



CITY OF ALBANY  
CITY COUNCIL WORK SESSION  
Municipal Court Room  
Monday, May 12, 2014  
4:00 p.m.

**OUR MISSION IS**

*"Providing quality public services  
for a better Albany community."*

**OUR VISION IS**

*"A vital and diversified community  
that promotes a high quality of life,  
great neighborhoods, balanced  
economic growth, and quality public  
services."*

**AGENDA**

- 4:00 p.m. **CALL TO ORDER**
- 4:00 p.m. **ROLL CALL**
- 4:05 p.m. **BUSINESS FROM THE PUBLIC**
- 4:05 p.m. **CROCKER LANE** – Ron Irish  
*Action Requested: Information; discussion; direction.*
- 4:40 p.m. **SEWER RATES DISCUSSION** – Mark Shepard  
*Action Requested: Information, discussion, direction.*
- 5:10 p.m. **ORDINANCE REGULATING SECONDHAND AND PAWN SHOPS** – Steve Dorn  
*Action Requested: Information; discussion; direction.*
- 5:25 p.m. **ORDINANCE REGULATING BEHAVIOR AT TRANSIT FACILITIES** – Casey Dorland
- 5:50 p.m. **COUNCILOR COMMENTS**
- 5:55 p.m. **CITY MANAGER REPORT**
- 6:00 p.m. **ADJOURNMENT**

**Rules of Conduct for Public Meetings**

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting.

*City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)*

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*The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, advance notice is requested by notifying the City Manager's Office at 541-917-7508, 541-704-2307, or 541-917-7519.*

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TO: Albany City Council

VIA: Wes Hare, City Manager  
Mark W. Shepard, P.E., Public Works Director and Community Development Director *MWS*

FROM: Jeff Blaine, P.E., Assistant Public Works Director/City Engineer  
Ron Irish, Transportation Systems Analyst

DATE: May 7, 2014, for May 12, 2014, City Council Work Session

SUBJECT: Crocker Lane and Valley View Drive Discussion

RELATES TO STRATEGIC PLAN THEME: ● Great Neighborhoods

Action Requested:

The purpose of today's discussion is twofold:

- 1) To request direction on whether the ultimate design for Valley View Drive should reflect an urban section with curb and gutter, or a rural section with ditches and setback sidewalk/path.
- 2) To provide Council with background information on topics scheduled for decision at the regular Council meeting on May 28. At that meeting staff will be seeking direction on the following questions:
  - Should staff begin work on an Engineer's Report for the formation of a Local Improvement District (LID) for the northern 2,150 feet of Crocker Lane and Valley View Drive from Crocker Lane 870 feet west?
  - If Council does want an Engineer's Report prepared, should it also include Bloom Lane?

Background

The current need for direction on these topics is primarily due to the pending expiration of a Petition for Improvement/Waiver of Remonstrance (P&W) on property (about 47 acres) located on the southwest corner of the Crocker/Valley View intersection (see Exhibit 1). The P&W was recorded in 1996 with a partition of the property and will expire in 2016. That property was also the subject of a three-phase subdivision (SD-01-07) in 2007. The first phase of the development was constructed, and the second two phases expired prior to construction. Street improvements on Crocker Lane were tied to the second phase, and street improvements to Valley View were tied to the third phase. Consequently, the required street improvements were never constructed.

A new land use application will be needed to develop what was the second and third phase of SD-01-07, and it will not be possible to condition that future application to construct street improvements across street frontage of the original subdivision's first phase. Forming an LID before the P&W expires would allow for construction of street improvements across the entire frontage of the original subdivision with financial participation on the part of all involved properties. As time passes, lots within the first phase of the original development will continue to be developed and sold, ultimately increasing the number of property owners involved should an LID be formed.

The undeveloped land comprising the second and third phases of SD-01-07 went into foreclosure and was recently purchased by a developer interested in submitting a new development application on the site. Negotiations are currently underway between Benton County and the

developer regarding purchase of the forested area at the north end of the site and its inclusion into North Albany Park. The parties are working together on how to assign responsibility for future infrastructure improvements along the forested area's frontages on both Crocker Lane and Valley View Drive. A successful outcome of those negotiations would expand North Albany Park and protect a significant tree grove for the public. As part of the acquisition negotiations, both parties would like some certainty regarding possible future road improvement obligations and costs, particularly along Valley View Drive. The magnitude of that obligation varies significantly depending on whether the ultimate plan for Valley View Drive is for an urban versus a rural section (see Exhibit 2).

Several subdivisions and partitions have occurred along the east side of Crocker Lane opposite SD-01-07 (see Exhibit 3). In two instances subdivisions constructed curb, gutter, and sidewalk on their frontage along the east side of the street. A third subdivision did not construct curb, gutter, or sidewalk, but did pay an improvement assurance into the North Albany Arterial/Collector Street Fund for the improvements. Parcels that were the subject of partitions provided a P&W. Those waivers have expiration dates ranging from 2015 to 2025. Just over 83 percent of the street frontage along the north 2,128 feet of Crocker Lane (the street frontage of SD-01-07) are either covered by a P&W, paid an improvement assurance, or have curb, gutter, and sidewalk.

#### *Valley View Drive Cross Section*

The section of Valley View Drive between Crocker Lane and Scenic Drive is 4,550 feet in length and has a right-of-way width of 60 feet. Street improvements currently consist of a paved width of approximately 24 feet, providing for 10-foot vehicle travel lanes and a 4-foot shoulder along the north side of the road. With the exception of the large forested parcel on the southwest corner of the Valley View/Crocker intersection, most of the lots that adjoin the road are developed with single family homes and have limited development potential. The lack of large adjoining parcels means there will not be an opportunity in the future to condition land use applications to construct significant portions of the street improvements.

The cost estimate in the TSP (in 2010 dollars) to improve Valley View Drive between Crocker Lane and Scenic Drive to urban standards is \$3,695,000. That project includes curb and gutter, a vehicle travel lane in each direction, on-street bike lanes, and setback sidewalks. Installation of curb and gutter on the street would necessitate removal of the roadside ditches and installation of a piped storm drainage system. Projected traffic volumes at year 2030 are below 1,000 average daily trips (ADT). The primary transportation benefit of the urban improvement over the current situation would be improved facilities for pedestrians and bicyclists.

Staff's recommendation is that a rural design standard be developed for Valley View Drive as an alternative to the urban design envisioned by the TSP. A rural design standard would need to provide for the same transportation modes (vehicle, pedestrian, bicycle) as an urban design, but could be constructed at a significantly reduced cost. Possible improvements could include widening of road shoulders to provide for bike facilities together with setback sidewalks, or installation of a multi-use path along one side of the road together with crossing/traffic calming features located at intervals along the road. Under both of those scenarios the roadside ditches could remain, development of a piped storm water system would not be necessary, and the current elevation and grade of the road could be maintained if desired. The road would also maintain more of the rural character desired by many residents of North Albany.

*Crocker Lane and Valley View Drive LID*

Crocker Lane and Valley View Drive are both currently under the jurisdiction of Benton County and are classified as minor arterial streets. Albany's Transportation System Plan (TSP) includes projects that would improve both streets to urban standards with curb, gutter, and sidewalk. The TSP estimated the construction cost for each project in 2010 dollars at approximately \$812 per lineal foot. Both projects are eligible for Transportation System Development Charge (TSDC) funding and/or credit, but neither is currently identified as funded. The maximum TSDC-eligible amount for Crocker Lane is 30 percent or \$243.60 per foot, and 40 percent or \$324.80 per foot for Valley View Drive.

Because of the pending expiration of the P&W associated with SD-01-07, staff's recommendation is that an LID be formed for construction of urban street improvements along its frontage on Crocker Lane and rural street improvements along its frontage on Valley View Drive. The current construct cost estimate for North Albany Road (scheduled for construction in 2015) is below its budgeted amount. If the actual bid cost for that project ends up close to the current estimate, some of the TSDC funding currently targeted for North Albany Road in the TSDC methodology could be redirected to Crocker Lane and/or Valley View without impacting the TSDC funding allotted to other projects in the Transportation System Plan.

*Bloom Lane*

In the event that Council chooses to consider formation of an LID for Crocker Lane and Valley View Drive, an additional consideration would be whether or not to expand that project to include Bloom Lane. Bloom Lane is classified as a local street. It was a gravel road up until approximately five years ago, when it received an oil mat surface. A series of partitions have since occurred along the road (see Exhibit 4), with each of them providing a P&W. Just over 50 percent of the road frontage is now covered by a P&W. The waivers have expiration dates ranging between 2025 and 2026. A reason to consider including Bloom Lane in an LID with Crocker Lane and Valley View Drive is not because the P&W's will expire in the near future, but because adding it to a larger project would result in reduced project costs and lower the assessments ultimately levied on the benefiting properties.

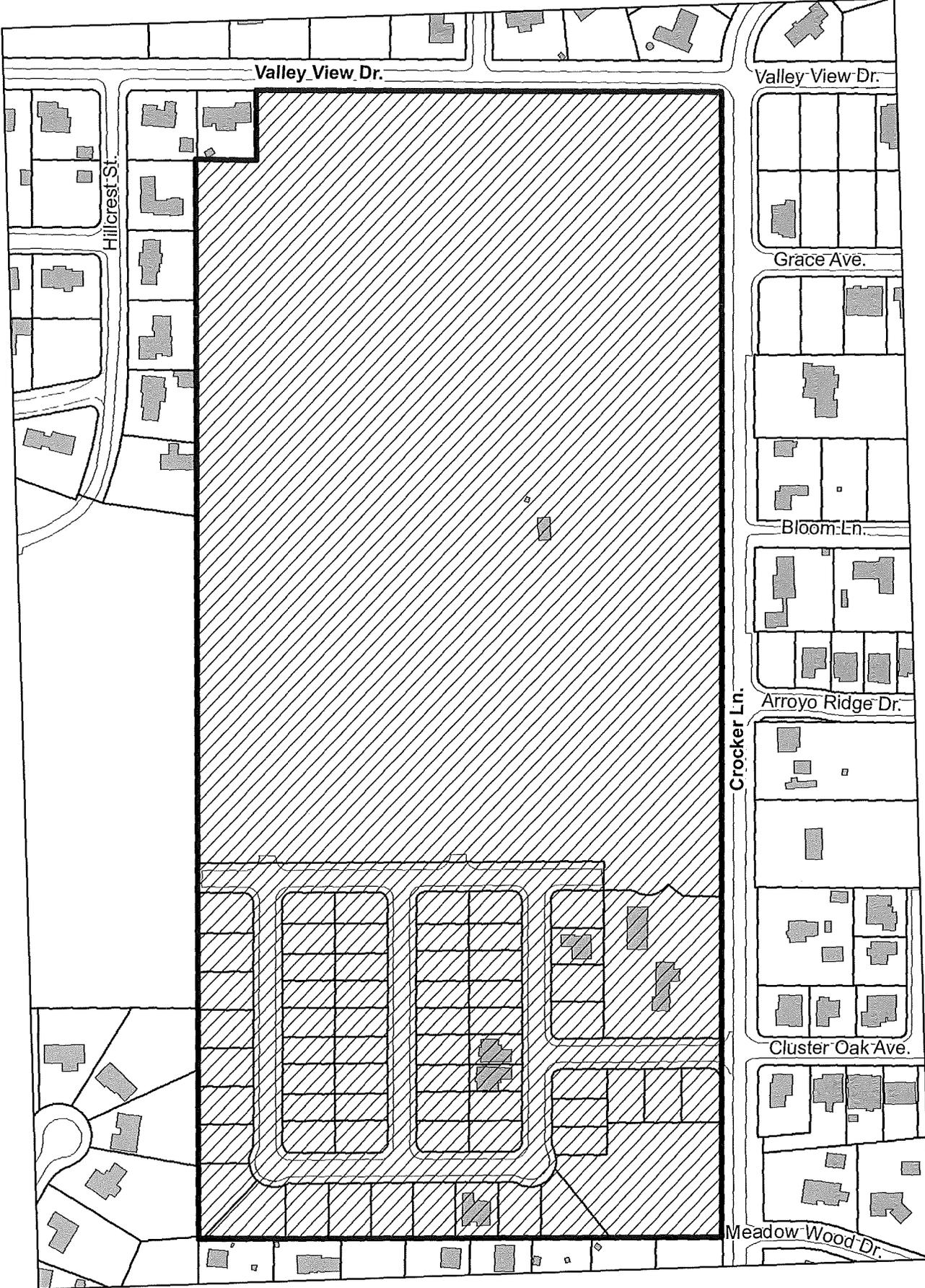
Budget Impact:

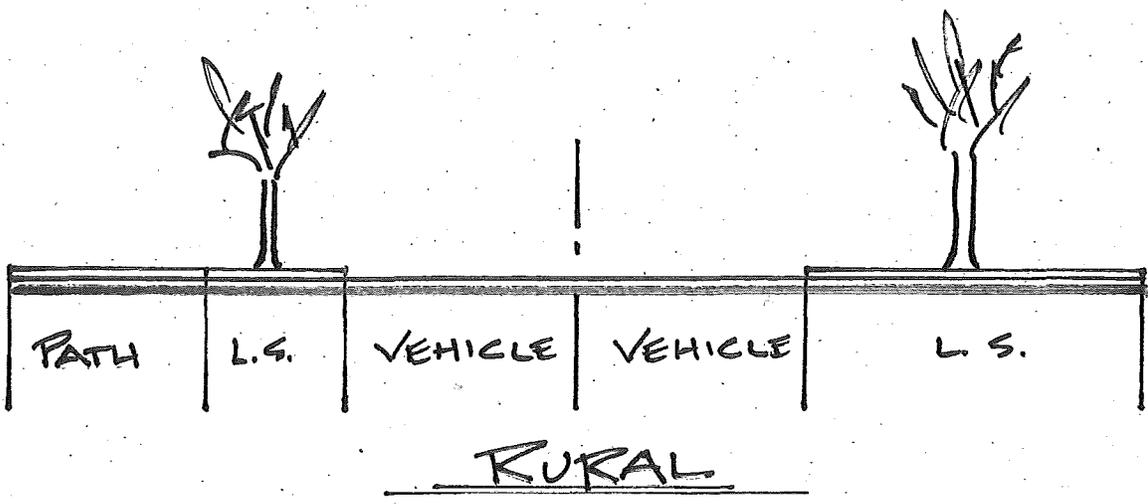
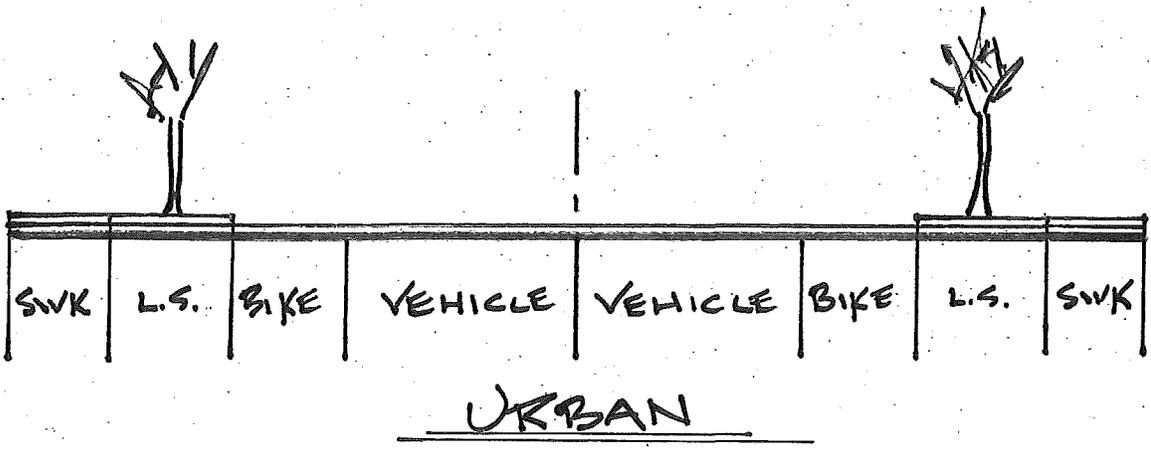
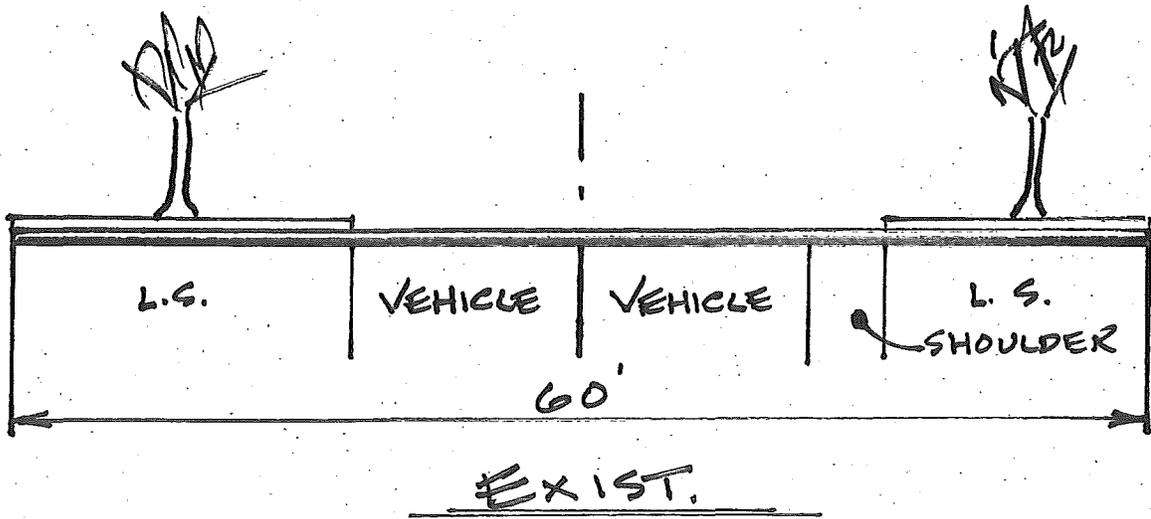
None at this time.

RGI:kw

Attached Exhibits (4)

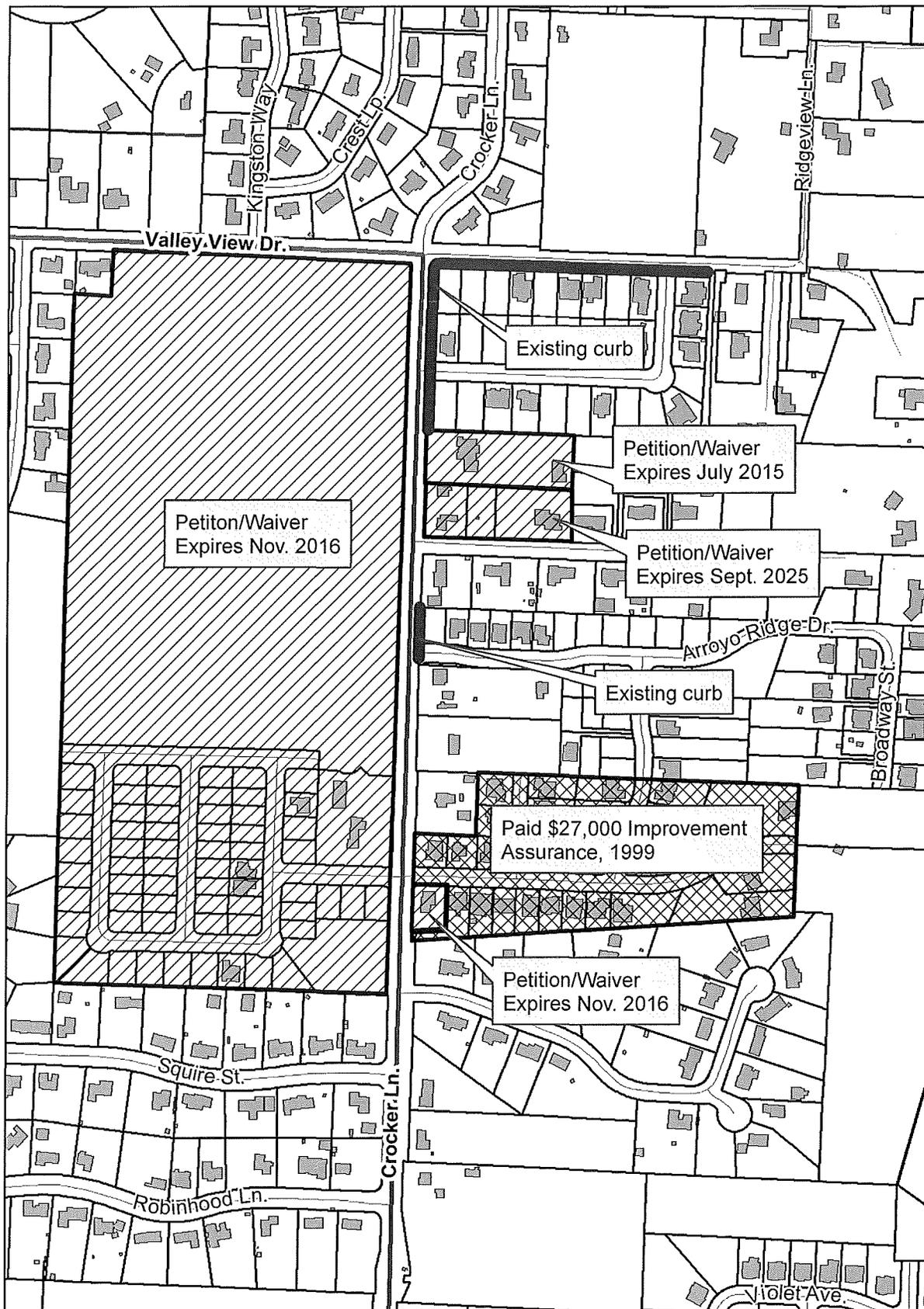
SD-01-07



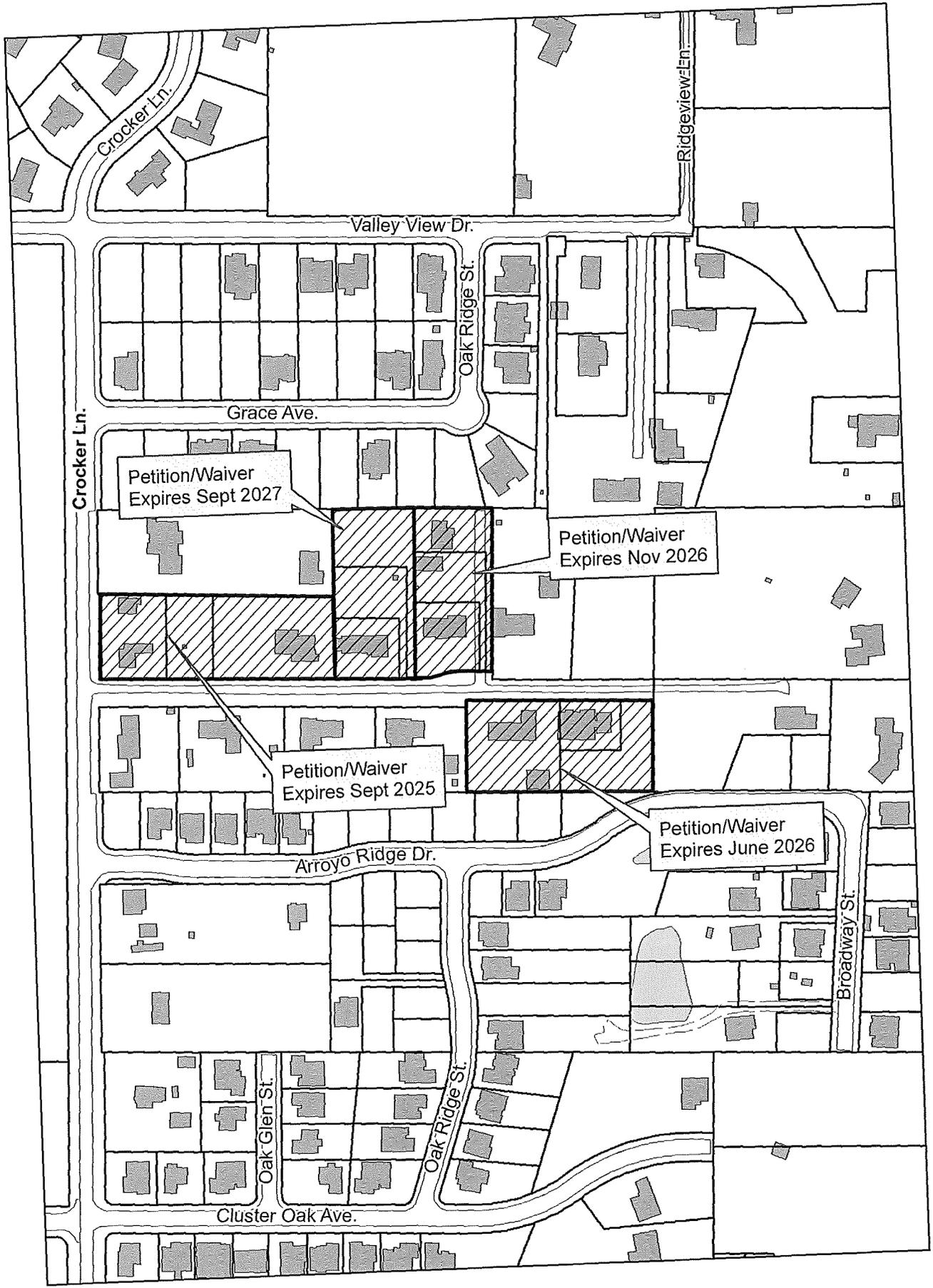


# VALLEY VIEW DRIVE

# Valley View Drive and Crocker Lane



# Bloom Lane





TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Mark W. Shepard, P.E., Public Works Director and Community Development Director *MWS*

DATE: May 6, 2014, for the May 12, 2014, City Council Work Session

SUBJECT: Sewer Rate and Industrial Permit Increase for July 1, 2014

RELATES TO STRATEGIC PLAN THEME:

- A Safe City
- An Effective Government

Action Requested:

Staff is seeking direction from Council regarding a sewer rate increase effective July 1, 2014. A rate increase between 6 percent (6%) and 8 percent (8%) is recommended. An increase in the City's Industrial Wastewater Discharge Permit fees is also recommended.

