

Title 2
ADMINISTRATION AND PERSONNEL

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**Chapter 2.05
COUNCIL MEETINGS**

Sections:

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2.05.010 Regular meetings.

Regular meetings of the council shall be held on the second and fourth Wednesday of each month, at 7:30 p.m. in the council chambers in the City Hall. [Ord. 643 § 1, 1987]

2.05.020 Special meetings.

Special meetings of the council may be convened by the mayor or, if the mayor is absent or unable to act, by the chairman of the council at any time by giving 24 hours' actual notice to each member of the council within the city, and 24 hours' written notice to any other person legally entitled to notice, of the time of and purpose of such meeting. Special meetings shall be held in the usual meeting place of the council and shall be conducted in the same manner as provided for the regular meetings of the council. All meetings of the council, whether regular or special, and the proceedings of the meetings, shall be open to the public except as provided by state law. Emergency meetings maybe held pursuant to ORS 192.640(30). [Ord. 643 § 2, 1987]

2.05.030 Quorum.

A majority of the members of the council shall constitute a quorum at any and all meetings, except when otherwise provided in this chapter, but a smaller number may meet and adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as are prescribed in this chapter. [Ord. 643 § 3, 1987]

2.05.040 Council officers.

(1) The mayor shall preside over the council and conduct its proceedings and, when present, shall cause order to be preserved at all meetings.

(2) At the first regular meeting of the council on or after the first Monday in January following each general election, or as soon thereafter as practicable, the council shall choose by ballot one of its members to preside over the council and perform the duties of the mayor in the event of the mayor's absence or inability to act. The councilor chosen shall be designated as chairman of the council and, in the absence of the mayor from the city or if the mayor is unable for some cause to act, the chairman of the council shall have and exercise the powers and perform all the duties of mayor.

(3) Should both officers fail to attend any meeting, a quorum of the council present may elect a chairman from their number for the purpose of the meeting, who shall be designated as the chairman of the council pro tempore.

(4) The presiding officer of the council may speak to points of order in preference to other members

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and shall decide all questions of order subject to an appeal to the council, on which appeal no member shall speak more than once without leave of the council.

(5) The clerk shall be ex officio clerk of the council, shall call the roll at each meeting, shall keep the minutes of proceedings at each meeting, shall read the minutes of the preceding meeting, and upon request of the mayor or any member of the council, shall read all ordinances, resolutions, written motions, communications, bills, or other documents or papers which may be presented to the council for consideration at any meeting. [Ord. 643 § 4, 1987]

2.05.050 Order of business.

(1) A quorum being present, the business of the council shall be taken up and called in the following order:

- (a) Roll call;
- (b) Reading of the minutes of the previous meeting;
- (c) Reports of committees;
- (d) Communications;
- (e) Unfinished business;
- (f) New business;
- (g) Presentation of bills.

(2) No business shall be taken up or considered until the class to which it belongs shall be declared in order by the presiding officer, except that upon a vote of two-thirds of the members present, who constitute a quorum, the rules for the order of business may be suspended.

(3) After reading of the minutes of the previous meeting as herein provided, the presiding officer shall inquire if there are any objections to the same. If there are none, the minutes shall be approved. [Ord. 643 § 5, 1987]

2.05.060 Questions relating to priority.

All questions relating to priority of business shall be decided without debate. When two or more members happen to rise at once, the presiding officer shall name who is to speak first and the decision shall not be subject to debate or appeal to the council. No member shall speak twice on the same question without leave of the council, nor more than once until every member choosing to speak shall have spoken. All parliamentary questions shall be governed by Robert's Rules of Order. [Ord. 643 § 6, 1987]

2.05.070 Voting.

The chairman of the council or mayor pro tempore shall vote in all cases as a member of the council. Members of the council who are present when a vote is put on any matter shall vote for or against the same unless the council excuses them or they declare a conflict of interest and explain the nature of the conflict. Members shall not be permitted to vote on a question when the yeas and nays are called for unless present when their names are called in regular order. At the request of any member of the council, the yeas and nays shall be taken on any question before the council and entered on the journal. [Ord. 643 § 7, 1987]

2.05.080 Absences.

In case of the wilful absence without just cause of any members of the council, resulting in a lack of quorum and the inability of the council to do business, the members attending at the time and place of any regular or special meeting duly called may by motion direct the city marshal to arrest any such absent members and bring them to the place of meeting. Any members so absenting themselves and whose presence is required to be compelled in the method herein prescribed in order to secure a quorum of the council for the conduct of business, shall be fined not more than \$10.00 for each offense, which fine shall be paid to the clerk and deposited with the treasurer for the general fund of the city. [Ord. 643 § 8, 1987]

2.05.090 Ordinance readings.

Every ordinance shall receive at least one public reading in full prior to being passed by the council.

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Reading and passage shall be conducted in the following manner: The ordinance shall be read the first time in full, including the title; the second reading shall be by title only; and the third reading shall be by title only unless after the first full reading the council makes any change or revision of the ordinance, in which case the section or portion of any section of any ordinance so revised or changed shall be read in full. If no revision or change in the ordinance as first read is made by the council, it shall be read the third time by title only. Upon the final passage of each ordinance the question shall be put: "Shall proposed Ordinance Number ___ pass?" and the vote shall be taken by yeas and nays and entered on the journal. [Ord. 643 § 9, 1987]

2.05.100 Passage and veto.

(1) (a) Upon the passage of any ordinance it shall be attested by the clerk and then submitted to the mayor. If the mayor approves the ordinance, the mayor shall write upon it "Approved," and the date thereof and sign it with the title of office. Except as provided herein, such ordinance shall become a law and be in force and effect 10 days after its passage.

