NOTICE OF PUBLIC MEETING
CITY OF ALBANY
CITY COUNCIL
Council Chambers
333 Broadalbin Street SW
Wednesday, November 9, 2016
7:15 p.m.

Revised

AGENDA

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."

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.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. PROCLAMATIONS
   a. Small Business Saturday. [Page 3]
   Action: _____
   b. Albany Charitable Toy Run. [Page 4]
   Action: _____

5. SCHEDULED BUSINESS

   a. Business from the Public

   b. First Reading of Ordinances
   1) Amending Albany Municipal Code (AMC) Title 18, Building Code Administration and Property Maintenance. [Pages 5-8]
   Action:_____ ORD. NO._____
   2) Amending Albany Municipal Code (AMC) Chapter 7.08, Disorderly Conduct, by deleting Subsection 7.08.050(1). [Pages 9-10]
   Action:_____ ORD. NO._____
   3) Amending Albany Municipal Code (AMC) Chapter 7.84, Public Nuisances. [Pages 11-21]
   Action:_____ ORD. NO._____
   4) Amending Albany Municipal Code (AMC) Chapter 9.04, Maintenance of Property, by creating new Section 9.04.045, Unsanitary Conditions. [Pages 22-24]
   Action:_____ ORD. NO._____
   5) Amending Albany Municipal Code (AMC) Chapter 18.30, Property Maintenance, Section 18.30.105, Excessive Vegetation. [Page 25]
   Action:_____ ORD. NO._____
   6) Amending Albany Municipal Code (AMC) Title 7 by adding new Chapter 7.83, Derelict Structures. [Pages 26-30]
   Action:_____ ORD. NO._____
   7) Amending Albany Municipal Code (AMC) Title 7 by adding new Chapter 7.85, Chronic Nuisance Property. [Pages 31-37]
   Action:_____ ORD. NO._____
   8) Amending Albany Municipal Code (AMC) Chapter 13.21.160, Methods of Charging Parking Violations. [Handout available at meeting.]
   Action: _____ ORD. NO._____
   9) Amending Section 5.08.026 of the Albany Municipal Code establishing regulations for recreational marijuana uses and facilities in the City of Albany. [Handout available at meeting.]
   Action: _____ ORD. NO._____

   c. Adoption of Resolutions
   1) Authorizing the Fire Department to apply for the U.S. Department of Homeland Security Fiscal Year 2016 Assistance to Firefighters Grant on behalf of Albany Fire Department, Lebanon Fire District, and Tangent Rural Fire Protection District to purchase a bariatric-equipped ambulance for the shared ALS Single-role Medic Unit program. [Pages 38-39]
   Action:_____ RES. NO._____

Adoption of Resolutions ***continued***

2) Setting rates for stormwater management services. [Pages 40-47]
Action:_____ RES. NO._____

3) Setting rates for water use and repealing Resolution No. 6411. [Pages 40-41 and 48-52]
Action:_____ RES. NO._____

4) Setting rates for wastewater system use and repealing Resolution No. 6498. [Pages 40-41 and 53-62]
Action:_____ RES. NO._____

d. Adoption of Consent Calendar

1) Approval of Minutes
   a) September 26, 2016, Work Session minutes. [Pages 63-64]
   b) September 28, 2016, Regular Session minutes. [Pages 65-73]

2) Approving application and accepting and appropriating funds for the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant on behalf of the Mid-Valley Local Emergency Planning Committee for a hazardous materials response exercise and responder training. [Pages 74-75] RES. NO._____

3) Accepting and appropriating funds for the Fiscal Year 2016-17 State Homeland Security Grant for training and disaster response equipment for the community emergency response team at the Linn-Benton Community College campus. [Pages 76-77] RES. NO._____

4) Readopting the Investment Policy and repealing Resolution No. 6459. [Pages 78-91] RES. NO._____

5) Readopting the Risk Management Policy and repealing Resolution No. 6460. [Pages 92-98] RES. NO._____

6) Readopting Financial Policies and repealing Resolution No. 6461. [Pages 99-105] RES. NO._____

7) Linn Interagency Narcotics Enforcement (LINE) Intergovernmental Agreement. [Pages 106-119]
Action: _____

e. Appointment

1) Appointing Steven Borst to the Library Board. [Pages 120-122]
Action: _____

f. Report

1) Reclassifying one Planner II position to Planner III in the Community Development Department. [Page 123]
Action: _____

2) Adding a regular part-time Maple Lawn Preschool Instructor position in the Parks & Recreation Department. [Page 124]
Action: _____

3) Intergovernmental agreement with City of Adair Village for webmaster services. [Handout available at meeting.]
Action: _____

6. BUSINESS FROM THE COUNCIL

7. NEXT MEETING DATE: Work Sessions: Wednesday, November 14, 2016 – ***tentative***; and
Monday, December 5, 2016
Regular Session: December 7, 2016

8. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

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

PROCLAMATION

SMALL BUSINESS SATURDAY

November 26, 2016

WHEREAS, Albany celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are currently 28.8 million small businesses in the United States; and they represent 99.7 percent of all businesses with employees in the United States and are responsible for 63 percent of net new jobs created over the past 20 years; and

WHEREAS, small businesses employ over 49 percent of all businesses with employees in the United States; and

WHEREAS, 89 percent of consumers in the United States agree that small businesses contribute positively to the local community by supplying jobs and generating tax revenue; and

WHEREAS, 87 percent of consumers in the United States agree that small businesses are critical to the overall economic health of the United States; and

WHEREAS, 93 percent of consumers in the United States agree that it is important for people to support the small businesses that they value in their community; and

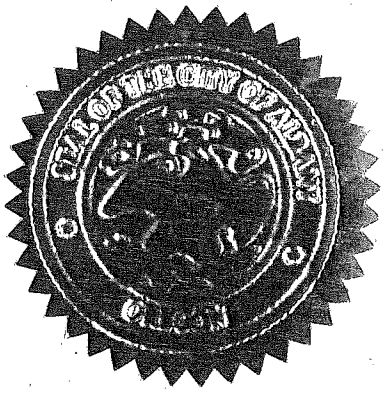
WHEREAS, Albany, Oregon, supports our local businesses that create jobs, boost our local economy, and preserve our neighborhoods; and

WHEREAS, advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW, THEREFORE, I, Sharon Konopa, Mayor of the City of Albany, do hereby proclaim November 26, 2016, to be

Small Business Saturday

and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Albany to be affixed this 9th day of November 2016.

Sharon Konopa, Mayor

PROCLAMATION

ALBANY CHARITABLE TOY RUN

December 4, 2016

WHEREAS, the Association for Motorcyclists of Oregon has been sponsoring a Toy Run since 1984 to gather together members of motorcycle groups, car clubs, and interested individuals to provide toys to needy families; and

WHEREAS, there are families with children in the Albany area that will not enjoy a full Christmas due to financial hardship; and

WHEREAS, a group of people continue the tradition of having the annual toy run because of all the good work and fellowship; and

WHEREAS, businesses and groups around the area help to sponsor the Toy Run, such as the Fraternal Order of Eagles 225 Aerie, Walmart, Road Maggots, Christian Motorcycle Riders, and the Cutting Room; and

WHEREAS, on December 4, 2016, the Toy Run and parade will again be conducted with a gathering at the Walmart parking lot and a ride to the Eagles Aerie for gift distribution and lunch.

NOW, THEREFORE, I, Sharon Konopa, Mayor of the City of Albany, do hereby proclaim December 4, 2016, as the

Albany Charitable Toy Run Day

and urge all citizens of Albany to recognize that day as a time of sharing and giving by motorcyclists and others and to be aware of their motorcycles on our streets and highways while they ride to provide a happier holiday season to families and children.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Albany to be affixed this 9th day of November 2016.

Sharon Konopa, Mayor

TO: Albany City Council

VIA: Wes Hare, City Manager
Jeff Blaine, P.E., Public Works Engineering and Community Development Director JB

FROM: Gary Stutzman, Building Official GS.

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Revisions of AMC Title 18

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Staff recommends City Council approve the attached Ordinance updating the Albany Municipal Code (AMC).

Discussion:

Every four years, the City of Albany is required to renew its operating agreement with the State Building Codes Division, to allow us to continue providing building inspection services. As part of the renewal, we need to ensure the Building Division's Operating Plan and the AMC reflect recent legislative changes that affect operations. While day-to-day practices and fee schedules have been changed over the past four years to keep abreast of required changes, the AMC has not. Three sections of the AMC require amendment: Section 18.06.100 Investigation, Section 18.08.090 Certificate of occupancy, and Section 18.14.040 Appeal procedures. These amendments will remove previous double permit fee provisions, which have been replaced with an actual or average cost provision; update the way certificates of occupancy are obtained for residential one- and two-family dwellings; and make minor changes to the Building Board of Appeals appeal process, allowing a direct path to the State of Oregon for appeal.

Budget Impact:

None. These changes have been implemented with previously approved fee schedule changes.

GS:rk
Attachment

ORDINANCE NO._____

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) TITLE 18 BUILDING CODE ADMINISTRATION AND PROPERTY MAINTENANCE.

WHEREAS, from time to time it is appropriate to amend the Albany Municipal Code based on changing conditions; and

WHEREAS, the City Council believes that it is timely to update, revise, and clarify Title 18 of the Municipal Code; and

WHEREAS, ORS 455.058 implemented changes to the investigation fees that can be charged for work being performed without building permits; and

WHEREAS, OAR 918-008-0120 clarifies the process by which a person aggrieved by the Building Official's decision on the application of the State Building Code may appeal to either the local jurisdiction's appeals board or the state specialty code chief; and

WHEREAS, OAR 918-480-0140 changed the method of issuance and clarified requirements for issuing a certificate of occupancy for residential dwellings and townhouses; and

WHEREAS, all of these requirements have been put in practice and the AMC should be amended to reflect State requirements and common practice.

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

Section 1: AMC Title 18, Building Code Administration and Property Maintenance, is hereby amended as follows:

18.06.100: Investigation.

(1) Whenever any work for which a permit is required by this title or the technical codes has been commenced without first obtaining said permit, an investigation shall be made before a permit may be issued for such work. This investigation is subject to the fees described below, and may or may not result in a penalty.

(2) The Building Official may require an investigation in order to ascertain whether a party is in possession of a state license, and/or is in compliance with other state-mandated requirements.

(3) Unless waived by the Building Official, an investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The **amount of the** investigation fee shall be ~~equal to the amount of the permit fee required by this title.~~ **the average or actual additional cost of ensuring that a building, structure, or system is in conformance with state building code requirements that results from the person not obtaining a required permit before work for which the permit is required commences.** A party aggrieved by the imposition of a special investigation fee may appeal the imposition of the special investigation fee to the Albany Building Board of Appeals in the manner prescribed in Chapter 18.14 AMC. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this title or the technical codes, nor from any penalty prescribed by law. (Ord. 5647 § 1 (Exh. A), 2006).

Section 2:

18.08.090: Certificate of occupancy.

(1) ~~Upon approval for occupancy, the Building Official shall issue a certificate of occupancy.~~ **Except for work exempt from permits and residential accessory buildings, no building or structure shall be used or occupied, and no change in the existing character, use, or occupancy classification of a building or structure or portion thereof shall be made, until the Building Official has issued a certificate of occupancy.**

~~(2) In Group R-3 (one and two family dwelling) and U occupancies, the final approval and sign off of the permit shall serve as the certificate of occupancy.~~

~~(3)~~ **(2)** The certificate of occupancy for buildings other than single-family dwellings and U occupancies shall be posted in a conspicuous place and shall not be removed except by the Building Official.

~~(4)~~**(3)** In cases where there are outstanding corrections and/or deficiencies that do not present a hazard or immediate public concern, the building official may grant a temporary certificate of occupancy. When granting a temporary certificate of occupancy, the Building Official shall provide the permit holder with conditions and time restrictions for compliance and final approval.

~~(5)~~**(4)** Upon failure to obtain final approval and a certificate of occupancy, when applicable, and/or upon the expiration of the permit, the Building Official, in addition to other remedies, may file a notice of noncompliance with the County Recorder. To remove the notice, proof of compliance must be provided and all enforcement costs, recording costs, and filing costs determined by the Building Official must be paid by the permit holder.

~~(6)~~**(5)** Changes in the character or use of a building shall not be made except as specified in the Building Code.

~~(7)~~**(6) Issuance of a certificate of occupancy shall not be construed as an approval of a violation to the provisions of this code or of other City ordinances.** The Building Official may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this title when the certificate is issued in error, or on the basis of incorrect information, or when it is determined that the building or structure, or portion thereof, is in violation of an ordinance, regulation, or the provisions of this title. (Ord. 5647 § 1 (Exh. A), 2006).

Section 3:

18.14.005: State Building Code appeal process.

(1) A person aggrieved by a decision by the Building Official's decision on the application of the State Building Code may appeal to either the local jurisdiction's appeals board or the state specialty code chief. The appeals process selected may not change once initiated.

Section 4:

18.14.010: Appeal to the state.

(1) A person aggrieved by a decision made by the Building Official relating to the State Building Code shall first appeal to the appropriate ~~State Specialty Code Chief Inspector~~ **state specialty code chief inspector** of the Oregon Department of Consumer and Business Services, as required in ~~OAR 918-008-0120~~**ORS 455.475**.

The decision of the Department Chief Inspector may be appealed to the appropriate state advisory board. The decision of the advisory board may only be appealed to the Director of the Department of Consumer and Business Services if state-mandated codes, in addition to the applicable specialty code, are at issue.

(2) Citations or penalties issued by the State Building Codes Division are entitled to judicial review in accordance with ORS 183.482. A person aggrieved by such a citation or penalty may request a judicial review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days from the date of the order. Such citations and penalties are not appealable through this section. (Ord. 5647 § 1 (Exh. A), 2006).

Section 5:

18.14.030: Creation of Building Board of Appeals.

(1) In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application, enforcement, and interpretation of provisions of this title which are not governed by the State Building Code, **and to review appeals of technical and scientific determinations regarding any provision of the specialty codes regulated by the municipality,** there shall be and hereby is created a Board of Appeals consisting of five members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the

jurisdiction. The Building Official shall be an ex officio member of and shall act as secretary to said board, but shall have no vote on any matter before the board. The Board of Appeals shall be appointed by the City Council of the City of Albany and shall hold office at the Council's pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

(2) The Board of Appeals makes determinations on a case-by-case basis, and shall have no authority relative to interpretation of the administrative provisions of this title, nor shall the board be empowered to waive requirements of this title. For example, the Board of Appeals may review the Building Official's discretionary determination that a structure is dangerous, but not the ensuing remedy. (Ord. 5647 § 1 (Exh. A), 2006).

Section 6:

18.14.040: Appeal procedure.

(1) An appeal shall be in writing, shall describe the basis for the appeal, and shall first be filed with the Building Official. No appeal shall be timely unless it is actually received at the office of the Building Official within 14 days of the Building Official's determination which is the subject of the appeal.

(2) Following receipt of such an appeal, the Board of Appeals shall convene and an opportunity for hearing shall be granted both to the appellant and to the Building Official or designee. The Building Board of Appeals shall notify all parties of the hearing date and time at least 10 days prior thereto. The Building Board of Appeals shall operate under such rules of procedure as it may, from time to time, promulgate.

(3) The decision of the Building Board of Appeals shall be rendered within 60 days of the Building Official's receipt of the appeal, unless both parties stipulate to an extension of time. The Building Board of Appeals' decision shall be in writing and shall be final upon receipt. All notices given by the Board shall be given to the appellant by first-class mail at the address indicated by the appellant on the notice of appeal and shall be deemed received three days after mailing.

(4) An appeal of the Building Board of Appeals' decision **relative to the application, enforcement, and interpretation of provisions of this title which are not governed by the State Building Code,** shall be made in writing to the Albany City Council within 14 days of the Board's notice of said decision. **An appeal of the Building Board of Appeal's decision relating to technical and scientific determinations regarding any provision of the state specialty codes regulated by the municipality shall be appealed to the appropriate advisory board within 30 days of the appeal's board decision per OAR 918-080-0120 (6).**

(5) All work which is the subject of a permit, interpretation, or other matter under appeal shall be suspended pending resolution of the appeal. (Ord. 5647 § 1 (Exh. A), 2006).

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

_____
Mayor

ATTEST:

_____
City Clerk

ORDINANCE NO._____

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 7.08, DISORDERLY CONDUCT, BY DELETING SUBSECTION 7.08.050(1).

WHEREAS, the City of Albany is deleting AMC Subsection 7.08.050(1), Unnecessary Noise, Keeping of Any Animal; and

WHEREAS, the language in AMC Subsection 7.08.050(1) is addressed in AMC Chapter 6.10, Keeping of Animals, Subsection 6.10.040(2).

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

Section 1. Amending AMC Title 7, Public Peace, Morals, and Safety. AMC Chapter 7.08, Section 7.08.050 is hereby amended as follows:

7.08.050 Unnecessary noise.

It is unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any loud, disturbing, or unnecessary noise in the City. The following acts are declared to be violations of this section, but such enumerations are not deemed to be exclusive:

~~(1) The keeping of any animal which by frequent or loud continued noise disturbs the comfort and repose of any person in the vicinity;~~

(~~1~~2) The use of any automobile, motorcycle, streetcar, or other vehicle, any engine, stationary or moving instrument, device, or thing so out of repair, so loaded, or operated in such manner as to create loud or unnecessary grating, grinding, rattling, or other noises;

(~~2~~3) The sounding of any horn or signal device on any automobile, motorcycle, streetcar, or other vehicle on any street or public place of the City, except as a necessary warning or danger to property or person;

(~~3~~4) The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled;

(~~4~~5) The erection, including excavation, demolition, alteration, or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the Common Council;

(~~5~~6) Construction and activities ancillary to construction, not regulated under subsection (5) of this section or the Albany Standard Construction Specifications, including, but not limited to, preparation of materials, staging of construction equipment and apparatus, processing, preparing, or moving construction vehicles, equipment, or material, which generate sounds audible at any residentially zoned property; and which generate sounds for 30 minutes or more in any three-hour period between the hours of 6:00 p.m. and 7:00 a.m. This subsection does not apply to construction related activities performed by the City of Albany or pursuant to a City of Albany contract or those activities otherwise permitted by the Common Council;

(~~6~~7) The use of any gong or siren upon any vehicle other than police, fire, or other emergency vehicle;

(~~7~~8) The operation of any gasoline engine without having the same equipped with and using thereupon a muffler;

(~~8~~9) The use of "muffler cutout" on any motor vehicle upon any street;

(9~~10~~) The use or operation of any automatic or electric piano, phonograph, radio, loudspeaker, or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the City Manager permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment;

(10~~11~~) The conducting, operating, or maintaining of any garage within 100 feet of any building used as a private residence, apartment house, rooming house, or hotel in such a manner as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m. The foregoing acts are declared nuisances and any person violating any of the provisions of this section shall be deemed guilty of an offense. (Ord. 5761 § 1, 2011; Ord. 4937 § 1, 1990; Ord. 3873 § 1, 1975; Ord. 2823 § 43, 1958).

Passed by Council:_____

Approved by Mayor: _____

Effective Date:_____

_____
Mayor

ATTEST:

_____
City Clerk

ORDINANCE NO._____

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 7.84, PUBLIC NUISANCES.

WHEREAS, the City of Albany is amending AMC Chapter 7.84, Public Nuisances; and

WHEREAS, language is being added to Section 7.84.020 to clarify that the City Manager or his/her designee is responsible for making the determination if an imminent nuisance exists; and

WHEREAS, Section 7.84.030(2) has been rewritten to clarify how long a property owner or person in charge of property has to abate a nuisance; and

WHEREAS, Sections 7.84.060 – 7.84.090 are being removed because the language is duplicated in Sections 7.84.140 – 7.84.170; and

WHEREAS, Sections 7.84.140 – 7.84.170 reflect the appeals process and clarify that the violator would appear before the Municipal Court Judge instead of the City Council; and

WHEREAS, Sections 7.84.120 and 7.84.130, has been amended to be in effect year-round.

WHEREAS, Section 7.84.200(3) adds clarifying language that signs shall not be in the public right-of-way.

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

Section 1. Amending AMC Title 7, Public Peace, Morals and Safety. The Albany Municipal Code Chapter 7.84, Public Nuisances, is hereby amended as follows:

7.84.010 Definitions.

For the purpose of the Albany Municipal Code, the following definitions apply:

(1) "Debris" means the remains of something broken down or destroyed including, but not limited to: scrap metal, scrap paper, scrap plastic or scrap wood; pieces of asphalt, concrete, lumber or other building supplies; or yard clippings or cuttings of plant material.

(2) "Garbage" means food waste, animal and vegetable waste, dead animal carcasses, refuse, rubbish, trash, or other useless or discarded material.

(3) "Junk" means all inoperable motor vehicles, in which multiple major components are defective or removed for more than 30 consecutive days; any motor vehicle which has been unlicensed for more than 30 consecutive days; defective motor vehicle parts, abandoned automobiles, used tires, inoperable and defective machinery, or parts thereof, inoperable and defective appliances and parts thereof, metal portions of inoperable machinery, broken glass, empty glass, plastic or metal containers, scrap lumber, broken furniture, other wastes and/or discarded materials.

(4) "Person in charge of property" means an owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of real property.

(5) "Place" or "property" means any premises, room, house, building or structure, or any separate part or portion thereof, whether permanent or not, or the real property itself.

(6) "Public sidewalk" means a paved walkway within the public right-of-way or on publicly owned property.

(7) "Street" means the portion of a road ordinarily used for vehicular travel, including the shoulder, and all public street right-of-way regardless of whether improved or unimproved.

(8) "Imminent nuisance" means the existence of debris, garbage, or junk on real property that is detrimental to public health, safety, or welfare, and causes imminent danger to human life, safety, or to property. (Ord. 5211 § 1, 1995).

7.84.020 Imminent nuisance.

No person in charge of property may permit, or no person may cause to exist, any-thing, substance, or act that is an imminent threat to public health, safety, or welfare. An imminent nuisance is unlawful and may be summarily abated as provided in AMC 7.84.150~~070~~. Determination of a condition, substance, act, or other occurrence constituting an imminent nuisance shall be made by the City Manager or his/her designee. (Ord. 5211 § 1, 1995).

7.84.030 Debris, garbage, and junk deemed nuisance.

(1) It is hereby determined and declared that the keeping of any debris, garbage or junk out of doors on any street, public sidewalk, lot, or premises within the City, or in any building that is not wholly or entirely enclosed except doors for use of ingress and egress, is a nuisance and is unlawful.

~~(2) Determination of the existence of a nuisance caused by the presence of debris, garbage or junk shall be determined by the City Manager or his/her designee. However, it shall be prima facie evidence of the existence of a public nuisance caused by debris, garbage or junk should three or more persons in charge of adjacent, adjoining, or other properties within 300 feet sign a petition and submit said petition to the City Manager or his/her designee complaining of a nuisance caused by the existence of debris, garbage or junk. In such case, the three or more persons signing the petition must all complain of the same nuisance arising from the existence of debris, garbage, junk on the property in question. Upon receipt of said petition from three or more persons, the City Manager or his/her designee shall within 30 days review the petition as well as inspect the place or property and make a determination as to whether abatement is presently appropriate. The City Manager or his/her designee may then either proceed under this chapter with enforcement, or shall notify the petitioners in writing that the nuisance does not qualify for enforcement. (Ord. 5211 § 1, 1995)~~

(2) When it is determined that a nuisance caused by the presence of debris, garbage or junk exist and there is no imminent danger to human life, safety or to property, the City Manager or his/her designee shall issue a citation to the owner or person in charge of property.
(a) Upon the first offense, a 30-day notice shall be issued, with the citation, to allow the owner or person in charge of the property to abate the nuisance. If the owner or person in charge of the property completes abatement of the nuisance within the 30-days, the courts shall dismiss the citation.
(b) If special circumstances exist; a one time, up to 30-day extension may be granted to abate the nuisance.
(c) Any additional offenses by an owner or person in charge of a property shall remove the possibility of citation dismissal and abatement extension.
(d) When an owner or person in charge of property does not abate the nuisance, as defined in subsection (a),(b) or (c), the City Manager or his/her designee should proceed with abatement as set forth in AMC 7.84.140.

7.84.040 Prohibited.

It is unlawful for any person, or any agent or employees of any person to keep any debris, garbage or junk out of doors on any street, public sidewalk, lot, or premises within the City, or in any building that is not wholly or entirely enclosed except doors for use of ingress and egress. Violation of any provision of this chapter shall be punishable subject to penalties set forth in AMC 1.04.010. (Ord. 5211 § 1, 1995).

7.84.050 Exception.

The provisions of AMC 7.84.010 through 7.84.0380 do not apply to junk kept at a duly licensed junk yard or automobile wrecking house. (Ord. 5211 § 1, 1995).

~~**7.84.060 Abatement.**~~

~~In addition to the penalties as provided for in other portions of this code, the City may initiate abatement of a nuisance. Abatements are classified into two categories: imminent nuisance abatement and regular abatement. (Ord. 5211 § 1, 1995).~~

~~**7.84.070 Imminent nuisance abatement.**~~

~~(1) If a condition, substance, act or nuisance exists that is detrimental to public health, safety or welfare, it may summarily be abated if after inspection of the premises by the City Manager or his/her designee it is found to exist, and there is imminent danger to human life, safety, or to property. Determination of a condition, substance, act, or other occurrence constituting an imminent nuisance shall be made by the City Manager or his/her designee.~~
~~(2) No notice to the property owner or person in control of the property is required.~~
~~(3) Costs of abatement may be assessed as provided in AMC 7.84.080. (Ord. 5211 § 1, 1995).~~

~~**7.84.080 Regular abatement.**~~

~~Where there is no imminent danger to human life, safety, or to property but a nuisance is found to exist the following abatement procedures will apply:~~

~~(1) Notice shall be posted on the premises where the condition, substance, act, or nuisance exists, directing that the owner, person in charge and person occupying the property abate the situation.~~

~~(2) At the time of posting, the City Manager or his/her designee shall send a copy of the notice by certified mail and first class to:~~

~~(a) Owner at the last known address as listed in the county tax assessor's office; and~~

~~(b) The person in charge of the property or occupant if different from the owner.~~

~~(3) If prior notice of abatement was sent to the owner or person in charge of the property within the preceding 12 months, and ownership or control of the property has not changed and the prior notice was returned as undeliverable or the delivery was refused, then notice can be provided via publication in a newspaper of general circulation at least 10 days before abatement action is taken.~~

~~(4) The notice to abate shall contain:~~

~~(a) A description of the real property, by street address or otherwise, on which the condition, substance, act, or nuisance exists;~~

~~(b) A description of the condition, substance, act, or nuisance which must be abated;~~

~~(c) A direction to abate the condition, substance, act, or nuisance within a time specified on the notice;~~

~~(d) A statement that unless the condition, substance, act, or nuisance is removed, the City may abate the situation, and the cost of abatement will be charged to the owner;~~

~~(e) A statement that the owner or person in charge of the property may protest the abatement by giving written notice to the City Manager or his/her designee within 10 days from the date of the notice;~~

~~(f) A statement that if the cost of abatement is not paid by the owner or person in charge of the property, the cost of abatement may be assessed to and become a lien on the property.~~

~~(5) After completion of the posting and mailing, the person posting and mailing the notice shall file this certificate with the City Manager or his/her designee stating the date and place of mailing and posting.~~

~~(6) An error in the name or address of the owner or person in charge of the property or use of the name other than that of the owner or person in charge of the property shall not make the notice void, and in such case the posted notice shall be sufficient.~~

~~(7) Within 10 days after the posting and mailing of the notice, the owner or person in charge of the property shall abate the condition, substance, act, or nuisance specified in the notice, or appeal the City Manager's decision to the City Council as specified in subsection (8) of this section.~~

~~(8) Any person who shall receive a notice described in subsection (4) of this section may appeal the City Manager's decision by filing a notice of appeal with the City Manager or his/her designee within 10 days after the posting and mailing of the notice. The appeal must specify the basis therefore.~~

~~(9) The appeal shall be referred to the City Council for a hearing.~~

~~(10) If the Council determines that the nuisance does exist, the owner or person in charge of the property shall abate the nuisance within such time as the Council may grant or, if no specific period of time is granted, within 10 days of the Council's decision.~~

~~(11) If the nuisance has not been abated within the time allowed, the City Manger or his/her designee may cause the nuisance to be abated. Within 30 days of the date that abatement is taken, the City shall provide the owner or person in charge of the property with an accounting for costs of abatement.~~

~~(12) The person charged with the abatement of the nuisance shall have the right at reasonable times to enter upon the property to investigate or cause the removal of the situation. (Ord. 5211 § 1, 1995).~~

~~7.84.090~~ ~~Costs to become a lien.~~

~~(1) If costs of abatement are not paid within 30 days from:~~

~~(a) The date of the notice of costs; or~~

~~(b) If an appeal was timely filed, from the date of Council determination of the costs, an assessment of the costs shall be made by resolution and shall be entered in the docket of City liens and recorded with Linn County or Benton County as appropriate. When the entry is recorded in the City lien docket, the assessment shall constitute a lien upon the property subject to the abatement.~~

~~(2) The lien shall be enforced in the same manner as liens for assessment for local improvement districts and shall bear interest at judgment rate as determined by the Oregon Revised Statutes. The interest shall commence running on the date of entry of the lien in the City lien docket.~~

~~(3) An error in the name of the owner or person in charge of the property shall not void the assessment, nor shall a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. (Ord. 5211 § 1, 1995).~~

7.84.060~~100~~ Attractive nuisances.

It is unlawful for any owner, lessee, occupant, or any person having control or custody or management of any premises to suffer or permit to remain unguarded upon such premises any machinery, equipment, or other device having the characteristics of an attractive nuisance or which is liable to attract children. It is further unlawful for any such owner, lessee, occupant, or person having control or custody or management of any such premises to suffer or permit to remain unguarded upon the premises any pit, quarry, cistern, well, or other excavation. (Ord. 5211 § 1, 1995).

7.84.070~~110~~ Injurious substances on street.

