part of the dwelling unit and premises thereof which he occupies and controls. Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof. The owner of every lodging house, hotel or dormitory shall be responsible for the sanitary maintenance of all walls, floors, ceilings, and for the maintenance of a sanitary condition in every other part thereof; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is under his control.

(C) Rubbish and Garbage. Every occupant of a dwelling unit shall dispose of all his rubbish, garbage and any other organic waste which might provide food for rodents, in a clean and sanitary manner by placing it in approved disposal facilities or containers. It shall be the responsibility of the owner to supply or cause to be supplied garbage rubbish disposal facilities or containers for all apartment houses, lodging houses and hotels.

(D) Extermination. Every occupant of a building containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises.

Notwithstanding the foregoing provisions of this Section, whenever infestation is caused by a failure of the owner to maintain a building in a ratproof or reasonable insectproof condition, extermination shall be the responsibility of the owner or operator.

(E) Maintenance of Buildings and Premises. Every owner of a building, either occupied or vacant, shall be responsible for maintaining the building in good repair and free of refuse, debris, and rubbish.

(A) General Responsibility. The requirements set forth herein apply to all residential, commercial and industrial premises and are in addition to the requirements set forth in Section 4-5-6 applicable to dwelling units. The owner of the premises shall maintain the buildings, exterior structures, exterior property and stairways and walkways in compliance with these requirements, except as otherwise provided for in this title. A person shall not occupy as owner-occupant or permit another person to occupy buildings, premises, or structures which are not in a sanitary and safe condition or which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

(B) Exterior Property. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(1) All holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors, and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property shall be removed or filled, where filling will abate the nuisance.

(2) All open or broken exterior doors, windows, or apertures of any structure shall be boarded over or otherwise secured, and kept boarded over or otherwise secured, so as to prevent access by unauthorized persons through such openings.

(3) Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(4) All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(C) Exterior Structure. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(1) Every exterior wall and weather-exposed exterior surface or attachment shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.

(2) All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of a protective coating of weather-resistant preservative, and be maintained in good condition. Wood used in construction of permanent structures and located nearer than six inches to earth shall be treated wood or wood having a natural resistance to decay.

(3) Exterior metal surfaces shall be protected from rust and corrosion.

(4) Every section of exterior brick, stone, masonry, or other veneer shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

(5) All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

(6) All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition as to prevent the entry of rodents and other pests.

(7) All buildings and structures shall have an approved roof drainage system including gutters and downspouts. Roof drainage may be disposed of on site or connected to an approved drainage system, which does not include a connection to the City's sanitary sewer system. The roof and flashing shall be sound, tight and have no defects that might admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

(8) All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(9) All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(10) All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be repaired in an approved manner and loose or missing mortar shall be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(11) Every window, skylight, door and frame shall be kept in sound condition, good repair and weathertight.

(12) All glazing materials shall be maintained free from cracks and holes.

(13) Every window, other than a fixed window, that is required to be properly designed for emergency egress or ventilation shall be easily openable and capable of being held in position by window hardware.

(14) All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.

(15) Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

(16) Every basement window that is openable shall be supplied with screens or other approved protection against the entry of rodents.

(D) Stairways, Walking Surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall comply with the code in effect at time of construction and shall be properly designed for its use and be maintained in sound condition and good repair. Every handrail and guard shall comply with the code in effect at time of construction, but at a minimum shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

4-5-7A Dangerous Buildings

(A) Generally. No premises shall contain any dangerous building or structure as described in this title. Once identified and determined to be dangerous by the Building Inspector, all such buildings, premises, or structures shall be repaired or demolished in accordance with Section 4-5-8.

(B) Definition. A dangerous building, premises, or structure shall be considered to exist whenever any premises, building, structure, or portion thereof meets any of the following criteria to the extent that the life, health, property, or safety of the public or the building, structure, or premises' occupants are unreasonably endangered:

(1) High Loads. Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location.

(2) Weakened or Unstable Structural Members or Appendages.

(i) Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location; and/or

(ii) Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuaries, signs, or other appendages or structural members which are supported by, attached to, or part of a building, are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the State Building Code and Fire and Life Safety Code.

(3) Buckled or Leaning Walls, Structural Members. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(4) Vulnerability to Earthquakes, High Winds.

(i) Whenever any portion of a structure has wracked, warped, buckled, or has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; and/or

(ii) Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the State Building Code and Fire and Life Safety Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the State Building Code and Fire and Life Safety Code for such buildings.

