



Falls City Oregon City Council Meeting

Monday, May 6, 2024 at 6:00 pm

Meeting Location

320 N Main St • Falls City, OR 97344

How to Attend and/or Participate

1. In Person: 320 N Main St. Falls City, OR 97344
2. Call-in: a. 1-253-215-8782 b. Meeting ID: 878 7406 4319
You will be muted but may “raise your hand” to indicate you wish to comment.
3. Web Application: Zoom Webinar <https://us06web.zoom.us/j/87874064319>
You will be muted but may “raise your hand” to indicate you wish to comment during Public Comments.
4. Write-In: Using regular mail or email. a. info@fallscityoregon.gov; 299 Mill St. Falls City, OR 97344

The City of Falls City 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 503.787.3631 at least one working day prior to the need for services and every reasonable effort to accommodate the need will be made.

1. CALL TO ORDER & ROLL CALL

Mayor TJ Bailey, Council President Houghtaling, Councilor Nick Backus, Councilor Martha Jirovec, Councilor Tony Meier, Councilor Dennis Sickles, Councilor Lori Jean Sickles

2. PLEDGE OF ALLEGIANCE

3. ANNOUNCEMENTS, APPOINTMENTS, APPRECIATIONS, & PROCLAMATIONS

4. PUBLIC COMMENTS & LETTER COMMUNICATIONS

In order to encourage an environment of openness, courtesy and respect for differing points of view, please refrain from behavior that is disruptive to the meeting such as making loud noises, clapping, shouting, booing, or any other activity that disrupts the orderly conduct of the meeting. Abusive language will not be tolerated.

Please limit your commentary to 3 minutes or less.

5. TMDL PRESENTATION

Attachments:

- **Staff Report** (TMDL_SR.pdf)
- **Presentation Slides** (TMDL_Slides.pdf)
- **TMDL Matrix** (TMDL_Matrix_23_24.pdf)

6. CONSENT AGENDA

a. April 1, 2024 Minutes

Attachments:

- **Minutes** (2024.04.01_Council_Minutes.pdf)

b. Street Closure - Happy Dance

Attachments:

- **Street Closure Application** (Street_Closure_-_Happy_Dance.pdf)

7. REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS

a. Mayor's Report

b. Councilor Comments

c. Park & Rec Committee Report

Attachments:

- **Minutes** (Park_Minutes.pdf)

d. Public Works Committee Report

Attachments:

- **Minutes** (PW_Minutes.pdf)

8. REPORTS FROM CITY MANAGER & STAFF

a. Falls City Fire Report

Attachments:

- **March Report** (Fire_Report.pdf)

b. Polk County Sheriff Report

Attachments:

- **March Report** (Sheriff_March_Stats.pdf)
- **April Report** (Sheriff_April_Stats.pdf)

c. Falls City Public Works Report

Attachments:

- **April Report** (April_PWR_2024.pdf)

d. City Manager's Report

Attachments:

- **Report** (2024.05.06_Monthly_Manager_s_Report.pdf)

e. Budget Officer Appointment

Attachments:

- **Staff Report** (SR-Budget_Officer_Appointment_FY_24-25.pdf)
- **Budget Calendar** (SR-Budget_Officer_Appointment_FY_Calendar_24-25_Exhibit_A.pdf)

9. RESOLUTIONS

a. Resolution 06-2024: Reinstate Backflow Fee

Attachments:

- **Staff Report** (BFR_-_Res_06-2024_-_SR_Reinstatement_of_BackFlow_Device_Fee_Resolution.pdf)
- **Res 06-2024** (BFR_-_Resolution_06-2024_Water_Sewer_Fees___Rates.pdf)

b. Resolution 07-2024: MINET Franchise Agreement

Attachments:

- **Staff Report** (Res_07-2024_-_SR_MINET_Franchise_Fee.pdf)
- **Res 07-2024** (Res_07-2024_MINET_FRANCHISE_AGREEMENT_with_Falls_City_5.6.24.pdf)

10. ORDINANCES

a. Ordinance 566-2024: Reinstate Backflow Requirements

Attachments:

- **Staff Report** (BFO_-_2024.05.06_SR_Reinstatement_of_BackFlow_Device_Ordinance_to_Match_State_Statute.pdf)
- **Ord 566-2024** (BFO_-_Ordinance_566-2024_Cross_Connection_Program.pdf)

11. GOOD OF THE ORDER

12. ADJOURN

Posted for Public at the City Hall Bulletin Board, Community Center, Falls City Website, Frink's General Store, Falls City Market, LCB Bulletin Board, Post Office, and City Facebook page

STAFF REPORT

TO: MAYOR & CITY COUNCILORS
FROM: CITY MANAGER, AJ FOSCOLI
SUBJECT: TOTAL MAXIMUM DAILY LOAD (TMDL) PRESENTATION
DATE: MAY 6, 2024

BACKGROUND

A Willamette Basin TMDL was first issued in 2006 with the pollutants of concern including bacteria, temperature, and mercury. Falls City was included as a Designated Management Agency (DMA) and submitted a TMDL Implementation Plan to the Department of Environmental Quality (DEQ) in response. The first major revision of that plan occurred in 2022 as the result of new regulations related to mercury. Falls City submitted a 5th Year Assessment and an Annual Report as required in 2023. The 5th Year Assessment was approved by DEQ, but the Annual Report demonstrated that Falls City was not making adequate progress in implementing the conditions of the plan.

As a Designated Management Agency (DMA) the Falls City is required to develop and execute a TMDL Implementation Plan according to Oregon State regulations that layout specific measures for municipalities. These measures are established to address Falls City's contribution of runoff to local waterways. The overall goal of the program is to reduce mercury, bacteria, and temperature that is discharged from the City. Stormwater is not treated and flows directly through pipe or overland to local streams.

EXISTING CONDITIONS

Staff is working toward meeting the annual Best Management Practices (BMPs) in the implementation plan. DEQ has notified the City that an improvement in program implementation must be completed in order to avoid enforcement actions. Staff has utilized an outside consultant to assist with program assistance.

IMPACTS

The revised plan, brought about by the new mercury regulations, require elevated activities such as ordinance development, public outreach, elevated maintenance activities, erosion control measures beyond what is required by the state, and updates to the City's Design Standards. Failure to meet deadlines and fully implement the approved plan will result in enforcement by DEQ that can result in fines.

Staff is not asking for action from Council at this time. This report and the presentation are for informational purposes.

SUMMARY

The consultant will provide a presentation and answer and questions from City Council.

ATTACHMENTS

Falls City TMDL Matrix
PowerPoint Slides



**City of Falls City
TMDL Implementation Plan**

Plan Overview
By: Elizabeth Sagmiller, E and S Consulting LLC

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Presentation Overview

- ▶ Review the requirements of the TMDL Program
- ▶ Status update
- ▶ What's next



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Total Maximum Daily Load

- ▶ **TMDL Meaning** – A TMDL describes the amount of a pollutant that a waterway can receive without exceeding water quality standards – a number (Safe for recreation, safe for fish, drinking water, fish consumption, etc)
- ▶ **TMDL Implementation Plan** – A regulatory document that describes the community and sets out **mandatory** activities that are to be taken over a 5 year period and beyond. The plan includes activities, milestones, and a description of how Falls City will meet regulations.
- ▶ *In Oregon, the Department of Environmental Quality (DEQ) is the authorized agent for the federal Environmental Protection Agency (EPA). The program being discussed is part of the Clean Water Act regulations.*

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Background

- ▶ **Clean Water Act (CWA) established – 1948**
- ▶ Amended -1972. The goal was to make waterways 'fishable and swimmable' by the mid – 1980's..... And we're still working on it.
- ▶ **Phase I and Phase II permits were required for larger municipalities to address point sources. The TMDL Program was developed to address non-point sources. These are all requirements of the Federal Clean Water Act.**
- ▶ *In Oregon, the Department of Environmental Quality (DEQ) is the authorized agent for the United States Environmental Protection Agency (EPA) who is responsible for implementing the Clean Water Act (CWA).*
- ▶ **DEQ identified and prioritized waterways in Oregon**
- ▶ DEQ submitted a TMDL for the Willamette Basin to the EPA for approval in 2001. The EPA approved the TMDL and Designated Management Agencies (DMAs) were notified of the requirement to develop TMDL Implementation Plans to address discharges of pollutants from the city or county.

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One more time...

- ▶ DEQ submits a document to EPA for approval. That document gives the scientific reasoning for the TMDL, and their plan to correct the problem.
- ▶ **example: 2006 Willamette Basin TMDL and WQMP**
- ▶ TMDL is a scientific study that evaluates water quality and establishes a number that reflects how much of a pollutant in the water can be present without harm to people or fish.
- ▶ A Water Quality Management Plan (WQMP) are the instructions for DMAs on how they are going to reduce their contribution of pollutants.



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And then.....

Willamette Basin TMDL approved by EPA in 2006

Mercury, Bacteria, and Temperature were listed as the pollutants of concern. Falls City was notified that they were included as a **Designated Management Agency (DMA)** in the TMDL, and were responsible for meeting the conditions of the Water Quality Management Plan developed by DEQ. See OAR **340-042-0080**

Falls City submitted their TMDL Implementation Plan in 2006. The plan is reviewed routinely (annually and at the 5th year), and it was most recently revised in its entirety 2023 as a response to the 2019 Final Willamette Basin Mercury TMDL.

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Enforcement

- ▶ DEQ updated enforcement protocol in 2022. They are actively enforcing on local TMDL Programs.
- ▶ From correspondence to DMAs in March 2022 from DEQ
- ▶ **“What This Means to You:**
- ▶ **DEQ will no longer accept extension requests to submit TMDL implementation plans, Five-Year Plan updates, or annual reports. If plans or reports are submitted past the established due date, DEQ staff are directed to take enforcement action, such as sending warning letters**
- ▶ **DEQ staff are directed to take enforcement action for incomplete TMDL annual reports, un-approvable TMDL implementation plans, late implementation, or no implementation**
- ▶ **Not meeting TMDL requirements may lead to Pre-Enforcement Notices (PEN) and referred to DEQ’s Office of Compliance and Enforcement for potential penalties.”**

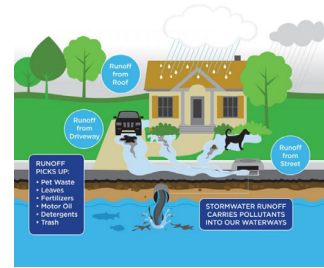
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Stormwater – Development of any size results in the need for stormwater management.

Stormwater is precipitation (rain, snow, or ice melt) that falls on impervious surfaces (driveways, parking lots, roof tops, and compacted area)

Stormwater conveyance systems capture this water and direct it to waterways where it is discharged.

In some smaller communities, the water may flow off directly to the waterway.



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Control Measures

▶ *“Implementing the six measures provides a consistent set of stormwater control measures for all regulated MS4 permit holders to decrease delivery of stormwater pollutants from urban runoff. Requirements in DEQ’s MS4 Phase II general permit that became effective in March 2019, generally mirrors the six EPA control measures.” (2019 Final Willamette Basin Mercury TMDL)*

1. PUBLIC EDUCATION AND OUTREACH
2. PUBLIC INVOLVEMENT AND PARTICIPATION
3. ILLICIT DISCHARGE DETECTION AND ELIMINATION
4. CONSTRUCTION SITE RUNOFF
5. POST-CONSTRUCTION RUNOFF IN NEW AND REDEVELOPMENT
6. GOOD HOUSEKEEPING IN MUNICIPAL OPERATIONS



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#1 Public Education

- ▶ Development of materials and activities that will provide water quality messages to the public. Educational messages can be posted to the website, placed in brochures, or distributed through social media.
- ▶ Outreach should target specific audiences such as residents and students.



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#2 Public Participation and Involvement

- ▶ Public participation is conducting activities that will allow citizens to learn about the implementation plan and comment.
- ▶ This City Council meeting is an example of a public participation activity.



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#3 Illicit Discharge Detection and Elimination

- ▶ The City must develop a program that prohibits the discharge of non-stormwater discharges. A discharge not composed entirely of stormwater is an example would be considered an illicit discharge. This control measure requires development of an ordinance.



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#4 Construction Site Runoff

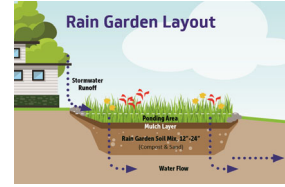


- ▶ Development of a program and ordinance that regulates soil disturbance such as is found with construction. Activities would include requiring building plans, construction site controls, and education material.

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#5 Post Construction Runoff Control (in New and Re-development)

- ▶ Infiltration of stormwater on the project site rather than piping water to a stream. Examples include rain gardens, swales, and vegetated stormwater facilities. A revision of design standards will be required.



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#6 Good Housekeeping in Municipal Operations



- ▶ Using water quality activities that are protective of water quality. Street sweeping, cleaning catch basins, and maintaining the system are examples of good housekeeping practices.

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Understanding the Matrix

Each BMP indicates what the pollutant source is, how the BMP will be implemented, how the City will pay for it, when the BMP will be completed, and what the City is doing for the specified year to demonstrate progress. The Falls City matrix can be found on the City website.

- ▶ **Source**
What source is being addressed? (ex. runoff from construction sites, etc)
- ▶ **Strategy**
What will be done to control or reduce pollutant from source?
- ▶ **How**
Specifically, how will this be done?
- ▶ **Fiscal Considerations**
How is the BMP funded? (ex. In the 2023 budget, grant, etc.)
- ▶ **Measure**
How will successful implementation or completion be measured?
- ▶ **Timing**
When will the strategy be completed?
- ▶ **Milestone**
What intermediate goals will be achieved and by when.