It is unlawful for any person, firm, or corporation to permit to accumulate in or upon any yard, lot, or place, or premises on any street, alley, or sidewalk adjacent to or abutting upon any lot, block, place, or premises owned or controlled by him/her, any stagnant water or filth of any kind or to suffer or permit such premises to be or remain in such condition as to cause or produce or create noisome or offensive smell. (Ord. 5211 § 1, 1995).

7.84.080~~120~~ Animal carcasses.

It is unlawful for any person to suffer or permit the carcass of any animal owned by him/her to remain upon the public streets or ways, and no person who is the owner or occupant of any property shall suffer or permit the carcass of any animal to remain thereon. It shall be the duty of such owner or occupant forthwith to cause the carcass to be buried or other disposition made of the same. (Ord. 5211 § 1, 1995).

7.84.090~~130~~ Deposit of offensive substances.

It is unlawful for any person to put any animal carcass or part thereof, or any excrement, or any putrid, nauseous, decaying, deleterious, or offensive substances in any stream, well, spring, brook, ditch, pond, or other inland waters within the corporate limits of the City, or to place any such substance in such position that high water or natural seepage will carry the same into any such waters. (Ord. 5211 § 1, 1995).

7.84.100~~40~~ Drainage of surface waters.

It is unlawful for the owner, lessee, or occupant of any building or structure to suffer or permit rainwater, ice, or snow to fall from any such building or structure upon any street or sidewalk or to flow across any such sidewalk, and every such owner, lessee, or occupant shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system sufficient to carry to the street, or other approved drainage facility, any overflow water accumulating on the roof or about such building. (Ord. 5841 § 2, 2014; Ord. 5211 § 1, 1995).

7.84.110~~50~~ Creating a hazard.

A person commits the crime of creating a hazard if:

(1) He/she intentionally maintains or leaves in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or

(2) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more and he/she intentionally fails or refuses to cover or fence it with a suitable protective construction. (Ord. 5211 § 1, 1995).

7.84.120~~60~~ Noxious vegetation, weeds, and tall grass. ~~which constitute a fire hazard or vision clearance hazard are declared a nuisance.~~

(1) It is hereby determined and declared that weeds, tall grass, or other noxious vegetation are a public nuisance under any of the following conditions;

(a) When excess vegetation is determined by the Fire Chief or his/her designee to be a fire hazard, as defined under the provisions of the Oregon Fire Code;

(b) When a property contains plants that are poisonous to the touch (including, but not limited to, poison ivy, poison oak, and poison sumac);

(c) When rampantly growing plants (including blackberries, bamboo, etc.)

i. Cross property lines;

ii. cause damage to fences or structures; or

iii. cross onto the public right-of-way or impede travel on any part of a street or sidewalk;

(d) When vegetation creates a public safety concern such as blocking the view of oncoming traffic or blocking vision clearance areas around intersections and driveways; or

(e) When grass is in excess of 10 inches.

~~(1) It is hereby determined and declared that weeds, grass, or other noxious vegetation when determined by the Fire Chief or his/her designee to be a fire hazard, as defined under the provisions of the Uniform Fire Code, are a public nuisance.~~

~~(2) It is hereby determined and declared that weeds, grass, or other noxious vegetation over 15 inches in height are determined to be a vision clearance hazard and a public nuisance whenever they are at any of the locations set forth below:~~

~~(a) Within 50 feet of the facing edge of the curb of any improved street or road; or~~

~~(b) Within 50 feet of the edge of the pavement on any paved, but not fully improved, street or road; or~~

~~(c) Within 50 feet of the traveled way on any unimproved dirt or gravel street or road.~~

(2) It is unlawful for the owner or any person in possession or control of any lot or premises within the city to maintain a lot or premises which is determined to be a fire hazard or safety ~~vision clearance~~ hazard as defined ~~in subsections (1) or (2)~~ above.-(Ord. 5540 § 1, 2002; Ord. 5250 § 1, 1996; Ord. 5211 § 1, 1995).

(3) Violation of this section shall be an infraction.

7.84.130~~70~~ Notice to property owner for noxious vegetation, weeds, and tall grass.

Unless abated as an imminent nuisance ~~summary~~ abatement as provided in AMC 7.84.150 ~~7.84.180~~, the ~~Fire Chief~~City Manager or his/her designee, in the case of abatement due to a fire ~~hazard,~~ or ~~the Public Works Director City Manager or his/her designee, in the case of abatement of a~~ safety ~~vision clearance~~ hazard, shall notify the owner or person in possession or control of the premises on which the nuisance is located of the presence of the nuisance.

(1) Notice shall be sufficient if it is mailed to any person at the same address that person receives notice of taxes due upon the real property in question. Said notice shall be by first class ~~certified~~ mail or delivered in person. ~~and this notice shall be sufficient to apply the provisions of the abatement process contained in AMC 7.84.180.~~ (Ord. 5250 § 2, 1996; Ord. 5211 § 1, 1995).

(2) The notice shall contain:

(a) A description of the real property, by street address or otherwise, on which the condition, substance, act, or nuisance exists;

(b) A description of the condition, substance, act, or nuisance which must be abated;

(c) A direction to abate the condition, substance, act, or nuisance within a 14 calendar days;

(d) A statement that unless the condition, substance, act, or nuisance is removed, the City may abate the situation, and the cost of abatement shall be a fee sufficient to cover the direct cost of removal, plus 30 percent for administrative overhead; and this total cost shall be charged to the owner;

(e) A statement that if the condition is not abated within the time frame specified a citation could be issued.

7.84.140 Abatement.

In addition to the penalties as provided for in other portions of this code, the City may initiate abatement of a nuisance. Abatements are classified into two categories: imminent nuisance abatement and regular abatement. (Ord. 5211 § 1, 1995).

7.84.150 Imminent nuisance abatement.

(1) If a condition, substance, act or nuisance exists that is detrimental to public health, safety or welfare, it may summarily be abated if after inspection of the premises by the City Manager or his/her designee it is found to exist, and there is imminent danger to human life, safety, or to property. Determination of a condition, substance, act, or other occurrence constituting an imminent nuisance shall be made by the City Manager or his/her designee.

(2) No notice to the property owner or person in control of the property is required.

(3) Costs of abatement may be assessed as provided in AMC 7.84.160 and 7.84.170. (Ord. 5211 § 1, 1995).

7.84.160 Regular abatement.

Where there is no imminent danger to human life, safety, or to property but a nuisance is found to exist, the following abatement procedures will apply:

(1) Notice shall be posted on the premises where the condition, substance, act, or nuisance exists, directing that the owner, person in charge and person occupying the property abate the situation.

(2) At the time of posting, the City Manager or his/her designee shall hand deliver or send a copy of the notice by certified mail and first class to:
(a) Owner at the last known address as listed in the county tax assessor's office; and
(b) The person in charge of the property or occupant if different from the owner.

(3) If prior notice of abatement was sent to the owner or person in charge of the property within the preceding 12 months, and ownership or control of the property has not changed and the prior notice was returned as undeliverable or the delivery was refused, then notice can be provided via publication in a newspaper of general circulation at least 10 days before abatement action is taken.

(4) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which the condition, substance, act, or nuisance exists;
(b) A description of the condition, substance, act, or nuisance which must be abated;
(c) A direction to abate the condition, substance, act, or nuisance within a time specified on the notice;
(d) A statement that unless the condition, substance, act, or nuisance is removed, the City may abate the situation, and the cost of abatement shall be a fee sufficient to cover the direct cost of removal, plus 30 percent for administrative overhead; and this total cost shall be charged to the owner;
(e) A statement that the owner or person in charge of the property may protest the abatement by giving written notice to the City Manager or his/her designee within 10 days from the date of the notice;
(f) A statement that if the cost of abatement is not paid by the owner or person in charge of the property, the cost of abatement may be assessed to and become a lien on the property.

(5) After completion of the posting and delivering/mailing, the person posting and delivering/mailing the notice shall file this certificate with the City Manager or his/her designee stating the date and place of delivering/mailing and posting.

(6) An error in the name or address of the owner or person in charge of the property or use of the name other than that of the owner or person in charge of the property shall not make the notice void, and in such case the posted notice shall be sufficient.

(7) Within 10 days after the posting and delivering/mailing of the notice, the owner or person in charge of the property shall abate the condition, substance, act, or nuisance specified in the notice, or appeal the City Manager's decision to the Municipal Court as specified in subsection (8) of this section.

(8) Any person who shall receive a notice described in subsection (4) of this section may appeal the City Manager's decision by filing a notice of appeal with the City Manager or his/her designee within 10 days after the posting and mailing of the notice. The appeal must specify the basis therefore.

(9) The appeal shall be referred to the Municipal Court for a hearing.

(10) If the Municipal Judge determines that the nuisance does exist, the owner or person in charge of the property shall abate the nuisance within such time as the Judge may grant or, if no specific period of time is granted, within 10 days of the Judge's decision.

(11) If the nuisance has not been abated within the time allowed, the City Manger or his/her designee may cause the nuisance to be abated. Within 30 days of the date that abatement is taken, the City shall provide the owner or person in charge of the property with an accounting for costs of abatement.

(12) The person charged with the abatement of the nuisance shall have the right at reasonable times to enter upon the property to investigate or cause the removal of the situation. (Ord. 5211 § 1, 1995).

(13) Remedies Nonexclusive. The procedures provided by this chapter are not exclusive, but are in addition to abatement procedures and other remedies provided by other laws and ordinances. (Ord. 5250 § 3, 1996; Ord. 5211 § 1, 1995).

7.84.170 Costs to become a lien.

(1) If costs of abatement are not paid within 30 days from:
(a) The date of the notice of costs; or
(b) If an appeal was timely filed, from the date of Judge's determination of the costs, an assessment of the costs shall be made by resolution and shall be entered in the docket of City liens and recorded with Linn County or Benton County as appropriate. When the entry is recorded in the City lien docket, the assessment shall constitute a lien upon the property subject to the abatement.

(2) The lien shall be enforced in the same manner as liens for assessment for local improvement districts and shall bear interest at judgment rate as determined by the Oregon Revised Statutes. The interest shall commence running on the date of entry of the lien in the City lien docket.

(3) An error in the name of the owner or person in charge of the property shall not void the assessment, nor shall a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. (Ord. 5211 § 1, 1995).

~~**7.84.180 Abatement.**~~

~~(1) Right to Appeal Fire Hazard Determination. If the owner or person in possession or control of the real property that is determined to be a fire hazard, as provided in AMC 7.84.160, wishes to contest the decision of the Fire Chief or his/her designee concerning the presence of a fire hazard on the subject premises, such appeal must be perfected as follows:~~

~~(a) Written notice of appeal must be actually received by the office of the Albany Fire Chief within 10 days of appellant's receipt of the notice described in AMC 7.84.170.~~

~~(b) The notice of appeal must name all owners of the real property in question and all persons in possession and control thereof. The notice shall also set forth the addresses and telephone numbers of all such persons. The notice shall also set forth the particulars by which the appellant disagrees with the determination of the Fire Chief or his/her designee.~~

~~(c) Upon receipt of a notice of appeal as subscribed above, a hearing shall be held before the Building Board of Appeals. Notice of the hearing shall be mailed to the appellant at the address set forth in the notice of appeal. Failure of the appellant to attend the hearing shall constitute an abandonment of the appeal.~~

~~(d) The Building Board of Appeals may affirm, reverse, or modify the decision of the Fire Chief or his/her designee.~~

~~(e) The decision of the Building Board of Appeals shall be made in writing and shall be mailed to the appellant at the address set forth in the notice of appeal. The decision of the Building Board of Appeals shall be final.~~

~~(2) Time to Abate Nuisance. Except in the case of summary abatement, a person who receives a notice advising them of the existence of noxious vegetation, weeds, and grasses upon property subject to their ownership, possession, or control shall have 10 days from the receipt of such notice to cut or otherwise remove the vegetation in accordance with the direction contained within the notification. In the event that the nuisance exists as a result of a fire hazard, the time for abatement shall be extended in the event of an appeal. Such extension shall end 10 days following resolution of the appeal or at such other time as the Building Board of Appeals may specifically provide. In the event that the nuisance has not been abated within these time lines, the City may proceed to abate the nuisance as further provided in this section.~~

~~(3) Cutting and Removal by City. The City Manager or his/her designee may cause to be cut any weeds, grass, or other noxious vegetation which have been determined to be a public nuisance. The cost of removal of said weeds, grass, and other noxious vegetation shall be a fee sufficient to cover the direct cost of removal, plus 30 percent for administrative overhead; and this total cost and fees shall be charged to owner of the property and will become a lien against the property.~~

~~(4) Right to Enter. In the event it becomes necessary for the City Manager or his/her designee to undertake the cutting and removal of the grass, weeds, and other noxious vegetation from any premises within the city, the designate of the City Manager shall have the right at reasonable times to enter into or upon said property to cut said grass, weeds, and other noxious vegetation.~~

~~(5) Cost to Become a Lien. Upon completion of clearing of any real property under the provisions of this section, and in the event the fee is not paid within 30 days thereafter, the City Manager or his/her designee shall file with the City Recorder and thereafter present to the City Council and itemized statement of the cost thereof as specified in this section. After providing the notice and hearing set forth below, the City Council shall, by ordinance, determine the reasonableness of said statement of costs and adjust the same if necessary and thereupon the amount of such statements as approved by the City Council shall be an obligation owed to the City of Albany by the owner or owners of the real property involved; and the City shall have a lien upon said real property for such sum and the lien shall be entered in the lien docket and enforced against said property in the same matter provided for the enforcement of City liens.~~

~~(6) Notice and Hearing. Prior to the adoption of the ordinance referred above, the City Manager or his/her designee shall cause a notice to be mailed by registered or certified mail, postage prepaid, to the record owner or owners of any real property upon which the City proposes to impose a lien for the costs of clearing of any real property under this section. This notice shall be mailed to the owner or owners of the real property in question at the address designated in the County Real Property Tax Assessment Rolls. An error in the name of the property owner or owners shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void. Any lien imposed pursuant to this section shall be a valid lien against the property. The notice shall contain a summary of the costs which are proposed to be assessed against the owner's property and shall advise of the City's intent to assess said costs against the real property upon which the work was performed and shall further advise the owner or owners of their right to hearing before the City Council concerning the proposed assessment and the date and time of said hearing.~~

~~(7) Summary Abatement. Should the Fire Chief or his/her designee determine, in the case of a nuisance based upon a fire hazard, or the Public Works Director or his/her designee determine, in the event of a nuisance due to vision clearance hazard, that the nuisance in question constitutes a serious and immediate life safety hazard, the City may summarily abate the nuisance, either through the use of City personnel or third persons contracted for that purpose, without prior notice to the property owner or persons in possession or control of the premises. As soon as practicable following such abatement, the applicable City official shall cause a notice describing the abatement to be mailed to the property owner by certified mail at the address to which such person would have been entitled to receive notice pursuant to a nonsummary abatement. If the summary abatement was undertaken as a result of a fire hazard, the property owner may appeal the City's actions in the same manner as that provided for a nonsummary abatement and the Building Board of Appeals shall determine whether or not circumstances justifying summary abatement existed. In the event that the Building Board of Appeals determines that summary abatement was warranted, the costs of such abatement, together with the administrative charge, shall become a lien upon the property in the same manner as a nonsummary abatement. In the event that the Building Board of Appeals determines that summary abatement was not required, the costs of the abatement shall not be charged against the property. The costs incurred in the abatement of a vision clearance hazard, including the administrative charge, shall be charged against the property and become a lien in the same manner as in nonsummary abatement.~~

~~(8) Remedies Nonexclusive. The procedures provided by this chapter are not exclusive, but are in addition to abatement procedures and other remedies provided by other laws and ordinances. (Ord. 5250 § 3, 1996; Ord. 5211 § 1, 1995).~~

7.84.180~~190~~ Ongoing sale of household items (garage sales) deemed a nuisance.

(1) It is unlawful to offer, from a residential address, household items for sale to the general public more than three times per calendar year and in excess of three consecutive days per event.

(2) Items offered for sale shall not be displayed or stored in the public right-of-way, in a clear vision area, or on another's property without the owner's permission.

(3) Signs advertising garage sales shall not exceed two on-premises and two off-premises signs measuring no more than four square feet per face and four feet in height. Signs shall not be erected in the public right-of-way. Signs shall be erected no more than one day prior to the event and shall be removed not later than one day after.

(4) The prohibitions set forth above shall apply jointly and severally to each owner or occupant of the real property used in the commission of the violation and/or any person who offers goods for sale.

(5) Violation of this section shall be an infraction. (Ord. 5211 § 1, 1995).

7.84.190~~210~~ Requirements for shopping cart providers.

A person that supplies shopping carts for public use at the person's business shall:

(1) Post signs in sufficient number to give notice to members of the public entering onto or leaving the business premises that unauthorized appropriation of a shopping cart is a crime under ORS 164.015 and provide a toll-free or local telephone number that members of the public may use to report abandoned shopping carts.

(2) Identify the person's business on each shopping cart and post a sign on the shopping cart that:
(a) Notifies any member of the public using the shopping cart that unauthorized appropriation of a shopping cart is a crime under ORS 164.015;
(b) Provides a toll-free or local telephone number for use in reporting an abandoned shopping cart.

(3) Establish, maintain, and make available to the public, at the person's own expense, a toll-free or local telephone line for the purpose of reporting abandoned shopping carts. The person shall forward each report the person receives concerning an abandoned shopping cart to the owner of the shopping carts and to the Albany Police Department Community Resource Unit.

(4) Retrieve abandoned shopping carts. (Ord. 5694 § 1, 2008).

7.84.200~~220~~ Retrieval and disposal of carts – Fees.

(1) A person may agree with other persons to share and to pay expenses related to the toll-free or local telephone line described in AMC 7.84.190~~210~~(3). The agreement shall provide that any person designated to operate the toll-free or local telephone line and receive reports concerning abandoned shopping carts must forward the reports in accordance with AMC 7.84.190~~210~~(3).

(2) A person shall retrieve a shopping cart that the person owns within 72 hours after receiving notification that the shopping cart has been abandoned.

(3) If the City identifies, salvages, or reclaims an abandoned shopping cart, it shall use the toll-free or local telephone line described in AMC 7.84.190~~210~~(3) to report the existence and location of an abandoned shopping cart, if the owner is identifiable.

(4) The City may take custody of an abandoned shopping cart and impose a fine of $50.00 on the owner of the shopping cart if the owner does not retrieve the shopping cart within 72 hours after the City makes a report under subsection (3) of this section or after the owner receives a report under AMC 7.84.190~~210~~(3).

(5) The City may release a shopping cart in the City of Albany's custody to the owner upon payment of the $50.00 fine.

(6) The City may take title to a shopping cart in the City of Albany's custody and dispose of the shopping cart as the City of Albany deems appropriate if the owner does not claim the cart within 30 days. (Ord. 5694 § 1, 2008).

Passed by Council:_____

Approved by Mayor: _____

Effective Date:_____

_____
Mayor

ATTEST:

_____
City Clerk

ORDINANCE NO._____

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 9.04, MAINTENANCE OF PROPERTY, BY CREATING A NEW SECTION 9.04.045, ENTITLED UNSANITARY CONDITIONS.

WHEREAS, the City of Albany is creating AMC Section 9.04.045, Unsanitary Conditions, to improve the livability of the community and to promote safe neighborhoods; and

WHEREAS, unsanitary conditions occur in dwellings that do not have permanent and potable running water from a domestic water supply; and

WHEREAS, it is in the public's best interest to include this Section in AMC Chapter 9.04 Maintenance of Property.

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

Section 1. Amending AMC Chapter Title 9, Health and Sanitation.
AMC Chapter 9.04 is hereby amended as follows:

9.04.010 Maintenance required Responsibility.

Any person who is the owner or in control of, or the agent for, any lot, parcel of land or premises in the City shall be required to maintain such premises in a fashion conducive to good sanitation such that no menace to the public health or well-being shall be created nor made likely to be created by any conditions which may exist or come to exist upon such premises. (Ord. 4129 § 1, 1978).

9.04.020 Extent of menace – Appeal.

(1) The Health Officer as designated by the City Council and/or the Public Works Director shall be empowered to determine the extent to which any particular situation is a menace to the public health or well-being, and shall be further authorized to determine the appropriate measures to be taken and the time allowed for the removal of such menace, and the person who is the owner of, or the agent for the affected property, shall be required to take the prescribed measures in the time allowed.

(2) Should the ruling of the Public Works Director and/or Health Officer appear to be overly harsh or unjust, the affected party may appeal to the City Council in writing and within seven days from the ruling by the Public Works Director and/or Health Officer. At the first regular meeting following receipt of said appeal, the Mayor shall appoint a committee of at least three disinterested persons, including at least one doctor of medicine who shall investigate the particular situation and ruling and make recommendations concerning the same. The Public Works Director and/or Health Officer shall then be bound to comply with such recommendations. (Ord. 4129 § 2, 1978).

9.04.030 Definitions.

For the purposes of this chapter, the following words, phrases, abbreviations, terms and their derivatives shall be construed as specified in this section. Words used in the singular shall include the plural and the plural the singular.

(1) "Domestic water supply" means any water supply system which serves potable water including wells.

(2) "Potable water" means water which is sufficiently free from biological, chemical, physical or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects and which has such other physical properties as to be palatable to humans for drinking purposes.

(3) "Privy" means a detached building used by humans for the purposes of defecation or urination and lacking a means of automatic discharge of the matter deposited; pit toilet. This definition shall not include properly serviced and maintained chemical toilets used on a temporary basis at construction sites or to service periodic or irregularly scheduled short term activities. Such temporary use shall not exceed 90 days without approval of the Director of Public Works. (Ord. 5026 § 1, 1993; Ord. 4129 § 3, 1978).

9.04.040 Minimum requirements.

Minimum requirements for good sanitation shall include at least the following:

(1) No privy, water closet or plumbing connected indirectly to a domestic water supply not connected to a sanitary sewer of the City shall be constructed, maintained or used. Exceptions to this requirement for the connection to a sanitary sewer shall be allowed only by consent of the City Council which shall be done in the form of the City waste nonconnection permit. Application for a City waste nonconnection permit shall be made to the City Council setting forth a description of the property involved with reasons that a sewage nonconnection permit should be granted. Sewage nonconnection permits shall be issued for a period not to exceed one year and will expire one year from date of issue. Requests for renewal of sewage nonconnection permits will be made in the same manner as an application for an original sewage waste nonconnection permit.

(2) No human excreta, kitchen wastes, laundry water, sink water or toilet wastes should be allowed to discharge or flow upon the surface of the ground or into any ditch, gutter, street, roadway or public place, nor shall such wastes discharge onto any private property so as to create a nuisance or health hazard.

(4) No abandoned or deep well shall be used for the disposal of sewage or household or industrial wastes. No privy vault, cesspool or septic tank, allowed under a City waste nonconnection permit shall be used unless the same is watertight and shall be located in any water-bearing stratum, nor shall any privy vault, cesspool or septic tank be located so that the same may pollute any domestic water supply. (Ord. 4129 § 4, 1978).

9.04.045 Unsanitary Conditions

It shall be *prima facie* evidence that unsanitary conditions exist in a dwelling which does not have permanent and potable running water from a domestic water supply for a period of 14 days or more.

9.04.050 Failure to comply with regulations.

Failure to comply with the rules and regulations governing sanitation issued by the Oregon State Board of Health shall be prima facie evidence of violation of this chapter. (Ord. 4129 § 5, 1978).

9.04.055 Human waste.*

No person shall deposit or discharge any human waste on public property upon any street, alley, public grounds, building, or place open and available to the general public. (Ord. 5820 § 1, 2013).
*Code reviser's note: Ordinance 5820 adds the provisions of this section as Section 9.04.050. The section has been editorially renumbered to prevent duplication of numbering.

9.04.060 Penalty for violation.

Any person violating any of the provisions of Section 9.04.010 or failing to meet the minimum requirements in Section 9.04.040 or failing to comply with the provisions of Section 9.04.045 or 9.04.050 shall be deemed guilty of a misdemeanor and shall be subjected to those penalties provided in Section 1.04.010 of this code. (Ord. 4129 § 6, 1978).

Passed by Council:_____

Approved by Mayor: _____

Effective Date:_____

_____
Mayor

ATTEST:

_____
City Clerk

ORDINANCE NO._____

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 18.30, PROPERTY MAINTENANCE, SECTION 18.30.105, EXCESSIVE VEGETATION.

WHEREAS, the City of Albany is amending AMC Chapter 18.30, Property Maintenance, to update Section 18.30.105, Excessive Vegetation, to be aligned with AMC Chapter 7.84, Public Nuisances, Section 7.84.120, Noxious vegetation, weeds, and tall grass; and

WHEREAS, both AMC Chapters 18.30 and 7.84 address excessive vegetation; and

WHEREAS, it is in the public's best interest to remove duplicate language in AMC 18.30.105.

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

Section 1. Amending AMC Title 18, Building Code Administration and Property Maintenance. AMC Chapter 18.30, Section 18.30.105 is hereby amended as follows:

18.30.105 Excess vegetation.
~~All weeds and grass that are located in lawn areas and have a prevailing height in excess of 15 inches should be cut and removed and kept cut and removed. (Ord. 5647 § 1 (Exh. C), 2006).~~Shall comply with AMC 7.84.120.

Passed by Council:_____

Approved by Mayor: _____

Effective Date:_____

_____
Mayor

ATTEST:

_____
City Clerk

ORDINANCE NO._____

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE (AMC) TITLE 7 BY ADDING A NEW CHAPTER 7.83 TITLED DERELICT STRUCTURES.

WHEREAS, the City of Albany is adding AMC Chapter 7.83, Derelict Structures, to improve the livability of the community and to promote safe neighborhoods; and

WHEREAS, derelict structures pose a safety hazard to residents and are an attractive nuisance; and

WHEREAS, AMC Chapter 7.83 will allow public safety personnel to better address derelict structures; and

WHEREAS, vandalism, squatting, theft, and other crime types associated with derelict structures will be reduced.

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

Section 1. Amending AMC Title 7, Public Peace, Morals, and Safety. AMC Title 7 is hereby amended to add Chapter 7.83 titled Derelict Structures:

Sections:

7.83.010 Derelict Structures Prohibited.
7.83.020 Definition.
7.83.030 Order to Vacate Building or Structures.
7.83.040 Prohibited Habitation.
7.83.050 Removal of Placard Prohibited.
7.83.060 Temporary Safeguards.
7.83.070 Derelict Structure Registration.
7.83.080 Derelict Structure Fees.
7.83.090 Refund of Derelict Structure Fees.
7.83.100 Abatement.
7.83.110 Interference with abatement personnel prohibited.
7.83.120 Costs to become a lien.

7.83.010 Derelict Structures Prohibited.

Derelict buildings or structures on any property are hereby declared to be unlawful.

7.83.020 Definition.

A derelict building or structure, as a result of disuse and neglect, exists if the building or structure is unfit for human habitation, or poses an incipient hazard, or is detrimental to public health, safety or welfare, as a result of one of the following conditions. The Police Chief or his/her designee, at his/her sole discretion, shall determine a building or structure derelict based on the number and extent of the following factors:

(1) Unoccupied and unsecured;
(2) Partially constructed;
(3) Abandoned structure or attractive nuisance;
(4) Dilapidation (in a state of disrepair due to misuse or neglect);
(5) Structural defects noted by the Building Official or his/her designee;
(6) Identification as a dangerous building or structure per AMC 18.28;
(7) Defects increasing the hazard of fire, accident, or other calamity;
(8) Infestation of pests; and
(9) No utility service(s) to maintain sanitary conditions.

7.83.030 Order to Vacate Building or Structures.

(1) If the Police Chief or his/her designee finds a building or structure in violation of AMC 7.83.010, the Police Chief or his/her designee shall order that a certified letter be mailed to the property owner and a placard be posted on the building or structure, ordering the building or structure vacated, and the owner to register the building or structure as provided in AMC 7.83.070 – 7.83.090.

(2) The placard shall contain listed information:
   (a) Description of the premises sufficient for identification;
   (b) A statement of the reason or reasons why the location has been posted;
   (c) Correction order allowing 30 days for the repairs and improvements required to bring the premises into compliance with the provisions of this Chapter. An alternate compliance schedule can be requested per AMC 7.83.070;
   (d) Notice that the City may abate the nuisance pursuant to this Chapter and that the person(s) responsible shall be liable for the cost of such abatement.

7.83.040 Prohibited Habitation.

No person shall inhabit a derelict building or structure, and no owner shall allow any person to inhabit a derelict building or structure ordered vacated by the Police Chief or his/her designee.

7.83.050 Removal of Placard Prohibited.

(1) The Police Chief or his/her designee shall remove a placard whenever the conditions that resulted in the order to vacate the building or structure have been eliminated.

(2) No person shall deface a placard, and a placard shall not be removed without the approval of the Police Chief or his/her designee.

7.83.060 Temporary Safeguards.

Notwithstanding any other provision of this Chapter, whenever, as determined by the Police Chief or his/her designee, a building or structure poses an imminent hazard or incipient hazard as defined in 18.04.070(24). The Police Chief or his/her designee may order necessary work to be performed, including the boarding of openings, to render such building or structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted; and shall cause such other action to be taken that the Police Chief or his/her designee deems necessary to meet such condition. All work shall be done in accordance with applicable federal, state, and local regulations and permit conditions.

7.83.070 Derelict Structure Registration.

If the Police Chief or his/her designee determines that a building or structure is a derelict structure, the owner shall be required to register the building or structure within ten (10) days of the Police Chief or his/her designee's issuance of an order to register. Registration shall be made on forms provided by the Police Chief or his/her designee, and shall include information relating to the location and ownership of the building or structure, the expected period of its vacancy, a plan for regular maintenance during the period of vacancy, and a plan for its re-occupancy and use, or its remediation or demolition. Any changes in the information required to be provided pursuant to this section shall be given to the Police Chief or his/her designee not more than 30 days of the date of such change. When all conditions making the building or structure a derelict structure have been corrected, the owner shall contact the Police Chief or his/her designee and request an inspection to determine compliance. Said inspections and determination of compliance are separate, and in addition to, those required to meet other regulatory requirements or to satisfy permit conditions.