(5) Insufficient Strength or Fire Resistance. Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:

(i) Has in any nonsupporting part, member, or portion, less than 50 percent of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location.

(ii) Has in any supporting part, member, or portion less than 66 percent of the strength or the fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

(iii) This subsection does not apply to strength required to resist seismic loads. For application of seismic requirements see the State Building Code.

(6) Risk of Failure or Collapse.

(i) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(ii) Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including, but not limited to:

(a) Dilapidation, deterioration, or decay;

(b) Faulty construction;

(c) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or

(d) The deterioration, decay, or inadequacy of its foundation.

(7) Excessive Damage or Deterioration. Whenever the structure, exclusive of the foundation:

(i) Shows 33 percent or more damage or deterioration of its supporting member or members.

(ii) Shows 50 percent damage or deterioration of its nonsupporting members.

(iii) Shows 50 percent damage or deterioration of its enclosing or outside wall coverings.

(8) Demolition Remnants On-Site. Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure.

(9) Lack of Approved Foundation.

(i) Where a structure is not placed on an approved foundation and no valid permit exists for a foundation for that structure.

(ii) For more than 60 days after issuance of a permit for a foundation for a structure, where the structure is not placed on an approved foundation.

(10) Fire Hazard.

(i) Whenever any structure is a fire hazard as a result of any cause, including but not limited to: dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; vegetation overgrowth; faulty electric wiring, gas connections, or heating apparatus; storage or keeping of combustibles; or any other cause that is determined by the Fire Marshal or Building Inspector to be a fire hazard.

(ii) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(iii) Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(11) Other Hazards to Health, Safety, or Public Welfare.

(i) Whenever, for any reason, the structure, building, or premises, or any portion thereof, is manifestly unsafe for the purpose for which it is currently being used.

(ii) Whenever a structure, building, or premises has any of the conditions or defects described in Sections 4-5-6 or 4-5-7, to the extent that life, health, property, or safety of the public or its occupants are endangered.

(12) Public Nuisance.

(i) Whenever any structure, building, or premises is in such a condition as to constitute a public nuisance as defined in this Chapter or Chapter 1 of Title 7 of the Ontario City Code.

(ii) Whenever the structure, building, or premises has been so damaged by fire, wind, earthquake or flood or any other cause, or through abandonment for in excess of six months, has become so dilapidated or deteriorated as to become:

(a) An attractive nuisance;

(b) A harbor for vagrants or criminals; or as to

(c) Enable persons to resort thereto for the purpose of committing unlawful acts.

(13) Drug Lab Property. Is currently listed as "unfit for use" by the state of Oregon due to toxic contamination resulting from illegal drug manufacturing.

(14) Violations of Codes, Laws. Whenever any structure, building, or premises has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in the State Building Code, Fire and Life Safety Code, or any law or ordinance of this state or City relating to the condition, location, or structure of buildings.

4-5-8 Enforcement

(A) Notice to Owner. The Building Inspector shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe a dangerous building as defined in Section 4-5-7A of this Chapter, the Building Inspector shall give to the owner of such building or structure written notice stating that states the defects thereof, and that complies with the notice requirements of Section 4-5-8B. This notice may require the owner or person in charge of the building or premises, within thirty (30) days, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise

stipulated by the Building Inspector. ~~If necessary, If the Building Inspector determines that the dangerous building is an imminent threat to health, safety or welfare, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the Building Inspector.~~

~~Proper service of such notice shall be by personal service upon the owner of record, if he shall be found within the City limits. If he is not found within the City limits, such service may be made upon said owner by registered mail; provided, that if such notice is by registered mail, the designated period within which said owner or person in charge is required to comply with the order of the Building Inspector shall begin as of the date he receives such notice. Service of such notice shall be as provided in Section 4-5-8B(G).~~

~~(B) If the dangerous building can be reasonably repaired or rehabilitated so that it will comply with the requirements of this Code, it shall be ordered repaired or rehabilitated by the Building Inspector; provided, that the failure to comply with a final order of the Building Inspector shall authorize the Building Inspector to order the building vacated and closed. If the dangerous building cannot be repaired or rehabilitated so it can comply with the requirements of this Code, it shall be demolished.~~

~~(C) Appeals. Appeals from the Building Inspector's written notice issued under subsection (A) shall be taken as provided in Section 4-5-8D.~~