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City of Falls City
TMDL IMPLEMENTATION PLAN MATRIX 2022 – 2027
Year 1 Sept 2, 2022 – Oct. 31, 2023 (Report Due Dec. 1, 2023)

BMP#	Source What source is being addressed? (ex. runoff from construction sites, riparian condition)	Strategy What will be done to control or reduce pollutant from source?	How Identify, how will this be done?	Fiscal Considerations How is the BMP funded? (ex. In the 2023 budget, grant, etc.)	Measure How will successful implementation be measured?	Timing When will the strategy be completed?	Milestone What intermediate goals will be achieved and by when. Measure success	Status
POLLUTANT: Mercury								
DCM#1 Public Outreach								
PE-1	Runoff from soil disturbance and direct discharge to waterway from riparian area	Post relevant FE materials to the City's website and other distribution methods	Utilize material from portfolio to make FAQ sheets, brochures, etc	Staff and consultant	Document materials and topics covered annually and discuss in annual report	Ongoing annually	Completion of multiple documents on the website for the public to access. Update routinely	
PE-2	Runoff from soil disturbance and direct discharge to waterway from riparian area	SCLV Community River Clean-up	City Staff and volunteers partner with SCLV	Staff time	Support annual SCLV event	Ongoing annually	Continue to provide report for this event and report records when held	
PE-3	Runoff from soil disturbance and direct discharge to waterway from riparian area	Participate in local annual event	Host a booth or events and document materials	Set aside small fund for promotional items	Document of events and participation	Ongoing annually	Report number of projects handed out, date, and participation	
PE-4	Runoff from soil disturbance and direct discharge to waterway from riparian area	Tree City USA	Re-establish this activity	Staff time and budgeting	Discuss event and educational material in annual report	Ongoing annually	Advertise the event, develop education material	

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Method for Best Management Practice (BMP) Selection

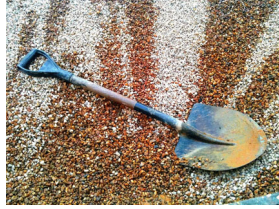


- ▶ Select BMPs that meet regulations
- ▶ BMPs that make sense for Falls City
- ▶ BMPs that are effective
- ▶ BMPs that are implementable

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Primary Tasks for 2024

- ▶ Falls City is a little behind on progress. Catch-up!
- ▶ Complete approved tasks according to the implementation plan for 2024.
- ▶ Meet established timelines.



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Road Blocks?

- ▶ **YES!**
- ▶ Small City
- ▶ Small staff
- ▶ Limited funding
- ▶ Other regulatory challenges



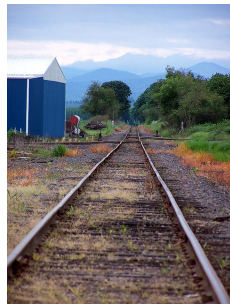
The City is still responsible.

- ✓ The City will have to address funding in the future.
- ✓ Take advantage of partnerships and other resources.
- ✓ Maintain a relationship with DEQ and a consultant.

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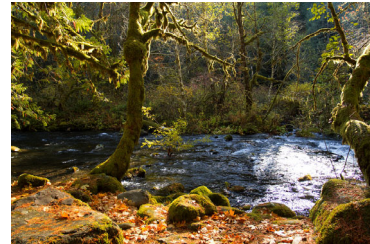
Keep the City Council Informed

- ▶ Program progress
- ▶ Changes to regulations
- ▶ Required actions by Council
- ▶ Other items of note – *What might be coming down the tracks*



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QUESTIONS?



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**City of Falls City
TMDL IMPLEMENTATION PLAN MATRIX 2022 – 2027
Year 1 Sept 2, 2022 – Oct. 31, 2023 (Report Due Dec. 1, 2023)**

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
POLLUTANT: Mercury								
MCM #1 Public Outreach								
PE-1	Runoff from soil disturbance and direct discharge to waterway from riparian area	Post relevant PE materials to the City's website and other distribution methods	Utilize material from portfolio to make FAQ sheets, brochures, etc	Staff and consultant	Document materials and topics covered annually and discuss in annual report	Ongoing annually	Completion of multiple documents on the website for the public to access. Update routinely	
PE-2	Runoff from soil disturbance and direct discharge to waterway from riparian area	SOLV Community River Clean up	City Staff and volunteers partner with SOLV	Staff time	Support annual SOLV event	Ongoing annually	Continue to provide support for this event and report records when held	
PE-3	Runoff from soil disturbance and direct discharge to waterway from riparian area	Participate in local annual event	Host a booth or event and document materials	Set aside small fund for promotional items	Document of events and participation	Ongoing annually	Report number of materials handed out, date, and participation	
PE-4	Runoff from soil disturbance and direct discharge to waterway from riparian area	Tree City USA	Re-establish this activity. Arbor Day Celebration, outreach material.	Staff time and budgeting	Discuss event and educational material in annual report	Ongoing annually	Advertize the event, develop education material	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
PE-5	Runoff from soil disturbance and direct discharge to waterway from riparian area	Partner with Luckiamute Watershed Council.	Communicate as to how Falls City can utilize their expertise	Staff time	Report annual progress in yearly report	Ongoing annually	Contact Director and discuss potential partnership activities	
PE-6	Runoff from soil disturbance and direct discharge to waterway from riparian area	Coordinate with the development community and provide educational material	Provide materials on the website and conduct site visits	Staff time and consultant	Report progress in yearly report	Ongoing to commence in 2023/2024	Update the website with new education material for builders in 2023/2024	
PE-8	Runoff from soil disturbance and direct discharge to waterway from riparian area	Provide outreach and education materials to hobby farms, riparian property owners, and septic system owners	Collect property owner information and send direct mailing	Postage	Report # of mailings in annual report	2x during permit term	Send mailing in 2024 and in 2026. Highlight temperature information and tree retention.	
PE-9	Runoff from soil disturbance and direct discharge to waterway from riparian area	Reorganize the website	Sort educational material into groups for target audiences	Staff time	Redesign the website	2023/2024 Revise and update annually	Redesign the website and add information to make a more user friendly resource for the community	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
PI-1	Runoff from soil disturbance and direct discharge to waterway from riparian area	Maintain a website to post the most current environmental material relating to the TMDL Plan	Post the TMDL Plan on the City website annual reports and other reg. info	Staff time	Post the plan in 2022 and post plan reports submitted to DEQ annually	To occur each year starting in 2022	Post new and updated material annually and report	
PI-2	Runoff from soil disturbance and direct discharge to waterway from riparian area	Annual presentation to City Council	Work Session presentation	Consultant and staff	Report progress in yearly report	To occur each year starting in 2022/2023	Content and date to be included in annual report	
ID-1	Runoff from soil disturbance and impervious area	Update the City's GIS system to include new stormwater data	Review WQMP to meet DEQ requirements	Staff time	Document annual updates	2032/2033	Track annual assets (ie. outfalls, catchbasins, etc) Coordinate with Polk County	
ID-2	Runoff from soil disturbance and impervious area	Develop an inventory of stormwater assets and facilities	Field verify stormwater system to collect and locate assets and facilities	Staff time	Report progress in annual report	Ongoing annually	Collect information annually and keep records of locations, type, function, condition	
ID-3	Runoff from soil disturbance and impervious area	Develop an ordinance that prohibits non-stormwater discharges into the stormwater system	Utilize ordinances and programs from other agencies	Staff time involving legal	Provide DEQ annual progress on this BMP in the annual report	Complete by 2030/2031	Document annual activities	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
ID-4	Runoff from soil disturbance and impervious area	Develop and enforce an escalating and response procedure to include construction sites, illegal dumping and illegal connections.	The plan will include escalating steps of enforcement	Staff time	Report progress and final to DEQ	Complete by 2030/2031	Document annual activities	
ID-5	Runoff from soil disturbance and impervious area	Annual staff training	Annual training by existing staff. Take advantage of inexpensive regional training	Consultant year-1	Report training date, # of employees in attendance	To occur each year starting in 2022/2023	Conduct annual training – develop a schedule. Yr 1 training by consultant	
ID-6	Runoff from soil disturbance and impervious area	Recordkeeping including response to complaint accounting	Utilize GIS or another database to document response to calls and complaints	Staff time	Report # of complaints and outcome annually	To occur each year 2023/2024	Develop a response process and tracking system	
ID-7	Runoff from soil disturbance and impervious area	Complete Stormwater Master Plan	Develop a plan to complete this effort	Staff time	Report annual progress	2026/2027	Develop and follow a plan for progress	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
CS-1	Runoff from soil disturbance and impervious area	Coordinate with the development community regarding the need for a 1200-C permit provide educational material	Provide materials on the website and conduct site visits	Staff time and consultant	Report progress in yearly report	Ongoing to commence in 2023/2024	Develop a flyer for builders/developers. Use in field and post on website	
CS-2	Runoff from soil disturbance and impervious area	Develop an Erosion Control Ordinance which includes DEQ requirements and riparian setbacks	Ordinance requires consistency w/ 1200-C permit. Establish riparian setbacks	Staff time	Document annual progress	2029/2030	Report progress in each annual report	
CS-3	Runoff from soil disturbance and impervious area	Develop and enforce an escalating and response procedure to include qualifying construction sites	The response procedure will be linked to a process that applies to the ID, PC portions of the plan	Staff time	Report progress in annual report	2029/2030	Education will be emphasized prior to ordinance development. Develop draft	
CS-4	Runoff from soil disturbance and impervious area	Develop a tracking system	Will seek to eventually tie this process to GIS	Staff time	Report progress in annual report	2023/2024	Maintain annual tracking data Coordinate with Polk Co to receive permit applications for review and approval	