Discussion:

*Sewer Rates*

In January 2012 Council received a report regarding the five-year water and sewer system needs and a projection of system rate requirements to support the two utilities. Council approved a target of \$2.3 million in annual sewer system capital revenues by fiscal year 2017. A projection of the five-year rate requirements was developed and presented to provide Council with a picture of what it will require over time to reach this capital investment need. Each year staff updates the rate picture as part the of the annual rate discussions with Council. This year is the third year in the initial five-year plan.

In the May 2013 sewer report to Council, staff anticipated that an 8 percent (8%) sewer rate increase would be required in July 2014. Staff completed an updated analysis of sewer rate needs based on year-to-date information and revised projections of expenses and revenues in the sewer utility. The evaluation identifies that the rate increase can be reduced to 6 percent (6%) and still meet the target goals established by the Council in 2012.

In addition to the rate increase, staff recommends increasing the permit fees for Significant Industrial Users (SIU) to reflect the increase in fees charged to the City by DEQ for these permits. The current fee is \$537. The proposed new fee is \$553. These fees only cover the City's cost to DEQ and do not recover any staff time in issuing or monitoring the permits.

*Unfunded Needs*

The five-year sewer capital revenue plan approved by Council is focused on programmed replacement of aging infrastructure that is at the point of failure. Consequently, the \$2.3 million capital target referenced above does not provide for any investment in capacity-increasing projects to avoid sewer overflows during rain events that could lead to permit violations and/or sewer backups.

Staff has previously informed Council about these significant needs. However, we do not have enough information to identify project limits and estimate costs. We have been working on updating the hydraulic model of the collection system so that we can better identify the scope and cost of these capacity-increasing projects. The modeling effort is not complete, but preliminary results reveal significant capacity restrictions that will likely cost tens of millions of dollars to address. These costs are not programmed into the current rate projection.

Many of the existing capacity restrictions (undersized pipes) result in the City not being able to comply with our sewer discharge permit from DEQ. In addition, the capacity restrictions can result in sewer overflows at manholes and sewer backups into basements. It is important to recognize that these are existing problems and not created by future growth. As a result, the City's ability to respond to economic development opportunities and growth is limited.

Staff previously informed Council about anticipated capacity issues on the River Front Interceptor (RFI) and Cox Creek Interceptor. Preliminary modeling has confirmed the problems with the RFI and Cox Creek Interceptor as well as identified other locations with capacity constraints. When the modeling effort is complete, staff will be able to clearly identify project scopes, costs, and suggested replacement schedules. This information will help identify near-term needs for regulatory compliance and economic development and, therefore, inform future rate discussions.

Staff will bring this issue forward to Council for further discussion when the modeling effort has been completed and more information is available. However, it is important to keep these currently unfunded, capacity-increasing projects in mind while evaluating sewer rate needs.

#### *Next Steps*

Staff is seeking Council direction on whether a 6 percent (6%) or 8 percent (8%) rate increase should be brought back for consideration. Council may want to consider holding the rate increase at the projected 8 percent (8%) in anticipation of the significant unfunded capital needs. If Council chooses to implement an 8 percent (8%) rate increase, additional revenue that is generated will be placed in reserve for funding of future projects.

Council may want to take into consideration that the Engineering News Record (ENR) construction costs index for this past year has increased by 7.6 percent. This is almost double the increase experienced in recent years. The index provides some perspective on the current trend in capital construction costs.

Upon receiving input from Council on the proposed sewer rate increase, staff will present a Resolution regarding the sewer rate increase and SIU permit fee increase for Council consideration at the June 11, 2014, Council meeting. If approved, increases will take effect on July 1, 2014.

Attachment "A" provides a more detailed discussion of sewer revenues and requirements and provides an updated five-year rate projection. This is the same information that staff has presented annually to Council during each rate discussion. It has been updated with current sewer rate revenue projections for the next five years. This document is provided as background for Council and the public.

#### Budget Impact:

The following table provides estimates for the anticipated additional revenue a 6 percent (6%) and 8 percent (8%) sewer rate increase will generate.

Proposed Rate Increase	Estimated Additional Revenue Generated
6 Percent (6%)	\$818,000
8 Percent (8%)	\$1,090,000

The following table identifies the monthly impact to a residential sewer customer being charged for eight units of sewer usage based upon a 6 percent (6%) and 8 percent (8%) sewer rate increase.

<b>Proposed Rate Increase</b>	<b>Monthly Increase for a Residential Customer Billed for 8 Units of Sewer Usage</b>	<b>Total Monthly Sewer Charges for a Residential Customer for 8 Units of Sewer</b>
6 Percent (6%)	\$3.06	\$54.13
8 Percent (8%)	\$4.11	\$55.18

If a sewer rate increase of 8 percent (8%) is adopted by Council, the additional revenue generated will be placed in capital reserves to help fund future projects.

MWS:kw  
Attachments A – Sewer

## ATTACHMENT A - SEWER

### *Background*

The Albany Strategic Plan identifies the importance of a safe and reliable sanitary sewer service to Albany citizens while also meeting federal and state environmental requirements for the system. To accomplish this, the City proactively manages the system. Part of managing the system is to plan for the needed system revenues and expenditures. There are no general fund resources used to support the sewer utility. All functions to operate and maintain the sewer system are funded through sewer revenues generated by service charges, System Development Charges (SDCs), and other permit fees. Grant funding is used to augment revenues when available.

Similar to most budgets, there are three components to the cost of running and maintaining the utility expenditures. The three expenditure components are:

- Debt Service
- Operation and Maintenance
- Capital Expenditures

These three components are interdependent and impacts to funding of any one of the components ripple into the other two.

**Debt Service** – The City’s first obligation is to pay off the debts that we owe. At times utilities borrow money to complete large capital improvement projects that cannot be funded with pay-as-you-go funding. The Albany Millersburg Water Reclamation Facility (WRF) is an example of this type of large project.

The largest debt the City holds is for sewer utility improvements that the community chose to make several years ago. The sewer debt is in the form of a loan from the State of Oregon administered by the Department of Environmental Quality (DEQ). The debt agreements have specific requirements for repayment as well as annual revenue generation. Repayment of the debt is made through a combination of rate funds and System Development Charges.

**Operation and Maintenance** – The City’s second obligation is to properly operate and maintain the existing sewer facilities. These assets include the pipe systems, sewer lift stations, and the treatment facilities to treat the wastewater. In addition, there are monitoring and enforcement obligations that the City must accomplish in order to continue to meet state and federal permit requirements.

Proper operation and maintenance reduces the risk of system failures that can lead to interruption of service or violation of health and environmental standards. Proper maintenance can also reduce overall expenditures including capital needs and prolong the service life of infrastructure components.

**Capital Expenditures** - Finally, the City needs to invest in capital improvements to replace failing and undersized infrastructure. Adequate investment in this work provides for reliable service to existing customers and anticipates needs to support economic development in the community. Almost all capital expenditures are made to replace failing or undersized infrastructure or in response to mandated regulations to protect Albany’s citizens and the environment.

Regular capital investment in the utility infrastructure will reduce the risk of system failures that can lead to interruption of service or violation of health or environmental standards. Targeted capital expenditures will also reduce the ongoing maintenance costs associated with operating the utilities.

### *Revenue and Rate Picture*

Staff has prepared a five-year projection for the sewer fund. However, it is likely that the revenue and expenditure picture will change as we move into the future. The requirement to pay off the existing debt in the sewer funds is fixed. However, there are significant variables that can impact the operation and capital requirements for the sewer system. Following is a list of the variables that will impact the rate picture over time:

- Rate Revenues – While we have been fairly accurate in past revenue projections, the economic times have made it more difficult to predict what revenue the utilities will receive. The state of the economy can dramatically impact revenues in either direction. In addition, weather can impact revenues.
- SDC Revenue – The revenue the City receives from SDCs is driven by the amount of development happening in the City. The projections in this memo are conservative in that they assume moderate SDC revenues. If development picks up, so will SDC revenues, which can change the long-term picture of rates.
- Personnel and Other Large Operation Expenses – Personnel costs are the largest single driver impacting operating expenses. The cost of fuels, chemicals, and electricity can also have large impacts on expenditures and, therefore, rate requirements.
- Unforeseen Capital Needs – Staff is able to project and identify most significant capital needs in a timely manner such that there is time to plan and incorporate the need into long-range rate planning. However, there are instances when unforeseen issues arise that require unanticipated expenditures. We are continually working to improve our understanding of the current condition of facilities through a properly functioning asset management program in order to minimize unanticipated needs.
- WRF Sludge Issues – The underperformance of the WRF solids system has resulted in a significant cost to the City when a savings was originally anticipated. Until the system can be corrected, this will continue to impact the sewer budget.

In January 2012 Council supported a targeted plan for meeting the debt, O&M, and capital investment needs in order to maintain the utilities at a level so they can continue to meet service needs, meet environmental regulations, and minimize the need for unpredictable large rate increases.

### *Current and Future Revenue Needs*

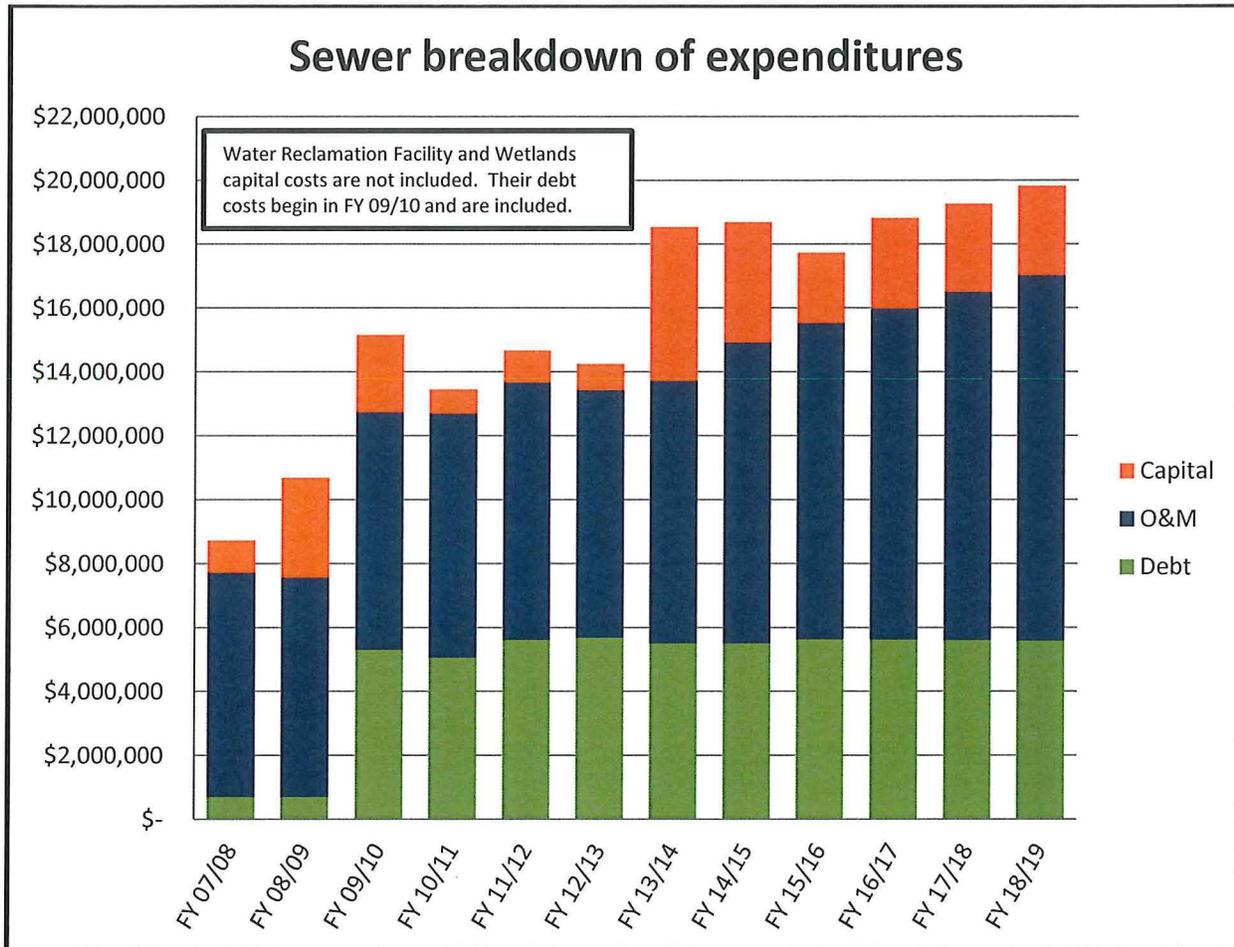
Following is a summary of the revenues and expenditure needs for the sewer system:

#### **Revenues:**

- Rate Revenue - The current estimated total sewer rate revenue the City will receive in the 2014 fiscal year is \$13.65 million. This is approximately \$20,000 more than the revenue estimated during the budget development process last year.
- SDC Revenues – SDC revenues vary year to year depending upon the pace of development in the community. It is anticipated that in fiscal year 2014, the City will receive approximately \$450,000. For the future projections, staff has assumed \$320,000 in annual SDC revenue. This is equivalent to approximately 130 home starts in a year. SDC revenues for the past three fiscal years averaged about \$429,000. The SDC estimates may be conservative, but they provide a relative picture of SDC funding availability. If development patterns change and SDC revenues increase or decrease, the future analysis will be adjusted to reflect that change.

