



CITY OF SILETZ

AGENDA

Meeting: City Council
Date: Monday, November 27, 2023
Time: 6:00 PM
Location: Council Chambers, City Hall

1. Pledge of Allegiance
2. Call Meeting to Order and Establish a Quorum
3. Approve Minutes- City Council Regular Meeting November 13, 2023, and Work Session November 13, 2023
4. Accounts Payable-Financial Report- November 27, 2023
5. Special Orders
6. Reports of Officers, Boards, or Standing Committees
Parks, Library, Fire Department, County Sheriff's Office (LCSO), Homeless Advisory.
Staff Report
7. Public Comments
8. Unfinished Business
None
9. New Business
 - A. Introduction and 1st Reading - Ordinance 207-23- An Ordinance Establishing Title 7 Traffic Regulations to the City of Siletz Municipal Code.
 - B. Introduction and 1st Reading- Ordinance 208-23 -An Ordinance Amending Title 2- Administration and Personnel - Chapter 2.16, Procurement Policy of the City of Siletz Municipal Code.
 - C. Resolution 720-23- A Resolution of the City of Siletz Re-Establishing the City of Siletz Municipal Court.
10. Correspondence
 - Portland State University Population Estimate November 15, 2023
 - Local Government "The Basics" Oregon League of Cities

11. Council Comments

12. Adjournment

To Participate by Zoom:

To Join Zoom from Your Computer, Tablet, or Smartphone:

<https://zoom.us/j/99346115133?pwd=UmdveUsvQzVSNWEyQ1NHd0ZVVnQ2UT09>

Meeting ID: 993 4611 5133

Passcode: 060789

To Join Zoom from Your Phone: 669-444-9171

Meeting ID: 993 4611 5133

Passcode: 060789

The meeting is accessible to the disabled. If you need special accommodations to attend or participate in the meeting per the Americans with Disabilities Act (ADA), please contact the City Recorder at (541) 444-2521-48 hrs. in advance of the meeting so the appropriate assistance can be provided. TTY #1-800.735.2900. "This institution is an equal opportunity provider."

MINUTES

Siletz City Council
Work Session
Monday, November 13, 2023, 5:30 PM
Siletz City Hall

Present: Mayor Worman, T. Retasket, S. Trachsel
Absent- Excused: W. Smith, J. Whitehead
Staff: City Recorder B. Chestler

1. Call Meeting to Order and Establish a Quorum

Mayor Worman called the meeting to order and established a Quorum.

2. City Employee Handbook

Tabled until the January 8th meeting.

3. Establishing the Grant Wish List – Rachael Maddock- Hughes from Rural Prosperity

Rachael Maddock-Hughes from Rural Prosperity introduced herself to council as a grant writer. She reported that the Ford Family Foundation has extra money, but she doesn't know how much or how long they will have the money for. She stated that she doesn't have any history with the city on documentation. Reported was that she could do prospecting, grant writing, and do grant reporting for the city as long as we provided documentation to her. She asked council to make a punch list of everything they want done in the city.

Mayor Worman reported that the city's first project they want to be completed is the playground in the field behind city hall. Reported was that \$6,000.00 has been raised for that project but needs around \$40,000.00 for the whole kit. Discussed was if the Public Works Crew were going to be the ones to install the playground, Mayor Worman reported that the playground kits come with their installation in the price. Discussed was that the city's land can be used as an in-kind contribution to the grant as a noncash asset. Maddox-Hughes suggested getting the value of the land the playground will be built on.

Mayor Worman reported that another project the city wants to work on is getting the materials to build a permanent movie screen. Also, another project would be a push-button kids' water park. Discussed was getting a price on the water park to potentially fundraise for the two projects at the same time. He also reported on some of the projects the city has already started and finished. Council discussed the need for strategic planning not just for Parks and Rec but for the city as a whole. The need for a planning grant was discussed. Beautification of the streets, housing development, and street lighting were also discussed.

Rachael Maddock-Hughes concluded by stating that she will start prospecting and will look into strategic planning and parks grants.

Mayor Will Worman

ATTEST:

Recording Secretary Makenzee Goodell

Siletz City Council
Regular Meeting
Monday, November 13, 2023, 6:00 PM
Siletz City Hall

Present: Mayor Worman, T. Retasket, S. Trachsel
Excused- Absent: W. Smith, J. Whitehead
Staff: City Recorder B. Chestler

1. Pledge of Allegiance

Mayor Worman led the Pledge of Allegiance.

2. Call Meeting to Order and Establish a Quorum

Mayor Worman called the meeting to order, he declared for this meeting he would be a voting member to establish a quorum.

3. Approve Minutes: City Council Special Meeting Minutes 11-2-23, City Council Work Session Minutes 10-23-23, City Council Regular Minutes 10-23-23, City Council Work Session Minutes 10-19-23.

Motion 1: Trachsel moved to approve the City Council Special Meeting Minutes 11-2-23, City Council Work Session Minutes 10-23-23, City Council Regular Minutes 10-23-23, and the City Council Work Session Minutes 10-19-23 as presented. Retasket seconded the motion.

Mayor Worman declared it was moved and seconded and called for discussion. There was none.

Vote: Motion 1 passed
Ayes: All were in favor

4. Accounts Payable- November 7, 2023, Financial Reports- October 31, 2023

Trachsel stated that she reviewed the accounts payable and recommended approval.

Motion 2: Trachsel moved to approve the accounts payable as presented. Retasket seconded the motion.

Mayor Worman declared it was moved and seconded and called for discussion. There was none.

Vote: Motion 2 passed
Ayes: All were in favor

5. Special Orders

- Homelessness Strategic Plan- CEO Ernest Stephens of Morant McLeod

Ernest Stephens of Morant McLeod gave a PowerPoint presentation on the Lincoln County Homelessness Strategic Plan. His agenda covered the process review, the mission, unhoused community information, housing, services, economics, and key facts and strategies. He gave the process review which was a road map and timeline for the strategic plan development. This presentation is to review the plan with the community. He overviewed the workgroup structure. The mission of the group is: "To ensure that every member of our community has access to the resources they need, while also working to prevent the circumstances that lead to homelessness." Provided was the unhoused community information. He reported that the size of the unhoused population across Lincoln County is believed to be around 2,000 individuals. The report provided that many within the unhoused community are currently working, recently without permanent housing, or actively searching for both housing and employment. It's common for them to reach dead ends in their pursuit. Shared was that 86.5% of the unhoused community suffers from one or more serious health concerns, despite 77.8% holding medical insurance, primarily from Oregon Health Plan. Stephens explained understanding the supply of housing. Provided was the cost of housing for 1-to-3-bedroom homes. Statistics on the fragmentation of services were provided. The study showed Lincoln County's natural population trends and the migration to Lincoln County. Supply and demand indicated that development is only part of the solution. Stephens listed 6 key takeaways of the study, 1.) The unhoused community is larger than historical data reports. 2.) The differences between current incomes and market rents. 3.) Supporting the local + 167 community services providers can overcome fragmentation. 4.) The local population is declining, placing additional pressure on those experiencing poverty. 5.) The short term and long term economic solutions. 6.) The unhoused community faces housing, services related, and economic issues making it difficult to reach stability. The Lincoln County Homeless Advisory Board hopes to maintain its role after the plan is adopted, after the initial five years, and into the foreseeable future. The key recommendation to the council was that the Lincoln County Homeless Advisory Board is to remain a permanent body that focuses on homelessness/ houselessness. The study provided a three-phase approach to coordinating the response to homelessness and creating the future vision. Tim Anderson stated that they will come back to the council in 30 to 60 days with a finalized report. The finalized report will be sent to the State Legislature, this is part of a state pilot program.

6. Reports of Officers, Boards, or Standing Committees

- Parks

Retasket reported that the parks and rec committee just finished up with the Trunk or Treat event and it had a lot of community participation. Discussed was to get lights put on Bensell St for next year because it got dark during the Trunk or Treat. Also reported was that the Christmas Craft Day event that was held at the grange did not have a lot of kids participate this year, but they did have a lot of participation from the groups that set up for the craft activities. She stated that she is working on the Christmas tree lighting but she will not be here for the lighting so another parks committee member will need access to the building to make the hot cocoa. Discussed was setting up a canopy outside of city hall for the event to make the hot cocoa outside. Retasket reported that the Tribe will be donating a tree sapling to the city for a future Christmas Tree. Discussed was the type of tree the council wants to put at Hee Hee Illahee Park from the Tribes Charitable Contribution Request that councilor Retasket is going to submit for the city, decided was a Big Leaf Maple.

- Library

Carol from the Siletz Library reported to the council that the library received a grant from the John Henry Foundation for \$4,000.00 for children's media items. She stated that Lincoln County Reads chose the book 'As the Condor Soars' and there will be an event held at the Pacific Maritime Heritage Center on November 30, at 5:00 PM in Newport to discuss the book with the editors. She reported that story time is still happening every Wednesday at 2:30 and they are having a good turnout. Also, there is an AA meeting every Wednesday night. Last she discussed the Dolly Parton Imagination Library, it's open for children under the age of five to sign up to get a book sent in the mail to them every month.

- Fire Department

Fire Chief Dave Lapof reported to the council that the volunteer association decided they wanted to start up the haunted house at the Grange for Halloween next year. He stated the fire department received a grant to hire a four-year position for a volunteer coordinator. Lapof reported that all the fire agencies except for Yachats and North Lincoln Fire and Rescue have contracted with a new group of physicians to be the EMS medical directors. Discussed was the building next to the fire department on the corner of Buford St and how it sold, Lapof was wondering if it was going to be commercial or residential.

Mayor Worman stated the bottom part of the building has to stay commercially zoned and the city does not intend to rezone it.

- County Sheriff's Office (LCSO)

No report.

- Lincoln County Homeless Advisory Board

No report.

- Staff Report

City Recorder Chestler gave a quick staff report to the council. She stated that the audit has started back up again, city staff is starting to work on the sewer information for the RCAC rate study and she will be contacting USDA about the city's dissatisfaction with RCAC.

Discussed was the comprehensive plan, strategic planning, and community development.

7. Public Comments

None.

8. Unfinished Business

A. Municipal Court Judge Appointment

Motion 3: Trachsel moved to offer Judge Poole the position of Municipal Court Judge for the City of Siletz. Retasket second the motion.

Mayor Worman declared it was moved and seconded and called for discussion. There was none.

Vote: Motion 3 passed

Ayes: All were in favor

Council discussed when the best time to start the court would be and decided was the first of the new year. Also discussed was making sure that the Siletz Code Enforcement Officer and the State Police would be citing into the Siletz Municipal Court.

Mayor Worman stated he would be meeting with the Lincoln County Sheriff's Office to discuss them citing into the Siletz Municipal Court.

B. Fire Station Land Use Request – Siletz Fire District Fire Chief Dave Lapof

Fire Chief Dave Lapof came before the council to present potential expansion plans for the fire department and to request an updated lease agreement. He submitted concepts of the building designs. Discussed was not having any complaints from the resident home the new building would be built in front of. Council discussed whether the expanded building would affect any city events held in the field or have any effect on parking. The fire hall layout was discussed and Lapof reported that they would be keeping the equipment inside instead of outside. Lapof stated that the fire equipment that is stored in Logsdon would come to Siletz if the expansion happened. He stated that the upstairs would become three dorm rooms for the volunteers and the current training room would become the offices. He explained to the council all of the benefits the fire department would have if the building was to be expanded. Lapof had some questions for the council, are they willing to update the current lease and are they supportive of the expansion? Council asked him what part of the lease the fire department wants updated; he stated something more current. Discussed was to keep the conversation moving forward and to decide what the city wants regarding the development of the city.

C. Employee Handbook

Tabled until January 8th.

9. New Business

A. Staff Christmas Party

Mayor Worman asked council if they wanted to do an end-of-the-year appreciation dinner for staff and council.

Discussed was including families and city committees for the dinner. Council requested to add a staff Christmas party to next year's budget.

Decided was to have an appreciation dinner on December 20th for about 40 people.

B. Mayors Award

Mayor Worman nominated Terry Barlow from the Siletz School and the Rilatos Brothers for the Mayor's Award, and the council was in agreement.

Briefly discussed were other people to potentially nominate. The first regular meeting in January will be when the awards are handed out.

10. Correspondence

None.

11. Council Comments

Retasket: Stated that she would like to see the city's committees get filled up and be active.

Mayor Worman: Stated that he has an assignment to create positions for each council member and he wants the council to think about what they want 2024 to look like and what sort of committee each council member would like to be in charge of.

Council had a lengthy discussion about meeting times and how there have been a lot of extra meetings outside of the regular meeting hours. Discussed was what the accounts payable would look like. Minutes and financial details could go into a consent agenda. Council discussed doing a work session meeting at the beginning of the month and then the regular scheduled meeting at the end of the month, and to start this new schedule at the new year.

12. Adjournment

Retasket moved to adjourn the meeting at 8:50 PM.

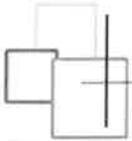
There being no further business to come before the council, Mayor Worman adjourned the meeting at 8:50 PM.

Mayor Will Worman

ATTEST:

Recording Secretary Makenzee Goodell

Accounts Payable-Financial Report



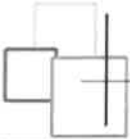
Banking Activity

| Reference | Period | Amount | Vendor | Notes |
|---|----------------------|------------|-----------------------------------|-------|
| 1st Security Bank | | | | |
| 7001424544 - Main | | | | |
| Check | | | | |
| Reference Number: 17324 Invoice - 162467 | 2023-2024 - November | \$168.00 | Analytical Labs | |
| Reference Number: 17325 541-444-7299; 444-7371; 444-2128; 4441196 | 2023-2024 - November | \$527.73 | Century Link/Qwest | |
| Reference Number: 17326 Invoice -Siletz 2023-0011 | 2023-2024 - November | \$1,700.00 | City of Toledo | |
| Reference Number: 17327 City Contribution for Employee's IRA 11/15/23 | 2023-2024 - November | \$920.26 | Edward Jones | |
| Reference Number: 17328 Invoice - 13810603 | 2023-2024 - November | \$7,239.00 | Hach Company | |
| Reference Number: 17329 Invoice - 3134512672 | 2023-2024 - November | \$524.05 | IDEXX Distribution, INC | |
| Reference Number: 17330 1 book of Bus Tickets | 2023-2024 - November | \$30.00 | Lincoln County Transportation Svc | |
| Reference Number: 17331 Invoice - 67682 | 2023-2024 - November | \$1,363.00 | Local Gov't Law Group | |
| Reference Number: 17332 Invoice - IN123590; IN123816 | 2023-2024 - November | \$569.22 | National Business Solutions | |
| Reference Number: 17333 Invoice - 495614 | 2023-2024 - November | \$49.58 | North Central Labs of Wisconsin | |
| Reference Number: 17334 ACCOUNT: 219988-3 | 2023-2024 - November | \$76.77 | NW Natural | |
| Reference Number: 17335 Renewal apps for Ted LePine & Darin Viar | 2023-2024 - November | \$335.00 | OHA Cashier- | |
| Reference Number: 17336 Order# 2536146 | 2023-2024 - November | \$109.50 | Oregon Labor Law Poster Service | |
| Reference Number: 17337 Invoice - 7208 | 2023-2024 - November | \$173.62 | Schneidecker Heating | |
| Reference Number: 17338 Invoice - 30529 | 2023-2024 - November | \$900.00 | The Dyer Partnership | |

| Reference | Period | Amount | Vendor | Notes |
|-----------|--------|--------|--------|-------|
|-----------|--------|--------|--------|-------|

1st Security Bank
7001424544 - Main
Check

| | | | | |
|-------------------------|----------------------|--------------------|------------------------------------|--|
| Reference Number: 17339 | 2023-2024 - November | \$139.00 | | |
| Invoice - 5027242683 | | \$139.00 | Wells Fargo Financial Leasing, Inc | |
| Total Check | | \$14,824.73 | | |
| Total 7001424544 - Main | | \$14,824.73 | | |
| Total 1st Security Bank | | \$14,824.73 | | |
| Grand Total | | \$14,824.73 | | |



Banking Activity

| Reference | Period | Amount | Vendor | Notes |
|-----------|--------|--------|--------|-------|
|-----------|--------|--------|--------|-------|

1st Security Bank 7001424544 - Main

Deposit

| | | | | |
|--|----------------------|-------------|---------------------------|--|
| Reference Number: CM Deposit - 11/15/2023 10:05:54 AM | 2023-2024 - November | \$9,885.00 | | |
| Utility Billing Summary Transaction - 11/13/2023 4:14:42 PM | | \$9,885.00 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/15/2023 10:06:15 AM | 2023-2024 - November | \$1,726.03 | | |
| Receipt - 11/9/2023 Wavedivision Holdings | | \$135.51 | Receipting Deposit Vendor | |
| Receipt - 11/9/2023 Wavedivision Holdings, LLC | | \$699.02 | Receipting Deposit Vendor | |
| Receipt - 11/9/2023 Zach Blackwood - new water deposit | | \$42.00 | Receipting Deposit Vendor | |
| Utility Billing Summary Transaction - 11/9/2023 1:41:43 PM | | \$849.50 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/15/2023 10:06:53 AM | 2023-2024 - November | \$2,244.05 | | |
| Utility Billing Summary Transaction - 11/8/2023 4:16:04 PM | | \$2,244.05 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/15/2023 10:07:07 AM | 2023-2024 - November | \$2,482.50 | | |
| Utility Billing Summary Transaction - 11/14/2023 4:13:48 PM | | \$2,482.50 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/15/2023 10:19:49 AM | 2023-2024 - November | \$4,119.70 | | |
| Receipt - OLCC Tax | | \$2,161.70 | Receipting Deposit Vendor | |
| Utility Billing Summary Transaction - 11/15/2023 9:27:05 AM | | \$1,958.00 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/17/2023 4:37:56 PM | 2023-2024 - November | \$4,540.50 | | |
| Utility Billing Summary Transaction - 11/17/2023 4:05:28 PM | | \$4,540.50 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/3/2023 4:39:24 PM | 2023-2024 - November | \$17,676.81 | | |
| Receipt - 11/3/2023 Bruce Cook - building permit | | \$75.00 | Receipting Deposit Vendor | |

| Reference | Period | Amount | Vendor | Notes |
|-----------|--------|--------|--------|-------|
|-----------|--------|--------|--------|-------|

1st Security Bank
7001424544 - Main
Deposit

| | | | | |
|---|----------------------|-------------|---------------------------|--|
| Reference Number: CM Deposit - 11/3/2023 4:39:24 PM | 2023-2024 - November | \$17,676.81 | | |
| Receipt - 11/3/2023 Lincoln County Treasurer - Property Taxes | | \$14,556.31 | Receipting Deposit Vendor | |
| Utility Billing Summary Transaction - 11/3/2023 11:33:31 AM | | \$3,045.50 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/8/2023 8:20:38 AM | 2023-2024 - November | \$2,800.00 | | |
| Utility Billing Summary Transaction - 11/7/2023 2:41:35 PM | | \$2,800.00 | Receipting Deposit Vendor | |
| Reference Number: CM Deposit - 11/8/2023 8:21:36 AM | 2023-2024 - November | \$2,288.50 | | |
| Utility Billing Summary Transaction - 11/6/2023 4:31:45 PM | | \$2,288.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 1 2023 9:59PM Visa/MC/EFT/DSC) | 2023-2024 - November | \$186.50 | | |
| Invoice Cloud Summary Transaction - (Nov 1 2023 9:59PM Visa/MC/EFT/DSC) | | \$186.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 2 2023 9:59PM Visa/MC/EFT/DSC) | 2023-2024 - November | \$441.50 | | |
| Invoice Cloud Summary Transaction - (Nov 2 2023 9:59PM Visa/MC/EFT/DSC) | | \$441.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 3 2023 9:59PM Visa/MC/EFT/DSC) | 2023-2024 - November | \$292.50 | | |
| Invoice Cloud Summary Transaction - (Nov 3 2023 9:59PM Visa/MC/EFT/DSC) | | \$292.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 4 2023 9:59PM Visa/MC/EFT/DSC) | 2023-2024 - November | \$236.50 | | |
| Invoice Cloud Summary Transaction - (Nov 4 2023 9:59PM Visa/MC/EFT/DSC) | | \$236.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 5 2023 9:59PM Visa/MC/EFT/DSC) | 2023-2024 - November | \$49.00 | | |
| Invoice Cloud Summary Transaction - (Nov 5 2023 9:59PM Visa/MC/EFT/DSC) | | \$49.00 | Receipting Deposit Vendor | |

| Reference | Period | Amount | Vendor | Notes |
|-----------|--------|--------|--------|-------|
|-----------|--------|--------|--------|-------|

1st Security Bank
7001424544 - Main

Deposit

| | | | | |
|--|--|------------|---------------------------|--|
| Reference Number: IC - (Nov 6 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$557.50 | | |
| Invoice Cloud Summary Transaction - (Nov 6 2023 9:59PM Visa/MC/EFT/DSC) | | \$557.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 7 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$622.00 | | |
| Invoice Cloud Summary Transaction - (Nov 7 2023 9:59PM Visa/MC/EFT/DSC) | | \$622.00 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 8 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$340.84 | | |
| Invoice Cloud Summary Transaction - (Nov 8 2023 9:59PM Visa/MC/EFT/DSC) | | \$340.84 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 9 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$561.16 | | |
| Invoice Cloud Summary Transaction - (Nov 9 2023 9:59PM Visa/MC/EFT/DSC) | | \$561.16 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 10 2023 2023-2024 - November 9:59PM Amex) | | \$56.00 | | |
| Invoice Cloud Summary Transaction - (Nov 10 2023 9:59PM Amex) | | \$56.00 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 10 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$3,606.50 | | |
| Invoice Cloud Summary Transaction - (Nov 10 2023 9:59PM Visa/MC/EFT/DSC) | | \$3,606.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 11 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$118.50 | | |
| Invoice Cloud Summary Transaction - (Nov 11 2023 9:59PM Visa/MC/EFT/DSC) | | \$118.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 12 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$252.00 | | |
| Invoice Cloud Summary Transaction - (Nov 12 2023 9:59PM Visa/MC/EFT/DSC) | | \$252.00 | Receipting Deposit Vendor | |

| Reference | Period | Amount | Vendor | Notes |
|-----------|--------|--------|--------|-------|
|-----------|--------|--------|--------|-------|

1st Security Bank
7001424544 - Main

Deposit

| | | | | |
|--|--|--------------------|---------------------------|--|
| Reference Number: IC - (Nov 13 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$864.50 | | |
| Invoice Cloud Summary Transaction - (Nov 13 2023 9:59PM Visa/MC/EFT/DSC) | | \$864.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 14 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$544.00 | | |
| Invoice Cloud Summary Transaction - (Nov 14 2023 9:59PM Visa/MC/EFT/DSC) | | \$544.00 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 15 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$250.00 | | |
| Invoice Cloud Summary Transaction - (Nov 15 2023 9:59PM Visa/MC/EFT/DSC) | | \$250.00 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 17 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$300.00 | | |
| Invoice Cloud Summary Transaction - (Nov 17 2023 9:59PM Visa/MC/EFT/DSC) | | \$300.00 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 20 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$204.50 | | |
| Invoice Cloud Summary Transaction - (Nov 20 2023 9:59PM Visa/MC/EFT/DSC) | | \$204.50 | Receipting Deposit Vendor | |
| Reference Number: IC - (Nov 21 2023 2023-2024 - November 9:59PM Visa/MC/EFT/DSC) | | \$469.00 | | |
| Invoice Cloud Summary Transaction - (Nov 21 2023 9:59PM Visa/MC/EFT/DSC) | | \$469.00 | Receipting Deposit Vendor | |
| Total Deposit | | \$57,715.59 | | |
| Total 7001424544 - Main | | \$57,715.59 | | |
| Total 1st Security Bank | | \$57,715.59 | | |
| Grand Total | | \$57,715.59 | | |

SPECIAL ORDERS

Reports of Officers, Boards, or Standing Committees

Parks,

Library,

Fire Department,

County Sheriff's Office (LCSO),

Homeless Advisory

Staff Report

PUBLIC COMMENTS

OLD BUSINESS

NEW BUSINESS

**Introduction and 1St Reading - Ordinance 207-
23- An Ordinance Establishing Title 7 Traffic
Regulations to the City of Siletz Municipal Code**

**CITY OF SILETZ
ORDINANCE 207-23**

**AN ORDINANCE ESTABLISHING TITLE 7 - TRAFFIC REGULATIONS TO THE CITY OF SILETZ
MUNICIPAL CODE.**

WHEREAS, the City of Siletz Municipal Code does not contain traffic regulations; and

WHEREAS, the city council is interested in providing to Siletz a Uniform Vehicle Code; and

WHEREAS, the city is desirous of having traffic laws to protect people on the roadway; and

WHEREAS, roadways are dangerous places, and traffic laws can help deter bad behavior behind the wheel; and

WHEREAS, traffic laws remind and teach people what is acceptable behavior and what is not;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF SILETZ ORDAINS AS FOLLOWS:

WHEREAS. Siletz adopts Ordinance No. 207-23 establishing Title 7 - Traffic Regulations and will become effective 30 days from adoption.