~~(B) (D) The City's Right to Repair or Demolish; Penalty. In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the City Council may order direct the owner of the building prosecuted as a violator of the provisions of this Code and may order City staff the Building Inspector to proceed with the work specified in such notice or to contract with third parties to do so. A statement of the cost of such work shall be transmitted to the City Council, who shall cause the same to be paid and levied as a special assessment against the property after determining that the owner was properly served with the Building Inspector's notice under subsection (A). A failure to comply with the Building Inspector's notice shall also subject the owner to a civil penalty under Sections 4-5-8A and 4-5-8B.~~

~~(E) Costs. Costs incurred under subsection (B) (D) shall be paid out of the City Treasury. Such costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located, and shall be collected in the manner provided for special assessments.~~

4-5-8A Violations; Maximum Penalty; Remedies

~~(A) No person, firm, corporation or other entity however organized shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building or structure in the City, or cause the same to be done, contrary to or in violation of this code.~~

~~(B) Violation of a provision of this ordinance shall be subject to an administrative civil penalty not to exceed \$1,000 and shall be processed in accordance with the procedures set forth in this Chapter.~~

~~(C) Each day that a violation of a provision of this ordinance exists constitutes a separate violation.~~

~~(D) In addition to the above penalties, a condition caused or permitted to exist in violation of this ordinance is a public nuisance and may be abated by any of the procedures set forth under law, including a suit for an injunction.~~

(E) The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the City under any ordinance, statute or law.

4-5-8B Authority to Impose Civil Penalty

(A) Upon a determination by the Building Inspector that any person, firm, corporation or other entity however organized has violated a provision of this chapter or a rule adopted thereunder, the Building Inspector may issue a notice of civil violation and impose upon the violator and/or any other responsible person an administrative civil penalty as provided by subsections (A) to (K) of this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.

(B) Prior to issuing an order to correct a violation under this section, the Building Inspector may pursue reasonable attempts to secure voluntary correction.

(C) Prior to issuing a notice of civil violation and imposing an administrative civil penalty under this section, the Building Inspector shall issue an order to correct a violation to one or more of the responsible persons. Except where the Building Inspector determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than thirty (30) calendar days. The Building Inspector may grant reasonable extensions based on the projected cost of repairs, the availability of contractors to do the work, the resources of the responsible person or owner, the age of the building, and other factors beyond the control of the responsible person or owner.

(D) Following the date or time by which the correction must be completed as required by an order to correct a violation, the Building Inspector shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the Building Inspector may issue a notice of civil violation and impose an administrative civil penalty to each responsible persons to whom an order to correct was issued.

(E) Notwithstanding subsections (B) and (C), the Building Inspector may issue a notice of civil violation and impose an administrative civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the Building Inspector determines that the violation was knowing or intentional or a repeat of a similar violation.

(F) In imposing an administrative civil penalty authorized by this section, the Building Inspector shall consider:

1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
2. Any prior violations of statutes, rules, orders, and permits;
3. The gravity and magnitude of the violation;
4. Whether the violation was repeated or continuous;
5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
6. The violator's cooperativeness and efforts to correct the violation; and
7. Any relevant rule of the Building Inspector.

(G) Any notice of a civil violation that imposes an administrative civil penalty under this section shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. Every notice shall include:

1. Reference to the particular code provision, ordinance number, or rule involved;
2. A short and plain statement of the matters asserted or charged;
3. A statement of the amount of the penalty or penalties imposed;
4. The date on which the order to correct was issued and time by which correction was to be made, or if the penalty is imposed pursuant to subsection (E), a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated; and
5. A statement of the party's right to appeal the civil penalty to the City Manager or designee; a description of the process the party may use to appeal the civil penalty; and the deadline by which such an appeal must be filed.

(H) Any person, firm, corporation or other entity however organized who is issued a notice of civil penalty may appeal the penalty to the City Manager or his designee. The City Manager's designee shall not be the Building Inspector. The provisions of Section 4-5-8C of this code shall govern any requested appeal.

(I) A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager or his designee pursuant to, and within the time limits established by Section 4-5-8C.

(J) Each day the violator fails to remedy the code violation shall constitute a separate violation.

(K) The civil administrative penalty authorized by this section shall be in addition to:

(1) Assessments or fees for any costs incurred by the City in remediation, cleanup, or abatement, and

(2) Any other actions authorized by law, provided that the City shall not issue a citation to Municipal Court for a violation of this Chapter.