**Expenditures:**

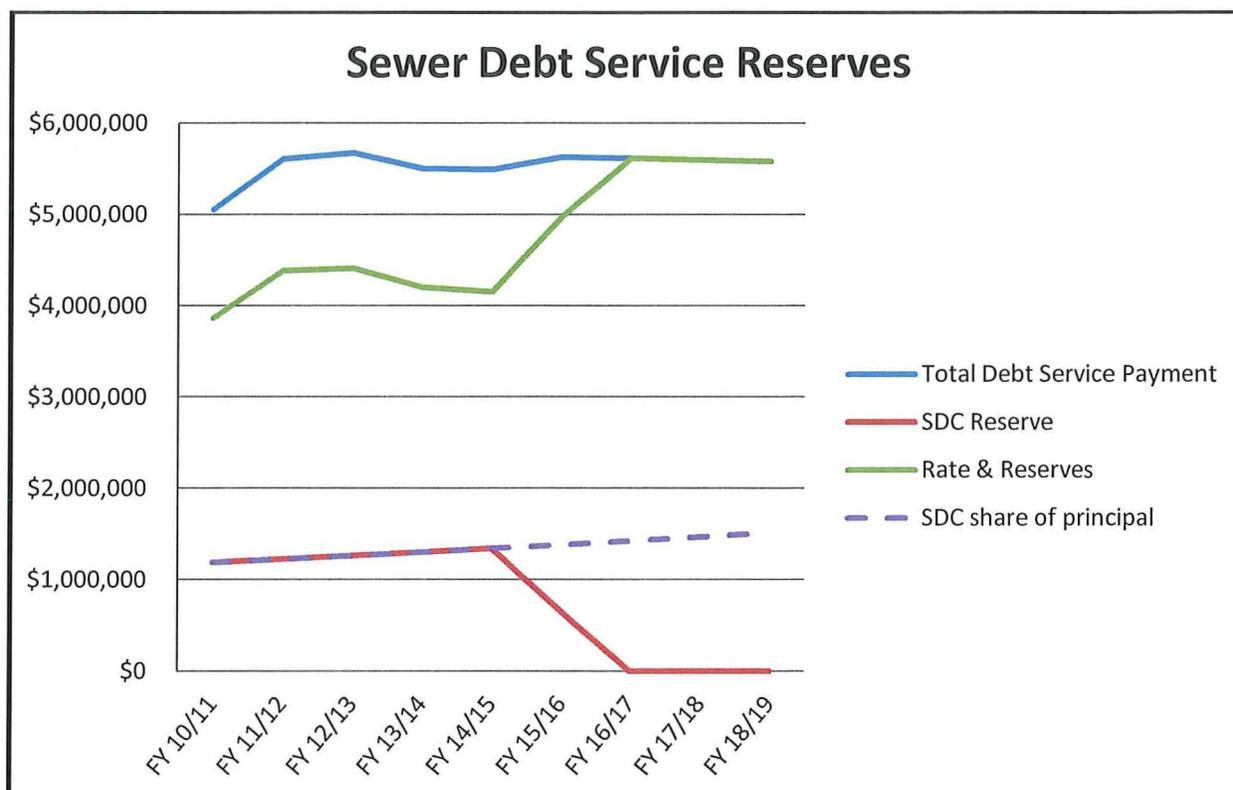
The following graph shows how sewer expenditures are split between the three expenditure areas:



**Debt Service:** In order to complete the Water Reclamation Facility (WRF) and Talking Waters Garden (TWG) Wetlands project, the City borrowed approximately \$77.2 million. While the City was able to secure low-interest financing for these projects, the annual debt payments are significant. The total debt service associated with the construction of the WRF and the TWG wetlands treatment projects amounts to approximately \$5.6 million per year through the year 2032. Albany’s share after Millersburg’s contribution toward debt service is approximately \$5.2 million per year.

Both rate revenue and SDC revenues are responsible for paying off the debt for the wastewater improvements. Rate revenues are responsible for all interest costs and 55 percent of the principal payments for the WRF and 100 percent of the TWG. In fiscal year 2015 this equals approximately \$3.74 million. SDCs are responsible for 45 percent of the debt principal payment for the WRF because a significant portion of the facility was sized to serve future capacity needs. In fiscal year 2015 this equals \$1.34 million.

Both rate and SDC reserves have been created in order to help pay for the debt service; however, these reserves will be exhausted in the coming years as rate and SDC revenues do not keep pace with the funding needs. It is estimated that the SDC reserves will be exhausted by 2015-16. Subsequently, sewer rate revenues will need to be borrowed by the SDC fund to cover the debt service obligation. The following graph shows how rate requirements for debt service are impacted as reserves are spent down.



As part of the loan agreement the City has with the Oregon Department of Environmental Quality (DEQ), the City is required to annually collect net revenues at 1.05 times the yearly amount owed in debt service payments. This is the debt coverage ratio. The DEQ will allow Albany to include SDC revenues in the debt coverage ratio calculation. Previously staff worked with DEQ to lower our debt coverage ratio from 1.25 to 1.05 by increasing our reserves.

**Operation and Maintenance:** Rising employment, chemical, and energy costs impact the O&M budget. In addition, the lack of recent investment in the wastewater collection system and the current challenges that are being experienced at the WRF further stress the O&M budget.

Cost reduction measures have reduced the five-year O&M cost increase average from 7 percent to 3 percent. For the five-year projection, a 5 percent per year increase has been used for O&M. Public Works will continually evaluate how to do things more efficiently and make sure funds are appropriately targeted. However, most maintenance activities cannot be deferred without increasing the risk of sewer failures resulting in potential sewer backups and other impacts from failed systems.

**Capital:** The City needs to invest in capital projects to replace failing and/or undersized infrastructure. Adequate investment provides for reliable service to existing customers and anticipates needs to support economic development and growth. A five-year look at the sewer fund revenues and expenditures shows a decreasing amount of rate revenue money available for capital maintenance projects unless additional funding is provided. If rate increases are limited to just the revenue required to meet debt coverage and O&M expenses, no rate revenue will be available for capital projects by 2017, with only minimal investments made in the interim.

Identifying the appropriate level of capital funding must be balanced with the burden it places on the rate payers. It is vital to have enough capital funding available to replace the worst infrastructure in a reasonable time in order to reduce the risk of failures, sewer backups into basements, surcharging, sink

holes, and environmental permit violations. It is also important to be able to address problems that result in recurring high operation and maintenance costs.

The remaining capital need in treatment is the solids process improvements. Additionally, there has only been limited investment in the collection system in the past. This has resulted in significant issues in the collection system going unaddressed. Staff has evaluated the immediate collection system needs in order to identify what minimum capital funding is required.

An annual amount of \$2.3 million is required to meet a minimum capital replacement program. Recent sewer pipeline condition assessment reports indicate that approximately \$1.5 million will be needed in capital expenditures each year for the next ten years in order to repair pipes that are currently nearing failure. If these repairs are not completed, disruptions in service can be expected, extensive emergency repair expenditures may be required, and the City may violate our environmental permits. In addition, an annual capital expenditure of approximately \$500,000 should be allocated for the Sewer Lateral Replacement Program, the Rain Drain Disconnection Program, and the Inflow Reduction Program. These programs help to reduce overflows and eliminate capacity issues in the collection system.

The level of funding described above is not a strong proactive, Perpetual Life Replacement program, but a minimum recommendation based on recent assessment of the approximately 220 miles of sewer pipelines. The funding level does not address other significant capital needs in the collection system. In addition to the need to replace failing sewer lines, there are major projects that will be necessary to allow further development of properties in a couple of sewer basins. These include the Cox Creek interceptor improvements and potential improvements to the Riverfront Interceptor (RFI). These and other projects are likely to cost in excess of \$20 million.

The Riverfront Interceptor (RFI) has wet weather capacity problems that came to light in December of 2010. An analysis was done on the RFI in conjunction with the WRF improvement project to evaluate its capacity. This analysis indicated that the RFI had the capacity to convey flows received during winter rains up to a 5-year storm. However, there have been multiple events that caused the pipeline to overflow during storms that were less than 5-year storms.

A sewer system computer modeling effort is currently underway to better define the issues with the RFI and to look at other capacity needs for the system through build out of the community.

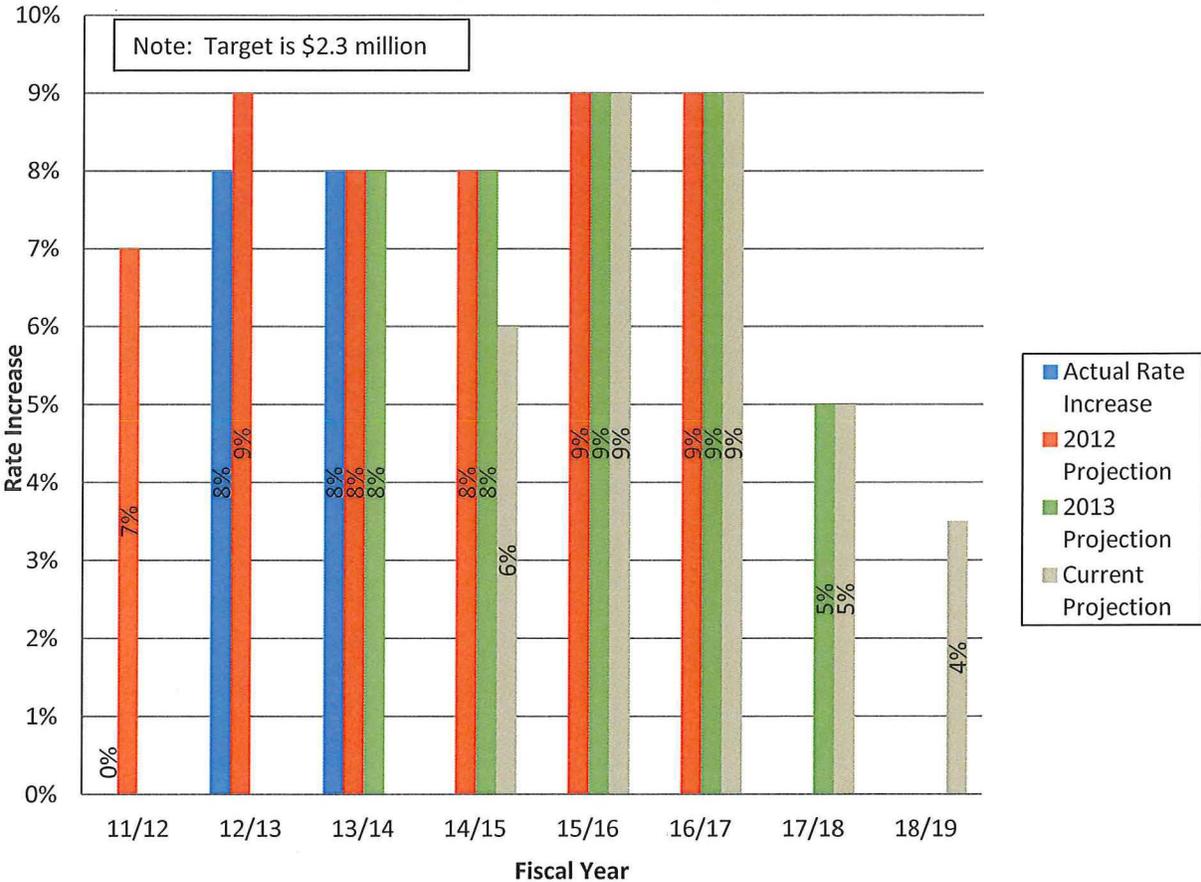
### Summary

A sewer rate increase of 6 percent (6%) is necessary effective July 2014. This rate increase will help the City to continue to build toward an adequately funded system to address the many challenges that are present. This rate increase is lower than the previously projected rate increase for this year.