(b) An ordinance found by the council to be necessary to preserve the peace, health and safety of the community, and which carries such declaration in its text, shall take effect immediately.

(2) If the mayor does not approve of an ordinance so submitted, the mayor shall, within 10 days after receipt of the ordinance, return it to the clerk with the reasons, expressed in writing, for not approving it. If it is not so returned, it shall be in full force and effect as if approved.

(3) At the first meeting of the council after the return of the ordinance from the mayor, not approved, the clerk shall deliver the ordinance to the council with the message of the mayor, which must be read. The ordinance shall again be put on its passage, and if three-fourths of all the members constituting the council as then provided by law vote in the affirmative, it shall become a law and be in full force and effect without the approval of the mayor.

(4) Each ordinance, upon being passed, shall within one week thereafter be posted by the clerk in three public places in the city, or published in a newspaper of general circulation in the city for at least two consecutive weekly issues of the paper, or both, as may be directed by the council immediately after the passage of the ordinance. [Ord. 643 § 10, 1987]

2.05.110 Journal.

The council shall keep a journal of its proceedings, in which shall be entered by the clerk the minutes of each meeting of the council and particularly the record of each step taken in the passage of each and every ordinance or resolution of the council and the date thereof, the names of the officers and councilors present at the date of any such proceedings, and the names of the councilors voting for and against each such ordinance or resolution. At the desire of any member, the yeas and nays shall be taken on any question before the council and entered on the journal. Each ordinance referred to in the journal shall be specifically described by its number and title, and each resolution adopted shall be made available for public inspection. The location of a copy of the resolution available for public inspection shall be entered on the journal. The journal shall at all times be kept properly indexed for convenient reference. [Ord. 643 § 11, 1987]

2.05.120 Title and enacting clause.

Every ordinance shall contain a description of its subject matter in its title and the enacting clause shall be: "Be it ordained by the city of Burns." [Ord. 643 § 12, 1987]

Chapter 2.10
CITY ADMINISTRATOR*

(Reserved)

***Code reviser's note: The provisions of Ordinance 588 concerning the administrator have been superseded by the provisions of the 1996 Charter, which provides for a city manager.**

**Chapter 2.15
CITY TREASURER**

Sections:

- 2.15.010 Duties.**
- 2.15.020 Warrants – Want of funds.**
- 2.15.030 Warrants – Authorization.**
- 2.15.040 Outstanding warrants.**
- 2.15.050 Warrants – Expiration.**
- 2.15.060 Additional duties.**

2.15.010 Duties.

The city treasurer shall be custodian of all funds of the city of Burns from whatsoever source derived and shall keep the same on deposit in such banks or trust companies as may from time to time be designated by the common council as official depositories of the city of Burns. The treasurer shall keep an account for the general fund and a separate account for each special fund which has been or may hereafter be created for any specific object. When a warrant is drawn on any particular fund, it shall be paid out of such fund and in the order of its presentation for payment. No warrants or orders shall be paid unless signed by the duly authorized officials of the city of Burns nor unless such warrants or orders specifically designate the fund upon which they are drawn. It shall be the duty of the city treasurer to keep a fair, clear, and distinct record of all funds and revenues of the city and also of all expenditures, disbursements, and investments thereof. It shall further be the duty of the city treasurer to enter into a book kept for that purpose a record of all warrants drawn on city funds, showing the date, number, name of claimant, the amount claimed, the amount allowed thereon, and from which fund the amount is to be paid. [Ord. 283 § 1, 1939]

2.15.020 Warrants – Want of funds.

Whenever a warrant is presented and cannot be paid for lack of moneys in the fund upon which the warrant is drawn, it shall be the duty of the treasurer to endorse upon said warrant “Not paid for want of funds,” and such warrant shall thereupon draw interest at the rate of four percent per annum until such warrant shall have been called for payment as provided in BMC 2.15.040. It shall be the duty of the city treasurer to enter into a separate book a record of all warrants presented but not paid for want of funds. Such register shall show the date, number, name of claimant, the amount claimed, and the date of presentation and endorsement by the treasurer. [Ord. 283 § 2, 1939]

2.15.030 Warrants – Authorization.

No warrant shall be drawn except upon the direction of the common council. All warrants so authorized shall be signed by the mayor and countersigned by the clerk. [Ord. 283 § 3, 1939]

2.15.040 Outstanding warrants.

When there are outstanding warrants against any city fund which have been presented but have not been paid for want of funds and there exists a sum in excess of \$300.00 in any such fund, the treasurer shall publish one notice in a newspaper of general circulation in the city of Burns calling such outstanding warrants as he may have money on hand to pay. Such notice shall describe the called warrants by number, shall designate the date after which presentation for payment may be made, and shall state that from the date so designated interest on any such warrants shall cease and thereafter the city treasurer shall not allow interest on any such warrants for any period of time subsequent to the payment date designated in such notice. [Ord. 283 § 4, 1939]

2.15.050 Warrants – Expiration.

Any warrants not presented for redemption and payment within seven years from the date of issuance

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shall be deemed paid and cancelled and the treasurer shall not pay any such warrant after the expiration of such time; provided, however, that in case of warrants presented but not paid for want of funds, such warrants shall be deemed to have been paid and cancelled after the expiration of seven years from the date on which such warrants shall have been called for payment by the treasurer. [Ord. 283 § 5, 1939]