As part of the registration process, the owner can submit a written request and supporting documentation for an extension of time to bring the derelict structure into compliance. The Police Chief and/or his designee will review the submittal and make determination within 10-days. Whether or not an extension will be granted, and for how long, is at the sole discretion of the Police Chief or his/her designee.

7.83.080 Derelict Structure Fees.

(1) Derelict structure fees will be set by Council resolution.

(2) Every owner who, after receipt of notice under AMC 7.83.070, fails to register the building or structure within the required time set forth in the notice, or registers the building or structure but allows the building or structure to remain in a derelict condition after timeline granted expires, shall pay a monthly fee as set by council resolution. All fees imposed under this section are to be paid prior to the issuance of any permit required for the demolition, alteration, or repair of the derelict building or structure.

(3) The Police Chief or his/her designee may, upon a showing by the owner of undue economic hardship, defer payment of the fees imposed by AMC 7.83.080 on an owner-occupied residential building or structure deemed derelict under this Chapter. If the owner complies with AMC 7.83.090 (1), the fees shall be forgiven.

7.83.090 Refund of Derelict Structure Fees.

(1) The Police Chief or his/her designee shall refund derelict building or structure fees imposed under AMC 7.83.080, if the following conditions are met:
   (a) A timetable for the abatement of the conditions or demolition of the building or structure was submitted by the owner and approved by the Police Chief or his/her designee as provided for this Chapter; and
   (b) All required permits and related inspections were obtained for the repair or demolition of the building or structure and all permit conditions have been satisfied; and
   (c) The abatement of the conditions or demolition of the building or structure is completed in the time set forth in AMC 7.83.030, related permits, or any approved extension thereof; and
   (d) The owner has provided written authorization for the City (within 90 days of notice) to enforce all applicable trespass and illegal camping ordinances and laws.

7.83.100 Abatement.

In addition to the penalties as provided for in other portions of this Chapter, the City may abate a derelict building or structure.

Where there is no imminent danger to human life, safety, or property but a derelict building or structure is found to exist, the following abatement procedures will apply:

(1) Notice shall be posted on the premises where the nuisance exists, directing that the owner and person in charge of the property abate the situation.

(2) At the time of posting, the Police Chief or his/her designee shall send a copy of the notice by certified mail and first class to:
   (a) Owner at the last known address as listed in the county tax assessor's office; and
   (b) The person in charge of the property, if known, and if different from the owner.

(3) If prior notice of abatement was sent to the owner or person in charge of the property within the preceding 12 months, and ownership or control of the property has not changed and the prior notice was returned as undeliverable or the delivery was refused, then notice can be provided via publication in a newspaper of general circulation at least ten (10) days before abatement action is taken.

(4) The notice to abate shall contain:
   (a) A description of the real property, by street address or otherwise, on which the condition, substance, act, or nuisance exists;
   (b) A description of the condition, substance, act, or nuisance which must be abated;
   (c) A direction to abate the condition, substance, act, or nuisance within a time specified on the notice;
   (d) A statement that unless the condition is removed, the City may abate the situation, and the cost of abatement shall be a fee sufficient to cover the direct cost of abatement, plus 30 percent for

administrative overhead; and this total cost and fees shall be charged to the owner;

(e) A statement that the owner or person in charge of the property may protest the abatement by giving written notice to the Police Chief or his/her designee within ten (10) days from the date of the notice;

(f) A statement that if the cost of abatement is not paid by the owner or person in charge of the property, the cost of abatement may be assessed and become a lien on the property.

(5) After completion of the posting and mailing, the person posting and mailing the notice shall file this notice with the City Manager or his/her designee stating the date and place of mailing and posting.

(6) An error in the name or address of the owner or person in charge of the property or use of the name other than that of the owner or person in charge of the property shall not make the notice void, and in such case the posted notice shall be sufficient.

(7) Within ten (10) days after the posting and mailing of the notice to abate, the owner or person in charge of the property shall abate the nuisance specified in the notice, or appeal the Police Chief's decision to the Albany Municipal Court specified in subsection (8) of this section.

(8) Any person who receives a notice described in subsection (4) of this section may appeal the Police Chief's decision by filing a notice of appeal with the Police Chief or his/her designee within ten (10) days after the posting and mailing of the notice. The appeal must specify the basis there for.

(9) The appeal shall be referred to Albany Municipal Court for a hearing.

(10) If the Judge determines that the nuisance does exist, the owner or person in charge of the property shall abate the nuisance within such time as the Judge may grant or, if no specific period of time is granted, within ten (10) days of the Judge's decision.

(11) If the nuisance has not been abated within the time allowed, the Police Chief or his/her designee may cause the nuisance to be abated. Within 30 days of the date that abatement is taken, the City shall provide the owner or person in charge of the property with an accounting for costs of abatement.

(12) The person charged with the abatement of the nuisance shall have the right to enter upon the property to investigate or cause the removal of the situation.

7.83.110 Interference with abatement personnel prohibited.

No person shall interfere with or deny access to any person authorized to enter premises for the purposes of abatement.

7.83.120 Costs to become a lien.

(1) If costs of abatement are not paid within 30 days from:

(a) The date of the notice of costs; or

(b) If an appeal was timely filed, from the date of Judge's determination of the costs, an assessment of the costs shall be made by resolution and shall be entered in the docket of City liens and recorded with Linn County or Benton County as appropriate. When the entry is recorded in the City lien docket, the assessment shall constitute a lien upon the property subject to the abatement.

(2) The lien shall be enforced in the same manner as liens for assessment for local improvement districts and shall bear interest at judgment rate as determined by the Oregon Revised Statutes. The interest shall commence running on the date of entry of the lien in the City lien docket.

(3) An error in the name of the owner or person in charge of the property shall not void the assessment, nor shall a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

Passed by Council:_____

Approved by Mayor: _____

Effective Date:_____

_____

Mayor

ATTEST:

_____

City Clerk

ORDINANCE NO._____

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE (AMC) TITLE 7 BY ADDING A NEW CHAPTER 7.85 TITLED CHRONIC NUISANCE PROPERTY.

WHEREAS, the City of Albany is adding AMC Chapter 7.85, Chronic Nuisance Property, to address repeated unlawful activities occurring on certain real property; and

WHEREAS, a chronic nuisance property can create an unsafe condition in neighborhoods and impacts the livability of the community; and

WHEREAS, Chapter 7.85 will allow public safety personnel to address chronic nuisance properties; and

WHEREAS, civil regulation of chronic nuisance properties will promote and protect the public health, safety, and welfare of City of Albany residents.

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

Section 1. Amending AMC Title 7, Public Peace, Morals, and Safety. AMC Title 7 is hereby amended to add Chapter 7.85 titled Chronic Nuisance Property:

Sections:

7.85.010 Declaration of Purpose.
7.85.020 Chronic Nuisance Property.
7.85.030 Definitions.
7.85.040 Police Chief's Determination.
7.85.050 Determination of Hearing Officer.
7.85.060 Remedies.
7.85.070 Multi-Unit Property.
7.85.080 Civil Penalty.
7.85.090 Penalty and Costs of Review as Lien.
7.85.100 Closure of Property.
7.85.110 Entering Closed Property.
7.85.120 Liability.
7.85.130 Violation.

7.85.010 Declaration of Purpose.

(1) Repeated unlawful activities (specifically enumerated in Section 7.85.030, below) occurring on, or resulting from the use of, certain real property within the City create unreasonable disruptions of the peace and may create unsafe condition in the neighborhoods where these real properties are located;

(2) These repeated unlawful activates degrade neighborhoods;

(3) Existing state criminal statutes and City ordinances are inadequate to address, control, or remedy the adverse impacts of chronic unlawful activity occurring at these specific real properties;

(4) Civil regulation of these real properties will provide a remedy to the problems caused by these chronic behaviors and will promote and protect the public health, safety and welfare; and therefore,

(5) Real properties where those chronic unlawful activities specifically enumerated in Section 7.85.030 below occur, or where those chronic unlawful activities result from the use of the real property, are hereby declared to be public nuisances, and are subject to the abatement procedures and other remedies set forth within this Chapter.

7.85.020 Chronic Nuisance Property.

(1) Any property within the City that becomes a chronic nuisance property, as defined herein, is in violation of this Chapter and subject to its remedies.

(2) Any person who permits property under his or her ownership or control to be a chronic nuisance property, as defined herein, shall be in violation of this Chapter and subject to its remedies.

7.85.030 Definitions.

(1) "Abate" includes affirmative actions to remove, to stop, or to prevent a nuisance property but is not limited to:
   (a) Restricting or limiting noise, loitering, parking, or access to the property, including posting the property with signs indicating such restrictions;
   (b) Closing the property for not less than 30 days or more than 6 months; or
   (c) Entering premises for purposes of removing, compelling the removal or destruction of the structure, thing, substance, condition, or property constituting a nuisance.

(2) "Chronic Nuisance Property" is:
   (a) Property upon which the owner permits three or more separate incidents listed below to occur within any 30-day period, or five or more separate incidents listed below within any 90-day period, in which at least one separate incident results in a citation or arrest;
   (b) Property, the use of which has a causal relation to three or more separate incidents listed below occurring within any 30-day period, or five or more separate incidents listed below within any 90-day period, in which at least one incident results in a citation or arrest, and all of which occur within 100 feet of the boundary line of the subject property;
   (c) Any combination of separate incidents as specified in Section 7.85.030(2) (a) or (b) which amounts to three or more separate incidents listed below occurring within any 30-day period or five or more separate incidents listed below within any 90-day period, in which at least one incident results in a citation or arrest; or
   (d) For the purposes of 7.85.030(2) the following offenses shall constitute incidents which would support a finding of chronic nuisance property;
      (1) Harassment as defined in ORS 166.065(1)(a),
      (2) Intimidation as defined in ORS 166.155 through 166.165,
      (3) Disorderly conduct as defined in ORS 166.025 and AMC 7.08,
      (4) Assault or menacing as defined in ORS 163.160 through 163.190,
      (5) Public indecency as defined in ORS 163.465,
      (6) Prostitution or related offenses as defined in ORS 167.007 though 167.017,
      (7) Provision of alcohol to a minor or to a person visibly intoxicated as defined in ORS 471.410,
      (8) Offensive littering as defined in ORS 164.805,
      (9) Criminal trespass as defined in ORS 164.245 through 164.265,
      (10) Theft by receiving as defined in ORS 164.095,
      (11) Arson or related offenses as defined in ORS 164.315 though 164.335,
      (12) Possession, manufacturing, or delivery of a controlled substance or related offenses as defined in ORS 475.906 through 475.912 and 475.940 through 475.979,
      (13) Illegal gambling as defined in ORS 167.122 though 167.127,
      (14) Criminal mischief as defined in ORS 164.345 thought 164.365,
      (15) Firing or discharge of a firearm as defined in AMC 7.16.030,
      (16) Unnecessary noise as defined in AMC 7.08.050,
      (17) Sexual abuses as defined in ORS 163.415 though 163.427,
      (18) Sexual misconduct as defined in ORS 163.445,
      (19) Frequenting a place where controlled substances are used as defined in ORS 167.222,
      (20) Keeping junk and trash as defined in AMC 7.84.030,
      (21) Menacing as defined in ORS 163.190, 166.155, and 166.165,

(22) Reckless endangering as defined in ORS 163.195,
(23) Any attempt to commit (as defined in ORS 161.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors, or conduct.

(3) "Control" means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on property.

(4) "Good cause" means circumstances beyond the ability of a person acting with reasonable care and diligence to control.

(5) "Incident" means an occurrence of one of the nuisance behaviors set forth in Section 7.85.030(2)(c) as described in:
(a) Personal observation of a law enforcement officer, or
(b) A determination by a law enforcement officer after an investigation that there are reasonable grounds to conclude that the alleged incident did, in fact, occur.

(6) "Owner" means any person, agent, firm, or corporation having a legal or equitable or management interest in a property. Owner includes, but is not limited to;
(a) A mortgagee in possession in whom is vested:
(1) All or part of the legal title to the property; or
(2) All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
(b) A person who has the legal authority to control or to obtain authority to control what occurs on that property.

(7) "Permit" means to suffer, allow, consent to, or acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

(8) "Property" means any residential property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, room, house, building, or structure or any separate part or portion thereof, whether permanent or not.

(9) "Police Chief" means the official responsible for enforcement of State and City laws or departmental designee.

(10) "Structure" means that which is built or constructed, an edifice or building of any kind including units thereof or mobile homes, any of which is an addition to or a fixture on real property.

7.85.040 Police Chief's Determination.

(1) If the Police Chief suspects that property may be a chronic nuisance, the Police Chief may notify the owner and the owner's registered agent, if known, in writing. In deciding whether to proceed, the Police Chief shall consider whether the owner has reported the incidents and otherwise acted responsibly and whether proceeding would discourage future reporting and cooperation in discouraging unlawful behavior. The notice shall contain the following information:
(a) The street address or description sufficient for identification of the property;
(b) That the Police Chief is considering whether the property is a chronic nuisance property together with a concise description of the information upon which the Police Chief is relying. If any of the incidents relied on occurred on property other than that which is subject of the notice, the notice may include a concise description of the location and the causal relationship between the subject property and the incident; and
(c) A direction that the owner has 15 days from the date of mailing the notice, to provide information to the Police Chief demonstrating that the property is not a chronic nuisance, inform the Police Chief of the actions the owner intends to take to address the allegations, or indicate good cause as to why the owner cannot do so.

(2) If the owner fails to respond or to demonstrate to the Police Chief that further action should not be taken, the Police Chief may issue a determination of chronic nuisance and direct the owner to abate the nuisance within 30 days, or show good cause to the Police Chief why the owner cannot meet the deadline. The notice shall state that:

(a) If the nuisance is not abated within the 30-day period, and good cause for failure to abate is not shown, the Circuit Judge may order abatement or closure of the property with appropriate conditions. The Circuit Judge may also employ any other remedy deemed by the judge to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction;

(b) If the Circuit Judge orders the property owner to take some action to abate the nuisance, the owner may be required to pay to the City a civil penalty of $250.00 a day for each day the owner fails to take action;

(c) If the Circuit Judge orders the owner to abate the nuisance, the owner may be required to pay a civil penalty of $500.00 per incident for subsequent incidents, as defined by Section 7.85.030(2)(c), occurring on the property within six months of the order;

(d) Permitting chronic nuisance property is a violation of this Chapter; and

(e) The above remedies are in addition to those otherwise provided by law.

(3) Service of the notice to the property owner provided for in this Chapter is completed upon delivery in person or upon mailing the notice by certified mail addressed to:

(a) The owner's registered agent, if any is known; or

(b) The owner at the address of the property believed to be a chronic nuisance property, or to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Police Chief.

(4) A copy of the notice shall be served on occupants of the property, if different from the owner. Service shall be completed upon delivery in person or upon mailing the notice first class addressed to "occupant" of each unit of the property believed to be a chronic nuisance property.

(5) In addition, a copy of the Police Chief's determination that the property is a chronic nuisance shall be posted on the main entrance of the property in a conspicuous manner.

(6) The failure of any person or owner to receive actual notice of the determination by the Police Chief shall not invalidate or otherwise affect the proceedings under this Chapter.

7.85.050 Determination of Hearing Officer.

(1) If the Police Chief determines that the owner has failed to abate the chronic nuisance or demonstrate good cause as to why the owner cannot do so, the Police Chief may refer the matter to the Circuit Judge for a hearing. The Circuit Judge may give notice of the hearing to the owner and occupants, if different from the owner, and post notice of the hearing on the main entrance of the property. At the time set for the hearing, the owner and occupants may appear and be heard. The Circuit Judge may determine *de novo* whether the property is a chronic nuisance property, whether the nuisance has been abated, and whether the owner has shown good cause or otherwise has a valid defense.

(2) The City has the initial burden of showing by a preponderance of the evidence that the property is a chronic nuisance property. If the City is relying on an incident that occurred on property other than the property that is the subject of the chronic nuisance determination, the City shall demonstrate some causal relationship between activities occurring on the property and the incident. The activities must have contributed to, but need not be the sole or predominant cause of the incident. Evidence demonstrating a causal connection may include, but is not limited to:

(a) That the owner knew or reasonably should have known that the resident or other person associated with the property would engage in conduct listed in Section 7.85.030(2); or

(b) Activities on the subject property that encouraged, engendered, promoted, contributed to, or otherwise made the incident more likely to occur.

(3) It shall be an affirmative defense to an action under this Chapter that the owner could not, in spite of the exercise of reasonable care and diligence, control the activities on the subject property that constituted the incident or made the incident more likely to occur or otherwise remedy the situation leading to the finding that the property is a chronic nuisance. The owner has the burden of proving this defense by a preponderance of the evidence. The action shall be dismissed if the Circuit Judge determines that the owner has proven this defense.

(4) If the owner can prove by a preponderance of the evidence that the owner is unable to remedy the chronic nuisance within the time frames required by this Chapter, the Circuit Judge may elect to grant more time and continue its final determination as the Circuit Judge determines is just.

7.85.060 Remedies.

(1) If the Circuit Judge determines that property is a chronic nuisance and the owner has not demonstrated a valid defense, the Judge may order that the nuisance be abated or close and secure the property against all use and occupancy for a period of not less than 30 days and not more than 6 months.

(2) Prior to issuing any order of abatement or closure, a Circuit Judge may consider the following factors:
(a) The actions taken by the owner(s) to mitigate or correct the problem at the property;
(b) The financial position of the owner;
(c) Whether the problem at the property was repeated or continuous;
(d) The magnitude or gravity of the problem;
(e) The level of cooperation of the owner in addressing the problem, including whether the owner reported the incidents;
(f) The time and cost to the City in attempting to correct the problem; and
(g) Any other factor deemed relevant by the Circuit Judge. These factors are guidelines to inform the decision-making process, but the presence or absence of any factors shall not control the decision by the Circuit Judge.

(3) The order may include conditions under which abatement or closure is to occur.

(4) Upon a determination by the Circuit Judge that the property is a chronic nuisance, the Police Chief may file a notice of the proceedings to be placed with the county property records.

(5) The remedies in this section are in addition to those otherwise provided by law. The City may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction.

7.85.070 Multi-Unit Property.

(1) Except as provided in Section 7.85.070(2), in the case of multi-unit residential property, such as apartment complexes under one ownership, the chronic nuisance determination and closure remedy shall be directed only to the unit or units that are the source or location of the incidents.

(2) A chronic nuisance determination and remedy may be applied to multiple units, up to and including the entire property, if the Circuit Judge determines that:
(a) The incident occurred in the common areas of the property or otherwise are not reasonably attributable to a particular unit;
(b) The nature or scope of the incidents is such that they cannot reasonably be attributed to a particular unit; or
(c) Incidents continue to occur despite previous imposition of remedies on specific units and the owner has demonstrated an inability or unwillingness to mitigate or correct the nuisance.

7.85.080 Civil Penalty.

(1) If the Circuit Judge finds that a property is a chronic nuisance property and orders the owner to take some action to abate the nuisance, the Judge may impose upon the owner a civil penalty of up to $250.00 per day, payable to the City, for each day after the deadline that the owner fails to take the action ordered.

(2) If the Circuit Judge orders the owner to abate the nuisance, the Judge may impose upon the owner a civil penalty of $500.00 per incident for subsequent incidents, as defined by Section 7.85.030(2), occurring on the property within six months of the order.

(3) A civil penalty is assessed by issuing written notice of penalty to the owner of the chronic nuisance property and the owner's registered agent, if any is known. The notice shall contain the following information:
(a) The street address or description sufficient for identification of the property;
(b) That the Circuit Judge has found that the owner has failed to take the action required by the Judge, or that after an order to abate the nuisance, a subsequent nuisance activity has occurred, with a concise description of the conditions leading to the Judge's findings;
(c) That the owner may request a hearing on the validity of the assessment of the penalty by filing a request with the Circuit Judge within 14 days of the notice. The request must specifically state the grounds upon which the owner believes that the penalty is not valid;
(d) The penalty is final when 14 days have elapsed from the date of the notice if a request for hearing is not filed, or upon entry of an order upholding the penalty by the Circuit Judge after hearing.

(4) The Circuit Judge shall not impose more than ten (10) days of civil penalties at a time. The Judge may impose additional civil penalties after ten (10) days by reissuing notice of imposition of penalties.

7.85.090 Penalty and Costs of Review as Lien.

(1) The Police Chief may forward a statement of the assessments for penalties, cost of abatement and, if ordered by the Circuit Judge, hearing costs and attorney's fees to the Finance Director. The Finance Director shall notify the owner by mail of the sum of money due to the City. If the sum is not paid within 45 days from the billing date, the Director shall file with the Circuit Judge a statement of the sum due, plus an additional charge of thirty (30) percent to cover administrative expenses. The owner shall be notified by mail of the time and place the Circuit Judge will consider the statement of penalties and costs, and will be given a reasonable opportunity to be heard in objection thereto. The Judge will only determine if the statement of penalties and cost is correct, and will not reconsider the decision as to whether the penalties and costs of the hearing should be imposed. The Judge shall determine the correct amount of penalties and cost and shall declare the same to be a lien upon the property involved, to be entered in the minor lien docket and enforced against the property, in the same manner provided for enforcement of liens for street improvement.

(2) Nothing in this Section shall be construed as restricting the authority of the City to enter into a settlement of the dispute, including waiving some or all amounts due to the City.

7.85.100 Closure of Property.

If the Circuit Judge's order of closure of a property is not appealed, or if the Judge upholds an appeal of an order which has been challenged, the City shall take steps to physically secure the property against all use, and post conspicuous notices that the property has been closed. All costs reasonably incurred by the City in securing the property shall be made an assessment lien upon the property in the manner described in AMC 7.85.100. Costs may include but are not limited to staff time and materials. Prior to physically closing the property, the City may, but is not required to, provide the owner with a brief opportunity to physically secure the property against all use at the owner's expense.

7.85.110 Entering Closed Property.

It is unlawful for any person to enter, use, or remain in or on property that has been ordered closed pursuant to this Chapter.

7.85.120 Liability.

Nothing herein shall be relied on or construed as establishing any City responsibility, obligation or liability to any third party, for damages or otherwise arising from the actions or inactions of the City in applying this Chapter. Nothing herein lessens or otherwise alters the property owner's responsibility to third parties arising from use and condition of the property.

7.85.130 Violation.

Violation of any of the provisions of this Chapter is a misdemeanor punishable as provided by AMC 1.04.010.

Passed by Council:_____

Approved by Mayor: _____

Effective Date:_____

_____

Mayor

ATTEST:

_____

City Clerk

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: John R. Bradner, Fire Chief JRB

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: U.S. Department of Homeland Security FY 2016 Assistance to Firefighters Grant Regional Application

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Approval from the City Council, by resolution, of the application through the U.S. Department of Homeland Security FY 2016 Assistance to Firefighters Grant not to exceed $225,000 to purchase one bariatric-equipped ambulance for the Shared Single-Role Medic Unit (Medic 71 Program).

Discussion:

The Medic 71 Program, with Lebanon and Tangent Fire Districts, has been operating for four months and is proving to be effective in handling a large percentage of inter-hospital transfers as well as providing an additional local resource during peak hours for all agencies.

The program uses Albany's 2001 Ford F-350 Super Duty ambulance that is not equipped with current vehicle safety features, such as airbags. A new ambulance is needed to sustain the Medic 71 Program and workload. Additionally, having bariatric (obesity) capabilities on this unit would increase patient comfort and employee health and safety by providing equipment designed to more adequately handle bariatric patient transports.

The federal Assistance to Firefighters Grant program allows for regional applications related to vehicle acquisitions, and an ambulance is an eligible vehicle. Since this is a cooperative program with Lebanon and Tangent Fire Districts, we propose submitting a regional application, with Albany acting as the host department. A regional application provides the best opportunity to showcase how more than one jurisdiction directly benefits from the activities implemented with the grant funds.

The grant requires a ten percent match which would be paid by the City of Albany Equipment Replacement Fund for Fire Department vehicles, and the deadline for the grant application is November 18, 2016.

Budget Impact:

$225,000 - FY 2016 Assistance to Firefighters Grant

$25,000 - Equipment Replacement Fund

JB:ljh
Attachment

RESOLUTION NO. _____

A RESOLUTION TO APPLY FOR THE U.S. DEPARTMENT OF HOMELAND SECURITY FY 2016 ASSISTANCE TO FIREFIGHTERS GRANT ON BEHALF OF THE ALBANY FIRE DEPARTMENT, LEBANON FIRE DISTRICT, AND TANGENT RURAL FIRE PROTECTION DISTRICT TO PURCHASE A BARIATRIC-EQUIPPED AMBULANCE FOR THE SHARED ALS SINGLE-ROLE MEDIC UNIT PROGRAM.

WHEREAS, there is an Intergovernmental Agreement between the Albany Fire Department, Lebanon Fire District, and Tangent Rural Fire Protection District for a Shared ALS Single-Role Medic Unit (Medic 71 Program); and

WHEREAS, the Albany Fire Department provides the ambulance for the Medic 71 Program; and

WHEREAS, the Medic 71 ambulance is a 2001 Ford F-350 Super Duty that does not have current standard safety equipment, such as airbags; and

WHEREAS, the Medic 71 ambulance does not have bariatric equipment to more effectively transport bariatric patients; and

WHEREAS, the Medic 71 Program needs a new, safe, bariatric-equipped ambulance to sustain the workload and sustainability of the program; and

WHEREAS, the U.S. Department of Homeland Security FY 2016 Assistance to Firefighters Grant Program allows regional applications for vehicles, including ambulances; and

WHEREAS, the 2016 Assistance to Firefighters Grant requires a ten percent match; and

WHEREAS, the Albany Fire Department would be the host department on behalf of the Albany Fire Department, Lebanon Fire District, and Tangent Rural Fire Protection District for the FY 2016 Assistance to Firefighters Grant Program regional application and fulfill the obligations of the grant if awarded.

NOW, THEREFORE, BE IT RESOLVED, the Albany City Council authorizes the Fire Department to apply for the U.S. Department of Homeland Security FY 2016 Assistance to Firefighters Grant for a regional grant in the amount of $225,000 on behalf of Albany Fire Department, Lebanon Fire District, and Tangent Rural Fire Protection District for one bariatric-equipped ambulance.

DATED AND EFFECTIVE THIS 9TH DAY OF NOVEMBER 2016.

_____

Mayor

ATTEST:

_____

City Clerk

TO: Albany City Council

VIA: Wes Hare, City Manager
Jeff Blaine, P.E., Public Works Engineering & Community Development Director
Chris Bailey, Public Works Operations Director

FROM: Mark A. Yeager, P.E., Utility Services Manager

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Stormwater, Water, and Sewer Service Charge Resolutions

RELATES TO STRATEGIC PLAN THEME:
- Great Neighborhoods
- Safe City
- An Effective Government

Action Requested:

Staff is seeking Council review and approval of the attached resolutions to establish a charge for stormwater services and to reduce charges for water and sewer service.

Discussion:

There are three (3) linked service charge resolutions included with this memo. Council previously provided direction regarding the coupling of water and sewer service charge reductions with the implementation of a stormwater service charge. If adopted, the stormwater service charge, the two-percent (2%) water service charge reduction, and the six-percent (6%) sewer service charge reduction will all be effective March 1, 2017. As proposed, the average residential customer will see a $2.61 per month (2.7%) increase in the overall utility bill.

The City Council has been considering stormwater system needs, regulatory requirements, and funding alternatives for nearly two years. Since January 2015, there have been 11 Council work sessions with dedicated stormwater discussions. At the October 10, 2016, Work Session, Council provided final direction to staff regarding implementation of stormwater service charges.

The attached stormwater service charge resolution reflects Council direction regarding revenue requirements, basic rate design principles, customer classes, tiered rates for single-family residential customers, and credit programs for non-single family residential customers. In addition, the resolution contains language describing a stormwater bill appeal process, the option to phase in the rollout of the rates to customers, and general utility information regarding billing and account management. The resolutions to implement the water and sewer service charge reductions upon the effective date of the stormwater service charge are also attached for Council consideration.

Budget Impact:

Adoption of the proposed resolutions will result in receipt of approximately $400,000 in stormwater revenues assuming all customers are billed beginning March 1, 2017, and a loss of approximately $60,000 in water and approximately $250,000 in sewer revenues for the current fiscal year budget.

MAY:rk
Attachments (3)
c: Jeni Richardson, P.E., Civil Engineer III (via email)
Ryan Beathe, Civil Engineer II (via email)
Kristin Preston, Wastewater Superintendent (via email)
Jeff Babbitt, Public Works/Community Development Business Manager (via email)

RESOLUTION NO. _____

A RESOLUTION SETTING RATES FOR STORMWATER MANAGEMENT SERVICES.

WHEREAS, rain falling onto developed property collects and runs off impervious or saturated surfaces and drains into stormwater inlets, pipes, drainage ditches, and creeks, and ultimately discharges to various local waterways; and

WHEREAS, when not properly managed, stormwater can flood streets, cause property damage, erode streams, and carry pollutants into local waterways, causing harm to habitat and aquatic species; and

WHEREAS, the existing stormwater system assets of piped and open conveyances are valued at more than $100 million and should be properly maintained; and

WHEREAS, proper operation and maintenance of stormwater systems is essential for public health and safety; and

WHEREAS, local waterways that receive stormwater are valuable community assets and are subject to federal and state water quality regulations; and

WHEREAS, the City of Albany must comply with new stormwater regulatory requirements (National Pollutant Discharge Elimination System, Municipal Separate Storm Sewer System, Phase II permit) that require significant resources; and

WHEREAS, the City Council finds that a dedicated and reliable source of funds is necessary in order to support stormwater services that meet regulatory requirements and proactively manage and maintain the City's stormwater system; and

WHEREAS, the City Council has determined that implementing a stormwater utility and service charge is the most appropriate and equitable means of providing a dedicated and reliable source of funds; and

WHEREAS, the stormwater service charge it is not a tax subject to the property tax limitation of Article XI, Section 11b of the Oregon Constitution; and

WHEREAS, all developed property in the City either uses or benefits from the City's stormwater management program and no developed property is exempt from the stormwater service charge; and

WHEREAS, the City Council has determined that undeveloped properties shall not be charged for stormwater services; and

WHEREAS, the City Council will consider future rate adjustments based on actual and anticipated revenues and expenses.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the rates and charges for stormwater services as specifically described in Exhibit A (attached hereto) are hereby adopted; and

BE IT FURTHER RESOLVED that the rates established by this resolution shall be effective **March 1, 2017**.