Council may want to consider implementing the 8 percent (8%) rate increase that was previously projected in order to generate more capital in anticipation of the high cost for completing capacity improvements that are anticipated but not accounted for in the current funding and rate models.

The following graph compares the anticipated rate increases as projected in July of 2012 to the current projection for rate increases. It also shows the actual rate increases implemented in the past and proposed for this year.

# Five-year Rate Projection



ORDINANCE NO.

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE TITLE 7 BY AMENDING CHAPTER 7.90 PREVIOUSLY TITLED BUYING AND SELLING USED JEWELRY, GEM STONES, AND SILVERWARE AND RETITLING IT TO SECONDHAND DEALERS AND TRANSIENT MERCHANTS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Albany is amending Albany Municipal Code Section 7.90, previously titled Buying and Selling Used Jewelry, Gem Stones, and Silverware, and retitling it to Secondhand Dealers and Transient Merchants, to update the ordinance and reduce property crime in Albany; and

WHEREAS, by adopting the requirement for an electronic property management reporting system operations will be improved; and

WHEREAS, electronic reporting will ensure quality investigations and will identify repeat offenders; and

WHEREAS, it is in the best interest of public safety to identify regulated properties and prohibits activities that promote increased property crimes.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Amending Albany Municipal Code Title 7. The Albany Municipal Code Title 7 is hereby amended by expanding Chapter 7.9 formerly entitled Buying and Selling Used Jewelry, Gem Stones, and Silverware and retitling to Secondhand Dealers and Transient Merchants as follows:

Sections:

- 7.90.010 Purpose.
- 7.90.020 Definitions.
- 7.90.030 Special License Required.
- 7.90.035 Minimum Standards.
- 7.90.040 Application for Special License.
- 7.90.045 Surety Bond Required.
- 7.90.050 Issuance and Renewal of Special Permit.
- 7.90.070 Subsequent Locations.
- 7.90.080 Reporting of Secondhand Dealer Transactions.
- 7.90.090 Regulated Property Sale Limitations.
- 7.90.100 Tagging Regulated Property for Identification.
- 7.90.110 Inspection of Property and Records.
- 7.90.120 Prohibited Acts.
- 7.90.130 Penalties.
- 7.90.140 Revocation or Suspension of Permit.
- 7.90.150 Appeals.
- 7.90.155 Administrative Policies and Procedures.

2012 List of Regulated Property

**7.90.010 Purpose.**

The purpose of adopting this Chapter is to regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen property. Despite the best efforts of legitimate secondhand dealer businesses, this risk is present because these businesses process large volumes of goods and materials that are frequently the subject of theft. This Chapter is intended to reduce this type of criminal activity by

providing timely police awareness of such property transactions and by regulating the conduct of persons engaged in this business activity. These regulations are necessary and the need for the regulations outweighs the regulatory effect that may result from their adoption.

**7.90.020 Definitions.**

As used in this Chapter, unless the context requires otherwise:

1. “Acceptable identification” means either a current driver’s license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or two current United States, state- or local government-issued identification cards, one of which has a photograph of the seller.
2. “Acquire” means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales; consignments; memoranda between a Dealer and a private party seller; leases; trade-ins; loans; and abandonments. Any acquisition of regulated property by a Dealer will be presumed to be an acquisition on behalf of the Secondhand Dealer business. Notwithstanding the foregoing, “acquire” does not include:
  - a. Any loans made in compliance with state laws by persons licensed as pawnbrokers by the State of Oregon; or
  - b. Memoranda between a Secondhand Dealer and a person engaged in the business of selling regulated property.
3. “Business Location” means any physical location where the Dealer conducts business.
4. “Chief of Police” means the Chief of the Albany Police Department or his/her designee.
5. “Criminal conviction” refers to any offense defined by the statutes of the State of Oregon or ordinances of the City of Albany, unless otherwise specified. Any conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City of Albany, as specified herein, will be considered to be equivalent to one of such offenses if the elements of such offense for which the person convicted would have constituted one of the above offenses under the applicable Oregon statutes or City of Albany ordinance provisions.
6. “Dealer” or “Secondhand Dealer”
  - a. Means any:
    - (1) Sole Proprietorship, partner-ship, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that either:
      - (i) Acquires regulated property at or from business locations within the City of Albany, or on behalf of such a business regardless of where the acquisition occurs, or
      - (ii) Offers for sale regulated property.
    - (2) Pawnbroker licensed under the Oregon Pawnbroker’s Act, ORS 726.020, 726.990.
  - b. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period will be categorized as an “Occasional Secondhand Dealer.” The term “Dealer” in

this Chapter and all regulations herein refer to Secondhand Dealers, Occasional Secondhand Dealers and Pawnbrokers unless specifically stated otherwise.

- c. "Dealer" does not include:
- (1) A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(C)3 organizations; or
  - (2) A person whose only business transactions with regulated property in the City of Albany consist of the sale of personal property acquired for household or other personal use; or
  - (3) A person whose only business transactions with regulated property in the City of Albany consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.
7. "Held Property" means any regulated property that cannot be sold, dismantled or otherwise disposed of for a prescribed period of time as more specifically enumerated in Section 7.90.090.
8. "Investment purposes" means the purchase of personal property by businesses and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.
9. "Medication" means any substance or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.
10. "New" means anything conspicuously not used.
11. "Pawnbroker" means any business required by Oregon Revised Statute 726.040 to hold an Oregon pawnbroker's license. Pawnbrokers are required by Chapter 7.90 to have a Secondhand Dealer Permit. As a Dealer, all transactions occurring within their business (loans, buys, or consignments) are subject to all requirements within this Chapter unless otherwise stated.
12. "Person" means a natural person.
13. "Principal" means any person who will be directly engaged or employed in the management of the Secondhand Dealer business, including any owners and any shareholders with a five percent or greater interest in the company.
14. "Receive" means to take property into the inventory, possession, or control of a Dealer.
15. "Regulated property" means property of a type that has been determined by the Chief of Police or designee to be property that is frequently the subject of theft, including new items as defined in this section as well as used items such as precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, and household appliances. In order to enhance the Police Department's ability to reduce property crimes and recover stolen goods, a list of regulated property has been established and may be updated by June 30th of each year by the Chief of Police or designee. A copy will be kept on file in the Police Department.
16. "Remanufactured" means that an item has been altered to the degree that the main components are no longer identifiable as the original item.
17. "Seller" means any person who:

- a. Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or
  - b. Donates or abandons items of regulated property.
18. “Trade Show” means an event open to the public, held in a venue other than a Dealer’s business location, at which vendors of a specific type of merchandise may exhibit, buy, sell, or trade items that may include regulated property.
- Events commonly known as flea markets or swap meets, in which goods of many types are exhibited, sold or traded, are not considered trade shows for the purpose of this Chapter.
19. “Transaction Report” means the record of the information required by Section 7.90.080, transmitted to the Albany Police Department by the means required in Section 7.90.080.
20. “Transient Merchant” means any person:
- a. Engaged in the business of purchasing or acquiring regulated property from business locations within the City of Albany;
  - b. Engaged as an itinerant or temporary business under the provisions of the Albany Municipal Code, Chapter 5.10; and
  - c. Engaged in the business of purchasing such regulated property from any person not representing a business which is required to be issued a business license or special certificate under Chapter 5.10 of the Albany Municipal Code, and who appears with such articles at the Dealer’s place of business.
21. “Used” means anything that has been put into action or service.
22. “Electronic database” means the computerized record keeping system the Albany Police Department utilizes to manage data, including, but not limited to, Secondhand Dealers’ transaction reports.

**7.90.030 Special License Required.**

- 1. No person or business shall engage in, conduct or carry on a secondhand dealer business in the City of Albany without a valid Secondhand Dealer Special License issued by the City of Albany. A special license shall be required in addition to a business license or special certificate required by Chapter 5.10 of the Albany Municipal Code, or any other City license or permit.
- 2. Upon acquiring or offering for sale more than 50 items, of a total value over \$500.00, of regulated property during any one-year period, an Occasional Secondhand Dealer shall apply for and obtain a Secondhand Dealer Special License before acquiring any more items of regulated property.
- 3. Any person or business that advertises or otherwise holds him/her out to be acquiring or offering for sale regulated property within the City of Albany will be presumed to be operating as a Dealer subject to the terms of Chapter 7.90.
- 4. The sale of regulated property at events commonly known as “garage sales,” “yard sales,” or “estate sales” is exempt from these regulations if all of the following are present:
  - a. No sale exceeds a period of 72 consecutive hours; and
  - b. No more than three sales are held at the same location in any 12-month period.

**7.90.035 Minimum Standards.**

1. No person or business may operate as a Dealer within the City of Albany unless the person or business maintains a fixed physical business location.
2. Dealers shall comply with all applicable federal, state and local regulations.

**7.90.040 Application for Special License.**

1. An applicant for a Secondhand Dealer Special License shall complete and submit an application (including required personal history forms) that sets forth the following information:
  - a. The name, address, telephone number, birth date and principle occupation of all principles that will be directly engaged or employed in the management or operation of the business or the proposed business;
  - b. The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
  - c. The Web address of any and all Web pages used to acquire or offer for sale regulated property on behalf of the Dealer, and any and all Internet auction account names used to acquire or offer for sale regulated property on behalf of the Dealer;
  - d. Written proof that all principals are at least 18 years of age;
  - e. Each principal's business occupation or employment for the three years immediately preceding the date of application;
  - f. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 7.90;
  - g. A brief summary of the applicant's business history in any jurisdiction including:
    - (1) The business license or permit history of the applicant, and
    - (2) Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefore, and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation;
  - h. Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
    - (1) If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principle occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each.
    - (2) If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principle occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;

- i. If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;
  - j. All arrests or convictions of each principal enumerated in Subsection 1 of this Section;
  - k. Upon request, principals and employees shall submit to the Albany Police Department the following information: fingerprints, passport-size photographs, and a copy of the signature initials to be used by persons on transaction report forms. Principals and employees must submit new photos if requested to do so by the Albany Police Department;
  - l. Any other information that the Chief of Police or designee may reasonably feel is necessary to accomplish the goals of this Chapter.
2. The Secondhand Dealer shall notify the Chief of Police or designee of any changes in the information required in Subsection 1 of this Section within 10 business days.
  3. The personal and business information contained in the application forms required pursuant to Section 7.90.040 are subject to the requirements of the Oregon Public Records Law, ORS 192.410 et seq.

**7.90.045 Surety Bond Required.**

No person shall engage in business as a transient merchant until such merchant has filed with the City Recorder of the City a 10,000.00 dollar bond, with a surety company licensed to do business in the State of Oregon as surety, for the benefit of any person damaged by false, fraudulent, or misleading representations of the transient merchant in the conduct of his/her business.

**7.90.050 Issuance and Renewal of Special Permit.**

1. Upon the filing of an application for a Secondhand Dealer Special License, the Chief of Police or designee shall conduct an investigation of the applicant and all principals and employees listed according to the requirements in Section 7.90.040. The Chief of Police or designee shall issue the permit within 30 days of receiving the application if no cause for denial exists.
2. Except as provided in Section 7.90.050 the Chief of Police shall deny an application for a Secondhand Dealer Special License if any of the following apply:
  - a. The applicant, or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 7.90, and
    - (1) The license or permit for the business has been revoked and not reinstated for cause that would be grounds for revocation pursuant to Chapter 7.90, or
    - (2) The business has been found to constitute a public nuisance and abatement has been ordered;
  - b. Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below or has violated any section of Chapter 7.90. The offenses include:
    - (1) Any felony.