2.15.060 Additional duties.

In addition to the duties herein prescribed, the city treasurer shall perform all of the duties required of him by the Charter and ordinances of the city of Burns and such additional duties as may be required of him from time to time by the common council. [Ord. 283 § 6, 1939]

Chapter 2.20
CITY RECORDER*

(Reserved)

***Code reviser's note: The provisions of Ordinance 284 concerning the city recorder have been superseded by the provisions of the 1996 Charter.**

**Chapter 2.25
COMMITTEES**

Sections:

- 2.25.010 Manner of appointment.**
- 2.25.020 Duties and definition of committees.**
- 2.25.030 Tenure of office and compensation.**
- 2.25.040 Authority.**

2.25.010 Manner of appointment.

The mayor, with the approval of the council at a regular meeting, shall assign each councilperson to a major city department or committee and a second councilperson may also be assigned on a rotating basis to each committee if desired. The councilperson may also be assigned on a rotating basis to each committee if desired. The councilperson assigned to each department shall be responsible for recommending the committee members to be appointed by the mayor with approval of the common council. The mayor, with council approval, may appoint persons to other committees or assignments as the need arises. [Ord. 608 § 1, 1981]

2.25.020 Duties and definition of committees.

Each committee shall make recommendations to the common council relative to the supervision, maintenance, improvements, and development, and periodic inspections of property relative to its specific department or area of interest.

The department head shall be an ex officio member of his department committee. The permanent councilperson will chair his committee. City committees shall meet a minimum of monthly at the City Hall complex. All meetings will be conducted in accordance with the provisions of the Oregon Open Meetings Law. Committee minutes and papers shall be transferred to the committee successor.

There are hereby established the following permanent standing committees: (1) safety; (2) public works (streets, water, sewer, and parks); (3) cemetery; (4) airport; and (5) budget.

(1) Airport Committee.

(a) The committee shall consist of a minimum of seven members and a maximum of eight members, including the chairman and co-chairman.

(b) Four of these members shall be appointed for two years, the balance for four years.

(c) Three members of the committee shall be pilots, one of which shall be a member in good standing of the Oregon Pilots Association. The balance of the members shall be from the city of Burns and Harney County at large.

(d) The committee shall meet the first Monday of each month.

(2) Cemetery Committee. See Chapter 2.45 BMC.

(3) Budget Committee.

(a) The budget officer, working with each department head, the councilperson for each department, shall prepare the budget.

(b) The budget committee shall consist of all councilpersons and the mayor and seven other citizens of Burns.

(c) The committee shall meet pursuant to ORS 294.305 to 294.520.

(4) Safety Committee.

(a) Shall consist of three citizens, the chairman and co-chairman, police chief, fire chief and a representative from the union and a representative of the Burns Paiute Tribal.

(b) The chairman (councilperson) will also be the council representative to meet, concerning safety matters, with the union as stated in the AFSCME Council 75 and city of Burns contract.

(5) Public Works Committee. The public works committee shall consist of six members, composed as follows: two councilpersons of which one shall be chairperson, and four citizens at large from the city of

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Burns: one citizen to represent the north side of Burns, one to represent the south side of Burns, one to represent the east side of Burns and one to represent the west side of Burns. [Ord. 608 § 2, 1981]

2.25.030 Tenure of office and compensation.

Each committee member shall be appointed by the mayor with the consent of the council. Committee members shall be appointed for either a two- or four-year term and may be reappointed to another term. Unexcused failure to attend three consecutive meetings, without good cause, shall be grounds for removal from the committee. The members of the committees shall receive no compensation for the performance of their duties. [Ord. 608 § 3, 1981]

2.25.040 Authority.

The committees have no authority unto themselves, but are strictly advisory. The common council shall have full supervision, management, control, and authority to superintend, supervise, maintain, improve and develop the city departments and to employ or contract management services and discharge any and all persons needed to perform such functions, and to establish and regulate the rate of compensation for such hired labor or contract management. Further, the common council does and shall have authority to promulgate its own rules and regulations relative to establishment of supervision, maintenance, improvement and development of said departments. [Ord. 608 § 4, 1981]

Chapter 2.30
PLANNING COMMISSION

Sections:

- 2.30.010** **Continuation of planning commission.**
- 2.30.020** **Membership and compensation of commission.**
- 2.30.030** **Terms of office.**
- 2.30.040** **Election of chairperson and vice-chairperson.**
- 2.30.050** **Appointment and duties of planning commission secretary.**
- 2.30.060** **Meetings and rules.**
- 2.30.070** **Duties and powers.**

2.30.010 **Continuation of planning commission.**

There is continued a city planning commission, hereinafter referred to as the “planning commission,” for the city of Burns, Oregon, which was and is established in accordance with ORS 227.010 to 227.300. Provisions therein which govern city planning commissions apply to the city of Burns, and this chapter shall be construed consistent therewith. [Ord. 664 § 1, 1988]

2.30.020 **Membership and compensation of commission.**

(1) The planning commission shall consist of seven members appointed by the common council. Members shall reside within the city of Burns.