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CS-5	Runoff from soil disturbance and impervious area	Annual training for PW person	Develop resource guide	Consultant	Report training and dates	Ongoing annually	Hold training and complete resource manual	
PC-1	Runoff from soil disturbance and impervious area	Develop an ordinance or other regulatory mechanism such as design standards to meet the post-construction requirements	Utilize DEQ resources and mirror what other municipalities have done.	Staff time – potential for engineering costs	Document progress annually	Complete by 2031/2032	Describe progress in the annual report	
PC-2	Runoff from soil disturbance and impervious area	Develop inspection and maintenance requirements for publically owned property	The plan should include a checklist for inspections	Staff time	Report annual progress	2032/2033	Add maintenance plan and protocol to GH manual	
PC-3	Runoff from soil disturbance and impervious area	Identify a location suitable for an LID project for stormwater from ROW	Field survey potential sites and install a PC feature	Small budget	Report annual progress	2026/2027	Locate site and design to take runoff from impervious surface. Use proper soil medium and plants	
PC-4	Runoff from soil disturbance and impervious area	Staff training	Annual staff training for involved personnel	Consultant Year 1	Report annual training activities	Ongoing starting in 2022/2023	Consultant to facilitate Year 1 training	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
GH-1	Pollution from municipal operations	Develop a Good Housekeeping Manual	The manual is a reference guide for operations personnel	Staff time w/ Consultant	Describe progress in the annual report	Complete by 2025/2026	Complete manual. Revise as needed	
GH-2	Pollution from municipal operations	Monthly Inspections at Shop Facility	Inspections will occur according to Good Housekeeping Manual in Yr 2	Staff time	Provide completion date and documentation for inspections to DEQ	Conduct inspections starting in 2023/2024	Conduct inspections according to the manual	
GH-3	Pollution from municipal operations	Street Sweeping	Continue street sweeping activities	Staff time	Provide annual activities in annual report	To occur each year starting in 2023	Evaluate practices to improve effort. Record quarterly removal totals. Explore the feasibility of additional support	
GH-4	Pollution from municipal operations	Catchbasin Cleaning	Develop a catchbasin cleaning program	Staff time	Evaluate practices to improve effort	To occur each year starting in 2023	Provide annual activities in annual report	
GH-5	Pollution from municipal operations	Annual training	Use resource materials or attend another event	Consultant	Record date, content, and employees	To occur each year starting in 2023	Describe progress in the annual report	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
PE-1	Sediment loading and lack of shade	Post relevant PE materials to the City's website and other distribution methods	Utilize material from portfolio to make FAQ sheets, brochures, etc	Staff and consultant	Document materials and topics covered annually and discuss in annual report	Ongoing annually	Completion of multiple documents. Update routinely	
PE-3	Sediment loading and lack of shade	Participate in local annual event	Host a booth or event and document materials	Set aside small fund for promotional items	Document date of events and participation	Ongoing annually	Report number of materials handed out, date, and participation	
PE-4	Sediment loading and lack of shade	Tree City USA	Re-establish this activity. Arbor Day Celebration, outreach material.	Staff time and budgeting	Discuss event an educational material in annual report	Ongoing annually	Advertise the event, develop education material	
PE-5	Runoff from soil disturbance and direct discharge to waterway from riparian area	Partner with Luckiamute Watershed Council.	Communicate as to how Falls City can utilize their expertise	Staff time	Report annual progress in yearly report	Ongoing annually	Contact Director and discuss potential partnership activities	
PE-8	Runoff from pervious surface, or illegal discharge	Provide outreach and education materials to hobby farms, riparian property owners, and septic system owners	Collect property owner information and send direct mailing	Postage	Report # of mailings in annual report	2x during permit term	Send mailing in 2024 and in 2026	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
PE-9	Runoff from soil disturbance and direct discharge to waterway from riparian area	Reorganize the website	Sort educational material into groups for target audiences	Staff time	Redesign the website	2023/2024 Revise and update annually	Redesign the website and add information to make a more user friendly resource for the community. Add information specific to the temperature TMDL	
PI-1	Sediment loading and lack of shade	Maintain a website to post the most current environmental educational information	Post the TMDL Plan on the City website with educational material	Staff time	Post the plan in 2022 and post plan reports submitted to DEQ annually	To occur each year starting in 2022	Post new and updated material annually and report	
PI-2	Sediment loading and lack of shade	Annual presentation to City Council	Work Session presentation	Consultant and staff	Report progress in yearly report	To occur each year starting in 2022/2023	Content and date to be included in annual report	
PI-3	Sediment loading and lack of shade	Work with Luckiamute Watershed Council or SWCD	Use watershed council to identify restoration locations, or lead tree planting activity.	Staff time	Report progress in yearly report	Start conversations in 2024. Ongoing	Set meetings with watershed council	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
ID-2	Sediment loading and lack of shade	Develop an ordinance that prohibits non-stormwater discharges into the stormwater system	Utilize ordinances and programs from other agencies	Staff time involving legal	Provide DEQ annual progress on this BMP in the annual report	Complete by 2030/2031	Document annual activities. Use Phase II as guidance	
ID-3	Sediment loading and lack of shade	Develop and enforce an escalating and response procedure to include construction sites, illegal dumping and illegal connections.	The plan will include escalating steps of enforcement	Staff time	Report progress and final to DEQ	Complete by 2030/2031	Document annual activities	
ID-5	Sediment loading and lack of shade	Annual staff training	Annual training by existing staff. Take advantage of inexpensive regional training	Consultant in Year 1	Report training date, # of employees in attendance	To occur each year starting in 2022/2023	Conduct annual training – develop a schedule. Yr 1 training by consultant	
CS-2	Sediment loading and lack of shade	Develop an Erosion Control Ordinance which includes DEQ requirements and riparian setbacks	Ordinance and document need to be consistent with the 1200-C permit	Staff time	Document annual progress	2029/2030	Report progress in each annual report. Coordinate with Polk Co.	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
CS-3	Sediment loading and lack of shade	Develop and enforce an escalating and response procedure to include qualifying construction sites	The response procedure will be linked to a process that applies to the ID, PC portions of the plan	Staff time	Report progress in annual report	2029/2030	Education will be emphasized prior to ordinance development. Develop draft	
CS-5	Sediment loading and lack of shade	Annual training for PW person	Develop resource guide	Consultant	Report training and dates	Ongoing annually	Hold training and complete resource manual	
PC-1	Sediment loading and lack of shade	Develop an ordinance or other mechanism such as design standards to meet the post-construction reqs.	Utilize DEQ resources and mirror what other municipalities have done.	Staff time – potential for engineering costs	Document progress annually	Complete by 2031/2032	Describe progress in the annual report	
PC-2	Runoff from soil disturbance and impervious area	Develop inspection and maintenance requirements for publically owned property	The plan should include a checklist for inspections	Staff time	Report annual progress	2032/2033	Add maintenance plan and protocol to GH manual	
PC-3	Runoff from soil disturbance and impervious area	Identify a location suitable for an LID project for stormwater from ROW	Field survey potential sites and install a PC feature	Small budget	Report annual progress	2026/2027	Locate site and design to take runoff from impervious surface. Use proper soil medium and plants	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
PC-4	Sediment loading and lack of shade	Staff training	Annual staff training	Consultant in Year 1	Report annual activities	Ongoing starting in 2022/2023	Consultant to facilitate Year 1 training	
GH-1	Pollution from municipal operations	Develop a Good Housekeeping Manual	Include protocol for retention of trees and native vegetation along waterways	Staff time w/ Consultant	Complete manual	Complete by 2024	Staff review and revise to reflect Falls City needs	
PE-1	Runoff from pervious surface or degraded riparian area	Post relevant PE materials to the City's website and other distribution methods	Utilize material from portfolio to make FAQ sheets, brochures, etc	Staff	Document materials and topics covered annually and discuss in annual report	Ongoing annually	Completion of multiple documents on the website for the public to access. Update routinely	
PE-2	Runoff from pervious surface or degraded riparian area	SOLV Community River Clean up	City Staff and volunteers partner with SOLV	Staff time	Document event, date, number of participants and discuss in annual report	Ongoing annually	Advertise for event and record events	
PE-3	Runoff from pervious surface or degraded riparian area	Participate in local annual event	Host a booth or event and document materials	Set aside small fund for promotional items	Document date of events and participation	Ongoing annually	Report number of materials handed out, date, and participation	
PE-7	Runoff from pervious surface, or illegal discharge	Maintain pet waste stations	Maintain and stock stations	Funding for bags	Document in annual report	Ongoing annually	Record # of bags and maintenance activities	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
PE-8	Runoff from pervious surface, or illegal discharge	Provide outreach and education materials to hobby farms, riparian property owners, and septic system owners	Collect property owner information and send direct mailing	Postage	Report # of mailings in annual report	2x during permit term	Send mailing in 2024 and in 2026	
PI-1	Runoff from pervious surface or degraded riparian area	Maintain a website to post the most current environmental educational information	Post the TMDL Imp Plan and other educational information	Staff time	Post new and updated material annually and report	To occur each year starting in 2022	Post the plan in 2022 and post plan reports submitted to DEQ annually	
PI-2	Runoff from pervious surface or degraded riparian area	Annual presentation to City Council	Work Session presentation	Consultant and staff	Report progress in yearly report	To occur each year starting in 2022/2023	Content and date to be included in annual report	
ID-2	Runoff from soil disturbance and impervious area	Develop an inventory of stormwater assets and facilities	Field verify stormwater system to collect and locate assets and facilities	Staff time	Report progress in annual report	Ongoing annually	Collect information annually and keep records of locations, type, function, condition	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
ID-3	Runoff from soil disturbance and impervious area	Develop an ordinance that prohibits non-stormwater discharges	Develop a plan to meet the conditions of IDDE in 2022/2023	Staff time involving legal	Document annual progress	Complete by 2030/2031	Provide DEQ annual progress on this BMP in the annual report	
ID-4	Runoff from soil disturbance and impervious area	Develop an enforcement response plan	The plan will include escalating steps of enforcement	Staff time	Report progress and final to DEQ	Complete by 2030/2031	Document annual activities	
ID-5	Runoff from soil disturbance and impervious area	Annual staff training	Annual training by existing staff. Take advantage of inexpensive regional training	Consultant in Year 1	Report training date, # of employees in attendance	To occur each year starting in 2022/2023	Conduct annual training – develop a schedule. Yr 1 training by consultant	
CS-2	Runoff from soil disturbance and impervious area	Develop an Erosion Control Ordinance which includes DEQ requirements	Ordinance and document need to be consistent with 1200-C and/or 1200-CN programs	Staff time	Document annual progress	2029/2030	Report progress in each annual report	
CS-3	Runoff from soil disturbance and impervious area	Develop and enforce an escalating and response procedure to include qualifying construction sites	The response procedure will be linked to a process that applies to the ID, PC portions of the plan	Staff time	Report progress in annual report	2029/2030	Education will be emphasized prior to ordinance development. Develop draft	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
PC-1	Runoff from soil disturbance and impervious area	Develop an ordinance or other regulatory mechanism such as design standards	Utilize DEQ resources and mirror what other municipalities have done.	Staff time – potential for engineering costs	Describe progress in the annual report	Complete by 2031/2032	Document progress annually	
PC-2	Runoff from soil disturbance and impervious area	Develop inspection and maintenance requirements for publically owned property	The plan should include a checklist for inspections	Staff time	Report annual progress	2032/2033	Add maintenance plan and protocol to GH manual	
PC-3	Runoff from soil disturbance and impervious area	Identify a location suitable for an LID project for stormwater from ROW	Field survey potential sites and install a PC feature	Small budget for materials	Report annual progress	2026/2027	Locate site and design to take runoff from impervious surface. Use proper soil medium and plants	
PC-4	Runoff from soil disturbance and impervious area	Staff training	Annual staff training	Cost of training	Report annual training activities	Ongoing starting in 2022/2023	Consultant to facilitate Year 1 training	
GH-1	Pollution from municipal operations	Develop a Good Housekeeping Manual	Include protocol for retention of trees and native vegetation along waterways	Staff time w/ Consultant	Describe progress in the annual report	Complete by 2023/2024	Staff review and revise to reflect Falls City needs	

BMP#	Source <i>What source is being addressed? (ex. runoff from construction sites, riparian condition)</i>	Strategy <i>What will be done to control or reduce pollutant from source?</i>	How <i>Specifically, how will this be done?</i>	Fiscal Considerations <i>How is the BMP funded? (ex. In the 2023 budget, grant, etc.)</i>	Measure <i>How will successful implementation or completion be measured?</i>	Timing <i>When will the strategy be completed?</i>	Milestone <i>What intermediate goals will be achieved and by when. Measure success</i>	Status
GH-3	Pollution from municipal operations	Street Sweeping	Continue street sweeping activities	Staff time	Provide annual activities in annual report	To occur each year starting in 2023	Evaluate practices to improve effort. Record quarterly removal totals. Explore the feasibility of expanded service.	
GH-4	Pollution from municipal operations	Catchbasin Cleaning	Develop a catchbasin cleaning program	Staff time	Evaluate practices to improve effort	To occur each year starting in 2023	Provide annual activities in annual report	
GH-5	Pollution from municipal operations	Annual training	Use resource materials or attend another event	Consultant	Record date, content, and employees	To occur each year starting in 2023	Describe progress in the annual report	
		Develop a sustainable stormwater fee	Review possible options including an impervious surface study	Staff time	Annual progress shall include options considered, and next steps	2025/2026	Provide annual activities in annual report	
		Complete annual reports	Develop document based on recordkeeping	Consultant	Complete and submit the annual report	By due date annually		

		Evaluate public education activities according to WQMP	Choose 1 activity to promote and help lead other activities	Consultant	Review activities with staff and determine most effective activity and why	To be submitted with annual report		
		Annually evaluate implementation efforts and program progress	Review and evaluative actions (monitoring)	Consultant	Review and discuss with staff to plan changes for following year	To be submitted with annual report		
		Complete 5 th Year Assessment and Evaluation	Gather information based on recordkeeping and annual reports	Staff time	Complete assessment using DEQ guidelines	2026/2027		

Control Measures	
PE	Public Education
PI	Public Involvement and Participation
ID	Illicit Discharge Detection and Elimination
CS	Construction Site Runoff Control
PC	Post-Construction Runoff Control
GH	Good Housekeeping in Municipal Operations

FALLS CITY CITY COUNCIL		MONDAY, APRIL 1, 2024
The Falls City City Council met in regular session on Monday, April 1, 2024 at 6:01 p.m. in the Community Center located at 320 N. Main Street		
Council Members Present: Council President Amy Houghtaling, Councilor Nick Backus, Councilor Martha Jirovec, Councilor Tony Meier, Councilor Dennis Sickles and Councilor Lori Jean Sickles		
Staff Present: City Manager AJ Foscoli, City Recorder Jeremy Teal		
AGENDA		ACTION
Announcements, Appointments, Appreciations & Proclamations		<p>Mayor Bailey thanked Lori and Laura Sickles for an amazing easter egg hunt on. He noted there were tons of kids, and everyone had a great time.</p> <p>He thanked Council President Houghtaling for filling in at the last Council meeting.</p> <p>Councilor D Sickles thanked Mr. Foscoli for his diligent work on making sure the school had a football field next year.</p>
Public Hearing a. Community Resource Center Staff Report Councilor Questions Applicant Report		<p>Mayor Bailey opened the public hearing at 6:05 p.m.</p> <p>Mr. Whyte gave a brief staff report regarding the Community Resource Center at 200 Parry Street in Falls City. He noted it was a Conditional Use Permit with no height or setback restrictions. He stated he recommended Council approve both applications with the conditions.</p> <p>Council President Houghtaling asked if the applicant was aware of the conditions. Mr. Whyte noted they were aware.</p> <p>Councilor Jirovec asked if there would be an ADA ramp on the facility. Mr. Whyte noted there was.</p> <p>Mr. Brent DeMoe representing Willamette Health Council (WHC) explained to Councilor Jirovec there was a certified ADA ramp and improved sidewalk for the facility. He advised Council President Houghtaling that White Oak Construction and WHC collectively knew about the conditions.</p>

<p>b) Councilor Comments</p>	<p>Councilor Martha asked what trees would be removed and if there would be any loss of the hill. He explained that no trees were coming down and there was a need to bring in some dirt so the hill would be added to, and nothing would be taken away.</p> <p>Councilor LJ Sickles thanked the volunteers for their help with the easter egg hunt this year and she was looking forward to next year.</p> <p>Councilor Backus asked for some direction for the report for the Council he was working on. Council President Houghtaling stated that the report should be less than a page, like a snapshot for Facebook. She noted he could send it to other Councilors for directions.</p> <p>Council President Houghtaling reported that the Historic Landmark Committee received a \$16,500 grant for the oral history project. She stated that the oral history needed to revolve around historic landmarks.</p> <p>Councilor Jirovec asked for the budget calendar and noted there was a new HUD grant for manufactured home parks expected grant amount between \$5-\$10 million. She stated this was the first year for the grant. She asked if parking spots and crosswalks could be painted this summer, as well as some speed bumps around town.</p>
<p>Reports from City Manager & Staff</p> <p>a) Fire Report b) Sheriff Report c) City Manager's Report</p>	<p>There were no comments. There were no comments. Mr. Foscoli gave his report regarding the wastewater treatment plant, the Resiliency Hub Grant, the Community Resource Center project, the RARE application, the MINET franchise agreement, Code Enforcement, Backroads Coffee Shop, and tourism promotion.</p> <p>Council President Houghtaling noted the City needed someone to help spearhead that. Mr. Foscoli noted that Travel Salem with the help of Polk County cities and their social media the push needed to be consistent. He mentioned that new</p>

	<p>content would need to be posted 3 or 4 times a month. Councilor Backus asked if Mr. Foscoli had some parameters regarding the job. Mr. Foscoli stated he would send the information out in an email.</p> <p>Councilor Jirovec spoke about the Resilience Grant and Mr. Foscoli added the grant could be used for equipment and other assistance. He noted generators for emergencies and retro fitting old buildings to allow for generators was part of the grant. He mentioned a Cascadia type event would leave Falls City isolated for up to 18 months and those are the type of events to keep in mind and prepare for as best we can.</p> <p>Mayor Bailey asked if the City had a satellite phone. Mr. Foscoli advised the grant would allow for them to have one as well as general emergency supplies all in one package. Mayor Bailey noted communication out of town could be key. Council President Houghtaling mentioned the school had a satellite phone. Mr. Foscoli stated he would look into one.</p> <p>Councilor Jirovec asked if the city was converted to new utility billing software. Mr. Teal stated it was all implemented.</p> <p>Council President Houghtaling asked about speed bumps. Mr. Foscoli stated they would be placed on south Main and other places.</p>
<p>Resolutions Resolution 05-2024 – Business Oregon Loan Agreement</p>	<p>Mr. Foscoli advised there were some clerical errors in the verbiage of the resolution.</p> <p>It was moved by Councilor D Sickles to approve Resolution 05-2024 authorizing and approving the Safe Drinking Water Revolving Loan Fund financing contract S24003 loan amount of \$1,075,218 for financing the design, engineering, permitting and construction of this project. The motion was duly seconded by Councilor Backus. The motion was carried with a ROLL CALL vote of 6-0 with Councilors Backus, Jirovec, Meier, D Sickles, LJ Sickles, and Council President Houghtaling voting YES.</p>

<p>Good of the Order</p>	<p>Councilor Jirovec reported the Thrives events were reserved with City and that she hoped to put out a survey for community events to current attending community members for Fall events.</p> <p>Councilor D Sickles asked how the Council could spend the donated money to improve the parks.</p> <p>Mayor Bailey stated that prior to the next park meeting someone should take some pics and do a slide show to get ideas for beauty and safety. He noted that some new signs for hours and camping would be a good start.</p> <p>Mr. Foscoli thanked Jon Creekmore and Don Poe for their knowledge regarding the upper park practice field for football. Councilor D Sickles stated it was an unfortunate situation, but it gave the community an opportunity to come together.</p> <p>Councilor Meier reported that 2 cars ran the stop sign at Mitchell Street. Mr. Foscoli stated he had a conversation with Sheriff Garton about speed cameras and the opportunity for any city to deploy them. He noted you needed an Officer to review the footage and that the cameras were not cheap. Council President Houghtaling asked the cost of the camera. Mr. Foscoli advised the cameras were \$25,000.</p>
<p>Adjourn</p>	<p>There being no further business the meeting was adjourned at 6:55 p.m.</p>
<p>Read and approved this ____ day of _____ 2024.</p> <p>Mayor: _____</p> <p>ATTEST:</p> <p>City Recorder: _____</p>	



STREET CLOSURE REQUEST FORM

FALLS CITY MUNICIPAL CODE

Sections 91.02 and 91.03 of the Falls City Municipal Code govern street closures. City Council approval is required for all street closures not part of an emergency response, public works, or utility job.

