

**ORDINANCE NO. 1128**

**AN ORDINANCE CONCERNING THE TOWN OF LAKEVIEW WATER SYSTEM UTILITY; ADOPTING CERTAIN RULES, REGULATIONS, RATES, AND CHARGES CONCERNING THE WATER SYSTEM UTILITY; REPLACING AND SUPERSEDING ALL ORDINANCES, RESOLUTIONS, AND/OR POLICIES IN CONFLICT WITH THIS ORDINANCE (UNLESS EXPRESSLY EXEMPTED), INCLUDING CERTAIN WATER SYSTEM UTILITY RULES AND REGULATIONS ADOPTED UNDER ORDINANCE NO. 761.**

WHEREAS, on March 25, 1997, Town of Lakeview (“Town”) adopted Ordinance No. 761 (the “Water Ordinance”), which Water Ordinance, among other things, established Town’s water system utility and certain rules and regulations related thereto; and

WHEREAS, the Lakeview Town Council (the “council”) has determined that certain operative provisions of the Water Ordinance are outdated, difficult to administer, and must be replaced and superseded; and

WHEREAS, subject to the provisions contained in this Ordinance No. 1128 (this “Ordinance”), this Ordinance amends, replaces, and supersedes the Water Ordinance in its entirety.

NOW, THEREFORE, the Town of Lakeview ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance may be referred to and cited as the “Water Use Regulations Ordinance.”
3. Definitions. Unless the context requires otherwise, when used in this Ordinance the following terms and phrases have the meanings assigned to them below, whether or not such terms are capitalized:

“Applicant(s)” means a person applying for water service.

“Base charge(s)” or “base rate(s)” means the charge for water service that is in addition to the consumption charges.

“Town administrator” means Town’s then appointed Town administrator or his or her designee.

“Town system,” “water system,” or “system” consists of the water source facilities and distribution system, including, without limitation, all facilities of the water system under Town’s ownership and/or control (including, without limitation, meters and service connections).

“Consumption charge(s)” means the charges placed on every cubic foot of water delivered in excess of the cubic foot usage applicable to the base charges.

“Cross connection(s)” means any physical arrangement where a potable water supply is connected, directly or indirectly, with any other non-drinkable water system or auxiliary system, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, or swamp coolers, or any other

device which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. "Cross connection(s)" include, without limitation, bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which, or because of which, backflow may occur.

"Cross connection ordinance" means Town's cross connection ordinance, Ordinance No. 1130, as amended.

"Customer(s)" means a person receiving water service from the system.

"Customer service line(s)" means the pipe, valves, and facilities leading from the outlet of the meter into the premises being served.

"Director" means Town's public works director or his or her designee.

"Fee schedule" means the rates, charges, and/or any related regulations established by council resolution from time to time in accordance with this Ordinance.

"Main(s)" means the distribution pipelines located in public or private rights-of-way used to supply potable water.

"Occupant(s)" means any person having possession and/or control of the subject property, including, without limitation, any past, present, and/or future owner, agent, lessee, tenant, licensee, and/or contract purchaser.

"Person(s)" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity.

"Premises" or "property" includes the subject real property and all improvements located thereon.

"Service connection(s)" means the pipe, valves, and other facilities used to supply potable water from the main through the meter, including private piping beyond the meter.

"Sewer use regulations ordinance" means Town's sewer use regulations ordinance, Ordinance No. 1129, as amended.

"System development charge(s)" means a reimbursement fee, an improvement fee, and/or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit, or connection to the capital improvement. "System development charge(s)" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities.

"System development charge ordinance" means Town's system development charge ordinance, Ordinance No. 1130, as amended.

“Temporary service” means service not intended to be permanent (such as construction sites) with expected duration(s) of six months or less, unless prior approved by the Town administrator in writing.

4. Application for Service; Mandatory Connection; Classifications.

4.1 Application. Each applicant will complete and sign an application form provided by Town which will include the date of application, location of premises, whether the applicant has been served before, the date on which service is to begin, the purpose for which service is to be used, the address for mailing or delivery of bills, the applicant’s address, the class and size of water service, and such other information as Town may require. In signing the application, an applicant agrees to abide by all Town rules, regulations, and restrictions concerning the water system. An application constitutes a written request for service and does not bind Town to provide water service.