(2) Planning commission members shall receive no compensation. [Ord. 664 § 2, 1988]

2.30.030 **Terms of office.**

Incumbent appointed members at the time of adoption of the ordinance codified in this chapter shall continue in office until the expiration of the term for which they were appointed. Their successors shall hold office for four years. [Ord. 664 § 3, 1988]

2.30.040 **Election of chairperson and vice-chairperson.**

The planning commission, at its first meeting, shall elect a chairperson and vice-chairperson who shall hold office at the pleasure of the planning commission. [Ord. 664 § 4, 1988]

2.30.050 **Appointment and duties of planning commission secretary.**

The city shall appoint a secretary who shall not be a member of the planning commission. The secretary shall keep an accurate record of all planning commission proceedings. The planning commission shall, monthly, make and file a report of all its transactions with the common council. Decisions of the commission shall be filed with the city clerk immediately, when final. [Ord. 664 § 5, 1988]

2.30.060 **Meetings and rules.**

(1) A majority of the planning commission members shall constitute a quorum. The planning commission shall make and alter rules and regulations for its government and procedure consistent with laws of this state and with the City Charter and ordinances. The planning commission shall meet at least once each month, at such time and place as may be fixed by the planning commission.

(2) Special meetings may be called at any time by the chairperson or by three members by actual notice served upon each member of the commission at least 24 hours before the time specified for the proposed meeting. When time permits notice shall be written, and shall be given in such a manner as to provide actual notice. [Ord. 664 § 6, 1988]

2.30.070 **Duties and powers.**

(1) The planning commission shall have the powers and duties provided for by ORS 227.090, other

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state law, the Charter and other city ordinances.

(2) The planning commission shall function primarily as a comprehensive planning body proposing policy and legislation to the council related to the growth and development of the community. In addition to the authority provided in subsection (1) of this section, the planning commission may:

(a) Review the comprehensive plan and make recommendations to the council concerning plan amendments which it has determined are necessary based on further study of changed concepts, circumstances or conditions;

(b) Formulate and recommend legislation to implement the comprehensive plan;

(c) Review and recommend plans which relate to public facilities and services, and subarea plans which relate to specific areas of the community to implement the comprehensive plan;

(d) Assist in the formulation of the capitol improvement program;

(e) Review and make recommendations concerning any proposed annexation;

(f) Conduct hearings, prepare findings of fact and take such actions concerning specific land development proposals as required by city ordinances;

(g) Advance cooperative and harmonious relationships with other planning commissions, public and semiprivate agencies and officials, and civic and private organizations to encourage the coordination of public and private planning and development activities affecting the city and its environs;

(h) Assist the council on land use related issues when requested. [Ord. 664 § 7, 1988]

**Chapter 2.35
JURIES**

Sections:

- 2.35.010 Right of trial by jury – Jury composition.**
- 2.35.020 Jury list – Made when.**
- 2.35.030 Jury list – Omission in making.**
- 2.35.040 Jury list – Municipal judge authority.**
- 2.35.050 Jury list – Discarding of names.**
- 2.35.060 Jury list – Contents.**
- 2.35.070 Jury list – Jury box.**
- 2.35.080 Jury selection.**
- 2.35.090 Jury selection – Number of ballots – Alternates.**
- 2.35.100 Destruction and laying aside of ballots.**
- 2.35.110 Jury selection – Summoning of jurors.**
- 2.35.120 Jury fee.**
- 2.35.130 Rendering verdict.**
- 2.35.140 Jury fee – Refund.**
- 2.35.150 Juror compensation.**
- 2.35.160 Disregarding summons – Penalty.**

2.35.010 Right of trial by jury – Jury composition.

Any person accused of any offense defined and made punishable by the Charter or any ordinance of this city shall have the right of trial by jury in the municipal court. The jury shall consist of six persons, selected as in this chapter provided. [Ord. 406 § 1, 1960]

2.35.020 Jury list – Made when.

Immediately upon the effective date of the ordinance codified in this chapter and on the first Monday in January of each year, commencing in the year 1961, a jury list shall be made from the persons in the city of Burns competent under the laws of Oregon to serve as jurors in a circuit court, who shall serve as jurors in the municipal court until a new list is selected. The jury list shall be made and selected by lot in the same manner in which juries are selected for the circuit court, and such list shall contain the names of 200 of such qualified persons. [Ord. 406 § 2, 1960]

2.35.030 Jury list – Omission in making.

If for any reason the making of a jury list is omitted and neglected on the first Monday of any January, it may be done on the first Monday of any month following, to serve until the close of the year, and until another list is made. [Ord. 406 § 3, 1960]

2.35.040 Jury list – Municipal judge authority.

The municipal judge is hereby authorized and directed to select and make said jury list. [Ord. 406 § 4, 1960]

2.35.050 Jury list – Discarding of names.

In preparing the jury list, names drawn of persons known or believed to be disqualified as jurors or who are exempt from jury duty under the provisions of the laws of Oregon, or who are believed to be unavailable, shall be discarded. [Ord. 406 § 5, 1960]

2.35.060 Jury list – Contents.

The jury list shall contain the first and surname, the place of residence, and occupation of each person named therein and shall be certified by the municipal judge at the time the list is prepared. [Ord. 406 § 6,

1960]

2.35.070 Jury list – Jury box.

The municipal judge shall keep a secured jury box. After the jury list has been made, the municipal judge shall prepare and deposit in such box separate ballots or slips containing the name, place of residence, and occupation of each person on the jury list. [Ord. 406 § 7, 1960]

2.35.080 Jury selection.

When a jury is demanded in the municipal court, the jury shall be drawn and selected from the jury list. [Ord. 406 § 8, 1960]