- (2) Any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft, or any attempt or conspiracy to commit any of the listed offenses;
  - c. The Chief of Police or designee finds by a preponderance of the evidence that the applicant or any principal has been convicted of any offense relating to fraud, theft or any attempt or conspiracy to commit theft, or any offense listed in Section 7.90.120;
  - d. The Chief of Police or designee finds by a preponderance of the evidence that the applicant or any principal who will be involved in the business has violated any law where the elements of such law are equivalent to the provisions of Chapter 7.90;
  - e. Any statement in the application is false or any required information is withheld; or
  - f. The Chief of Police or designee finds by a preponderance of the evidence that the applicant, or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 7.90 or any laws or statutes equivalent to the provisions of Chapter 7.90, and the business has violated applicable State, Federal or local requirements, including permitting requirements.
3. Notwithstanding Section 7.90.050, the Chief of Police may grant a permit after consulting with the City Council despite the presence of one or more of the enumerated factors if the applicant establishes to the Chief of Police's reasonable satisfaction that:
- a. The behavior evidenced by such factor is not likely to recur; or
  - b. The behavior evidenced by such factor is remote in time; or
  - c. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of Chapter 7.90.
4. Secondhand Dealer Special Licenses are valid for one year and expire at 12:00 a.m. on January 15th of each year. The permits are nontransferable and are valid only for a single business location. When the business location is to be changed, the permit holder shall provide the address of the new location in writing to the Chief of Police or designee for approval at least 14 days prior to the change.
5. Secondhand Dealer Special Licenses must be displayed at the business location in a manner readily visible to patrons.
6. Upon denial of an application for a Secondhand Dealers Special License, the Chief of Police or designee shall give the applicant written notice of the denial.
- a. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.
  - b. Mailing of the notice will be prima facie evidence of receipt of the notice.
  - c. The denial will be effective three days after the notice is sent.
7. Denial of a permit may be appealed to the Albany Municipal Court by filing written notice of an appeal within 10 days of the date of denial in accordance with Section 7.90.150.

**7.90.070 Subsequent Locations.**

- 1. Dealers must file an application for a permit for a subsequent or additional business location with the Albany Police Department; provided the information required for the subsequent or additional

business location is identical to that provided in the application for the prior location with the exception of that required by Section 7.90.040.

2. Secondhand Dealer Special Licenses issued for subsequent or additional business locations will be subject to all the requirements of this Chapter, and the term of the permit issued for a subsequent or additional location will expire on the same date as the initial permit.

**7.90.080 Reporting of Secondhand Dealer Transactions.**

1. Dealers shall provide to the Albany Police Department all required information as set forth by the Albany Police Department for each regulated property transaction (not including sales). The Chief of Police may designate the format for the transfer of this information and may direct that it be communicated to the Criminal Investigations Unit by means of mail, the Internet, or other computer media.
  - a. In any such case that the Chief directs that the information be transmitted via computer media, the Chief may also direct the system that will be utilized in order to ensure conformity among all Secondhand Dealers.
  - b. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, Dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a Dealer must submit a written request for additional time to the Chief of Police before the deadline.
  - c. Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.
  - d. Within three days of a purchase, a secondhand dealer shall report the transaction to the Police Department.
2. The Chief of Police may specify the format of the transaction report form. The Chief of Police may require that the transaction report form include any information relating to the regulations of this Chapter. Dealers may utilize their own forms, in lieu of those supplied by the Albany Police Department, if the Chief of Police has approved such forms. The Declaration of Proof of Ownership will be considered to be included in references in this Chapter to the transaction report form, as appropriate.

**7.90.090 Regulated Property Sale Limitations.**

1. Regulated property is subject to the following limitations:
  - a. Holding Period. Regulated property acquired by any Secondhand Dealer must be held for a period of 14 full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 14-day hold requirements of Section 7.90.090 because of the redeemable nature of the loans and the holding requirements in ORS 726. However, if the loan is converted to a buy by the pawnbroker within 14 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 14-day hold requirement. All other provisions of Section 7.90.090 remain in effect.
  - b. Requirements of Held Property. All held property must remain in the same form as when received, must not be sold, dismantled or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the Albany Police Department. Held property must be kept at the business location during this holding period so that it can be inspected during normal business hours (as provided in Section 7.90.110). Held property, other than property on Police Hold, may be held in a place within public view, as long as the

- other requirements of Section 7.90.090, Subsection 1.b, are met.
- c. Held property requirements do not apply if:
    - (1) The property is received from a Secondhand Dealer regulated by the City of Albany who has already satisfied the holding requirements of this Chapter and the Dealer records the original transaction report number on the transaction report completed for the new transaction; or
    - (2) If a customer, who originally purchased property from a Secondhand Dealer, returns it to that Dealer with the original receipt.
  2. Notwithstanding Section 7.90.090, the Chief of Police may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period and/or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in Section 7.90.120.
  3. Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any Dealer that a specifically described item of regulated property must be held in a separate Police Hold area for a period not to exceed 30 days from the date of notification, and is subject to the requirements of Section 7.90.090, Subsection 1.b, above. The hold may be extended an additional 30 days upon notice provided to the Dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The Dealer shall comply with the hold notice and notify the Albany Police Department Detective Unit of the hold notice no later than five calendar days from the day the notice was received, either by telephone, fax, e-mail or in person. A Dealer must notify the Detective Unit of his/her intent to dispose of any item of regulated property under Police Hold at least 10 days prior to doing so.
    - a. A Police Hold area must meet the following criteria:
      - (1) Located out of public view and access, and
      - (2) Marked "Police Hold," and
      - (3) Contain only items that have been put on Police Hold.
    - b. Dealers may maintain up to three Police Hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on Police Hold.
    - c. If it is not possible or practical to move an item to or store an item in the Police Hold area, a Dealer may submit a written request to the Chief of Police or his/her designee for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on Police Hold and kept from public view and access.
  4. Upon probable cause that an item of property is the subject of a crime, the Chief of Police or his/her designee may take physical custody of the item or provide written notice to any Dealer to hold such property for a period of time as determined by the Chief of Police, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements found in Section 7.90.090, Subsection 1.b, and will be maintained in the Police Hold area unless seized or released by the Police. Seizure of property will be carried out in accordance with Oregon Revised Statutes.
  5. If a Dealer acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the Dealer shall continue to hold the property at the business location for a period of 90 full days after acquisition. The Dealer must notify the Albany Police Department by writing "90 day hold" next to

the item on the transaction report or by an electronic means approved by the Albany Police Department. The held property must conform to all the requirements found in Section 7.90.090, Subsection 1.b.

6. If a Dealer receives information that leads to an objectively reasonable basis to believe that any property already at his/her business location has been previously lost or stolen, he/she must report that belief to the Albany Police Department by day's end. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.
7. If a peace officer seizes any property from a Dealer, the Dealer must notify the Albany Police Department of the seizure no later than five calendar days from the day the seizure occurs. The Dealer must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Albany Police Department may be given by telephone, fax, email, or in person.

#### **7.90.100 Tagging Regulated Property for Identification.**

Dealers shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for that item or be referenced to the transaction report required by the Albany Police Department. After the holding period has expired, the transaction number must remain identifiable on the property until the sale of the property.

1. After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.
2. After the applicable holding period has expired, items that are remanufactured need not remain tagged.

#### **7.90.110 Inspection of Property and Records.**

Upon presentation of official identification, a Dealer shall allow any representative of the Albany Police Department to enter the business location to ensure compliance with the provisions of Chapter 7.90. The inspection will be for the limited purpose of inspecting the business location, regulated property, and related records as provided in this Chapter. Except by mutual agreement with the Dealer or by court order, any inspection under this Section may occur only during the Dealer's normal business hours.

#### **7.90.120 Prohibited Acts.**

1. It is unlawful for any person regulated by Chapter 7.90:
  - a. To receive any property from any person:
    - (1) Known to the principal, employee or Dealer to be prohibited from selling by a court order,
    - (2) Under the age of 18 years unless the person's parent or guardian completes the applicable information on the Declaration of Proof of Ownership,
    - (3) About whom the principal, employee or Dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past 10 years whether the person is acting in his/her own behalf or as the agent of another who meets the above criteria;
  - b. To receive property prohibited by this Chapter, including:
    - (1) Medications,

- (2) Gift cards, in-store credit cards, or activated phone cards,
  - (3) Property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible;
2. Any violation of Chapter 7.90 is punishable, upon conviction, by a fine of not more than \$2,500.00 and a jail sentence of up to one year.

**7.90.130 General Penalties**

Any violation of Chapter 7.90 shall be deemed a misdemeanor as provided under Chapter 1.04, subsection 010 through 020, unless the City requests it to be treated as a violation.

1. Violation- a civil penalty of not more than \$1,000.00 or such sum as may be provided in the ordinance defining the offense.
2. Misdemeanor- a fine of not more than \$2,500.00 or imprisonment not to exceed one year, or both such fine and imprisonment.

**7.90.140 Revocation or Suspension of Permit.**

1. Along with the other regulatory enforcement authority granted under this Chapter, the Chief of Police may, after consulting with the City Council, revoke or suspend any permit issued pursuant to this Chapter:
  - a. For any cause that would be grounds for denial of a permit; or
  - b. Upon finding that any violation of the provisions of this Chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location by the Dealer or any principal or employee engaged or employed in the management or operation of the business location; or
  - c. A lawful inspection has been refused; or
  - d. If payment of civil penalties has not been received by the City of Albany within 10 business days after the penalty becomes final; or
  - e. If any statement contained in the application for the permit is false.
2. The Chief of Police, upon revocation or suspension of any permit issued pursuant to this Chapter, shall give the Dealer written notice of the revocation or suspension.
  - a. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
  - b. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.
3. Revocation will be effective and final 15 days after the giving of notice unless the revocation is appealed in accordance with Section 7.90.150.
4. Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days.

**7.90.150 Appeals.**

1. Any Dealer or person whose initial application or renewal application for a Secondhand Dealer Special License has been denied, or whose license has been revoked or suspended, may appeal the

action of the Chief of Police or his designee to the Albany Municipal Court.

2. The filing of a notice of appeal of revocation or suspension of a permit, or of a civil penalty imposed by the Chief of Police under this Chapter, will stay the effective date of the action until the Albany Municipal Court Judge has issued an opinion.

**7.90.155 Administrative Policies and Procedures.**

1. The City Council shall grant the Chief of Police the authority to change, modify or adjust the Definition of Regulated Property list, Completion of Secondhand Dealers Report, or other sections specified in this Chapter.
2. The Chief of Police shall make available and publish a new Regulated Property List and by June 30th of each year. If no modifications are made, the previous year's Regulated Property list will remain in effect.

**2014 List of Regulated Property**

1. Used Items

- a. Precious metals;
- b. Precious gems;
- c. Watches of any type and jewelry containing precious metals or precious gems;
- d. Sterling Silver including, but not limited to, flatware, candleholders, salt and pepper shakers, coffee and tea sets or ornamental objects;
- e. Audio equipment;
- f. Video equipment;
- g. Other electronic equipment including, but not limited to: global positioning systems (GPS), electronic navigation devices or radar detectors;
- h. Photographic and optical equipment;
- i. Electrical office equipment;
- j. Power equipment and tools;
- k. Automotive and hand tools;
- l. Telephones, telephone equipment or cellular telephones;
- m. Power yard and garden tools;
- n. Musical instrument and related equipment;
- o. Firearms including, but not limited to, rifles, handguns, shotguns, pellet guns or BB guns;
- p. Sporting equipment;
- q. Outboard motors, and boating accessories;
- r. Household appliances, valued over \$50.00 retail value;
- s. Entertainment media such as Blu-Ray discs, DVD's, DVD boxed sets, Video Game Cartridges, etc;
- t. Property that is not purchased by a bona fide business for investment purposes, limited to:
  - (1) All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency whose intrinsic, market or collector value is greater than the apparent legal or face value;
  - (2) Postage stamps, stamp collections and philatelic items whose intrinsic market or collector value is greater that the apparent legal or face value.
- u. Computers and computer related software and equipment;

2. New items

- a. New items purchased from a licensed business shall be exempt from regulation under Chapter 7.90 if the Dealer has a bill of lading, receipt, invoice or the equivalent for the new items.
- b. Items acquired from a manufacturer, manufacturer's representative or distributor that are discontinued or have been used for display or demonstration but not previously sold are new and exempt from regulation under Chapter 7.90.