4.2 Non-Owner Occupied Premises. The owner of a non-owner occupied premises is jointly and severally liable for all water service related fees, charges, expenses, losses, damages, and/or fines incurred by all occupant(s)/applicant(s) of the owner’s non-owner occupied premises, including, without limitation, late and/or penalty fees. The council may establish by resolution at any time and from time to time a process for collecting outstanding water charges, expenses, losses, damages, and/or fines from the responsible parties.

4.3 Deposit. Each non-owner applicant must deposit with Town at the time of application and/or re-application for water service an amount equal to two months’ water service charges. The deposit is intended to ensure that Town’s costs associated with the provision of water to the applicant will be covered. No interest will be earned on the deposit. Deposits (or any remaining sum thereof) will be refunded to the customer when service has been discontinued if the account is then in good standing. Town may off-set against the deposit all negative balances on the account at the time of disconnect.

4.4 Refusal of Service. An applicant may be denied water service for any of the following reasons:

4.4.1 The application is incomplete, not signed by the customer, and/or is ineligible;

4.4.2 The application requests service to a property location that is difficult or impossible to provide without obtaining right-of-way or extending trunk or laterals;

4.4.3 The applicant, owner, and/or occupant has previously failed to pay duly imposed charges for Town water and/or other services. Town may refuse water service to the subject premises until such time as Town is provided adequate financial security (in a form approved by the Town administrator) by the applicant, owner, and/or occupant that the delinquencies will be paid;

4.4.4 The water system is unable to supply the demand created by the proposed use without acquisition of new sources of water or capital improvements to the existing system;

4.4.5 The applicant has been found in violation of Town water and/or sewer ordinances, rules, and/or regulations two or more times during the immediately preceding two years (from the date of application); and/or

4.4.6 The plumbing on the premises where services will be provided does not meet standards required under applicable federal, state, and/or local laws, regulations, and/or ordinances.

Applicants whose applications are denied will be notified in writing. The notice will state the reasons for denial and identify the applicant's right of appeal. Such appeal rights and processes will be the same as that for Town-initiated service termination described in Section 9.4. Applicants whose application has been denied under Section 4.4.2 may be informed of the procedure for creating a reimbursement district to extend existing mains or laterals. Notice of denial will be mailed to the applicant's address shown on the application. Notice will be effective as of the date of mailing.

4.5 Mandatory Connection. If water service is available for connection to a premises, including, without limitation, if and when water service is available for connection to a premises utilizing a private water system (e.g., well), the owner or occupant must apply for water service in accordance with this Section 4 and connect to the water system within ninety (90) days after Town's written notice to apply and connect; provided, however, the Town administrator may extend the aforementioned ninety-day time period for one additional period not exceeding ninety (90) days after the Town administrator's consideration of the following factors, to the extent applicable: (a) size, location, and elevation of the premises; (b) condition of the private water system, if any; (c) length of the requested extension (which may not exceed ninety (90) days)); and (d) such other criteria and conditions as the Town administrator may deem appropriate after consulting with Town's engineer and/or the director if the Town administrator deems such consultation necessary.

5. Access to Premises. Notwithstanding anything contained in this Ordinance to the contrary, by requesting and receiving water service from Town, every customer grants Town and its agents and employees the right to enter onto the customer's premises to determine compliance with Town's rules, regulations, and restrictions concerning the repair, maintenance, delivery, and/or receipt of the water system and/or water service.

6. Meter Reading; Billing.

6.1 Meters. All premises using water will be metered. Upon advance payment of applicable charges, Town will install a separate service from the water main to the property or other location designated by Town. Where water is now supplied through one service to more than one residence, business, or premises, Town may notify the owner of the necessity to provide separate installation of services from the water main to the meter or shutoff.

6.2 Meter Readings. Meters will be read at regular intervals determined by Town from time to time.

6.3 Access - General. The customer will ensure safe and efficient access to the meter and shutoff valve. Whenever it is necessary to enter a building to read or work on a meter, a safe passageway, free of obstruction, will be maintained by the occupant of the premises from the building/property entrance to the meter. By connecting to the system, the customer consents to

Town's (and its agents and employees) removal of obstruction(s) as necessary to maintain appropriate access to the meter.