2.35.090 Jury selection – Number of ballots – Alternates.

When a jury is selected, the municipal judge shall draw from the jury box, in the presence of the defendant or his attorney and in the presence of the city attorney, 12 ballots, or any greater number, if necessary, until the names of 12 persons who are deemed able to attend at the time and place required are obtained. On motion of the defendant, or his attorney, or on motion of the city attorney, or the court, on its own motion, may direct that six additional names be drawn from the box from which alternates may be selected. If neither party requests alternates, he shall be deemed to have waived his right to challenge for cause. [Ord. 406 § 9, 1960]

2.35.100 Destruction and laying aside of ballots.

When it appears to the municipal judge that the person whose name is drawn is dead or resides out of the city, the ballot shall be destroyed. If it appears to the municipal judge, or he has good reason to believe, that a person whose name is drawn is temporarily absent from the city or is ill or is so engaged as to be unable to attend at the time of the trial without great inconvenience, the ballot shall be laid aside, the name not placed on the jury list for the trial for which the jury is being selected, but such ballot shall be returned to the jury box after the drawing is completed. [Ord. 406 § 10, 1960]

2.35.110 Jury selection – Summoning of jurors.

When the drawing is completed, from the 12 names drawn, the defendant and the city will select the jury by each striking from the list three names, alternately, commencing with the defendant. The six names remaining shall be summoned as jurors in the case. When six names are drawn from the jury box as alternates, each party shall strike one of such names. No peremptory challenges shall be allowed other than in this section provided. No alternate juror shall be summoned to serve at the trial of the action except when six principals are not available, or have been challenged for cause. [Ord. 406 § 11, 1960]

2.35.120 Jury fee.

(1) Except as provided in subsection (2) of this section, no jury trial shall be granted any defendant unless the defendant or the defendant's attorney, not less than five days before the time fixed for the trial, shall give notice to the municipal judge of the desire for a jury trial and deposit with the judge a jury fee of \$30.00.

(2) No jury fee shall be required:

(a) If the court determines that the defendant is indigent; or

(b) If no such deposit would be required had the defendant been charged in a state court with the same offense. [Ord. 638 § 1, 1987; Ord. 406 § 12, 1960]

2.35.130 Rendering verdict.

All of the six jurors summoned to try any cause must concur to render a verdict. [Ord. 638 § 2, 1987; Ord. 406 § 13, 1960]

2.35.140 Jury fee – Refund.

In case the defendant be acquitted by the jury, the jury fee deposited by him shall be refunded. [Ord. 406 § 14, 1960]

2.35.150 Juror compensation.

Jurors who appear at the trial and serve as jurors shall receive as compensation for such services the sum of \$5.00 for each day of attendance upon the municipal court. [Ord. 638 § 3, 1987; Ord. 406 § 15, 1960]

2.35.160 Disregarding summons – Penalty.

When a jury is drawn, summons therefor shall be issued by the municipal judge and the notices to the jurors shall be served by the chief of police. Any person notified to appear as a juror and disregarding such notice may be adjudged in contempt of court by the municipal judge and be fined a sum not exceeding \$100.00. [Ord. 638 § 4, 1987; Ord. 406 § 16, 1960]

**Chapter 2.40
FIRE DEPARTMENT**

Sections:

2.40.010 Use of personnel and equipment outside city limits.

2.40.010 Use of personnel and equipment outside city limits.

(1) The mayor, city manager, fire chief, and assistant fire chief of the Burns city fire department are hereby authorized to consent to or direct the use of the personnel and equipment of the Burns city fire department outside the city limits of Burns for fire fighting purposes.

(2) It is further provided that costs for the use of personnel and equipment of the Burns fire department outside of the city limits of Burns shall be determined within 30 days or as soon thereafter as it can be done, submitted to and approved by the city manager. The owner of record or other responsible party of the premises or property served shall be billed for the same in writing. The legal or equitable owner of the property shall be liable to the city of Burns for the reasonable costs of said services as determined by the city under this section, pursuant to ORS 476.290.

(3) It is further provided that the costs of extinguishing any fire outside the city limits, or attending to the extinguishment of such a fire shall constitute a debt due and owing to the city of Burns and may be recovered by an action at law instituted in the Justice Court or the Circuit Court of the State of Oregon for the County of Harney by the city of Burns against the responsible party. [Ord. 749 §§ 1 – 3, 2001]

Chapter 2.45
CEMETERY ADMINISTRATION

Sections:

- 2.45.010 Cemetery committee – Composition – Appointment.**
- 2.45.020 Cemetery committee – Compensation.**
- 2.45.030 Rules, regulations to be adopted by resolution.**
- 2.45.040 Purchase of lots.**
- 2.45.050 Lot deeds.**
- 2.45.060 Perpetual care fund.**
- 2.45.070 General supervision of the cemetery.**
- 2.45.080 Flowers and shrubs.**
- 2.45.090 Monuments and markers.**
- 2.45.100 Rates for city services.**
- 2.45.110 Sale of cemetery lots.**

2.45.010 Cemetery committee – Composition – Appointment.

Subject to the order of the common council for the city of Burns, the city manager shall have the supervision and control of the Burns Cemetery. There shall, however, be a cemetery committee, which shall make its recommendations to the common council. The cemetery committee shall consist of nine members to be appointed annually by the mayor. The appointments shall be so made that two members of the committee shall be members of the Burns common council; one serving as chairman and the other as co-chairman; one shall be a designee of the Catholic church; one shall be a designee of Harney Lodge No. 77 Independent Order of Odd Fellows; one shall be a designee of Burns Lodge No. 97 Ancient, Free and Accepted Masons; one shall be a member of the Ministerial Association; one ex officio member shall be a local funeral service practitioner; and two members shall be appointed from the general public at large. Members shall serve at the pleasure of the council. [Ord. 748 § 1, 2000]