4-5-8C Appeal Procedures

(A) A person, firm, corporation or other entity however organized aggrieved by an administrative action of the Building Inspector taken pursuant to any section of this code that authorizes an appeal under this section may, within fifteen (15) days after the date of notice of the action, appeal in writing to the Building Inspector. The written appeal shall be accompanied by a \$200 appeal fee and shall include:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

If a person, firm, corporation or other entity however organized appeals a civil penalty to the City Manager or designee, the penalty shall become final, if at all, upon issuance of the City Manager or designee's decision affirming the imposition of the administrative civil penalty.

(B) If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.

(C) Unless the appellant and the City agree to a longer period, an appeal shall be heard by the City Manager or his designee within thirty (30) days of the receipt of the notice of intent to appeal. At least ten (10) days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.

(D) The City Manager or designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Manager or designee deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the Building Inspector. The rules of evidence as used by courts of law do not apply.

(E) The City Manager or designee shall issue a written decision within 10 days of the hearing date. The written decision of the City Manager or designee is final.

(F) Other than as provided in this subsection, the appeal fee is not refundable. The City Manager or designee may make a determination on the motion of the appellant that the appeal fee shall be refunded to the appellant upon a finding by the City Manager or designee that the appeal was not frivolous.

(G) Failure to pay a penalty imposed hereunder within ten days after the penalty becomes final as provided in subsection (A) shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Inspector is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by Section 4-5-8D, other provisions of this code, or state statutes.

4-5-8D Unpaid Penalties

(A) Failure to pay an administrative penalty imposed pursuant to this code within ten days after the penalty becomes final shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Inspector is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection (B) below, other provisions of this code, or state statutes.

(B) If an administrative civil penalty is imposed on an owner because of a violation of any provision of this code resulting from prohibited use or activity on real property, and if the owner was properly served with a notice of the violation, and the penalty remains unpaid 30 days after such penalty become final, the Building Inspector shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of City liens. At the time such an assessment is made, the Building Inspector shall notify the owner that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of City liens. The lien shall be enforced in the same manner as all City liens. Interest shall commence from the date of entry of the lien in the lien docket.

(C) In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

Section 3. Sections 4-5-9, 4-5-10 and 4-5-11 of the Ontario City Code are repealed.

PASSED AND ADOPTED by the Common Council of the City of Ontario this ____ day of _____, 2010, by the following vote:

AYES:
NAYS:
ABSENT:

APPROVED by the Mayor this ____ day of _____, 2010.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, City Recorder

AGENDA REPORT
February 16, 2010

TO: Mayor and City Council

FROM: Bret Turner, Operations Assistant

THROUGH: Henry Lawrence, City Manager
Chuck Mickelson, Public Works Director

SUBJECT: RESOLUTION #2010-110: A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND FOR ELIMINATING STORM DISCHARGE INTO THE SANITARY SEWER SYSTEM IN SOUTHWEST ONTARIO

DATE: February 2, 2010

SUMMARY:

Attached is the following document:

- Resolution #2010-110
- Map of Area

BACKGROUND:

Ontario is intended to have a separate sanitary sewer system and a separate storm sewer system. The sanitary sewer system is not designed to transport or treat storm water. Unfortunately, there are areas in Ontario where that separation did not occur and because storm sewers did not exist, decisions were made to connect storm water to sanitary sewer lines, which do exist in those areas.

In the Sanitary Sewer Master Plan, October 2001, Section 3.3, Infiltration and Inflow, there are various locations shown where storm water discharges to the sanitary sewer system. As stated in the Sewer Master Plan, the City will continue the program to identify, and where feasible, remove inflow sources.

In the area just east of the Treasure Valley Community College campus on SW 9th Avenue, SW 5th Street, and SW 4th Street, there are ten storm drainage inlets discharging to the sanitary sewer system. There are also two storm drain inlets in the alley on SW 8th Avenue just west of SW 4th Street that discharge to the sanitary sewer.

These two areas are also within the 2010 Chip Seal area. Operations staff recommends eliminating these storm drain inlets from discharging to the sanitary sewer before these streets are chip sealed. Staff proposes to install a storm drainage system that discharges directly into the existing storm drainage pipe.

By installing a storm drainage mainline system in this area, all twelve inlets can be eliminated from discharging into the sanitary sewer system.

By eliminating the storm water from discharging into the sanitary sewer system, the City will see savings by not having to treat the storm water at the Wastewater Treatment Plant. This will also result in an increased capacity at the Wastewater Treatment Plant for future wastewater treatment needs.