6.4 Access to Meter Box. Customers are required to maintain no less than a two foot (2') area surrounding the meter box free of vegetation and other obstructions. Clear access to the meter will be from the street side in a direct path to the meter. Town personnel may clear the meter box area (including, without limitation, trimming or removing vegetation) to meet Town's meter reading and maintenance needs. The customer will be charged for expenses incurred by Town to clear the meter box area.

6.5 Estimated Meter Read. If it is determined by Town that a meter fails to register accurately or Town determines that it is unable to read a meter, the current billing may be calculated in accordance with written policies developed by the Town administrator. Failure to read the water meter does not relieve a customer from its obligation to pay for actual or estimated water use.

6.6 Customer Re-Read. A customer may request that the customer's meter be re-read if there is a reasonable basis to conclude that the customer's bill is in error.

6.7 Prorated Charges. Accounts will have base charges prorated through the day that service is terminated (for closing accounts) or on the day that service commenced (for new accounts). For service/account terminations, base charges will be prorated only if the customer's water usage is below the applicable base rate water usage amount.

## 7. Rates; Payments for Services.

7.1 Water Rates. The council may establish and/or modify from time to time such water rates, fees, charges, fines, and penalties (which may or may not be contained in the fee schedule) related to the water system and/or water consumption as the council deems necessary or appropriate by council resolution, including, without limitation, late fees and penalties.

7.2 Place of Payment. All payments will be made to Town at the place designated on the most recent utility bill.

7.3 Bill Payment. All bills for metered accounts will be due and payable on the date set forth in the applicable bill. Accounts which have not been paid in full within thirty (30) days after the applicable due date will incur the then-applicable late fees and penalties. A late notice will be sent out on or about the thirty-first (31<sup>st</sup>) day following the applicable due date stating the past due amount and applicable late fees and penalties, the date a "door hanger notice" will be posted, and the date that water service will be terminated if the account is not paid in full. Accounts which have not been paid in full within forty (40) days after the applicable due date will be assigned a place on the "door hanger" list maintained by Town. Delinquent accounts assigned to the "door hanger list" will be assessed additional fees and penalties established by Town from time to time. A termination notice will be placed upon the customer's premises if an account has not been paid in full within forty (40) days after the applicable due date advising the customer that water service will be terminated within seven days from posting the termination notice unless the entire past due balance, including interest, fees, and penalties, is paid in full within the seven-day period. If the past due balance is not paid in full on or before the service termination date, water service will be terminated in accordance with this Ordinance. All bills for other fees and charges are due and payable at the time such fees or charges are assessed.

7.4 Delinquent Accounts; Reinstatement. After the termination notice is provided in accordance with Section 7.3, subject to the affected person's appeal rights under Sections 9.4.1 and 9.4.2, Town may terminate water supply (service) to the premises being served for which payment is delinquent. If service is terminated, the past due balance must be paid in full, including, without limitation, a service reconnection fee, before service will be resumed to the premises.

7.5 Billings of Separate Meters Not Combined. Each meter on a customer's premises will be considered separate and the readings of two or more meters will not be combined; provided, however, Town may combine two or more low flow meters if Town determines necessary.

7.6 Tenant Accounts. An owner of any non-owner occupied premises will immediately notify Town if the non-owner occupied premises (or any unit thereof) becomes vacant. Until the owner provides the vacancy notice required under the immediately preceding sentence, the owner will pay for all water service made available and/or provided to the vacant non-owner occupied premises (or unit thereof). Town will transfer any claim against the occupant(s)/applicant(s) of the non-owner occupied premises to the owner in accordance with this Section 7.6. Prior to transferring a claim, Town will provide the owner thirty (30) days' prior written notice concerning (a) the amount past due (which may include all applicable fees, charges, expenses, losses, damages, and fines), (b) Town's intent to transfer the claim to the owner if the amount past due is not paid in full within the thirty-day period, and (c) the owner's appeal rights under Section 9.4. If the amount past due is not timely paid in full, Town will transfer the claim for the past due amount and the transferred claim will become a lien against the subject premises from the date the thirty-day delinquency notice is mailed to the owner. The thirty-day delinquency notice will be mailed by first class mail to the address of the owner or owner's agent then on file with Town. Notwithstanding anything contained in this Ordinance to the contrary, Town reserves the right to transfer any claim against the occupant/applicant in accordance with ORS 91.255.