Approved for its first reading on the _____ day of _____, 2023

Approved and Adopted upon its second reading and public hearing on the _____ day of _____, 2023 by the following vote:

Yeas:

Nays:

Absent:

Abstain:

Approved and signed by the Mayor on this _____ day of _____, 2023.

ATTEST:

City Recorder

Mayor Will Worman

TITLE 7 CHAPTER 1 TRAFFIC REGULATIONS SECTION:

| | |
|----------|---|
| 7-1-1: | Short Title |
| 7-1-2: | Definitions |
| 7-1-3: | Administration |
| 7-1-3-1: | Standards |
| 7-1-3-2: | Council Powers |
| 7-1-3-3: | City Manager Powers |
| 7-1-3-4: | Police and Fire Officers' Authority |
| 7-1-3-5: | Traffic Signals |
| 7-1-4: | General Driving Regulations |
| 7-1-4-1: | Crossing Private Property |
| 7-1-4-2: | Unlawful Riding |
| 7-1-4-3: | Sleds on Streets |
| 7-1-4-4: | Damaging Sidewalks and Curbs |
| 7-1-4-5: | Removing Accident Debris |
| 7-1-4-6: | Vehicles Prohibited in Public Parks |
| 7-1-4-7: | Use of All Terrain Vehicles |
| 7-1-4-8: | Self-Powered, Electric or Fuel Powered Conveyance on Public Access, City Owned Property, Streets or Thoroughfares |
| 7-1-4-9: | Low-Speed Vehicles |
| 7-1-5: | Vehicle Restrictions |
| 7-1-5-1: | Storage on Streets |
| 7-1-5-2: | Unattended Vehicle |
| 7-1-5-3: | Impoundment |
| 7-1-6: | Obstructing Streets |
| 7-1-7: | Parking Restrictions |
| 7-1-7-1: | Method |
| 7-1-7-2: | Lights Required |
| 7-1-7-3: | Extension, Parking Limit |
| 7-1-7-4: | Prohibited Parking |
| 7-1-7-5: | Bus and Taxicab Parking, Stands |
| 7-1-7-6: | Use of Loading Zone |
| 7-1-7-7: | Exemptions |
| 7-1-7-8: | Unlawful Marking |
| 7-1-7-9: | Parking Citations |
| 7-1-8: | Pedestrians |
| 7-1-9: | Funeral Processions |
| 7-1-10: | Offenses |
| 7-1-11: | Civil Penalty |

7-1-1: **SHORT TITLE:** This Title shall be cited as the "City of Siletz Uniform Traffic Ordinance".

7-1-2: **DEFINITIONS:** In addition to those definitions contained in the Oregon Vehicle Code, the following words or phrases, except where the context clearly indicates a different meaning, shall mean:

BUS STOP A space on the edge of a roadway designated by a sign for use by buses loading or unloading passengers.

HOLIDAY New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other day proclaimed by the Council to be a holiday.

LOADING ZONE A space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours or specified days.

LOW SPEED VEHICLE Defined as it is in ORS 801.331, means any 4-wheeled vehicle with top speed of more than 20 miles per hour, but not more than 25 miles per hour. Every vehicle that is self-propelled, including tractors, fork-lift trucks, motorcycles, road building equipment, street cleaning equipment, and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicle laws of Oregon.

MOTORIZED CONVEYANCE Scooters, mopeds, pocket bikes, mini motorcycles, skateboard with a motor of some type, or any similar type wheeled powered device that is operated by the rider and is propelled by electricity or fuel and is not a licensed or registered vehicle as defined by Oregon Statute.

MOTORIZED WHEELCHAIR A motorized vehicle that is electrically powered with three to six wheels and one seat for the operator. This type of conveyance is originally manufactured as a device to provide mobility for a disabled person as defined in ORS 801.235

PERSON A natural person, firm partnership, association, or corporation

SELF-POWERED CONVEYANCE Bicycles, scooters, skateboards, roller or blade skate, coasters or any similar wheeled device that is operated and propelled by the rider, except for a wheelchair.

STREET Highway, road or street as defined in ORS 801.305 **TAXICAB STAND** A space on the edge of a roadway designated by sign for use by taxicabs.

TRAFFIC LANE That area of the roadway used for the movement of a single line of traffic.

VEHICLE As used in subsequent sections of this Title, this word includes bicycles. As used in this Title, the singular includes the plural, and the masculine includes the feminine.

7-1-3: ADMINISTRATION:

7-1-3-1: STANDARDS: The regulations of the City Manager or his designate shall be based upon:

- A. Traffic engineering principles and traffic investigations.
- B. Standards, limitations and rules promulgated by the Oregon Transportation Commission.
- C. Other recognized traffic-control standards.

7-1-3-2: COUNCIL POWERS:

A. Subject to State laws, the City Council shall exercise all Municipal traffic authority for the City except those powers specifically and expressly delegated herein or by another ordinances.

B. The powers of the Council shall include, but not be limited to:

- 1. Designation of through streets.
- 2. Designation of one-way streets.
- 3. Designation of truck routes.

4. Designation of parking meter zones.
5. Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage.
6. Authorization of greater maximum weights or lengths for vehicles using City streets than specified by State law.
7. Initiation of proceedings to change speed zones.
8. Revision of speed limits in parks.

7-1-3-3: CITY MAYOR POWERS: The City Mayor or his designate shall exercise the following duties: A. Implement the ordinances, resolutions and motions of the Council and his own orders by installing, maintaining, removing, and altering traffic-control devices. Such installation shall be based on the standards contained in the Oregon Manual on Uniform Traffic-Control Devices for Streets and Highways. B. Establish, remove, or alter the following classes of traffic controls:

1. Crosswalks, safety zones, and traffic lanes.
2. Intersection channelization and areas where drivers of vehicles shall not make right, left or U-turns, and the time when the prohibition applies.
3. Parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal).
4. Traffic-control signals.
5. Loading zones and stops for vehicles.

C. Issue oversize or overweight vehicle permits.

D. Designate certain streets as bridge paths and prohibit horses and animals on other streets.

E. Temporarily block or close streets.

F. Establish bicycle lanes and paths and traffic controls for such facilities.

G. Install temporary traffic-control devices deemed by him to be necessary under conditions constituting a danger to the public.

7-1-3-4: POLICE AND FIRE OFFICERS AUTHORITY:

A. It shall be the duty of a police officer of code enforcement officer of code enforcement officer and code enforcement officer to enforce the provisions of this Title.

B. In the event of a fire or other public emergency, City employees and volunteer fire fighters may direct traffic as conditions require, notwithstanding the provisions of this Title.

7-1-3-5: TRAFFIC SIGNALS: A. The existence of a traffic sign, signal, device or marking shall be prima facie evidence that such sign, signal, device or marking was lawfully authorized and installed under the terms of this Chapter and the laws of the State .

7-1-4: GENERAL DRIVING REGULATIONS:

7-1-4-1: CROSSING PRIVATE PROPERTY: No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services.

7-1-4-2: UNLAWFUL RIDING: A. No operator shall permit a passenger and no passenger shall ride on a vehicle upon a street except on a portion of the vehicle designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.

B. No person shall board or alight from a vehicle while the vehicle is in motion upon a street.

7-1-4-3: SLEDS ON STREETS: No person shall use the streets for traveling on skis, toboggans, sleds or similar devices, except where authorized.

7-1-4-4: DAMAGING SIDEWALKS AND CURBS: A. The operator of a motor vehicle shall not drive upon a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

B. No unauthorized person shall place dirt, wood or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.

C. No person shall remove a portion of a curb or move a motor vehicle or device moved by a motor vehicle upon a curb or sidewalk without first obtaining authorization and posting bond, if required. A person who causes damage shall be held responsible for the cost of repair.

7-1-4-5: REMOVING ACCIDENT DEBRIS: A party to a vehicle accident or a person causing broken glass or other debris to be upon a street shall remove the glass and other debris from the street.

7-1-4-6: VEHICLES PROHIBITED IN PUBLIC PARKS:

A. No person shall drive a vehicle of any kind, in any area of a public park other than areas which have been designated as roadways, parking areas, or bicycles on paved pathways which do not exclude bicycles.

B. No person shall operate a motorized vehicle of any kind in areas marked as bicycle or "bike" paths.

C. The owner of a vehicle found to be operated in violation of subsections A, B or C of this Section shall be liable for any damage to property caused by this violation.

D. This Section does not apply to a City employee engaged in the necessary discharge of his or her duty.

7-1-4-7: USE OF ALL TERRAIN VEHICLES:

A. As used in this subsection "All Terrain Vehicle" means an all terrain vehicle of any class as defined in the Oregon Vehicle Code. (ORS 801.190, ORS 801.193 and ORS 801.194).

B. No person shall drive an all terrain vehicle within the City limits of the City of Siletz or upon any property owned by the City of Siletz, except as permitted under paragraphs C or D of this subsection. This subsection does not apply to all-terrain vehicles that are street legal and licensed for highway use which are being lawfully operated on any public street or highway in the City.

C. No person shall drive an all-terrain vehicle on any private property except with the consent of the owner of the property. This subsection does not apply to a person driving an all terrain vehicle on his or her own property or on other property in the presence of the property owner or with the written permission of the property owner. Any written permission required by this subsection shall be in the

possession of the driver when operating the all terrain vehicle and shown upon request of any public employee charged with enforcing this subsection.

D. This subsection does not apply to a public employee, including police officer of code enforcement officer of code enforcement officers, fire department personnel, paramedics, and others providing emergency services engaged in the necessary discharge of his or her official duty.

7-1-4-8: SELF-POWERED, ELECTRIC OR FUEL POWERED CONVEYANCE ON PUBLIC ACCESS, CITY OWNED PROPERTY, STREETS OR THOROUGHFARES:

A. Areas permitted: Riding or operating a self-propelled, electric or fuel powered motorized conveyance is permitted in the following areas:

1. City owned public access areas to include but not limited to: City parks, areas within City parks, or any City owned property that has been designated by the Community Development Department for the specific use of a self-propelled, electric or fuel propelled motorized conveyance and is duly posted with rules and regulations governing the use of such conveyances.
2. Private property where the owner or person in legal charge of the property has consented.
3. Within the bike lane of any street that is posted 25 mph or less, with the exception of bicycles which may travel on any city street or thoroughfare regardless of posted speed.
4. Motorized scooters can be driven on the side of city roadways with a speed limit of 25 mph or less and may be operated on a city roadway with a speed limit over 25 mph as long as the roadway has a marked bike lane in which the motorized scooter may ride. In addition motorized scooters must comply with state statues governing such conveyances and may only be operated by a driver 16 years of age and older who is eligible to possess a valid drivers license. Mopeds can be driven on any city roadway with a posted speed of 25 mph or less. Mopeds must comply with state statutes governing such conveyances and drivers must be licensed and insured according to state law. Motorized mini motorcycles/pocket bikes can be operated on city owned public access property, except city roadways and bike paths, when such property is specifically designated for such use by the Public Works Department.

B. Areas prohibited: Except for persons operating a motorized wheelchair or wheelchair, no person shall ride or operate a self-powered, electric, or fuel propelled motorized conveyance in the following areas:

1. On any City sidewalks in commercial and non-residential areas.
2. On private property open to the public, without the owner's permission.
3. On any City Street where the posted or designated speed is over 25 mph, with the exception of bicycles which may travel on any city street or thoroughfare regardless of posted speed.
4. On City owned public access property including parks, areas within parks or any City owned property when such use is specifically prohibited and duly posted.
5. Mopeds and motorized scooters are prohibited from operating on any city roadway when the posted speed is over 25 mph. Motorized scooters may travel on a roadway where the posted speed is over 25 mph when there is a marked bike lane in which the motorized scooter may travel in.

C. Regulations: The following regulations apply to the general operation of self-powered, electric or fuel powered conveyance within the City.

1. Protective Headgear. Any person under the age of 16 is required to wear protective headgear of a type approved under ORS 815.052, when riding a self-powered, electric or fuel propelled conveyance on City owned property, streets or thoroughfares.

2. Equipment. No self-powered, electric or fuel propelled motorized conveyance shall be operated on any public street or sidewalk between 30 minutes after sunset and 30 minutes before sunrise unless the rider or conveyance is equipped with lighting equipment that meets the following requirements:

a. The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the rider or conveyance.

b. The lighting equipment must have a reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

3. Traffic Control Devices. Any person operating a self-powered, electric or fuel propelled conveyance shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles.

4. Traffic Regulations. The operation of a self-powered, electric or fuel propelled motorized conveyance on any City street or thoroughfare, shall be subject to all of the provisions or laws of the State and laws of the City, including those applicable to the drivers of vehicles, except as to the latter, those provisions that by their very nature have no application.

5. Operation on sidewalks. No person shall operate a self-propelled conveyance (excluding bicycles which are prohibited) on a sidewalk:

a. So as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

b. Without giving an audible warning before overtaking and passing a pedestrian.

c. At a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching, or crossing a driveway or crossing a curb cut or pedestrian ramp and a vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.

6. Bicycles are prohibited from operating on any pedestrian sidewalk or pathway in the City except paths or trails that are clearly marked for the joint use by both bicycles and pedestrians except as follows:

a. Bicycles are allowed on sidewalks in residential areas.

b. Bicycles are allowed on paved pathways in city parks unless posted as prohibited.

c. Bicycles are permitted on all public bike and pedestrian paths and trails unless posted as prohibited.

7. Racing. No person operating a self-powered, electric or fuel propelled motorized conveyance shall engage in, or cause others to engage in, a race upon streets, sidewalks, or any other public property. Provided, however, that it shall not be a violation of this subsection, if racing occurs in conformance with

rules and regulations within a designated area for such use, as defined by the Community Development Department.

8. Hitching on Vehicles. No person while operating a self-propelled, electric or fuel propelled conveyance shall in any way attach themselves or the conveyance to any moving motor vehicle.

9. Careless Riding. No person shall operate a self-powered, electric or fuel propelled conveyance in a careless manner. Riding in a careless manner means the person operates the conveyance in a manner that endangers or would be likely to endanger any person or property.

10. Every person operating a bicycle upon a street or bike path shall ride as near to the righthand side of the street or path as is practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

11. The operator of a bicycle entered from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alley or driveway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

12. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars and in full control of such bicycle.

13. No person shall leave a bicycle on public property or the public right-of-way except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the provisions relating to the parking of motor vehicles.

D. Penalties:

1. First Offense. When any person violates a provision of this chapter, the offender may be issued a written warning citation for the violation and advised that subsequent violations within a 5 year period may result in the offender, (if over the age of 12), being issued a written citation to appear in court for the offense(s). Repeat offenders may have the involved conveyance impounded and be required to pay a \$25 impound fee per occurrence and if convicted of the offense(s), and at the direction of the court, the conveyance may be seized and forfeited to the City for disposal.

2. Second and Subsequent Offenses. A person who commits a second or subsequent violation of a provision of this chapter, who is under the age of 12 and has previously been issued a written warning citation, shall have the involved conveyance impounded. The offender's parent or guardian must contact the impounding officer for "offender counseling" within 20 days from the date of impoundment or the conveyance shall be forfeited to the City. Every person over the age of 12, who is convicted of a violation under this chapter within a 5-year period, shall be punished by a fine not less than \$50 or more than \$250. Fifty dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of this fine. In addition, the City police shall be authorized to impound the conveyance and assess the owner/operator a \$25 impound fee. The court may also order forfeiture of the conveyance which was ridden in violation of this chapter, unless it is proven to the court by a preponderance of the evidence that the defendant is not the owner of the conveyance and the

owner did not and could not have reasonably known that the conveyance would be ridden in violation of this chapter.

7-1-4-9: **LOW SPEED VEHICLES:** In accordance with Oregon Revised Statutes and Federal Low Speed Vehicles standards Low-speed Vehicles may be operated on certain streets/highways within the Siletz City limits. Low speed vehicles may be operated on street/highways where there is a designated speed of 45 miles per hour or less and within the Siletz city limits.

7-1-5: **VEHICLE RESTRICTIONS:**

7-1-5-1: **STORAGE ON STREETS:** No person shall store or permit to be stored on a street or other public property, without permission of the City Council, a motor vehicle or personal property for a period in excess of two (2) hours. Failure to move a motor vehicle or other personal property for a period of seventy two (72) hours shall constitute prima facie evidence of storage of a motor vehicle.

7-1-5-2: **UNATTENDED VEHICLE:** Whenever a police officer or code enforcement officer shall find a motor vehicle parked or standing unattended with the ignition key in the vehicle, the officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the police station.

IMPOUNDMENT:

A. Whenever a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, a police officer or code enforcement officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner but subsequently became an obstruction or hazard.

B. The disposition of a vehicle towed and stored under authority of this Section shall be in accordance with the provisions of the ordinances of the City relating to impoundment and disposition of vehicles abandoned on the City streets.

C. The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this Title.

D. Whenever a police officer or code enforcement officer observes a vehicle parked in violation of a provision of this Title or State law, if the vehicle has four (4) or more unpaid parking violations outstanding against it, the officer may, in addition to issuing a citation, cause the vehicle to be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as is provided in subsection B of this Section.

E. When any motor vehicle is found parked or standing, whether attended or unattended, in any prohibited or restricted area or an area posted "No Vehicular Traffic", an officer may, in addition to issuing a citation, cause that vehicle to be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as provided in subsection B of this Section.

F. A police officer of code enforcement officer of code enforcement officer may order a vehicle to be towed and impounded at the expense of the owner or person entitled to possession thereof when:

1. The vehicle has been reported stolen; or
2. The vehicle or its contents is to be used as evidence in a traffic or criminal prosecution; or
3. The vehicle is in the possession of a person taken into custody by a law enforcement agency; or
4. The vehicle was used in committing a violation of ORS 811.175 and 811.182 (DWS); ORS 813.000 (DUII); ORS 807.010 (No operator's license); ORS 806.010 (Driving Uninsured).

G. When ordering a vehicle to be towed under paragraph F hereof, the police officer of code enforcement officer of code enforcement officer shall provide the notices set forth ORS 819.180.

H. The registered owner or driver of a vehicle impounded under paragraph F-2-3-4 hereof shall pay an administrative fee of not less than \$100.00 to recover the costs incurred by the police department for the impoundment.

IMPOUND HEARING:

A. Upon written request of the legal owner, the registered owner, or any other person who reasonably appears to have an interest in the vehicle, delivered to the Municipal Court not more than five days from the mailing date of the impound notice, a hearing shall be held before the municipal judge. The written request shall state the grounds upon which the person requesting the hearing believes that the removal and custody of the vehicle is not justified. The five-day period in this subsection does not include holidays, Saturdays, or Sundays.

B. The hearing shall be set and conducted within two regular Court days of receipt of the request, holidays, Saturdays, and Sundays not included. The hearing can be set for a later date if the owner or person entitled to possession so requests.

C. The City shall have the burden of showing the validity of the taking of the vehicle.

D. At any time prior to the requested hearing, the owner or the person entitled to possession of the vehicle may regain possession of the vehicle by posting with the City security in the form of cash or bond in an amount sufficient to cover costs of removing and storage, together with any fines owed, and a fee in an amount set by resolution of the Council.

E. If the municipal judge finds, after the hearing, that:

1. The action of the City in taking the vehicle into custody was proper, the municipal judge shall enter an order supporting the removal and may assess the costs of the hearing against the person requesting the hearing.

2. The action of the enforcement officer in taking the vehicle into custody was invalid, the judge shall:

- (a) Order the immediate release of the vehicle to the owner;

- (b) Find that the owner is not liable for any towing or storage charges occasioned by the taking;

- (c) Order the City to satisfy the towing and storage lien; and
- (d) Order the City to reimburse the owner for any towing and storage charges and City fees paid by the owner for the vehicle. New storage costs on the vehicle will not start to accrue until more than 24 hours after the time the vehicle is officially released to the owner under this subsection 2.

F. If the person requesting the hearing does not appear at the scheduled hearing, the municipal judge may enter an order supporting the removal of the vehicle and the assessment of towing and storage costs and may apply any security posted against such costs. A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the appropriate authority for the person's failure to appear.

G. The municipal judge shall provide a written statement of the results of the hearing held under this section to the person requesting the hearing. The action of the municipal judge pursuant to this section is final.

7-1-6: OBSTRUCTING STREETS: A. Except as provided by this Title or any other ordinance of the City, no person shall place, park, store, deposit, or leave upon any street or other public way, sidewalk, parkway or curb any article, personal property, or material which in any way prevents, interrupts, or obstructs the free passage of pedestrian or vehicle traffic, or obstructs the driver's view of traffic control signs and signals.

B. Nothing in this Section shall be so construed as to preclude the right of property owners, persons responsible for properties, or builders having a permit therefore to make use of so much of the roadway, not to exceed one-fourth (1/4) the width, as may be necessary for use, erection, or construction, and abutting on any such roadway.

C. Any person who shall make or cause to be made any portion of the street to be dangerous shall erect a good and sufficient barrier which shall protect and warn the public for such time as the danger may continue.

D. No unauthorized person shall deposit any earth, gravel, or debris upon any street, alley, or other public way, parking strip, sidewalk, or curb.

7-1-7: PARKING RESTRICTIONS

7-1-7-1: METHOD: A. Where parking space markings are placed on a street, no person shall stand or park a vehicle other than in the indicated direction and, unless the size or shape of the vehicle makes compliance impossible, within a single marked space.