2.45.020 Cemetery committee – Compensation.

The members of the cemetery committee above described shall receive no compensation for the performance of their services; the nature and extent of which are more particularly hereinafter described. [Ord. 748 § 2, 2000]

2.45.030 Rules, regulations to be adopted by resolution.

Except as provided in this chapter, the rules and regulations relating to the use, operation and care of the cemetery shall be adopted by the common council by resolution. Such rules and regulations as are adopted by resolution shall be printed in a convenient form for general distribution to the public, at cost. [Ord. 748 § 3, 2000]

2.45.040 Purchase of lots.

Any person desiring to purchase a lot or lots and a perpetual care agreement for that lot or lots in the cemetery shall pay to the city an amount as established by the common council by resolution. Said person purchasing a lot and a perpetual care agreement for the lot or lots in the cemetery is hereinafter referred to as “owner.” The city designee shall complete the deed and perpetual care agreement with the correct description of the lot or lots selected by the owner. [Ord. 748 § 4, 2000]

2.45.050 Lot deeds.

After paying the required amount, the owner shall sign and receive a deed and perpetual care agreement from the city for the described lot or lots. The city shall keep a record of each lot and perpetual care agreement in a book kept for that purpose. [Ord. 748 § 5, 2000]

2.45.060 Perpetual care fund.

To the extent provided in subsection (2) of this section, all moneys received from the sale of perpetual care agreements within the Burns Cemetery shall be accepted by the city of Burns and held in trust as a fund designated and named the perpetual care fund; and all proceeds thereof shall be used for the purposes hereinafter set out and disbursed in the manner hereinafter designated.

(1) The city hereby obligates and binds itself to safely keep any money donated to or collected for the “perpetual care fund” as such, to properly invest the same so as to bring the largest amount of income which can reasonably and safely be realized thereon; to expend the income for the care, maintenance and beautification of the lots in the care of such fund; and to see that the cemetery is properly cared for, maintained and beautified as far as the income from said fund will reasonably justify or permit.

(2) Not less than 15 percent of all funds received incident to charges made for placing all lots or fractions thereof in the cemetery under perpetual care, in accordance with ORS 97.810, in any part of an endowment care cemetery, must be deposited in the perpetual care fund and the remaining percent of such proceeds shall be deposited to the credit of the cemetery account of the general fund of the city.

(3) The city shall ensure that all moneys earned from the aforementioned perpetual care fund in the form of interest be used for maintaining, repairing, beautifying and improving the Burns Cemetery, the principal to be invested, reinvested and kept in perpetuity, and never voluntarily reduced. [Ord. 748 § 6, 2000]

2.45.070 General supervision of the cemetery.

(1) All perpetual care agreements are sold subject to the rules and regulations concerning this cemetery now in force or which may hereafter be adopted. No lots will be used for any other purpose other than burial of the human dead. All arrangements for the purchase of any perpetual care agreement of any grave space or spaces will be made by the prospective purchaser through the office of the city manager or designated representatives, and no other city official whomsoever will be authorized to enter into any agreement; arrangement or negotiation for the sale of any perpetual care agreement for any grave space.

(2) All work in the cemetery will be done under the direction of the city, except when permission is otherwise granted by the common council, including if the council so chooses, to contract for any or all labor performed.

(3) No transfer or assignment of any perpetual care agreement for any lot, burial space or burial plot or any interest therein shall be valid without the written consent of the common council, through its city manager, or authorized designee. No such transfer or assignment shall be permitted if there remains any indebtedness due to the city from the record owner of any such perpetual care agreements or grave space. Transfer shall be subject to a charge, which charge must be paid to the city when the transfer is recorded, and the city is hereby prohibited from entering any transfers unless the said charge has first been paid.

(4) No enclosure of any nature, such as fences, copings, hedges or ditches shall be allowed around any burial space, burial lot or burial plot.

(5) Grave mounds will not be allowed. No lot or lots shall be raised above the established grade. Gravesites will receive the same general care as other parts of the cemetery, the grass being cut and the leaves and debris raked off at the time that the remainder of the lawn is cleaned.

(6) All burials hereafter made within the Burns Cemetery must be made in either steel, ABS, or concrete burial vaults. Any burials in any manner other than provided for herein are hereby prohibited. Excavation for burial shall be to a minimum depth of 60 inches.

(7) The city shall take reasonable precautions to protect the property rights of the owners of perpetual care agreements within the cemetery, from loss or damage, but it will not be liable and it distinctly disclaims all liability for loss or damages caused by the elements, acts of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

(8) It shall be the duty of the owner to notify the city of any change in his post office address. Notice

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sent first class mail, return receipt requested, to an owner at the last address on file in the office of the city shall be considered sufficient and proper legal notification.

(9) The city reserves the right to remove deteriorated curbs, monuments, markers, etc., after 60 days' notice in writing to the owner at his last address on file in the office of the city manager advising him of the city's intent to so remove said deteriorated item.

(10) The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, vases, glass, wood or iron cases, and similar articles upon plots shall not be permitted, and if so placed, the city reserves the right to remove the same without notice.

(11) Only one interment per lot shall be permitted, with the exception of a parent and infant, or two children in one casket; provided, however, only one marker shall be allowed thereon. A portion of the cemetery is reserved for baby graves one-half the size of standard graves.

(12) There shall be permitted not more than two interments of ashes in one common grave; provided, however, only one marker shall be allowed thereon.