7.7 System Development Charges. Pursuant to the system development charge Ordinance No. 1130, system development charges will be levied upon each new building, structure, and/or fixture unit attached to the water system at the time of initial attachment, or upon resizing of a connection to accommodate a new service meter larger than five-eighths/three-fourths inch.

## 8. Adjustments.

8.1 Overcharge Adjustment. When Town determines a customer has been overcharged for services, Town will apply a credit to the account based on the date the error first occurred, the date the customer became responsible for the account, or a period not to exceed one year, whichever is less.

8.2 Undercharge Adjustment. When Town determines a customer has been undercharged for services, Town will bill the customer based on the date the error first occurred, the date the customer became responsible for the account, or a period not to exceed one year, whichever is less. If the date cannot be easily determined, Town will estimate the bill for a period not to exceed one year. Customers receiving a billing adjustment will be offered an opportunity to make payment arrangements (which payment arrangements must receive the Town administrator's prior written approval).

8.3 Adjustment for Water Loss. If Town determines that water loss occurred on the customer's side of the meter due to unintentional damage of the customer's plumbing system and the cause for loss has been properly repaired, the Town administrator may adjust the customer's billing for up to fifty percent (50%) of the excess water use. The billing to the customer will be adjusted in an amount based upon the water rates in effect for the loss period multiplied by the adjustment allowance. The amount, if any, will be credited to the customer's account after repairs have been satisfactorily completed. Request for adjustments must be made within thirty (30) days after the date of the first billing indicating the excess use. Adjustments will not be available when the excess use appears due to, among other things, a failure to properly shut off water or repair any water leak. Town will not provide more than one adjustment per customer, per calendar year.

8.4 Non-Registering Meters. The customer will be charged for water consumed while the meter is not registering. The bill will be based on an estimate of consumption using either the premises' prior use during the same season of the prior year or a comparison with the use of other similarly situated customers receiving the same service during a similar period and under similar circumstances and conditions, as determined by Town.

9. Termination of Water Service.

9.1 Customer Request. Customers may have service temporarily discontinued and placed in inactive status for a period not exceeding six months (unless prior approved by the Town administrator in writing) by notifying Town of the desired weekday date of discontinuance. Each customer must exercise the customer's best efforts to provide Town no less than twenty-four (24) hours' prior notice of the customer's desire for the discontinuance. A customer requesting discontinuance will be required to pay all charges through the date of discontinuance. If the discontinuance notice described in this Section 9.1 is not timely given to Town, Town may require the customer to pay all charges through the date Town determines that the premises has been vacated or the service otherwise discontinued.

9.2 Town-Initiated Termination. Water service may be terminated by Town under any of the following circumstances:

9.2.1 If there is reasonable cause to question the safety or purity of the water;

9.2.2 In case of emergency, damage, and/or reasonable threat of damage to the system;

9.2.3 If Town obtains knowledge that a leak has occurred on the customer side of the meter and Town reasonably believes that the leak may cause significant water loss or is causing damage to either the premises or other properties;

9.2.4 If service to the premises is turned on without first obtaining Town's approval for water service;

9.2.5 If the utility bill is not timely paid pursuant to Section 7.3;

9.2.6 If a required deposit is not fully paid within seventy-two (72) hours of the applicant's application for service;

9.2.7 If a customer fails to comply with any system rules, regulations, and/or restrictions, and/or is found in violation of any water or sewer ordinances, rules, regulations, or restrictions;

9.2.8 Failure to allow access to the premises for determining compliance with Town rules and regulations concerning water service;

9.2.9 If an owner and/or occupant's (if different) account has become delinquent and/or the occupant vacates the premises without payment and any deposit held by Town for the premises does not cover the delinquency;

9.2.10 If an owner and/or applicant connects the water service (in any form or manner) to another property or mobile home or camper without first obtaining the Town administrator's written consent; and/or

9.2.11 Failure to comply with the cross-connection backflow program set forth under the cross connection ordinance and/or failure to comply with the sewer use regulations ordinance.

9.3 Notice of Service Termination. Notwithstanding anything contained in this Ordinance to the contrary, for any Town-initiated termination identified under Sections 9.2.1-9.2.4, no advance notice of termination is required. Under those circumstances, Town will attempt to notify the customer at the earliest opportunity by the most practical means possible under the circumstances. For all other Town-initiated terminations, notice of Town's intent to terminate service will be sufficient if given by either (a) first class mail sent to the customer's address shown in Town's records (notice will be deemed complete upon deposit), and/or (b) posting a notice on the served premises. If the notice is posted, the notice will be deemed complete upon posting. The customer will be assessed and required to pay all applicable posting charges imposed by Town.