B. The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to interfere.

C. Whenever the operator of a vehicle discovers the vehicle is parked close to a building to which the Fire Department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.

7-1-7-2: LIGHTS REQUIRED: No lights need be displayed upon a vehicle that is parked in accordance with this Title upon a street where there is sufficient light to reveal a person or object at a distance of at least five hundred feet (500') from the vehicle.

7-1-7-3: EXTENSION, PARKING LIMIT: Where maximum parking time limits are designated by sign, movement of a vehicle within a 600-foot radius shall not extend the time limits for parking.

7-1-7-4: PROHIBITED PARKING:

A. No person shall stop, stand, store, or park a vehicle, recreational vehicle, trailer, or motorized conveyance:

1. In an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of thirty (30) consecutive minutes.
2. On any street or bike path which has a posted restriction to the parking, standing, or operation of motor vehicles.
3. On any street in such a manner that vision at an intersection is obstructed.
4. For more than two (2) hours on any street adjacent to a private driveway in such a manner that vision is obstructed for persons using the driveway.
5. On any street for the purpose of repairing or servicing the vehicle, except repairs necessitated by an emergency.

B. No person shall stop, stand, or park a motor truck on a street between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. of the following day in front of or adjacent to a residence, motel, apartment house, hotel, or other sleeping accommodation.

C. No person shall stop, stand, or park a vehicle on any street for the principal purpose of:

1. Displaying the vehicle for sale.
2. Repairing or servicing the vehicle, except repairs necessitated by an emergency.
3. Displaying advertising from the vehicle.
4. Selling merchandise from the vehicle, except when authorized.

D. Where parking is permitted upon a street, no person shall stop, stand, store, or park a vehicle, recreational vehicle, or trailer for a period in excess of seventy-two (72) hours, or such shorter period as provided by signage. A person stopping, standing, storing, or parking a vehicle, recreational vehicle, or trailer upon a street shall also comply with the following:

1. Unless a shorter period is provided by signage, stopping, standing, storing, and parking is limited to seventy-two (72) hours in one location. In order to avoid violation of this time limit, a vehicle, recreational vehicle, or trailer must be moved outside of a 600-foot radius from the original location, cannot be at the new location for a period in excess of seventy-two (72) hours, and cannot return to the original location for at least fourteen (14) full calendar days.

2. A person may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in streets, on City property, or on any adjacent public or private property.

3. A person shall not leave an animal unattended outside the vehicle, recreational vehicle, or trailer; animals must be crated or under control on a leash no longer than six feet.

4. A person shall not create or maintain open flames, recreational fires, burning of garbage, or bonfires in, on, or around the vehicle, recreational vehicle, or trailer.

5. A person shall not dump gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal.

6. A person shall not store personal property outside the vehicle, recreational vehicle, or trailer other than what is incidental to the active loading or unloading of a vehicle, recreational vehicle, or trailer.

7. The vehicle, recreational vehicle, or trailer must be operational and display valid registration.

8. A person shall not build or erect any structure connected to or attached to the vehicle, recreational vehicle, or trailer.

E. Issuance of a citation for a violation of this section is not an exclusive enforcement remedy. A law enforcement officer may impound a vehicle, recreational vehicle, or trailer for violation of this section. If the City proposes to impound any vehicle parked in violation of this section, the City shall provide notice in a manner set forth under ORS 819.170.

7-1-7-5: BUS AND TAXICAB PARKING, STANDS: A. Parking of Buses and Taxicabs: The operator of a bus or taxicab shall not stand or park the vehicle upon a street in a business district at a place other than a bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab from temporarily stopping the taxicab outside a traffic lane while loading or unloading passengers.

B. Restricted Use of Bus and Taxicab Stands: No person shall stand or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space.

7-1-7-6: USE OF LOADING ZONE: No person shall stand or park a vehicle for any purpose or length of time, other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. In no case, when the hours applicable to the loading zone are in effect, shall the stop for loading and unloading of materials exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed thirty (30) minutes.

7-1-7-7: EXEMPTIONS: The provisions of this Title regulating the parking or standing of vehicles shall not apply to a vehicle of the City, County or State or public utility while necessarily in use for construction or repair work on a street, or a vehicle owned by the United States while in use for the collection, transportation, or delivery of mail.

7-1-7-8: UNLAWFUL MARKING: Except as provided by this Title, it shall be unlawful for any person to letter, mark, or paint in any manner any letters, marks or signs on any sidewalk, curb or other portion of any street, or to post anything designed or intended to prohibit or restrict parking on any street.

7-1-7-9: PARKING CITATIONS: A. Citation on Illegally Parked Vehicle: Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this Title or State law, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a traffic citation instructing the operator to answer to the charge during the hours and at a place specified in the citation.

B. Failure to Comply with Citation: If the operator does not respond to a traffic citation affixed to a vehicle, the Court clerk may send to the owner of the vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning him that in the event that the letter is disregarded for a period of fourteen (14) days, the case may be sent to collections.

C. Owner Responsibility: The owner of a vehicle placed in violation of a parking restriction shall be responsible for the offense, except when the use of the vehicle was secured by the operator without the owner's consent.

D. Registered Owner Presumption: In a prosecution of a vehicle owner charging a violation of a restriction on parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that the defendant was then the owner in fact.

7-1-8: PEDESTRIANS: A. Required Use of Crosswalks: No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within one hundred fifty feet (150') of a marked crosswalk.

B. Right Angles: A pedestrian shall cross a street at a right angle, unless crossing within a crosswalk.

7-1-9: FUNERAL PROCESSIONS: A. A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practicable.

B. The procession shall be accompanied by adequate escort vehicles for traffic-control purposes.

C. All motor vehicles in the procession shall be operated with their lights turned on.

D. No person shall unreasonably interfere with a funeral procession.

E. No person shall operate a vehicle that is not a part of the procession between the vehicles of the funeral procession.

7-1-10: OFFENSES: It shall be unlawful for any person to: A. Damage, tamper with, deface, destroy, change, remove, install, paint, or mark any traffic sign, signal or marking, except as provided and authorized in this Chapter.

B. Violate or fail to comply with any traffic or parking sign, signal, marking, device, or designation provided for by this Chapter or by the laws of the State.

C. Violate or fail to comply with the directions of a City employee or volunteer fire fighter.

D. To give or supply false information concerning the identity of the operator of a motor vehicle.

E. Violate or fail to comply with any provision of this Chapter.

7-1-11: CIVIL PENALTY: Proceedings for violation of subsections or paragraphs 7-1-4-2, 7-1-4-3, 7-1-4-4:A, 7-1-4-4:B, 7-1-4-5, 7-1-4-7-B, 7-1-4-8, 7-1-5-1, 7-1-5-2, 7-1-7-3, 7-1-7-4, 7-1-7-5, 7-1-7-6, and 7-1-7-7 shall be civil in nature, and violations thereof are punishable by a fine not to exceed \$500.00 with 7-1-7-4 as set by resolution of the City Council.

Introduction and 1st Reading- Ordinance 208-
23 -An Ordinance Amending Title 2-
Administration and Personnel - Chapter 2.16,
Procurement Policy of the City of Siletz
Municipal Code.

**CITY OF SILETZ
ORDINANCE 208-23**

**AN ORDINANCE AMENDING TITLE 2-ADMINISTRATION AND PERSONNEL- CHAPTER 2.16,
PROCUREMENT POLICY OF THE CITY OF SILETZ MUNICIPAL CODE.**

WHEREAS, the purpose of procurement is the act of purchasing leasing, renting or otherwise acquiring products or services; and

WHEREAS, there is a procurement policy in place in the City of Siletz Municipal Code, that has not been updated since 1992; and

WHEREAS, a procurement policy includes each function and procedure that the city will undertake to enter into, administer, and manage the performance of a contract; and

WHEREAS, the purpose of this policy is to define the purchase authority of the City and limitations and methods available to procure services, goods and other acquisitions.

NOW THEREFORE BE IT RESOLVED THAT THE CITY OF SILETZ ORDAINS AS FOLLOWS:

WHEREAS, the City of Siletz adopts Ordinance No. 207-23 to revise the Administration and Personnel Title 2, Chapter 2.16 Procurement Policy in its entirety 2.16.010 through 2.16.080 (Exhibit A: **Bold** is new text and ~~strikethrough~~ is deleted) and will become effective 30 days from adoption.

Approved for its introduction and first reading on this _____ day of _____, 2023;

Approved and Adopted upon its second reading on the _____ day of _____ 2023 by the following vote:

Yeas:

Nays:

Absent:

Abstain:

Approved and signed by the Mayor on this _____ day of _____ 2023.

ATTEST:

City Recorder

Mayor Will Worman

Chapter 2.16 - PROCUREMENT POLICY

Sections:

~~2.16.010—Purchases and contracts—Equipment, materials and supplies.~~

~~Purchases and contracts for equipment, materials and supplies involving no personal services shall be made in the following manner:~~

~~A.1.— The City Recorder, or other qualified individuals so delegated by the City Council, shall make purchases not to exceed two thousand five hundred dollars in the open market using small purchase procedures after such inquiry as necessary to ensure that the price obtained is the most advantageous to the City. 2. Petty cash funds are audited by the City's audit firm annually during the City's fiscal audit to eliminate abuse and misuse.~~

~~B.1.— For purchases and contracts involving a single project and a dollar amount from two thousand five hundred dollars to twenty five thousand dollars, the City Recorder and/or his/her delegee shall use competitive quotes and invite offers orally, by telephone or in writing. A file shall be kept with an abstract of invitations made and offers received. 2. No contractor may be awarded in the aggregate within a fiscal year contracts in excess of fifty thousand dollars without competitive bidding. 3. To be binding on the City, all contracts over two thousand five hundred dollars shall be in writing and executed either by the City Council and/or the Mayor and City Recorder.~~

~~C.1.— For purchases and contracts in excess of twenty five thousand dollars, the City Council or their delegee shall use formal advertising methods of soliciting sealed bids (unless otherwise justified). 2. All bid advertisements shall comply with the statutory requirements prescribed in ORS 279.025. 3. All bid advertisements shall contain the phrase "Equal Opportunity Employer." 4. The City Council shall, after a recommendation from the Mayor, City Recorder or delegee, award the contract to the appropriate party or reject all bids.~~

~~D.— The City shall endeavor to enter into intergovernmental agreements, if appropriate, enabling the City to use State and local purchasing contracts, and request that the contracting agency note in the applicable contracts that use by the City is authorized.~~

~~E.— All procurement of equipment, materials and supplies involving no personal services shall be documented.~~

~~(Ord. 140 § A, 1992)~~

~~2.16.020—Purchases and contracts—Construction, maintenance and repair.—~~

~~Purchases and contracts for the construction, maintenance and repair of City property shall be by a competitive bidding process (as defined by Oregon Statutes, Chapter 279) unless the City Recorder and/or City Council determines that the awarding of the contract without competitive bidding is in the public interest and the following conditions are met:~~

~~A. The amount of the contract does not exceed twenty five thousand dollars and is for a single project.~~

~~B. For purchases or contracts involving a dollar amount not to exceed two thousand five hundred dollars, the City Recorder may use purchase orders or other appropriate small purchase procedures as the City Recorder deems appropriate.~~

~~C. When the amount of the contract is more than two thousand five hundred dollars but less than twenty five thousand dollars, the City Recorder or his/her delegee shall obtain a minimum of three competitive quotes. The City shall keep a written record of the source and the amount of the quotations. If three quotes are not available, a lesser number shall suffice provided that a written record is made of the effort to obtain the quotes.~~

~~{Ord. 140 § B, 1992}~~

~~2.16.030 Contract amendment. ———~~

~~The City Recorder and/or Mayor is authorized to amend the original contract amount up to but not to exceed ten percent of the original contracting price. However, if the original was awarded through the competitive bidding process and a fixed unit price was established, the City Recorder and/or Mayor may amend the contract amount without regard to the ten percent limit if the originally established unit price is maintained.~~

~~{Ord. 140 § C, 1992}~~

~~2.16.040 Lack of competitive bidders permitted when.~~

~~A. For purchases specified in Sections 2.16.010 (B) and (C) and 2.16.020 of this chapter, lack of competitive quotes or competitive biddings is permissible only when the City Council declares that an emergency exists which permits no delay because of the possibility of an injury, loss of life or destruction of property, or when only one source of supply is available.~~

~~B. In addition, if an award on any contract over twenty five thousand dollars is made without competitive bidding or competitive quotes, a written report of such award, together with a statement justifying the lack of competition shall be made by the City Recorder and appropriately filed. When there is competitive bidding, the award shall be made to the lowest responsible bidder (qualified under ORS 279.029 and ORS 279.037) who meets the bid package requirements.~~

~~{Ord. 140 § D, 1992}~~

~~2.16.050 MBE/WBE and small business in rural areas (SBRAS). —~~

~~The City as an equal opportunity employer shall utilize and solicit MBE/WBE and small businesses in rural areas whenever they are potential sources and shall comply with the City's affirmative action policy.~~

~~{Ord. 140 § E, 1992}~~

~~2.16.060 Preference for State goods and services—Conditions for foreign contractors.—~~

~~A. In all public contracts, the public contracting agency shall prefer goods or services the have been manufactured in this State if price, fitness, availability and quality are otherwise equal.~~

~~B. Where a public contract is awarded to a foreign contractor and the contract price exceeds ten thousand dollars, the contractor shall promptly report to the Department of Revenue on forms to be provided by the Department of Revenue the total contract price, terms of payment, length of contract and such other information as the Department of Revenue may require before final payment can be received on the public contract. The public contracting agency shall satisfy itself that the requirement of this subsection has been complied with before it issues a final payment on a public contract.~~

~~C. For purposes of this subsection, a foreign contractor is one who is not domiciled in or registered to do business in the State of Oregon.~~

~~(Ord. 140 § F, 1992)~~

~~2.16.070 – Enforcement authority. ———~~

~~The City Recorder and/or Mayor shall carry out and ensure compliance with this chapter. Citations to ORS statutes regarding State law are not to be construed as a general adoption by the City of State purchasing law. Therefore, the requirements stated in the ORS citations noted in this chapter may be waived by the City Recorder and/or Mayor for a good cause.~~

~~(Ord. 140 § G, 1992)~~

~~2.16.080 – Conflict of interest. ———~~

~~A. No employees, officer or agent of the City shall participate in the selection, or the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:(1)The employees, officer or agent;(2)Any member of his immediate family;(3)His or her partner; or(4)An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for the award.~~

~~B. The City's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to such sub agreements.~~

~~(Ord. 140 § H, 1992)~~

2.16.010 Purpose

Procurement is the act of purchasing, leasing, renting or otherwise acquiring products or services. Procurement includes each function and procedure that the City will undertake to enter into, administer, and manage the performance of a contract. The purpose of this policy is to define the purchase authority of the City and limitations and methods available to procure services, goods, and other acquisitions.

2.16.020 Policy Statement

- A. It shall be the responsibility of the City Recorder to ensure that all departments follow all policies and procedures.**
- B. Only the purchasing methods described herein are available for purchasing goods and services on behalf of the City.**

- C. The City's purchasing system is considered decentralized (each departments' responsibility) except for those goods, services, and equipment that qualify or are designated for centralized purchasing.
- D. All applicable paperwork should be forwarded to the City Recorder as promptly as possible to expedite processing.
- E. No purchase made by an employee shall bind the City to receive and/or pay for the goods or services procured, unless authorized by the methods described herein.
- F. Noncompliance with these policies and procedures may result in the return of improperly authorized or prepared documents, nonpayment of vendor invoices, cancellation of purchasing privileges, or other sanctions as determined necessary after consultation with the City Recorder.
- G. Transactions should *not* be split into smaller parts to circumvent the dollar limitations and requirements of this policy.
- H. The City does not prepay for goods or services or utilize prepaid devices such as gift cards. If a vendor requires prepayment for goods or services, authorization must be obtained from the City Recorder.
- I. Employee reimbursements should be kept to a minimum (i.e. emergencies and travel/training).

2.16.30 Procurements of Goods or Services

The City may procure goods or services by

- competitive sealed bidding in accordance with ORS 279B.055,
- through competitive sealed proposals per ORS 279B.060,
- as small procurements,
- as intermediate procurements, or
- through utilization of the State's cooperative purchasing system.

The City may also take advantage of sole source or emergency procurements in specific situations as described below.

- A. Competitive sealed bidding or competitive sealed proposals are required for all procurements of goods and services greater than \$150,000.
 - a. Competitive bidding
 - i. All bid documents shall receive prior approval from the City Recorder. All amendments to bid specifications shall be made in writing. In the event it is deemed necessary to verbally inform a vendor of a bid specification change, such verbal communications shall be immediately followed up with written confirmation of the change. A notice to bidders may be published in an authorized publication but is not required.
 - ii. The written bid documents will include the time, place, and manner for filing quotations, which may be received in person, by mail, or e-

mail. A report outlining all bids received, including the vendor names and the amount of the bids shall be submitted. If the bid is being awarded to a vendor other than the low bidder, the report shall also state why the bid is not being awarded to the low bidder. The report shall also include the amount budgeted for this purchase. The City Recorder may award the contract bid, execute the contract, authorize work to proceed under the contract, and/or approve performance and payment bonds. The City Recorder shall solicit Council affirmation of all semi-formal bids, contracts, and purchases at the next regularly scheduled or special meeting.

- iii. Formal bids must be taken using the following steps:
1. Detailed and written plans and specifications and a detailed cost estimate must be prepared for the project, approved by the City Recorder, and placed on file.
 2. A notice to bidders must be published not less than four days and not more than forty-five days before the date for filing bids. Notices must include:
 - Time and place for filing sealed bids
 - Time and place sealed bids will be opened and considered on behalf of the Council acting as the City's Contract Review Council.
 - The general nature of the public improvements on which bids are being requested
 - In general terms, when the work must be commenced and when it must be completed
 - Bid security and bid bond requirements
 3. A notice of public hearing on plans, specifications, form of contract, and cost estimate must be published not less than four days and not more than twenty days before the public hearing.
 4. A formal opening and announcement of sealed bids on published date by the City Recorder; review, consideration, and recommendation of bid award by the City Recorder; the City Recorder prepares a report of bids received
 5. A public hearing on plans, specifications, form of contract, and cost estimate on published date by the Council.
 6. The Council receives the City Recorder's report of bids received.
 7. The Council passes or rejects resolutions to adopt plans, specifications, form of contract, and estimate of cost, to award construction contract, and to approve construction contract and bond with the lowest responsive, responsible bidder who has met all bid security and bid bond requirements following the public hearing.

b. Competitive proposals

- i. The City may utilize the RFP process for purchase of goods and services and for capital project contracts, allowing flexibility in both proposal evaluation and contract negotiation. The RFP shall be prepared in accordance with ORS 279B.060 and these rules.
- ii. All RFP documents shall receive prior approval from the City Recorder. All amendments to the proposal's specifications shall be made in writing. In the event it is deemed necessary to verbally inform a vendor of a specification change, such verbal communications shall be immediately followed up with written confirmation of the change. A notice to proposers may be published in an authorized publication but is not required.
- iii. Factors in addition to price may be considered in the selection process, but only as set forth in the RFP. Proposal evaluation shall be as objective as possible. Evaluation factors need not be precise predictors of future costs and performance, but to the extent possible, such evaluation factors shall:

 1. be reasonable estimates based on information available to the City,
 2. treat all proposals equitably, and
 3. recognize that public policy requires that capital projects be constructed at the least overall cost to the City. [Ref. ORS 279C.305(1)]
- iv. Contract terms may be negotiated to the extent allowed by the RFP and these rules, provided that the general work scope remains the same and that the field of competition does not change as a result of material changes to the requirements stated in the RFP document. Terms that may be negotiated include details of contract performance, methods of construction, timing, assignment of risk in specified areas, fee, and other matters that affect cost or quality.
- v. A request for proposals (RFP) must:

 1. Specify a time and date by which proposals must be received, and a place at which the proposals must be submitted. The City may at its discretion receive proposals by electronic means.
 2. Specify the name and title of the person designated to receive proposals and the person the City designates as the contact person for the procurement, if different.
 3. Describe the procurement, including the scope of work, outline of contractor duties and expectations, product specifications, etc. as applicable.
 4. Specify a time, date, and place for prequalification applications if any, to be filed and the classes of work that must be prequalified in accordance with ORS 279B.120.
 5. State that the City may cancel the procurement or reject any

or all proposals.

6. Include all contractual terms and conditions applicable to the procurement and consequences for a contractor's failure to perform.

vi. A request for proposals (RFP) also may:

1. Identify contractual terms or conditions open for negotiation with the proposers.

2. Request that proposers propose contractual terms and conditions that relate to the subject matter identified in the RFP.

3. Announce the method the City will use to select the successful proposer which may include negotiating with the highest-ranking proposer, competitive negotiations, or some combination of methods.

4. Describe the manner in which proposals will be evaluated.

vii. The City shall give notice of the RFP in the same manner as for public notice of invitations to bid.

B. Small procurements

a. The City may procure goods or services in an amount that does not exceed \$10,000 in any manner deemed practical or convenient, including direct award. No competitive process is required.

b. The City shall not fragment a procurement in order to constitute a small procurement.

C. Intermediate procurements

a. The City may award a procurement of goods or services that exceeds \$10,000 but does not exceed \$150,000 through a process where at least three informally solicited, competitive price quotes or proposals are sought.

b. The City shall keep a written record of quotes or proposals received. If three quotes or proposals are not reasonably available the City shall make a written record of the effort made to obtain the quotes or proposals.

c. The City shall not fragment a procurement in order to constitute an intermediate procurement.

d. The City shall award the procurement to the vendor whose quote or proposal will best serve the interests of the City taking into consideration price, experience, expertise, suitability for a particular purpose, and contractor responsibility.

D. Sole Source Procurements

The City must procure supplies, material, or equipment by competitive means when the purchase meets or exceeds the City's minimum competitive purchasing limits. However, in unusual circumstances, the competitive purchase process may be waived, allowing sole source purchasing, provided the City can adequately justify its use.

A “sole source” purchase is characterized as meeting one or more of the following standards:

- the City has conducted a screening process whereby it can justify purchase of a specific product;
- the City requires legitimate specifications to which only one vendor can successfully respond; or
- the product is available only through one manufacturer (or distributor) and the manufacturer so certifies.

If, after conducting a good faith review of available sources, the City determines that there is only one source of the required materials, supplies, or equipment, a purchase contract may be awarded without complying with established bid requirements. The requesting department will conduct price, terms, and delivery negotiations, as appropriate. In any such case where the purchase meets or exceeds the City’s minimum competitive purchase limits, the vendor shall certify that the City is getting the lowest price it offers. Prior approval of the City Recorder is required using the Sole Source Justification Form. Should the purchase price exceed the City Recorder’s signing authority, the purchase will also require Council approval.

E. Emergency Procurements

The City may make procurements in the event of an emergency. The City will document the nature of the emergency and describe the method used for selection of the contractor. If the emergency procurement is for construction services, the City shall ensure competition for a contract for the work that is reasonable and appropriate under the circumstances.

2.16.40 City Approval Levels

The City has identified internal approval levels for procurements as follows:

- A. Purchase of goods or services up to \$10,000 – Department Head approval required
- B. Purchases of goods or services greater than \$10,000 and less than \$50,000 – City Recorder approval required.
- C. Purchases of goods or services greater than \$50,000 – Council approval required.