Section 2. Emergency Clause. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

Passed by Council: \_\_\_\_\_

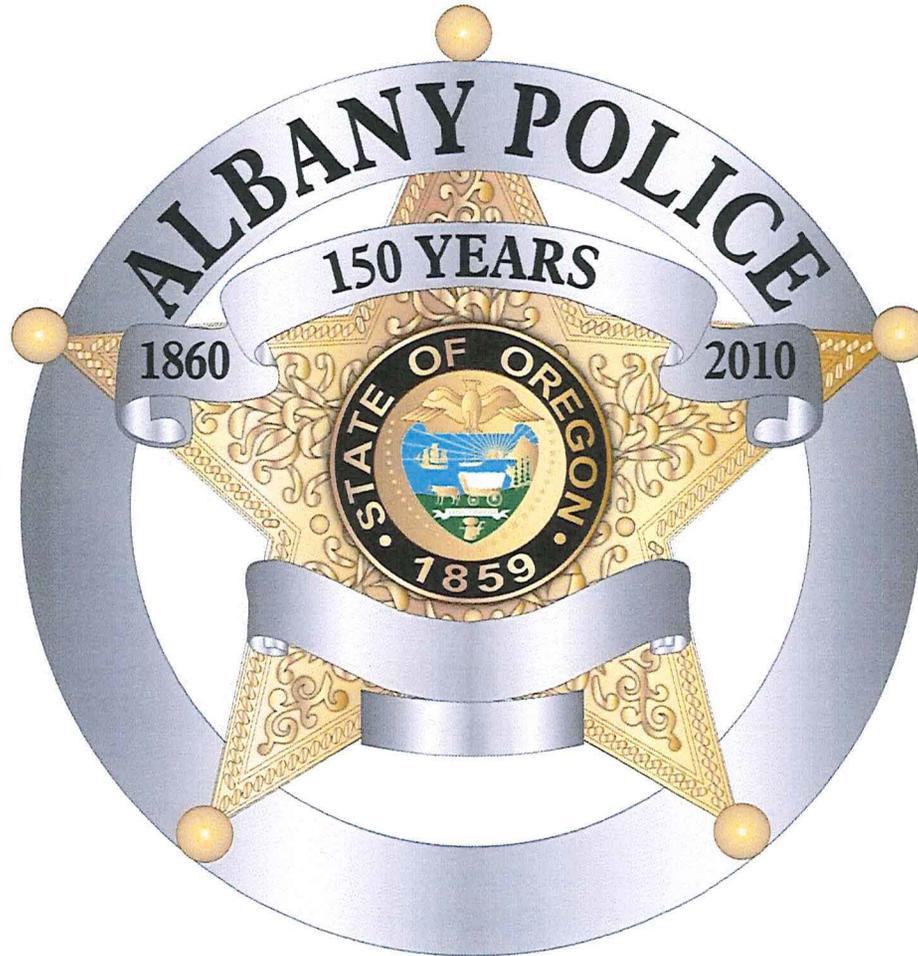
Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder



**Albany Municipal Code 7.90.010 through 7.90.030**

- Adopt LeadsOnline
- Proposed Ordinance changes

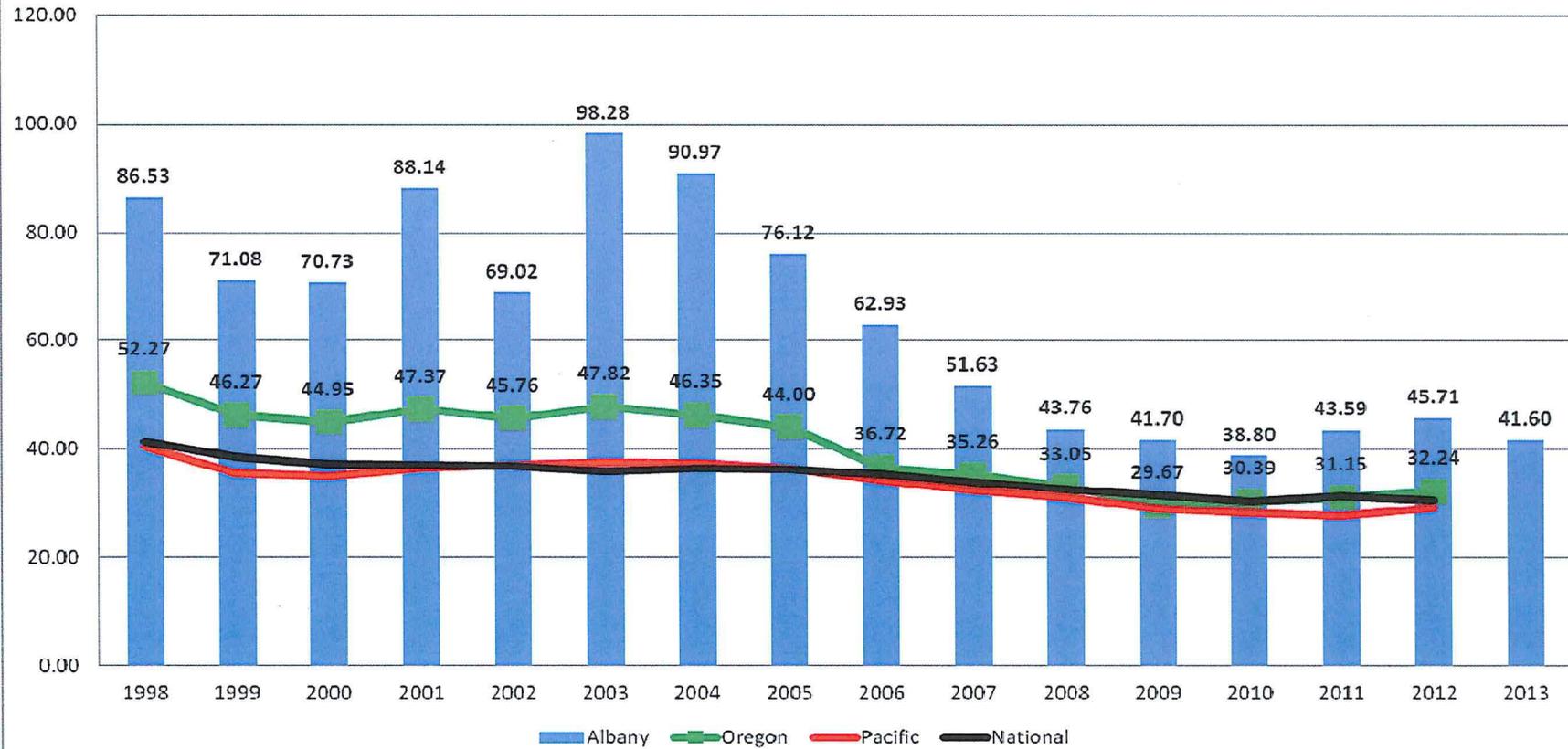
## **Our Departmental goal:**

Reduce the higher than average level of property crime in Albany

## **Achieving Our Objective:**

- 1) Update the Albany Municipal Code
- 2) Adopt an electronic property management database
- 3) Improve communication with the City Attorney's Office to ensure a quality investigation is provided for prosecution
- 4) Identify repeat offenders for enhanced prosecution

## Part I Property Crime (Per 1000 Inhabitants)



Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Property Rate: Albany to OR	65.54%	53.62%	57.34%	86.07%	50.82%	105.52%	96.26%	73.01%	71.37%	46.43%	32.39%	40.53%	27.69%	39.93%	41.78%

# Definitions

- **Pawnshop**-a business which offers loans based on value of property items pledged as collateral. Ownership of pledged item reverts to business if loan is not paid off within a specified time.
- **Secondhand Dealer**-a business/person which buys new or used property for resale.
- **Precious metal/collectible buyers**-a business which purchases coins, jewelry, collectibles, antiques for resale.
- **NCIC-National Crime Information Center**-nationwide FBI database containing criminal record history, information, fugitives, stolen property, missing persons and so on.
- **Pledgor**- person offering item for cash loan to a pawn shop.
- **Pledged item**- property offered as security for cash loan.

## **Current Albany Municipal Code, Chapter 7.90**

### **Buying and Selling Used Jewelry, Gem Stones, and Silverware**

#### **7.90.010 Definitions.**

- For the purposes of this chapter the following definitions apply:
- (1) A “person engaged in the business of buying or selling used jewelry, gem stones, or silverware” shall be defined as any corporation, business, partnership, or person who commercially trades in used jewelry, gem stones, or silver or silver-plated hollowware or flatware having an aggregate value **of more than \$500.00 in any calendar year**. This definition does not include natural persons whose purchases are for his/her personal use or for the purpose of making gifts to others.
- (2) “Used” means any item that has been sold, bargained, exchanged, given away, or has had its ownership transferred from the person who first acquired the item from the manufacturer or a wholesaler, and so used to have become what is commonly known as “secondhand” within the ordinary meaning of that term.
- (3) “Jewelry” means any object made of precious metal and/or gem stones or artificial substitutes therefore which are customarily worn on the human body for personal adornment. (**Ord. 4722, 1986**).

#### **7.90.020 General record keeping requirement.**

- Any person engaged in the business of buying or selling used jewelry, gem stones, or silverware shall keep and maintain for a period of one year a written record of the purchase of any such items **on a form to be supplied for such purpose by the City of Albany** and shall make that record available for inspection and copying upon the demand, during regular business hours, of any law enforcement officer. The written record shall require an answer to all questions posed on the form and shall be signed by the seller or his/her agent and shall be complete in all respects. (**Ord. 4722, 1986**).

#### **7.90.030 Items purchased to be held for 10 days.**

- No person engaged in the business of buying or selling used jewelry, gem stones, or silverware shall sell, trade, alter, destroy, or in any manner fail to maintain possession of any of the above-described property **for a period of 10 days following receipt** thereof. (**Ord. 4722, 1986**).

## Problems with current ordinance

- Last updated in 1986
- One page
- Per the ordinance, the Police Department is to issue forms for record keeping
- Does not conform to current Oregon Revised Statutes or Administrative Rules
- Does not address new technology and changes in technology-e.g. cell phones, computers
- Does not include pawnshops, secondhand dealers or precious metal buyers

**Oregon Revised Statute  
Chapter 726  
Pawnbrokers**

**Oregon Administrative  
Rules  
Division 740**

Only applicable to businesses identified as Pawnbrokers and does not include Second hand dealers.

**Oregon Revised Statutes**

- Delivery of records to police w/in 3 days of transaction
- Licensing required
- Prohibited transactions
- Required Contents of Pawn ticket

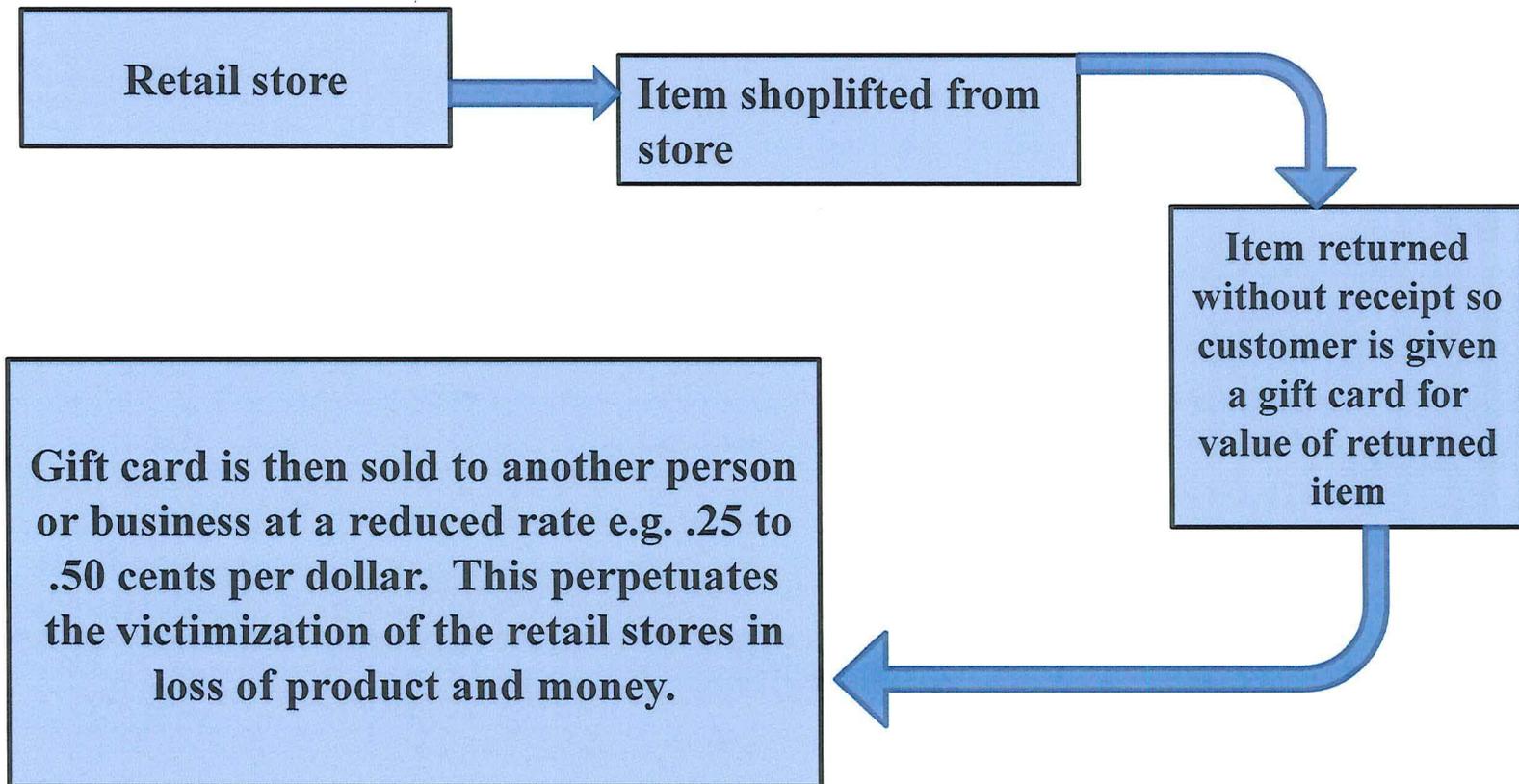
**Oregon Administrative Rules**

- Security requirements
- Description of pledged items
- Annual reporting to State of Oregon

# Proposed changes

- Updated ordinance-adopted from Tigard:
  - Similar ordinances in effect in the Salem and Portland Metro area
  - Identified list of regulated property
  - Includes secondhand dealers
  - Mandates use of electronic reporting
  - 14 day retention of regulated property
  - Prohibits activity such as the purchase of gift cards or items with altered serial numbers

# Common method of theft Gift Cards



## SECONDHAND DEALER REPORT

NAME: [REDACTED]

C U S T O M E R	SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE	STORE NAME	EMP. INIT.
	DRIVER'S LICENSE OR ID.			STATE	VEHICLE LICENSE AND STATE			DATE	TIME
								04/12/12	
I T E M	ADDRESS							AMOUNT	TRANSACTION
	[REDACTED]							20.00	BUY
	MAKE				MODEL				
	SERIAL NO.				CAL/GAUGE				
HANDGUN		RIFLE		SHOTGUN		REVOLVER		PUMP	
SEMI-AUTOMATIC		SINGLE ACTION		BOLT ACTION		DBL. BARREL		LEVER ACTION	
ARTICLE		GIFT CARD		BRAND NAME					
SERIAL NO.				MODEL					
PROPERTY DESCRIPTION									
[REDACTED]									
<p style="text-align: right;"><b>WARNING:</b> Knowingly selling stolen property constitutes a felony and violators will be prosecuted</p>									
CUSTOMER'S SIGNATURE									

This is an actual pawn slip reporting a gift card purchase on 04/12/2012 by a local business.