9.4 Right to Challenge Application Denial/Service Termination.

9.4.1 Except for Town-initiated terminations listed in Sections 9.2.1-9.2.4, any person aggrieved by a ruling or interpretation of this Ordinance may appeal the ruling or interpretation by filing a notice of appeal with the Town administrator. The notice of appeal must be filed no later than five days prior to the proposed termination date or within ten (10) days after the date notice of the ruling or interpretation is delivered to the person, whichever is earlier. The notice of appeal must contain (a) the name, address, and telephone number of the appellant, (b) a copy of the ruling or interpretation being appealed, and (c) the basis for the appeal, describing with reasonable specificity why the ruling or interpretation was issued in error. No termination of service will occur during the pendency of any challenge before the Town administrator under Sections 9.4.1-9.4.2.

9.4.2 The Town administrator will conduct an informal hearing on the matter and after consideration of the material presented by the appellant and Town, if any, the Town administrator will decide whether to approve or deny the appeal. If necessary, the Town administrator



will prepare a written decision based upon the Town administrator's findings. The Town administrator will send his or her written decision, if applicable, to the appellant and the council.

9.4.3 If the appellant determines that the Town administrator did not handle the appeal to the appellant's satisfaction, the appellant may, within thirty (30) days after receipt of the Town administrator's decision, request that the council complete an independent review of the appeal. The Town administrator will forward to the council his or her entire file on the case for review of the council. The council will, within thirty (30) days after receipt of the request for an independent review, prepare a written decision on the matter and send the decision to the appellant and the Town administrator. The council's decision is final, conclusive, and binding.

9.5 Liability. Town is not liable or responsible for any actual, consequential, and/or other damages to person or property resulting from its decision to terminate water service to any person or premises that is done consistent with or pursuant to this Ordinance and/or applicable law, including, without limitation, any termination occurring after the Town administrator's determination under Section 9.4.2.

10. Meter Maintenance, Repair, and Testing.

10.1 Maintenance of Meters. Meters are property of Town. Town will maintain all service connections in good order, and will make all necessary repairs and replacements of Town-owned meters and other parts thereof, at the expense of Town. Each customer is required to take all due precautions to protect the connection through which the customer is served. No person will trespass upon, mark, destroy, and/or tamper with the meters or any other property or equipment of Town unless authorized by the director. If a meter is damaged by the carelessness, negligence, and/or intentional act of the owner or occupant of the premises, Town will repair the meter, and the cost of such repairs will be charged to the customer.

10.2 Customer Request. A customer may request that Town test the water meter serving the customer's premises by making application for such testing to the director. If the test shows that the water meter registers outside the American Water Works Association ("AWWA") standards, the meter will be repaired or replaced at no cost to the customer. If the test shows that the water meter registers within AWWA standards, the customer may be required to pay for the test, as determined in the director's sole discretion. A written report of the results of the test will be made available to the customer.

10.3 Town-Initiated Test. Town may temporarily interrupt service to test existing meters and/or make necessary repairs.

11. Interruption in Service. Town will not be liable for any actual, consequential, and/or other damage(s) resulting from interruptions in service, shortages, and/or insufficiency of supply. Temporary shutdowns of the system (or portions thereof) may be required for improvements and/or repairs. Whenever reasonably possible, and if time permits, Town personnel will notify any affected customers prior to the interruption of service.

12. Customer Service Lines and Maintenance. The customer is responsible for payment of costs associated with installation of service lines from Town's water meter outlet to the premises to be served. The customer service lines will be installed consistent with the Oregon State Plumbing Specialty

Code or other plumbing and/or specialty codes applicable to the particular installation. No pump equipment will be connected to a customer service line without the director's prior written approval. The customer will be responsible for maintenance and repair of the customer's service line from the water meter outlet to the premises to be served. All leakage in the customer service line after the water meter is the sole responsibility and expense of the customer. Leaks in the customer service line must be repaired within fifteen (15) days of detection.