All supporting documentation related to the procurement (i.e., documentation of quotes, RFP and proposals received, invitations to bid and bids received, etc. must be submitted for approval to the appropriate level. Approvals shall be documented with signature and date by the approving party. If Council approval is required, the minutes of the Council meeting shall reflect that approval.

2.16.50 Unauthorized Purchases

Except as provided in this policy, no City employee shall purchase or contract for any supplies, materials, equipment, or contractual service or make any contract within the purview of this policy other than through the office designated in this chapter and its staff. Any purchase or contract made contrary to the provisions of this policy shall not be

approved by any City officer and the City shall not be bound thereby, except as may be required or provided by law.

Any City employee making a purchase or contract contrary to the provisions of this policy or accepting for delivery to the City any items purchased contrary to the provisions of this policy shall be personally responsible for payment of same. To the extent that the City may be required to pay for same, the City shall be entitled to recover the full amount of such payment from such employee.

2.16.60 Conflicts of Interest

Public employment is a public trust. Public employees must discharge their duties impartially, to assure fair, competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City's procurement practices.

No City employee, officer, agent, or any member of his/her immediate family shall receive any benefit, gratuity, or reward, directly or indirectly, from any City contract. This restriction applies to partners of City employees or to organizations to which they may belong.

No employee, officer, or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a conflict. The extent of such interest shall be disclosed to the City Recorder or Council and noted in the official minutes. This disclosure shall occur prior to the formation of the contract. The City Recorder/Council may then ratify the contract in good faith by a vote sufficient to accept the contract. Any Council member that has remote interest in any contract shall not vote on the ratification of the contract.

If any interested party in a contract attempts to influence any officer or employee of the City, the procurement shall be canceled.

Any contract made in violation of this policy shall be void and cannot, in any way, be the basis of claim against the City. Any officer or employee violating the provisions of this section shall be liable to the City and may be disciplined, up to and including termination, and possibly subject to other penalties as may otherwise be imposed upon him/her by law.



Welcome to the
City of Siletz, Oregon
 a "Fisherman's Paradise"

Procurement Quick Reference Guide

| Procurement Amount | Approval Required | Method Required | Documentation Required |
|--------------------------------|--|---------------------------------|---|
| < \$10,000 | Department Head | No competitive process required | Request for payment and original invoice |
| Between \$10,000 and \$50,000 | Department Head and City Recorder | Informal quotes or proposals | Written summary of quotes or proposals received |
| Between \$50,000 and \$150,000 | Department Head, City Recorder, and City Council | Informal quotes or proposals | Written summary of quotes or proposals received |
| > \$150,000 | Department Head, City Recorder, and City Council | Formal bids or RFP process | Bid or RFP document, notice of publication, bids or proposals received, evaluation documents, notice of intent to award, notice of award, minutes indicating Council approval |

| Alternative Procurement | Approval Required | Documentation Required |
|-------------------------|--------------------------------|--|
| Sole Source | City Recorder and City Council | Written justification for sole source in accordance with ORS 279B.075 |
| Emergency Procurement | City Recorder and City Council | Written description of emergency and written justification for emergency procurement in accordance with ORS 279B.080 |



Welcome to the
City of Siletz, Oregon
 a "Fisherman's Paradise"

DOCUMENTATION FOR INFORMAL QUOTE SELECTION

This form shall be used to document informal quotes for goods and services from \$10,000 to \$150,000. A minimum of three quotes should be obtained.

Prepared by: _____ Title: _____

Phone: _____

Department: _____

Item Description: _____

Mandatory Criteria: _____

Goods or Service

| | Vendor 1 | Vendor 2 | Vendor 3 |
|--------------------------|--|--|--|
| Company Name | | | |
| Street Address | | | |
| City, St, ZIP | | | |
| Person providing Quote | | | |
| Phone Number | | | |
| Meets Mandatory Criteria | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Proposed Cost | | | |

If fewer than three quotes are reasonably available, explain why and what steps were taken to assure the above quotes are reasonable: _____

After evaluating the above information, please make your recommendation:

Recommended Vendor: _____

Basis for Recommendation

Signature: _____

Date: _____

Resolution 720-23- A Resolution of the City of
Siletz Re-Establishing the City of Siletz
Municipal Court.

**CITY OF SILETZ
RESOLUTION 720-23**

**A RESOLUTION OF THE CITY OF SILETZ RE-ESTABLISHING THE CITY OF SILETZ MUNICIPAL
COURT**

WHEREAS, the City Charter gives the city the authority and powers to hold a court within the city known as the Municipal Court for the City of Siletz, Lincoln County Oregon; and

WHEREAS, the City's Charter addresses the role, specific authority, and jurisdiction of the municipal court and allows the municipal court to hear violations and misdemeanors under state and local law; and

WHEREAS, under the Oregon Constitution, the city's municipal court possesses jurisdiction over local regulations, and at a minimum hears cases involving city ordinances; and

WHEREAS, the City has updated its Court Registry Form with the Office of the State Court Administrator; and

WHEREAS, the City Council has contracted with Judge Arnold Poole to hold the position of Municipal Judge for the City of Siletz Municipal Court and he has established the Municipal Court Rules; and

WHEREAS, the Court Rules supersede and replace any rules or general orders previously adopted by the City of Siletz Municipal Court.

NOW THEREFORE BE IT RESOLVED, the mission of the Siletz Municipal Court is to ensure that each person accused of a violation or crime be guaranteed and provided all the constitutional rights they are entitled to. That each person is afforded a fair and speedy judicial process in such a manner that it preserves both the integrity and rights of the defendant, as well as the citizens of the City of Siletz and the Court.

Adopted and Approved by the City Council for the City of Siletz and signed by the Mayor this 27th day of November 2023.

Mayor Worman

ATTEST:

City Recorder

Correspondence

Population Estimates for Oregon Cities (Vintage 2023, Preliminary)

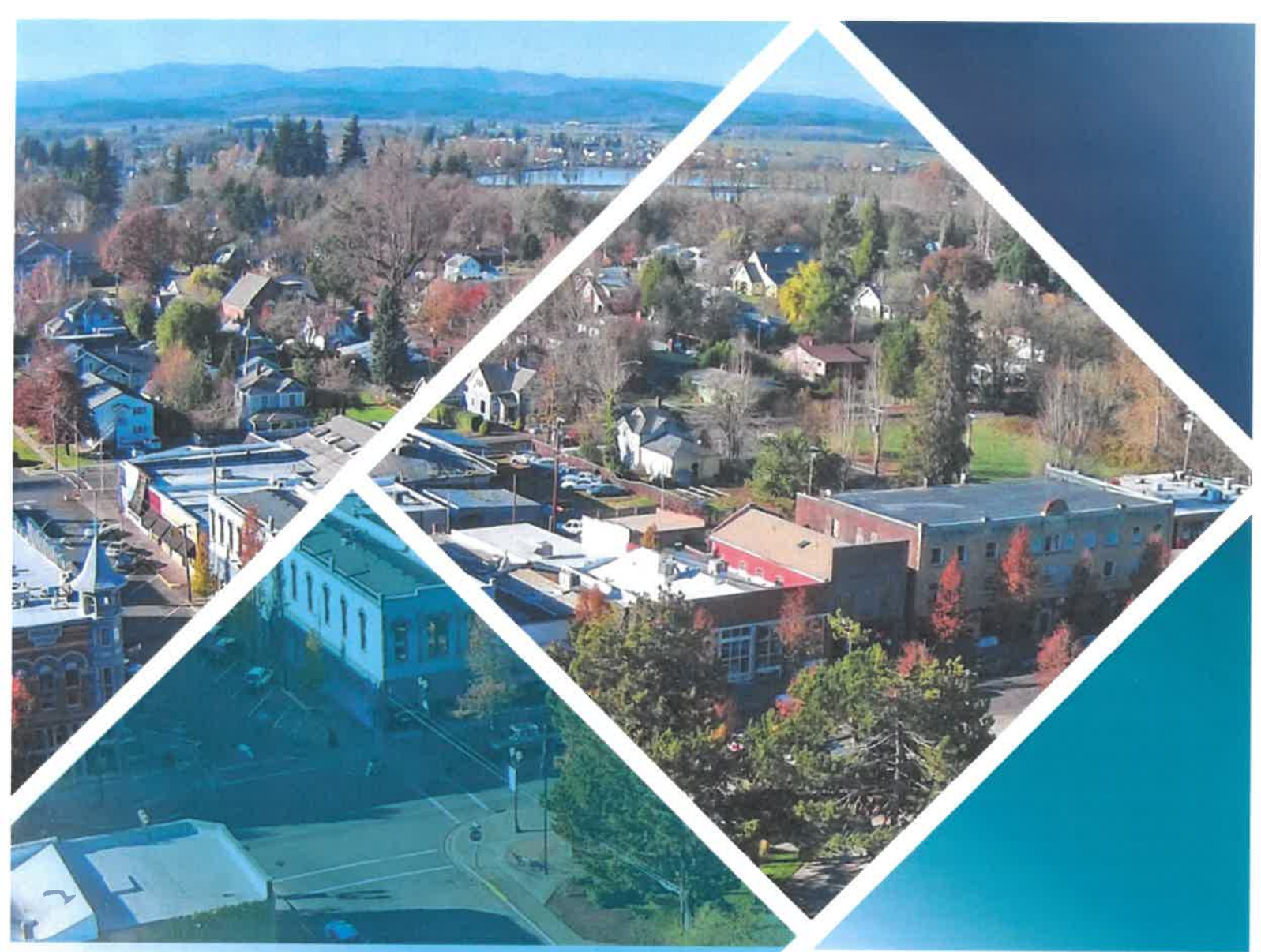
| CITY | Revised Population 07/01/22 | Preliminary Population 07/01/23 | Population Change 2022-2023 | CITY | Revised Population 07/01/22 | Preliminary Population 07/01/23 | Population Change 2022-2023 |
|---------------|-----------------------------------|---------------------------------------|-----------------------------------|--------------|-----------------------------------|---------------------------------------|-----------------------------------|
| Adair Village | 1,367 | 1,365 | -0.1% | Depoe Bay | 1,564 | 1,547 | -1.1% |
| Adams | 390 | 400 | 2.6% | Detroit | 25 | 25 | 0.0% |
| Adrian | 150 | 149 | -0.7% | Donald | 995 | 992 | -0.3% |
| Albany | 56,914 | 57,430 | 0.9% | Drain | 1,182 | 1,187 | 0.4% |
| Amity | 1,804 | 1,791 | -0.7% | Dufur | 633 | 635 | 0.3% |
| Antelope | 37 | 35 | -5.4% | Dundee | 3,213 | 3,205 | -0.2% |
| Arlington | 664 | 662 | -0.3% | Dunes City | 1,452 | 1,444 | -0.6% |
| Ashland | 21,434 | 21,356 | -0.4% | Durham | 1,947 | 1,938 | -0.5% |
| Astoria | 10,145 | 10,137 | -0.1% | Eagle Point | 9,971 | 9,955 | -0.2% |
| Athena | 1,195 | 1,176 | -1.6% | Echo | 638 | 624 | -2.2% |
| Aumsville | 4,223 | 4,216 | -0.2% | Elgin | 1,742 | 1,911 | 9.7% |
| Aurora | 1,107 | 1,107 | 0.0% | Elkton | 186 | 191 | 2.7% |
| Baker City | 10,086 | 10,054 | -0.3% | Enterprise | 2,125 | 2,053 | -3.4% |
| Bandon | 3,569 | 3,799 | 6.4% | Estacada | 5,306 | 5,490 | 3.5% |
| Banks | 1,831 | 1,910 | 4.3% | Eugene | 175,210 | 176,683 | 0.8% |
| Barlow | 136 | 135 | -0.7% | Fairview | 10,678 | 10,671 | -0.1% |
| Bay City | 1,644 | 1,646 | 0.1% | Falls City | 1,049 | 1,066 | 1.6% |
| Beaverton | 100,125 | 101,165 | 1.0% | Florence | 9,752 | 9,783 | 0.3% |
| Bend | 103,916 | 105,524 | 1.5% | Forest Grove | 26,874 | 27,465 | 2.2% |
| Boardman | 4,297 | 4,432 | 3.1% | Fossil | 453 | 453 | 0.0% |
| Bonanza | 409 | 397 | -2.9% | Garibaldi | 826 | 815 | -1.3% |
| Brookings | 7,055 | 7,160 | 1.5% | Gaston | 676 | 674 | -0.3% |
| Brownsville | 1,830 | 1,814 | -0.9% | Gates | 537 | 547 | 1.9% |
| Burns | 2,726 | 2,689 | -1.4% | Gearhart | 1,930 | 1,933 | 0.2% |
| Butte Falls | 442 | 430 | -2.7% | Gervais | 2,696 | 2,766 | 2.6% |
| Canby | 18,592 | 18,920 | 1.8% | Gladstone | 12,145 | 12,140 | 0.0% |
| Cannon Beach | 1,531 | 1,555 | 1.6% | Glendale | 860 | 860 | 0.0% |
| Canyon City | 684 | 670 | -2.0% | Gold Beach | 2,379 | 2,411 | 1.3% |
| Canyonville | 1,644 | 1,703 | 3.6% | Gold Hill | 1,341 | 1,308 | -2.5% |
| Carlton | 2,328 | 2,416 | 3.8% | Granite | 33 | 32 | -3.0% |
| Cascade Locks | 1,401 | 1,356 | -3.2% | Grants Pass | 39,436 | 39,507 | 0.2% |
| Cave Junction | 2,158 | 2,160 | 0.1% | Grass Valley | 154 | 155 | 0.6% |
| Central Point | 19,647 | 19,659 | 0.1% | Greenhorn | 3 | 3 | 0.0% |
| Chiloquin | 776 | 769 | -0.9% | Gresham | 114,768 | 117,107 | 2.0% |
| Clatskanie | 1,747 | 1,748 | 0.1% | Haines | 382 | 383 | 0.3% |
| Coburg | 1,401 | 1,441 | 2.9% | Halfway | 358 | 358 | 0.0% |
| Columbia City | 1,916 | 1,918 | 0.1% | Halsey | 945 | 936 | -1.0% |
| Condon | 724 | 717 | -1.0% | Happy Valley | 25,266 | 25,874 | 2.4% |
| Coos Bay | 16,140 | 16,182 | 0.3% | Harrisburg | 3,623 | 3,620 | -0.1% |
| Coquille | 3,980 | 3,975 | -0.1% | Helix | 192 | 188 | -2.1% |
| Cornelius | 14,007 | 14,129 | 0.9% | Heppner | 1,206 | 1,211 | 0.4% |
| Corvallis | 61,274 | 61,656 | 0.6% | Hermiston | 19,859 | 19,961 | 0.5% |
| Cottage Grove | 10,801 | 10,954 | 1.4% | Hillsboro | 109,367 | 110,874 | 1.4% |
| Cove | 612 | 662 | 8.2% | Hines | 1,699 | 1,683 | -0.9% |
| Creswell | 5,638 | 5,660 | 0.4% | Hood River | 8,477 | 8,560 | 1.0% |
| Culver | 1,656 | 1,661 | 0.3% | Hubbard | 3,480 | 3,491 | 0.3% |
| Dallas | 17,573 | 17,960 | 2.2% | Huntington | 509 | 501 | -1.6% |
| Dayton | 2,677 | 2,656 | -0.8% | Idanha | 153 | 152 | -0.7% |
| Dayville | 140 | 141 | 0.7% | Imbler | 228 | 247 | 8.3% |
| Independence | 10,252 | 10,274 | 0.21% | Mt. Vernon | 566 | 555 | -1.94% |
| Ione | 334 | 337 | 0.90% | Myrtle Creek | 3,566 | 3,582 | 0.45% |
| Irrigon | 2,030 | 2,057 | 1.33% | Myrtle Point | 2,458 | 2,456 | -0.08% |
| Island City | 1,080 | 1,166 | 7.96% | Nehalem | 280 | 288 | 2.86% |
| Jacksonville | 3,175 | 3,124 | -1.61% | Newberg | 26,336 | 26,490 | 0.58% |
| Jefferson | 3,328 | 3,422 | 2.82% | Newport | 10,802 | 10,888 | 0.80% |
| John Day | 1,635 | 1,614 | -1.28% | North Bend | 10,557 | 10,571 | 0.13% |
| Johnson City | 504 | 504 | 0.00% | North Plains | 3,454 | 3,663 | 6.05% |
| Jordan Valley | 131 | 132 | 0.76% | North Powder | 459 | 498 | 8.50% |
| Joseph | 1,155 | 1,107 | -4.16% | Nyssa | 3,286 | 3,307 | 0.64% |
| Junction City | 7,081 | 7,386 | 4.31% | Oakland | 952 | 956 | 0.42% |
| Keizer | 38,824 | 38,852 | 0.07% | Oakridge | 3,214 | 3,199 | -0.47% |

| | | | | | | | |
|------------------|--------|--------|--------|----------------|---------|---------|--------|
| King City | 5,191 | 5,177 | -0.27% | Ontario | 11,677 | 11,938 | 2.24% |
| Klamath Falls | 22,892 | 22,906 | 0.06% | Oregon City | 37,092 | 37,471 | 1.02% |
| La Grande | 13,953 | 12,823 | -8.10% | Paisley | 246 | 248 | 0.81% |
| La Pine | 2,378 | 2,604 | 9.50% | Pendleton | 16,785 | 16,651 | -0.80% |
| Lafayette | 4,520 | 4,634 | 2.52% | Philomath | 5,789 | 5,801 | 0.21% |
| Lake Oswego | 41,230 | 41,396 | 0.40% | Phoenix | 3,474 | 3,474 | 0.00% |
| Lakeside | 1,864 | 1,875 | 0.59% | Pilot Rock | 1,320 | 1,303 | -1.29% |
| Lakeview | 2,442 | 2,441 | -0.04% | Port Orford | 1,171 | 1,170 | -0.09% |
| Lebanon | 19,647 | 20,122 | 2.42% | Portland | 648,365 | 650,571 | 0.34% |
| Lexington | 233 | 240 | 3.00% | Powers | 745 | 744 | -0.13% |
| Lincoln City | 10,286 | 10,319 | 0.32% | Prairie City | 820 | 801 | -2.32% |
| Lonerock | 25 | 25 | 0.00% | Prescott | 82 | 81 | -1.22% |
| Long Creek | 179 | 176 | -1.68% | Prineville | 11,430 | 11,556 | 1.10% |
| Lostine | 247 | 237 | -4.05% | Rainier | 1,841 | 1,845 | 0.22% |
| Lowell | 1,238 | 1,256 | 1.45% | Redmond | 37,018 | 37,826 | 2.18% |
| Lyons | 1,191 | 1,183 | -0.67% | Reedsport | 4,336 | 4,342 | 0.14% |
| Madras | 8,016 | 8,081 | 0.81% | Richland | 166 | 163 | -1.81% |
| Malin | 739 | 739 | 0.00% | Riddle | 1,227 | 1,233 | 0.49% |
| Manzanita | 629 | 643 | 2.23% | Rivergrove | 547 | 544 | -0.55% |
| Maupin | 433 | 435 | 0.46% | Rockaway Beach | 1,523 | 1,535 | 0.79% |
| Maywood Park | 796 | 793 | -0.38% | Rogue River | 2,425 | 2,423 | -0.08% |
| McMinnville | 33,662 | 34,491 | 2.46% | Roseburg | 23,904 | 23,970 | 0.28% |
| Medford | 88,472 | 90,083 | 1.82% | Rufus | 267 | 272 | 1.87% |
| Merrill | 830 | 853 | 2.77% | Salem | 181,221 | 181,692 | 0.26% |
| Metolius | 987 | 1,005 | 1.82% | Sandy | 12,720 | 12,962 | 1.90% |
| Mill City | 1,987 | 2,044 | 2.87% | Scappoose | 8,111 | 8,254 | 1.76% |
| Millersburg | 3,134 | 3,168 | 1.08% | Scio | 941 | 944 | 0.32% |
| Milton-Freewater | 7,454 | 7,421 | -0.44% | Scotts Mills | 428 | 439 | 2.57% |
| Milwaukie | 21,263 | 21,341 | 0.37% | Seaside | 7,346 | 7,359 | 0.18% |
| Mitchell | 136 | 136 | 0.00% | Seneca | 171 | 173 | 1.17% |
| Molalla | 10,208 | 10,212 | 0.04% | Shady Cove | 3,072 | 3,087 | 0.49% |
| Monmouth | 10,866 | 11,019 | 1.41% | Shaniko | 30 | 30 | 0.00% |
| Monroe | 742 | 739 | -0.40% | Sheridan | 6,027 | 5,879 | -2.46% |
| Monument | 119 | 116 | -2.52% | Sherwood | 20,650 | 20,868 | 1.06% |
| Moro | 368 | 369 | 0.27% | Siletz | 1,251 | 1,228 | -1.84% |
| Mosier | 480 | 481 | 0.21% | Silverton | 10,561 | 10,606 | 0.43% |
| Mt. Angel | 3,423 | 3,510 | 2.54% | Sisters | 3,552 | 3,778 | 6.36% |
| Sodaville | 353 | 351 | -0.57% | | | | |
| Spray | 176 | 175 | -0.57% | | | | |
| Springfield | 62,646 | 62,926 | 0.45% | | | | |
| St. Helens | 14,546 | 14,918 | 2.56% | | | | |
| St. Paul | 428 | 430 | 0.47% | | | | |
| Stanfield | 2,261 | 2,256 | -0.22% | | | | |
| Stayton | 8,235 | 8,208 | -0.33% | | | | |
| Sublimity | 3,232 | 3,206 | -0.80% | | | | |
| Summerville | 105 | 114 | 8.57% | | | | |
| Sumpter | 202 | 199 | -1.49% | | | | |
| Sutherlin | 8,676 | 8,776 | 1.15% | | | | |
| Sweet Home | 9,929 | 9,913 | -0.16% | | | | |
| Talent | 5,011 | 5,041 | 0.60% | | | | |
| Tangent | 1,206 | 1,195 | -0.91% | | | | |
| The Dalles | 16,344 | 16,417 | 0.45% | | | | |
| Tigard | 55,654 | 55,859 | 0.37% | | | | |
| Tillamook | 5,246 | 5,277 | 0.59% | | | | |
| Toledo | 3,542 | 3,533 | -0.25% | | | | |
| Troutdale | 16,913 | 17,005 | 0.54% | | | | |
| Tualatin | 27,866 | 27,863 | -0.01% | | | | |
| Turner | 2,851 | 2,851 | 0.00% | | | | |
| Ukiah | 221 | 219 | -0.90% | | | | |
| Umatilla | 7,459 | 7,626 | 2.24% | | | | |
| Union | 1,960 | 2,127 | 8.52% | | | | |
| Unity | 40 | 40 | 0.00% | | | | |
| Vale | 1,915 | 1,913 | -0.10% | | | | |
| Veneta | 5,236 | 5,261 | 0.48% | | | | |
| Vernonia | 2,375 | 2,415 | 1.68% | | | | |

| | | | |
|--------------|--------|--------|--------|
| Waldport | 2,352 | 2,347 | -0.21% |
| Wallowa | 816 | 782 | -4.17% |
| Warrenton | 6,293 | 6,331 | 0.60% |
| Wasco | 416 | 417 | 0.24% |
| Waterloo | 214 | 212 | -0.93% |
| West Linn | 26,895 | 26,903 | 0.03% |
| Westfir | 258 | 259 | 0.39% |
| Weston | 700 | 680 | -2.86% |
| Wheeler | 392 | 387 | -1.28% |
| Willamina | 2,274 | 2,274 | 0.00% |
| Wilsonville | 24,847 | 24,839 | -0.03% |
| Winston | 5,717 | 5,739 | 0.38% |
| Wood Village | 4,876 | 4,855 | -0.43% |
| Woodburn | 26,363 | 26,664 | 1.14% |
| Yachats | 1,009 | 991 | -1.78% |
| Yamhill | 1,177 | 1,165 | -1.02% |
| Yoncalla | 1,029 | 1,059 | 2.92% |