(13) No disinterment shall be made except by cemetery employees with the approval of the city, and (a) upon the written consent of the person having legal authority to control disposition of the remains per ORS 97.130, or (b) authorization of a public officer or official having authority to permit or order such disinterment. The city shall use reasonable care in making a removal, but it shall have no responsibility or liability whatever for damage to any casket, vault or burial case or urn incurred in making such a removal.

(14) No interments, disinterments or removals shall be permitted on Sundays or any holiday observed by the city of Burns.

(15) Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The city therefore reserves the right, without notice, to make exceptions, suspensions, or modifications in any of these rules and regulations, when, in the exercise of its discretion the same appear advisable, and such temporary exception, suspension or modification shall in no way be construed as affecting the general application of such rule, or impose liability on city therefor.

(16) The city may, and it hereby expressly reserves the right, at any time or times, to adopt new rules and regulations, or to amend, alter and/or repeal any rule, regulation and/or article, section, paragraph and or sentence in these rules and regulations.

(17) The city reserves unto itself and shall have the right to correct any errors that may be made by city or its agents in making interments, disinterments, or removals, or in the description, transfer or conveyance of property or rights therein to others; and to, in any such case, substitute and convey in lieu thereof other interment property of similar value that is nearby or in a similar location as far as possible; or, at the election of next of kin of the decedent, or in the discretion of the city, if no acceptable replacement property is available, to refund the amount of money paid on account of such purchase. In the event the error shall involve the interment of the remains of any person in such property, provided next of kin of the decedent does not notify city of the election to remove the decedent and take a refund of money within a reasonable time after notice of the error and intent to correct is given either actually or by publication in the manner used to give notice of pendency of proceedings in probate, the city shall have the right to remove and re-inter the remains on such other property as may be substituted and conveyed in lieu thereof. Errors in interment arising from mistakes by persons requesting service, or an unauthorized person or persons signing an application for service, shall be corrected at the expense of the person or persons signing the application, in the city's discretion. And when a deed, license, certificate or other instrument of conveyance has not been issued by the city, or its duly authorized agent, or has not been registered on the books of the cemetery, the responsibility for determining ownership or authority and for correcting errors, either prior to or after interment, will lie with the person or persons claiming authority, ownership or protesting an error. [Ord. 748 § 7, 2000]

2.45.080 Flowers and shrubs.

(1) Cut flowers will be removed from the grave at the discretion of the city, and in no event shall they be left thereon longer than one week, except at the special request of the family. As soon as practicable after the flowers are removed from a new grave, the earth shall be settled and restored to conform with the

surrounding surface of the cemetery.

(2) No trees, shrubs or plants shall be planted by owner on a grave space in the cemetery. Acting in the best interests of the cemetery, the contractor or sexton shall have authority to prune, remove or transplant any tree, shrub, plant or anything upon a lot or plot when he may consider such a course is necessary. Except for existing trees and replacements thereof, no trees of any kind of character will be planted within the borders of the Second Addition of the Burns Cemetery. Low growing shrubs and plants with a maximum mature height of four feet will be allowed in areas approved by the common council.

(3) Artificial flowers will not be allowed from May 1st through September 30th with the exception of one week prior to and one week after Memorial Day. All flowers and potted plants will be removed whenever, in the discretion of the city, they become unsightly. [Ord. 748 § 8, 2000]

2.45.090 Monuments and markers.

(1) No memorial, monument or marker, except flat markers level with ground surface, will be allowed in the Second Addition of the Burns Cemetery.

(2) It shall be unlawful for any person or persons to place any monument or tombstone on any lot in the cemetery except by permission of the city, and every monument and every tombstone shall be set in a solid concrete foundation with a mixture of not less than three parts sand and gravel to one part cement, and must be no less than six inches beneath the surface of the ground, and otherwise of sufficient size and depth in ground to permanently support such monument or tombstone, said foundation to exceed the size of said monument or tombstone at least six inches on all sides. Any foundation work larger than 36 by 24 inches must be reinforced with one-half inch rebar, and shall in all other respects comply with good construction practices. The city shall supervise the placing and setting of all monuments and tombstones unless written permission is otherwise given by the city and filed with the city. No city employee shall be permitted to set any stone or monument during working hours.

(3) All monuments or tombstones must be of good quality grade, granite, marble or bronze. No temporary grave markers will be installed or erected if the same will in any manner interfere with the mowing, care or other maintenance of said cemetery or any part thereof.

(4) No material shall be allowed to remain longer than is reasonably necessary for any construction work. No heavy trucking will be allowed in wet weather.

(5) If any marker, monument, effigy, thing or structure of any kind or any inscription placed upon any lot be offensive, unsightly or improper, the city hereby reserves the right to remove, repair or correct the same at the expense of the plot owner upon notice in writing to the owner at his last known address on file with the city.

(6) The city shall not be responsible for the repair, alteration, realignment or upkeep of any memorial after original placement is made, absent liability for damage or disrepair. The work may be done at the option of the cemetery superintendent to prevent an unsightly or nuisance type condition and under certain circumstances a reasonable charge may be made for this work. [Ord. 748 § 9, 2000]

2.45.100 Rates for city services.

(1) All charges imposed by the city for opening and closing and for perpetual care shall be set by resolution adopted by the common council and shall be reviewed from time to time, no longer than five years, and revised as deemed necessary by the common council.