13. System Standards; User Connections.

13.1 Requests for Connection. It is unlawful for any person to make any connection to the mains or other portions of the system without first obtaining the director's written permission. If a request for connection to the mains or other portion of the water system is approved by the director, the requestor will pay all applicable service connection and system development fees and charges. All service connection and system development fees and charges will be paid at the time the request for connection is approved. If the request for connection is approved, Town will make (or have made) the necessary service connections to the system. Meter connection will be sized using the fixture count method as described in the Oregon State Plumbing Specialty Code with a minimum size for any water meter being five-eighths/three-fourths inch. Connections will be located at such points as Town determines appropriate. Unless required by Town, removal or relocation of a service connection will be at the expense of the customer. The customer will bear responsibility for reconnection of the customer service line. All service connections will be made consistent with Town specifications relating to size, materials, and methods of installation. No customer will extend a service line to furnish water to any residence, business, or premises on the same or neighboring tax lot than the premises occupied by the customer without Town's prior written approval.

13.2 Separate Service Connection. A separate service connection is required for the following: (a) each property under separate ownership; (b) each single-family dwelling; (c) each apartment; and (d) each place of business. All outlying buildings used in conjunction with the property, dwelling place, and/or business or other institution may be served from the connection, including all buildings on the premises operating under one management.

13.3 Multiple Users. In the case of a commercial or industrial property with multiple users on a single tax lot, additional service connections may be provided upon the director's prior written consent; duplex units on a single tax lot may also qualify for multiple meters.

13.4 Master Metering. Town may permit master metering of more than one water service. The owner will designate the person who will be responsible for payment of all water charges and acceptance of service for all water-related notices. If any payment is not made in full when due, Town may terminate service even if partial payment is tendered by other occupants of the premises.

14. Fire Protection Service Connections.

14.1 Fire Protection Service Connection. A standby fire protection service connection from a fire service line will be installed in accordance with applicable regulations and only if adequate provisions are made to prevent the use of water from such service for purposes other than fire extinguishing or testing of fire protection system. As determined by Town, the customer will pay the cost of installing the standby fire protection service connection, including, without limitation, any required backflow prevention assemblies, special water meters, and/or other devices installed solely for

service to a standby fire service connection. No consumption charge will be made for water used in extinguishing fires. A person requesting a standby fire protection service connection will pay the cost of mains, fittings, valves, and all related components necessary or appropriate to supply the required flow.

14.2 Unlawful Use of Fire Connection Service. If water is used from a standby fire connection service in violation of this Ordinance, an estimate of the amount used will be computed by Town. The user will pay for water used based on the estimated quantity thereof, including a minimum charge based on the size of the service connection. If a second unauthorized use occurs, the user will immediately pay a penalty fee in an amount reasonably determined by the Town administrator.

15. Temporary Service. Town may grant temporary water service during construction and for special events approved by Town. The applicant must make a request for temporary service and pay any associated fees established by Town. The customer will use all possible care to prevent any damage to the meter, including damage which arises from freezing temperatures or to any other Town-loaned equipment. Duration will include from the time the equipment is installed until the time the equipment is physically returned to Town control. If the meter or other equipment is damaged, the cost of making repairs and all associated charges will be borne by the applicant. Temporary connections will be disconnected and terminated within six months after installation unless the applicant requests in writing an extension of time and the director approves such extension in writing.

16. Main Extensions.

16.1 Main Extensions. In general, all water main line extensions will extend the entire distance between opposite boundaries of the premises to be served and will be located within the public right-of-way, unless Town determines it necessary to construct water lines on public easements across private property. Water mains will not be smaller than eight inches (8") unless otherwise prior approved by the director in writing. The property owner or user will bear the cost of the water mains and all piping, fittings, valves, and other materials and equipment used.

16.2 System Improvements - General. Town may construct system improvements upon the request of, and at the expense of, the property owner or user. The costs and scheduling will be determined by Town. Construction of system improvements will be by Town or a contractor approved by the director. Property owners using private funds for construction of water improvements will select an engineer or contractor for design of water system improvements that meet Town's requirements. The property owner or customer will be required to make advance payment for the estimated costs of plan review, administrative expenses, and other applicable fees related to the proposed project.