Population Estimates for Oregon and Counties (Vintage 2023, Preliminary)

| Geographic Area Name | Revised Population July 1, 2022 (A) | Preliminary Population July 1, 2023 (B) | Population Change 2022-2023 [B-A] | Percent Change 2022-2023 [B-A]/[A] |
|----------------------|--|--|--|---|
| STATE | | | | |
| OREGON | 4,267,598 | 4,290,225 | 22,627 | +0.53% |
| COUNTY | | | | |
| BAKER | 16,946 | 16,843 | -103 | -0.61% |
| BENTON | 98,187 | 98,758 | 571 | +0.58% |
| CLACKAMAS | 420,386 | 422,739 | 2,353 | +0.56% |
| CLATSOP | 41,905 | 41,881 | -24 | -0.06% |
| COLUMBIA | 52,691 | 53,160 | 469 | +0.89% |
| COOS | 65,405 | 65,658 | 253 | +0.39% |
| CROOK | 26,294 | 26,483 | 189 | +0.72% |
| CURRY | 24,307 | 24,437 | 130 | +0.53% |
| DESCHUTES | 206,733 | 209,314 | 2,581 | +1.25% |
| DOUGLAS | 111,987 | 112,338 | 351 | +0.31% |
| GILLIAM | 2,047 | 2,038 | -9 | -0.44% |
| GRANT | 7,440 | 7,298 | -142 | -1.91% |
| HARNEY | 7,641 | 7,543 | -98 | -1.28% |
| HOOD RIVER | 23,979 | 24,030 | 51 | +0.21% |
| JACKSON | 222,709 | 222,950 | 241 | +0.11% |
| JEFFERSON | 25,446 | 25,574 | 128 | +0.50% |
| JOSEPHINE | 88,115 | 88,211 | 96 | +0.11% |
| KLAMATH | 71,504 | 71,324 | -180 | -0.25% |
| LAKE | 8,404 | 8,561 | 157 | +1.87% |
| LANE | 382,243 | 384,214 | 1,971 | +0.52% |
| LINCOLN | 51,747 | 51,588 | -159 | -0.31% |
| LINN | 129,874 | 130,285 | 411 | +0.32% |
| MALHEUR | 31,866 | 32,254 | 388 | +1.22% |
| MARION | 348,600 | 349,725 | 1,125 | +0.32% |
| MORROW | 12,630 | 12,852 | 222 | +1.76% |
| MULTNOMAH | 809,140 | 813,691 | 4,551 | +0.56% |
| POLK | 89,850 | 90,223 | 373 | +0.42% |
| SHERMAN | 1,884 | 1,895 | 11 | +0.58% |
| TILLAMOOK | 28,000 | 27,933 | -67 | -0.24% |
| UMATILLA | 80,461 | 80,888 | 427 | +0.53% |
| UNION | 25,974 | 25,847 | -127 | -0.49% |
| WALLOWA | 7,626 | 7,472 | -154 | -2.02% |
| WASCO | 27,016 | 27,124 | 108 | +0.40% |
| WASHINGTON | 608,624 | 614,267 | 5,643 | +0.93% |
| WHEELER | 1,510 | 1,515 | 5 | +0.33% |
| YAMHILL | 108,427 | 109,311 | 884 | +0.82% |



Local Government

The Basics

13 Essentials for City Officials



Home Rule Fundamentals

The League of Oregon Cities (LOC) was established in 1925 to protect against the erosion of local “home rule” by the state Legislature. The LOC has fought to protect home rule since that time. But what, exactly, is “home rule,” and why does it matter?

In Oregon, home rule forms the legal basis for city governments to act. Thus, home rule is an important legal concept with real-world implications for a city’s ability to serve the needs of its citizens. This article briefly explains the origins of Oregon’s home rule, how home rule impacts city government authority, and the continuing fight between city and state government over the scope of local authority.

CITIES DERIVE THEIR EXISTENCE FROM THE STATES

The United States of America is a “federal republic,” meaning that government authority is divided between the federal government and the states. The United States Constitution grants limited powers to the federal government and reserves the remaining powers to the state governments. But what about local governments, such as cities and counties?

Interestingly, the United States Constitution makes no mention of local governments. Instead, it places all government authority not granted to the federal government with the states. Thus, the courts have uniformly concluded that cities derive their authority and existence from state governments and lack any inherent authority. In fact, the Supreme Court of the United States has stated that cities are simply “convenient agencies”¹ of their states, and states may abolish or reorganize cities at any time.

DILLON’S RULE

Under the United States Constitution, cities derive their authority from the states. For that reason, judges and legal scholars took the view that city governments could only act in areas expressly authorized by a state legislature. That principle is often called “Dillon’s Rule,”² and is still followed in many states.

In a Dillon’s Rule state, local governments lack authority to act unless they can show how a state law allows them to take an action, such as levying property taxes, maintaining a fire department, or operating a parks system.

¹ *Hunter v. City of Pittsburg*, 207 US 161, 178-79 (1907).

² Dillon’s Rule is named for John F. Dillon, a Justice of the Iowa Supreme Court and later federal judge. See 1 John F. Dillon, *THE LAW OF MUNICIPAL CORPORATIONS*, § 9(b), at 93 (2d ed 1873).

The Dillon’s Rule model allows a state legislature to closely control local government structure, the methods of financing local government activities, local procedures, and local government authority to address local problems.

DILLON’S RULE IN OREGON

In the late 1800s, the Oregon Supreme Court formally endorsed the Dillon’s Rule model of state-local relations.³ Under Dillon’s Rule, Oregon’s cities were not able to effectively respond to local problems, as no local action could be undertaken without express permission from the Oregon Legislature, which only met for short biennial sessions.

HOME RULE INCLUDES THE POWERS TO:

- Regulate for protection of public health, safety, morals & welfare;
- To license;
- To tax; and
- To incur debt.


Home rule is the right to local self-government, without express or implied legislative authorization.

OREGON’S SHIFT TOWARDS HOME RULE

In the early 20th century, a wave of political populism began to sweep the country. As a part of that political movement, cities and political reformers in Oregon began to push for a “home rule” amendment to the Oregon Constitution.

Frustrated by the special interests that dominated the Legislature and by the time it took to address local problems, a group of Oregonians, led by William Simon U’Ren, sought to amend the Oregon Constitution. Their goal was to vest authority over local affairs in the voters, through the adoption of home rule charters. In U’Ren’s view, cities would exist independently from the Legislature and would derive their authority from the city charter, not from the Legislature.

³ *City of Corvallis v Carlile*, 10 Or 139 (1882).



“The legal voters of every city and town are hereby granted power to enact and amend their municipal charter.”

– Oregon Constitution

In 1906, consistent with a wave of home rule reform sweeping the nation, the voters of Oregon adopted a constitutional amendment that granted the people the right to draft and amend municipal charters. That provision states:

“The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the state of Oregon[.]”⁴

At the same election, the voters of Oregon “reserved” initiative and referendum powers “to the qualified voters of each municipality and district as to all local, special and municipal legislation of every character in or for their municipality or district.”⁵

Note that the home rule amendments do not use the term “home rule,” nor do they specifically confer substantive lawmaking authority. Rather, the amendments prevent the Legislature from enacting or amending municipal charters, and free cities from the burden of seeking approval from the state before amending their charter. What that means, in practice, is that cities—and their voters—now possess substantial lawmaking authority independent of the state, although the precise relationship between cities and the state has evolved over the last 100-plus years, primarily through judicial interpretation of the home rule amendments. One of the most significant aspects of that relationship is the ability of the Legislature to preempt certain municipal policy decisions.

HOME RULE CHARTERS

For a city to become a home rule city, its residents must vote to adopt a home rule charter. By doing so, a community vests all possible legal authority in its city government. A city charter operates much like a state constitution in apportioning authorities to various officials and setting out the system of government for that community, whether it be a commission, mayor-council, council-manager, or strong mayor form of government. Today, all 241 cities in Oregon have home rule charters.

⁴ Or Const, Art XI, § 2.

⁵ Or Const, Art IV, § 1(5).

ONLINE RESOURCES

ORIGINS, EVOLUTION AND FUTURE OF HOME RULE



This white paper examines the origin of the “home rule” doctrine in Oregon, how that doctrine has changed over time, and the current legal fight over the meaning of Oregon’s home rule provisions. Available in the LOC’s online Reference Library: tinyurl.com/home-rule

HOME RULE 101

A two-page overview of home rule in Oregon. Available at: tinyurl.com/home-rule-101

GUIDE TO STATUTORY PREEMPTION OF HOME RULE

This legal guide is designed to provide city leaders with general information regarding specific examples of how and when municipalities are preempted from taking certain actions or regulating particular conduct. Available at: tinyurl.com/preempt-guide

OREGON MUNICIPAL HANDBOOK – Chapter 2: Home Rule & Its Limits

This Handbook chapter explores in detail the “home rule” authority granted to cities by the Oregon Constitution and the limits placed on it by state and federal authority.

Find it online at: tinyurl.com/handbook-2

Once adopted, a home rule charter vests in the city the authority to do all things necessary to address matters of local concern without legislative authorization. The LOC’s model charter, based on the council-manager form of government, was written to provide a city with as much authority as permitted under the Oregon Constitution.



All 241 cities in Oregon have home rule charters

Oregon is a home rule state, which gives voters the authority to establish their own form of local government and empowers that government to enact substantive policies. Unlike a Dillon's Rule state, home rule authority allows cities to act as policy innovators and quickly address social problems, especially when faced with inaction from the state and federal government.

PREEMPTION

The following list highlights some of the areas in which the state has preempted local governments from acting. Please note that the list is not comprehensive. For a comprehensive list of preemptions on local authority, please see the LOC's Legal Guide to Oregon's Statutory Preemptions of Home Rule (tinyurl.com/yc83xkxm).

Taxing

- ▶ Cities may not impose or collect a business license tax from licensed real estate brokers.
- ▶ The state has the exclusive right to tax tobacco products.
- ▶ The state has the exclusive right to tax alcoholic beverages.

General Governance

- ▶ Cities must hold elections in compliance with Oregon election law.
- ▶ Public officials, including city officials, must comply with the Oregon Ethics Code.
- ▶ City government must comply with Oregon's public records and meetings law.

Land Use

- ▶ Cities are required to comply with statewide land use and development goals.
- ▶ Cities may not prohibit certain types of housing.

Personnel

- ▶ Cities must offer PERS coverage to police and firefighters.
- ▶ State minimum wage laws preempt contrary city ordinances or charter provisions.
- ▶ State sick leave requirements preempt contrary city ordinances or charter provisions.
- ▶ State law restricts the use of credit score reports for hiring purposes.

Regulatory Authority

- ▶ State preemption of regulations on vending machines that dispense tobacco or e-cigarette systems.
- ▶ State preemption of local laws concerning various liquor uses and consumption.
- ▶ State building code preempts local ordinances.
- ▶ State preemption of local ordinances that makes a shooting range a nuisance or trespass.
- ▶ State preemption of local regulations on cell phone use in vehicles. ■





From the Sidelines to the Playing Field:

The Importance of Council Teamwork and Knowing Your Role

A high functioning city government requires multiple roles to be adequately fulfilled. Equally important is for individuals to understand their role in order to better serve the city as a whole. Building a high functioning city council requires subscription to the theory of how local government functions, hard work, and commitment to the responsibility of the council role. In other words, a high functioning city council must act as a team and work towards shared goals.

HOW DO INDEPENDENTLY ELECTED INDIVIDUALS BECOME A TEAM?

According to Robert Maddux, author of *Team Building: An Exercise in Leadership*,¹ the below seven principles outline how a group of individuals can transform into a team:

1. **Shared Understanding:** There is a shared understanding between the members that personal and team goals can be achieved best with mutual support.
2. **Shared Ownership:** Members feel a shared ownership of their work and the team's goals and are committed to the commonly established rules.
3. **Everyone Contributes:** Everyone can contribute their personal and professional competencies to the success of the team's goals.
4. **Room for Everyone to Express Ideas and Opinions:** There is room to express ideas and opinions, and team members are making effort to understand each other.
5. **No Person Feels Threatened by Conflict:** No one person feels threatened by conflict and conflict is viewed as a normal aspect of teamwork.

¹ *Team Building: An Exercise in Leadership*, Robert B. Maddux, 1986.

6. **Atmosphere of Trust and Encouragement:** There is an atmosphere of trust and encouragement, and members are encouraged to improve their skills and competencies.

7. **Participative Decision-Making:** The decision-making process is participative, and no one is left out or unheard.

HOW DO TEAM PRINCIPLES TRANSLATE INTO EFFECTIVE CITY COUNCILS?

With a teamwork mindset in place, it is equally important for each individual to know their role and responsibility to the team. Imagine a football team where no one had a defined position, and everyone tried to play quarterback—this does not paint a championship picture. Just like positions on a football team, a city and its council have defined roles and responsibilities. Each city's charter and locally adopted council rules of procedure set forth the parameters of each person's roles and responsibilities. While every city is governed slightly differently, the majority of cities in Oregon practice a variation of the council-manager form of government. In this form of government, the following are a few roles:

The Team Captain: Mayor

The mayor serves on council but is generally limited to the role of presiding officer in council meetings and is the city's ceremonial head. In some cities, the mayor only votes to break a tie, and in others, the mayor votes along with the rest of the council.

The Offense: City Councilors

Under the council-manager form of government, the city council acts as a whole to develop the city policy and legislation—with little to no authority vested in any individual councilor. Individual councilors bring their unique skills and learned experience to the

A high functioning city council must act as a team and work towards shared goals.



table, but must work with one another to effectuate city policy and legislation. Think of the council members as the quarterback, running back, wide receiver, fullback, tight end, and offensive line. Each player holds an important role, and they must work together to complete a successful play.

The Coach: City Manager/City Administrator

The city manager serves as the city's chief executive officer and takes the policy implemented by the council and sees it to fruition. Oftentimes, the city manager is the only city staff member who is supervised by the council. As the city's "CEO," the city manager oversees all city staff, and the council must respect the manager's role and not overstep into managing staff who are not under their direct supervision.

The Fans: Citizens

Finally, the city's voters also play a role on the team. Citizens vote to elect the city council members and vote on any charter amendments or ordinances put out for a vote. Most importantly, the city's voters may also recall individual city council members as well as the mayor.

"TALENT WINS GAMES, BUT TEAMWORK AND INTELLIGENCE WIN CHAMPIONSHIPS." – MICHAEL JORDAN

Conflict, in the form of robust discussion wherein all participants are open to learning from others, can lead to creative solutions that no single person could have developed. To win the proverbial "championship game" requires a high functioning council, where individual members of the council contribute their individual knowledge and work together to form a solution. However, there is no requirement that everyone on council votes unanimously on all issues. After all, there are many ways to win a game. In fact, the advantage a council holds is that it is comprised of diverse individuals. Ultimately, a council is there to serve its city and to effectuate long-term and long-lasting change that benefits their constituents. Even if a councilor votes against a certain decision and the majority of the council votes in favor, the councilor's role is to stand with the team and be a united front. The council only has power as a collective and speaking against the collective only acts as a disservice.

We've all seen the post-game interviews where an athlete is interviewed about the team's performance. Imagine if that player called out their teammates for performing badly? Instead, the athlete typically will focus on the positive actions of their teammates and when necessary, address avenues for improvement. Individual athletes take responsibility for their team's performance whether they win or lose a game. Athletes focus on working together and stand up for their fellow teammates—council members should

ONLINE RESOURCES

MODEL RULES OF PROCEDURE FOR COUNCIL MEETINGS

The purpose of this guide is to provide cities with a starting point in creating their rules of procedure, where required by the city charter, or where a council so desires. Available in the LOC's online Reference Library: tinyurl.com/council-rules



FAQ ON LEGISLATIVE, ADMINISTRATIVE AND QUASI-JUDICIAL COUNCIL DECISIONS

Most cities vest all powers of government in their city council, which functions as the legislative, executive and judicial body. Because a single council plays multiple roles in city government, the council's actions may have different legal ramifications. As this FAQ demonstrates, the nature of a council's actions has important consequences for a city and its residents. Available at: tinyurl.com/faq-council-decisions

OREGON MUNICIPAL HANDBOOK – Chapter 3: Municipal Officials

This Handbook chapter provides an overview of the common roles of municipal officials, including roles of elected council members, mayors, and city staff.

Find it online at: tinyurl.com/handbook-3

too. Remember, since council members have limited authority as an individual, council members should speak as a single group and not necessarily as an individual member unless they had authority to act individually. Like their athletic counterparts, council members should take responsibility for their council's decisions—whether they are popular or not. Win or lose, councils are a team and working together is the most important step towards victory. ■



Public Meetings:

What Elected Officials Need to Know

INTRODUCTION

Oregon law sets the policy for open decision-making at various levels of government. These laws ensure that the public is aware of the deliberations and decisions of governing bodies, as well as the information that forms the basis of the governing bodies' decisions.¹

The key requirements of the Oregon Public Meetings Law (OPML) include:

- Conducting meetings that are open to the public—unless an executive session is authorized;
- Giving proper notice of meetings being held within their jurisdiction; and
- Taking minutes or another record of meetings.

Further, the OPML imposes other requirements regarding location, voting, and accessibility to persons with disabilities.

Please note that this article is not a substitute for legal advice, nor is it comprehensive. The OPML is complicated, and public officials are encouraged to speak with their legal counsel for legal advice, case-by-case.

ENTITIES SUBJECT TO THE PUBLIC MEETINGS LAW

Understanding which entities are subject to the OPML is critical for ensuring compliance with the provisions of the law. In short, the OPML applies to any governing body of a public body, when that governing body holds a meeting for which a quorum is required to make a decision or deliberate toward a decision on any matter.²

The OPML applies to meetings of a “governing body of a public body.” A public body is the state, any regional council, a county, a city, a district, or any other municipal or public corporation. A “public body” also includes a board, department, commission, council, bureau, committee, subcommittee, or advisory group of any of the entities in the previous sentence. If two or more members of any public body have “the authority to make decisions for or recommendations to a public body on public body policy or administration,” they are a “governing body” for purposes of the OPML.

MEETINGS SUBJECT TO THE PUBLIC MEETINGS LAW

Not every action that a governing body takes is subject to the OPML. The law defines a “meeting” as the convening of any of the “governing bodies” subject to the law “for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.” Thus, the definition of a meeting has three elements: (1) the convening of a governing body; (2) for which a quorum is required; (3) to make a decision or deliberate toward a decision on any matter. The first of those elements was addressed in the previous section.

The term “quorum” is not defined in the OPML. For cities, quorum requirements are often set by charter, bylaws, council rules, or ordinance. A gathering of less than a quorum of a governing body of a public body is not a “meeting” under the OPML.

However, case law recently established that a “serial meeting” can take place if there are “contemporaneous gatherings of a quorum and ORS 192.630(1) applies to such meetings.”³ The Oregon Attorney General recommends that members of a governing body should not meet in private to discuss business, or exchange private communications about business, even if those involved constitute less than a quorum.⁴

Finally, staff meetings are typically not covered by the OPML, as they are usually held without a quorum requirement. A staff meeting called by a single official is not subject to the law because the staff do not make decisions for or recommendations to a “governing body.” Importantly, the OPML applies if a quorum of a governing body, such as a five-member commission, meets with staff to deliberate on matters of “policy or administration.”

REQUIREMENTS OF THE LAW

The last two sections covered which entities are subject to and what meetings of those entities trigger the OPML. The next section addresses the substantive requirements of the OPML, including notice, space and location, accessibility, public attendance, control of meetings, voting, and minutes and record keeping.

¹ ORS 192.260 establishes Oregon’s policy of open decision-making through public meetings.

² ORS 192.610(5); ORS 192.630(1).

³ *Handy v. Lane County*, 274 Or App 644, 658 (2015).

⁴ ODOJ, Attorney General’s Public Records and Meetings Manual 145 (2019).



Notice

The OPML requires that notice be provided of the time and place of public meetings, including regular, special and emergency meetings.⁵ For regular meetings, notice must be reasonably calculated to provide actual notice to the persons and the media that have stated in writing that they wish to be notified of every meeting. Special notice requirements apply to executive sessions.

Space, Location, and Accessibility

For any meeting, the public body should consider the probable public attendance and should meet where there is sufficient room to accommodate that attendance. In the event of an unexpectedly high turnout, the public body should do its best to accommodate the greater number of people. Additionally, effective January 1, 2022, state law requires governing bodies to provide members of the public, “to the extent reasonably possible” an opportunity for virtual access to meetings held.⁶

► Geographic Location

The OPML states that meetings of a governing body of a public body must be held within the geographic boundaries of the area over which the public body has jurisdiction, at its administrative headquarters, or at “the other nearest practical location.”⁷ In the case of an actual emergency necessitating immediate action, however, a governing body may hold an emergency meeting at a different location than one described in ORS 192.630(4).

► Nondiscriminatory Site

Governing bodies are prohibited from holding meetings at any place where discrimination based on race, color, creed, sex, sexual orientation, national origin, age or disability is practiced. A governing body may hold a meeting at a location that is also used by a restricted-membership organization if the use of the location by such an organization is not its primary use.

► Accessibility to Persons with Disabilities

The OPML imposes two requirements relating to accessibility to persons with disabilities. First, meetings subject to the OPML must be held in places accessible to individuals with mobility and other impairments. Second, the public body must make a good-faith effort to provide an interpreter at the request of deaf or hard-of-hearing persons.

⁵ ORS 192.640 provides for both regular and executive session notice requirements.

⁶ ORS 192.670.

⁷ ORS 192.630(4) provides for both geographic location as well as accessibility of these locations.

ONLINE RESOURCES

GUIDE TO EXECUTIVE SESSIONS (2019)

A comprehensive review of where, when and how cities may conduct executive sessions, complete with model forms and policies. Available at: tinyurl.com/exec-sessions.



HANDLING DISRUPTIVE PEOPLE IN PUBLIC MEETINGS (2017)

A legal guide to help cities know their options for dealing with disruptive behavior. The guide covers when the public has a right to speak at public meetings, constitutional speech protections, and issues involved in removing someone from a council meeting. Available at: tinyurl.com/disruptive-people.

MODEL RULES OF PROCEDURE FOR COUNCIL MEETINGS (2017)

A guide providing cities with a starting point in creating their rules of procedure, where required by the city charter, or where a council so desires. Available at: tinyurl.com/model-rules-proc.