Requirements:

1. Provide this form to City Hall for review no later than one week prior to the regular City Council Meeting preceding your requested closure.
2. Provide a non-refundable fee of \$25 per day the street will be closed.
3. Provide a certificate of liability insurance in an amount to be determined based on the nature of your event, but typically not less than \$1 million per occurrence, and \$2 million aggregate. The certificate of liability MUST name the City of Falls City as an additional insured.
4. Agree to maintain a clear passage for emergency vehicles.
5. Provide adequate sanitation facilities and evidence thereof to the city.

BASIC INFORMATION

Applicant Name: Amy Houghtaling
 Applicant Address: 137 Carey Ct Falls City, OR 97344

Applicant Phone: (503) 437-4799

Date(s) of Requested Closure: May 18, 2024

Reason for Closure & Activity to be Conducted: Happy Dance and Health Fair

Description of the street area to be closed: N Main will be closed from third St to the end of the Mountain Gospel parking lot

Request Closure Starting: 2:00 AM/PM Ending: 8:00 AM/PM

REPRESENTATIONS BY APPLICANT

AH Initials: It is my responsibility to ensure emergency vehicles have a clear passage and immediate access to and through the area approved for street closure.

AS Initials: It is my responsibility, and I agree to place and remove sufficient barricades and signs to ensure the safety of the area approved for street closure and all those within it.

The barricades I will use to block the street are described as follows: _____

AK Initials: I understand that if I require assistance to barricade or remove barricades to the streets, I will be charged for that service and agree to pay the costs enumerated in the City Fee Schedule.

AK Initials: I understand that it is my responsibility to ensure the area approved for closure is free of all tangible materials that were not there prior to the closure (i.e. clean up after yourself).

By signing below, I agree to abide by all provisions of the Falls City Municipal Code and this application. I further agree to hold harmless and indemnify the City of Falls City, its Officers, Agents, and Assigns for any and all liability associated with the street closure herein and the event for which it was sought.

Applicant Signature *[Signature]* Date 4/15/24

INTERNAL USE ONLY

\$25/day Fee- Cash Check ; Date _____; Amount _____; Receipt # _____; Received by _____.

Fire Review

AK Initial: I have reviewed the request and DO have concerns DO NOT have concerns.

Concern station needs to have apron open/clear for response

Public Works Review

AK Initial: I have reviewed the request and DO have concerns DO NOT have concerns.

Concern _____

City Manager Review

AK Initial: I have reviewed the request and DO have concerns DO NOT have concerns.

Concern _____

City Council:

Vote Tally- Ayes _____ Nays _____ Abstain _____

Approved Yes No (approval effective on date of signature by Presiding Official)

Signature of Presiding Official _____ Date _____

City Staff:

Notification of Approval

- Falls City Fire
- Public Works
- City Manager
- Sheriff's Office
- Willamette Valley Communications (dispatch)

Name of Staff Completing Notifications _____ Date _____



Parks and Recreation Committee

Wednesday, April 17, 2024 at 6:00 pm

Committee Members

Lori Jean Sickles - Dennis Sickles - Dani Haviland - TJ Bailey - Laura Britton - Georgia Griffith -
Laura Evans - Chris Martin (Has missed at least three of the last meetings)

Agenda

1. **Call to Order by Dani Haviland at 6:03 PM. In attendance were Lori Jean Sickles, Laura Britten, Laura Evans, Dennis Sickles**
2. **Pledge of Allegiance recited by all**
3. **Motion to Adopt the Entire Agenda motion by Lori Jean, seconded by Dennis. Passed unanimously.**
4. **Consent Agenda - Motion Action Approving Consent Agenda Items Motion to accept minutes by Lori Jean, seconded by Dennis. Passed unanimously.**
 - a. **July 19, 2024 Minutes Attachments:**

Minutes (2023.07.19_Park_Minutes.pdf)

5. Public Comments

Citizens may address the Committee or introduce items for Committee consideration on any matter. The Committee may not be able to provide an immediate answer or response but may direct staff to follow up on any questions raised. Out of respect to the Committee and others in attendance, please limit your comment to five (5) minutes. Please state your name and city of residence for the record.

6. Old Business

- a. **TJ Bailey- Skate Park Discussion TJ not in attendance. The message was passed on that we are now in the grant writing stage (to be done by contractor).**

7. New Business

- a. **Summer Events: Discussion on Summer Celebration by Laura Britton. The Falls City Car Club offered to take care of the parade if we'd move the date to July 4th. After discussion, it was decided to keep the date as the Saturday after the 4th, July 6th. Laura B will reach out to see if the car club is flexible on the date.**

b. Donation Money:

It was agreed that pedestal-style barbecue pits, signage to the Falls and park benches would be a purpose for the funds.

Attachments: Staff Report (2024.04.17_Money_Donation.pdf)

8. **Correspondence, Comments and Ex-Officio Reports: None**
9. **Committee Announcements: Chair Dani Haviland announced that Georgie Griffith has asked to be released from the committee.**
10. **Adjourn: at 6:37 PM**

City of Falls City
Public Works Committee Meeting
Thursday April 28, 2024 6:00PM
Meeting Location: 320 N. Main Street

Committee Members Present

Mike McConnell, Tony Meier, Tracy Young, Cliff Lauder, Gordon Hanson, Guy Mack.

1) Call to Order

Chair McConnell called the meeting to order at 6:06 PM, took roll call.

2) Pledge of Allegiance

Chair McConnell led the Committee in the Pledge of Allegiance.

3) Motion to Adopt the entire Agenda

Member Young moved and Chair McConnell seconded: **that we approve the entire agenda.** Motion carried 6-0-0. Ayes: Mike McConnell, Tony Meier, Cliff Lauder, Tracy Young, Gordon Hanson, Guy Mack.

4) Consent Agenda: Motion Action Approving Consent Agenda Items

Member Mack moved and member Young seconded: **that we approve Consent Agenda Item, PWC Minutes February 22, 2024.** Motion carried 5-0-0. Ayes: Tony Meier, Tracy Young, Cliff Lauder, Gordon Hanson, Guy Mack.

5) Public Comment - None

6) New Business

a. Backflow Testing Update - Reinstatement of Backflow Device Fee

PWC had a very lively and free wheeling discussion ranging from why we have them? Do we really need them? Does the State enforce the testing requirement? Can we just remove residential devices (except for those properties with irrigation systems or other uses that could cause cross contamination) and keep Commercial backflow devices? PWC suggests that City Council and City Staff explore all options available and in the interim either reinstate the old backflow fee resolution or as member Gordon moved and member Meier seconded that the **PWC recommends that residents give the 'right of way (ownership) to the property' where the backflow devices are located to the City of Falls City for the testing and maintenance of said devices.** Motion carried 6-0-0. Ayes: Mike McConnell, Tony Meier, Gordon Hanson, Tracy Young, Cliff Lauder, Guy Mack. This would allow the City to continue collecting the backflow testing fee, possibly enacting a maintenance fee and the responsibility for their functioning. All PWC members agreed the best and simplest solution would be removal of said devices.

Resolution 12-2017 (BFR_-_Resolution_12_2017_Water_Sewer_Fees_Rates) **FYI**

Resolution 09-2023 (BFR_-_Resolution_09-2023_Water_Sewer_Fees_Rates) **FYI**

7) Old Business - None

8) Correspondence, Comments and Ex-Officio Reports

Chair McConnell requested that the City update the Committee at our next meeting on the status of:

- 1. The Lagoon Sewer Project.**
- 2. Frink driveway excess water runoff situation/solution.**

9) Committee Announcements

Next meeting to be held May 16, 2024 at 6:00pm.

10) Adjourn

Member Mack moved and Chair McConnell seconded: **that we adjourn**. Motion carried 6-0-0. Ayes: Mike McConnell, Tony Meier, Cliff Lauder, Tracy Young, Gordon Hanson, Guy Mack. Meeting adjourned at 7:10.

_____ Public Works Committee Chair McConnell

Attested: _____ Public Works Committee Member

Call Volume for Falls City Volunteer Fire Dept. 2024 Calls (JANUARY-DECEMBER)

2024 MONTH	MEDICAL	PUBLIC ASSIST	MV A	STRUCTURE FIRE / FALSE ALARMS	GRASS BRUSH TREE / BURN CO	POWER LINE	SW CALLS FCFD RESPOND ON	SW ASSISTED FCFD CALLS	MO. TOTAL CALLS
JAN	16	1	1 SW	1	0	1	1	0	20
FEB	12	2	0	0	0	0	0	0	14
MAR	11	1		1	BC 1	0	0	0	14
APR									
MAY									
JUNE									
JULY									
AUG									
SEPT									
OCT									
NOV									
DEC									
YR TOTALS To Date	39	4	1	2	1	1	0	0	48

Fire Department Report for February 2024 Council Meeting:

March was a fun month for the Fire Dept as Easter this year was on March 31st. We again helped with the Falls City Annual Easter Egg Hunt. 1100 (plastic) eggs filled with candy and even some with money inside were “hidden” throughout the park. Plus an additional \$300. worth of candy “hid” in the grass, and around tree trunks etc. for the hunters to find. We also had 20 cute Easter Baskets given away by ticket drawings. All the kids (and grown ups) had a great time. Mother Nature even blessed us with a wonderful warm, sunny day to enjoy.

The Fire Department is gearing up for wild land fire season that requires lots of training plus getting our gear ready. Sharon will be putting on a wildland community wild fire awareness class soon for all residents to learn how they can make their homes and properties more resistant to such fires. It will be held at the community center soon, with free fire extinguishers, first aid kits and even some “to go” emergency starter kits for attending.

Work is still in progress on the emergency response evacuation signs, sponsored by a grant Sharon obtained. She and Mike are also working on resident physical address signs for unmarked homes to help emergency crews find you when needed. If you know of someone needing a road address sign, please contact Sharon Greve or Mike Mayfield.

Thank you all for the support and hard work you do for our department and community!

Prepared by Sharon Volk Greve, Assistant Chief, Falls City Fire and EMS. Cell: (503) 871-5140

March 2024 Falls City Stats

Falls City Calls for Service							
Alarm	2	Civil	4	Follow Up	1	Susp. Vehicle	1
Animal	1	CPR	1	GSW	1	Trespass	2
AOA	2	Crash	2	Prowl	1	Traffic Stop	4
Area Check	3	Domestic Dstrb	3	Shots	1	Traffic Assist	1
Assault	1	EDP	2	Stolen Vehicle	1		
Check Welfare	3	FIR	2	Susp. Activity	3		
Citizen Contact	4	FIRE/EMS	1	Susp. Person	4		

Falls City Calls for Service	51	Of the FC Calls for Service	7	involved crimes	
Total Calls for Service (county wide)	1,462	FC Cases Cleared by Arrest	1	14.3%	clearance
Falls City % of Total Calls	3.5%	Total Arrests in Falls City	2	4.2%	of total arrests

Total Service Calls (Polk County)	1,462	Crimes Occ	95		3	(county wide)
Cases Cleared by arrest	38	40.0%	48	40.0%	2	(Falls City)
Total Arrests (county wide)	48	(only true crimes reported here)				

April 2024 Falls City Stats

Falls City Calls for Service							
Animal	3	Crime (misc)	2	Hang Up	2	Susp. Person	3
AOA	3	Domestic Dstrb	1	Harassment	4	Theft	1
Area Check	2	EDP	1	Menace	1	Tow	2
Check Welfare	3	FIR	2	Miscellaneous	1	Trespass	1
Citizen Contact	4	Fire/EMS	1	Sex Offense	1	Warrant	1
Civil	3	Follow Up	1	Susp. Activity	3		

Falls City Calls for Service	46	Of the FC Calls for Service	13	involved crimes	
Total Calls for Service (county wide)	1,223	FC Cases Cleared by Arrest	6	46.2%	clearance
Falls City % of Total Calls	3.8%	Total Arrests in Falls City	2	4.7%	of total arrests

Total Service Calls (Polk County)	1,223				
	103	Crimes Occ	0	(county wide)	
Cases Cleared by arrest	49	47.6%	Juvenile Arrests	0	(Falls City)
Total Arrests (county wide)	43		(only true crimes reported here)		



Public Works Report April of 2024.

Administration

Normal operations.

Water Division

1st Branom Came and tested the 2 flow meters at the Water Treatment Plant.

Sewer Division

On the 22nd I replaced the Effluent pump for 360 South Main.

Streets Division

Normal operations.

Parks & Cemeteries Division

Installed water service at the Baseball field.

Non-Sewer Wastewater Division (TMDL)

Normal operations.