16.3 Construction of System Improvements. All water main extensions will be constructed only by Town or by a waterworks contractor approved by the director and in accordance with the Town standards. Town will approve all construction plans. The pipe, fittings, valves, hydrants, and other materials for construction of the extensions will be of the size and quality, and located, as Town specifies. No main extension will be laid until the estimated costs have been deposited in an account and in a form approved by the Town administrator or Town's finance director. Installations made by a waterworks contractor will be inspected and approved by Town to ensure compliance with plans and specifications. Back-filling of trenches prior to Town approval is prohibited. Fire hydrants will be installed at locations designated by Town. After acceptance by Town, the system improvements will be the sole property of Town and maintained and operated by Town personnel. If the system

improvements are installed by a private owner, the property owner and the property owner's contractor will be responsible for a warranty period of no less than one year after Town's formal written acceptance for failure of either materials or workmanship in the improvements.

17. Fire Hydrants; Bulk Water.

17.1 Fire Hydrants. No person other than those authorized by the director will open any fire hydrant or attempt to draw water from a fire hydrant in any manner. Violation will result in consumption and penalty fees. Any future request will be denied until all applicable fees have been paid. No person will damage or tamper with any fire hydrant. In order to obtain water from a fire hydrant, the customer must first obtain Town's prior consent for use of bulk water. Town will determine the hydrant(s) for the customer to utilize. Fire hydrants placed on private property are to be used only for fire emergencies or other uses authorized by Town. Town will designate paint colors of public hydrants. No change in hydrant color is allowed unless specifically authorized by Town.

17.2 Bulk Water. At the time the customer signs up for temporary water from a fire hydrant, the customer must supply Town with an estimate of the amount of water to be used, the name and address of the person responsible for the bill, the date and time the water will be taken from the fire hydrant, and the date any Town equipment used by the customer will be returned. A bill will be generated from metered readings after the service is used. Charges for water furnished through a temporary service connection will be at the bulk water rate.

17.3 Fire Hydrant Maintenance. Eighteen inches (18") will be maintained between the ground and center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed without Town's prior approval. A three-foot (3') clear space will be maintained around the circumference of hydrants. Access from the street to the hydrant will be kept clear. The customer will be responsible for pruning and/or removing landscaping or other obstructions that restrict access to the fire hydrant. Upon notice from Town, the owner or customer will remove such obstruction or correct non-compliance within fourteen (14) days. If the obstruction or noncompliance is not timely corrected, Town may at any time thereafter take such steps to correct the problem and bill the cost of the corrections to the customer; the customer must pay the billed amount immediately upon demand.

18. Cross Connections. No water service connection to any premises will be installed or maintained by Town unless the water supply is protected as required by Town's cross connection and backflow program set forth in the cross connection ordinance. If such violation becomes known, Town will deny or immediately discontinue service to the premises by providing for physical disconnection of the service lines until the customer has corrected the condition(s).

19. Responsibility for Damage or Injuries. The customer will be liable for any damage or injury resulting from the customer's failure to properly construct, maintain, repair, and/or correct conditions in the customer's service line. The customer will be liable for any damage to the Town system caused by an act of the customer and/or its occupant, agent, employee, contractor, licensee, and/or permittee. Damage to the system will include, without limitation, breaking seals and locks, tampering with meters or meter boxes, damage by heat, hot water, or steam, cross connections, traffic hazards, and damaged curb stops, meter stops, and other service appurtenances. The customer responsible for damage or tampering may be fined and/or have service terminated. No modification or alterations to the meter assembly will be made. The customer will be responsible for any damage to meters or meter boxes due to the unlawful modification or alteration of Town's installation.

20. Declaration of Water Emergency; Water Restrictions. The Town administrator may, upon receiving reliable information that system function and/or capacity is about to be impaired or has been impaired, declare a water emergency. Upon declaration of a water emergency, the Town administrator may impose such restrictions upon the use of water as is deemed necessary or appropriate to protect the health, safety, and welfare of the citizens of the affected area. The Town administrator will use reasonable means to notify the public of the restrictions imposed. At the next council meeting following imposition of the restrictions, the Town administrator will present a report describing the nature of the emergency, the expected duration of the emergency, and the steps taken to alleviate the emergency. The council may, at any meeting subsequent to the emergency, confirm, alter, amend, and/or terminate the restrictions imposed by the Town administrator by resolution. No person will violate the terms of any restriction or condition placed upon the use of water by the Town administrator or the council pursuant to this Section 20. It will be no defense to a charge of violation that the person cited had no knowledge of the terms of the restriction.