FAQ ON NOTICE REQUIREMENTS FOR PUBLIC MEETINGS (2021)

Answers to common questions about the notice requirements associated with public meetings. Available at: tinyurl.com/notice-reqs.

OREGON MUNICIPAL HANDBOOK – Chapter 9: Public Meetings Law

This Handbook chapter touches on the basic requirements of the Oregon Public Meetings Law. Find it online at: tinyurl.com/handbook-9.



VOTING

All official actions by a governing body of a public body must be taken by public vote. The vote of each member must be recorded unless the governing body has 26 or more members.⁸ Even then, any member of the governing body may request that the votes of each member be recorded. The governing body may take its vote through a voice vote or through written ballots, but ballots must identify each member voting and the vote must be announced. *Secret ballots are prohibited.*⁹ State law preempts any local charter or ordinance that permits voting through secret ballots.

RECORDED OR WRITTEN MINUTES

The OPML requires that the governing body of a public body provide for sound, video or digital recording, or written minutes, of its public meetings. The record of the meeting—in whatever format—must include at least the following information:

- The members present;
- All motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
- The results of all votes and, except for governing bodies consisting of more than 25 members unless requested by a member of the governing body, the vote of each member by name;
- The substance of any discussion on any matter; and
- Subject to the Oregon Public Records Law, a reference to any document discussed at the meeting.¹⁰

Written minutes need not be a verbatim transcript and sound or video recordings need not contain a full recording of the meeting. Rather, the record must provide “a true reflection of the matters discussed at the meeting and the views of the participants.” The record must be made available to the public “within a reasonable time after the meeting.”¹¹

EXECUTIVE SESSIONS

Governing bodies are permitted to meet in executive (closed) sessions in certain circumstances.¹² An “executive session” is defined as “any meeting or part of a meeting of a governing body which is closed to certain persons for deliberation on certain matters.”¹³ Executive sessions are not exempt from the OPML. An executive session is a type of public meeting and must conform to all applicable provisions of the OPML. Importantly, the authority to go into executive session does not relieve a governing body of its duty to comply with other requirements of the OPML.

Permissible Purposes

A governing body is permitted to hold an open meeting even when the law permits it to hold an executive session. However, a governing body may only hold an executive session in certain circumstances set forth in ORS 192.660. These permissible purposes include:

- Employment of public officers, employees and agents;
- Discipline of public officers and employees;
- Performance evaluations of public officers and employees;
- Labor negotiation consultations;
- Real property transactions;
- Discussion of public records exempt from disclosure; and
- Discussions with legal counsel.

Final Decision Prohibition

The OPML provides: “No executive session may be held for the purpose of taking any final action or making any final decision.”¹⁴ Although a governing body may reach a final consensus in an executive session, the purpose of the final-decision prohibition is to allow the public to know of the result of any such consensus. A formal vote in a public session satisfies the requirement, even if the vote merely confirms the consensus reached in executive session.

Method of Convening an Executive Session

A governing body is permitted to hold a public meeting consisting of only an executive session. The notice requirements for such a meeting are the same as those for any other meeting.¹⁵ In addition, the notice must cite the statutory authority for the executive session.

Alternatively, an executive session may be called during a regular, special, or emergency meeting for which notice has already been given in accordance with ORS 192.640. The person presiding over the meeting must announce the statutory authority for the executive session before going into the executive session.

CONCLUSION

The OPML is important and nuanced. A single article cannot fully describe all of its provisions or how it applies in various factual circumstances. For more detail on the OPML, please see the Oregon Attorney General’s Public Records and Meetings Manual (2017), available at tinyurl.com/opml-manual. ■

8 ORS 192.650(1)(c).

9 39 Op Atty Gen 525, 526-528, 1979 WL 35618 (1979).

10 ORS 192.410 to 192.505. Note that reference to a document in meeting minutes does not change the status of the document under public records law; *see also* ORS 192.650(3).

11 ORS 192.650(1).

12 ORS 192.660.

13 ORS 192.610(2).

14 ORS 192.660(6).

15 ORS 192.640.



Property Tax Basics

Oregon's current property tax system was shaped by Measures 5 and 50, from two constitutional amendments passed in the 1990s. Prior to Measures 5 and 50, Oregon jurisdictions used a levy-based system for assessing property taxes. Put simply, each taxing district (city, county, etc.) imposed a levy in the amount needed to cover the taxing district's budget, which was based on community service demands. County assessors estimated the real market values (RMV) of all properties in the state. The levy for each taxing district was then divided by the total RMV in the district to arrive at a district tax rate. The taxes each district imposed equaled its tax rate, multiplied by its RMV. Generally, levies for each district were constitutionally limited to an annual growth rate of 6%, and levies that would increase by more than 6% required voter approval. The levy system was dramatically altered with the passage of Measure 5 in 1990.

MEASURE 5: TAX LIMITS AND COMPRESSION

In 1990, Oregon's voters amended the state constitution by approving Ballot Measure 5, which set limits on the amount of tax that a taxing jurisdiction could impose on the RMV of property. For example, education districts could levy no more than \$5 per \$1,000 of RMV and general government districts (including cities and counties) could levy no more than \$10 per \$1,000 of RMV. The caps apply only to operating tax levies, not bonds. If property tax rates exceed the limits, the taxes must be reduced until they meet the limits imposed by Measure 5. Reducing the property tax rate to meet Measure 5 limits is commonly called "compression," and results in millions of dollars of lost revenue for taxing districts every year.

MEASURE 50: PERMANENT RATES, ASSESSED VALUE AND GROWTH LIMITS

In 1997, the voters of Oregon again decided to profoundly alter the property tax system by approving the passage of Ballot Measure 50. First, Measure 50 imposed a permanent operating tax rate limit on all existing taxing districts. The permanent rate for each taxing district was primarily determined by combining the levies that existed locally when Measure 50 was passed.

Neither a taxing district nor the voters can alter Measure 50 permanent rates—they remain at 1997 levels in perpetuity.

Second, Measure 50 also changed the concept of assessed value, to which the tax rates are applied. Assessed value is no longer equal to the RMV of a property. Instead, the amount of tax is based on the property's "assessed value" as defined by Measure 50. Measure 50 stated that a property's assessed value is calculated by reducing the property's RMV in the 1995-96 tax year 10%. That method of calculating assessed value codified inequities between comparable properties. Prior to Measure 50, the RMV of properties within a county was determined across a six-year reappraisal cycle. When Measure 50 passed, some properties had been recently assessed, while other properties had not been assessed for four or five years.


Third, Measure 50 limited the annual growth rate of taxable property to 3% of assessed value—well below the average rate of inflation. By setting assessed values at 90% of 1995-96 market levels and capping the annual rate of growth, Measure 50 permanently codified imbalances in assessed values. As a result, similarly valued properties may pay dramatically different property tax amounts.

For new properties, or those that undergo a significant change such as remodeling, new construction, rezoning, or subdivision, the assessed value is determined according to Oregon Revised Statutes 308.149 to 308.166, known as the changed property ratio (CPR) statutes. The new assessed value is determined by applying the ratio of the assessed value to the market value of all existing property within the same class (residential, commercial, etc.) in either the city or the county to the improved or changed property. In most of the state, CPR is calculated on a county-wide basis. In Multnomah County, cities can elect to calculate CPR on a city-wide basis, provided the city passes an ordinance or resolution as required by law.

MEASURES 5 & 50 IMPACTS

Measures 5 and 50 have caused significant revenue challenges for taxing authorities in Oregon. Following the passage of Measure 50, statewide property tax revenue immediately fell by \$51.4

Neither a taxing district nor the voters can alter Measure 50 permanent rates – they remain at 1997 levels in perpetuity.



Reducing the property tax rate to meet Measure 5 limits is commonly called **“compression,”** and results in millions of dollars of lost revenue for taxing districts every year.

million due to the changing of the property tax system to one based on assessed values rather than one based on market values. Since 1997, inflation has regularly exceeded the 3% limit set out in Measure 50, particularly for city expenses like employee healthcare and pension costs. Thus, cities have seen a growing disparity between property tax revenue relative to costs, even as property values continue to rise.

For a detailed look at the effects of Measures 5 and 50 over time, please see the LOC’s Primer on Measures 5 and 50 in the LOC’s online Reference Library (tinyurl.com/measures5-50).

COMPRESSION EFFECTS

To determine a property’s tax obligation each year, a county assessor must determine the property’s assessed value (as required by Measure 50) and the property’s RMV (as required by Measure 5). When a property’s assessed taxes exceed the Measure 5 limits, the tax obligation is compressed to the Measure 5 limits. The difference between the assessed value and the compressed limit is forever lost to the taxing district—typically, millions of dollars every year across the state. In fiscal year 2016-17, for example, more than 65% of Oregon’s cities were negatively affected by compression, representing \$31.4 million in lost property tax revenue.

The LOC continues to seek reforms to Oregon’s property tax system that is fair for property owners, effective for cities, and does not inhibit economic growth. ■

ONLINE RESOURCES

MEASURE 5 & 50 PRIMER

A detailed look at the effects of Measures 5 and 50 over time. Available in the LOC’s online Reference Library: tinyurl.com/measures5-50



CITY PROPERTY TAX REPORT (2016)

Statistical information regarding property taxes for cities, counties, school districts and special districts. The report includes data on tax revenues received, assessed and real market values, city tax rates, compression losses and property tax exemptions. Available at: tinyurl.com/prop-tax-report

NORTHWEST ECONOMIC RESEARCH CENTER OREGON PROPERTY TAX REPORT (2014)

This research report examines how differences in property taxes due to measures 5 and 50 have impacted the real estate market in Oregon. Available at: tinyurl.com/nerc-report





Five Things to Know About Public Records

1. WHAT ARE PUBLIC RECORDS?

State law defines a public record as: “[A]ny writing that contains information relating to the conduct of the public’s business * * * prepared, owned, used or retained by a public body regardless of physical form or characteristics.”¹ The term “writing” is defined broadly and includes any “handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings.” When determining whether a record is public, the question is whether the record relates to the business of the public, not the format of the record. This often means that emails, text messages and social media posts—even those created, delivered and stored on a personal device—could be considered a public record. If a record has a relationship to a city’s business, then it is a public record.

2. DUTIES OF A CITY AND PUBLIC RECORDS

Cities have the duty to make available a written procedure for making public records requests.² The procedure must include the name of at least one city contact to whom requests may be sent, and the amounts of and manner of calculating fees that the city charges for responding to public records requests.

Once received, a city must acknowledge receipt of the public records request or provide a copy of the requested record within five business days.³ Within 10 business days of the date it was required to acknowledge the request, the city must either complete its response to the request, or provide a written statement that it is still processing the request, along with an estimated completion date. These timeframes do not apply if compliance would be impracticable.⁴ However, a city must still complete the request as soon as practicable and without unreasonable delay.

3. PUBLIC RECORDS DISCLOSURE

The public has the right to inspect any public record in a city’s possession.⁵ A city may withhold certain public records from disclosure if they are exempt by law.⁶ Cities must segregate exempt records from nonexempt records and disclose all nonexempt material. The primary list of public records exemptions may be found under ORS 192.345 and 192.355, though exemptions are scattered throughout both state and federal law. There are two primary types of exemptions: conditional and unconditional. Conditional exemptions require a city to consider the public’s interest in disclosure.⁷ Unconditional exemptions either require their own separate consideration or none at all.⁸ Remember, when in doubt, Oregon law favors disclosure.

4. PUBLIC RECORD REQUEST FEES

A city may assess reasonable fees to get reimbursed for the actual costs incurred while responding to a public records request.⁹ The city may assess a fee for the time spent by city officials and staff researching the records, providing redactions, and the city attorney’s time spent reviewing the records and redacting exempt materials. If the city wishes to charge a fee greater than \$25, the city must notify the requester in writing of the estimated amount of the fee and the requester must confirm in writing that it wishes to proceed. The city may request prepayment. If the actual cost incurred by the city is less than the amount paid, the city must promptly refund any overpayment.¹⁰

5. APPEALS AND CONSEQUENCES TO THE CITY

A person who is denied access to a public record may appeal the city’s denial.¹¹ The appeal may be made to the district attorney in the county in which the city is located, if the denial was by the city/a city official. If the district attorney denies any part of a petition, the requester may seek review in the circuit court for the county in which the city is located or the Marion County Circuit Court.

If the denial was made by an elected official, the appeal may be made by petitioning the circuit court for the county in which the elected official is located or the Marion County Circuit Court. If the requester prevails in full, the city is required to compensate the requester for the cost of litigation and trial. If the requester prevails only in part, an award of costs and attorney’s fees is discretionary.

Additional guidance regarding public records is available on the LOC’s website and in the Oregon Attorney General’s Public Records and Meetings Manual available online at: tinyurl.com/opml-manual. ■

1 Generally public records law is covered by ORS Chapter 192.

2 ORS 192.324(7).

3 Generally, public records request timeline covered by ORS 192.324 and ORS 192.329.

4 Reasons where compliance would be impracticable include staffing, performance of other necessary services, or the volume of other simultaneous public records requests.

5 ORS 192.318(2).

6 See Oregon Attorney General’s Public Records and Meetings Manual (2019), Public Records Section (I)(E); see also Oregon Department of Justice Attorney General Public Records Exemptions at <https://justice.oregon.gov/PublicRecordsExemptions>.

7 ORS 192.345.

8 ORS 192.355.

9 See ORS 192.324.

10 Oregon Attorney General’s Public Records and Meetings Manual (2019), Public Records Section (I)(D)(7).

11 ORS 192.415.



Gift Limitations: What You Need to Know

GIFT BASICS

A public official, candidate, or relative or member of the household of the public official or candidate cannot receive a gift if all the below elements are met in the calendar year:¹

1. Solicit or receive
2. Directly or indirectly
3. Any gifts with an aggregate value above \$50
4. From any single source
5. If the source is reasonably known to have a legislative or administrative interest

A GIFT IS...

1. Something of economic value
2. Without cost, at a discount, or as forgiven debt
3. Not available to the general public on the same terms.

Examples: meals; lodging; event tickets²

LEGISLATIVE OR ADMINISTRATIVE INTEREST MEANS...

1. Economic interest
2. Distinct from that of the public
3. In a matter subject to the decision or vote of a public official acting in that capacity

THE FOLLOWING ARE PERMISSIBLE GIFTS:

- Gifts from relatives or members of the household
- Unsolicited token of appreciation with a resale value less than \$25
- Publications and subscriptions related to official duties
- Campaign contributions
- Waiver or discount of certain registration expenses or materials at a continuing education event to satisfy a professional licensing requirement
- Entertainment that is incidental to the main purpose of the event
- Received as part of the usual and customary practice of one's private business or employment and unrelated to holding public office

ONLINE RESOURCES

OREGON MUNICIPAL HANDBOOK – Chapter 8: Ethics



This Handbook chapter covers ethics laws regarding public officials' ethics and conflicts of interest provided by various federal and state constitutional and common law provisions, state statutes and, occasionally, local charters or ordinances. Find it online at: tinyurl.com/handbook-8.

OREGON ETHICS COMMISSION GUIDE FOR PUBLIC OFFICIALS

This guide discusses how the provisions in Oregon's statutes apply to public officials and summarizes the Commission's procedures. tinyurl.com/zrjmr8e8

Offers of lawful benefits to public officials offered by the public entity the public official represents.

WHAT TO ASK YOURSELF BEFORE ACCEPTING A GIFT³

1. **Is it a "gift?"** A gift is something of economic value not offered to others who aren't public officials (relatives or household members) on the same terms and conditions.
2. **Exceptions:** Do any of the exceptions apply?⁴
3. **Source:** Does the gift giver have a legislative or administrative interest in my decisions or votes?
4. **Value:** If so, does the value of the gift, along with any other gift received from that source this calendar year, exceed \$50? ■

1 ORS 244.025.

2 For additional information, see Oregon Government Ethics Commission "Guide for Public Officials" at tinyurl.com/zrjmr8e8 at page 26-27.

3 See also League of Oregon Cities Municipal Handbook – Ethics (tinyurl.com/handbook-8).

4 See ORS 244.020(7)(b).



Budgeting 101

A city's adopted budget is one of the most important and informative documents city officials use. This budget is prepared for each fiscal period and serves as a city's financial plan. Cities in Oregon may operate within a fiscal year, beginning on July 1 and concluding the following June 30; or cities may use a biennial budget, covering a 24-month period, beginning July 1 of the first fiscal year and ending on June 30 of the second fiscal year.

The adopted budget is a legal document establishing the authorization for the city to receive and spend money, and limits how much money can be spent for a specific activity or program. The budget presents the estimated costs of expenditures—goods or services the city plans to purchase in the coming fiscal year—and other budget requirements—contingency for unanticipated expenses—that must be planned for but may not actually be spent. The budget also presents the anticipated and actual revenues that will be available to pay for those expenditures.

Preparing a budget allows a city to look at its needs in light of funds available to meet those needs. In Oregon, all local governments must plan a balanced budget, meaning that the resources and requirements are equal. A city cannot plan to purchase more items or services than it has money to pay for them.

A CITY'S BUDGET PROCESS

Appoint a Budget Officer

The budget officer—who is either appointed by the city council or defined in the city charter—prepares the proposed budget in a format that meets the requirements set out in state statutes. The budget officer develops the budget calendar, which maps out all the steps that must be followed for the legal adoption of the city budget. A budget calendar is not required by law but is highly recommended.

Appoint Electors to the Budget Committee

The budget committee is an advisory group comprised of the city council and an equal number of appointed members. The appointed members of the budget committee must be electors of the city. Budget committee members are appointed for staggered three-year terms, and cannot be employees, officers, or agents of the city. All members of the budget committee have the same degree of authority and responsibility.

THE BUDGET PROCESS


1. Appoint a budget officer.
2. Appoint electors to the budget committee.
3. Budget officer prepares a proposed budget.
4. Public notice of budget committee meeting.
5. Budget committee meets.
6. Budget committee approves the budget.
7. Budget summary and notice of budget hearing are published.
8. Hold budget hearing.
9. Adopt budget, make appropriations, impose taxes, categorize taxes.
10. Certify taxes.
11. Post-adoption budget changes.

Source: Local Budgeting Manual 150-504-420, found under Forms & Publications at www.oregon.gov/DOR.

Budget Officer Prepares a Proposed Budget

After the budget calendar is set, the budget officer begins to develop the estimates of resources and requirements for the coming fiscal year or biennial cycle.

Every city budget will have at least one fund—the general fund—which accounts for daily operations. In practice, a city budget will



have a number of funds, each designed to account for a specific purpose. A budget should include enough different types of funds to clearly show what services and programs a local government is providing and how it is paying for expenditures. However, it is advisable to not have too many funds, as this makes the budget harder to read and understand.

There are seven types of funds used in most city budgets:

1. **General Fund** – records expenditures needed to run the daily operations of the local government.
2. **Special Revenue Fund** – accounts for money that must be used for a specific purpose.
3. **Capital Project Fund** – records the money and expenditures used to build or acquire capital facilities, such as land, buildings or infrastructure.
4. **Debt Service Fund** – records the repayment of general obligation and revenue bonds and other financing obligations.
5. **Trust and Agency Fund** – accounts for money that is held in trust for a specific purpose as defined in a trust agreement or when the government is acting as a custodian for the benefit of a group.
6. **Reserve Fund** – functions as a savings account to pay for any service, project, property, or equipment that the city can legally perform or acquire in the future.
7. **Enterprise Fund** – records the resources and expenditures of acquiring, operating, and maintaining a self-supporting facility or service—such as a city water or wastewater utility.

Oregon budget law requires a city's budget to provide an annual financial history of each fund. The financial history must include:

- The actual revenues and expenditures for the prior two years;
- The budgeted revenues and expenditures for the current year;
- The estimated balanced budget, as proposed by the budget officer, for the coming year which includes columns for the budget approved by the budget committee; and
- The final budget adopted by the governing body.

The budget also includes a column for the descriptions of expenditures and resources.

Public Notice of the Budget Meeting

The budget committee must hold at least one public meeting for the purpose of receiving the budget message and the budget document, and to provide the public with an opportunity to ask questions about and comment on the budget.

The city must give public notice for the budget meeting(s) either by: (1) printing notice two times in a newspaper of general

THE BUDGET MESSAGE

The budget message gives the public and the budget committee information that will help them understand the proposed budget. It is required by statute to contain a brief description of the financial policies reflected in a proposed budget and, in connection with the financial policies, explain the important features of the budget. The budget message must also explain proposed changes from the prior year's budget and any major changes in financial policies.

circulation; or (2) once in the newspaper and posting it on the city's website. If the budget committee does not invite the public to comment during the first meeting, the committee must provide the opportunity for public comment in at least one subsequent meeting. The notice of the meeting(s) must tell the public at which meeting comments and questions will be taken.

Budget Committee Meets

The budget message is prepared in writing so it can become part of the budget committee's records. It is delivered at the first meeting of the budget committee by the budget officer, the chief executive officer, or the governing body chair.

A quorum—more than one-half of the committee's membership—must be present for a budget committee to conduct an official meeting. Any action taken by the committee first requires the affirmative vote of the majority of the membership.

Budget Committee Approves the Budget

One of the budget committee's most important functions is to listen to comments and questions from interested citizens and consider their input while deliberating on the budget. The budget committee can revise the proposed budget to reflect changes it wants to make in the city's fiscal policy, provided that the revisions still produce a balanced budget. When the committee is satisfied, it approves the budget.

When approving the budget, the budget committee must also approve a property tax rate or the tax amounts that will be submitted to the county assessor. The budget committee should make a motion to approve the property tax so that the action is documented in the committee meeting minutes. Upon approval of the budget by the budget committee, the budget officer completes the



budget column labeled “approved by budget committee,” noting any changes from the original proposed budget.

Any action by the budget committee requires approval by a majority of the entire committee. For example, if the budget committee has 10 members, six are present at a meeting (a quorum), but only five of the six present agree with a motion to approve the proposed budget, then the motion does not pass. It is up to the budget committee to negotiate a budget and tax that is acceptable to a majority of its members.

Budget Summary and Notice of Budget Hearing are Published

A summary of the approved budget, which includes a narrative description of prominent changes to the budget from year to year, is published in the local newspaper with the notice of a public hearing to adopt the budget five (5) to thirty (30) days before the budget hearing date.

Hold Budget Hearing

The city council must conduct a budget hearing by June 30 to receive the budget committee’s approved budget, conduct deliberations, and consider any additional public comments. The council can make any adjustments it deems necessary (with some restrictions) to the approved budget before it is adopted by June 30. The budget hearing and the resolutions or ordinances necessary to adopt the budget and impose taxes can be conducted at the same public meeting.

Adopt Budget, Make Appropriations, Impose Taxes, Categorize Taxes

The city council may adopt the budget at any time after the budget hearing so long as it is adopted by June 30. It is not a requirement that the budget be adopted at the hearing.

To adopt the budget, the city council enacts a resolution or ordinance which provides the legal authority to:

- Establish or dissolve funds;
- Make appropriations for expenditures;
- Adopt a budget; impose and categorize taxes; and
- Perform all other legal actions pertaining to budgeting and authorizing tax levies.

All enacted statements can be combined into one resolution (or ordinance), which must be signed by the mayor before submission to the county assessor’s office.