It is requested that the Council allow the use of Sewer Fund Contingency dollars to pay for the purchase of materials to complete the project. It is proposed that existing staff complete the work of removing storm sewer from being discharged into sanitary sewer lines.

FINANCIAL IMPLICATIONS:

	Existing FY09-11 Budget	Proposed Change	Ending Budget
Sewer Fund Contingency	\$ 1,498,617	(\$ 29,000)	\$ 1,469,617

The project cost is proposed to be \$29,000 and it is requested to be funded by a reduction of Sewer Fund Contingency. Labor for the project will be provided by existing City Staff, and would be absorbed by the Fund and Department where labor costs are already budgeted.

This project funding will provide for a portion of the Sanitary Sewer Master Plan to be fulfilled.

ALTERNATIVES:

The Council could determine that the work on this project is not required prior to the chip seal project, and therefore will wait to complete the work until this section of Ontario is chip sealed again in future years.

RECOMMENDATION:

Staff recommends the City Council adopt RESOLUTION 2010-110, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND FOR ELIMINATING STORM DISCHARGE INTO THE SANITARY SEWER SYSTEM IN SOUTHWEST ONTARIO.

PROPOSED MOTION:

I move the City Council adopt RESOLUTION 2010-110, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND FOR ELIMINATING STORM DISCHARGE INTO THE SANITARY SEWER SYSTEM IN SOUTHWEST ONTARIO.

RESOLUTION 2010-110

A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER FUND FOR ELIMINATING STORM DISCHARGE INTO THE SANITARY SEWER SYSTEM IN SOUTHWEST ONTARIO

WHEREAS, the City of Ontario adopted the 2009-2011 budget document based upon known or anticipated revenues and expenditures; and

WHEREAS, the City, in preparation for the 2010 Chip Seal Project, reviewed the improvement area in Southwest Ontario, and noted a situation in which storm water was being collected thru the sewer collection system, and following further review of the City's Sanitary Sewer Master Plan, found that the Master Plan called for a separation of the storm and sewer systems; and

WHEREAS, the City, in an effort to fix the system prior to chip sealing the streets over the affected area, as well as in an attempt to eliminate the expense of treating storm water as part of the City's sewer system, determined that improvements were needed to remove storm drainage from the City's sewer collection system; and

WHEREAS, the City proposes to complete the work of separating storm drains from the City's sewer system with existing staff, requiring a reallocation of expenditure funds in order to purchase materials to complete the project; and

WHEREAS, the City Council has determined the work of separating storm and sewer collection systems prior to the chip sealing work in the project area is necessary and desires now to formally modify the 2009-2011 Sewer Fund budget by reducing Operating Contingency expense and increasing the Capital Project expense to complete the project.

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council, to approve the following adjustments to the 2009-2011 Biennial budget:

Account Number	Account Name	Adopted 09-11 Budget	Proposed Change	Revised 09-11 Budget
SEWER FUND				
EXPENSES				
110-165-719255	SEW-18 – Storm/Sewer Line Separation	\$ 0	\$ 29,000	\$ 29,000
110-165-871000	Operating Contingency	\$ 1,498,617	(\$ 29,000)	\$ 1,469,617

EFFECTIVE DATE: Effective immediately upon passage.

PASSED AND ADOPTED by the Ontario City Council, this ____ day of _____ 2010, by the following vote:

Ayes:

Nays:

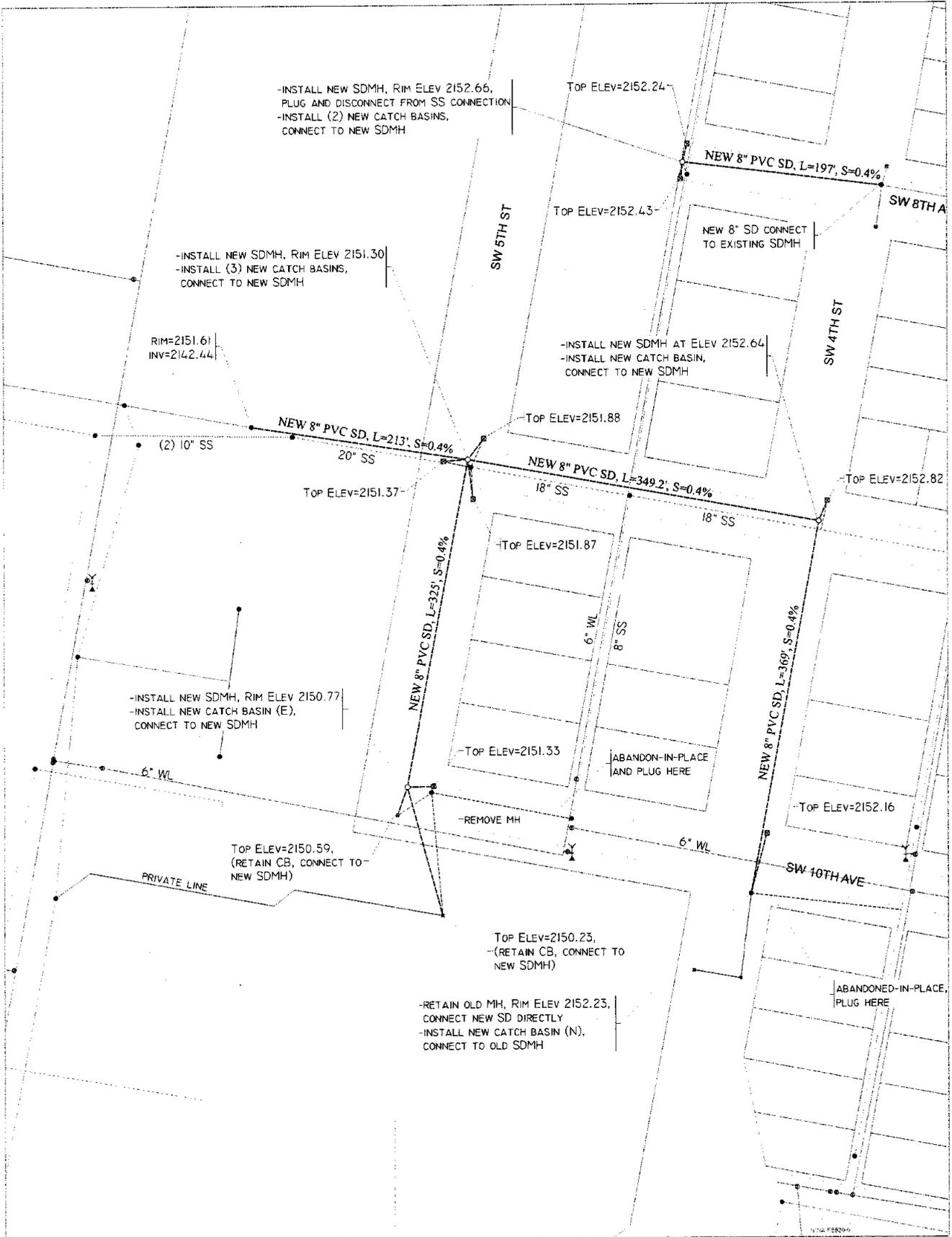
Absent:

APPROVED BY THE Mayor this ____ day of _____ 2010.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, City Recorder



LEGEND

- NEW CB
- NEW SDMH
- EXISTING CB
- EXISTING SDMH
- EXISTING SSMH
- WATER VALVE
- NEW SD
- EXISTING SD
- EXISTING SS
- EXISTING WL
- ABANDONED

1/12/2012 P8829-9

AGENDA REPORT

February 16, 2010

TO: Mayor and City Council

FROM: Bret Turner, Operations Assistant

THROUGH: Henry Lawrence, City Manager
Chuck Mickelson, Public Works Director

SUBJECT: RESOLUTION #2010-111: A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER AND STORM SEWER FUNDS, CREATING AN INTERFUND LOAN, FOR AN EMERGENCY STORM DRAINAGE REPAIR

DATE: February 4, 2010

SUMMARY:

Attached is the following document:

- Resolution #2010-111
- Map of Area

BACKGROUND:

The existing storm drain line that runs from the TVCC campus has been in place since the 1960's. This line serves a large drainage area and is vital for the storm water disposal for much of the SW portion of the City of Ontario. The line also functions as a farm irrigation drainage system for the area south and west of town.

This failing storm drain line was found while performing maintenance work (cleaning) on the storm drainage line just north of the Four Rivers Cultural Center. Through CCTV work, it was discovered that the existing 24" clay pipe storm drain line has failed for about 140 feet. Various options to repair have been reviewed and the most economical option for the required repairs is to have the City's existing staff perform the construction work. Project costs will include PVC pipe materials, equipment rental, and an additional trench box.

City staff has investigated the storm drain piping systems adjacent to this problem area and this section of pipe is the only area found to be failing.