DATED THIS 9th DAY OF NOVEMBER 2016.

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT A

STORMWATER SERVICE CHARGES

Stormwater service charges shall apply to all developed properties and are established for two rate classes: single family residential (SFR) and non-single family residential (NSFR). The stormwater service charge has two parts: a base charge and an impervious surface charge.

The base charge recovers costs attributed to customer-related services, such as billing and account maintenance, plus costs attributed to management of stormwater related to general use areas, such as streets and sidewalks in public rights-of-way. All developed property (SRF and NSFR) benefit from the City's efforts to manage stormwater by reducing flooding, keeping streets passable during storm events, and protecting water quality. All customers will pay the same base charge per account.

The impervious surface charge recovers costs attributed to increased stormwater runoff from impervious surface area outside of the public right-of-way. The amount of total impervious surface on a typical single family residence serves as the base unit for determining a property's billable impervious surface area. In Albany, the typical single family residential property has a total of 3,200 square feet of impervious area when all impervious surfaces are included. This typical single family residential amount of impervious area is defined as one (1) equivalent residential unit or ERU.

The Public Works Director (Director) or his/her designee is responsible for determining the amount of billable impervious surface on a property. In making that determination, the Director may use aerial mapping, building plans, or other available tools. On-site measurement of the amount of impervious surface area on a property is not required to make this determination.

PHASED IMPLEMENTATION

The application of stormwater service charges to customer accounts may be phased in as deemed appropriate by the Director to ensure proper development of data and billing systems resulting in accurate calculation of customer bills. The phased application of the stormwater service charges by customer class, billing cycle, or other appropriate method will be implemented as quickly as possible; however, all customers will receive the first bill no later than twelve (12) months after the effective date of this resolution.

SINGLE FAMILY RESIDENTIAL RATES

Each developed single family residential (SFR) property shall be billed a base charge and an impervious surface charge for one (1) ERU. The impervious surface charge is tiered in recognition of variations in SFR building footprints throughout the City. The building footprint includes the surface area of the main building.

The monthly stormwater bill for a single family residential customer shall be computed as follows:

A = (base charge) + (impervious surface charge x B)

where: A = monthly bill
B = 1 ERU

and where: base charge and impervious surface charges by tier are shown in the rate schedule below.

SFR RATE SCHEDULE

Single Family Residential Customer	Tier 1 1,350[1] or less	Tier 2 Between 1,351 and 3,150[1]	Tier 3 3,151[1] or more
Base Charge	**$ 4.79**	**$ 4.79**	**$ 4.79**
Impervious Surface Charge ($/ERU)	**$ 1.45**	**$ 1.95**	**$ 2.45**
Total monthly SFR stormwater bill	**$ 6.24**	**$ 6.74**	**$ 7.24**

[1]Building footprint only – square feet

NON-SINGLE FAMILY RESIDENTIAL RATES

Non-single family residential (NSFR) properties include commercial or industrial uses, schools, government, duplexes, mobile home parks, multiple-family units or mixed commercial-residential properties, and all other non-single family residential properties.

The monthly stormwater bill for each NSFR property shall include a base charge and an impervious surface charge. The base charge is the same one used for SFR accounts.

The impervious surface charge for NSFR properties is based on the amount of measured impervious area. The Director or his/her designee is responsible for determining the billable impervious surface area on a property.

The impervious surface charge for each NSFR customer is calculated by multiplying the rate per ERU by the number of ERUs for each property or account. The number of ERUs is determined by dividing the total billable impervious area by 3,200 square feet (the area of one ERU) and rounding to the nearest tenth.

The monthly stormwater bill for a non-single family residential customer shall be computed as follows:

A = (base charge) + (impervious surface charge x B)

where: A = monthly bill
B = the billable impervious area expressed in ERUs

and where: base charge and impervious surface charge rates are shown in the rate schedule below.

RATE SCHEDULE

Non-Single Family Residential Customer	
Base Charge	**$ 4.79**
Impervious Surface Charge ($/ERU)[1]	**$ 1.95**
Monthly NSFR stormwater bill[2]	**varies by account**

[1] ERU = Equivalent Residential Unit. One ERU is 3,200 square feet of impervious surface coverage
[2] The total monthly NSFR stormwater bill cannot be less than the Tier 2 SFR monthly bill

NON-SINGLE FAMILY RESIDENTIAL CREDITS

The NSFR stormwater credit program recognizes that on-site stormwater management improvements that exceed minimum requirements may reduce the City's stormwater management costs.

Credits for the identified programs can be cumulative as long as the aggregate impervious surface charge reduction does not exceed 25%. In no case shall the application of credits result in a final NSFR monthly bill that is less than the Tier 2 SFR monthly bill.

To be eligible for a credit, the customer must submit a completed credit application form with all required supporting documentation along with a credit application fee of $50.00. Eligible credit programs are described below:

On-Site Structural Stormwater Control Credit: NSFR credits may be allowed for an approved, on-site, structural stormwater control that provides detention, reduces runoff volume, or improves stormwater quality. The intent of the credit is to recognize efforts of property owners to better manage stormwater when stormwater controls are not required as part of a proposed development or other regulatory requirement.

To be eligible for a credit, prior approval of design and construction is required. All facilities eligible for credit must also be designed, constructed, and maintained to the City's Engineering Standards and Standard Construction Specifications or as otherwise approved by the Director or his/her designee. The Director may require an engineering report, hydrologic analysis, an operation and maintenance plan, or any other documentation he/she determines necessary to confirm the reported performance of a stormwater facility.

Facilities installed to meet development or other regulatory requirements are not eligible, even if they exceed minimum performance standards. Facilities determined by the Director or his/her designee to be of no benefit to the City's stormwater systems are also not eligible. Final determination of facility eligibility is made at the discretion of the Director.

The credit will be calculated by determining the amount of impervious surface routed to the eligible facility(ies), multiplying that area by 25%, and converting it to an ERU (rounded to the nearest tenth). The dollar value of the credit will be calculated by multiplying the resultant ERU by the impervious surface charge rate. The maximum credit allowed is 25% of the impervious surface charge on the relevant stormwater bill.

At the discretion of the Director or his/her designee, the credit may be terminated if the customer fails to maintain the facility in proper working order, the property changes ownership, the drainage characteristics of the property change, the property is redeveloped, or the property boundaries change.

The City may request periodic site visits and periodic submittals of maintenance inspection reports to verify that the stormwater facilities, for which the customer is receiving a credit, are installed and maintained in good working order. Failure to allow access or to provide requested reports may be cause for termination of the credit received.

Oregon Department of Environmental Quality (DEQ) 1200Z Credit: Properties that operate in compliance with an approved 1200-Z permit from the Oregon DEQ are eligible for up to a 25% impervious surface charge credit for that portion of the property covered by the 1200Z permit. The property owner may be required to provide documentation or allow inspection by City staff in order to demonstrate, to the Director's or his/her designee's satisfaction, compliance with the 1200-Z permit. Final determination of credit eligibility is made at the discretion of the Director.

Education Credit: Albany is required to implement a public education and outreach program. An informed and knowledgeable community is crucial to the success of a stormwater management program since it helps to ensure greater support and greater compliance. Directing educational programs toward specific groups of appropriate school-age children can help to inform and educate our community.

A credit program for education services may be available for certain schools. To be eligible for this credit, the applicant school would provide access to students within the target grade level of the City's Public Education and Outreach Program for City or City-sponsored presentations. In order to be eligible for a credit, both the applicant school and the City must agree to program terms, and the Director or his/her designee shall determine credit eligibility.

The credit for this program is up to 25% of the impervious surface charge on the stormwater bill for the educational facility providing access to students.

Other Credits: The Director may consider requests for stormwater credit for other facilities or programs provided that the customer can demonstrate that those programs or facilities exceed minimum regulatory requirements and that they reduce the City's stormwater management costs.

APPEALS

Customers with questions about their stormwater bill will be provided informal opportunities to ask questions about their bill and the City will work to help the customer understand how the bill is calculated for their property. If, after the bill calculation has been explained and is understood, the customer still disagrees with the bill, the customer may formally appeal the bill.

Initial Appeal: Any customer who disagrees with the calculation of the stormwater service charges for his or her property may apply to the Director for reconsideration of the stormwater service charge. The formal appeal requires payment of a $25.00 appeal fee, must state the grounds for reconsideration, and must be filed in writing with the Director no later than thirty (30) days after date of the billing. The Director shall review the request to determine whether an error was made in the calculation of the service charge. If an error has been made in the calculation, the Director may approve a change to the service charge. If the appeal is denied, the reason(s) for denial will be reduced to writing and provided to the customer.

Appeal to City Manager: An appeal of the Director's decision may be brought before the City Manager within thirty (30) days of the date of the Director's decision on the initial appeal. The request must state the grounds for reconsideration of the Director's decision and must be filed in writing with the City Manager. If the City Manager determines that an error has been made in the calculation, the City Manager may approve a change to the service charge. If the appeal is denied, the reason(s) for denial will be reduced to writing and provided to the customer. The decision of the City Manager shall be final.

Successful Appeal: If an appeal of charges is successful, the revised service charge shall be applied to the account beginning with the bill that was the subject of the initial appeal, a credit will be applied to the account, and the $25.00 appeal fee will be refunded. The revised service charge will be reflected in future billings for the property until the physical characteristics of the property change, or until the rate resolution is changed.

GENERAL UTILITY INFORMATION

Billing Accounts: In cases where multiple utility accounts exist on one parcel, e.g., commercial retail mall, multi-family apartment units, etc., the City will work with the property owner to either bill one of the accounts for stormwater services for the full parcel, or a new account may be created in the property owner's name and that account will be billed for the stormwater services for the parcel. If a non-single family residential customer has two or more parcels associated with a single business operation, e.g., a commercial building and an adjacent parking lot, those parcels may be consolidated into one bill for stormwater billing purposes.

Monthly Bills: Bills will be rendered monthly. Bills for new accounts or closed accounts, or bills that, for any other reason, cover a period of time more or less than the normal billing period, shall be prorated. Stormwater service charges are not subject to vacancy credits and will not be discontinued when properties become vacant. However, under conditions where the City discontinues billing for other utility services, it may, at its discretion, choose to also discontinue billing for stormwater services.

Commencement: The stormwater service charge shall commence upon connection to the City's water or sewer system; or upon completion, occupancy, or use of the improvements, whichever comes first. Areas that are annexed to the City or under contract to annex shall become subject to the stormwater service charge on the date of annexation or the date of the annexation contract, whichever comes first.

Adjustments, Back-Billing, Credits, and Refunds: When the utility determines that a customer has been mistakenly charged too much for stormwater services, the utility will apply a credit to the account based on the date the error first occurred, the date the current customer became responsible for the bill, or a period not to exceed six years, whichever is less. If the date cannot be reasonably determined, the utility will estimate the amount of the credit based on a period not to exceed six years.

When the utility determines that a customer has not been charged or has not been charged enough for stormwater services, the utility will back-bill the account based on the date the error first occurred, the date the current customer became responsible for the bill, or a period not to exceed one year, whichever is less. If the date cannot be reasonably determined, the utility will estimate the bill for a period not to exceed one year. Customers who receive such a delayed bill will be offered the opportunity to make arrangements for installment payments.

Unified Billing: The stormwater service charge shall be billed and collected by the City in the same manner and at the same time as water and sewer service charges. Partial payments on the account shall be applied first to the

stormwater charge, second to the sewer charge, finally, to the water charge. The customer shall not be allowed to specify a different allocation of payment.

Delinquent Accounts: An account is delinquent ten (10) calendar days after the date of the bill. Delinquent accounts will receive written notice of the delinquency and may be subject to administrative service charges and service discontinuation until the entire bill balance is paid in full. An interest charge may be added to the unpaid balance, at a rate of nine percent per annum.

Collection: Any balances due on delinquent accounts may be recovered by civil action in the name of the City against the property owner, the person, or both. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating the debt due. Should the City find it necessary to collect any delinquent fees or charges for stormwater services, it shall be entitled to use any means provided by the laws of the State or permitted by the Charter and ordinances of the City. Fees and charges that are delinquent may be subject to interest charges at nine percent per annum. Any interest charge due hereunder which is not paid when due may be recovered in an action at law by the City.

RESOLUTION NO._____

A RESOLUTION SETTING RATES FOR WATER USE AND REPEALING RESOLUTION NO. 6411 (A RESOLUTION SETTING RATES FOR WATER USE AND REPEALING RESOLUTION NO. 6289).

WHEREAS, the Water Fund is primarily dependent upon water rate revenues for its funding; and

WHEREAS, the rate structure should be designed to generate revenues adequate to properly operate and maintain the water system, to comply with regulatory requirements, to fund water system capital projects, and to meet debt service requirements; and

WHEREAS, in 2012, the City Council decided to set future rate increases by evaluating the referenced water system requirements annually; and

WHEREAS, the Council initially implemented a low-income assistance program in 2006 (Resolution No. 5166), and the latest revision to that program was in October 2016 (Resolution No. 6543); and

WHEREAS, the City Council determined that revenues from the Private Fire Protection Service fees are more appropriately used by the Fire Department to cover the costs associated with inspection, testing, and maintenance compliance verification of private fire protection systems; and

WHEREAS, in anticipation of receiving revenues from stormwater service charges, the City Council has determined that water rates should be reduced by two percent (2%) when new stormwater service charges become effective; and

WHEREAS, the aforementioned two percent (2%) rate reduction should not apply to Private Fire Protection Service rates, to rates for former North Albany County Service District customers outside city limits, or to Dumbeck Lane Domestic Water Supply District because they will not be paying stormwater service charges.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the water rates and service charges for water service as specifically described in Exhibit A (attached hereto) are hereby adopted; and

BE IT FURTHER RESOLVED that Resolution No. 6411 is hereby repealed; and

BE IT FURTHER RESOLVED that the rates established by this resolution shall be effective **March 1, 2017.**

DATED THIS 9TH DAY OF NOVEMBER 2016.

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT A

I. SERVICE FEES AND CHARGES

Description	Reference	Charge			
Account Deposit	AMC 11.01.040(2a)	Customer Type Residential Multi-family & Non-residential	Property Owner no deposit no deposit	Non Property Owner $80 $80 or $120 depending on consumption	
New Account – Service Fees	AMC 11.01.040(5)	Regular working hours $15 After hours $60			
Restore Service	AMC 11.01.060(5)	Regular working hours $25 After hours $60			
Financial Institution Returned Item	ORS 30.701(5)	$35			
Past Due and Disconnection Notice	AMC 11.01.060(4)	$5 per occurrence			
Tampering Fees	AMC 11.01.080(9)	$100			
Meter Testing at Customer's Request	AMC 11.01.090(1b)(ii)	Meter Size ¾-inch Larger than ¾-inch	Service Charge Deposit $15 Actual Cost		
Drop-in Meter Installation	AMC 11.01.100(2)(3)	¾" meter $275	1" meter $340	1-1/2" meter $1,771	2" meter $1,883
Full Installation with meter (Excludes system development charges)	AMC 11.01.100(2)(3)	¾" meter $2,950	1" meter $2,975	1-1/2" meter Actual Cost	2" meter Actual Cost
Reduction of Meter Size (based on size of meter to be installed)	AMC 11.01.100(5b)	¾" meter $275	1" meter $340	1-1/2" meter $1,771	2" meter $1,883
Main Extensions	AMC 11.01.120(2h)	Actual Cost Plus 15% Overhead			
Fire Service Extensions	AMC 11.01.150(1)	Actual Cost Plus 15% Overhead			
Unauthorized Use of Fire Hydrant	AMC 11.01.180(1) & (4)	$50 + $3.35 per 100 cubic feet			
Metered Use of Hydrant	AMC 11.01.180(4)	Refundable Deposit $75.00 Set Up $25.00 Bulk Rate $3.35 per 100 cubic feet Relocation Rate $25.00 Monthly Base Charge $95.56			

II. RESIDENTIAL, MULTI-FAMILY, AND NON-RESIDENTIAL WATER SERVICE

A. WATER CUSTOMERS INSIDE CITY LIMITS

Applicable to all residential, multi-family, and non-residential customers receiving water service within the Albany city limits.

A residential customer is defined as a customer whose meter serves only one single-family dwelling unit. All dwelling units served by individual meters shall be charged the residential rate for service. For example, the residential rate shall apply where separate water meters provide service to each side of a duplex.

Multi-family customers are defined as customers whose meter services more than one dwelling unit. For the purposes of this rate resolution, dwelling unit shall be defined as any place of human habitation designed for occupancy based upon separate leases, rental agreements, or other written instruments.

Non-residential customers are defined as customers whose meter is for any use other than residential and multi-family. Some examples of non-residential uses include, but are not limited to: commercial, industrial, institutional, and food processing. Examples of institutional uses include schools, hospitals, and nursing homes.

MONTHLY RATE:

Customer Class/ Meter Size	Base Charge ($/month)		Consumption Charge		
			Block 1	Block 2	Block 3
Nonresidential & Multi-Family			***Consumption Level (hundred cubic feet)***		
¾ inch or less	~~$17.93~~	**$17.57**	First 17	Next 17	Over 34
1 inch	~~$26.19~~	**$25.67**	First 18	Next 18	Over 36
1½ inch	~~$59.69~~	**$58.50**	First 21	Next 21	Over 42
2 inch	~~$95.56~~	**$93.65**	First 25	Next 25	Over 50
3 inch	~~$191.31~~	**$187.48**	First 28	Next 28	Over 56
4 inch	~~$298.87~~	**$292.89**	First 30	Next 30	Over 60
6 inch	~~$597.56~~	**$585.61**	First 31	Next 31	Over 62
8 inch	~~$663.38~~	**$650.11**	First 40	Next 40	Over 80
10 inch	~~$663.38~~	**$650.11**	First 92	Next 92	Over 184
12 inch	~~$663.38~~	**$650.11**	First 92	Next 92	Over 184
			Consumption Rate ($/100 cubic feet)		
Nonresidential			~~$3.35~~ **$3.28**	~~$2.44~~ **$2.39**	~~$2.32~~ **$2.27**
Multifamily			~~$3.21~~ **$3.15**	~~$2.40~~ **$2.35**	~~$2.24~~ **$2.20**
Residential			***Consumption Level (hundred cubic feet)***		
¾ inch or less	~~$17.93~~	**$17.57**	First 6	Over 6	NA
1 inch	~~$26.19~~	**$25.67**	First 6	Over 6	NA
1½ inch	~~$59.69~~	**$58.50**	First 6	Over 6	NA
2 inch	~~$95.56~~	**$93.65**	First 6	Over 6	NA
			Consumption Rate ($/100 cubic feet)		
All Meters			~~$3.99~~ **$3.91**	~~$2.53~~ **$2.48**	NA
Low-Income Assistance Program Surcharge – Residential Bills Only					$0.35

B. WATER CUSTOMERS OUTSIDE CITY LIMITS

Applicable to all residential, multi-family, and non-residential customers receiving water service outside the Albany city limits and that are not served by water lines previously operated by the North Albany County Service District (NACSD) or the Dumbeck Lane Domestic Water Supply District.

MONTHLY RATE

Rates by class as listed under Section I.A, Water Customers Inside City Limits, with a 10 percent surcharge on said rates for service outside the city limits.

C. WATER CUSTOMERS WITHIN THE DUMBECK LANE DOMESTIC WATER SUPPLY DISTRICT

Applicable to the Dumbeck's master water meter that will serve a maximum of 132 residential connections as defined in the agreement dated December 2014 between the Dumbeck Lane Domestic Water Supply District and the City of Albany.

MONTHLY RATE

Dumbeck will pay quarterly for water delivered to Dumbeck's meter that Albany installs and maintains for billing purposes. The water rate will be increased annually to reflect changes adopted by Albany.

Dumbeck	Base Charge ($/month)	Consumption Rate ($/100 cubic feet)
Wholesale	N/A	$3.64

D. WATER CUSTOMERS OUTSIDE CITY LIMITS IN BENTON COUNTY

Applicable to all residential, multi-family, and non-residential customers outside city limits and served by water lines previously operated by the North Albany County Service District (NACSD) (excludes the Dumbeck Lane Domestic Water Supply District).

MONTHLY RATE

The water rates adopted by the Benton County Commissioners acting as the governing body of the NACSD consistent with the contractual agreement between NACSD and the City of Albany.

SPECIAL CONDITIONS APPLYING TO ALL CUSTOMERS

If water service is provided through a single meter to a facility that contains a mixture of customer classes, the customer class with the higher consumption rates shall be used for calculating the consumption portion of the bill. For example, all water used in a building that contains both non-residential and multi-family uses will be billed at the non-residential consumption rate.

Meter readings from meters that measure flow in 1,000 gallon increments shall be converted to hundred cubic foot units prior to applying the appropriate consumption charge for calculating the water bill.

Water used during construction of a building shall be metered and billed at the rate appropriate for the type of facility being constructed. For example, water used during construction of a single-family residence will be billed at the residential rate. When, during construction, setting a meter is impracticable, the amount of water used shall be estimated and billed at the appropriate rate for the type of facility being constructed.

III. PRIVATE FIRE PROTECTION SERVICE

A. INSIDE CITY LIMITS

Applicable to standpipes, connections for automatic sprinkler systems, and fire hydrant service for private fire protection located within city limits.

MONTHLY RATE:

For Standpipes, Privately Owned Hydrants, or Other Types of Private Fire Line Connection

Fire Line Size	Monthly Rate
2" or smaller	$13.09
3"	$16.30
4"	$17.77
6"	$28.46
8"	$45.97
10"	$73.21

For Hydrants Furnished by the City

For each four-inch hydrant (nominal size) – $41.53

For each six-inch hydrant (nominal size) – $59.67

B. OUTSIDE CITY LIMITS

Applicable to standpipes, connections for automatic sprinkler systems, and fire hydrant service for private fire protection located within city limits.

MONTHLY RATE:

Rates as listed under Private Fire Protection Service, Section III.A, Inside City Limits, with a 10 percent surcharge on said rates for service outside the city limits.

SPECIAL CONDITIONS FOR ALL FIRE PROTECTION SERVICES

Water taken under this classification is to be used only to extinguish fires and for flushing necessary to maintain fire protection equipment. In case of surreptitious or improper use of water, the consumption may be estimated and the water used shall be billed at regular meter rates.

RESOLUTION NO. _____

A RESOLUTION SETTING RATES FOR WASTEWATER SYSTEM USE AND REPEALING RESOLUTION NO. 6498 (A RESOLUTION SETTING RATES FOR WASTEWATER SYSTEM USE AND REPEALING RESOLUTION NO. 6427).

WHEREAS, the Council of the City of Albany has duly adopted prior Ordinances declaring their intent to establish a sewer rate structure that is based on the principle that all users pay their equitable share of sewer system costs; and

WHEREAS, it is necessary that users with relatively homogeneous wastewater loading are grouped together and rates are developed for the average loadings in that group; and

WHEREAS, in establishing equities in sewer use rates, the established customer classes are residential; low-, medium-, and high-strength commercial; and industrial; and

WHEREAS, rate policies should be established for customers with no prior history, customers on wells or otherwise not connected to City water, and unique sewer customers such as commercial waste haulers; and

WHEREAS, an equitable rate structure generally requires a fixed charge for each user plus a volume rate that depends on the use of the system be established; and

WHEREAS, the rate structure should be designed to encourage water conservation and provide customers reasonable control over their bills; and

WHEREAS, prior Resolution No. 4920 clarified the definition of "commercial unit" and provides useful context and history should it be necessary to interpret the current resolution; and

WHEREAS, prior Resolution No. 5055 clarified the application of the term, "dwelling unit" to multi-family housing types and provides useful context and history should it be necessary to interpret the current resolution; and

WHEREAS, Chapter 10.06 of the Albany Municipal Code sets forth requirements to manage and recover the costs of an Industrial Pretreatment Program as detailed in Federal Regulations 40 CFR Part 403; and

WHEREAS, the Oregon Department of Environmental Quality (DEQ) currently charges an annual fee for each "significant industrial user" served by the Albany wastewater system; and

WHEREAS, the City Council has determined that current sewer customers lawfully served by an existing potable water supply well should be given an alternative method for determining volume charges for sewer billing purposes only; and

WHEREAS, in anticipation of receiving revenues from stormwater service charges, the City Council has determined that sewer rates should be reduced by six percent (6%) when new stormwater service charges become effective.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the rates and charges for sewer service as specifically described in Exhibit "A" (attached hereto) are hereby adopted; and

BE IT FURTHER RESOLVED that Resolution No. 6498 is hereby repealed; and

BE IT FURTHER RESOLVED that Resolution No. 4920 and 5055 are superseded by this resolution only to the extent of a conflict with this resolution in which case, this resolution shall control; and

BE IT FURTHER RESOLVED that current sewer customers served by an existing potable water supply may apply for approval to use a private meter for volume billing purposes only in accordance with procedures described herein; and

BE IT FURTHER RESOLVED, nothing herein exempts any property, property owner, or sewer customer from any requirement to be connected to the City water system established by any other ordinance or regulation; and

BE IT FURTHER RESOLVED that the terms of service established by this resolution shall be effective **March 1, 2017.**

DATED THIS 9th DAY OF NOVEMBER 2016.

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT A

RESIDENTIAL

For each residential customer, the monthly bill for sewer service shall be computed as follows:

A = (fixed charge x B) + (volume rate x C)

where: A = monthly bill
B = the number of dwelling units for residential customer
C = the monthly water consumption expressed in hundreds of cubic feet (Ccf)

and where: Fixed charges and volume rates by fiscal year are included in the rate schedule below.

RATE SCHEDULE

Customer Class	Fiscal Year *(effective March 1)* **2017-18**
Fixed Charge	
Residential	~~$38.496~~ **$36.186**
Volume Rate ($/Ccf)[1]	
Residential	~~$2.714~~ **$ 2.551**

[1] Ccf = one hundred cubic feet or approximately 750 gallons

Fixed Charges:

Residential customers include all single-family and multi-family housing units, including manufactured or mobile home parks. Duplexes and other multi-family units will be charged a monthly fixed charge for each dwelling unit. For purposes of clarifying sewer fixed charges, "dwelling unit," as that term is applied to duplexes, residential parks, and other multi-family units, shall be defined as any place of human habitation designed for occupancy based upon separate leases, rental agreements, or other written instruments. Current rental practices will not be dispositive of the question of how a dwelling is "designed" for occupancy.

The City's past practice of charging a separate fixed charge component for each bedroom of a "quad" or "quint" type apartment so long as each such bedroom is designed for occupancy by virtue of a separate lease, rental agreement, or other written instrument is hereby affirmed. The number of fixed charge components of the monthly sewer bill for a "quad" or "quint" apartment shall not exceed the number of toilets available for the discharge of human waste into the City's sanitary sewer system. By way of illustration, a "quad" unit, which has four bedrooms (each of which is designed for occupancy based on a separate lease, rental agreement, or other written instrument) and which has two toilets to be shared among the occupants of the "quad," shall have the fixed charge component of the bill capped at two fixed charge components. If a similar "quad" had four toilets, the fixed charged portion of its bill would be four fixed charge components. If a similar quad had five or more toilets available for occupants use, it would still only be charged four fixed charge components because it contains four habitable bedrooms (each of which is designed for occupancy based on a separate lease, rental agreement, or other written instrument).

Volume Rates:

The volume rates for residential customers will be calculated using "average" winter water meter readings from City installed or private water meters as approved herein. The monthly average will be calculated using the monthly water meter readings from November, December, January, and February. Each July the residential customer's sewer bill will be adjusted using the monthly average water meter readings from those previous winter months.

For residential customers with no water meter history including new connections, accounts with no recent water meter history, and new homeowners in a home with previous water meter history, six (6) Ccf will be used to calculate the monthly bill until the monthly average using the winter water meter readings can be calculated and applied.

If a customer disagrees with the assigned volume rate, the customer will be required to submit evidence supporting a reduced volume rate for review by the Public Works Director , or his/her designee. The Public Works Director, or his/her designee, may adjust the assigned rate provided that sufficient evidence (as determined by the Director) has been submitted by the customer to justify the adjustment. The decision of the Public Works Director is final.

For residential customers that are not connected to City water and are designated as 'sewer only' customers, eight (8) Ccf will be used to calculate the volume portion of the monthly bill.

Alternative Volume Rates:

Current customers, as of the effective date of this resolution, receiving potable water for human consumption from an existing well may apply to install approved metering facilities to measure water use for sewer billing purposes. To be eligible for this option, customers must receive prior written approval from the Public Works Director based upon standards promulgated for determining suitability of such facilities. This option is only available to current customers lawfully served by an existing potable water supply.

The metering facilities (meter type, meter size, piping configuration, etc.) and all other conditions (property and facility access provisions, meter testing, etc.) must be in accordance with standards established by the Public Works Director. All costs associated with this alternative sewer billing option will be borne solely by the customer.

Nothing herein exempts any property, property owner, or sewer customer from any requirement to be connected to the City water system established by any other ordinance or regulation.

COMMERCIAL

For each commercial customer, the monthly bill for sewer service shall be computed as follows:

A = (fixed charge x B) + (volume rate x C)

where: A = monthly bill
B = the number of commercial units served by the sewer service
C = the monthly water consumption expressed in hundreds of cubic feet (Ccf).

and where: Fixed charge and volume rate for the customer class and fiscal year are included in the rate schedule below.