Certify Taxes

Any property taxes must be certified to the county assessor annually, even if the city adopts a biennium budget. By July 15 of each year, a city must submit two copies of the resolution (or

ONLINE RESOURCES

OREGON DEPARTMENT OF REVENUE RESOURCES

LOCAL BUDGETING MANUAL

An introduction to the requirements of Local Budget Law, including information on biennial budgets. Available at www.goo.gl/gGdnwk.

LOCAL BUDGETING IN OREGON

A supplement to the Local Budgeting Manual, covering the requirements of Oregon’s Local Budget Law. Available at www.goo.gl/h5ptkS.

LOCAL BUDGET LAW WEBPAGE

A webpage dedicated to helping local governments prepare and adopt their budgets. The page contains forms, glossary of terms, sample budgets and information on free training sessions. Available at www.goo.gl/JckgSE.



ordinance) to the county tax assessor. In addition, the notice of property tax certification (form LB-50) and successful ballot measures for local option taxes or permanent rate limits must be submitted.

In addition to the county tax assessor’s copies, a copy of the resolutions required to receive shared revenue must be submitted to the Oregon Department of Administrative Services by July 31. Finally, a copy of the published adopted budget document, including the publication and tax certification forms, must be submitted to the county clerk’s office by September 30.

Post-Adoption Budget Changes

While it is possible for changes to be made to an adopted budget once the fiscal year begins, this can only happen under specific circumstances. Two such examples are council-approved resolution transfers of funds, and supplemental budgets that make changes to adopted expenditure appropriations and estimated resources. These are actions that must be taken before more money is spent beyond what is appropriated in the adopted budget. Any changes made to the adopted budget require that the budget remain in balance after the change. ■



Successful Code Enforcement Considerations

Code enforcement can be a tricky job. Striking the balance between properly enforcing a city's codes and providing good customer service to its constituents is no easy task. Code enforcement works to protect the health and safety of the city through ensuring the city's codes are enforced, in areas such as land use code, environmental code, and building code. Generally, a city will use a complaint-based system of enforcement and will focus first on code violations that present serious risk to public health and safety.

A successful code enforcement officer excels in these six areas:

1. Knowing their code. Successful code enforcement officers are experts on their city's codes. They are extremely proficient at knowing what the code regulates and what it does not. The best code enforcement officers can point to relevant sections of their city's code when questioned by superiors and members of the public.

2. Reviewing their city's code annually. Code enforcement officers likely work with their city's codes more than any other city employee. It is often the code enforcement officer who finds the code's flaws or the proverbial loopholes. Successful code enforcement officers annually review their city's code so that, when necessary, appropriate amendments can be submitted to their city council.

3. Believing in interdepartmental cooperation. An exemplary code enforcement officer works cooperatively with employees from various city departments. Code enforcement officers regularly interact with problem properties that necessitate the involvement of numerous city departments. Knowing which employees in the various departments need to be involved in resolving the issues at a property is a unique and ideal skill.

4. Participating in successful community outreach. A quality code enforcement officer not only knows their city's code, they also educate property owners and community members about the code's requirements. Code enforcement officers with high rates of success are those who frequent neighborhood association meetings, engage with the chamber of commerce, and have regular contact with key stakeholders in the community. Making sure the community knows the code as well as they do is the mark of a successful code enforcement officer. To accomplish this, code enforcement officers may need to communicate code changes to residents in ways such as putting information in utility bills or publishing updates in a city newsletter.

5. Engaging with citizens who are in violation of the city code. Notifying property owners that they are in violation of the city's code is never a fun task. While it can be easier to try and deal with code violations via written notices, emails, and phone calls, effective code enforcement officers know that sometimes face-to-face contact is the most efficient way to remedy a violation. Meeting with a person whose property is in violation of the city code allows the code enforcement officer the opportunity to fully explain the violation, listen to the reasons behind the violation, and engage with the property owner in how to successfully and most expeditiously achieve compliance.

6. Enforcing the city's code consistently and equally. Successful code enforcement officers are fair code enforcement officers. A fair code enforcement officer is one that enforces the city's code equally against all property owners, regardless of their position in the community or the location of the property. ■





Public Employees & Political Campaign Restrictions

Each election season, the LOC is asked to clarify the restrictions on political campaigning by public employees. Generally, public employees are prohibited from using their work time to support or oppose measures, candidates, recalls, petitions, or political committees.¹ Furthermore, elected officials cannot direct their employees to engage in political activity.

Who is a Public Employee?

A public employee is any person employed by the state of Oregon, a county, a city, or a special district.² Examples of public employees include: full-time city employees; part-time city employees; city volunteers that receive no compensation for their service; and appointed board or commission members when they are acting in their official capacity.

Elected officials are not public employees.³ State law prohibiting public employees from supporting or opposing measures, candidates, recalls, petitions, and political committees do not apply to elected officials. Elected city mayors, councilors, and auditors are not public employees. Contractors are also not public employees. However, contractors cannot be directed to engage in political activity as part of the contractual service they are providing a city.

When are Public Employees “On the Job?”

An employee is “on the job” when he or she is performing work for the city in an official capacity, regardless of when and where the work is performed. For example, if a city’s parks director is required to attend a chamber of commerce event in their official capacity, the parks director is prohibited from asking event attendees to support a local ballot measure that would raise money for the city to build a new swimming pool.

Some common activities that are always considered to be performed in an official capacity include, but are not limited to:⁴

- Posting material to an official city website;
- Drafting or distributing an official city publication; and
- Appearing at an event as the city’s representative.

How Does a Public Employee Engage in Political Campaigning During their Personal Time when Everyone in the Community Identifies Them as a Public Employee?

Some public employees are in high profile positions that make them regularly known in their communities. In some small communities, public employees are known by all residents as working for the city. In these instances, it can be hard for members of the public to distinguish whether the public employee is speaking on behalf of the city as opposed to speaking on behalf of themselves. Similarly, a public employee who wishes to engage in political campaigning during their own private time should make it clear to all that they are acting in their personal capacity and are not working for or representing the city.

Can Public Employees Express their Own Personal Political Views While on the Job?

Yes. Public employees can express their own personal political views while at work. Employees can display political stickers on their personal vehicles and wear political buttons on their clothing (providing such an action does not violate the city’s uniform or personnel policies).

Also, public employee unions can have designated bulletin boards in city buildings to post information. The content of union bulletin boards is determined through a collective bargaining process and is not subject to ORS 260.432.

Conclusion

Understanding and knowing when and how public employees can engage in political campaigning can be confusing. To assist public employees and elected officials in understanding and complying with ORS 260.432, the LOC has created a document entitled “FAQ about Restrictions on Political Campaigning by Public Employees,” available in the online Reference Library at tinyurl.com/FAQ-campaigning. If city employees or leaders have questions about ORS 260.432, they are encouraged to consult with their city attorney for additional guidance. ■

1 ORS 260.432.

2 See ORS 260.432.

3 ORS 260.432(6)(a).

4 See Secretary of State Quick Reference on Restrictions on Political Campaigning for Public Employees - tinyurl.com/4csrymye



Tips for Handling Difficult Social Media Interactions

Elected officials typically run for office to better their community. In order to see this goal to fruition, elected officials seek tools to reach their constituents in an effective manner. One tool that elected officials have at their disposal is social media. Social media takes many forms, but all platforms typically share the following common traits: (1) communication is done electronically or digitally; (2) the platform is widely accessible to the public; and (3) the platform is interactive.

Whether using Facebook, Twitter, Instagram, webpages, or other platforms, social media has benefits that cities and their elected officials can utilize. First, cities and their officials can instantly broadcast notices and information to their residents. Second, cities and officials can receive feedback from residents on any topic. Lastly, social media is fast, affordable, and an effective alternative to other mediums of communication.

However, elected officials often find the main pitfall that comes with social media is how to properly manage and handle challenging interactions with members of the public. Elected officials must exercise caution in their interactions with members of the public while on social media platforms.

GOVERNMENT OR PRIVATE?

Generally, the initial reaction in handling a difficult interaction on a social media page is to limit and restrict comments, or perhaps even blocking individual members of the public from the account. Prior to restricting individuals interacting on a social media account, the public official should take the following steps:

- Identify whether it is a private account or a designated government/public account; and
- Regardless of the designation, identify whether the posted content is personal in nature or public business/public promotion.

Public officials are cautioned that although their social media account may have been created in a personal capacity, there could be instances when the account will be categorized by the legal

ONLINE RESOURCES

MODEL SOCIAL MEDIA POLICY

This model policy addresses legal risks such as violations of public records law and protections on free speech. This model does not address the off-duty private use of social media accounts that do not relate to public business. Available at tinyurl.com/model-sm-policy



OREGON MUNICIPAL HANDBOOK – Chapter 28: First Amendment Law

This Handbook chapter focuses on the First Amendment to the U.S. Constitution. Topics include what is protected under the First Amendment, who it applies to, and enforcement. Find it online at: tinyurl.com/handbook-28.

system as a government/public account because of the manner in which the account is used. It is important for a public official to distinguish whether an account is purely private, or if an account is government/public.

If a social media account is deemed to be public (i.e. government managed), the members of the public who interact with the account have First Amendment free speech protections under the federal and state constitutions. Unfortunately, Oregon courts have yet to interpret and provide guidance on what a government account is. However, best practice is to err on the side of

Public officials should be mindful of how they designate their social media accounts and what type of content they disseminate.



caution and assume that if the social media account is used for any type of government business or public promotion, that it will be deemed to be a government account.

IMPOSING RESTRICTIONS

The Oregon Constitution has been interpreted to mostly prohibit the government (and its officials) from implementing content-based restrictions on public speech, whether that speech is verbal or written. This content-based prohibition applies to social media accounts that are governmental in nature (this is determined by usage and content). Any restriction on speech must be content-neutral. This means that an official might be able to prohibit outcomes, such as disruptions, but the official cannot do so by targeting a specific type of content. While cities and city officials are encouraged to verify any type of restriction with their attorney prior to taking action, since the law is fluid and nuanced, the following is a list of restrictions that are likely permissible:

- Removing actual disruptive behavior such as high frequency repetitive posting or posting that is unintelligible;
- Banning the promotion of a hostile or unhealthy online environment such as postings that are sexually explicit or depict excessive violence;
- Banning the encouragement or promotion of criminal activity; and
- Banning advertising.

Another avenue in which officials can stay clear of difficult social media interactions is to disable all commenting options on posts. This restriction avoids exposure to constitutional claims but still allows for the delivery of information to the public.

If a social media account is deemed to be public, the members of the public who interact with the account have First Amendment free speech protections under the federal and state constitutions.

OTHER TIPS FOR HANDLING ONLINE INTERACTIONS

In addition to avoiding the constitutional free speech pitfalls highlighted above, the following are actions public officials should avoid doing on their social media accounts:

- Sending incorrect information;
- Making commitments the official cannot follow through on;
- Issuing long statements;
- Blaming others; and
- Engaging with negative comments and online “trolls.”

Ultimately, public officials should not be scared away from utilizing social media platforms. However, public officials should be mindful of how they designate their social media accounts and what type of content they disseminate. If public officials choose to moderate the actions of individuals on their social media accounts, they must also be aware that the moderation may expose them to liability and potential legal implications. ■





A City's Role in the Land Use Process

By Joanna Lyons-Antley, Of Counsel, Campbell Phillips

Land use is defined as what is built or developed, or what activities take place on a piece of property. A city's role in land use is to ensure that both public and private development are aligned with the standards set out in the city's comprehensive plan, zoning maps and development code.

STATEWIDE GOALS

Land use planning in Oregon is quite different when compared to other states. The Oregon land use planning program was created in 1973 when the Legislature passed the Oregon Land Use Act (SB 100) in response to Oregon's rapid population growth. Under this program, all cities and counties throughout Oregon have adopted comprehensive plans that meet 19 statewide planning goals that deal with land use, development, housing, transportation, and conservation of natural resources.

LOCAL COMPREHENSIVE PLANNING

Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan and the zoning and land division ordinances needed to put the plan into effect. The local comprehensive plans must be consistent with the statewide planning goals. Once approved by the state's Land Conservation and Development Commission (the Commission), the plan is said to be "acknowledged," and along with state law, becomes the controlling document for land use in the city.

CITY PROCEDURES FOR LAND USE DEVELOPMENTS

Any development, whether a new single-family home or a shopping center, must receive prior approval from a city to ensure that it conforms to the land use plan and ordinances for health and safety and other local objectives. Typical land use decisions include variances, site and design review, conditional use permits, partitions, subdivisions, and zone changes.

To obtain city approval for a development, the landowner must submit the specified land use and demonstrate how the development proposal meets criteria set out in the code.

A city's land use code sets out the procedures it uses to consider land use applications. Certain kinds of development, such as an

addition to a home, may be approved quickly at the staff level, while others, such as a home based business or small office complex in a residential zone, may require conditional use approval by the planning commission. More complicated actions or policy changes, such as a new mixed-use zone or zone change from multi-family residential to retail commercial, may require approval of the city council.

CITY ROLES & DECISION-MAKING

According to state law, there are three main types of land use decisions: legislative, quasi-judicial and ministerial. For legislative decisions, city officials act like a legislature, considering changes to the land use code to establish local land use policies. In most cities, proposed legislative amendments to the comprehensive plan or zoning code are considered first by the planning commission, which holds one or more public hearings. The commission's recommendation is then considered by the governing body which holds at least one public hearing before taking final action.

For quasi-judicial decisions, city officials act like the judiciary, reviewing a landowner's land use application, holding hearings, considering testimony, and applying code criteria to decide whether the city must approve or deny the proposed development. To ensure a fair process, city officials should consider all testimony and evidence. Also, city officials should not read or talk about the pending application outside of the formal hearing and review process. If such an ex parte communication does occur, the city official must declare such communication. Decisions must be based on written findings addressing the application's consistency with the approval criteria from the code.

Ministerial land use decisions are made by planning staff based on clear and objective standards and requirements applicable to a specific development proposal or factual situation. Ministerial decisions do not require a public notice or hearing. ■

Ms. Lyons-Antley has more than 20 years of general counsel local government experience, advising her clients with practical and cost-effective solutions.



Oregon Water Rights Basics

By Olivier Jamin

With increasing stress imposed on water resources from drought and climate change, securing a safe and reliable water supply is a priority concern for every Oregon community. Many cities in Oregon operate their own water systems, while others are served by various water districts or contracts with other cities. Compared to irrigated agriculture, municipal and industrial water use constitutes just a fraction of the total amount of water withdrawn from streams or pumped from aquifers. But efforts to acquire or expand municipal water supplies attract a lot of attention and sometimes controversy. Because building new infrastructure takes time, local leaders often must forecast demand and supply over the long term. Meanwhile, the availability of new water rights is shrinking, as regulatory requirements expand.

Oregon water law, as in other western states, follows the rule of Prior Appropriation, often described as “first in time is first in right.” Prior to enactment of Oregon’s water code in 1909, the common law was that whoever first diverts water out of a stream for a beneficial use can prevent latecomers from interfering with that use. There is no sharing of shortages under this “wild west” rule of prior appropriation.

WATER RIGHTS ADMINISTRATIVE PROCESS

1. Application filed with the Oregon Water Resources Department (OWRD);
2. If water is available, the OWRD issues a permit; and
3. Once construction is complete, a Claim of Beneficial Use is filed with the OWRD by the permittee.

New water rights follow a three-step process. First, an application is filed with the Oregon Water Resources Department (OWRD), and the date of the application establishes the priority date. That’s important because the entire water right process can take considerable time to complete. Second, if the OWRD finds that water is available for appropriation, and withdrawal would not “impair or be detrimental to the public interest,” then it issues a permit. The public has a right to file a protest, possibly because the new right would deprive fish of needed flows or interfere with existing water rights. A permit allows development of water works and initial use. Third, when construction is complete, the permittee files a Claim of Beneficial Use with the OWRD that documents how the water is being used, which may differ from the rate of diversion or volume of water specified in the permit. The OWRD then issues a certificate, which is conclusive evidence of a fully vested water right.

As long as the certificate holder continues to use the water in accordance with the certificate, the right continues in perpetuity. Generally, certificated water rights may be forfeited following five consecutive years of non-use. However, municipal water rights are the exception and cannot be lost for non-use.

While somewhat simple in theory, the practice of applying for a new water right has become increasingly complicated. Most streams are over appropriated, so new permits for surface water are virtually a thing of the past, and groundwater is becoming increasingly regulated, to the point where water rights transfers may soon be the primary mechanism to acquire water rights.


WATER RIGHT TRANSFERS

A water right transfer is necessary to change one of the main components of a water right, such as the place of use, character of use, or point of diversion. The test is whether other water right holders may be “injured” by the change. An example of this is a change in point of diversion higher up in the watershed, which could mean withdrawals of water above someone else’s diversion. Proposed transfers are also subject to protest and hearings.

Because new water rights are becoming increasingly difficult to obtain, acquiring an existing water right and applying to transfer its place of use or character of use could soon become the primary way to secure water resources. In the last few years, the OWRD adopted a new position at odds with its long-standing practice, and with what some believe is their statutory duty, by refusing to process transfer requests specific to storage water rights. The OWRD’s current interpretation states that holders of storage water rights are not able to change the location of a dam or other reservoirs, even if such a change is required for safety purposes. The issue is currently in front of the courts.

MUNICIPAL EXTENSIONS OF TIME

Generally, a new permit will include a date to commence and complete construction, usually within the first year. That date can be extended for five years for good cause. The problem is that cities must plan for long-term growth. The goal of most cities is to lock in a supply that will meet anticipated demand for decades to come. A city would then develop a system in increments when it was confident the demand would be there, along with the ratepayers to carry the debt service. This reality has created tension between the legal requirement of prompt development and responsible municipal planning.



States throughout the western U.S. are also increasingly looking at water recycling and reuse programs to maximize water use and efficiency.

For decades, the OWRD had simply issued successive five-year municipal extensions to avoid this problem. That practice was disallowed by the courts in 2004. Then, in 2005, the Legislature enacted special laws pertaining to municipal water right extensions. Under that statute, new municipal water permits would extend the initial development period to 20 years, with the possibility of additional extensions of time. Following a 2013 court decision, water right permits that have not been fully developed must go through a special process that includes the potential for limits on withdrawals under the permit to protect fish flows.

ALTERNATIVE APPROACHES TO WATER SUPPLIES

Some municipalities have started purchasing existing water rights from farmers or other cities. Others pay farmers to improve irrigation efficiency, for example to install sprinklers to replace flood irrigation, or pipe to replace open canals. As a result of those efficiency improvements, additional water may be available to municipalities.

States throughout the western U.S. are also increasingly looking at water recycling and reuse programs to maximize water use and efficiency. For a long time, water reuse and recycling were limited to irrigation purposes, but drought conditions have forced states and regulators to expand those programs. In 2022, Colorado became the first state to adopt official rules governing potable water reuse. There are sure to be new opportunities for local governments moving forward to pilot new reuse and recycling programs as part of their water planning strategy.

Water resources continue to diminish around the western U.S. while competition for this scarce and precious resource increases. For local governments, this means that water planning for the next 50-100 years should start now for a better understanding of future supply and demand and to identify potential additional sources of water. The League of Oregon Cities, in collaboration with other stakeholders, is working hard to ensure that the Legislature and the courts understand the imperative and support public water supplies. ■

Mr. Jamin is an associate with the law firm of Davis Wright Tremaine LLP

Resources for City Officials

The League has a large online library of publications, guides, FAQs and models available to assist public officials in carrying out their duties. All of these are available at www.orcities.org under **Resources > Reference Materials**.

- Guide to Recruiting a City Attorney
- Manual for Ordinance Drafting and Maintenance
- Guide to Drafting a Sign Code
- Borrowing and Bonds for Oregon Municipalities
- Guide to the Local Regulation of Marijuana in Oregon
- Guide to Recruiting a City Administrator
- Guide to Local Government Regulation of Firearms
- Legal Guide to Collecting Transient Lodging Tax in Oregon
- So You Want to Run for Public Office - A Guide for Prospective City Elected Officials
- Home Rule 101
- Guide to Incorporation
- Guide to Public Display of Flags on Government Buildings
- Guide to Persons Experiencing Homelessness in Public Spaces
- FAQ on Initiative and Referendum in Oregon
- FAQ on Oaths of Office
- FAQ on Surplus Property
- FAQ on Municipal Audits
- FAQ on Urban Renewal
- FAQ on Public Record Fees
- FAQ on Vacating the Public Right of Way
- FAQ on Single-Use Plastic Bags and Straws
- FAQ on Oregon's Rent Control Laws
- FAQ on Emergency Procurement
- Telecom Toolkit
- Model Noise Ordinance
- Model Business License Ordinance
- Model System Development Charge Ordinance
- Model Beekeeping Ordinance
- Model Rules of Procedure for Council Meetings
- Model Charter for Oregon Cities
- Model Animal Ordinance
- Model Equipment Rental Agreement
- Model Technology Use Policy
- Model Fee Waiver Ordinances
- Model Motor Vehicle Fuel Tax Ordinance
- Model Cable Television Franchise Agreement
- White Paper on Disruptive Citizens in Public Meetings
- White Paper on Incorporating a City in Oregon
- Understanding Oregon's Unfunded Mandate Law
- And many more



Top Three Ways New Elected Officials Get Into Trouble

By Kirk Mylander, CIS General Counsel

INTRODUCTION

Newly elected councilors brim with energy and good intentions. Sometimes, however, a new council-person's enthusiasm can lead him or her to make avoidable mistakes. Here are the top three mistakes of the newly-elected.

I. Terminating Staff on Your First Day/Week/Month

We at CIS watch city council elections closely, as we're very interested in who we will be working with, and working for, the next few years. In the not-too-distant past, I received a call in late December from a person whom I knew had won his race for mayor.

"Congratulations on your election!" I said. "That's great. You must be very excited."

"Well, I am excited to make some changes," he told me. "That's why I'm calling you, because I have asked the city manager for his resignation."

There was a pause. A long pause. Mr. Mayor-Elect had not even been sworn in yet and he was firing the city manager?

The mayor continued.

"I know you have this PreLoss program at CIS, so that's why I'm calling. So, you know, to give you guys the heads up. Because if the city manager doesn't resign, then I'm going to fire him at our first meeting."

After 20 years of legal practice, not much can catch me off guard. This totally caught me off guard. I didn't know where to start.

"But, you're not sworn in... you don't have the authority to fire someone by yourself, it requires a majority vote, and..."

"Oh, I got the votes!" the mayor interrupted. "City manager resigns, or he's gone. This is why I ran for office."

So, then I had to explain to the mayor-elect how we could not support this termination, and his city would be required to pay the Pre-Loss deductible if he went through with it now. However, CIS could support a termination where he and other new councilors take some time to observe the city manager after they get into office. And if they see deficiencies in his job performance, then to provide the city manager with a specific list and give him a certain amount of time to improve, like 90 to 120 days. Also, provide the city manager with training and the support he

needs to do the job the correct way; demonstrate that the city council is there to help the city manager succeed. Then, with the clear expectations, training, support, and additional time, if the city manager does not raise his job performance to meet your metrics, let him go. And really, that's the pattern we want to see for all terminations at any level—where someone is told what's wrong, given the time and tools to improve, but for whatever reason they decide not to make a change. That's a winning, defensible scenario that is fair to everyone. But my new mayor friend wasn't having it.