(2) All charges for property, material, and services imposed by the city shall be paid before burial. [Ord. 748 § 10, 2000]

2.45.110 Sale of cemetery lots.

(1) Cemetery lots for burial in the Burns Cemetery, exclusive of sections owned by entities other than the city of Burns, shall be sold by the city for an amount established by resolution of the common council. Pending any such change by resolutions, said lots shall be sold for the sum of \$125.00.

(2) Sale of lots provided for in this section shall be in addition to and not a substitution for the perpetual care fees provided for in BMC 2.45.040 and 2.45.100. [Ord. 748 § 11, 2000]

Chapter 2.50
PERSONAL PROPERTY DISPOSITION

Sections:

- 2.50.010 Disposition of abandoned property.**
- 2.50.020 Ownership inquiry.**
- 2.50.030 Notice to owner of public auction.**
- 2.50.040 Owner not found – Publication of notice.**
- 2.50.050 Redemption by owner.**
- 2.50.060 Sale of property.**
- 2.50.070 Sale proceeds.**
- 2.50.080 Certificate of sale.**
- 2.50.090 Delivery of possession.**

2.50.010 Disposition of abandoned property.

It shall be the duty of the police department of the city of Burns, whenever personal property other than a motor vehicle shall be found abandoned upon the streets of the city of Burns, or be found without an owner claiming the same, or shall, by reason of arrest or in any other manner, come into custody of the police department without a claimant, to either place the same upon the City Hall grounds for further disposition, or store the same with some reputable storage place pending investigation into the ownership of said personal property. [Ord. 551 § 1, 1971]

2.50.020 Ownership inquiry.

The officers of the police force, upon finding such personal property or coming into possession of the same, shall make diligent inquiry of all available persons as to the name and address of the owner, of any other person interested therein, and shall examine said personal property for any identification or for any other information which will aid in the identification of such personal property and in the identification of the owner or other interested person. [Ord. 551 § 2, 1971]

2.50.030 Notice to owner of public auction.

If the owner or other person having a lawful interest in the title to the personal property in custody be found and identified, he shall be immediately notified by registered letter that the personal property is held by the police department of the city of Burns and will be sold at public auction at a place designated by the chief of police, said place to be within the city limits of Burns, Oregon, on a day certain at 10:00 a.m. of such day, to the highest and best bidder, which sale shall not be held until 10 days have elapsed from the mailing of said registered notice to such owner or other person having a lawful interest. [Ord. 551 § 3, 1971]

2.50.040 Owner not found – Publication of notice.

If the owner or other person having a lawful interest cannot be found after due diligence as herein set out, the chief of police shall cause to be published in Harney County, Oregon, a notice embodying the foregoing information which shall be published two times, the first publication of which shall be made more than 10 days before such proposed sale. [Ord. 551 § 4, 1971]

2.50.050 Redemption by owner.

If the owner or other person having a lawful interest shall apply to the chief of police before a sale shall have taken place for the return of said personal property, and shall submit to the chief of police satisfactory evidence of his interest therein, and shall tender with said application the costs in the seizing, keeping and making sale of said personal property, the chief of police, upon being satisfied that the claim is rightful, shall surrender the same to the claimant. [Ord. 551 § 5, 1971]

2.50.060 Sale of property.

If no claim shall have been made before the time set for the sale of said personal property, the chief of police shall, at the place designated in the notice, at the time appointed, within view of the personal property to be sold, offer for sale and shall sell said personal property to the highest and best bidder for cash; and in default of bids from others for a greater sum, shall bid the same in for the city of Burns at the amount of its costs incurred in seizing, keeping and offering the same for sale. [Ord. 551 § 6, 1971]

2.50.070 Sale proceeds.

Proceeds of such sale shall be first applied to the payment of the costs incurred in the seizing, keeping and making of such sale; and the balance, if any, shall be paid to the auditor of the city of Burns to be credited to the general fund. [Ord. 551 § 7, 1971]

2.50.080 Certificate of sale.

At the time of payment of the purchase price, the chief of police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser, and a copy thereof filed with the auditor of the city of Burns; which certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. ____, entitled "An Ordinance Providing for the Disposition of Personal Abandoned, Seized or Discarded Personal Property; and Repealing Ordinances No. 366 and 430," and pursuant to due notice of time and place of sale, I did on the ____ day of _____, 20____, sell at public auction to _____ for the sum of \$_____ cash, he being the highest and best bidder, and that being the highest and best sum bid therefor, the following described personal property, to wit:

(Brief description of property)

And in consideration of the payment of the said sum of \$_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this ____ day of _____, 20____. _____ Chief of Police

Note: The city of Burns assumes no responsibility as to condition of title of the above-described property. In case this sale shall for any reason be invalid, the liability of the city is limited to return of the purchase price.

[Ord. 551 § 8, 1971]

2.50.090 Delivery of possession.

Upon such sale being consummated, the police department shall deliver the possession of said personal property and said certificate of sale to the purchaser, such sale and conveyance to be without redemption. [Ord. 551 § 9, 1971]

Chapter 2.55
CONVEYANCE OF CITY REAL ESTATE

Sections:

2.55.010 Conveyance of real estate.

2.55.010 Conveyance of real estate.

All conveyances of real estate by the city of Burns shall be executed by the mayor and clerk of the city, who shall affix their signatures, with the name or title of their office; and all such conveyances shall be valid as against said city and sufficient to pass whatever title or interest said city may grant or convey by any such instrument; provided, however, that said mayor and clerk may sign any such instrument or conveyance only after a resolution authorizing the same has been passed by the common council. [Ord. 24 § 1, 1899]