RATE SCHEDULE

Customer Class	Fiscal Year *(effective March 1)* **2017-18**
Fixed Charges	
Commercial	
Low	~~$4.806~~ **$ 4.518**
Medium	~~$18.580~~ **$17.465**
High	~~$21.471~~ **$20.183**
Volume Rates ($/Ccf)[1]	
Commercial	
Low	~~$7.638~~ **$ 7.180**
Medium	~~$9.725~~ **$ 9.142**
High	~~$15.902~~ **$14.948**

[1] Ccf = one hundred cubic feet or approximately 750 gallons

Customer Classification:

Commercial accounts will be classified according to their strength of wastewater as described in the Commercial Customer Classification List (Appendix A). If a commercial customer cannot be easily categorized, the customer will be asked to submit estimated wastewater flow and strength data with a description of the type of business activities to the Public Works Director. The Public Works Director will make the final determination of customer classification for each commercial customer.

For commercial customers where a single water meter serves a building with multiple commercial uses, the classification for the entire account will normally be based on the single highest classification within the building. For example, if a building contains both offices and restaurants, the entire account bill would be calculated using the rates for a restaurant customer. In addition, for commercial customers where a single water meter serves a building with multiple commercial uses, the monthly fixed charge will be based on the number of commercial units being served by the wastewater service.

For the purpose of clarifying sewer fixed charges "commercial unit" shall be defined as each portion of a commercial use that has plumbing fixtures connected to the sanitary sewer system and which is designated for occupancy based upon a property right. Property right for purposes of this definition includes ownership, a leasehold interest, or any contractually-based right to occupancy of 12 or more hours in any 24-hour period.

Monthly Water Consumptive Use for Volume Rate:

- Average Winter Water Use. The volume rates for most commercial customers will be calculated using "average" winter water meter readings from City installed or private water meters as approved herein. The monthly average will be calculated using the monthly water meter readings from November, December, January, and February. Each July the commercial customer's sewer bill will be adjusted using the monthly average water meter readings from those previous winter months.

- Actual Water Use. For commercial customers whose water meter readings, from City installed or private water meters as approved herein, vary widely on a monthly basis due to changes in business sales or other non-irrigation factors (including but not limited to: restaurants, grocery stores, mortuaries, motels, industrial launderers, and others as the City may determine), the volume rates will be calculated using the actual water meter reading from the previous month.

- No Water Use History. Some commercial customers will have no water meter history including new connections, accounts with no previous water meter history, accounts receiving water service from a well, or a new business in a building with previous water meter history. For those new customers, the City will use the average water meter reading of existing customers in the same commercial classification (e.g., low, medium, high) provided that the existing customer(s) are similar in operation and scale as the new customer. That information will generally be used to calculate the monthly bill until a history for the account can be established. Should no similar existing customer exist, the City will use 8 Ccf for low strength commercial, 20 Ccf for medium strength commercial, and 35 Ccf for high strength commercial customers as the basis for calculating the monthly bill.

  It may take as long as a year of water meter history to establish a specific customer's average use of the system if billed using "average" winter water meter readings. It will take only one (1) month of water meter history to establish the specific customer's actual use of the system if billed using actual water meter readings from the previous month.

  If a type of customer within the general classification system has a specific "average" winter water use history that differs greatly from the water use history of the classification as a whole, then the specific history may be used until a history for the account can be established. If a commercial customer disagrees with the City's determination regarding their water use for billing purposes, the customer will be required to submit wastewater flow and strength data with a description of the type of business activities to the Public Works Director. The Public Works Director will make the final determination of customer use of the system for each commercial customer.

Alternative Volume Rates:

Current customers, as of the effective date of this resolution, receiving potable water for human consumption from an existing well may apply to install approved metering facilities to measure water use for sewer billing purposes. To be eligible for this option, customers must receive prior written approval from the Public Works Director based upon standards promulgated for determining suitability of such facilities. This option is only available to current customers lawfully served by an existing potable water supply.

The metering facilities (meter type, meter size, piping configuration, etc.) and all other conditions (property and facility access provisions, meter testing, etc.) must be in accordance with standards established by the Public Works Director. All costs associated with this alternative sewer billing option will be borne solely by the customer.

Nothing herein exempts any property, property owner, or sewer customer from any requirement to be connected to the City water system established by any other ordinance or regulation.

INDUSTRIAL

Process Wastewater. For process wastewater from each industrial customer, the monthly bill for sewer service shall be computed as follows:

A = (Flow x Flow unit charge) + (BOD x BOD unit charge) + (TSS x TSS unit charge)

where: A = monthly bill
Flow, BOD, & TSS = data collected monthly from the industrial customer's wastestream

and where flow, BOD, & TSS unit charges for the industrial customer class are included in the monthly rate schedule below.

RATE SCHEDULE

Customer Class	
Industrial Unit Charges	
Flow ($/Ccf)[1]	~~$3.783~~ **$3.556**
Biochemical Oxygen Demand (BOD) ($/lb.)	~~$0.974~~ **$0.916**
Total Suspended Solids (TSS) ($/lb.)	~~$1.303~~ **$1.225**

[1] Ccf = one hundred cubic feet or approximately 750 gallons

Non-Process Wastewater. For industrial customers that do not have separate water meter service to supply the non-process portions of their facilities, the monthly bill for domestic (non-process) wastewater service shall be billed at the Commercial-Low Strength rate and the domestic use shall be estimated using the following formula:

A = (B x C x D)/(748 gallons per Ccf)

where: A = estimated domestic discharge per month
B = average number of full-time employees during the month based on monthly employment data
C = the total number of working days in the month
D = the average discharge allowance per employee per day, estimated to be 15 gallons per day

Each industrial customer without separate water meter service to supply the non-process portions of their facilities shall submit monthly employment and operating information to the City of Albany. Submitted information shall include the industry's number of full-time equivalent employees that month and the total number of production days that month.

Wastewater Discharge Permit. A Wastewater Discharge Permit may be required for any significant industrial user (SIU) as defined by Chapter 10.06 of the Albany Municipal Code. Chapter 10.06 also defines the requirements and conditions that must be addressed by the permitee and provides the authority to establish a permit fee. The permit fee is designed only to recover the direct costs paid to the Oregon Department of Environmental Quality (DEQ) as follows:

Wastewater Discharge Permit Fee

	Annual Fee
Significant Industrial User	$637

OTHER

Commercial and Contracted Waste Haulers:

For commercial and contracted waste haulers transporting and discharging domestic septic tank waste, waste from chemical toilets, or other waste as may be approved, the monthly bill for sewer service shall be computed as follows:

Holding Tank and Chemical Toilet Waste:

$$A = B \times C$$

where:
A = monthly bill
B = total monthly volume discharged in gallons
C = $0.15 per gallon

Septic Tank Cleanings:

$$A = B \times C$$

where:
A = monthly bill
B = total monthly volume discharged in gallons
C = $0.15 per gallon

Valley Landfill:

$$A = B \times C$$

where:
A = monthly bill
B = total monthly volume discharged in gallons
C = $0.050 per gallon

For commercial or contracted waste haulers without a specific rate specified above, the potential customer shall work with City of Albany staff to develop cost-of-service rates. Rates will be codified if the service agreement becomes a long-term arrangement.

APPENDIX A

CITY OF ALBANY COMMERCIAL CUSTOMER CLASSIFICATION COMBINED AVERAGE STRENGTH CATEGORIES & STANDARD INDUSTRIAL CLASSIFICATION

Waste Characteristic Allocation:

The City of Albany does not have a monitoring program for all commercial customers and consequently does not have specific monitoring data on all of Albany's commercial customers. However, an extensive project was undertaken by the City of Portland Bureau of Environmental Services (BES) to determine wastewater characteristics by Standard Industry Classification (SIC) codes based upon monitoring data for Portland's customers and using data from other cities.

The City of Portland's wastewater characteristic study data is based on BOD and TSS information from commercial customers in Portland and 28 additional cities, and the customer list is representative of the Albany commercial businesses. The City of Salem is also using the Portland BES data to classify their commercial customers. Albany will continue to refine this database as additional waste characterization data becomes known.

COMMERCIAL LOW-STRENGTH (UP TO 450 MG/L COMBINED BOD/TSS)

Offices & Services:

- Accounting, Auditing, and Bookkeeping Services (8721)
- Adjustment and Collection Services (7322)
- Amusement & Recreation Services NEC (7999)
- Banks & Credit Unions (6021, 6022,6141)
- Barber & Beauty Shops (7241, 7231)
- Child Day Care Services (8351)
- Computer and Computer Software Stores (5734)
- Correctional Institutions (9223)
- Employment Agencies (7361)
- Engineering Services (8711)
- Gasoline Service Stations (5541)
- Individual and Family Social Services (8322)
- Insurance Agents, Brokers, and Service (6411)
- Investment Advice (6282)
- Legal Services (8111)
- Libraries (8231)
- Medical & Dental Offices & Clinics (including chiropractors, health practitioners, optometrists) (8011, 8021, 8041, 8042, 8049)
- Motels (7011)
- Museums and Art Galleries (8412)
- Nursing Care Facilities (8051)
- Schools (Elementary & Secondary) and Educational Services (8211)
- Taxicabs (4121)
- Title Insurance (6361)
- Trucking - local with storage (4214)

General Retail Businesses:

- Apparel, Accessory, Jewelry & Shoe Stores (5699, 5641, 5651, 5944, 5661)
- Auto equipment/supplies, new/used - NEC (5599)
- Beer, Ale, & Liquor Stores - wholesale & distribution (5181 & 5921)
- Boat Dealers (5551)
- Book Stores (5942)
- Coin-Operated Laundries (7215)
- Department Stores (5311)

Floor Covering Stores (5713)
Florists (5992)
Groceries, wholesale & distribution (5141)
Hobby, Toy, and Game Shops (5945)
Home Furnishings & Hardware Stores (5719, 5251)
Miscellaneous food stores - minimarts without kitchens (5499)
Musical Instrument Stores (5736)
Paint, Glass, and Wallpaper Stores (sales but no mixing) (5231)
Sporting Goods Stores and Bicycle Shops (5941)
Tobacco Stores and Standards (5993)
Used Merchandise Stores (5932)
Video Tape Rental (7841)

COMMERCIAL MEDIUM-STRENGTH (451 - 1,125 MG/L COMBINED BOD/TSS)

Automotive/Mechanical repair &/or wash:

Airports, Flying Fields, and Airport Terminal Services
Automotive Repair Shops NEC (7539)
Carwashes (7542)
Motor Vehicle Dealers - used cars (5521)

Specialty with medium-strength waste discharge:

Dry Cleaning Facilities (7216)
Restaurants, Eating Places, Bars, & Taverns (5812)
Funeral Services and Crematories (7261)
Hospitals (8060)
Junior Colleges and Technical Institutes (8222)
Meat and Fish Markets, Including Freezer Provisioners (5421)
Paints/Varnishes/Lacquers/Enamels mixing (2851)
Photofinishing Laboratories (7384)
Recreational Vehicle Parks (7033)
Trucking - local with storage (4212)

COMMERCIAL HIGH-STRENGTH (GREATER THAN 1,126 MG/L COMBINED BOD/TSS)

Automotive:

Exhaust System Repair (7533), Transmission Repair (7537), Tire Shop (7534), General Automotive Repair (7538-see printout), Automotive Services (7549), Armature Rewinding Shop (7694)
Motor Vehicle Dealers - new cars (5511)

Specialty with high-strength waste discharge:

Candy, Nut, and Confectionery Stores (5441)
Disinfecting and Pest Control Services (7342)
Fire Protection (9224)
Grocery Stores with garbage disposals (5412)
Industrial Launderers (7218)
Malt Beverage Brewery (2082)
Pharmaceutical Preparations (2834)
Retail Bakeries - with kitchen (5461)
Printing & Stamping on Fabric Articles - silk screening (2396)
Trucking - long distance, not local (4213)
Passenger car rental, no drivers for hire (7514)

Approved: DRAFT

CITY OF ALBANY
CITY COUNCILWORK SESSION
Municipal Court Room
Monday, September 26, 2016
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:00p.m.

ROLL CALL

Councilors present: Councilors Bill Coburn, Bessie Johnson, Rich Kellum, Ray Kopczynski, and Dick Olsen

Councilors absent: Floyd Collins (excused)

BUSINESS FROM THE PUBLIC

None.

ALLIED WASTE 2017 RATE ADJUSTMENT

Republic Services Municipal Relations Manager Julie Jackson and Division Manager Kevin Hines presented information regarding the company's proposed 2017 rate adjustment. Council was asked to approve an increase based on the Consumer Price Index, fuel pricing and disposal cost, calculated at 0.3 percent or an average of six cents per residential account per month.

Jackson and Hines reviewed proposed changes to the rate tables, intended to bring continuity across the company, most of which are title changes or consolidation of items. The cart replacement fee is intended for cases of negligence or unrecoverable carts; however, if a cart sustains minor damage or is damaged by the company, it is generally replaced free of charge. The cart redelivery fee is charged to new customers and cases where redelivery is required. The return trip free is charged when a customer had forgotten to put their cart out for pickup and requests a return trip.

Councilor Rich Kellum suggested that references to the brand name Freon be changed to refrigerant.

Jackson said a recent survey showed that 54 percent of customers who responded would be willing to pay $3.00 more per month to increase yard debris collection from biweekly to weekly and include food scraps in what can go into the cart. The company has had multiple customer requests for this service and would like to move forward with it in 2017.

In discussion, Jackson said that food scraps cannot currently go into yard debris carts that are not collected weekly due to concerns about odor and pest control. The Department of Environmental Quality (DEQ) has set a goal to increase organic material recovery by 25 percent by 2020, and this would help to achieve that goal.

Kellum said that when a city takes action on something the state has said it will do in the future, the city is sometimes held to a higher standard later, an example being salmon protection efforts. Jackson said she sat on the rule-making committee at DEQ and the goal is 25 percent increase in organic material recovery by 2020 based on a starting point of January 2016. These are lofty goals at this point; however, cities and counties are supposed to be increasing recovery.

Councilor Bill Coburn asked for more specifics about the number of people who answered the survey. Jackson said that 8,000 invitations to participate were sent out and 1,000 replies were received. Of those who replied, 54 percent said they would pay $3 more for weekly service.

Chief Information Officer/Assistant City Manager Jorge Salinas referred to Attachment A, noting that the numbers presented add up to 0.2 percent and that the company's result of 0.3 percent was likely due to rounding. Jackson affirmed that is correct.

Salinas referred to Attachment B, Rate Modification and Rate Adjustment Statement, noting that the weighted index numbers add up to 109 percent. Jackson said that appears to be an error and she will look into it.

Coburn asked whether adding food waste to yard debris which is ground up for mulch has any impact on the ultimate use of that product. Jackson said that it doesn't. She added that the company is permitted by the DEQ to accept all food waste and that weekly pickup is also helpful in keeping leaves out of the storm drains.

Konopa said that adding food waste to yard debris carts may allow some people to reduce their cart size and save money. She would like to see the request approved.

Kellum expressed concern that a relatively small percentage of customers said they want this service but all customers would be charged. Jackson said that the program was rolled out in Lebanon about 1.5 years ago and that there haven't really been any complaints.

There was general agreement to have this come back to a regular Council meeting for action.

PARKWISE FEES

Transportation Systems Analyst Ron Irish and Albany Downtown Association Executive Director Peggy Burris were present to discuss parking fees imbedded in the development code that are charged by Parkwise. Irish recalled that Council discussed the potential of raising fees for parking violations and requested additional information at a previous work session. He distributed and reviewed information outlining the total parking income broken out by leased spaces, employee permits, residential permits, special permits, and citations collected (see agenda file). Brief discussion followed.

In response to a question from Council, Burris said that she met with the City Attorney and Police Chief and there will be an effort to contact high-ticketed offenders who have not paid.

MOTION: Councilor Ray Kopczynski moved to have the proposed fee increases come to a regular Council meeting for action. Kellum seconded the motion, and it passed 5-0.

BUSINESS FROM THE COUNCIL

Konopa said that the Cascades West Council of Governments Economic Development District met in Newport on Thursday, September 22, and that Albany Chamber of Commerce President Janet Steele gave a presentation on the workforce development program called the Pipeline Project, which was very well received. Steele offered to give an update on the Pipeline Program to the City Council at some time in the future.

CITY MANAGER REPORT

None.

ADJOURNMENT

There being no other business, the meeting was adjourned at 4:45 p.m.

Respectfully submitted,

Teresa Nix
Recorder

Reviewed by,

Jorge Salinas
Chief Information Officer /Assistant City Manager

APPROVED: DRAFT

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, September 28, 2016
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Mayor Sharon Konopa and Councilors Rich Kellum, Bill Coburn, Bessie Johnson, Ray Kopczynski, and Dick Olsen.

Councilors absent: Councilor Floyd Collins was excused.

SCHEDULED BUSINESS

SPECIAL PRESENTATIONS

Certificate of appreciation for Greater Unified Albany Vexillological Association.

Cole Pouliot from West Albany High School (WAHS) said he is happy to see this project come to fruition. He is appreciative of Public Information Officer/Management Assistant Marilyn Smith's assistance. He is looking forward to seeing the actual flag.

Konopa read the certificate of appreciation as outlined in the agenda packet.

Government Finance Officers Association (GFOA) Awards – Don Hudson, Oregon GFOA Liaison.

Don Hudson, Tualatin Finance Director, is also the President of the Oregon Government Finance Officers Association (OGFOA). He said the OGFOA has 500 members. The organization's purpose is to promote professionalism and excellence in public financial management, through a commitment to four primary goals: fostering individual professional growth, advancing the government finance profession, furthering standards and policies for the benefit of communities and OGFOA members, and monitoring and reviewing legislative and judicial activities. He described education and training opportunities provided by OGFOA.

Hudson said since Accounting Supervisor Anne Baker is the board liaison with the national GFOA, it would be awkward for her to present the award to herself, so he is filling in. He gave some background on the national organization, which has nearly 18,000 members. Their mission is very similar to the Oregon organization.

Hudson said he would present three separate awards tonight: the Distinguished Budget Presentation Award, the Certificate of Achievement for Excellence in Financial Reporting Award, and the Popular Annual Financial Reporting Award.

The budget award was established by GFOA in 1984 to encourage and assist state and local governments to prepare budget documents of the very highest quality that reflect established guidelines and GFOA best practices. He described the evaluation and rating process used in reviewing the submitted budgets. This year only 29 cities in Oregon received the award. This is the 24th consecutive year the City of Albany has received it. Hudson thanked Baker for her work.

Hudson described the Certificate of Achievement, which is given for the Comprehensive Annual Financial Report (CAFR). The award was established in 1945, to encourage state and local governments to go beyond minimum requirements in the spirit of transparency and full disclosure. He believes this is the hardest of the three awards to get. The review checklist is 79 pages long with over 500 items. Winning this award shows that financial statements are more than just numbers. Albany citizens can be assured that the City's financial position is transparent, fully disclosed, and of the highest quality at a national level. Thirty-eight Oregon cities received this award this year. This is the 33rd consecutive year the City of Albany has received it. Hudson recognized Accounting Supervisor Jeanna Yeager for her work on the CAFR.

Hudson described the Popular Annual Financial Reporting Award, given for the Popular Annual Financial Report (PAFR). This award was established in 1991 to encourage and assist state and local governments to produce financial reports specifically designed to be readily accessible and easily understandable to general public. The PAFR is judged in five categories: reader appeal, understandability, distribution methods, creativity, and overall quality and usefulness. Only four cities in Oregon received this award this year. This is the fourth consecutive year Albany has received the award. Hudson recognized Baker for her work on the PAFR.

Hudson said only five entities in the state of Oregon have received all three awards. He said recognition is due to the entire Finance Department under the direction of Finance Director Stewart Taylor and also to City Manager Wes Hare and the City Council. There is an environment of excellence at the City of Albany.

Hudson and Konopa presented the three awards to Baker and Yeager.

Economic Development & Urban Renewal Director Kate Porsche.

Konopa noted that Porsche has had several roles over the years which evolved to her current position. Porsche is leaving Albany to take a job in Redmond. Redmond is a smaller city, but it is a higher level position and Porsche is looking forward to the challenge.

Konopa said Porsche will be missed. When she took over management of the Central Albany Revitalization Area (CARA), we had not launched projects. Now, we have $75 million private dollars leveraged by CARA money. The downtown has been transformed. Porsche deserves much credit for making sure that the Albany Revitalization Agency (ARA) followed policies and state law.

Konopa presented a certificate to Porsche (see agenda item). Konopa gave Porsche a Key to the City.

Konopa said Councilor Floyd Collins asked her to read his letter: "I have enjoyed working with Kate since she took her current position. The insights and talents she has exhibited has greatly contributed to the restoration of the community and the partial achievement of the vision of the CARA plan. She will be greatly missed."

SCHEDULED BUSINESS

Public Hearing

Community Development Block Grant (CDBG) 2015 annual performance evaluation and report.

Open: Konopa opened the public hearing at 7:33 p.m.

Planner II Anne Catlin said she is here to highlight the Consolidated Annual Performance Evaluation Report (CAPER) and seek Council authorization to submit it to Housing and Urban Development (HUD).

Catlin gave a PowerPoint presentation (see agenda file) that highlighted the information in the Council packet.

Catlin said that the CDBG Program Objectives are decent housing, removing blighting influences, and expanded economic opportunities. She described minor changes in the housing rehabilitation program. Reducing homelessness is a goal and this was achieved by Jackson Street Youth Shelter, emergency housing assistance, Court Appointed Special Advocates (CASA) of Linn County, and infant child abuse prevention. Catlin said blighting influences were mitigated by improving the parking lot at Sunrise Park and with the sidewalk infill project on 19th Avenue SE. The primary focus under the expanded economic opportunities is the microenterprise training and advising and small business grants.

Catlin recognized the CDBG Commission members in the audience.

Kopczynski asked if the CDBG funds are still under time constraints where they have to be spent by a certain date. Catlin said they are allowed to have 2.5 allotments that are not spent, but once you get there you lose it. She said, we are not there yet.

There was a signup sheet available for the public (see agenda file).

Andrea Myree, 565 Lindon Avenue, Corvallis, Associate Director at Jackson Street Youth Shelter, thanked Catlin, the CDBG Commission, and the City Council for providing support for their shelter. They served 36 youth over the year, and at times there were over 50. They were full several times during the summer. The Shelter has had tremendous impacts on the community. School districts in Linn County reported almost 1,000 homeless youth who are with their families, and 140 of those youth who are unaccompanied, which means they are not with a parent or guardian. Myree said that in the Greater Albany School District (GAPS) there were about 100 unaccompanied youth, so the Shelter's presence in the community is making a difference. The Shelter is able to use the CDBG funds to leverage support from other agencies, such as the Youth Development Council of Oregon. They also receive federal funds. Myree said they have been able to expand partnerships such as with Albany Partnership for Housing (AHP), where they will be able to provide some supported units for older homeless youth age 18-20 years old.

Konopa said they filled up the AHP structure very quickly. It is especially helpful to use AHP to help those who are 18 and older.

Konopa asked if there was anyone in the audience who would like to testify that was in favor or against. There was none.

Close: Konopa closed the public hearing at 7:45 p.m.

MOTION: Councilor Ray Kopczynski moved to authorize staff to submit the CAPER to HUD. Councilor Rich Kellum seconded the motion and it passed 5-0.

Legislative Public Hearing

DC-01-16, Floodplain Albany Development Code (DC) text amendment.

Konopa said, next agenda item is a legislative public hearing regarding text amendments to the Albany Development Code relating to Floodplain Development Standards as described in Planning file: DC-01-16. The applicant is the City of Albany Community Development Department – Planning Division.

Konopa opened the legislative public hearing at 7:47 p.m.

Konopa said there is a signup sheet at the table (see agenda file).

Konopa said, for those wishing to testify, please be aware that you must raise an issue with enough detail to afford the Council and parties an opportunity to respond to the issue if you later want to raise that issue on appeal to the Land Use Board of Appeals (LUBA). Testimony and evidence must be directed toward the approval standards staff will describe or other criteria in the Comprehensive Plan or Development Code which you believe to apply to the decision. If additional documents or evidence are provided by any party, the City Council may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond.

Staff Report

Planner II Melissa Anderson gave a PowerPoint presentation (see agenda file).

Anderson said this is a legislative process that uses the decision-making criteria in ADC 2.290(1-2). She described notices and the public processes to date:

- DLCD Notice June 24, 2016
- Agency Notice July 11, 2016
- Mailed Notice to North Albany on July 26, 2016
- Newspaper Notice Published August 3, 2016
- Planning Commission Public Hearing, August 15, 2016 (recommended approval)

Anderson said that in 2010, the City initiated the flood study because the FEMA floodplain maps for North Albany were inaccurate and they did not include a floodway. She described the open houses and appeal periods:

- November 8, 2015, Open House preliminary maps
- February 17, 2015, Open House revised preliminary maps
- July through October, 2015, the FEMA appeal period
- June 8, 2016, FEMA issues new final maps
- December 8, 2016, final maps in effect

Anderson described what the amendments would do:

- Reference the new Flood Insurance Rate Maps for North Albany
- Streamline review process for small subdivisions
- Meet the minimum criteria of National Flood Insurance Program (NFIP):
    - Historic properties on National Register
    - Maintenance plans & emergency action plans for flood-proofed structures
- Clarify application requirements:
    - Documentation for elevation certificates
    - Documentation for ESA on fill projects
    - Engineering methodology for no-rise studies

Anderson said Criteria #1 is that the proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language. For flood hazards, the amendments clarify that the floodplain permit application requirements protect property and public safety; ensures the City is in compliance with the State of Oregon and NFIP; and updates reference to new FEMA flood insurance rate maps, which will be used to review development proposals. As to urbanization, the amendments ensure that all new developments are reviewed expeditiously by streamlining the review of subdivisions of 19 lots or less that are located in the floodplain and uses the most current information to manage development in the floodplain to minimize the impacts of development in the floodplain.

Anderson said Criteria #2 is that the proposed amendments are consistent with Development Code policies and with the purposed statement for the base zone, special purpose district, or development regulation where the amendment is proposed. In Article 1, the proposed amendments would manage development in the floodplain in a way that promotes public and environmental health and safety and minimizes economic loss and social disruption caused by flood events; satisfies requirements of federal and state law by adopting the new maps and other floodplain requirements; and provides for notice and public participation. Article 6, to promote public and environmental health and safety and minimize the economic loss and social disruption caused by flooding by, is met by referencing the new floodplain maps and clarifying and streamlining the existing regulations.

In conclusion, Anderson said that all applicable criterion have been met. Staff recommends approval of the Floodplain Development Code Text Amendments.

Councilor Bill Coburn noted that one goal was to clarify the application requirements, and Anderson had mentioned the documentation for elevation certificates. He asked, is that information supplied from a certified surveyor? Anderson said yes, the surveyor would provide a copy of the flood profile from the flood insurance study to show how they identified the base flood elevation. One of the trainings Anderson attended pointed out that this is a way to have more accurate information.

Kellum asked if the amendments would make it easier or harder for someone who has an undeveloped lot. Anderson said it does not necessarily make it harder. A surveyor usually does an elevation certificate. With respect to small subdivisions, the amendment makes it easier, because it skips the public hearing and streamlines the process.

Kopczynski asked if there is a program to help people in North Albany. Anderson said yes; the Council authorized staff to do the elevation certificates; we paid for about 100 elevation certificates for those properties that were negatively impacted.

Konopa asked if there was much testimony at the Planning Commission. Anderson said there was one person who wondered if they were in the floodplain. She said that overall there was not much attendance and there were no major concerns. Discussion followed regarding public inquiries and staff outreach.

Testimony

Konopa said, if anyone wishes to enter an exhibit into the record as part of your testimony, please briefly describe the exhibit and present it to the City Clerk.

Dan Watson, 710 East Thornton Lake Drive, said he testified about a year ago when the map was being considered over some limits of floodway that was in both east and west Thornton Lake. He said, the Council directed staff to go back and reconsider it, and they did.

Watson spoke to Kellum's question about whether this makes it harder for residents to comply with the regulations. He said the City does need to have the map adopted for FEMA, but there are a few things in the amendment that go further than that.

Watson said that ADC 6.095(10), on page 40 of the Council packet, requires fill projects in the floodplain of 50 cubic yards or more must show how they meet the endangered species act. He said that for anyone that wants to do work in the flood fringe, this seems to suggest they would need to do a full endangered species act evaluation, which is not required by the NFIP. There are other agencies acting along these lines, but, the bottom line is you don't need this in your ordinance. He said, if you are concerned about endangered species, you did a lot of work on Goal 5 in order to protect the goals of the endangered species act, such as protecting riparian zones, habitat zones, and wetland zones. Also, you have open space zoning that is very restrictive. He said, so if you as a Council are seeking to increase process, adopt this ordinance. If you are trying to forward the goals of the endangered species act, he does not see how this achieves that. He recommended that they do not adopt that portion.

Watson said ADC 6.121 (2) (e) and (f), on page 45 of the packet, addresses flood-proofing nonresidential construction. He said, in July 2013, FEMA came out with a document, titled "FEMA Floodproofing for Non Residential Buildings" (see agenda file) that tells what needs to be done to comply with this. He explained why he thinks it doesn't make sense for some projects, and should not be required for all projects. It would create process where it doesn't need to and where it is not required by FEMA.

Coburn asked, regarding 6.095(10), does it take the size of the lot into account? Watson said no. Discussion followed.

Coburn said, regarding 6.121 (2)(e), it does not seem unreasonable that what is done to prevent the flooding should be maintained. Watson said there are two different categories of non residential; dry-proofing and wet-proofing. Watson asked, why would you require someone to have a plan all the time? This makes it harder to comply because it is where it doesn't need to be.

Kellum gave an example of a person who plowed a field and ended up getting sued and lost his property. Discussion followed about various regulations.

Watson said, with the flood program, you can adopt or not adopt any portion of it. This piece does not need to be adopted.

Konopa said, we have to set a standard, otherwise every property would be allowed to add 50 yards; consider what that would do to the overall landscape. She said, we have to consider how it will impact all the properties if everyone was allowed to do it.

Watson explained the difference between a floodway and floodplain. The floodway fringe, filled in, would only impact the river by one foot or less. The ADC already says that we cannot cause damage to the properties downhill. He thinks it is not necessary to be in the code.

Olsen asked, did you raise the same questions you have raised tonight at the Planning Commission? Watson said no.