Staff requests funding in the amount of \$12,000 to purchase materials and rent equipment to make emergency repairs to a section of 24" Storm Drainage Mainline on SW 7th Street, between SW 4th Avenue and SW 5th Avenue.

ALTERNATIVE:

1) The City Council could choose not to fund this work, although doing nothing may result in the street over this section of failing pipe to collapse and cause a traffic hazard. This would place the City in a position of liability for the repairs of citizen's property (vehicles) and/or personal injury.

2) The City Council could choose to put this project out to bid for private contractors to complete the work, although doing so may result in higher project costs.

3) The City Council could direct staff to borrow project funds from a traditional financing source and not utilize the interfund loan between the Sewer and Storm Sewer Funds during the 2009-11 Biennial Budget.

FINANCIAL IMPLICATIONS:

The overall approved Storm Drain budget for FY 09-11 does not include funding for this emergency repair work and there is virtually no operating contingency available in the Storm Sewer Fund to reallocate.

The City Council may approve an interfund loan to complete the project, a total of \$12,000, between the City's Sewer Fund and the City's Storm Sewer Fund to create a loan revenue and a capital project expense to complete the emergency project.

This interfund loan action would require that the loan funds be paid back to the Sewer Fund at the close of the biennium, June 30, 2011.

If approved by the Council, once loan proceeds are collected from the Sewer Fund, the City may pay off the interfund loan with new Storm Sewer revenues or, more likely, with a traditional financing that would allow for a longer repayment period for the Storm Sewer Fund.

The City Council could alternatively choose to direct staff to locate outside financing to complete this project.

RECOMMENDATION:

Staff recommends the City Council adopt RESOLUTION 2010-111, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER AND STORM SEWER FUNDS, CREATING AN INTERFUND LOAN, FOR AN EMERGENCY STORM DRAINAGE REPAIR.

Proposed Motion:

I move that the City Council adopt RESOLUTION 2010-111, A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER AND STORM SEWER FUNDS, CREATING AN INTERFUND LOAN, FOR AN EMERGENCY STORM DRAINAGE REPAIR.

RESOLUTION 2010-111

A RESOLUTION AUTHORIZING A REALLOCATION OF EXPENDITURES WITHIN THE SEWER AND STORM SEWER FUNDS, CREATING AN INTERFUND LOAN, FOR AN EMERGENCY STORM DRAINAGE REPAIR

WHEREAS, the City of Ontario adopted the 2009-2011 budget document based upon known or anticipated revenues and expenditures; and

WHEREAS, the City's existing Storm Sewer Fund was reestablished as a separate Fund from the condensed Public Works Fund during the 2009-2011 Biennial Budget process and did not have sufficient reserves to create a contingency within this budget; and

WHEREAS, in the process of conducting storm drain maintenance work, it was discovered that the existing 24" clay pipe storm drain line North of the Four River's Cultural Center has failed for a distance of approximately 140 feet; and

WHEREAS, various options were reviewed and staff determined that improvements were needed to replace the failed line, with work to be completed by existing staff although additional funding would be required for materials and equipment rental of \$12,000; and

WHEREAS, the City proposes to finance the required materials and equipment rental thru an interfund loan from the Sewer to the Storm Sewer Fund due to a lack of Storm Sewer contingency, and said loan is to be repaid by the close of the 2009-11 Biennial Budget; and

WHEREAS, the City Council has determined the emergency repair is necessary, the use of an interfund loan is the best method of financing the emergency repair, and desires now to formally modify the 2009-2011 Sewer Fund budget by reducing Operating Contingency expense and increasing the Interfund Loan expense and modify the Storm Sewer Fund budget by identifying loan proceed revenues and Capital Project expenses to complete the project.

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council, to approve the following adjustments to the 2009-2011 Biennial budget:

Account Number	Account Name	Adopted 09-11 Budget	Proposed Change	Revised 09-11 Budget
SEWER FUND				
EXPENSES				
110-165-833900	Transfer to Storm Sewer Fund – Loan	\$ 0	\$ 12,000	\$ 12,000
110-165-871000	Operating Contingency	\$ 1,469,617	(\$ 12,000)	\$ 1,457,617
STORM SEWER FUND				
REVENUES				
115-000-458130	Transfer from Sewer Fund – Loan	\$ 0	\$ 12,000	\$ 12,000
EXPENSES				
115-170-719300	STRM-1– Emergency Repair (FRCC)	\$ 0	\$ 12,000	\$ 12,000

EFFECTIVE DATE: Effective immediately upon passage.