City of Falls City
299 Mill Street
Falls City, OR 97344
Ph 503.787.3631

City Manager's Report May 6, 2024

Introduction

April didn't disappoint with its rain showers, so our water treatment process was challenged by extra cleaning of our Glaze Creek intake. Since the only way to access this location is through a 30-minute drive on logging roads, plus a challenging hike down a steep path, this activity entails all 2 of our Public Works employees, thus limiting their attention to the other myriad tasks in town. Based on the current precipitation, we expect to switch to Teal Creek as our primary source of water sometime in May, though that may change if we get a sudden increase in rain.

Wastewater Project – The biweekly meetings with Strider Construction and our contract engineers, have been spaced out to be monthly meetings for the time being since not much work has been happening, either in town or at the lagoon site. At the last meeting, work on the chemical feed building at the lagoon site was discussed, and the structure is coming along nicely. Additional concrete work on the compliance manholes at the lagoon site will follow the chemical feed building completion. Work at the school campus to construct the new pump station will begin once the lagoon work is completed. The current schedule for the in-ground pipeline work on Main Street is still scheduled for mid-spring, and we have been assured that the community will receive ample notice to accommodate any traffic impacts. As far as the school district's ability to use the football field, staff has been in contact with DEQ regarding pursuing a Mutual Agreement Order, which is permission to allow discharge of treated effluent out of season in order to keep the field from becoming saturated. This mitigation strategy entails regulatory approval and has been granted to other jurisdictions on a case-by-case basis in the past. The city is currently waiting on DEQ's Office of Compliance and Enforcement to understand exactly what the requirements are to pursue such an agreement. While the city pursues this new alternative, work is ongoing to ensure that the school district's athletic teams have the upper ballpark as a practice facility (a sprinkler line has been installed to aid in irrigation) and we are working on field improvements with an independent contractor to make sure that field's grass will grow efficiently.

Resiliency Hub Grant – City staff has met with school district staff to create a priority list of equipment that the community could procure as part of the grant in case of emergency. The application, with all its details and narrative to justify the community's need for emergency equipment has been submitted in advance of the April 30 deadline. There will be a review process after which the city will find out whether any funding/equipment will be awarded.

Note: If you have questions/concerns, please respond to me individually by email, phone, or in person. This way we avoid violating any public meetings laws with a "reply all" response, or multiple councilors discussing on the same thread.

Community Resource Center Project – The city is continuing to work with the Willamette Health Council, Polk County’s Family & Community Outreach, Falls City Thrives as well as several other resident volunteers to ensure that a Community Resource Center will be built in Falls City. Work to procure a building, contract with a construction company to place it and connected to infrastructure, and to enter into agreements with service providers to have office hours is ongoing. Since the planning permit has been approved by the Planning Commission on April 1, contractors are working to get the onsite construction started and hopefully finished before the Happy Dance event on May 18.

RARE Application – Staff worked with DEQ and our TMDL contractor to submit a RARE application to take advantage of the DEQ funding that will subsidize the placement of a RARE participant. In order to increase the likelihood of Falls City being a recipient of the DEQ funding, our TMDL contractor submitted a joint application with our Polk County neighboring cities Monmouth & Dallas. The RARE participant’s a scope of work will include components that are specific to Falls City, Monmouth & Dallas, and others that focus on region-wide goals. Within the application there are project tasks to meet needs in the city’s TMDL implementation plan which is a requirement by DEQ, as well as community education outreach goals that will engage partners such as the school district and local watershed organizations. Our TMDL contractor will be at the May City Council meeting to give a presentation on the work to date. They will give an update on the consultation meeting we had with the RARE Program Director, as part of their vetting process of host jurisdictions.

MINET Franchise Agreement – The city has been approached by MINET/Willamette Valley Fiber about a possible future franchise fee agreement. The impetus for this initial conversation stems from the fact that MINET/Willamette Valley Fiber are putting lines on Falls City Highway to the end of Oakdale Road, thus making a connection to the future wastewater treatment facility an option. With the new electronic monitoring equipment going into the facility, having a fiber connection would be beneficial. This “stub” could then be used as a bridging point to bring in limited fiber service to Falls City, especially on the properties around North Main Street. Most of the line work that has been ongoing is expected to continue until the end of May. The MINET/Willamette Valley Fiber franchise fee agreement, which is in line with the other Polk County municipalities, will come before city council for consideration at the May meeting.

Code Enforcement – The owner of 171 Dayton has been in contact with City Hall regarding the ongoing repairs to the building on a weekly basis. We have received a list of the work that has been accomplished to date and the scheduled work that is still to be completed. Staff feels that the owner’s intent is to fulfill the council’s wishes of remediating the dangerous building to acceptable standards. The owner has been warned that if work is delayed or not completed in a timely manner, fees will be imposed on the property in line with non-compliance of the dangerous building ordinance.

Backroads Coffee Shop UPDATE – The owners of Backroads Coffee are currently working on the electrical installation phase, with a new main service panel inspected and passed, and with the rest of the electrical inspection completed by mid-April. Plumbing and framing will be next and the plan is to have that work reviewed+ and pass inspection by the end of May, after which work will begin on finishing the interior walls. Based on this construction schedule, the anticipation by the owners is to have the shop open by mid-summer.

Tourism Promotion– Staff at Travel Salem has put together a Social Media infrastructure that Falls City can take advantage of to promote events in the community. The Great Oaks Food Trail Facebook & Instagram pages are accessible to representatives from Falls City to post on a monthly basis to let folks (in & out of Polk County) know about Falls City events. These events are not exclusive to city-run ones, but to any that might be held in and around Falls City. Travel Salem’s tourism development staff has been in touch with Falls City staff on the program setup and will continue to support Falls City input on events and community promotion.

Sincerely,



Clerk’s Report

City Hall

- **Arbor Day** was a huge success! Thank you to Mayor Bailey, Council President Houghtaling, and Mr. Platt and his 3rd grade class for being a part of the festivities!
- **Suicide Prevention Training** will be Thursday, May 16 @ 6 pm in the Community Center
- **Happy Dance** will be Saturday, May 18 from 6-8 pm
- **Bingo & Baked Potato Night** will be Thursday May 23 at 6 pm in the Community Center
- **All City Garage Sale** May 25th
- **City Clean Up Day** June 1st from 8 am to 2 pm at the Wastewater Treatment Plant

Note: If you have questions/concerns, please respond to me individually by email, phone, or in person. This way we avoid violating any public meetings laws with a “reply all” response, or multiple councilors discussing on the same thread.

STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: AJ FOSCOLI, CITY MANAGER
SUBJECT: APPOINT BUDGET OFFICER FOR FY 2024-2025
DATE: 5/2/2024

SUMMARY

State law requires the appointment of a Budget Officer to prepare or supervise the preparation of the budget document.

BACKGROUND

ORS 294.331 provides as follows:

The governing body of each municipal corporation shall, unless otherwise provided by county or city charter, designate one person to serve as budget officer. The budget officer, or the person or department designated by charter and acting as budget officer, shall prepare or supervise the preparation of the budget document. The budget officer shall act under the direction of the executive officer of the municipal corporation, or where no executive officer exists, under the direction of the governing body.

Additionally, Falls City Municipal Ordinance 31.01(D)(4) states:

The Duties of the City Manager shall be as follows...

...To prepare the annual budget for consideration by the Council and Budget Committee...

PREVIOUS COUNCIL ACTION

Council has traditionally appointed the City Manager as Budget Officer, but appointed Councilor Martha Jirovec in 2023 for her extensive experience in accounting & budgeting.

ALTERNATIVES/FINANCIAL IMPLICATIONS

None.

STAFF RECOMMENDATION

Appoint Councilor Martha Jirovec as Budget Officer for FY 2024-2025.

PROPOSED MOTION

I move the City Council of the City of Falls City to Councilor Martha Jirovec, as Budget Officer for FY 2024-2025.

EXHIBIT

Exhibit A - Budget Calendar FY 2024-2025

City of Falls City Budget Calendar FY 2024-2025

	ACTION	NOTES	DUE DATE
1	Appoint Budget Officer	Councilor Jirovec	5/6/2024
2	Notice of BC Hearing Published in newspaper	Polk IO 5-30 days prior to BC Public Meeting, must include city web address & where budget is available	To IO by 4/21/2023 @ noon
3	Notice published on website	At least 10 days prior to BC Public Meeting	5/3/2024
4	Proposed Budget Completed and to BC	City Mgr	5/17/2024
5	BC Public Hearing (includes hearing on state revenue sharing. If BC doesn't approve, announce next meeting date)	Present Budget Message & document to BC. Must file in office of governing body immediately following meeting(if BC approves continue to step 7, if not got back to step 2)	5/22/2024 (& 5/29/2024 if needed)
6	Publication of LB-1 and notice of budget hearing	Must Include date & place of Pub Hrg; Date and name of paper in which LB-1 was published (5-30 days prior to hearing date)	6/5/2024 (To IO by 5/31/2024 @ noon)
7	CC Public Hearing- state revenue sharing	approve resolution to receive state revenues	6/10/2024
8	CC Public Hearing- budget document	approve resolution adopting budget, levying taxes, making appropriations	6/10/2024
9	Submit to County Assessor's Office	2 copies of LB-50; 2 copies resolution adopting budget	NLT 7/15/2024
10	Submit Complete Budget to County Clerk	1 copy of budget: LB-50, LB-1, Budget Document, Proof of Publication	NLT 9/30/2024

STAFF REPORT

TO: MAYOR & COUNCILORS
FROM: CITY MANAGER, AJ FOSCOLI
SUBJECT: REINSTATEMENT OF BACK-FLOW DEVICE FEE RESOLUTION
DATE: MAY 6, 2024

SUMMARY

The city will reinstate the backflow device fee outlined in Resolution 12-2017 with minor changes as Resolution 06-2024.

BACKGROUND

According to previous ordinance, the city was responsible for backflow testing of all water connections (commercial AND residential), which is in excess of State standards (Commercial ONLY), and the \$2.25 additional backflow testing fee charged to residents was not keeping up with contractor costs to carry out this program. As this program is expensive (\$11,799 in 2024), and its costs were only covered up to \$2.25 per month/per water account, the ordinance was repealed by resolution to eliminate the backflow fee cost to individual residents. Since the beginning of the year, city staff have received numerous complaints from residents about their new responsibility of having to have their own backflow devices checked annually. In addition, the local contractors that perform this testing have shared that their services are almost always more expensive than a contract with the city for an entire community's annual testing. This has led the city to pursue reversing its decision on the backflow testing ordinance, with some amendments to make sure that the cost to the city will be covered going forward through resident fees.

FINANCIAL IMPLICATIONS

The reinstatement of the \$2.25 monthly backflow fee, plus an additional \$.25 in year 1 (2024). As part of the resolution, an annual increase of \$.25 will be built into the resolution, to account for annual cost increases. IF, based on the previous year's vendor costs, those costs do NOT increase, the council will vote to pause the annual increase, until the next year that it is warranted.

ATTACHMENTS

Exhibit A – Resolution 06-2024

RESOLUTION NO. 06 -2024

A RESOLUTION DETAILING FEES FOR WATER AND SEWER SERVICE AND RELATED CHARGES; AND WATER AND SEWER CONNECTION FEES; AND REPEALING PRIOR RESOLUTIONS

Findings:

1. Municipal Code Section 51 Water, Section 09 Water Rates and Charges, authorizes the City Council to establish, by resolution, and from time to time amend, water rates to be charged for each class of service, including minimum charges, charges for water consumption, service connection charges and all other related fees and charges.
2. Municipal Code Section 50 Sewer, Section 25 Generally, subsection (D) authorizes the City Council to establish, by resolution, and from time to time amend, sewer user rate per equivalent residential unit (ERU).
3. Municipal Code Section 50 Sewer, Section 6 Connection Fees, subsection (A) authorizes the City Council to establish, by resolution, and from time to time amend, sewer connections fees.
4. The City maintains two Enterprise Fund accounts for Water and Sewer activities. Enterprise fund revenues are restricted to be spent only on enterprise activities relating to their revenue source. For example water rate revenue can only be spent on water activities and projects.
5. An Enterprise fund is a fund established to account for operations, including debt service that are financed and operated similarly to private businesses where the intent is the service is self-sufficient, with all costs supported predominantly by user charges. Through charges, and fees, an equitable and fair system of recovering water system costs is established.
6. Staff audited several utility charges and fees and found that several categories are not billed equitably to customers to cover the cost of operations for services rendered for these categories:
 - a. Water Shutoff notice
 - b. Water Reconnection fee
 - c. Utility Returned Check Fee
 - d. Charges for the installation for a simple and complex water meter
7. Cost of operations for Public Works staff, salary plus benefits, is approximately \$30-\$32 an hour. Cost of operations for Administration staff, salary plus benefits, is approximately \$25-\$28 an hour. The salary of city staff is proportionally allocated to Funds.
8. Shutoff notices inequitably
 - a. In April 2017, Public Works staff delivered forty-seven (47) shutoff notices (green tags) throughout the service area for delinquent balances which required two and one half (2 ½) hours each for two Public Works staff. A similar number of shutoff notices are distributed each month, equaling an estimated 60 hours annually; the cost to the Water Fund is approximately \$1,800 annually for Public Works staff time.

- b. It requires approximately three (3) hours a month for Administrative staff to generate shutoff notices, equaling an estimated 36 hours annually; the cost to the Water Fund is approximately \$972 annually.
 - c. Many customers have commented to City staff, that they wait for the delivery of the shutoff notice to remind them to pay their utility bill.
 - d. Because cost of the Water Fund is recovered by rates and charges, and because the City does not charge a fee for a shutoff notice, customers who do not receive shutoff notices are subsidizing those customers who receive shutoff notices monthly.
 - e. Staff recommends that the City Council approve the elimination of physical shutoff notices and replace with a shutoff notice provide by mail, beginning on July 16, 2017, and after public notification in the June Newsletter, notification in the June 26 and July utility billing statement message, and with a public announcement at the June and July Regular City Council meetings. Mailing shutoff notices will save an estimated \$1,500 annual, after considering the cost of postage and the elimination of Public Works staff time to deliver shutoff notices to the service address.
9. Water Reconnection fee inequitably
- a. Reconnection fees are charged to customers when reconnecting water service after receiving full payment of a delinquent utility account.
 - b. A reconnection fee is not charged to reconnect service after a seasonal shutoff or to temporarily reconnect water service for a home inspection, home repair, property cleaning or similar activities, yet the same amount of time and work is required by Public Works staff for all water reconnections.
 - c. On May 18, 2017 the Falls City Public Works Committee compared Falls City Fall City water service fees against fees from similar sized communities and recommended that the City Council adopt a water reconnection fee for any and all water reconnections.
10. Utility returned check fee inequitably
- a. The current charge of \$25 for a returned check does not cover costs.
 - b. The bank charges \$12 per returned check.
 - c. Processing a returned check on average requires forty-five (45) minutes for Administrative staff, amounting to approximately \$21. Tasks include account review, customer letter, handwritten shut-off notice, utility system accounting adjustment, preparation of exception processing accounting backup with distribution to the bookkeeper, the original and daily accounting batch documents, and the adjustment log. The delivery of the shut-off notice by Public Works staff amounts to approximately \$14. The total staff cost is \$35.
 - d. Staff recommends that the City Council adopt an increase of the \$25 Returned Check Fee to \$35 to for cost recovery.