"We're just going to have to agree to disagree on this one, Kirk. The people elected me to make a change, two other councilors agree with me, and we're going to do what we were elected to do."

And sure enough, at Mr. Mayor's very first meeting he made a motion to fire the city manager. The city manager had waived his right to an open meeting, so council chambers was packed with his supporters. When the vote started, those supporters were LOUD. The people were so loud that the mayor couldn't even hear how the councilors were voting. The mayor then shouted at the people, "Come on people, act like adults!" People in the audience shouted back, "YOU act like adults, terminating our city manager on your first day!" It was a circus.

When all the yelling and shouting was over, the city manager was fired and the citizens were mad mad mad—so mad, in fact, can you guess what happened exactly six months later?

That's right, the mayor and the two other councilors who voted to terminate the city manager were all three recalled. And do you know why it was exactly six months later? Yes! Because there is a six-month "safe harbor" during which a newly sworn in elected official cannot be recalled. Which shows how the people in this town were just waiting for those six months to be up.

II. Believing You are the City CEO and Causing a "Hostile Work Environment" for Staff: (or, doing the city manager's job instead of your own)

There's a type of person who often runs for a city council or mayor position on the basis of their experience and success in the private sector. And their success is to be commended; their skills and leadership learned in the business world can absolutely contribute to their success as an elected official. But occasionally, a councilor who is used to being the CEO of his or her own



ASK LOC

company, and having the power to make final decisions on their own, forgets that the public sector is very different. The power of a city council comes from acting as a group. Individual councilors and mayors have no power at all. If you're newly elected and you want to effect the mandate of your election, you do that by convincing a majority of the council to vote in concert with you to pass resolutions or ordinances. You alone can't do much of anything. As a group you can make law.

But like I was saying, some people who have been a successful CEO and who have strong leadership skills, they move too fast after being elected. They don't take the time to learn how the "new company" (the city) is different from their old company, and that they must follow different rules. Instead, they start individually managing city staff, and start ordering quick changes to staffers' duties, titles, and job locations. This makes the permanent city staff feel stressed. They start complaining of a "hostile work environment" cause by the micromanaging city councilor.

Here's where this can get dangerous for you as an elected official: managing staff is outside your scope of authority. You don't have the power to manage the daily activities of staff. Those duties belong to the city manager or city administrator. City staff typically know this, and so they may threaten to file, or actually file, a "hostile work environment" claim against you.

There's good news and bad news when it comes to staff filing lawsuits against you. The good news is that Oregon statutory law requires your city to "indemnify and defend" you for any lawsuits that are filed against you for actions taken "within the scope of your authority" as an elected official. Your own personal checkbook will never be on the line for lawsuits that flow from your official duties. However, like I said, there's bad news too. In the example above, the councilor who is micromanaging staff is NOT acting with(in) the course and scope of his or her official duties. Managing staff is the city manager's job. So, if you cause a lawsuit by micromanaging staff, you will be getting sued for actions that you took outside of your authority. And you will have to pay to defend yourself, most likely.

There's nothing to get scared about here. It's an easy fix. Just let the city manager manage the staff. If you see an issue that simply must be addressed, talk to your city manager about it. That's all you need to do. You are a city councilor now—you get to leave that day-to-day stuff to others!

III. Using Your Office for Personal Gain — The Six Words You Never Want to Hear Yourself Say

Now that you're a city councilor, people are going to treat you differently around town. That's unavoidable. When you have the power (when acting with your co-councilors) to make laws, people will view you in a different light than they used to. But you shouldn't view yourself in a different light. It leads to all sorts of problems. Here's one example.

There is a city in Oregon just large enough to have parking meters in its downtown core. Just the main drag downtown. Well, a person who had just successfully run for city council had a business that fronted that metered boulevard. This fellow owned an auto body shop, and he liked to park his own personal hot rod right out in front. So, what did he stop doing the day after he was sworn in as a new city councilor? You guessed right again; he stopped paying the parking meter in front of his shop.

So that day, the city meter reader began her shift by working her way down that city's primary downtown street. And the new councilor started watching her while he worked. He saw her moving from one car to another, checking meters and writing tickets. He watched until she reached his hot rod, parked directly in front of his store.

Now this meter reader, she was not a big imposing person like the councilor. She was petite and barely five feet tall.

The new city councilor saw the meter reader check his meter, get out her ticket book, and start writing out a ticket. Well, he rushed toward the street, burst out the front door of the store, threw his hand up and yelled. He yelled the six words that you never want to hear come out of your mouth as long as you are a city councilor: "DO YOU KNOW WHO I AM!?"

You never want to hear yourself say those six words, because that will be the beginning of the end for your time in public service. It never ends well after that. The meter reader burst into tears as the councilor continued yelling about how his position at the city compared to hers. She left and went back to her manager.

Her manager did all the right things. He told her how she had nothing to worry about, that she was only doing her job, and how the councilor was out of line. The manager told her to take the rest of the day off, and he would talk to his own boss, the city manager. When the city manager heard what the councilor had



done, he also said all the right things. He said he would talk to the councilor, that the meter reader had nothing to worry about and that she had done the right thing when she ticketed the councilor's car.

Now just as the manager was leaving, who comes storming into City Hall and goes straight into the city manager's office and slams the door closed? The councilor with the shop on main street. And he was still mad. He was yelling loud enough that staff could hear him shouting that he wanted the city manager to fire the meter reader, and to do it now! Who do you suppose the staff shares this with? The meter reader. The next day she emails her boss and says that the city councilor has created a hostile work environment, based upon her applying the parking regulations to the councilor the same as she applies them to everybody else. So, she got a lawyer and sued the councilor and the city.

CIS had to settle this case because the meter reader was right. The councilor did expect her to bend the rules for him, just because he was a councilor. And when she didn't, he demanded that she be fired. In a perfect world, she would have got her job back and the councilor would have been the one who got fired. But councilors can't be fired. You are in a unique position that way, and you do have a lot of responsibility. Use it judiciously and go out of your way to make sure that everyone knows you expect to live by the same rules as everyone else in town.

And never, ever, say to anyone, "Do you know who I am?!"

CONCLUSION

We want your tenure in office to be a success, and hope that you can now avoid these three common potholes that have made the

ONLINE RESOURCES

CIS WEBSITE

www.cisoregon.org

CIS (Citycounty Insurance Services) has been the trusted provider of insurance coverage for Oregon's cities and counties since 1981.



CIS LEARNING CENTER

The CIS Learning Center provides in-person and free online training and resources to help members achieve their goals. Find it online at: cis.sabacloud.com.

wheels come off a few elected officials who have gone before you. Remember that your power comes from acting as a group, not alone; you're free of the day-to-day stuff, which belongs to the city manager alone; and never act or talk like you deserve special treatment because of your position, or you're going to wind up all alone. ■

Upcoming Trainings for Elected Officials

PUBLIC BUDGETING 101

March 7 at 6-9 p.m. or March 8 at 1-4 p.m. - Virtual via Zoom

This general municipal budget training is intended to familiarize members of city budget committees, including city council members, and city staff contributing to budget development.

Register on LOC's website: tinyurl.com/loc-budget-training

OREGON LAND USE PLANNING FUNDAMENTALS FOR ELECTED OFFICIALS

March 15 at 6-8 p.m. - Virtual via Zoom

This course will cover the history of Oregon planning, procedures for land use hearings, and how to support planning staff in creating defensible findings for land use decisions. In addition, participants will learn how to actively engage in long-range planning and how to guide goals and projects to improve community livability.

Register on LOC's website: tinyurl.com/land-use-training

2023 State Shared Revenues

Information and forecast estimates in this report are based on the best information available as of late January. The material is subject to forecast and law changes made throughout the year.

Per Capita State Shared Revenues for Cities

Per capita distributions for revenue sources are calculated based on certified population statistics from Portland State University's Center for Population Research (PSUCPR). Population estimates compiled each July are typically certified on December 15, and thereafter begin to govern the distributions. A copy of the certified estimate applicable to 2023 distributions is available near the end of this report.

| | Highway Trust Fund Revenues (Gas Tax) | Liquor Revenues (20% of Total Share) | Marijuana Tax Revenues (75% of City's Share) | Cigarette Tax Revenues | 9-1-1 Tax Revenues |
|--------------------------|--|---|---|------------------------|--------------------|
| 2020-21 Actuals | \$73.61 | \$19.40 | \$3.06 | \$0.96 | \$8.05 |
| 2021-22 Actuals | \$79.89 | \$18.57 | \$1.26 | \$0.82 | \$11.08 |
| 2022-23 Estimates | \$78.64 | \$18.99 | \$1.26 | \$0.76 | \$10.68 |
| 2023-24 Estimates | \$79.46 | \$19.51 | \$1.35 | \$0.73 | \$11.27 |
| 2024-25 Estimates | \$80.34 | \$20.50 | \$1.44 | \$0.70 | \$11.80 |

Non-Per Capita Based State Shared Revenues for Cities

State marijuana taxes and liquor revenues are not exclusively based on population. The 14% liquor revenue share to cities uses an adjusted population formula that factors in the per capita property taxes and per capita income of each city (see ORS 221.770). The 25% state marijuana tax share to cities is distributed based on the number of licensed marijuana premises in each certified city compared to the total number of licensed marijuana premises in certified cities. This count includes grower, processor, wholesaler, and retailer premises. The estimates for the total share for all cities are provided in the following table to allow cities to see trends that will assist cities in their individual computations.

| | Liquor Revenues (Based on Formula, 14% of Total Share) | Marijuana Tax Revenues (Based on Licenses, 25% of City's Share) |
|----------------------------|---|--|
| 2020-2021 Actuals | \$40,085,560 | \$2,673,042 |
| 2021-2022 Actuals | \$39,314,000 | \$1,125,000 |
| 2022-2023 Estimates | \$40,356,000 | \$1,125,000 |
| 2023-2024 Estimates | \$42,050,000 | \$1,220,906 |
| 2024-2025 Estimates | \$44,830,000 | \$1,326,148 |

2023 State Shared Revenues

City Budgeting Basics for the Five State Shared Revenues

By Lindsay Tenes, LOC Tax and Finance Lobbyist

Cities are expected to again receive payment from five different state shared revenue programs during the new fiscal year. Most shared revenues are distributed to cities based on population, but some use more complex distribution mechanisms. The five revenue sources are summarized below and include descriptions of each revenue source, forecast projection trends, and key legislative updates that may impact the revenue. The LOC encourages cities to join its advocacy efforts to protect and improve each of these vital revenue sources.

Using state projections, the LOC has produced estimates of state shared revenues for cities to utilize when formulating their budgets. Projections for distributions to cities may be revised throughout the year as revenues come in or as laws change. For more detailed estimates and explanations of each shared revenue, see the LOC's State Shared Revenue Report, now available online at www.orcities.org. Cities are reminded that they must take necessary steps, including completing various required certifications and reports, to receive the revenues. Those requirements are detailed in the online report.

State Shared Revenue Background

City general funds in Oregon primarily come from property taxes, franchise fees, transient lodging taxes, fees for services and state shared revenues. As a key revenue source

for cities, state shared revenues help provide basic services and meet community needs. When state shared revenue formulas were first established, local governments were generally preempted by the state from enacting or continuing to enact local taxes on the same item in exchange for a specified portion of the revenues collected by the state. Thus, these revenues should not be viewed as "shared revenues," but rather as historical city and county revenues that are now collected by the state. Despite continued local revenue challenges and rising service costs, state shared revenues are often threatened through decreased shares for local governments as a tactic to help balance the state budget. In addition, when the state increases its tax rate, it often does not include the increased revenues in the share provided to local governments.

| 2021-22 Total City Share | |
|--------------------------|---------------|
| Highway Trust Fund | \$241,572,302 |
| Liquor Revenues | \$95,477,000 |
| Marijuana Tax | \$4,500,000 |
| Cigarette Tax | \$2,466,667 |
| 9-1-1 Tax | \$27,118,076 |

The Five State Shared Revenues

1. Highway Trust Fund Revenues (Gas Taxes, etc.)



In 2017, the Legislature approved a comprehensive transportation funding package (HB 2017) that significantly increased cities' per capita funding. The package included a 10-cent gas and use fuel tax increase, and a 53% increase in the weight-mile tax (both phased in over a seven-year period), along with graduated registration and title fee increases. Future two-cent fuel tax increases are tied to meeting certain accountability and reporting requirements; these requirements were met for increases effective through December 2023, and our estimates assume they will be met for the 2024 increase.

From the cities' total allocation, \$2.5 million is directed annually off the top to the special city allotment fund. The allocation is matched and administered by the Oregon Department of Transportation (ODOT) to provide competitive grants to small cities with a population less than 5,000. This is in addition to their per capita allocation (see ORS 366.805).

The COVID-19 pandemic affected driving behavior, but initial predictions of a sharp decline and a slow recovery have proven to be incorrect. There was a significant drop in gas taxes in 2020, but it was followed by a much quicker recovery than anticipated. Long term growth in this revenue source will be tied to external factors like how the pandemic plays out, teleworking trends, population growth, and moves toward more fuel efficient and electric vehicles.

2. Liquor Revenues



Cities' share of this state shared revenue is 34%, of which 20% is distributed per capita and 14% is distributed using a formula that factors in property taxes, population and income. The three major contributors to this revenue source are: the sale of distilled spirits; taxes on beer, wine and cider; and liquor licensing fees.

Distilled spirit sales make up more than 95% of this revenue source. The state maintains the exclusive right to sell packaged distilled spirits and sets the mark-up on products using a wholesale price formula. This means that the bulk of this state shared revenue source technically is based on profits, and not taxes.

At approximately 8 cents per gallon, or about 4 cents on a six-pack, Oregon's beer and cider tax is one of the lowest in the country. In fact, Oregon's beer tax rate has remained unchanged since 1978. Meanwhile, the state wine tax is in the middle compared to other states and is 67 cents per gallon. The wine tax has

not been increased since 1983. With tax rates presently so low, it would take large tax increases to generate any significant revenue.

Changes made during the 2021 legislative session to increase compensation to liquor store agents and distillery tasting room owners have reduced net distributions from this revenue source. The OLCC warehouse is reaching capacity, and the Legislature approved construction of a new facility in 2021 using bonds that will also be paid for out of gross revenues. In 2022, the OLCC asked for and received an increase in the bonding authority for the land and buildings from \$53.2 million to \$131.9 million, a 148% increase. When the cost of the conveyor system is included, the total project cost jumps by \$83.7 million, to \$147.1 million, making the 34% city share of the project cost a staggering \$50 million. Cities' share of this revenue source is projected to continue trending upward over the long term, but these added costs mean cities will receive less revenue than they would have otherwise.

3. Marijuana Tax Revenues



The state imposes a 17% tax on recreational marijuana products. Until the end of 2020, cities received 10% of the state's total tax revenues (minus expenses) on recreational marijuana products. With the passage of Measure 110 in November 2020, which decriminalized possession of small amounts of street drugs, there was a massive shift in the allocation of state marijuana revenue distributions. Starting in March of 2021, quarterly revenue distributions to

cities from state marijuana taxes saw roughly a 74% decrease from the fourth quarter 2020 distribution (the final distribution under the old formula). Going forward, under Measure 110, cities will share \$1,125,000 quarterly, or \$4,500,000 annually, which is not indexed and will not grow with the market.

Revenue distributions to cities are made quarterly, however only individual cities that certify will receive a distribution. This certification had been required quarterly with the OLCC, but in 2020 was moved to an annual certification with the Oregon Department of Administrative Services (DAS), similar to other shared revenue certifications. Since 2017, 75% of the shared revenue is distributed to eligible cities on a per capita basis, and 25% is distributed based on the number of licensed recreational and medical premises in the city (grower, processor, wholesaler, and retailer). Note that the license portion (25%) of the distribution is particularly hard to forecast as shops are frequently opening and closing.

Cities may impose up to an additional 3% local tax on recreational marijuana products. Most cities have an agreement with the Oregon Department of Revenue to have the state collect their local tax at the same time the state tax is collected. However, that local tax revenue is not considered a state shared revenue.

The LOC will advocate on behalf of cities for additional marijuana revenues in the 2023 legislative session, but the numbers reflected in this report assume no change from the Measure 110 formula. Since the 2021 session, there have been interim

(continued on page 56)



READY TO VOLUNTEER? WE ARE READY FOR YOU.

Learn how you can put your time, knowledge and talent to use volunteering with AARP in Oregon. Help make the communities where you live, work and play the best they can be while engaging with others who share your passion for service.

Get to know us at aarp.org/GiftofTime.

 /AARPOregon
 @AARPOR

conversations around legislation to increase the 3% cap on local taxes or backfill Measure 110 losses, or change the distribution formula, concepts LOC continue to lobby for.

4. Cigarette Tax Revenues



This revenue source is projected to continue trending downward—as it has for more than 10 years—as smoking decreases. In November 2020 voters passed Measure 108, which increased cigarette taxes by \$2.00 per pack effective January 1, 2021, increased the cap on the cigar tax from 50 cents to \$1.00, created a tax on vape products at 65% of the retail price, and preempted cities from taxing vape products. After the increase, cigarette taxes are at \$3.33 per pack, and cities' share of that revenue is a meager 0.6% of the tax, or about 2 cents per pack. It's important to note that while cities receive a share of tax revenues for cigarettes, no shared revenue is distributed for taxes on other tobacco products, including cigars, moist snuff, chewing tobacco, pipe tobacco, and now vape.

Measure 108 was expected to have the effect of decreasing revenues to cities; cities did not get a share of the \$2.00 increase, and as prices increased by 33% on average, demand was anticipated to decrease. During discussions at the Legislature, reductions in sales as high as 25% to 35% were discussed due to reduced smoking rates in Oregon and a reduction of cross border sales into Washington and California. When the latest estimates for the 2021-22 biennium are compared to the 2019-20 biennium (the last full biennium before the tax increase) there is an almost 27% decrease in this

revenue source. Some of this decrease is likely due to longstanding trends, but it seems clear that Measure 108 has achieved the intended result of reducing smoking.

5. 9-1-1 Tax Revenues



Oregon's 9-1-1 tax was increased to \$1.00 per line or pre-paid transaction effective January 1, 2020, and further increased to \$1.25 effective January 1, 2021. Before this change in 2019's HB 2449, the rate had been 75 cents since 1995. Most cities will not directly receive this state shared revenue, as the city share is directed to the public safety answering point (PSAP) provider connected to the statewide network. Less than 20 of the 45 PSAPs in Oregon are operated by cities; most are managed by counties or a regional entity.

The PSAPs are only partially funded through the state's Emergency Communications Tax, with the balance of operating costs coming primarily from property taxes. Local governments receive approximately 60% of 9-1-1 taxes, but the taxes generally covered less than 25% of the costs of total PSAP operations before the recent rate increases. Ratios of individual PSAP costs to taxes received vary. The local government share of the state tax is distributed 1% to each county, with the remainder distributed per capita.

Contact: Lindsay Tenes – ltenes@orcities.org or (971) 416-6818 ■

Bring **traffic safety** to your city

Trusted by more State Police agencies than all other radar brands combined.



Slower streets = Safer Streets

STALKER
STREET DYNAMICS

1-800-782-5537
StreetDynamics.com

Climate Change, Inflation Put Pressure on Homeowners, Utilities

By Bill Eller, *Financial Shock, Florida, Green Initiatives, Inflow & Infiltration*

Warmer water and rising oceans equal more intense and more frequent storms, and the rise in frequency and destruction we've seen from storms out of the gulf and across the country are just one of the symptoms of climate change.

Hurricane Ian recently demonstrated the damage these super-sized storms can do to our infrastructure, damaging roads and bridges, shutting down airports and ports and breaking water mains. Lee County was without water in the wake of the storm and most of the county was impacted by a boil order for two weeks.

Meanwhile, Tampa was a third of the way through a \$39 million project to improve stormwater resiliency, improve drainage and reduce flooding. The project was designed after Irma left pumping stations offline for a week in 2017, but officials predicted that the city's current stormwater infrastructure wouldn't be able to handle Ian's heavy rains.

The state itself has committed \$1 billion toward making itself more climate resilient, including improving drainage, renovating wastewater pump stations, protecting wetlands and replacing septic systems with sewer system tie-ins. In the past, efforts to address climate resiliency, specifically hurricanes, focused on wind damage, but Ian's biggest punch came from flooding and storm surge.

As municipal officials rebuild, they will have to consider balancing gray and green infrastructure. Green infrastructure offers a living buffer, absorbing and slowing flood waters, while putting into place gray infrastructure, such as sea walls and flood gates or elevating important infrastructure, can divert water—possibly toward green infrastructure.

When storms hit the east coast, power outages prevent pumps from working and drinking water and sewage from being treated and stormwater flows damage water mains. Storm surges and

(continued on page 58)

Committed to serving the legal needs of Oregon cities

Miller Nash has extensive experience in the combined fields of government law, real estate, construction, land use, employment, and employee benefits. We are a client-focused firm with fresh ideas and strong traditions of service.



James Walker



Jeff Condit



Sarah Hale



Christi Taylor



Souvanny Miller

503.224.5858

Alaska | California | Oregon | Washington

MILLERNASH.COM



flooding can overwhelm sewer systems, causing overflows and water quality concerns.

Another concern is financial—as storms increase in size and frequency, many homeowners are unable to afford climbing insurance premiums, and others have blanket insurance, but do not have flood insurance—it is estimated that less than 20 percent of homes hit by Ian had flood insurance. Some insurance providers are no longer renewing policies in hard-hit areas, and when there is extensive property damage, some homeowners are simply walking away, leading to higher property tax delinquencies.

Hurricanes are not the only climate change-related crisis facing water and wastewater systems. Increased extreme weather events means more rain and snow in some parts of the country and droughts and wildfire in others, while extreme heat and cold are more common everywhere, and the symptoms of climate change can adversely impact infrastructure, operations and water quality.

Meanwhile, utility customers are dealing with spiraling costs as inflation rises to a 40-year high, with the core consumer price increased over forecasts in September. Shelter, food and medical

care indexes saw the largest increases. High inflation has eaten into Americans' savings and force them to break out the credit cards as they struggle with price growth, leaving an even smaller cushion if they should have an unexpected financial shock.

These two concerns overlap when it comes to home plumbing systems—water and sewer service lines serving utility customers' homes face the same challenges as utilities' delivery systems, including the impacts from climate change. However, at the same time, inflation is shrinking the average homeowner's budget, so if there is an issue, they are less prepared financially to handle it.

How can utilities help soften the blow if a customer's service line fails because of age or wear and tear? A partnership with the NLC Service Lines Warranty Program can both educate your customers about their service line responsibilities at no cost to your municipality or utility and offer a warranty that will shield them from the financial shock of an unexpected repair.

For more information on how you can educate and protect your customers, contact Homeserve at watersolutions.homeserve.com/contact. ■



American Legal
Publishing

&



League of Oregon Cities

Proud Partner with League of Oregon Cities

Oregon Basic Code
written specifically
for smaller cities.

Request a Codification
Proposal for Your
Community

Custom Codes • Online Code • Online
Meeting Minutes • Legal Analysis



Colleen Engle, Codification Consultant

CEngle@amlegal.com • (714) 348-9529 • AmLegal.com

Council Comments

Adjournment