PASSED AND ADOPTED by the Ontario City Council, this ____ day of _____ 2010, by the following vote:

Ayes:

Nays:

Absent:

APPROVED BY THE Mayor this ____ day of _____ 2010.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, City Recorder

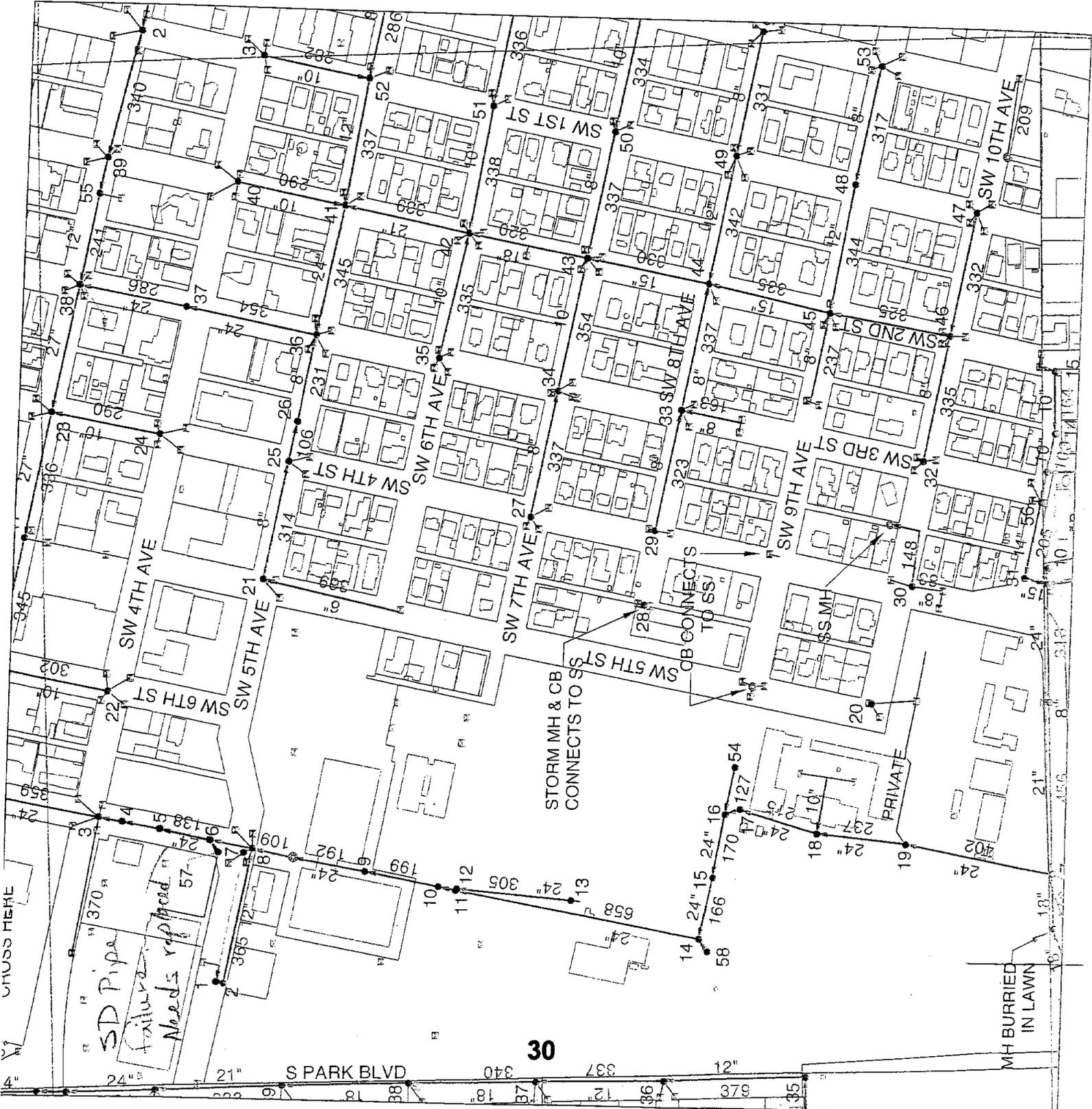
1/22/10

SD

E13

1" = 350'

0 350 700



SD Pipe Failure Needs repair

STORM MH & CB CONNECTS TO SS

CB CONNECTS TO SS

MH BURIED IN LAWN

PRIVATE

30

S PARK BLVD