Staff Rebuttal

Anderson said she does not feel strongly that the proposed Section 6.095(10) needs to be included and could be removed. She explained that administratively it made sense, so it was simply an attempt to be consistent with requirements by FEMA and the endangered species act. She said, Watson had a good point about the new rules (FEMA and endangered species) and that there may be changes as a result of the homebuilder's lawsuit. She said if the Council so desires, they could amend the ordinance to strike 6.095 (10).

As to ADC 6.121 (2) (e) and (f), Anderson said these requirements apply only to non-residential flood-proofed structures; the state representative's review said that since it is federal law, it should be included. But, it does not apply to wet-flood-proofed structures, because that is in the section above.

Coburn said it only applies if it were lower than one foot above the 100 flood plain, so he is not sure it would apply to all structures. Anderson said it is only for commercial structures.

Konopa asked, does anyone else wish to testify on the proposed amendments? No one did.

Konopa asked, does any staff member wish to respond to any testimony presented? No one did.

Close: Konopa closed the public hearing at 8:26 p.m.

MOTION: Kopczynski moved to adopt the ordinance with Section 6.095 (10) removed and Kellum seconded it.

Coburn commented that he agrees that the amendment regarding 50 yards of dirt per lot appears to be over-regulation or duplication.

VOTE: A vote was taken on the motion and it passed 5-0 and was designated Ordinance No. 5875.

Konopa said, a legislative decision of the City Council may be appealed to LUBA by filing a Notice of Intent not later than 21 days after the decision becomes final. Within five working days following the adoption of an amendment or new land use regulation, the Director shall forward to the DLCD a copy of the adopted text and findings and notify the DLCD of any substantial changes which may have occurred in the proposal since any previous notification.

Business from the Public

There was none.

Adoption of Resolutions

Approving and adopting the City of Albany, Oregon, Natural Hazard Mitigation Plan dated September 2016.

Fire Chief John Bradner said that staff is requesting Council approve and adopt the Natural Hazard Mitigation Plan. This document is updated every five years and several people were involved including City staff, citizens, and other agencies. He said that Anderson and Lead Current Planner David Martineau provided key work on this project and he thanked them. Darrel Tedisch was also involved, and this will be his last year working with emergency management for the City, which he did for the last 16 years of his 42 years with the City. Bradner read for the record a comment by Brett Holdt, Regional Mitigation Planning Program Planning Manager for FEMA Region 10: "I would like to emphasize that the City of Albany developed a stellar natural hazard mitigation plan. It is obvious that both emergency management and community planning were key players in the update of the plan. In addition, it is great to see a jurisdiction complete the plan on their own, without contract support. This demonstrates high capacity in natural hazard mitigation planning."

MOTION: Kopczynksi moved to approve and adopt the Natural Hazard Mitigation Plan and Olsen seconded it. The motion passed 5-0 and was designated Resolution No. 6539.

Approving exemption from competitive bidding requirements through use of an interstate cooperative procurement for the purchase of firefighting turnouts.

Bradner explained that turnouts are the gear that firefighters use to provide thermal protection so they can enter fires. This request is for an exemption from competitive bid.

Coburn pointed out that it's not that there hasn't been a competitive process; rather, the City of Albany is piggy-backing on another agency's bid.

MOTION: Kellum moved to approve the resolution and Kopczynski seconded it. The motion passed 5-0 and was designated Resolution No. 6540.

Awarding a bid to Tyler Technologies (Incode) for Municipal Court software, appropriating General Fund beginning balance, and approving reclassification of the Senior Court Clerk to Court Supervisor.

Taylor said the Albany Police Department (APD) and Linn County are transitioning to new software for computer-aided dispatch and records management. The current Municipal Court system will not be compatible with the new software, which will be on line in April of 2017. This proposal would award a software contract to Tyler Technologies for their Incode municipal court software. The program is already in use in 17 municipal courts in Oregon, and is highly regarded by those agencies. It is appropriate to use beginning balance funding for this purchase. The purchase was anticipated in the budget but the funding source was not identified so that is why it is coming to the Council now.

Finance is also requesting reclassification of the Senior Court Clerk to Court Supervisor. September Burrese has been the Senior Court Clerk since Mary Stankey retired in 2015.

Kopczynski said out of 13 possible vendors, only one responded. He asked why. Taylor said he is not sure, but he thinks Tyler Technologies is getting a good foothold in the municipal court market.

Assistant City Manager/Chief Information Officer Jorge Salinas said the City also considered adding a module from the Sungard system, but we found that Sungard is not selling it anymore. So we approached another current vendor to add this on.

Taylor said Albany's IT Department is working on an Request for Proposal (RFP) process with the City of Corvallis. Albany is getting this module for tens of thousands of dollars less than the price offered to Corvallis.

Kellum said he remembers doing a ride-along with APD when he first became a councilor. At that time he saw how long it took to just fill out forms. He asked if there is more we have to do? Taylor said not that he is aware of. This program should satisfy the need. He added that the Municipal Court counter is closed on Fridays because of the paperwork that accumulates during the week. During the recession, a court position was eliminated, and they use Fridays to get caught up. He hopes that the efficiencies of this new software will allow them to open again on Fridays with the same staffing.

MOTION: Kellum moved to adopt the resolution and Kopczynski seconded it. The motion passed 5-0 and was designated Resolution No. 6541.

Salinas introduced IT Project Manager Sean Park. He said Park has been working to coordinate the process with Linn County, and has been doing an outstanding job. The Council thanked Park for his work.

Kellum said the Linn County Commissioners are happy with the cooperation they are getting from the City of Albany. Salinas said the City has improved communication and the working relationship with Linn County through this project.

Adoption of Consent Calendar

1) Approval of Minutes
   a) July 27, 2016, City Council Regular Session minutes.
   b) August 8, 2016, City Council Work Session minutes.
2) Liquor license recommendation to OLCC:
   a) Grant the limited on-premises sales, off-premises sales, new outlet, liquor license application for No Rails Ale House, Inc., located at 123 First Avenue W, Suite 105 and 106.
3) Accepting and appropriating funds for the Hospital Preparedness Program grant for emergency medical service (EMS) training props to be shared by Linn County EMS providers. RES. NO. 6542
4) Authorizing staff to work with the City Attorney to develop a contract with Infinite Air Center for the purchase and operation of a fuel truck for the Albany Municipal Airport.

Kellum asked for item 2) to be pulled.

MOTION: Kellum moved to adopt the Consent Calendar with item 2) removed for discussion. Coburn seconded the motion and it passed 5-0.

Regarding item 2), Kellum asked if there was a stop work-order issued posted at this location. Salinas said there was an issue with the structure and unpermitted work. Porsche said that is correct, but the permit that item 2) applies to is not the same building. This permit is for the Mikesell building.

MOTION: Kellum moved to approve item 2). Coburn seconded the motion and it passed 5-0.

Award of Contract

Professional Services Contract for consulting work on WC-13-01, Canal Diversion Structures.

City Engineer Staci Belcastro said Public Works is recommending that the City Council award a professional services contract to Cardno, a firm from Portland. The contract amount is $373,900. The contract is focused on three separate but related structures along the canal. All three are located in the city of Lebanon, and all three are in deteriorating condition. Improvements will help redirect Lebanon's stormwater away from the canal. Lebanon has contributed $500,000 towards this and will contribute more in the future, consistent with their agreement with the City of Albany. The improvements are necessary to comply with federal hydropower licensing requirements and Oregon flow-monitoring requirements, as well as some OSHA issues.

The City received only one bid, from Cardno, after a second RFP was submitted. Staff has reviewed the proposal and believes the cost reflects the work required. The proposal includes significant predesign.

Kopczynski asked if the proposal is within original staff estimates. Belcastro said it's complicated; about 30% of the proposal is predesign, which is not usually included, but is necessary in this case to accurately define the project for the federal requirements. Public Works Engineering and Community Development Director Jeff Blaine said Public Works will learn more through the predesign about what the actual construction cost will be. It will take time, but it will come back to Council before moving forward.

Belcastro said she compared the predesign costs with other facility projects and they are right in line. She has the comparisons, if the Councilors want to see them.

Coburn asked if the $500,000 from Lebanon was earmarked for this. Blaine said Lebanon is committing $900,000 over several years for stormwater, removal efforts, and this is exactly in line with the intent.

Coburn asked about the lack of response to the first RFP and only one response to the second RFP. Was the RFP over restrictive, or are there not that many firms that do this work? Would we get a better response if we did RFPs for each of the three structures? Belcastro said the Marks Slough and CZ Gates are inter-related, so we can't design one without the other. It is a complicated project with lots of components, including hydraulic modeling, structural evaluation, archeological investigation, and wetland permitting. Public Works asked consultants why we didn't get more proposals, and they said it was because firms lack the staff to respond.

Blaine said Belcastro worked previously with the lead engineer on this project when Public Works rehabbed all the gates, so the proposed team has someone with experience on this exact type of structure, on our canal, and with our staff.

Coburn said this might be indicative of what happens when we regulate ourselves to death. The projects become almost cost-prohibitive. He is glad to hear that staff reached out to see why there were so few responses.

Kellum said Belcastro mentioned the Army Corps of Engineers. Last year we were talking about the problems with our generator. We were told someone would come back to Council with information. Is there a timeline for that? Blaine said yes, it's in the works. Before the next budget cycle, they will bring information back to the Council.

Report

Request for reclassification of one Police Officer position to Police Lieutenant.

Police Chief Mario Lattanzio said that when he arrived three years ago, one of the things he noticed was that there are a lot of drug issues in the community. We are in the only county along I-5 that is not designated as a High Intensity Drug Trafficking Area (HIDTA). When you get that designation you get more resources for the community to address some of the drug issues. The City of Albany can't apply for it, but Linn County can. The Sherriff's Department tried several years ago and was denied, but they just reapplied and were successful in getting the designation in January. We are now under the Oregon-Idaho HIDTA, which will bring more funding and allow us to get more resources in the community to fight the drug problem.

Lattanzio explained that one of the things we need to do is to develop a task force, which has to be co-located at one agency. In the new Police Station, there is a room for future office space that likely won't be needed for several years, so the task force will be housed there. The current City of Albany commitment is for a Lieutenant and a Detective. Linn County will provide two detectives and Oregon State Police will provide one. The DEA will provide one agent, Lebanon will provide one officer, and Sweet Home may have a part-time position to offer. HITDA does not pay for personnel, but will pay for over-time and equipment. Lattanzio said the position being reclassified is a police officer position to a lieutenant position.

Lieutenant Jerry Drum will be the supervisor for the task force. The position would start in January, so this would give Drum time to get the policies and procedures together so that once the group is under one house, it is ready to go. There are funds in the budget for this action.

Kopczynski asked if the Lieutenant position supervises this group. Lattanzio said yes; the Intergovernmental Agreement should be back to the Council in November or December.

MOTION: Kellum moved to approve the reclassification and Kopczynski seconded it.

Johnson said she wishes Albany didn't need to get this designation, but she is supportive of anything we can do to combat the drug issue.

VOTE: A vote was taken on the motion and it passed 5-0.

BUSINESS FROM THE COUNCIL

Kidd noted that the Floodplain Development Code ordinance needed to be read in title only. Kidd read the ordinance for the first time in title only: AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY DEVELOPMENT CODE TEXT RELATING TO FLOODPLAIN MANGEMENT AND ADOPTING FINDINGS.

MOTION: Coburn moved the have the ordinance read a second time in title only. Johnson seconded the motion and it passed 5-0.

Kidd read the ordinance for the second time in title only.

MOTION: Coburn moved to adopt the ordinance with Section 6.095 (10) removed and Kopczynski seconded it. The motion passed 5-0 and it was designated Ord. No. 5875.

Coburn said a citizen called him to complain of the smell of marijuana plants coming from the neighbor's house. The citizen called Albany Police Department and they determined that they did not have too many plants and they aren't visible from the street, so property owners were not in violation. Coburn did some research on the internet and learned that marijuana plants themselves have a very strong smell. The citizen asked Coburn if the City would require that people grow indoors instead of outdoors. Kidd told Coburn that the City can't regulate odor. Coburn said the homeowner is very frustrated; they have lived there for 20 years, and the new people just bought the house a year or so ago, and the smell is permeating their garage and house such that they have to close it up. They can't sit on their deck because of the smell. Coburn said this is an example unintended consequences. Some of the strains or species do not smell as bad or people can plant other things around them in order to mitigate the marijuana smell. Coburn noted that it is still illegal on the federal level. Coburn said he wants to share this story because it is difficult to be a City Councilor in a position like this. He is basically telling the property owner that there is nothing that can be done even though it is impacting their house. Discussion followed about if the plants must be grown indoors or on the property.

Konopa said APD took her for a tour through the Simpson trail. They encountered the marijuana smell coming from a house as they drove by; she was surprised she could smell it from the street.

Coburn said different people are affected by different smells. Some people may not notice the smell at all, and others may be allergic. Coburn was frustrated that he could not help the citizens.

Kellum talked about a very large sign that he believes is clearly a political sign, put up by two City Councilors. He said it appears the money came from Colorado from a marijuana outfit. Kellum said regardless of whether it is legal or not, he thinks it is unseemly. He said, this is no longer about right or wrong, legal or illegal, but it is about whatever you can get away with today, just like not voting on an item in order to get a political advantage. He said that it has been posted online that Albany will keep medical marijuana users from getting medical marijuana; that is not true. He said he disagrees with what some Councilors are doing, such as putting oversized signs on public property or on the property of homeowners from out of state, since they aren't around.

Kopczynski said he is very proud of the signs that he and Olsen paid for. They meet all of the city codes and they were pre-approved. He said he was surprised when, as he was forming the Political Action Committee, he was approached by people from out of state who offered money for the campaign. Kopczynski said the donation

shows up on Orestar, and he will be donating his own money as well. He said, I will do everything I possibly can to reinforce the first vote on recreational marijuana.

Olsen said he is happy to have spent his own money on the signs.

NEXT MEETING DATE: Work Session on Monday, October 10, 2016; and Regular Session on Wednesday, October 12, 2016

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:13 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
City Clerk

Reviewed by,

Stewart Taylor
Finance Director

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: John R. Bradner, Fire Chief JRB

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Acceptance of the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant on Behalf of the Mid-Valley Local Emergency Planning Committee

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

City Council approval by resolution to approve application and accept and appropriate funds for the Fiscal Year (FY) 2016-17 State Hazardous Materials Emergency Preparedness (HMEP) Grant on behalf of the Mid-Valley Local Emergency Planning Committee (LEPC) for a hazardous materials response exercise and responder training.

Discussion:

The City of Albany participates on the Mid-Valley LEPC. The State Fire Marshal's Office provides grant opportunities to Oregon LEPCs for hazardous materials emergency preparedness, and the City receives and distributes the grant funds on behalf of the LEPC.

The Mid-Valley LEPC has been notified by the State Fire Marshal's Office that they have been approved for the FY 2016-17 HMEP grant for the following activities:

1. Hazardous Materials Functional Exercise - $12,000
2. Hazardous Materials Awareness and Operations Training and Materials - $2,000

Budget Impact:

$14,000 - State HMEP Grant (203-25-5099)

The grant requires an in-kind match of $3,500 which would be satisfied through personnel participation in grant-supported activities.

JB:ljh

Attachment

RESOLUTION NO. _____

A RESOLUTION APPROVING APPLICATION AND ACCEPTING AND APPROPRIATING FUNDS FOR THE FISCAL YEAR 2016-17 STATE HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANT ON BEHALF OF THE MID-VALLEY LOCAL EMERGENCY PLANNING COMMITTEE FOR A HAZARDOUS MATERIALS RESPONSE EXERCISE AND RESPONDER TRAINING.

WHEREAS, the City of Albany participates on the Mid-Valley Local Emergency Planning Committee and performs fiduciary duties on behalf of the Committee; and

WHEREAS, the Mid-Valley Local Emergency Planning Committee applied for funding through the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant; and

WHEREAS the State has notified the Mid-Valley Local Emergency Planning Committee that they will be awarded funding through the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant for a hazardous materials functional exercise and hazardous materials responder training and materials; and

WHEREAS the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant requires an in-kind match which can be satisfied through member participation in grant-supported activities; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)).

NOW, THEREFORE, BE IT RESOLVED, the Albany City Council approves application for and authorizes the Fire Department to receive funds in the amount of $14,000 from the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant on behalf of the Mid-Valley Local Emergency Planning Committee for a hazardous materials response exercise and responder training.

BE IT FURTHER RESOLVED, the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant funds are hereby appropriated as follows:

Resources:	Debit	Credit
203-25-5099-42017		$ 14,000
Requirements:		
203-25-5099-60101	$ 12,000	
203-25-5099-61024	$ 2,000	

DATED AND EFFECTIVE THIS 9TH DAY OF NOVEMBER 2016.

_____

Mayor

ATTEST:

_____

City Clerk

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: John R. Bradner, Fire Chief JRB

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Acceptance of the Fiscal Year 2016-17 State Homeland Security Grant

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

City Council approval by resolution to accept and appropriate funds for the Fiscal Year 2016-17 State Homeland Security Grant for equipment and supplies for the Community Emergency Response Team (CERT) at the Linn-Benton Community College (LBCC) campus.

Discussion:

The Homeland Security Grant Program provides funding for building and sustaining preparedness capabilities. Applications for grant funding are submitted through the county jurisdictions. Linn County requested funding for training and disaster response equipment to be used by the LBCC CERT, on behalf of the City of Albany acting as fiduciary.

The LBCC CERT is trained to be an operational component of an incident command structure to respond to disaster situations in the community. The LBCC campus has a full-time equivalency of 6,500 students and 590 employees. Having a trained CERT at the college provides immediate resources to this community population if faced with a mass emergency event on campus. In addition, the LBCC CERT provides localized resources on the south end of the city in the event of a larger scale community emergency.

The City has received notification from Oregon Emergency Management of an award of $9,500 to provide training and disaster response equipment to enhance the capabilities of the LBCC CERT. If accepted, the City's Emergency Manager will work with LBCC to purchase the equipment awarded by this grant.

Budget Impact:

$9,500 - FY 2016-17 State Homeland Security Grant (203-25-5101)

JB:ljh

Attachment

RESOLUTION NO. _____

A RESOLUTION ACCEPTING AND APPROPRIATING FUNDS FOR THE FISCAL YEAR 2016-17 STATE HOMELAND SECURITY GRANT FOR TRAINING AND DISASTER RESPONSE EQUIPMENT FOR THE COMMUNITY EMERGENCY RESPONSE TEAM AT THE LINN-BENTON COMMUNITY COLLEGE CAMPUS.

WHEREAS, the State Homeland Security Grant Program, through the Office of Emergency Management, provides funding for building and sustaining preparedness capabilities; and

WHEREAS, Linn County applied for funding through the Fiscal Year 2016-17 State Homeland Security Grant for training and disaster response equipment for the Community Emergency Response Team at the Linn-Benton Community College campus, with City of Albany acting as fiduciary; and

WHEREAS, the City of Albany received notification from Oregon Emergency Management of a $9,500 award through the Fiscal Year 2016-17 State Homeland Security Grant for training and disaster response equipment for the Community Emergency Response Team at the Linn-Benton Community College campus; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)).

NOW, THEREFORE, BE IT RESOLVED, the Albany City Council approves application for, accepts, and authorizes the Fire Department to receive funds in the amount of $9,500 from the Fiscal Year 2016-17 State Homeland Security Grant for training and disaster response equipment for the Community Emergency Response Team at the Linn-Benton Community College campus.

BE IT FURTHER RESOLVED, the Fiscal Year 2016-17 State Homeland Security Grant funds are hereby appropriated as follows:

Resources:	Debit	Credit
203-25-5101-42017		$ 9,500
Requirements:		
203-25-5101-61024	$ 9,500	

DATED AND EFFECTIVE THIS 9TH DAY OF NOVEMBER 2016.

_____

Mayor

ATTEST:

_____

City Clerk

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Stewart Taylor, Finance Director

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Investment Policy

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:
By resolution, readopt the Investment Policy and repeal Resolution Number 6459.

Discussion:
The City's investment policy was last reviewed and adopted by the City Council as Resolution Number 6459 on October 28, 2015. Both the current policy and ORS Section 294.135 require the City Council to review the policy on a periodic basis.

Staff has worked closely with the City's Investment Advisor, Government Portfolio Advisors, to review the current policy and to manage the City's investments consistent with the policy.

The most notable change to the policy is to add the Oregon Intermediate Pool to allowable investments. The state is providing the ability for local governments to invest in the intermediate pool managed by Western Asset Management. The fund will have a 3-4 year average maturity, will trade at variable NAV, and can invest out to 10 years. The intent is to add the option of the pool fund but not invest in it until interest rates are higher.

The City Council received a market update and discussed the proposed policy changes at the work session on November 7, 2016.

Budget Impact:
The Investment Policy sets parameters for the investment of available cash not needed to meet current obligations.

ST:md
Attachments: Memo – Government Portfolio Advisors
Resolution and Policy

RESOLUTION NO. _____

A RESOLUTION READOPTING AN INVESTMENT POLICY
AND REPEALING RESOLUTION 6459

WHEREAS, ORS Section 294.135 requires cities to periodically review their written investment policies; and

WHEREAS, ORS Section 294.135 (1)(a) requires the Oregon Short Term Fund Board (OSTFB) to review and comment on major policy revisions; and

WHEREAS, the OSTFB has reviewed and commented on the City of Albany Investment Policy and has found that the statutory policy review requirement has been satisfied; and

WHEREAS, the Government Finance Officers Association (GFOA) and OSTFB have crafted model investment policies; and

WHEREAS, changes previously suggested by GFOA and OSTFB have been incorporated into the City's Investment Policy; and

WHEREAS, the City's Investment Advisor, Government Portfolio Advisors (GPA), has recommended adding the Oregon Intermediate Pool to allowable investments; and

WHEREAS, GPA further recommends that other minor revisions to the policy; and

WHEREAS, the City desires to incorporate the recommended changes.

NOW, THEREFORE, BE IT RESOLVED that the City of Albany City Council adopts Exhibit A as the Investment Policy for the City of Albany.

BE IT FURTHER RESOLVED that Resolution No. 6459 is hereby repealed.

DATED AND EFFECTIVE THIS 9TH DAY OF NOVEMBER, 2016.

_____
Mayor

ATTEST:

_____
City Clerk

City of Albany
Investment Policy

	City of Albany Finance Policy Policy #: F-06-08-009 Title: Investment Policy	

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I. INTRODUCTION

The City of Albany, (hereinafter referred to as "Albany" or "City") was founded in 1848. Albany is the eleventh largest city in the state of Oregon, and is the county seat of Linn County. Albany has a home rule charter and is a Council-Manager form of government where the full time appointed City Manager administers the day-to-day operations and is the chief administrative officer of the City.

The average monthly balance of funds invested in the City's general portfolio, excluding proceeds from bond issues, is approximately $60,000,000.00. The highest balances occur when taxes are collected.

II. GOVERNING BODY

It is the policy of the City of Albany that the administration of its funds and the investment of those funds shall be handled with the highest public trust. Investments shall be made in a manner that will assure security of principal. Parameters will be set to limit maturities and increase diversification of the portfolio while meeting the daily cash flow needs of the City and conforming to all applicable state and City requirements governing the investment of public funds. The receipt of a market rate of return will be secondary to safety and liquidity requirements. It is the intent of the City to be in complete compliance with local, state, and federal law. The earnings from investments will be used in a manner that best serves the public trust and interests of the City.

III. SCOPE

This policy applies to activities of the City of Albany with regard to investing the financial assets of all funds. Funds held by trustees or fiscal agents are excluded from these rules; however, all funds are subject to regulations established by the state of Oregon.

The City commingles its daily cash into one pooled investment fund for investment purposes of efficiency and maximum investment opportunity. The following funds, and any new funds created by the City, unless specifically exempted by the City Council and this policy, are defined in the City's Comprehensive Annual Financial Report:

- General Fund
- Special Revenue Funds
- Debt Service Funds
- Capital Projects Funds
- Enterprise Funds
- Internal Service Funds
- Permanent Funds

These funds will be invested in compliance with the provisions of all applicable Oregon Revised Statutes (ORS). Investments of any tax-exempt borrowing proceeds and any related Debt Service funds will comply with the arbitrage restrictions in all applicable Internal Revenue Codes.

IV. OBJECTIVES AND STRATEGY

It is the policy of the City that all funds shall be managed and invested with three primary objectives, listed in the following order of priority:

1. **Safety of Principal**
   - Safety of principal is the foremost objective of the City. Investments of the City shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
   - Diversification of the portfolio will include diversification by maturity and market sector and will include the use of multiple broker/dealers for diversification and market coverage.

2. **Liquidity**
   The City's investment portfolio will remain sufficiently liquid to enable it to meet all operating requirements that might be reasonably anticipated.

3. **Yield-Return**
   The City's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the City's risk constraints and the cash flow of the portfolio. "Market rate of return" may be defined as the average yield of the current three-month U.S. Treasury bill or any other index that most closely matches the average maturity of the portfolio.

Effective cash management is recognized as essential to good fiscal management. Cash management is defined as the process of managing monies in order to ensure maximum cash availability. The City shall maintain a comprehensive cash management program that includes collection of accounts receivable, prudent investment of its available cash, disbursement of payments in accordance with invoice terms, and the management of banking services.

V. STANDARDS OF CARE

1. **Delegation of Investment Authority**
   a. Investment Officer. The Finance Director, acting on behalf of the City Council, is designated as the Investment Officer of the City and is responsible for investment management decisions and activities. The Council is responsible for considering the quality and capability of investment advisers and consultants involved in investment management and procedures. All participants in the investment process shall seek to act responsibly as custodians of the public trust.

      The Investment Officer and those delegated investment authority under this policy, when acting in accordance with the written procedures and this policy, and in accord with the Prudent Person Rule, shall be relieved of personal responsibility and liability in the management of the portfolio.

   b. Investment Adviser. The City may enter into contracts with external investment management firms on a non-discretionary basis.

      If an investment adviser is hired, the adviser will serve as a fiduciary for the City and comply with all requirements of this Investment Policy. Exceptions to the Investment Policy must be disclosed and agreed upon in writing by both parties. The Investment Officer remains the person ultimately responsible for the prudent management of the portfolio.

c. Staff Designation. The Investment Officer shall designate a staff person as a liaison/deputy in the event circumstances require timely action and the Investment Officer is not available.

2. Prudence

The standard of prudence to be used in the investment function shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio. This standard states:

"Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the expected income to be derived."

3. Ethics and Conflict of Interest

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees, officers, and their families shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the City. Officers and employees shall, at all times, comply with the state of Oregon Government Ethics as set forth in ORS 244.

VI. AUTHORIZED FINANCIAL INSTITUTIONS

1. Broker/Dealer Approval Process

The Investment Officer shall maintain a list of all authorized brokers/dealers and financial institutions that are approved for investment purposes or investment dealings. Any firm is eligible to make an application to the City of Albany and upon due consideration and approval will be added to the list. Additions and deletions to the list will be made at the discretion of the Investment Officer.

At the request of the City of Albany, the firms performing investment services shall provide their most recent financial statements or Consolidated Report of Condition for review. Further, there should be in place, proof as to all the necessary credentials and licenses held by employees of the brokers/dealers who will have contact with the City of Albany as specified by, but not necessarily limited to the Financial Industry Regulatory Authority (FINRA), Securities and Exchange Commission (SEC), etc. The Investment Officer shall conduct an annual evaluation of each firm's credit worthiness to determine if it should remain on the list.

All dealers with whom the City transacts business will be provided a copy of this Investment Policy to ensure that they are familiar with the goals and objectives of the investment program.

If the City hires an investment adviser to provide investment management services, the adviser is authorized to transact with its direct dealer relationships on behalf of the City. A list of approved dealers must be submitted to the investment officer prior to transacting business. The investment officer can assign the responsibility of broker/dealer due diligence process to the Adviser, and all

licensing information on the counterparties will be maintained by the Adviser and available upon request.

2. Investment Adviser

An Investment Adviser may be selected through a competitive RFP process and must meet the following criteria:

a. The investment adviser firm must be registered with the Securities and Exchange Commission (SEC) or licensed by the state of Oregon if assets under management are less than $100 million.
b. All investment adviser firm representatives conducting investment transactions on behalf of the City must be registered representatives with FINRA.
c. All investment adviser firm representatives conducting investment transactions on behalf of the City must be licensed by the state of Oregon. Factors to be considered when hiring an investment advisory firm may include, but are not limited to:
    i. The firm's major business
    ii. Ownership and organization of the firm
    iii. The background and experience of key members of the firm, including the portfolio manager expected to be responsible for the City's account
    iv. The size of the firm's asset base, and the portion of that base which would be made up by the City's portfolio if the firm were hired
    v. Management fees
    vi. Cost analysis of the adviser
    vii. Performance of the investment advisory firm, net of all fees, versus the Local Government Investment Pool over a given period of time

3. Financial Bank Institutions

All financial banks that provide bank deposits, certificates of deposits or any other deposit of the bank to the City must either be fully covered by the FDIC or the bank must be a participant of the Public Funds Collateralization Program (PFCP). ORS Chapter 295 governs the collateralization of Oregon public funds and provides the statutory requirements for the PFCP. Bank depositories are required to pledge collateral against any public fund deposits in excess of deposit insurance amounts. The PFCP provides additional protection for public funds in the event of a bank loss.

4. Competitive Transactions

The Investment Officer will obtain telephone, faxed or emailed quotes before purchasing or selling an investment. The Investment Officer will select the quote which best satisfies the investment objectives of the investment portfolio within the parameters of this policy. The Investment Officer will maintain a written record of each bidding process including the name and prices offered by each participating financial institution.

The investment adviser must provide documentation of competitive pricing execution on each transaction. The adviser will retain documentation and provide upon request.

VII. Safekeeping and Custody, Controls

1. Safekeeping and Custody Securities

The laws of the state and prudent treasury management require that all purchased securities be bought on a delivery versus payment basis and be held in safekeeping by the City, an independent third-party financial institution, or the City's designated depository.