# Current report process

1. Pawn shops provide paper reports
2. Reports picked up by Detective clerk or Officer
3. It requires 20 hours of work, weekly, to run serial numbers of items pawned to search for stolen items
4. Paper records scanned into Laser fiche instead of records storage.
5. Hand search required to retrieve specific sale data.

# Adopt a Property Management database



Login

Register

Support: 1-800-311-2656

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Try LeadsOnline  
Free For 30 Days



## Golden Cat Award

Awarded in Arkansas and Mississippi  
for impactful investigative work in  
the fight against metal theft.



LEADSONLINE

**LEADERSHIP  
CONFERENCE**

S A N A N T O N I O

# Benefits of Leads Online

- No paper required, all records are electronic
- Serial numbered items are run through NCIC, which is the nationwide system of crime data and stolen items, by LeadsOnline.
- Police receive notification of hit on stolen item
- Seller identification required
- All transaction data is available online through LeadsOnline
- Software is free to businesses
- ACE Buyers and Cash House currently report to LeadsOnline
- The Linn County Sheriff's Office currently subscribes to LeadsOnline

# Recent APD Use of LeadsOnline

- **14-3790 02/24/2014**

Property from a burglary in Seaside, Oregon is located in a pawnshop in Albany, pawned by suspect. Some of the items were sold within ten days of purchase because there is no required retention period.

- **14-2250 02/02/2014**

A home owner discovers five guitars are stolen and a check of LeadsOnline, through LCSO, reveals a person known to the homeowner had stolen and pawned the guitars.

- **13-5055 03/20/2013**

I located a bicycle at an abandoned residence and seized it-it did not belong to the surroundings. It is later learned that two bicycles were stolen from a residence. The second bicycle had been sold to a pawnshop by a male and then re-sold within several days, preventing retrieval of the bicycle. The missing bicycle is still entered as stolen in LEDS [State] and NCIC [National] databases.

# Albany-11<sup>th</sup> Largest City in Oregon

List of top 11 cities in by population.

	<b>City</b>	<b>[2013] Population</b>	<b>Pawn Ordinances</b>	<b>Hold time</b>
1	Portland	586,776	Yes	30 days
2	Eugene	156,185	Yes	14 days
3	Salem	154,637	Yes	14 days
4	Gresham	105,594	Yes	15 days
5	Hillsboro	91,611	Yes	15 days
6	Beaverton	89,803	Yes	25 days
7	Bend	76,639	Yes	7 days
8	Medford	74,907	Yes	5 days*
				moving to 15 days*
9	Springfield	59,403	Yes	7 days
10	Corvallis	54,462	Yes	15 days
11	<b>Albany</b>	<b>50,158</b>	<b>No</b>	<b>10 days*</b>
				<b>Proposed 14 days</b>

# Business exemptions

- Yard/Garage/Estate sales limitations:
  - Not to exceed 72 consecutive hours
  - No more than three sales at the same location per 12 month period
- Businesses designated as 501 (c) 3 :
  - e.g.-Good Will, Salvation Army, St. Vincent's, Helping Hands, Teen Challenge
- A person whose only business transactions with regulated property in the City of Albany consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.  
[e.g. Saturday Market]

## Businesses falling under new Ordinance

- ACE Buyers
- Cash House
- Albany Guns & Gold
- Jewelry stores which buy gold and other precious metals/gems
- Best Buyers
- The Albany Antique Mall
- CNS Firearms
- Cascade Coins and Jewelry

## References:

- Oregon Revised Statutes, Chapter 726, 2013 Edition, Pawnbrokers
- Oregon Revised Statutes, Chapter 166.410, 2013 Edition, Firearm Transactions record, criminal records check, rules
- Oregon Administrative Rules, Chapter 441-740-0000
- Albany Municipal Code, Chapter 7.90. Buying and Selling Used Jewelry, Gem Stones, and Silverware  
Chapter 5.10 Transient and Itinerant Merchants and Vendors
- Tigard Municipal Code, Chapter 7.70 Secondhand Dealer and Transient Merchants [Source Document]
- Clackamas County Ordinance, Chapter 8.03 Secondhand Dealers
- Portland Municipal Ordinance, Chapter 14B.90 Secondhand Dealers
- Eugene Municipal Code, Chapter 4-109 Used Merchandise Dealer
- Hillsboro Municipal Code, Chapter 5.20
- Bend Municipal Code, Chapter 7.25, Secondhand Dealers and Pawn Brokers
- Gresham Revised Ordinance, Chapter 9.15, Precious Metal and Gem Dealers and Secondhand Dealers Ordinance
- Beaverton Municipal Code 7.10, Second Hand Dealers
- Medford, Chapter 8.105 to 8.165, Pawnbrokers and Secondhand Dealers
- Salem Municipal Code 31.750, Pawnbrokers and Secondhand Dealers
- Springfield Municipal Code, Antique/Secondhand Dealers, Chapter 7.100

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE TITLE 7 BY ADDING A NEW SECTION 300 TO CHAPTER 7.84 ENTITLED IMPROPER USE OF TRANSIT SHELTERS AND DECLARING AN EMERGENCY.

WHEREAS, the City of Albany is adding Albany Municipal Code Section 7.84.300, Improper Use of Transit Shelters, to improve City transit service for the public at bus shelters and the train depot making it safe, cost-effective and efficient; and

WHEREAS, only persons who are boarding, disembarking or waiting for public transportation and have tickets are allowed to remain upon or occupy public transit shelters; and

WHEREAS, no person shall place object(s) or substance(s) on the seats of any transit shelter and will not lie down on or across seats or floors when it inhibits, obstructs or blocks the proper use of such seats; and

WHEREAS, it is in the best interest of public safety to maintain safe and orderly transit shelters.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Amending Albany Municipal Code Title 7. The Albany Municipal Code Title 7 is hereby amended in Chapter 7.84 with Section 7.84.300 entitled Improper Use of Transit Shelters as follows:

Sections:

7.84.310	Purpose.
7.84.320	Definitions.
7.84.330	Improper Use of Transit Shelter.
7.84.340	Exclusions.
7.84.350	Issuance of Exclusion Notice.
7.84.360	Procedure for Exclusion.
7.84.370	Appeal and Variance

**7.84.310**      **Purpose.**

The purpose of this Chapter is to provide for the safety, convenience, and comfort of transit passengers, for safety of City of Albany personnel, for the preservation of service quality in the City's ability to provide a cost-effective source of reliable transportation, and to prevent transit system security vulnerabilities. Therefore, it is necessary to establish rules and regulations governing conduct on City of Albany property.

**7.84.320**      **Definitions.**

"Transit Shelter" shall mean any and all City-owned or managed bus shelters, train shelters, non-covered bench areas related to bus or train transportation and the train depot.

**7.84.330**      **Improper Use of Transit Shelter**

No person shall:

- (1) Enter or remain upon, occupy or use a bus shelter for purposes other than boarding, disembarking or waiting for an approved City bus service;
- (2) Enter or remain upon, occupy or use the Train Depot, adjacent buildings including, but not limited to, interior or exterior seating areas for purposes other than boarding, disembarking or waiting for transit service;

- (3) Lie down on or across the seats or the floor of a bus shelter or train depot seating;
- (4) Remain in or within 20 feet of a bus shelter or train depot seating for a period in excess of one hour within a twenty-four hour period; however, a person in possession of a paid or issued train ticket for the date of the alleged violation of this ordinance shall be exempt from this sub-section up until the departure time as stated on the ticket or as may be modified by the service operator;
- (5) Place any object or substance on the seats of a bus shelter or train depot seating that inhibits the proper use of such seats; or
- (6) Block or obstruct the use of the seats or floor area of a bus shelter or train depot seating.

#### **7.84.340 Exclusions**

In addition to other measures provided for in violation of this section, any other Albany Municipal Code Ordinance, or the laws of the State of Oregon, the City may exclude an individual from any or all transit shelters for a violation of any provision of this section, or a violation of any criminal law of the State of Oregon while in or within 20 feet of a transit shelter for a period not to exceed 180 days.

#### **7.84.350 Issuance of Exclusion Notice**

The Chief of Police is designated as the person in charge of civil exclusion zones for the purpose of issuing exclusion notices in accordance with this chapter. The Chief of Police may authorize employees of the Albany Police Department to issue exclusion notices in accordance with this chapter.

#### **7.84.360 Procedure for Exclusion**

Upon the first violation of this ordinance, a party may be verbally warned of the offense. Upon a second violation within a twelve- (12) month period, a person in violation may be excluded from all transit shelters for a period of 90 days. All subsequent violations will carry a 180-day exclusion from the date of the violation.

At the time a person is verbally warned, cited to appear, arrested or otherwise taken into custody for violating any of the offenses specified herein, the officer making such warning, arrest or citation may deliver to that person a written notice excluding that person from any or all transit shelters and the area within 20 feet of the shelter. The exclusion shall take place immediately and apply to all City-owned transit shelters. A violation of a second or subsequent offense of this ordinance may result in a charge of Criminal Trespass in the Second Degree (ORS 164.245).

The notice shall specify the area from which the person is excluded, the length of the exclusion, the penalty for entering the excluded area and contain information concerning the right to appeal the exclusion to the Judge of the Municipal Court.

#### **7.84.370 Appeal and Variance**

- (1) The person to whom an exclusion notice is issued shall have the right to appeal the issuance of the notice. The exclusion notice will notify the person of the right to appeal and the process for such appeal.
  - (a) An appeal of the exclusion must be filed, in writing, within five (5) business days from the date of the issuance of the notice of exclusion. The appeal must be filed with the Municipal Court. A hearing on the appeal shall be held before the Judge of the Albany Municipal Court. The exclusion shall be stayed during the pendency of the appeal.
  - (b) The City shall have the burden to show by a preponderance of evidence that the exclusion was based upon the conduct proscribed in the citation. Copies of documents in its control and which are intended to be used by the City at the hearing shall be made available to the

- appellant upon written request prior to the hearing.
- (c) A determination by a court having jurisdiction of the matter that the officer who issued the exclusion notice at the time had probable cause to arrest or cite the person to whom the exclusion notice was issued for the conduct described therein shall be prima facie evidence that the exclusion was based on conduct prohibited by those statutes.

- (2) An individual with a disability who is transit-dependant shall not be issued a complete exclusion from the transit shelters unless the person engaged in violent, seriously disruptive or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if the Albany Municipal Court determines that a violation was more probable than not, the Albany Municipal Court shall order a qualified exclusion to permit the person with a disability to use the transit system for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services.

Any person asserting the right to a qualified exclusion on the basis of transit dependence shall have the burden of establishing transit dependence by a preponderance of the evidence.

- (3) Any variance may be granted at any time during the exclusion period by the Chief of Police, his or her designee or by the Municipal Court.
- (4) All variances shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated in the variance.
- (5) The person shall keep the variance on his or her person at all times the person is within the area of exclusion.
- (7) In the event a person is found to be outside the scope of the terms of the variance, the variance shall immediately become void and that person is subject to arrest for the crime of Criminal Trespass in the Second Degree (ORS 164.245) and/or Interfering with Public Transportation (ORS 166.116).

Section 2. Emergency Clause. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder