

ORDINANCE NO. 231-A

AN ORDINANCE ADDING CHAPTER 51, ENTITLED "SHARED DOMESTIC WATER RIGHT" TO THE DUNES CITY CODE OF ORDINANCES; REPEALING ORDINANCE NUMBERS 165 AND 192, CONFIRMING THE APPEAL OF ORDINANCE NUMBER 185, AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, the Dunes City Council adopted Ordinance No. 165 on November 13, 2003 which authorizes the sharing of the City's domestic water right and establishing application fees therefore; and

WHEREAS, the Dunes City Council adopted Resolution 01-08-04(A) on January 8, 2004, which established definitions, and established and adopted application fees and administrative charges; and

WHEREAS, the Dunes City Council adopted Ordinance No. 192 on April 12, 2007, which established penalties for failure to pay administrative water permit fees or to report water meter readings in a timely manner; and

WHEREAS, the Dunes City Council adopted Resolution 11-10-04 on November 10, 2004, which replaced and repealed Resolution 01-08-04(A) as to definitions, application fees and administrative charges; and

WHEREAS, the Dunes City Council adopted Resolution 06-14-07(A) on June 14, 2007, which amended the annual administrative fee for water right permit holders; and

WHEREAS, neither Ordinance No. 165 nor Ordinance 192, nor any of the adopted Resolutions identified a location within the Dunes City Code of Ordinances wherein such provisions should be codified; and

WHEREAS, the City Council wishes to identify and codify the provisions of its Shared Domestic Water Right program within the Dunes City Code of Ordinances;

WHEREAS, a review of the implementation of the Dunes City Shared Domestic Water Right Program has revealed numerous problems and inequities;

WHEREAS, the City Council desires to amend the terms of the program to ensure its implementation is fair and equitable to all Dunes City residents;

NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:

Section 1. Title V., entitled Public Works, of the Dunes City Code of Ordinances is amended by adding the following Chapter 51:

Chapter 51 Shared Domestic Water Right Program

§51.10 *Established.*

The Dunes City Shared Domestic Water Right Program is hereby established whereby Dunes City agrees to share its domestic water right assigned Oregon Water Resources Department Permit No. S33923 (Application No. 45456) for the diversion of water from Woahink Lake.

§51.20 *Definitions.*

For the purposes of this section, the following definitions will apply unless the context clearly indicates or requires a different meaning:

APPLICANT. An individual owning property in Dunes City who applies to Dunes City for a permit to share Dunes City's domestic water right permit for diversion of water from Woahink Lake. Each applicant shall provide legal access, by easement appurtenant to the land or by fee simple absolute, for the water line between the point of diversion and the point of use.

DOMESTIC USE. Water used for all domestic purposes including, but not limited to, human and pet consumption, bathing, food preparation, and personal and household hygiene, and for the irrigation of not more than one-half (1/2) acre of landscaping.

POINT OF DIVERSION. The surveyed location of where water is diverted from Woahink Lake.

POINT OF USE. The surveyed location of where water diverted from Woahink Lake is actually used.

STANDARD WATER METER. The standard water meter shall be "5/8 x 3/4" diameter with a minimum 12" rectangular water box or as otherwise designated by Dunes City.

SURVEY. Creating a longitudinal and latitudinal position for a point of diversion and a point of use to a survey grade accuracy.

WATER DISTRIBUTION COMPANIES. A for profit corporation or other entity, including home owner associations, that provides domestic water service to more than Twenty (20) homes.

WATER METER. An instrument for measuring the volume of water flowing through a point during a fixed period of time.

§51.30 Prohibitions.

Drawing and using Woahink Lake water without a properly issued State permit or without an approved permit to participate in Dunes City's Shared Domestic Water Right Program is prohibited.

§51.40 Application.

A. New Applicant. A property owner desiring or required by the State of Oregon to apply for a permit to utilize Dunes City's domestic water right permit for diversion of water from Woahink Lake to serve property within Dunes City who has not already been diverting water from Woahink Lake without a permit, must make application to Dunes City on forms provided by Dunes City. The application must be accompanied by an application fee as set by the City Council and include a survey prepared by an Oregon licensed surveyor designating each point of diversion and each proposed place of use. No more than two (2) points of diversion per tax lot will be permitted.

B. Existing Non-Permitted Applicant. A Property owner desiring or required by the State of Oregon to apply for a permit to utilize Dunes City's domestic water right permit for diversion of water from Woahink Lake to serve property within Dunes City who has been diverting water from Woahink Lake without a permit, must make application to Dunes City on forms provided by Dunes City. The application must be accompanied by an application fee and penalty as set by the City Council and include a survey prepared by an Oregon licensed surveyor designating each point of diversion and each proposed place of use. No more than two (2) points of diversion per tax lot will be permitted.

C. Reservation Applicant. A property owner desiring to reserve the right to utilize Dunes City's domestic water right permit for diversion of water from Woahink Lake to serve property within Dunes City upon which future development will take place must make application to Dunes City on forms provided by Dunes City. The application must be accompanied by an application fee as set by the City Council. Prior to construction of any residential or commercial building upon the property, a survey must be prepared by an Oregon licensed surveyor and submitted to Dunes City designating each point of diversion and each proposed place of use. No more than two (2) points of diversion per tax lot will be permitted.

D. Water Distribution Companies. A for profit corporation, or other entity, including a homeowners' association, that provides domestic water service to greater than THREE (3) residences who desires to apply for a permit to utilize Dunes City's domestic water right permit for diversion of water from Woahink Lake to serve property within Dunes City who has not already been diverting water under an existing Dunes City

domestic water right permit must make application to Dunes City on forms provided by Dunes City. The application must be accompanied by an application fee as set by the City Council and include a survey prepared by an Oregon licensed surveyor designating each point of diversion and each proposed place of use. No more than two (2) points of diversion per tax lot will be permitted.

§51.45 Agreement Required; payment of Fees.

Any approved Applicant for participation in the Dunes City Shared Domestic Water Supply must sign an Agreement with the City for use of the Dunes City water right under the terms of the City's State permit. The executed Agreement will be recorded with the Lane County Recorder and will thereafter run as an appurtenance to the land. Costs and fees associated with the preparation and recording of the Agreement shall be collected at the time of execution of the Agreement and shall be paid by the Applicant.

§51.50 Transfer of Ownership.

A. Any time a property that was granted a permit to participate in the Dunes City Shared Domestic Water Supply prior to the effective date of this ordinance is sold or otherwise transfers ownership, the new owner or owners of said property must execute a Agreement as required under Section 51.45 hereof.

B. Any time a property that has been granted a permit to participate in the Dunes City Shared Domestic Water Supply and has a recorded Agreement as described in Section 51.45 above, must file a Transfer of Ownership form with Dunes City on forms provided by Dunes City. The application must be accompanied by an application fee as set by the City Council, as well as a copy of the document that conveyed title to the property to the new owner(s).

51.50 Fees and Costs.

They City Council shall, by resolution, establish an application fee to cover the full expense of sharing its domestic water right with property owners and water distribution companies; said expense shall include, but may not be limited to, the application fee with the Oregon Department of Water Resources for the amendment to the City's water right, surveying expenses, legal expenditures, extension fees, recording fees and administrative costs. The City Council will also impose, by resolution, an annual fee to cover water meter reading, the maintenance of records, reporting costs and other necessary administrative costs. The City Council may also impose, by resolution, a charge for water use by water distribution companies based on volume of water used.

§51.60 *New Meters.*

From and after the date of adoption of this Code, property owners and water distribution companies issued a permit or permits to participate in Dunes City's Shared Domestic Water Right Program must install, or allow Dunes City, or its designee, to

install, metering devices to measure the volume of water being diverted to the property for domestic purposes. A meter must be installed for every point of diversion. Meters must be located in an easily accessible and visible location between the pump and the water treatment system on the outside of any structures, but in any event, the system must measure the volume of all, to the greatest extent possible, of the water used on the property for all purposes.