All safekeeping arrangements shall be designated by the Investment Officer and an agreement of the terms executed in writing. The approved broker/dealer or investment adviser shall provide the City with a confirmation ticket listing the specific instrument, issuer, coupon, maturity, CUSIP number, purchase or sale price, transaction date, and other pertinent information. The broker/dealer which executes the transaction on the City's behalf shall deliver all securities on a delivery versus payment method to the designated third party trustee at the direction of the Investment Officer.

2. **Safekeeping of Funds at Bank Depositories**
   The City may hold bank deposits or certificates of deposits at banks qualified under ORS 295.

3. **Accounting Methods**
   The City shall comply with all required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies including but not necessarily limited to, the Governmental Accounting Standards Board (GASB); the American Institute of Certified Public Accountants (AICPA); and the Financial Accounting Standards Board (FASB).

4. **Pooling of Funds**
   Except for cash in certain restricted and special funds, the City will consolidate balances from all funds to maximize investment opportunities. Investment income will be allocated to the various funds based on their respective participation and in accordance with Generally Accepted Accounting Principles.

5. **Internal Controls**
   The City will maintain a structure of internal controls sufficient to assure the safekeeping and security of all investments. All out of compliance situations under this policy will be corrected and brought into compliance as soon as prudently possible.

   The Investment Officer shall develop and maintain written administrative procedures for the operation of the investment program that are consistent with this investment policy. Procedures will include reference to safekeeping, wire transfers, banking services contracts, and other investment-related activities.

   The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials and staff. No officer or designee may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer and approved by the Council.

VIII. AUTHORIZED AND SUITABLE INVESTMENTS

1. **Authorized Investments**
   All investments of the City shall be made in accordance with Oregon Revised Statutes: ORS 294.035 (Investment of surplus funds of political subdivisions; approved investments), ORS

294.040 (Restriction on investments under ORS 294.035), ORS 294.052 (Definitions; investment by municipality of proceeds of bonds), ORS 294.135 (Investment maturity dates), ORS 294.145 (Prohibited conduct for custodial officer), ORS 294.805 to 294.895 (Local Government Investment Pool). Any revisions or extensions of these sections of the ORS shall be assumed to be part of this Investment Policy immediately upon being enacted.

2. **Suitable Investments**

The City will diversify investments across maturities, security types and institutions to avoid incurring unreasonable risks. The City has further defined the eligible types of securities and transactions as follows:

TYPE	DEFINITION
U.S. Treasury Obligation	Direct obligations of the United States Treasury whose payment is guaranteed by the United States. [ORS Section 294.035(3)(a)]
GSE – Agency Obligations	US Government Agencies, Government Sponsored Enterprises (GSEs), Corporations or Instrumentalities of the US Government - Federal Instrumentality Securities include, but are not limited to Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), Federal Home Loan Banks (FHLB), and the Federal Farm Credit Bureau (FFCB). [ORS 294.035(3)(a)]
Commercial Paper	Commercial Paper* that is rated A1+/P1 and has long term bonds which have a minimum rating of AA- by Standard and Poor's and Aa3 by Moody's. In the case where both rating agencies provide ratings on the corporation, the lowest rating will be used.
Corporate Indebtedness	Corporate indebtedness must be rated on the settlement date Aa3 or better by Moody's Investors Service or AA- or better by S&P [ORS Section 294.035 (3) (B)]. In the case of a split rating, the lower rating will be used.
Local Government Investment Pool	State Treasurer's local short-term investment fund up to the statutory limit per ORS Section 294.810.
Oregon Intermediate Fund	The Oregon Local Government Intermediate Fund (OLGIF) is a commingled investment pool for local governments offered by Oregon State Treasury due to Legislation HB2140 and pursuant to ORS Chapter 294. OLGIF provides qualified local government participants with a vehicle to invest assets over an intermediate time horizon (three to five years).
Certificates of Deposit	Certificates of deposit in insured institutions as defined in ORS Section 706.008, in credit unions as defined in ORS Section 723.006, or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)].

Bank Time Deposit/Savings Account	Time deposit open accounts or savings accounts in insured institutions as defined in ORS Section 706.008, in credit unions as defined in ORS Section 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)].
Municipal Debt	Lawfully insured debt obligations of the States of Oregon, California, Idaho, and Washington and political subdivisions of those states if the obligations have a long-term rating on the settlement date of AA- or better by S&P or Aa3 or better by Moody's. In the case of a split rating, the lower rating of these two rating agencies will be used.
Bankers' Acceptance	A short-term credit investment created by a non-financial firm and guaranteed by a qualified financial institution* whose long-term letter of credit rating is at least AA- by Standard and Poor's or Aa3 by Moody's at the time of purchase. [ORS 294.035(3)(h)(A)] *For the purposes of this paragraph, "qualified financial institution" means: (i) A financial institution that is located and licensed to do banking business in the State of Oregon; or (ii) A financial institution that is wholly owned by a financial holding company or a bank holding company that owns a financial institution that is located and licensed to do banking business in the State of Oregon [ORS Section 294.035(3)(h)].

3. **Collateralization**
   Time deposit open accounts, Certificates of Deposit and savings accounts shall be collateralized through the Public Funds Collateralization Program in accordance with ORS Section 295.018. All depositories must be on the State of Oregon's qualified list. Additional collateral requirements may be required if the Investment Officer deems increased collateral is beneficial to the protection of the monies under the City's management.

IX. Investment Parameters

1. **Diversification**
   The City will diversify the investment portfolio to avoid incurring unreasonable risks, both credit and interest rate risk, inherent in over investing in specific instruments, individual financial institutions or maturities.

Diversification Constraints on Total Holdings: Liquidity and Core Funds*				
Issuer Type	**Maximum % Holdings**	**Maximum % Per Issuer**	**Ratings S&P**	**Ratings Moody's**
US Treasury Obligations	100%	None	N/A	N/A

US Agency Primary Securities FHLB, FNMA, FHLMC, FFCB	100%	33%	N/A	N/A
US Agency Secondary Securities FICO, FARMER MAC etc.	10%	10%	Must be rated	Must be rated
Oregon Short Term Fund	ORS 294.810 Limit	None	N/A	N/A
Oregon Intermediate Fund	10%	None	N/A	N/A
Bank Time Deposits/Savings Accounts	20%	10%	OR Public Depository	OR Public Depository
Certificates of Deposit	10%	5%	OR Public Depository	OR Public Depository
Corporate Bonds	20%	5%	AA-	Aa3
Municipal Bonds (OR, CA, ID, WA)	10%	5%	AA-	Aa3
Commercial Paper	10%	5%	A1+	P1
Banker's Acceptance	10%	5%	A1+ AA- Long Term	P1 Aa3 Long Term
Local Government Investment Pool	ORS 294.810 Limit			

2. **Investment Maturity**
   The City will not directly invest in securities maturing more than five (5) years from the date of purchase.

   a. The maximum weighted maturity of the total portfolio shall not exceed 1.5 years. This maximum is established to limit the portfolio to excessive price change exposure.
   b. Liquidity funds will be held in the State Pool or in money market instruments maturing six months and shorter. The liquidity portfolio shall, at a minimum, represent three months budgeted outflows.
   c. Core funds will be the defined as the funds in excess of liquidity requirements. The investments in this portion of the portfolio will have maturities between 1 day and 5 years and will be only invested in high quality and liquid securities.

Total Portfolio Maturity Constraints:

Maturity Constraints	Minimum % of Total Portfolio
Under 30 days	10%
Under 1 year	25%
Under 5 years	100%
WAM (Weighted Average Maturity)	2 years
Security Structure Constraint	Maximum % of Total Portfolio
Callable Agency Securities	25%

Reserve or Capital Improvement Project monies may be invested in securities exceeding five (5) years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of the funds

3. **Prohibited Investments**
   The City shall not lend securities nor directly participate in a securities lending or reverse repurchase program. The purchase of derivatives and use of reverse repurchase agreements are specifically prohibited by this policy. The City shall not purchase mortgage-backed securities.

X. Policy Compliance and Performance Evaluation

1. **Compliance Report**
   A compliance report shall be maintained quarterly to document the portfolio versus the investment policy.

2. **Compliance Measurement and Adherence**
   a. Compliance Measurement: Guideline measurements will use [par/market] value of investments.
   b. Compliance Procedures: If the portfolio falls outside of compliance with adopted investment policy guidelines or is being managed inconsistently with this policy, the Investment Officer shall bring the portfolio back into compliance in a prudent manner and as soon as prudently feasible.
   c. Violations of portfolio guidelines as a result of transactions; actions to bring the portfolio back into compliance and; reasoning for actions taken to bring the portfolio back into compliance shall be documented and reported to the City Council.
   d. Due to fluctuations in the aggregate surplus funds balance, maximum percentages for a particular issuer or investment type may be exceeded at a point in time. Securities need not be liquidated to realign the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.
   e. As determined on any date that the security is held within the portfolio. If the credit rating of a security is subsequently downgraded below the minimum rating level for a new investment of that security, the Investment Officer shall evaluate the downgrade on a case-by-case basis in order to determine if the security should be held or sold. The Investment Officer will apply the general objectives of Safety, Liquidity, Yield, and Legality to make the decision. If the City has hired the services of an Investment Adviser, the Investment Officer will act on the recommendation of the Adviser.

3. **Performance Measurement**
   The performance of the City of Albany will be measured against the performance of the Local Government Investment Pool, using monthly net yield of both portfolios as the yardstick. Preservation of capital and maintenance of sufficient liquidity will be considered prior to attainment of market return performance. Given these considerations, the City's portfolio should provide a net yield that is equal or better to that attained by the Local Government Investment Pool over interest rate cycles.

   Additionally, a market benchmark will be determined that is appropriate for longer term investments based on the City's risk and return profile. The investment adviser will provide return comparisons of the portfolio to the benchmark on a monthly basis. When comparing the

performance of the City's portfolio, all fees and expenses involved with managing the portfolio shall be included in the computation of the portfolio's rate of return. This would include any in-house management of the funds, as well as outside management.

XI. Reporting Requirements

The Investment Officer shall submit quarterly and annual reports to the local governing board containing sufficient information to permit an informed outside reader to evaluate the performance of the investment program. More frequent reports may be provided when market conditions merit or if requested by the governing board.

Minimum quarterly reporting requirements for total portfolio:

- Earnings Yield
- Holdings Report (including mark to market)
- Transactions Report
- Weighted Average Maturity or Duration
- Compliance Report

XII. Investment Policy Adoption by Governing Board

This investment policy will be formally adopted by the Albany City Council. The policy shall be reviewed on an annual basis by the Investment Officer and the Albany City Council. Material revisions to this policy will require a review by the Oregon Short Term Fund Board, pursuant to ORS.

Supersedes: Res No. 6459	Created/Amended by/date:	Effective Date:	Reviewed by Council: November 7, 2016

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Stewart Taylor, Finance Director

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Risk Management Policy

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

By resolution, readopt the Risk Management Policy and repeal Resolution Number 6460.

Discussion:

The City's current Risk Management Policy was last reviewed and adopted by the City Council as Resolution Number 6460 on October 28, 2015. The policy requires an annual report and review by the City Council.

Staff has worked closely with the City's Insurance Broker, Barker-Uerlings Insurance, to review the current insurance coverages and the Risk Management Policy. The list of insurance coverage has been updated. No other changes are recommended in this year's review.

The City Council received a claims history review and discussed the current policy at the work session on November 7, 2016.

Budget Impact:

Costs of insurances are in the adopted budget. The Risk Management Policy sets parameters for managing risks and insurance coverage.

ST:md
Attachment: Resolution and Risk Management Policy

RESOLUTION NO. _____

A RESOLUTION READOPTING THE RISK MANAGEMENT POLICY
AND REPEALING RESOLUTION 6460

WHEREAS, the City Council last adopted the Risk Management Policy as Resolution No. 6460 on October 28, 2015; and

WHEREAS, the policy requires an annual report and review by the City Council; and

WHEREAS, at the November 7, 2016 work session, the City Council received an annual report from the City's insurance broker, Barker-Uerlings Insurance, and discussed the insurance coverage and language in the policy; and

WHEREAS, the insurance coverage was updated and no other policy changes were recommended.

NOW, THEREFORE, BE IT RESOLVED that the City of Albany City Council adopts Exhibit A as the Risk Management Policy for the City of Albany.

BE IT FURTHER RESOLVED that Resolution No. 6460 is hereby repealed.

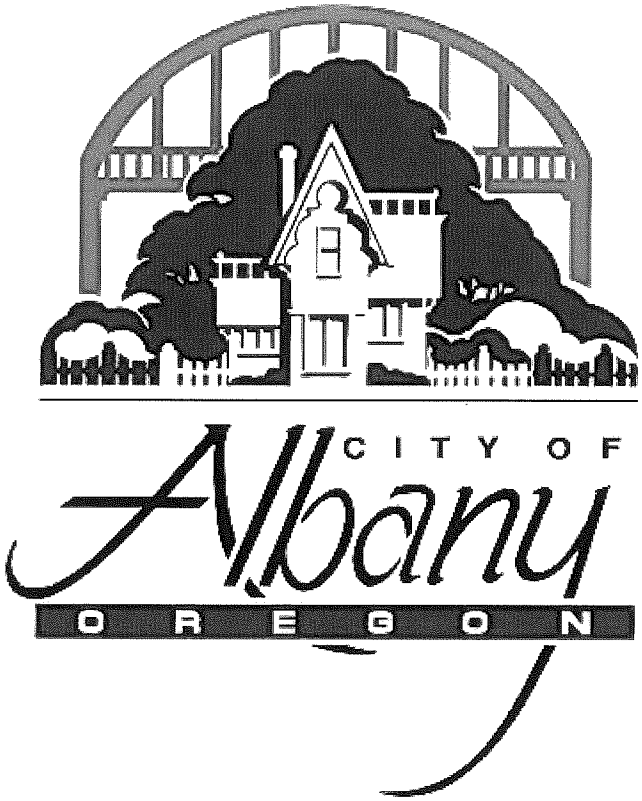
DATED AND EFFECTIVE THIS 9TH DAY OF NOVEMBER, 2016.

_____
Mayor

ATTEST:

_____
City Clerk

City of Albany
Risk Management Policy



	City of Albany Finance Policy Policy #: F-08-08-009 Title: Risk Management	

I. POLICY STATEMENT

It is the policy of the City of Albany to proactively identify and manage the inherent risks of providing municipal services. Potential losses will be mitigated through employee safety committees, loss prevention programs, property and liability insurances, workers' compensation, and employee health, life, and disability benefits.

II. GENERAL RESPONSIBILITIES

Each employee of the City is responsible to contribute to a safe environment for all employees and the public. Employees should help identify and correct unsafe conditions and should follow all established safety laws, policies, and practices.

The City Manager and department directors are responsible to protect the City of Albany's assets by identifying and managing risks. Primary objectives include containing costs, minimizing accidents and injuries to employees and the public, reducing the frequency and severity of property loss, and promoting a healthy employee workforce and working environment.

Department directors are responsible for managing the risks of operations in their respective departments. They ensure that effective safety and loss prevention programs are implemented and oversee the investigation of claims and losses.

Department directors coordinate their efforts with the Senior Accountant who acts as the City's Risk Manager. The Risk Manager is responsible for facilitating claims processing and working closely with third party property and liability insurers.

The City Manager may choose to retain professional advisors, consultants, insurers, brokers, and agents of record to assist the City in placing appropriate insurances and developing effective safety and loss prevention programs.

III. SPECIFIC RESPONSIBILITIES

1. **Human Resources Director.**
   a. Coordinate and promote city-wide safety awareness and employee wellness programs.
   b. Manage the City's worker's compensation and health insurance programs to contain costs and promote safety and wellness for employees and their families.

2. **Finance Director.**
   a. Recommend appropriate levels of property and general liability insurance to the City Manager and City Council.
   b. Coordinate periodic inventories of all property, buildings, equipment, vehicles, and other capital assets and verify that appropriate insurance is in place.
   c. Maintain policies, bonds, and other legal documentation of insurance.
   d. Provide an annual report to the City Council showing claims experience and the costs of insurance programs.

3. **Fire Chief.**
   a. Conduct fire and life safety inspections of City facilities on a periodic basis according to the level of risk in each facility.

b. Verify that all facilities are in compliance with recognized fire code standards for fire and life safety.

4. **City Attorney.**
   a. Develop templates of contracts and leases which include language to identify and mitigate liability and other potential losses.
   b. Notify the City Manager of changes in state statutes and common law that affect municipal liability.
   c. Assist insurers in the investigation and settlement of claims against the City.
   d. Review insurance and bond contracts.

IV. RETAINING AND TRANSFERING RISK

1. **Reserve Account.**

A Risk Management Fund will be maintained with a working balance of up to $2,000,000 for unforeseen catastrophic events and major deductibles. Each department will be responsible for claims and deductibles up to $10,000 per incident resulting from losses in their respective operations.

2. **Insurance Coverages.**

The following minimum policy limits and deductibles will be maintained:

Property/Boiler & Machinery

Limit:	Determined each year by the filed value of insured property.	
Deductibles:	Buildings/Contents	$10,000
	Boiler & Machinery	$10,000
	Mobile Equipment	$10,000
	Earthquake	3% of value
		$100,000 min
	Limit	$25,000,000
	Flood	$100,000
	Limit	$10,000,000

Tort Liability

Limit:	$5,000,000

Auto Liability

Limit:	$5,000,000

Auto Physical Damage

Deductibles:	Comprehensive	$100
	Collision	$500

Senior Center Trips

Limit:	$5,250

3. **Self Insurance.**

The City shall self-insure to the extent it is more cost effective than commercial insurance and does not present unacceptable financial or other risks to the City.

V. ALLOCATION OF INSURANCE COSTS

Departments and programs that have dedicated revenue sources or are independent legal entities will be charged insurance costs specific to the risk exposures of the operations of those departments and programs.

Premiums and related costs for liability insurance, workers' compensation, and property insurance will be allocated to each department based on claims experience and risk exposure. Property insurance costs are allocated according to the specific properties used and operated by each department or program.

VI. CONFIDENTIALITY OF RECORDS

All personally identifiable and confidential information will be maintained in compliance with the Identity Theft Protection Policy, Finance Policy Number F-04-08. All employee medical records and long-term disability claims held by the City will be maintained in separate locked files and access will be controlled through the City Manager and Human Resources Departments.

All police reports will be kept confidential unless the Albany Police Department and/or the City Attorney approve release.

VII. REPORTING PROPERTY/CASUALTY ACCIDENTS AND LOSSES

1. Accidents and losses must be reported promptly and in accordance with prescribed procedures. The benefits of timely reporting include enhanced citizen confidence, better protection of the City's interests, reduced time lost for employees and equipment, and savings realized through prompt settlements.

   Reports of general liability claims and automobile accidents should be immediately reported to the Risk Manager. The following information should be included in every report:
   a. Date, time, and location of accident or event
   b. Description of vehicle, equipment, or property involved
   c. Name(s) of person(s) involved
   d. Name(s) of person(s) injured
   e. Description of any medical attention received
   f. Nature of damage/loss and estimated cost
   g. Description of circumstances; diagram of events if possible
   h. Insurance Policy Numbers, Agents, and/or Agencies
   i. Name(s) and addresses of witnesses
   j. Appropriate signatures
   k. Copy of DMV report, if filed
   l. Copy of police report, if filed

   In addition, procedures described in Human Resources Policy HR-SF-02-001 (Property Loss/Damage) must be followed.

2. The Risk Manager will process all accident/loss notices, except workers' compensation, and will notify the appropriate insurance company.

3. The Human Resources Department will file workers' compensation accident reports with the appropriate insurance company. Workers' compensation incidents will be processed in accordance with Human Resources Policy HR-SF-03-001 (Reporting On-the-Job Injuries).

4. Accidents of a serious nature and those occurring on weekends or holidays should be called in to the appropriate supervisor and followed up with the proper accident forms and information. The Risk Manager should be notified of the accident on the first day back to work.

5. As required by law, on-the-job injuries to employees that result in overnight hospitalization for treatment (not just observation), must be reported to OR-OSHA within twenty-four (24) hours of the injury. An on-the-job accident that results in the hospitalization of three or more employees, or in a fatality, must be reported to OR-OSHA within eight (8) hours of the accident. In either of these situations, the Human Resources Generalist or Human Resources Director should be notified immediately so they may make notification to OR-OSHA.

VIII. REPORTS TO BE FILED

1. All Property/Casualty claims reports will be filed with the Risk Manager.

2. Minutes of City Council meetings, safety meetings, and all other City committee meetings in which Risk Management policy or procedure decisions are made will be filed as appropriate.

3. Inspection reports when the building inspector or Fire Department inspects City premises will be filed with the Risk Manager or the Fire Department.

4. Long-term disability and life insurance claims and workers' compensation claims and reports will be filed with the Human Resources Department.

IX. RISK MANAGER RECORDS

The Risk Manager shall keep the following records:

1. An inventory of current locations, descriptions, and insurable values of all property/vehicles owned or leased by the City.

2. An insurance register, outlining all coverages in force and including premiums, policy numbers, servicing agents, terms of coverage, and expiration dates.

3. Premium payment and allocation records.

4. Claims filed and pending.

5. Loss records subdivided into property, liability, and other liability claims paid by the insurer under existing insurance policies.

6. Claim recoveries received from third parties who have damaged City property or who are reimbursing for City wages paid.

Supersedes: Res No. 6460	Created/Amended by/date:	Effective Date:	Reviewed by Council: November 7, 2016

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Stewart Taylor, Finance Director

DATE: November 2, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Financial Policies

RELATES TO STRATEGIC PLAN THEME:
- Effective Government

RELATES TO:
- Continue recognition from the GFOA for excellence in budgeting and financial reporting.

Action Requested:

By resolution, adopt the updated Financial Policies and repeal Resolution Number 6461.

Discussion:

The City's current Financial Policies were last reviewed and adopted by the City Council as Resolution Number 6461 on October 28, 2015. The policies are reviewed on an annual basis. This year's review was conducted at a work session on November 7, 2016.

There were no recommended changes to the financial policies this year.

Budget Impact:

The Financial Policies establish parameters for the annual budget and ongoing financial operations.

ST:md
Attachment: Resolution and Financial Policies

RESOLUTION NO. _____

A RESOLUTION READOPTING FINANCIAL POLICIES
AND REPEALING RESOLUTION NUMBER 6461

WHEREAS, the City's Financial Policies are adopted on an annual basis to clearly define the fiscal environment for the budget process and ongoing financial operations; and

WHEREAS, the policies were last adopted by Resolution 6461 on October 28, 2015 following review and discussion by the City Council; and

WHEREAS, this year's review was conducted at a work session on November 7, 2016; and

WHEREAS, the City Council gave direction regarding any changes to the policies and those changes have been incorporated into the attached policies; and

WHEREAS, the Council now desires to adopt the Financial Polices.

NOW, THEREFORE, BE IT RESOLVED that the City of Albany City Council hereby adopts Exhibit A as the Financial Policies for the City of Albany and repeals Resolution 6461.

DATED AND EFFECTIVE THIS 9TH DAY OF NOVEMBER, 2016.

_____
Mayor

ATTEST:

_____
City Clerk

City of Albany
Financial Policies

	City of Albany Finance Policy Policy #: F-07-08-009 Title: Financial Policies

I. POLICY STATEMENT

It is the policy of the City of Albany to actively manage financial, operational, and budgetary affairs within established guidelines in order to maintain financial stability both now and in the future.

II. GENERAL GUIDELINES

1. The City Manager and department directors are charged with achieving the themes, goals, and objectives adopted by the City Council in the City's Strategic Plan.
2. The implementing document for the Strategic Plan is the annually adopted budget. The adopted budget establishes types and levels of services through both operating and capital budgets. The relationships between the operating and capital budgets will be explicitly recognized and incorporated into the budget process. Resources will be identified to provide designated levels of service, and maintenance or enhancement of related capital and fixed assets.
3. The City will actively measure performance and pursue process improvements to enhance productivity and maximize resources.
4. Adequate reserves will be maintained for all known liabilities, including employee leave balances and explicit post employment benefits.
5. The City will actively seek partnerships with private interests and other government agencies to achieve common policy objectives, share the costs of providing local services, and support favorable legislation at the state and federal levels.
6. The City will seek out, apply for, and effectively administer federal, state, and foundation grants-in-aid that address the City's priorities and objectives.

III. REVENUES

1. The City will actively identify and administer funding sources that create a reliable, equitable and diversified revenue stream to shelter the City from short-term fluctuations in any single revenue source and to maintain desired levels of services.
2. Revenues will be conservatively estimated in the budget process.
3. Target fund balances for operating budgets will range between 5 and 15 percent of operations.
4. The City will consider full cost recovery and comparable rates charged by other municipalities of similar size in establishing rates, fees, and charges.
5. The City will follow an aggressive policy of collecting revenues.
6. Enterprise and internal service funds are intended to be self-supporting.

IV. EXPENDITURES

1. The City will identify priority services, establish appropriate service levels, and administer the expenditure of available resources to assure fiscal stability and the effective and efficient delivery of services.
2. The City will operate on a current funding basis. Expenditures will be monitored on an ongoing basis so as not to exceed current revenues and targeted fund balances.
3. The City Manager will take immediate corrective actions if at any time during a fiscal year revised revenue and expenditure estimates project a year-end deficit. Mitigating actions may include a hiring freeze, expenditure reductions, fee increases,

or use of contingencies. Actions to be avoided include expenditure deferrals into the following fiscal year, short-term loans, and use of one-time revenues to support ongoing operations.

4. Target contingencies for operating budgets will range between 5 and 15 percent of operations.
5. Internal service charges and project accounting should be used when service recipients and parameters of a project can be easily identified. The charges should be based on methodologies that fairly allocate the full cost of services. The Finance Director shall review the methodologies on a periodic basis to verify that they are consistent with federal guidelines and Oregon Local Budget Law.
6. The City Manager will undertake ongoing staff and third-party reviews of City programs to measure efficiency and effectiveness. Privatization and contracting with other governmental agencies will be evaluated as alternatives to in-house service delivery. Programs that are determined to be inefficient and/or ineffective shall be reduced in scope or eliminated.

V. CAPITAL IMPROVEMENT PROGRAM (CIP)

1. The City will monitor and periodically assess the City's capital equipment and infrastructure, setting priorities for its renovation and replacement based on needs and available resources.
2. The City will develop a multi-year program for capital improvements that will be reviewed annually in the budget process.
3. Projects in the CIP will be flagged as either funded or unfunded depending on whether or not the forecasted operating budget can support or fund the project. All funded projects are included in the operating budget for the corresponding budget year.
4. The City will maintain its physical assets at a level adequate to protect the City's capital investment and minimize future maintenance and replacement costs. The budget process will provide for review of maintenance and orderly replacement of capital assets from current revenues where possible.

VI. CAPITAL ASSETS

1. Capital assets are non-consumable assets with a purchase price of $5,000 or greater and a useful life of more than one year.
2. The Finance Department will oversee a physical count/inspection of all capital assets at least on a biennial basis. All additions, deletions, and depreciation of infrastructure will be reported consistent with the requirements of the Government Accounting Standards Board Statement Number 34.
3. Adequate insurance will be maintained on all capital assets.

VII. DEBT

1. The City will generally limit long-term borrowing to capital improvements.
2. The City will follow a policy of full disclosure on every financial report, official statement, and bond prospectus.
3. The City Manager will ensure that continuing disclosure policies and procedures are in place and include the following:
    a. The City's bond counsel will advise the City in developing appropriate policies and procedures.

b. The Finance Director is primarily responsible for meeting all post-issuance and continuing disclosure requirements of all bonds issued by the City.
c. The Finance Director will participate in timely and appropriate training to be familiar with any changes in continuing disclosure requirements.
d. Records will be maintained to substantiate compliance for three years after securities have matured.
e. The City will take timely steps to correct any instances of noncompliance.

4. The City will strive to maintain its high bond ratings, currently AA- from Standard & Poor's and A2 from Moody's, and will receive credit ratings on all its bond issues.
5. General obligation debt will not be used for self-supporting enterprise activities unless the activity provides a community-wide benefit.
6. The City shall ensure that its general obligation debt margins are within the 3% true cash value limitation as set forth in ORS Section 287.004.
7. Funding strategies that are necessary to support debt obligations should be implemented prior to debt payments becoming due so that debt obligations can be met from current revenues.
8. The City will use voter-approved general obligation debt to fund general-purpose public improvements that cannot be financed from current revenues. Special purpose debt including certificates of participation, revenue bonds, and loans will be linked to specific funding sources.

VIII. Grants

1. Community organizations that desire financial support from the City must submit a Community Grant application no later than March 1 in order to be considered for funding in the next budget year. Applications will be reviewed by the department director assigned by the City Manager. Primary consideration will be given to requests that further the goals and objectives in the Strategic Plan. Applications that are approved by the department director and City Manager shall be included in the Proposed Budget to be considered by the Budget Committee and City Council.

   Any recipient of a Community Grant shall submit an accounting of how the funds were expended and the benefits achieved as required by City Council Resolution No. 5089. Recipients of grants greater than $100,000 must also submit an independent review of financial policies and procedures related to the grant proceeds no later than six months following the end of the fiscal year in which the funds were granted.

   Notwithstanding the above, community organizations and events funded with transient lodging tax revenues will follow the guidelines set forth in Finance Policy F-12-11-001 as currently adopted or amended.

2. City departments are encouraged to seek grants and other financial support from private, nonprofit, and government agencies that would supplement City resources in meeting adopted goals and objectives. Grants that are available on an annual basis should be included in the proposed budget and do not require further City Council action once the budget is adopted, unless required by the granting agency. The City Manager is responsible to oversee other grant applications. All awarded grants must be accepted and appropriated by resolution of the City Council as required by Oregon Local Government Budget Law (ORS 294.326(3)).