11. Charge for the installation for a simple and complex water meter connection inequitably
 - a. Current charges for the installation of a water meter, both simple and complex, do not cover the actual costs.
 - Simple Water Connection: the water main line runs on the right-of-way in front of the property.
 - Complex Water Connection: the water line runs along the right-of-way on the opposite side of the road which requires repairs to the street surface
 - b. Staff recently tracked the actual cost to install a Simple Water Connection, including parts, materials and staff time. The total cost was \$1,867.
 - c. Staff recommends that the City Council adopt an increase of the \$1,250/base rate for a Simple Water Connection to \$1800/base or actual cost if greater.
 - d. Staff recommends that the City Council adopt an increase of the \$1,500/base rate for a Complexed Water Connection to \$2,100/base or actual cost if greater. The cost for each Complexed Water Connection is unique because the connection crossed a public street.
12. Defining Public Works staff work hours for the Water Service Reconnection Fee
 - a. Public Works staff typically starts their weekday work at 7:00 AM and end at 4:00 PM.
 - b. Public Works staff is on call 24/7.
 - c. The prior rate resolution charged a different fee for business hours and “other than business hours” but did not define.
 - d. Staff recommends that the City Council adopt wording that defines hours and days for each classification.
13. Sewer service rates have been included in this rate resolution to further merge utility rates, fees and charges to a single rate resolution.
14. The Falls City Council has determined that the rates and charges set forth in this resolution are appropriate and in the best interest of the City.

NOW THEREFORE, THE CITY OF FALLS CITY RESOLVES AS FOLLOWS:

Section 1. Water furnished to water districts, cooperatives or corporations, organized and existing under the laws of the State of Oregon and receiving water through a master meter, shall pay therefor such amount as may be established by agreement between the City and the water districts, cooperatives or corporations, fire districts or departments, or other persons or entities prior to receiving such water.

- (a) Where an agreement is not in place, and where bulk water is needed, the Bulk Water Rate will be \$5.00 per unit (1000 gallons) charged according to the size of the tanker truck or vessel; and

- (b) Payment in advance is required for the sale of bulk water where a written agreement is not in place; and
- (c) Sale of bulk water without a written agreement is a privilege and can be denied or revoked at any time.

Section 2. In addition to the monthly fees established herein, Exhibit 1, the following service fees are hereby established:

- (a) **Reconnection fee during between 7 AM and 4 PM weekdays** \$35.00
- (b) **Reconnection fee afterhours, on weekends or on holidays** \$65.00
- (c) Setup connection fee for sale of bulk water where a written agreement is not in place \$80.00
- (d) **Returned check fee** **\$35.00**
- (e) Payment Late fee \$10.00

Section 3. In addition to monthly fees established herein, Exhibit 1, the following utility connection fees are hereby established:

- (a) Sewer Connection fee:
Base Facility rate of \$3,250.00, plus customer will be responsible for all costs to connect to the system (Municipal Code 50.06 (A)).
- (b) **Water Connection Fee Simple:**
Base Facility rate of \$1,800.00, or actual cost if greater.
- (c) **Water Connection Fee Complex:**
Base Facility rate of \$2,100.00, or actual cost if greater
- (d) Additional Water Connection fees where the length of service exceeds 100 feet:
The applicant shall pay the extra cost of the line on the basis of actual cost to the Water department for labor, materials and equipment plus 15% (Municipal Code 51.07).

Section 4. In addition to the monthly fees established herein, Exhibit 1 **and Exhibit 2**, a Capital Improvement Fee shall be assessed any service with a water meter or sewer connection, active or inactive, in the amount of \$10.00. When both a residence and a commercial operation or development exist on a property zoned Commercial Residential, the Capital Improvement Fee will be assessed separately for both the residence and the commercial operation or development.

Section 5. In addition to the monthly fees established herein, Exhibit 1 **and Exhibit 2**, a Backflow Testing Fee shall be assessed each month on each water meter service account in the amount of \$2.25 from July 1 of the current year through June 30 of the following year, starting in 2024. This Backflow Testing Fee shall increase annually by \$.25, unless City Council by resolution pauses the increase at the beginning of the calendar year. The Backflow Testing Fee increase pause shall occur when the previous year’s annual cost of Backflow Testing is below the total revenue from the water meter service.

Section 6. Water furnished to multi-unit properties where the property owner desires one (1) water meter to serve all units shall be charged at the following;

City of Falls City
“Exhibit 1” Water Service Rate Table by Class of Service

Definition: 1 Water Unit = 1000 gallons

Residential - Inside City Limits (RI)

Size of Meter	Consumption	Base Rate
5/8" METER	5 Units	41.96
1" METER	5 Units	64.64
1 1/2" METER	5 Units	72.58
2" METER	5 Units	86.18
3" METER	5 Units	106.60
4" METER	5 Units	151.96
Overage: Consumption shall be charged at \$2.55 per Unit over 5 Units		

Residential - Outside City Limits (RO)

Size of Meter	Consumption	Base Rate
5/8" METER	5 Units	47.06
1" METER	5 Units	69.74
1 1/2" METER	5 Units	77.68
2" METER	5 Units	92.42
3" METER	5 Units	111.70
4" METER	5 Units	157.06
Overage: Consumption shall be charged at \$2.84 per Unit over 5 Units		

Residential/Commercial – Inside City Limits (RCI)

Size of Meter	Consumption	Base Rate
5/8" METER	5 Units	64.64
1" METER	5 Units	87.32
1 1/2" METER	5 Units	96.39
2" METER	5 Units	108.86
3" METER	5 Units	129.28
4" METER	5 Units	174.64
Overage: Consumption shall be charged at \$3.12 per Unit over 5 Units		

Residential/Commercial – Outside City Limits (RCO)

Size of Meter	Consumption	New Base Rate
5/8" METER	5 Units	69.74
1" METER	5 Units	92.42
1 1/2" METER	5 Units	101.49
2" METER	5 Units	113.97
3" METER	5 Units	134.38
4" METER	5 Units	179.74
Overage: Consumption shall be charged at \$3.12 per Unit over 5 Units		

“Exhibit 1” Water Service Rate Table by Class of Service

Non-Residential Commercial – Inside City Limits (NCI)

Size of Meter	Consumption	Base Rate
5/8" METER	5 Units	64.64
1" METER	5 Units	87.32
1 1/2" METER	5 Units	96.39
2" METER	5 Units	108.86
3" METER	5 Units	129.28
4" METER	5 Units	174.64
Overage: Consumption shall be charged at \$3.12 per Unit over 5 Units		

Non-Residential Commercial – Outside City Limits (NCO)

Size of Meter	Consumption	Base Rate
5/8" METER	5 Units	69.74
1" METER	5 Units	92.42
1 1/2" METER	5 Units	101.49
2" METER	5 Units	113.97
3" METER	5 Units	134.38
4" METER	5 Units	179.74
Overage: Consumption shall be charged at \$3.12 per Unit over 5 Units		

2 Meters-Outside (2MO)

Size of Meter	Consumption	Base Rate
5/8" METER	5 Units	79.38
Overage: Consumption shall be charged at \$2.55 per Unit over 5 Units		

“Exhibit 2” Sewer Service Rate Table by class of service

Sewer Service

Service Category	Flat Monthly Rate
Commercial (CM1)	46.00
Residential (RS1)	46.00
Apartments (APT) each unit	46.00
Elementary School (ELE)	283.00
Falls City High School (FHS)	283.00

STAFF REPORT

TO: MAYOR & COUNCILORS
FROM: CITY MANAGER, AJ FOSCOLI
SUBJECT: MINET FRANCHISE FEE AGREEMENT
DATE: MAY 6, 2024

SUMMARY

The city will receive a franchise fee of 7% for allowing MINET to operate within city limits.

BACKGROUND

MINET/Willamette Valley Fiber conducted a feasibility study in Falls City with a 3rd party contractor with a grant from Polk County to ascertain the cost of bringing broadband service to the community. This study was then shared with Business Oregon, as part their ongoing efforts to bring broadband service infrastructure to rural communities in Oregon. Though the current internet service in Falls City does not fall under the threshold of “underserved”, the study did show that there was a significant demand for additional competition for internet services in the community. Since MINET/Willamette Valley Fiber are currently installing lines on Falls City Highway to the end of Oakdale Road, Public Works asked for a connection to the future wastewater treatment facility to make digital monitoring easier. The Oakdale Road “stub” is being used by MINET as a bridging point to bring in limited fiber service to Falls City’s Main Street.

FINANCIAL IMPLICATIONS STAFF RECOMMENDATION

The city will receive a franchise fee of 7% for allowing MINET to operate within city limits. No other financial responsibilities will fall on the city.

STAFF RECOMMENDATION

Staff recommends to council to adopt RES. 07-2024 MINET Franchise Fee Agreement.

MOTION RECOMMENDATION

A motion to approve RES. 07-2024 MINET Franchise Fee Agreement to receive a franchise fee of 7% for allowing MINET to operate within city limits.

ATTACHMENTS

Exhibit A – Res. 07-2024 MINET Franchise Fee Agreement

RES. 07-2024
FRANCHISE AGREEMENT

This Franchise Agreement is between the City of Falls City, Oregon, hereinafter referred to as the “City” and the Monmouth Independence Network (“MINET”), and hereinafter referred to as the “Grantee.”

WHEREAS, the City finds that the Grantee has the financial, legal, and technical ability and expertise to operate a system to provide services over facilities and equipment necessary to meet the future data, streaming, and voice related needs of the community; and

WHEREAS, having afforded the public adequate notice and opportunity for comment, the City desires to enter into this Franchise Agreement with the Grantee for the construction, expansion and operation of a system to provide Communication Services on the terms set forth herein; and

NOW, THEREFORE, the City and Grantee agree as follows:

Section 1. This Franchise Agreement shall be known, and may be cited, as the Communication System Franchise Agreement (hereinafter the “Franchise Agreement”).

Section 2. This Franchise Agreement is granted by the City consistent with the City’s notice and hearing requirements.

Section 3. Definitions.

For the purpose of this Franchise Agreement, the following terms, phrases, and words shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in plural include the singular, and vice versa. The word “shall” is always mandatory:

3.1. **City** is the City of Falls City, a municipal corporation under the laws of the State of Oregon, acting by and through its City Manager or the City Manager's designee.

3.2. **Communications Services** means any service providing the electromagnetic, electronic, or optical transmission of information necessary to provide voice, video, or data service, including, the poles, wires, facilities, and equipment necessary to provide such services, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself, whether or not the transmission is by the owner of the utility facility or on behalf of other Communications Services utilities, and whether or not the transmission medium is wireline. Communications Services includes all forms of voice, video, data, or information transport, including but not limited to Telecommunications Services, information services, broadband services, and internet access.

3.3. **Council** is the City Council of the City of Falls City, Oregon.

3.4. **FCC** means the Federal Communications Commission.

3.5. **Franchise Area** means the area within the City limits of Falls City, Oregon as they now exist or as they may be amended in the future.

3.6. **GAAP** means United States generally accepted accounting principles as in effect from time to time.

3.7. **Grantee** is MINET, an entity formed under the authorization of ORS 190.010.

3.8. **Gross Revenues** means all revenues of Grantee, as determined in accordance with Generally Accepted Accounting Principles (GAAP), that are received, directly or indirectly, by Grantee from the operation of the Communication Services in the Franchise Area. "Gross Revenues" shall not include: 1. any unrecovered bad debt; 2. any taxes, fee, or assessment of general applicability collected by the Grantee from Subscribers for pass through to a government entity including the FCC User Fee.

3.9. **Person** means any association, corporation, partnership, proprietorship, individual, or organization or any lawful successor, transferee, or assignee of said association, corporation, partnership, proprietorship, individual, or organization such as may be authorized to do business in the State of Oregon and as approved by City Council if such approval is required pursuant to Section 4.9 herein.

3.10. **Streets** means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever dedicated to the public, now or hereafter existing within the City.

3.11. **Subscriber** means any person who is lawfully receiving Communication Services provided by Grantee.

3.12. **Commercial Subscriber** means a subscriber who receives a service in a place of business where the service may be utilized in connection with a business, trade, or profession.

3.13. **Residential Subscriber** means any person who contracts individually for Communication Services to a residence, whether that residence is a single-family unit or located in a multiple dwelling unit.

Section 4. Grant of Franchise.

4.1. **Grant.** Grantee is hereby granted, subject to the terms and conditions of this Franchise Agreement, a non-exclusive and revocable franchise, authority and right for a ten (10) year period from and after the Effective Date hereof to construct, manage, operate, repair, replace and maintain Communication Services on a network within the Streets and public rights-of-way in the City.

4.2. **Effects of Acceptance.** By accepting this Franchise Agreement, Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise Agreement; (2)

accepts and agrees to comply with each and every provision of this Franchise Agreement; and (3) agrees that the Franchise Agreement was granted pursuant to processes and procedures consistent with applicable law and that it will not raise any claim to the contrary.

4.3. Use of Streets. For the purpose of constructing, operating, and maintaining the Communication Services, Grantee may erect, install, construct, repair, replace, reconstruct, and maintain in, on, over, under, upon, across, and along the public Streets, to the extent that sufficient capacity exists, such wires, cables, appliances, pedestals, attachments, and other property and equipment as is necessary and appurtenant to the operation and maintenance of the Communications Services. Prior to any new construction in such Streets, Grantee shall, in each case, file plans with the City and receive any and all required permits before proceeding.

4.4. Duration and Effective Date. The term of the Franchise Agreement and all rights, privileges, obligations, and restrictions pertaining thereto shall be ten (10) years from the Effective Date unless terminated sooner as hereinafter provided. The Effective Date shall be thirty (30) days after approval by the City Council, as evidenced by signature of the Mayor and City Manager and approval by the Grantee, as evidenced by Grantee's signature. The term shall be extended automatically at the expiration of the term if the parties are negotiating a new franchise agreement and neither party has provided a notice of intent to terminate the Franchise Agreement.

4.5. Franchise Not Exclusive. The Franchise Agreement shall not be construed as any limitation upon the right of the City to grant to other persons, corporations, or entities, rights, privileges, or authority similar to or different from the rights herein set forth, in the same or other Streets, by franchise, permit, or otherwise. If Grantee has reason to believe that another franchise granted by the City contains provisions imposing lesser obligations or conferring more favorable rights, when examined as a whole, than are imposed by the provisions of this Franchise Agreement, then Grantee may petition the City for a modification of this Franchise Agreement.

4.6. Franchise Not Transferable without Consent. Except as otherwise provided in Section 4.7.1, this Franchise Agreement shall not be sold, leased, assigned, or otherwise transferred, nor shall any of the rights or privileges herein granted or authorized be leased, assigned, sold, or transferred, either in whole or part, nor shall title hereto, either legal or equitable, nor any right, interest or property herein, pass to or vest in any persons, corporations or entities, except Grantee, either by act of Grantee or by operation of law without the prior consent of the City expressed by resolution, provided that said consent shall not be unreasonably withheld.

4.7. Charter, Code, and Ordinances to Apply. This Franchise Agreement is hereby made subject to the charter, code, and ordinances of the City now in effect or hereafter made effective. Nothing in this Franchise Agreement shall be deemed to waive the requirements of the various codes and ordinances of the City regarding permits, fees to be paid, or manner of construction, provided said requirements are equally applied by the City and administered and enforced on a non-discriminatory basis. Subject to the City's lawful police powers, the City may not, by ordinance or otherwise, alter any of the Grantee's material rights, benefits, obligations, or duties as specified in this Franchise Agreement and, in the event of a direct conflict between any charter, code or ordinance and this Franchise Agreement, this Franchise Agreement shall control.

Section 5. Compensation.

5.1 Franchise Fees. As compensation for the benefits and privileges granted under this Franchise Agreement, and in consideration of permission to use City's Streets, Grantee shall pay as a franchise fee to City throughout the duration of this Franchise Agreement, an amount equal to:

Seven percent (7%) of Grantee's Gross Revenues derived from the provision of Communications Services.

The implementation of collection of franchise fees pursuant to this Franchise Agreement shall commence within sixty (60) days after the Effective Date of this Franchise Agreement. The franchise fees are in addition to all other fees, assessments, taxes, or payments of general applicability that Grantee may be required to pay under any federal, state, or local law to the extent not inconsistent with applicable law. This Franchise Agreement and the franchise fees are not in lieu of any other generally applicable required permit, authorization, fee, charge, or tax.

5.2. Payment of Maximum Franchise Fee Permissible. In the event that any law or valid rule or regulation shall limit or prevent the City from imposing a franchise fee in the amount provided for herein, Grantee shall pay to City, at the times provided for herein, the maximum permissible amount.

5.3. Franchise Payments. Grantee shall pay City the franchise fees on a quarterly basis, with quarters starting on January 1, April 1, July 1, and October 1 each year. Payments shall be made not later than sixty (60) days after the end of each quarter. Any payment not made within sixty (60) days after the end of a quarter shall bear interest at the rate of nine percent (9%) per annum, commencing the sixty-first (61st) day from the end of the quarter, until paid. Grantee shall make any adjustments to the previous year's franchise fee in the first quarter of the following fiscal year.

5.4. Audits and Reviews. On an annual basis, but no more frequently than one (1) time every 12 calendar months, and upon thirty (30) days prior written notice from the City to Grantee, City shall have the right to conduct an independent audit or review of Grantee's records reasonably related to the administration or enforcement of this Franchise Agreement and in accordance with GAAP. City may hire at its own expense an independent certified public accountant to audit or review Grantee's financial records, in which case Grantee shall provide access to all necessary and legally permitted records to the certified public accountant. All such records shall be made available in the local offices of Grantee. If the audit or review shows that franchise fees have been underpaid or overpaid, such underpayment or overpayment shall be paid to the other party within 30 days.

5.5. Taxes and Fees. Nothing contained in this Franchise Agreement shall exempt Grantee from Grantee's obligation to pay any applicable nondiscriminatory business tax or ad valorem property tax, now or hereafter levied against Grantee's real or personal property within the City, or against any local improvement assessment imposed on Grantee, or against any permit fees or inspection fees required by the building codes or other generally applicable City regulations that are, or may be hereafter, enacted, provided said taxes, assessments, permit fees, and improvement fees are generally applied.

Section 6. Compliance with Construction and Technical Standards.

6.1. Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with all applicable Federal, State and generally applicable local codes and industry standards, including, but not limited to, those applicable sections of the Occupational Safety and Health Act of 1970 and the National Electric Safety Code.

6.2. Construction Standards and Requirements. All of Grantee's plant and equipment, shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

6.3. Safety. The Grantee shall at all times employ ordinary care and shall install, maintain, and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage.

6.4. Network Technical Requirements. The Communications Services shall be operated so that it is capable of continuous twenty-four (24) hour daily operation. Notwithstanding the above, the parties understand the Communications Services are subject to planned and unplanned interruptions, and such interruptions shall not be deemed a default of this Franchise Agreement.

Section 7. Emergency Power.

Consistent with industry standards, Grantee shall provide emergency power sources or auxiliary power and use best efforts to maintain continuous operation of the Communications Services in the event of a power failure.

Section 8. Location and Removal of Lines and Poles.

Grantee shall arrange its lines, cables, poles, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference (the term "unreasonable interference" shall mean non-compliance with applicable Federal and/or State rules and regulations governing pole attachments on Public Utility Commission of Oregon (PUC) regulated pole locations and non-compliance with Federal, State, and/or generally applicable local rules and regulations governing non-PUC regulated poles and underground lines) with the use of said public or private property by any person or with the proper use of City Streets. In the event of such unreasonable interference, the City shall use its best efforts to assist Grantee in eliminating or mitigating the unreasonable interference. In the event that the unreasonable interference cannot be suitably mitigated or eliminated, the City can require the removal and/or relocation of Grantee's lines, cables, and appurtenances from the property in question, which shall be done at Grantee's sole cost and expense.

8.1. Use of Poles. Existing poles, posts, and other such structures of the electric power system or of any telephone company or other public utility shall be used by Grantee to the extent practicable and to the extent there is space available. The City shall use its best efforts to assist

Grantee in obtaining joint pole use from the owners of the existing poles.

8.2. Restoration. In case of any disturbance of pavement, sidewalk, driveway, lawn, landscaping, or other surfacing by Grantee, Grantee shall, at its own cost and expense, and in accordance with all applicable State and generally applicable local rules and regulations, replace and restore all paving, sidewalk, driveway, lawn, landscaping, or other surface so disturbed in as good condition as before said work was commenced.

8.3. City Assistance. The City agrees to share with Grantee any non-exclusive public utility easements or other legal rights held by the City that may be required by Grantee to arrange its lines, cables, poles and other appurtenances on or across private property, based on adequate available space within the easement.

8.4. Relocation. In the event that at any time City elects to alter or change any Street requiring the relocation of Grantee's facilities, Grantee shall remove and relocate the same at the City's sole expense.

8.5. Temporary Removal. Grantee shall, on the request of any person holding a "building moving" permit issued by the City, temporarily raise or lower its lines to permit the moving of such buildings. The expense of such temporary removal shall be paid by the person requesting the same, and Grantee shall have the authority to require such payment in advance.

Section 9. Trimming of Trees.

Subject to any applicable City rules, regulations, or ordinances, Grantee shall have the authority to trim trees upon and overhanging all Streets and rights of way, so as to prevent the branches of such trees from coming into contact with Grantee's facilities.

Section 10. Street Vacation.

If any Street or portion thereof used by Grantee is to be vacated by the City during the term of this Franchise Agreement, unless the City specifically reserves to Grantee the right to continue its installation in the vacated Street, Grantee shall, at the City's sole expense, remove its facilities from such Street, and restore, repair or reconstruct the Street where such removal has occurred, and place the Street in such condition as may be required by the City.

Section 11. Safety.

11.1. Standard of Care. Grantee, at all times, shall employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to Grantee's employees.

11.2. Code Compliance. Grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the Electrical Code of the State of Oregon and the National Electrical Safety Code (NESC).

11.3. Safe Conditions. All Grantee's lines, structures, and other facilities in the Franchise Area shall be kept by Grantee at all times in a safe and hazard-free condition.

11.4. Equipment. Grantee shall provide and put in use such facilities, fiber and equipment in a manner so as to prevent injury to the wires, pipes, structures, and property belonging to the City or to any person, firm, or corporation within the City/

Section 12. Indemnification and Insurance Provisions.

12.1. Third-Party Indemnification. To the extent allowed by law, Grantee shall defend the City, its council, Officers, Boards, Commissions, Agents, and Employees for all claims against the City by third-parties for injury to any person or property caused by the gross negligence of Grantee in the construction or operation of the Communications Services.

12.2. Insurance. Grantee shall maintain, throughout the term of the Franchise Agreement, insurance in amounts at least as follows:

<u>Workers' Compensation</u>	<u>Statutory Limits</u>
Commercial General Liability	\$1,000,000 per occurrence, Combined Single Liability (C.S.L.) \$2,000,000 General Aggregate
Auto Liability, including coverage on all owned, non-owned, and hired autos	\$1,000,000 per occurrence C.S.L.
Umbrella Liability	\$1,000,000 per occurrence C.S.L.

Section 13. Rights of Individuals Protected.

13.1. Discriminatory Practices Prohibited. Grantee shall not deny service, deny access or otherwise discriminate against Subscribers, programmers, or general citizens on the basis of race, color, religion, national origin, sex, sexual preference, or marital status.

13.2. Protection of Privacy. Grantee shall comply with applicable Federal, State, and generally applicable local laws for the protection of privacy of subscribers.

Section 14. Franchise Agreement Non-Compliance.

14.1. Procedure for Remediating Non-Compliance with Franchise Agreement.

18.1.1. Except as otherwise provided herein, if the City believes that Grantee has

failed to perform any obligation under this Franchise Agreement, City shall first informally discuss the matter with Grantee.

14.1.2. If the informal discussions do not lead to resolution of the problem, the City shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged noncompliance.

14.1.3. Grantee shall have thirty (30) calendar days from the date of receipt of such notice to:

- (a) Respond to City, contesting City's assertion that noncompliance has occurred, and requesting a hearing; or
- (b) Cure the alleged non-compliance; or
- (c) Notify City in writing that Grantee cannot cure the alleged non-compliance within thirty (30) days and describe what steps Grantee will take to cure the alleged noncompliance, including Grantee's projected completion date for such cure.

14.1.4. In the event that Grantee notifies the City that it cannot cure the alleged non-compliance within the 30-day cure period, City shall, within thirty (30) days of City's receipt of such notice, set a hearing before the Council. At the hearing, City shall review and determine whether Grantee has taken reasonable steps to cure the alleged non-compliance and whether Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are determined by mutual consent to be reasonable, the same may be approved by the City, which may extend the cure period accordingly. In lieu of a hearing before the Council, the Council may use a hearings officer to hear evidence, determine the facts, and make a recommendation to the Council, which shall then make the final determination.

14.1.5. In the event that Grantee fails to cure the alleged non-compliance within the thirty (30) day period, or within an extended period approved by the City pursuant to Subsection 27.1.4, the City shall set a hearing to determine what means of enforcement shall be applied.

14.1.6. In the event that Grantee contests the City's assertion that the alleged non-compliance has occurred, and requests a hearing, the City shall set a hearing within sixty (60) days of the City's receipt of the hearing request to determine whether the alleged noncompliance has occurred and, if non-compliance is found, what means of enforcement shall be applied.

14.1.7. In the case of any hearing pursuant to this section, City shall notify Grantee of the date and time and place of the hearing in writing and at the hearing, the City and Grantee shall each be provided an opportunity to be heard, examine the other party's witnesses, and to present witnesses and evidence. The City may also hear any other person interested in the subject and may provide additional hearing procedures as City deems appropriate.

Section 15. Revocation.

15.1. Notice. Prior to revocation or termination of the Franchise Agreement, the City shall give written notice to the Grantee of its intent to revoke the Franchise Agreement on the basis of a pattern of noncompliance by the Grantee, including multiple instances of substantial noncompliance

with a material provision of the Franchise Agreement. The notice shall set forth the exact nature of the alleged pattern of noncompliance. The Grantee shall have sixty (60) days from such notice to object in writing and to state its reasons for such objection and provide any explanation. If the City has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise Agreement at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

15.2. Hearing. At the revocation hearing, the City Council shall give the Grantee an opportunity to state its position on the matter, present evidence, and question witnesses, after which it shall determine whether or not the Franchise Agreement shall be revoked. The City shall hear any persons interested therein and shall reasonably determine whether or not any default, failure, refusal, or neglect by the Grantee was excusable. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the City Council shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court in Polk County or the Federal Court of jurisdiction for Polk County, which shall have the power to review the decision of the City Council *de novo*.

Section 16. Miscellaneous Provisions.

16.1. Compliance with Laws. Grantee shall comply with all Federal, State of Oregon, and County laws, as well as all generally applicable City ordinances, resolutions, rules, and regulations heretofore or hereafter adopted or established during the entire term of the Franchise Agreement.

16.2. Severability. If any section of this Franchise Agreement is held to be invalid or preempted by Federal or State regulations or laws, such invalidity or preemption shall not affect the remaining sections of the Franchise Agreement.

16.3. Captions. The captions to sections throughout this Franchise Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Franchise Agreement. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

16.4. Non-enforcement by the City. Grantee shall not be relieved of its obligation to comply with any of the provisions of this Franchise Agreement by reason of any failure of the City to enforce prompt compliance.

16.5. Subsequent Action by State or Federal Agencies. Should the State of Oregon or any agency thereof or any agency of the Federal government require Grantee to act in a manner that is inconsistent with any provisions of this Franchise Agreement, Grantee shall so notify the City. Upon receipt of such notification, the parties shall determine if a material provision of the Franchise Agreement is affected. Upon such determination, the parties shall attempt to modify or amend any of the sections of the Franchise Agreement to such reasonable extent as may be necessary to carry out the full intent and purpose of the Franchise Agreement.

16.6. Notice. Unless otherwise provided by Federal, State, or local law to be sent via Certified Mail, all notices pursuant to this Franchise Agreement shall be deemed sufficient notice if

sent in writing and sent via regular United States Mail, Certified Mail, or Registered Mail to the addresses set forth below:

If to the City, addressed to:

City Manager
AJ Foscoli
299 Mill Street
Falls City, Oregon 97344

If to the Grantee, addressed to:

General Manager
MINET
405 Hogan Road North
Monmouth, Oregon 97361

Either party may change the address(es) to which notices are sent at any time during the term of this Franchise Agreement by notifying the other party in writing not less than thirty (30) days in advance by certified mail.

16.7. Entire Franchise Agreement. This Franchise Agreement contains the entire Franchise Agreement between the parties, supersedes all prior franchise agreements or proposals except as specifically set forth herein, and may be changed only by mutual consent through an instrument in writing executed by the parties.

16.8. Time Limits Strictly Construed; Force Majeure. Whenever this Franchise Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered non-compliance with this Franchise Agreement and sufficient grounds for the City to invoke any relevant provision herein. However, in the event Grantee is prevented or delayed in the performance of any of its obligations herein due to circumstances beyond its control or by reason of a force majeure occurrence, such as, but not limited to, acts of God, acts of terrorism, natural disasters, floods, tornadoes, earthquakes, unusually severe weather conditions, employee strikes and unforeseen labor conditions, Grantee's performance shall be excused during the force majeure occurrence and Grantee thereafter shall, under the circumstances, promptly perform the affected obligations or procure a substitute for performance which is satisfactory to both parties.

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The parties hereto accept the terms and conditions set forth herein by affixing their signatures below.

CITY OF FALLS CITY

TJ Bailey, MAYOR

ATTEST:

Jeremy Teal, City Recorder

MINET

By: _____
General Manager

Date: _____

STAFF REPORT

TO: HONORABLE MAYOR, AND CITY COUNCIL
FROM: CITY MANAGER, AJ FOSCOLI
SUBJECT: REINSTATEMENT OF BACK-FLOW DEVICE ORDINANCE TO MATCH STATE STATUTE
DATE: MAY 6, 2024

SUMMARY

The city is reinstating the backflow device Ordinance 566-2024 (formerly 97-464 Cross Connection Control Program).

BACKGROUND

According to current ordinance, the city is responsible for backflow testing of all water connections (commercial AND residential), which is in excess of State standards (Commercial ONLY), and the \$2.25 additional backflow testing fee charged to residents is not keeping up with contractor costs to carry out this program. As this program is both time-consuming (a 3rd party contractor has spent the better part of the summer performing tests), and expensive (\$6,600 for the annual contract at present, but potentially as high as \$10,000/year), the proposal was to repeal the ordinance and follow State Statute in backflow testing of only commercial properties. Aligning city ordinance with State Statute would benefit the public works department by freeing up resources now allocated to overseeing contractors and the cost thereof. However, residents have asked for a reinstatement of the previous program so they do not have to schedule testing on their own, and outsource this to city staff.

FINANCIAL IMPLICATIONS

If reinstated, the backflow device ordinance 566-2024 (formerly 97-464 Cross Connection Control Program), will encharge the city to contract backflow device testing throughout the city, leading to economies of scale and lower per device costs.

PUBLIC WORKS COMMITTEE RECOMMENDATION

A motion to recommend to council to adopt the backflow device ordinance 566-2024 (formerly 97-464 Cross Connection Control Program)

STAFF RECOMMENDATION

A motion to recommend to council to adopt the backflow device ordinance 566-2024 (formerly 97-464 Cross Connection Control Program)

MOTION RECOMMENDATION

A motion to approve Ordinance 566-2024 in re-establishing a cross connection control program and establishing authorities and administration; and repealing prior ordinances.

ATTACHMENTS

Exhibit A – Ordinance 566-2024

CITY OF FALLS CITY
ORDINANCE No. 566 - 2024

CROSS CONNECTION CONTROL PROGRAM

REPEAL ORD. 563-2023 AND REINSTATE ORD. 97-464 AN ORDINANCE ESTABLISHING A CROSS CONNECTION CONTROL PROGRAM AND ESTABLISHING AUTHORITIES AND ADMINISTRATION AND DECLARING AN EMERGENCY.

The CITY OF FALLS CITY does ordain as follows:

1.1 Purpose

SECTION 1. CROSS CONNECTION CONTROL - GENERAL POLICY

- 1.1.1 To protect the public potable water supply served by the City of Falls City Public Works Department from the possibility of contamination or pollution by isolating, within its customers internal distribution system, such contaminants or pollutants which could backflow or backsiphon into the public water system.
- 1.1.2 To promote the elimination of, or control of, existing cross connections, actual or potential, between the potable water system and source or non-potable water or other hazardous substances.
- 1.1.3 To provide for the maintenance of a continuing program of cross connection control which will effectively prevent the contamination or pollution of all potable water systems by cross connections.

1.2 AUTHORITY

- 1.2.1 The Federal Safe Drinking Water Act of 1974, and the statutes of the State of Oregon, Administrative Rules chapters 333-61-070 (070 - Program Requirements), 333-61-071 (071 - Installation Standards), and 333-61-072 (072 - Certification), state that the water supplier has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.
- 1.2.2 The City of Falls City Water Department Rules and Regulations as described in City of Falls City Charter, Ordinance No.s 372 & 392.

1.3 RESPONSIBILITY

The Administrator or designee shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants through the water service connection. If, in the judgment of the Administrator or designee, an approved backflow device is required at the City's water connection to any customer's remise, the Administrator, or designee, shall

give notice in writing to said customer to install an approved backflow prevention device at each service connection to the customer's premise.

The customer shall, within ninety (90) days of notification, install such approved device, or devices, at his/her own expense. Failure, refusal, or inability on the part of the customer to install, have tested, and maintain said device or devices within ninety (90) days, shall constitute grounds for discontinuing water service to the premises until such device or devices have been properly installed and tested.

SECTION 2. DEFINITIONS

2.1 Approved

Accepted by the City of Falls city as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.

2.2 Auxiliary Water Supply

Any water supply, on or available, to the premises other than the purveyor's will be considered as an auxiliary water supply.

2.3 Backflow

The term "Backflow" shall mean the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources.

2.4 Backflow Preventer

An assembly or means designed to prevent backflow or backsiphonage.

2.4.1 Air Gap

A physical separation between free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air gap" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel - in no case be less than one inch.

2.4.2 Atmosphere Vacuum Breaker

A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure on a water system.

2.4.3 Double Check Valve Assembly

An assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of the check valve.

2.4.4 Pressure Vacuum Breaker

Means a device consisting of one or more spring loaded check valves and an independently operating air inlet valve installed as a unit between two tightly closing shut off valves on each side of the check valves and properly located test cocks for testing. The air inlet valve is internally loaded to the open position.

- 2.4.5 **Reduced Pressure Principle Backflow Preventer**
Means a device consisting of two independently acting, spring loaded check valves separated by a spring loaded differential pressure relief valve. This device shall be installed as a unit between two tightly closing shut off valves and properly located test cocks for the testing of the check valves and relief valves.
- 2.5 **Back Pressure**
Shall mean any elevation of pressure in the downstream piping system (by pumping, elevation of piping, steam or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.
- 2.6 **Backsiphonage**
The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of the pressure in the potable water supply system.
- 2.7 **Contaminant**
Means any physical, chemical, biological, or radiological substance or matter in water.
- 2.8 **Cross Connection**
Means any link or channel between the public water supply and piping or fixtures which carry other water or other substances.
- 2.9 **Distribution System**
Means the network of pipes and other facilities which are used to distribute water from the source, treatment, transmission, or storage facilities to the water user.
- 2.10 **Division**
Means the Health Division of the Oregon Department of Human Resources.
- 2.11 **Owner**
Any person who has legal title to, or license to operate or inhabit in, a property upon which a cross connection inspection is to be made or upon which a cross connection is present.
- 2.12 **Person**
Any individual, partnership, company, public, or private corporation, political subdivision or agency of the State Division, agency or instrumentality of the United States or any other legal entity.
- 2.13 **Permit**
A document issued by the utility which allows the use of a backflow preventer.
- 2.14 **Administrator**
The Administrator or his deligated representative in charge of the water section of the Public Works, is

invested with the authority and responsibility for the implementation of a cross connection control program and for the enforcement of the provisions of the Ordinance.

2.15 Utility

City of Falls City water section of the Public Works Department.

2.16 Water Service Entrance (connection)

That point in the owner's water system beyond the sanitary control of the utility; generally considered to be the outlet end of the water meter and always before any unprotected branch.

SECTION 3 - ADMINISTRATION

3.1 The utility will operate a cross connection control program, to include the keeping of necessary records, which fulfills the requirements of the Division's Cross Connection Regulations.

3.2 The owner shall allow his property to be inspected, when given reasonable notification and during reasonable times, for possible cross connections and shall follow the provisions of the utility's program, and the Division's regulations if a cross connection is identified.

SECTION 4 - REQUIREMENTS

4.1 Utility

4.1.1 On new installations, the utility will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any that will be required, will issue permit, and perform inspection.

4.1.2 For premises existing prior to the start of this program, the utility will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary.

4.1.2.1 The method of achieving the correction, and the time allowed for the correction to be made.

4.1.2.1.1 Ordinarily ninety (90) days will be allowed for the correction.

4.1.2.1.2 This 90 day period may be shortened depending on the degree of hazard or the history of the device.

4.1.3 The utility will not allow any cross connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation.

4.1.4 The utility will inform the owner by letter of any failure to comply, within ten (10) working days of the first re-inspection.

4.1.4.1 The utility will allow an additional fifteen (15) days for the correction.

4.1.4.2 At the end of the additional fifteen (15) days a second re-inspection will be made to determine if corrections have been made.

4.1.4.3 If corrections have not been made, the utility will inform the owner by letter that the water service to the owner's premises will be terminated five (5) days from the date of this notice.

4.1.4.4 In the event that the owner informs the utility of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the utility but in no case will exceed an additional thirty (30) days.

4.1.5 If the utility determines at any time that a serious threat to the public health exists, the water services will be terminated immediately.

4.1.6 The utility shall have on file a list of private contractors who are certified backflow device testers. All charges for these tests will be paid by the owner of the building or property.

4.2 Owner

4.2.1 The owner shall be responsible for the elimination or isolation of all cross connections on his/her premises.

4.2.2 The owner, after having been informed by a letter from the utility, shall at his/her expense, install, maintain, and test or have tested, any and all backflow preventers on his premises.

4.2.3 The owner shall correct any malfunctions of the backflow preventer which is revealed by periodic testing.

4.2.4 The owner shall inform the utility of any proposed or modified cross connections and also any existing cross-connections of which the owner is aware but has not been found by the utility.

4.2.5 The owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the by-pass. Owners shall not tamper with backflow devices.

4.2.6 The owner shall install backflow preventers in a manner approved by the utility.

4.2.7 The owner shall install only backflow preventers approved by the Health Division.

4.2.8 Any owner having a private well or other private water source, must have a permit if the well or source is cross-connected to the utility's system. Permission to cross connect may be denied by the utility. The Owner may be required to install a

backflow preventer at the service entrance if a private water source is maintained, even if it is not cross connected to the utility's system.

- 4.2.9 In the event the owner installs plumbing to provide potable water for domestic purposes which is on the utility's side of the backflow preventer, such plumbing must have its own backflow preventer installed.

SECTION 5 - DEGREE OF HAZARD

- 5.1 The utility recognizes the threat to the public water system arising from cross connections. All threats will be classified by degree of hazard and will require the installation of an approved backflow prevention device.
- 5.2 Degree of Hazard. The term "Degree of Hazard" shall mean either a pollution (non-health-low) or contamination (Health-High) hazard and is derived from the evaluation of conditions within a system.

SECTION 6 - EXISTING BACKFLOW DEVICES

- 6.1 Any existing backflow preventer shall be allowed by the utility to continue in service unless the degree of hazard is such as to supersede the effectiveness of the preventer, or result in an unreasonable risk to public health.
- 6.2 Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow device must be replaced with an approved device suitable for that degree of hazard.

SECTION 7 - PERIODIC TESTING

- 7.1 All testable backflow devices shall be tested and inspected at least annually.
- 7.2 Periodic testing shall be performed by a certified tester from a list provided by the utility, this testing will be done at the owner's expense.
- 7.3 Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair, the device will be re-tested at owner's expense to insure correct operation. High hazard situations will not be allowed to continue if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two (2) devices is an effective means of the owner insuring uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- 7.4 Backflow prevention devices will be tested more frequently than specified in 7.1 of this Section if the utility feels that there is a history of test failures. Cost of additional testing will be borne by the Owner. Any circumstance not covered by this Ordinance or any of the

- Authorities (1.2.1 - 1.2.2) shall be left to the judgment of the Administrator or designee.

SECTION 8 - OREGON ADMINISTRATIVE RULES

The City of Falls City hereby adopts Oregon Administrative Rules as outlined in Chapter 333, Subsection 42-200 through 42-245 as may be amended.

SECTION 9 - EMERGENCY CLAUSE

In as much as it is necessary for the immediate preservation of the public health peace and safety of the City of Falls City, to enact this Ordinance, and emergency is hereby declared to existing, and this Ordinance shall become effective on June 10, 2024.

FIRST READING:

This 6th day of May, 2024.

SECOND READING:

This 10th day of June, 2024.

PASSED BY THE COMMON COUNCIL TIDS 10th DAY OF JUNE, 2024.

VOTE:

Yeas- Nays- Abstain- Absent-

APPROVED ON THIS 3rd DAY OF June, 2024.

Mayor TJ Bailey

ATTEST

City Recorder Jeremy Teal

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