§51.70 *Relocation of Existing Meters.*

During its budget process, Dunes City will identify the number of inaccessible meters to be moved during the coming fiscal year. Property owners must allow Dunes City, or its designees, to enter on to the property for purposes of relocating the meters to an easily accessible and visible location on the outside of any structures. Failure to allow Dunes City access to the property may result in revocation of the permit to participate in the Dunes City Shared Domestic Water Right Program.

§51.80 *Domestic Water Quality and Quantity.*

The City does not warrant or otherwise guarantee the quality or quantity of the water diverted through the use of its domestic water right.

§51.90 *Payment of Administrative Fees.*

Payment of fees as described in §51.30 must be received by the City Recorder within thirty (30) calendar days of the mailing of invoice. The annual fee shall be increased by a sum of \$1.00 per calendar day that payment is not received after its due date. Failure to pay the annual fee within ninety (90) calendar days after its due date may result in the imposition of additional penalties and a lien against the property or properties benefiting from the water permit in accordance with the process delineated in Chapter 36 of the Dunes City Code of Ordinances.

§51.100 *Water Usage Reporting.*

A. Property owners and water distribution companies sharing Dunes City's domestic water right are responsible for reporting water usage on a monthly basis, or at intervals otherwise designated by the City. Reporting may be by telephone, personal contact, electronic message or by mail. If a property owner has not reported a meter reading within sixty (60) days of the month that it is due, the City may contract to have the meter read and the property owner billed for that service and may levy a penalty against the property owner.

B. Dunes City will contract to have the meters read once a year on residential properties not served by a water distribution company. Property owners holding valid permits must allow meter readers onto their property for purposes of reading the meters. If the meter is located in an inaccessible location, the meter readers will contact the property owners to make arrangements to have the meters read. Failure to allow Dunes

City meter readers onto the property for purposes of reading the meters may result in revocation of the permit to participate in Dunes City's Shared Domestic Water Right Program.

§51.110 *Use without a Permit*

A. A penalty of One thousand dollars (\$1,000.00) per year, from and after the date of enactment of this Ordinance, is assessed against any property owner who has been drawing water from Woahink Lake without a permit to use Dunes City's Shared Domestic Water Right. This penalty is in addition to any penalty that accrued since the date of enactment of Ordinance Number 192, that is, April 12, 2003. Such penalty will be collected in accordance with the terms of Chapter 36 of the Dunes City Code. Said penalty must be fully paid at the time of application for permit to participate in Dunes City's Shared Domestic Water Right Program. Failure to pay said penalty will result in denial of the permit.

B. Property owners identified or suspected of drawing water from Woahink Lake without a Dunes City Shared Domestic Water Right Permit will be reported to the State enforcement authority for further investigation and possible disciplinary action.

Section 2. Repeal

The repeal of Ordinance Nos. 165, 185, and 192, and Resolutions 01-08-04(A), 11-10-04, and 06-14-07(A) shall not affect any action occurring before the repeal takes effect. Ordinance Nos. 165, 185 and 192, and Resolutions 01-08-04(A), 11-10-04, and 06-04-07(A) are hereby repealed.

Section 3. Effective Date

The provisions of this ordinance will become effective thirty (30) from and after the date of adoption.

Passed at the first reading in regular meeting of the City Council of Dunes City, Oregon, on this _____ day of _____, 2_____.

Ayes: _____ Nays: _____ Abstain: _____ Absent: _____

Passed at the second reading and placed on final passage, and adopted by the City Council of Dunes City, Oregon, on this _____ day of _____, 2_____.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1

ADOPTED BY THE DUNES CITY COUNCIL, THIS 11 DAY OF
February, 2016.

Rebecca Ruede, Mayor
Rebecca Ruede, Mayor

ATTEST:

Jamie Mills
Jamie Mills, Acting City Recorder