21. Authority of Town Administrator. Unless otherwise stated herein, the Town administrator will have the exclusive authority to make any discretionary determination permitted under this Ordinance, including, without limitation, determinations as to approvals, authorizations, judgments, adjustments, requirements, options, and/or impacts upon the water system and/or customers thereof.

22. Water Charge Liens. Water service charges will be a lien against the premises served from and after the date of billing and entry on the ledger or other records of Town pertaining to the water system, and such ledger or other records will remain accessible for inspection by anyone interested to ascertain the amount of such charges against the premises. Whenever a bill for water service remains unpaid ninety (90) days after it has been rendered, the lien thereby created may be foreclosed pursuant to ORS 223.610, or in any other manner provided for by law or Town ordinance.

23. Prohibited Acts. Unless authorized by Town, it is unlawful for any person to do, commit, and/or assist in committing any of the following things or acts in Town:

23.1 To open or close any fire hydrant or service connection, or lift and/or remove the cover of any gate valve or shutoff;

23.2 To interfere with, destroy, deface, impair, injure, and/or force open any gate, door, and/or any property appertaining to the water system;

23.3 To resort to any fraudulent device or arrangement to procure water for a customer or others from private connections on premises contrary to Town regulations or ordinances;

23.4 To interfere with or injure any reservoir, tank, fountain, hydrant, pipe, valve, and/or other apparatus pertaining to the water system, and/or to turn on or off the water in any street, hydrant, and/or other public water fixture;

23.5 To make or permit to be made any connection with the main or service pipes of the water system, and/or to turn on or use the water of the system without first obtaining the director's approval;

23.6 To cover or conceal from view any water valve box, service, and/or meter box;

23.7 To remove any water meter that has been placed by Town, and/or to change, interfere with, and/or tamper with any meter;

23.8 To construct any structure over or within ten feet (10') of any main or service line;

23.9 To operate any portion of the water system or operate a system within Town using Town water providing water service to users or consumers; and/or

23.10 To violate any emergency water restriction issued by the Town administrator or council.

24. Town Enforcement, Violation - Civil Penalty; Other Relief. Town will enforce the provisions of this Ordinance by administrative, civil, and/or criminal action as necessary to obtain compliance with this Ordinance. Any person violating any provision of Section 23, or any other provision of this Ordinance, will be subject to a civil penalty not to exceed \$2,500.00 for each violation. Each violation of a provision of this Ordinance, and every day that such Ordinance violation exists, will be considered a separate violation. In addition to the foregoing civil penalties, Town may seek, in a court of competent jurisdiction, such other and additional relief (including all legal and equitable relief and remedies) available under applicable law as well as recovery of its costs and attorney fees. Town will be entitled to collect from any person violating or otherwise failing to comply with this Ordinance Town's attorney fees and other fees, costs, and expenses incurred by Town to enforce this Ordinance. The remedies provided in this Section 24 are not exclusive and will not prevent Town from exercising any other rights and/or remedies available under law. Compliance with this Ordinance will in no way be a substitute for or eliminate the necessity of compliance with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the public health as now in force or hereafter amended.

25. Amend, Replace, and Supersede. This Ordinance amends, replaces, and/or supersedes the Water Ordinance and all ordinances, resolutions, and/or policies in conflict with this Ordinance; provided, however, (a) this Ordinance does not relieve any person of any obligations that may have accrued under the Water Ordinance prior to the effective date of this Ordinance, (b) this Ordinance does not relieve any person of any obligations arising out of or under any agreement between the person and Town, (c) Town may continue the enforcement, prosecution, conviction, and/or punishment of any person who has or will violate the Water Ordinance prior to the effective date of this Ordinance, and (d) all water rates, fees, deposits, and/or other charges now in effect will continue in full force and effect until amended, repealed, and/or superseded by council resolution.

26. Interpretation; Severability; Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, restriction, code, or ordinance includes the law, rule, regulation, restriction, code, or ordinance as now in force and hereafter amended. The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a)

yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the council to cure editorial and/or clerical errors.

APPROVED AND ADOPTED by the Town Council of the Town of Lakeview and signed by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_  
Abstentions: \_\_\_\_\_  
Absent: \_\_\_\_\_  
Vacancies: \_\_\_\_\_

\_\_\_\_\_  
By: Raymond Turner, Mayor

ATTEST:

\_\_\_\_\_  
Dawn Lepori, Town Recorder