IX. ACCOUNTING, AUDITING, AND FINANCIAL REPORTING

1. The Finance Department is responsible to see that all accounting, auditing, and financial reporting comply with prevailing federal, state, and local statutes and regulations including generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board (GASB), the American Institute of Certified Public Accountants (AICPA), and the Government Finance Officers Association (GFOA).
2. The Finance Department will conduct periodic internal audits of financial procedures such as cash handling, purchasing, and accounts payable to test internal controls and to detect instances of fraud or abuse. The Finance Director shall establish locations and limits for petty cash, purchase cards, and other cash and purchasing procedures consistent with operational needs, GFOA best practices, and Oregon Administrative Rules and Revised Statures.
3. The City will seek out and contract for the assistance of qualified financial advisors, consultants, and auditors in the management and administration of the City's financial functions.
4. The City Council will be provided monthly financial reports of revenues and expenditures.
5. A complete independent audit will be performed annually.
6. The City will issue annual financial reports in accordance with generally accepted accounting principles (GAAP) as outlined in the Governmental Accounting, Auditing, and Financial Reporting (GAAFR) publication.
7. The City will annually seek the GFOA Certificate of Achievement for Excellence in Financial Reporting and the GFOA Distinguished Budget Presentation Award.

Supersedes: Res. No. 6461	Created/Amended by/date:	Effective Date:	Reviewed by Council: November 7, 2016

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Mario Lattanzio, Chief of Police

DATE: November 1, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Linn Interagency Narcotics Enforcement (LINE) Intergovernmental Agreement

RELATES TO STRATEGIC PLAN THEME:
- An Effective Government
- A Safe City

Action Requested:

Council authorization to enter into a Linn Interagency Narcotics Enforcement (LINE) Intergovernmental Agreement.

Discussion:

In January 2016, Linn County was designated as a High Intensity Drug Trafficking Area (HIDTA). This designation allows access to federal dollars to help address drug issues in our community. Since receiving the HIDTA designation, Linn County Law Enforcement Agencies, along with the Drug Enforcement Administration, have been working together to form a Linn Interagency Narcotics Enforcement (LINE) Task Force.

The Agencies participating in this LINE Intergovernmental Agreement include Albany Police Department, Linn County Sheriff's Office, Lebanon Police Department, Sweet Home Police Department, Oregon State Police, Linn County District Attorney's Office, and the Drug Enforcement Administration.

Budget Impact:

None.

ML:de

INTERGOVERNMENTAL AGREEMENT

Linn Interagency Narcotics Enforcement (LINE)
Last updated: 10-20-16

PURPOSE

This Intergovernmental Agreement (hereinafter, referred to as "Agreement") is entered into between the undersigned agencies under the authority of ORS 190.110, to jointly administer the performance of functions and activities related to drug trafficking enforcement throughout Linn County. This Agreement is not intended to create a separate unit of government under ORS 190.010 (5).

PARTICIPATING ENTITIES

The parties to this Agreement are: The Linn County Sherriff's Office, Albany Police Department, Lebanon Police Department, Sweet Home Police Department, the Oregon State Police, Drug Enforcement Administration and the Linn County D.A.'s Office.

Each are individually referred to as a "Participating Entity" and collectively referred to as the "Participating Entities." Other entities may become a Participating Entity as provided herein.

The Participating Entities to this Agreement will describe themselves for administrative purposes as Linn Interagency Narcotics Enforcement (LINE).

Each of the undersigned Participating Entities, represent that their officers or agents, have authority to perform in accordance with agreed upon goals and objectives outlined herein.

MISSION

"The mission of LINE is to reduce illegal drug trafficking in the Linn County area by identifying, disrupting, or dismantling drug trafficking and money laundering organizations through cooperative efforts, enforcement, and intelligence sharing by local, state, and federal law enforcement agencies."

Formation of LINE will enhance the coordination of effort and resources among the participating agencies to enforce laws and protect citizens from illegal drug activity and related criminal acts; gather and disseminate drug trafficking related intelligence information; and engage in seizure and forfeiture of assets used in or derived from illegal drug activity as allowed by state and federal law.

NOW THEREFORE, the Participating Entities adopt and incorporate the above recitals and agree as follows:

SECTION 1 – POWERS AND AUTHORITY

While engaged in LINE, all team members and those that assist team members are intended to retain all lawful powers and duties they have individually under their respective federal, state or local positions.

Nothing in this Agreement is intended to make any Team Member or Participating Entity an agent or representative of any other Team Member or Participating Entity.

SECTION 2 – ORGANIZATION

As set forth more fully herein, administration of LINE shall consist of the following components:

A. LINE Advisory Board (Board). Each Participating Entity shall have one representative on the LINE Advisory Board. The Board shall convene at least quarterly for purposes including but not limited to: (i) planning Team activities; (ii) setting long- and short-term goals; (iii) considering expansion opportunities and need for additional resources; and (iv) evaluating Team strategies and success.
B. Team Commander. The Team Commander reports to the Advisory Board and is primarily responsible for administrative duties with respect to LINE activities. The Team Commander is also primarily responsible for oversight of operations, planning, and execution of team plans.
C. LINE Team Members. The LINE Team consists of a deputy district attorney and one representative of at least the rank of detective or its equivalent from the Linn County Sheriff's Office, Albany Police Department, Lebanon Police Department, Sweet Home Police Department, the Oregon State Police, and the U.S. Drug Enforcement Administration.

SECTION 3 - LINE ADVISORY BOARD

3.1 Composition

The following will serve as Members of the LINE Advisory Board: Linn County Sheriff, Albany Police Chief, Lebanon Police Chief, Sweet Home Police Chief, Lieutenant from the Oregon State Police, the DEA RAC in Eugene Resident Office, and the Linn County District Attorney.

In the absence of a Participating Entity Board Member, the Participating Entity may select a substitute, who shall be deemed as having the same powers and authorities for the assigned Board Member. Although it is recognized Board Members may have occasional conflicts requiring the selection of a substitute for a Board meeting, entities should strive to provide a consistent presence of one member to the Board.

In addition to the regular quarterly meetings, the Board may convene a Board meeting as it sees fit in Board's discretion.

3.2 Duties

The Board shall be responsible for making recommendations to the Team Commander concerning overall operations including but not limited to the following:

a. LINE activities;
b. Long and short term goals;
c. Expansion opportunities and need for additional resources; and

d. Evaluation of team strategies and success

3.3 Voting

Each participating Entity shall have one vote in any matter before the board.

All matters before the Board that require a vote shall be decided by majority vote, with the exception of adding an additional participating entity to the Agreement. A decision to add an additional entity to the Agreement requires a unanimous vote.

Without prior approval of the Board, no Participating Entity or Board member shall represent themselves as speaking for, or acting on behalf of the Board for any purpose including but not limited to expending LINE funds, or seeking to obtain or obtaining grants or funding.

3.4 Regular Meetings

The Board shall meet on a regular basis at least quarterly, and otherwise as determined by the Team Commander in consultation with the Board. Each calendar year, the assignment to conduct Board meetings will be reassigned to a different Board Member. The rotation for this assignment will change at the beginning of each calendar year and will rotate as follows: Linn County Sheriff, Albany Police Chief, Lebanon Police Chief, Sweet Home Police Chief, OSP Lieutenant, the DEA RAC in Eugene Resident Office, Linn County District Attorney. The Board Member conducting meetings will ensure that agendas are sent out in advance of board meetings and proper minutes of the board meeting are created and properly archived.

SECTION 4 – Team Commander

The Team Commander shall be selected and assigned to serve by a majority decision of the Board.

The Team Commander oversees all LINE team duties, responsibilities, and activities.

The Team Commander shall report quarterly to the Board. Regular quarterly reports shall contain summaries of plans, operations, objectives, funding, and forfeiture recovery and distribution.

The Team Commander shall be staffed by an employee from a Participating Entity and have the minimum rank of lieutenant.

The Team Commander will be the chief administrator of the LINE Team with duties that include but are not limited to the following:

a. Funding acquisition, retention and expenditure;
b. Procurement of personal services, goods, and equipment;
c. Assignment of TEAM members to tasks and operations;
d. Support and oversee TEAM activities including but not limited to:
    - Criminal investigations;
    - Street crime suppression operations;

- Surveillance;
- Arrests;
- Making case referrals to the District Attorney and US Attorney for prosecution of individuals and organizations involved in illegal drug trade; and
- Seizure and forfeiture of property used or derived from criminal activity;

e. Establishment of Operational Guidelines and Policy/Procedures;
f. Development of enforcement recommendation for LINE operations;
g. Evaluation of team activities and personnel;
h. Recommending long range planning and budgeting and reporting;
i. Administering LINE operating accounts and appropriate funds necessary to meet operations;
j. Administration of Grant applications and other revenue resources;
k. Management of federal and state civil and criminal forfeiture accounts;
l. Accounting and disbursement of LINE assets;
m. Act as a liaison with Participating Entities;
n. Completing media releases on state investigations and distributing them to the public concerning Team activity and cases of interest. Media matters involving federal investigations will be handled by the lead federal investigative agency in coordination with the Team Commander and the United States Attorney's Office Public Information Officer.;
o. Acts as Press Information Officer for LINE; and
p. Assigning LINE member personnel to investigations;
q. Scheduling and supervision of LINE member personnel;
r. Participating in the evaluation of LINE personnel; however evaluations remain the responsibility of the member's Participating Entity.
s. Reviewing and approving of investigation reports;
t. Managing evidence;
u. Providing staff reports regarding LINE activities to the Board during Board meetings or as directed by the Board;
v. Expending LINE operation funds for normal operations pursuant to LINE policy.
w. Ensuring team members act in a safe and tactically sound manner;
x. Case, subject, and event deconfliction, to include, but not limited to: entries, inquiries, and responses.

The Team Commander shall not participate as a member of the Board.

The Team Commander's employing agency shall provide an employee of the rank of Lieutenant or higher to serve as a Backup Team Commander. The Backup Team Commander will have all the same authority and duties as the Team Commander. The Backup Team Commander will assist the Team Commander with the Team Commander's duties on an as needed basis.

SECTION 5 - LINE TEAM MEMBERS

No employees will be formally transferred pursuant to this Agreement. The Participating Entities remain the subject employers under ORS chapter 656 or any other provision of state or federal law.

LINE Team Members (Team Members) shall work cooperatively as a team in the area of narcotics enforcement and intelligence gathering.

Team Members shall be selected and assigned to LINE by each Participating Entity after consultation with the Team Commander, and LINE Advisory Board.

Team Member contribution from any Participating Entity may increase or decrease in number depending on the decision of the Board based on information received from the Team Commander.

Upon adoption by authorized signature, and subject to the provisions herein, each Participating Entity shall provide Team Members.

5.1 Workers Compensation and Other Insurance

For all other purposes, including, but not limited to, Workers Compensation, employee benefits and insurances, and collective bargaining matters (including discipline and discharge) personnel assigned to LINE shall continue as employees of their Participating Entities, which shall be solely responsible for those employees. Additionally, each Participating Entity shall be responsible for liability insurance, salary compensation, overtime, and equipment (vehicle, cell phone, computer and uniforms) of its LINE member.

5.2 Team Member Time Allocated To LINE

It is expected that a Team Member assigned to LINE is assigned in a full-time capacity, unless otherwise agreed to by the Board. Length of assignment and number of hours/days of LINE members shall be determined by the Participating Entity in consultation with the Board and the Team Commander.

5.3 Overtime and Time Off

When a Team Member seeks overtime and time-off from its respective Participating Entity, such overtime and time off requests made during LINE assignment shall be administratively reviewed by the Team Commander. All overtime must be pre-approved by the Team Commander. Time off will need to be granted by the Team Member's respective agency and then reviewed by the Team Commander.

5.4 Conflicts with Team Members

Any conflicts that are deemed by the Team Commander to be detrimental to the overall operation of the team that are not resolved through normal supervision, will be addressed and resolved through consultation with the team member's Participating Entity and the Team Commander. If resolution is not achieved, the conflict will be brought before the Board for recommendation to the Board. Ultimately, the Board has final decision making authority on composition of Board Team membership.

5.5 Conflicting Policies

If there are conflicting policies and procedures (including but not limited to bargaining agreements, personnel regulations, or other administrative regulations) between LINE and a Participating Entity, members shall comply with their own Participating Entity; and as soon as practical, notify the Team Commander of the differences. The policies and procedures of the Participating Entity take precedence over the LINE policies and procedures.

SECTION 6 – EFFECTIVE DATE

This agreement shall be effective as to each Participating Entity immediately upon execution and authorization by the governing body of that Participating Entity.

SECTION 7 – DURATION, WITHDRAWAL AND TERMINATION

7.1 Duration

The term or duration of this Agreement is perpetual; however, this Agreement shall be reviewed by the participating members and the Board, or their legal representatives, for legal sufficiency once every five (5) years, beginning from the date the Agreement is executed.

7.2 Withdrawal

Any Participating Entity may withdraw from LINE upon providing not less than 90 days written notice to the Board. In the event of such withdrawal, the Agreement shall remain in full force and effect as to all remaining Participating Entities.

7.3 Temporary Staffing Recall

Participation Entities may temporarily remove their designated team member, which will not constitute withdrawal.

Within one week of the temporary removal or reassignment, the Participating Entity will notify the LINE Team Commander in writing and estimate the length of time the Participating Entity will not have a member assigned to LINE. The Team Commander will report this information to the Board.

If, on the 90th day following the written notification the Participating Entity has not replaced their member in LINE, the Participating Entity will be deemed to have withdrawn from LINE. The Board has the authority to grant an extension beyond 90 days upon written request by the Participating Entity.

If written notification is not provided to a majority of the Board members by the Participating Entity and the entity has not replaced their member within a 90 day period, the entity will be deemed to have withdrawn from LINE.

7.4 Termination

If the Team Commander or Board deems a Participating Entity to be detrimental to the overall success of LINE, termination of the Participating Entity may occur at the discretion of the Board. All reasonable attempts at conciliation will be made.

The Board shall notify the involved agency in writing the date of the termination and conditions of division of asset forfeiture, if applicable.

SECTION 8 – INTEROPERABILITY & DATA SHARING

All Participating Entities shall have interoperable communications devices.

Signatory Jurisdictions will share information to carry out the Mission.

SECTION 9 - FISCAL RESPONSIBILITIES

The apportionment among the parties to the Agreement of the responsibility for providing funds to pay for expenses incurred in the performance of the functions or activities will be as set forth herein:

Administrative Functions

Fiscal Agent: The Team Commander's employing agency will act as fiscal agent for LINE and shall account for LINE funds including but not limited to the following: operating expenditures; seizures; state civil forfeitures; state criminal forfeitures; and federal forfeitures.

All financial record keeping will make reference to LINE on all transactions.

Financial reports will be completed on a quarterly basis along with any financial reports required for grants. The Team Commander will provide additional financial reports to the Board upon reasonable request.

LINE will apply for, receive and facilitate grants from state and federal agencies to include: High-Intensity Drug Traffic Area (HIDTA), Domestic Cannabis Eradications/Suppression Program (DCE/SP), National Marijuana Initiative (NMI), and other grants as appropriate consistent with the LINE mission.

SECTION 10 – ACCOUNTING AND APPORTIONING REVENUE AND PROPERTY

The Participating Entities shall account for and apportion fees or other revenue, including but not limited to forfeiture proceeds, derived from the functions or activities, and transfer possession of or title to real or personal property as set forth herein.

10.1 Team Member Funding

Team Members shall be funded by each Participating Entity as set forth below:

All team members provided to LINE by a Participating Member remains an employee of his or her originating Participating Entity. Each Participating Entity shall be solely responsible for their respective

team members' compensation, including but not limited to: wages, salaries, benefits, overtime and insurance.

10.2 Overhead and Office Space

The City of Albany will provide space at the Albany Police department for LINE Team operations.

10.3 Equipment

Each Participating Entity shall provide all equipment used by its own team member. This equipment shall include but not be limited to: vehicle, cell phone, computer, and uniforms. Additional equipment for LINE operations may be purchased with LINE funds in accordance with Board approved revenue and property acquisition policies. Unless otherwise specified by the Board, the Team Commander's employing agency's polices will be used for ordering and acquiring good and services necessary for LINE functions.

10.4 Forfeiture

For purposes of this Agreement property seized includes money and the proceeds of the sale of tangible property, including real property.

10.5 Designation of Forfeiture Counsel

The civil and criminal forfeiture counsel for LINE shall be either the Linn County District Attorney or the United States Attorney for Oregon. The District Attorney may delegate one or more deputy district attorneys to act in that capacity. The United State Attorney may likewise delegate one or more assistant United States attorneys to act in that capacity. The decision to pursue forfeiture in either the state or federal system will initially be made by the LINE commander and must be approved by the District Attorney for state forfeitures, by the United States Attorney for federal forfeitures, or by their designees. An interagency forfeiture agreement, separate and distinct from this agreement, must be entered into between the District Attorney's office and the Team Commander's employing agency before any State forfeiture actions occur.

10.6 Designation of Forfeiture Entity for Forfeitures Initiated in State Court

Any property seized for criminal or civil forfeiture under state law as a result of a LINE investigation shall name the agency that employs the Team Commander as the seizing and forfeiting agency. All forfeited property will be designated by the Team Commander's agency for use and distribution as determined by the Team Commander, after consultation with the Board, in accordance with state and federal law.

10.7 Designation of Forfeiture Entity for Forfeitures Initiated in Federal Court

The designated lead federal agency shall be responsible for the adoption and processing of assets seized for federal criminal and civil forfeiture in conjunction with LINE operations. The designated federal agency will process assets seized for forfeiture that meet or exceed the minimum threshold values

established by the federal agency and the United States Attorney's office for the District of Oregon (USAOR). Such asset forfeiture shall be conducted in accordance with the rules and regulations set forth by the United States Department of Justice (DOJ)'s Guide to Equitable Sharing for State and Local Law Enforcement Agencies.

The Team Commander's employing agency shall be designated as the local seizing and forfeiting agency for the purpose of establishing a single entity responsible for distributing LINE's equitable share of assets seized pursuant the federal adoption process.

10.8 **Distribution of Forfeiture Proceeds**

Of the forfeiture proceeds received by the Team Commander's agency that result from LINE operations, distribution shall be as set forth herein.

Monies realized by participants through asset forfeiture resulting from LINE activities shall be used to offset the costs of LINE operations. However, any sums accumulated by LINE in excess of an amount set annually by the Board shall be distributed to the participating agencies in accordance with the Oregon law, and based upon a formula agreed upon by the Board.

All LINE forfeiture funds shall be separately accounted for.

SECTION 11 – INDEMNIFICATION AND INSURANCE

11.1 Subject to the provisions of the Oregon Constitution, the Oregon Tort Claims ACT (OTCA), ORS 30.260 to 30.300, and the Federal Tort Claims Act, 28 USC §2671 to §2680, and any other applicable Law of the State of Oregon or Federal Law, each participating entity shall hold harmless, and indemnify the other participating entities and their Officers, Employees, and Agents from all claim, suits, actions, losses arising solely out of the negligent acts of its own Officers, Employees, or Agents while acting under this agreement.

Provided, however, the Oregon Attorney General must give written authorization to any Legal Counsel purporting to act in the name of, or represent the interests of, the State police, the State of Oregon, its Officers, Employees and Agents prior to such action or representation. Further, the State police and the State of Oregon, acting by and through its Department of Justice, may assume its own defense, including that of its Officers, Employees and Agents, at any time when in the State's sole discretion it determines that: (I) Proposed Counsel is prohibited form the particular representation contemplated; (II) Counsel is not adequately defending or able to defend the interests of the State, its Officers, Employees and/or Agents; (III) Important governmental interests are at state; or (IV) The best interest of the State are served thereby. Each participating entities' obligation to pay for all costs and expenses shall include those incurred by the State in assuming its own Defense and/or that of its Officers, Employees, or Agents Under (I) and (II) above.

11.2 Each participating entity shall provide for its LINE Team Member, General, Auto and Professional Liability Coverage pursuant to the limits of the Oregon Tort Claims Act (OTCA), the Federal Tort Claims

Act, 28 USC §2671 to §, and subject to the limits of those acts for services and acts occurring in the course and scope of activities under this agreement . A participating entity's Self-Insurance will satisfy the requirements of this paragraph and obligates the entity to maintain an actuarially sound Self-Insurance Fund for that purpose.

SECTION 12 – VEHICLE USE

12.1 Subject to subsection 14.4, all participating agencies will allow the use of their agency vehicles by any participating agency's member. It is recognized that these occurrences will not occur regularly; however, by execution of this Agreement, the parties acknowledge and agree that all participating agencies will be authorized, should the unforeseen need arise, to use any other participating member vehicle(s).

12.2 The following restriction shall apply to the use of any and all participating members' vehicles under this Agreement:

12.2.a Every driver of a participating member's vehicle must have a current valid driver license and be over the age of 18;

12.2.b Every driver must be an employee or agent of a participating LINE team agency assigned to perform operational duties of the LINE team; and

12.2.c Participating members' vehicles shall only be used by other participating members' employees or agents while a) acting within the course and scope of their employment or agency with the other participating member, and b) performing operations or work under the terms of this Agreement.

12.3 LINE team participating agencies shall provide primary automobile liability and physical damage (collision and comprehensive) coverage all of their employees and agents while operating another participating member's vehicle. The participating member whose employee or agent operates another participating member's vehicle shall assume total responsible and liability for the vehicle and its use both during the use of the vehicle and while the vehicle is in their care, custody or control.

12.4 Revocation of vehicle use authorization; effect.

12.4.a Any participating member may revoke its vehicle use authorization as to any or all other participating members upon providing the participating member9s) and the Board with 30 day written notice. The revocation shall become effective at 12:01 a.m. on the 31st day after such notice is received by a revoked participating member(s) and the Board.

12.4.b Notwithstanding section 13 of this Agreement, a participating member whose vehicle use authority is revoked by another participating member shall hold harmless and indemnify the revoking participating member for any unauthorized use of its vehicle(s) by the revoked participating member's employees or agents.

12.5 Reinstatement of a participating member vehicle use authorization; effect.

12.5.a Any participating member may reinstate revoked participating members' vehicle use authorization (s) by providing the participating member(s) and the Board with 30 day written notice. The reinstatement shall become effective upon receipt of the reinstatement by the participating member9s) and the Board.

12.5.b A participating member's vehicle use authorization that had been revoked but subsequently reinstated shall, subject to section 13 of this Agreement, hold harmless and indemnify the reinstating participating member as fo the date of receipt of the vehicle use reinstatement.

SECTION 13 – DISSOLUTION

LINE may be dissolved upon mutual written agreement of all remaining Participating Entities.

If the composition of LINE drops below two entities that provide sworn officers, then LINE will be considered dissolved and all LINE assets shall be distributed per this Agreement.

If the status of participation in LINE is likely to change for an existing agency, (ex. possible passage of an upcoming funding mechanism) they may request a six month withdrawal from LINE that will not cause LINE to dissolve. The Board may approve six-month hiatus. If, at the end of the six months, the agency is not able to participate in LINE, then the dissolution of LINE shall occur.

SECTION 14 – DIVISION OF NON-FUND ASSETS UPON TERMINATION OR DISSOLUTION

14.1 Individual Entity Termination

Participating Entities who withdraw or otherwise terminate their participation in this Agreement waive all rights to LINE assets.

Nevertheless, the Team Commander, after consultation with the Board, has the authority in his complete discretion, to share assets with the entity terminating their participation. In making his decision, the Team Commander shall consider the operational needs of LINE or the remaining LINE Team, as the case may be.

An entity may re-affiliate with LINE only in the same fashion as a new Participating Entity. Should an entity be granted the authority to return as a Participating Entity, that entity has only those asset forfeiture rights that would be assigned to a new Participating Entity, unless otherwise provided by the Team Commander, after a majority vote of the Board.

14.2 Dissolution of LINE

Upon dissolution of LINE, possession of any shared or loaned equipment shall be immediately returned to the Participating Entity providing it.

Assets acquired with LINE funds will be equitably distributed as agreed upon between the Team Commander and the Board.

SECTION 15 – DISTRIBUTION OF FUNDS UPON DISSOLUTION.

In the event LINE is dissolved, assets derived from forfeiture shall be distributed to Participating Entities in accordance with this Agreement and Oregon law. If the Participating Entities cannot agree on distribution, the circuit court of the State of Oregon for Linn County has jurisdiction to determine that transfer or division.

SECTION 16 – SEVERABILITY

If any term of provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the Participating Entities shall be construed and enforced as if the Agreement did not contain the particular term or provisions held to be invalid.

SECTION 17 – INTERPRETATION

The terms and conditions of this Agreement shall be construed in accordance with the general purposes of this Agreement. This Agreement shall be construed using Oregon law.

SECTION 18 – AMENDMENT

The terms of this Agreement may be amended in writing in the same manner as its adoption by majority vote of the Participating Entities. Any amendment shall be in writing and shall refer specifically to this agreement and shall be effective as to each Participating entity upon execution and authorization by the Participating Entity.

SECTION 19 – NOTICE

Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid. Any communication or notice so addressed and mailed shall be deemed received five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed received on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. Any communication or notice given by personal delivery shall be deemed received when actually delivered. Any communication or notice

given by email shall be deemed received upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

SIGNATURES

By their signatures below, the Participating Entities to this Agreement consent to the terms, conditions, and content expressed herein and have executed this Agreement by their authorized representatives:

Linn County Sheriff's Office	Title	Date
Linn County District Attorney's Office	Title	Date
City of Albany	Title	Date
City of Lebanon	Title	Date
City of Sweet Home	Title	Date
Oregon State Police	Title	Date
Drug Enforcement Administration	Title	Date

Approved as to Legal Sufficiency:

_____

County Counsel

TO: Albany City Council

FROM: Sharon Konopa, Mayor Sharon Konopa

DATE: November 3, 2016, for November 9, 2016, City Council Meeting

SUBJECT: Appointment to the Library Board

RELATES TO STATEGIC PLAN THEME: • An Effective Government

Action Requested:

Council approval of the following appointment:

Library Board

Steven Borst *[application attached]* (Mayor's new appointment to fill a vacant unexpired term; term expires June 30, 2019)

Discussion:

None.

Budget Impact:

None.

SK:ldh

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HR

BOARD, COMMISSION, AND COMMITTEE APPLICATION

(Please print legibly or type)

RECEIVED
NOV 2 2016
City of Albany
City Manager's Office

CITY HALL
333 Broadalbin Street SW
P.O. Box 490
Albany, OR 97321-0144
www.cityofalbany.net

(541) 917-7500

Board, Commission, and/or Committee Preference:

Library Board

(list all for which you are applying)

Name: Steven Borst Preferred First Name: Steve

Residential Information:

Home Address:
Albany, OR 97322
Phone:
Cellular:
E-mail:
Fax: *(Optional)*

Employment Information:

Employer's Name:
Work Address:
Salem, OR 97310
Phone:
Cellular:
E-mail:
Fax: *(Optional)*

Please provide information as requested below to describe your qualifications to serve on this City of Albany Board, Commission, or Committee. Feel free to provide additional information that you may wish to share with the City.

- List current or most recent occupation, business, trade, or profession:

Correctional Officer

For City use only: **Ward: I (II) III or Lives Outside City Limits** ***(Circle One)***

If lives outside city limits, does applicant meet special definition for the specific b/c/c for which applying?

Yes No If yes, how?

- List community/civic activities. Indicate activities in which you are or have been active:

In the past I have served on the Board of Trustees at the church that we attend. I also served as church chef for a number of years, and wrote an article for our church newsletter. Most recently I volunteered at the Children's Farm Home in Corvallis

- Indicate why you are interested in serving on this board, commission, or committee and what other qualifications apply to this position.

I have utilized the Library a lot throughout my life here in Albany and have benefited tremendously from it. I am at a time in my life that I have some free time, and would like to give back to something that has given me so much.

- What contributions do you hope to make?

I will learn the position and what it entails, and then I will find an area where I can contribute.

Please consult the *Guide for Public Officials* and the *Guide for Public Officials 2015 Supplement* that are posted on the state of Oregon's website at http://www.oregon.gov/ogec/Pages/index.aspx (see visual reference below).

Guide for Public Officials

The guide has been revised to include informational links to statutes and rules to give you a more complete reference tool.
Click here to access the guide. Click here for Guide for Public Officials 2015 Supplement.

Signature of Applicant

10-29-16
Date

TO: Albany City Council

VIA: Wes Hare, City Manager
Jeff Blaine, Public Works Engineering & Community Development Director JB

FROM: Bob Richardson, Planning Manager RAR

DATE: October 28, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: Reclassification Recommendation

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

Staff recommends that Council authorize the reclassification of a Planner II position in the Community Development Department to a Planner III.

Discussion:

In recent years the Community Development Department has gone through several organizational changes as a result of combining departments, retirements, overall reductions in staff, and general staff turnover. At the same time these organizational changes have occurred, regulations, specifically those related to floodplain management, have intensified. In response, expectations of the current Planner II position have changed. Reclassification of this position is necessary in order to fairly compensate this employee for what is currently expected of the position.

Staff reviewed job descriptions and the current expectations of the Planner II position with the Human Resources Department (HR). HR concluded that reclassification to a Planner III is appropriate. Staff proposes that this reclassification be effective December 1, 2016.

Budget Impact:

The additional cost associated with this reclassification is $3,400 for the remainder of FY 16/17 (seven months). There are adequate funds within the Planning budget to accommodate this reclassification.

BR:EO

TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Ed Hodney, Parks & Recreation Director

DATE: November 3, 2016, for the November 9, 2016, City Council Meeting

SUBJECT: New Maple Lawn Preschool Instructor Position

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Approve the addition of a 0.725 FTE regular, part-time Maple Lawn Preschool Instructor position with an AFSCME salary range of A112- $2,690-$3,423 in the Parks & Recreation Department effective December 1, 2016.

Discussion:

Parks & Recreation offers pre-kindergarten classes that have been taught in the past by a contracted instructor. After the start of this school year, we received notification that this contracted worker was moving to another state and would no longer teach at the preschool. In order to fill the position immediately, a part-time staff member was placed in the classroom. The Human Resources Director has determined that this employee does not meet the requirements of a contractor and must be replaced with a new position commensurate with the duties of the job.

This shift from a contracted instructor to a City position necessitates the addition of a 0.725 FTE. Because the preschool program is underway, there is a need to create the new position immediately, rather than waiting until the next budget year.

Budget Impact:

The budget impact this fiscal year is projected to be $3,900, which will be partial offset by revenue generated from Maple Lawn Preschool classes.

EH