

# PROCLAMATION

## El Día del Niño/El Día del Libro April 27, 2013

**WHEREAS**, literacy is the foundation of learning and is essential to the growth and success of all children; and

**WHEREAS**, many of the nations of the world, and especially within the Western Hemisphere, celebrate El Día del Niño in recognition and celebration of their children; and

**WHEREAS**, well-educated and literate children are critical to Oregon's economic future; and

**WHEREAS**, the importance of reading and education are most often communicated through family members, and supported by such public institutions as public libraries, with their literacy programs for children and families.

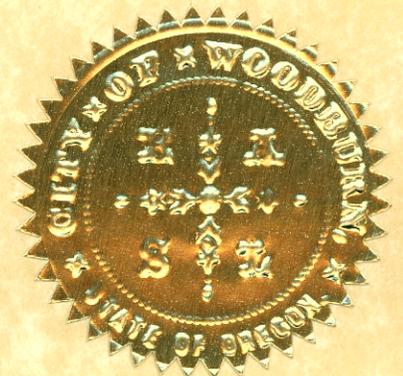
**THEREFORE**, I, Kathryn Figley, Mayor of the City of Woodburn, proclaim April 27, 2013, the official

### El Día del Niño/El Día del Libro

And encourage the people of Woodburn to join in this observance.

**IN WITNESS WHEREOF**, I hereunto set my hand and caused the seal of the City of Woodburn to be affixed this 22<sup>nd</sup> day of April 2013.

Kathryn Figley  
City of Woodburn



**COUNCIL MEETING MINUTES  
APRIL 8, 2013**

0:00 **DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, APRIL 8, 2013**

**CONVENED** The meeting convened at 7:00 p.m. with Mayor Figley presiding.

**ROLL CALL**

Mayor Figley	Present
Councilor Cox	Present
Councilor Lonergan	Absent
Councilor McCallum	Present
Councilor Morris	Present
Councilor Raustein	Present
Councilor Ellsworth	Present

**Staff Present:** City Administrator Derickson, City Attorney Shields, Finance Director Shearer, Economic and Development Director Hendryx, Community Services Director Row, Public Works Director Brown, Captain Alexander, Community Relations Officer Stowers, Communications Coordinator Horton, City Recorder Pierson.

0:00 **COMMUNITY/GOVERNMENT ORGANIZATIONS**

Chamber of Commerce – Ruby Wolfer, Woodburn Area Tourism Coordinator, updated the City Council on upcoming events and also provided a hand out showing what the new lottery machines at the Visitors Information Center at the Woodburn Company Stores will look like.

0:08 **PROCLAMATION**

National Service Recognition Day

0:11 **CONSENT AGENDA**

A. Woodburn City Council minutes of March 25, 2013,  
B. Woodburn Planning Commission minutes of March 14, 2013.  
**McCallum/Raustein...** adopt the Consent Agenda. Motion passed unanimously.

0:12 **COUNCIL BILL NO. 2922 - AN ORDINANCE REPEALING ORDINANCE 1582 (PRESCRIBING PROCEDURES FOR EVIDENTIARY HEARINGS) AS PART OF THE ORDINANCE REVIEW/REVISION PROJECT INITIATED BY THE CITY COUNCIL AND DECLARING AN EMERGENCY** McCallum introduced Council Bill

2922. Recorder Pierson read the two readings of the bill by title only since there were no objections from the Council. Councilor Cox asked that the emergency clause not be used on ordinances unless it is an emergency and needs to take effect right away. Councilor McCallum stated that it doesn't hurt anything in this case and it gets these off the books. City Attorney Shields answered that if the Council collectively no longer wants an emergency clause on the ordinances being repealed or revised as part of the review/revision project they will no longer put any in. City Attorney Shields went on to explain what an emergency clause is and told the Council he will forward them a copy of a memo explaining

**COUNCIL MEETING MINUTES  
APRIL 8, 2013**

the emergency clause process. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2922 duly passed.

0:20 **COUNCIL BILL NO. 2923 - AN ORDINANCE REPEALING ORDINANCE 1816 (CREATING A CABLE TELEVISION ADVISORY BOARD) AS PART OF THE ORDINANCE REVIEW/REVISION PROJECT INITIATED BY THE CITY COUNCIL AND DECLARING AN EMERGENCY** McCallum introduced Council Bill 2923. Recorder Pierson read the two readings of the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2923 duly passed.

0:21 **COUNCIL BILL NO. 2924 - AN ORDINANCE REPEALING ORDINANCE 2254 (CREATING A MUSEUM COMMITTEE) AS PART OF THE ORDINANCE REVIEW/REVISION PROJECT INITIATED BY THE CITY COUNCIL AND DECLARING AN EMERGENCY** McCallum introduced Council Bill 2924. Recorder Pierson read the two readings of the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2924 duly passed.

0:23 **COUNCIL BILL NO. 2925 – A RESOLUTION OPPOSING THE TRANSPORTATION OF COAL FOR EXPORT THROUGH THE CITY OF WOODBURN** McCallum introduced Council Bill 2925. Recorder Pierson read the bill by title only since there were no objections from the Council. Councilor McCallum stated that this is something we don't normally get involved with but after reviewing the research, discovered that this could have a very profound effect on our downtown area as well as other parts of Woodburn. Mayor Figley added that they plan on forwarding a copy of this resolution if enacted to the congressional delegation. Councilor Cox stated that at first he was against the idea of this because we have no legal authority to stop it but has changed his mind and thinks it's good to go on record that we don't like it. Councilor Morris stated that he does not support this and that this is a classic example of government imposing on commercial business. On roll call vote for final passage, the bill passed 4-1 with Councilor Morris voting nay. Mayor Figley declared Council Bill No. 2925 duly passed.

0:27 **WOODBURN DOWNTOWN ASSOCIATION AGREEMENT Cox/McCallum....** authorize the City Administrator to enter into the attached agreement with the Woodburn Downtown Association. Nikki DeBuse, President of the Woodburn Downtown Association, 1086 Wilson Street, provided a recap of their 2012 season and a preview of the 2013 proposed season. Motion passed unanimously.

0:33 **CITY ADMINISTRATOR'S REPORT**  
The City Administrator had nothing to report.

0:34 **MAYOR AND COUNCIL REPORTS**  
Councilor Ellsworth stated that she completed the Woodburn Police Citizens academy and encourages people to attend it.

**COUNCIL MEETING MINUTES  
APRIL 8, 2013**

Councilor McCallum asked Jason Horton, Woodburn Communications Coordinator to speak about the upcoming drug safe event. Communications Coordinator Horton informed the Council that the Drug Safe Community Summit will take place at Woodburn Health Center on April 25, from 6-8pm.

Communications Coordinator Horton also informed Councilors that on April 22<sup>nd</sup> he will be taking pictures of each Councilor for a display in City Hall.

Mayor Figley announced that the presentation on the interchange project by Alan Fox of ODOT will be delayed until after the opening of bids on May 23<sup>rd</sup>.

0:42

**ADJOURNMENT**

**McCallum/Cox**.... meeting be adjourned. The motion passed unanimously. The meeting adjourned at 7:42pm.

APPROVED \_\_\_\_\_  
KATHRYN FIGLEY, MAYOR

ATTEST \_\_\_\_\_  
Heather Pierson, City Recorder  
City of Woodburn, Oregon



# Agenda Item

April 22, 2013

TO: Honorable Mayor and City Council through City Administrator

THRU: Scott Russell, Chief of Police

FROM: Jason R. Alexander, Captain

SUBJECT: **Liquor License Change of Ownership-OFF-Premise Sales-Change of Name**

**RECOMMENDATION:**

The Woodburn City Council recommends that the OLCC approve a **Change of Ownership-OFF-Premise Sales-Change of Name** application for the Sunrise Food Mart & Deli.

**BACKGROUND:**

Applicant(s): Amarjit Singh  
 14110 S.E. Rolling Meadow Ct.  
 Happy Valley, Oregon 97086  
 503.265.9673

Bhajan Singh  
 10662 SE Happy Valley Drive SE  
 Happy Valley, Oregon 978086  
 503.750.0235

Business: Sunrise Food Mart and Deli  
 695 N. Settlemier  
 Woodburn, Oregon 97071  
 503.981.6378

Owner: Same as Above

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Agenda Item Review: City Administrator  City Attorney  Finance

License Type: **Change of Ownership-OFF-Premise Sales-Change of Name**  
Sales, which permits beer, wine, cider sales for off-premise consumption only.

On March 21, 2013 the Woodburn Police Department received an application, requesting approval for a **Change of Ownership-OFF-Premise Sales-Change of Name**, for Sunrise Food Mart and Deli, located at 695 North Settlemier Ave. Woodburn, Oregon. This business was formally known as Gary's Market and has been closed for several months. The building has been remodeled and will continue to be a convenience store. The above mentioned applicants are applying for a **Change of Ownership-OFF-Premise Sales-Change of Name** off-premise sales license through the Oregon Liquor Control Commission.

The business will be open daily, Sundays 6:00am to 1:00am Monday thru Thursday, from 5:00 am to 1:00am and on Friday and Saturday from 5:00 am until 2:30 am. This will be a convenient store and will provide general groceries and hot deli food. There not be live or DJ music. There will not be recorded music or Lottery. The Police Department has received no communication from the public or surrounding businesses in support of or against the new outlet

**DISCUSSION:**

The Police Department has completed a background investigation, in connection with the OLCC, on the applicants and found nothing of a questionable nature, which would preclude the issuance of this license.

**FINANCIAL IMPACT:**

None.



# Agenda Item

April 22, 2013

TO: Honorable Mayor and City Council through City Administrator

THRU: Scott Russell, Chief of Police

FROM: Jason R. Alexander, Captain

SUBJECT: **Full On-Premise Sales**

**RECOMMENDATION:**

The Woodburn City Council recommends that the OLCC approve the **Full On-Premise Sales** for Legaria’s Bar and Grill.

**BACKGROUND:**

Applicants: Juan Legaria-Olivera  
 1370 E. Cleveland St.  
 Woodburn, Oregon 97071  
 503.984.8596

Business: Legaria’s Bar and Grill  
 990 North Pacific Hwy Suite B  
 Woodburn, OR 97071  
 503.902.0175

Owners: Same as Applicant (Above)

License Type: **Full On-Premise Sales** - Permits beer, wine, cider, and hard alcohol sales for on-premise consumption only.

On March 22, 2013, the Woodburn Police Department received an application, requesting approval for Legaria’s Bar and Grill located at 990 North Pacific Hwy.,

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Agenda Item Review: City Administrator  City Attorney  Finance

Suite B, Woodburn, Oregon. This location is located in the North Pacific Plaza and has been vacant for years.

The business will be open Sunday thru Thursday 11:00am to 11:00pm and Friday and Saturday 11:00am to 2:30am. There will be hot food serviced while the business is open and alcohol will be served during this time too. There will be live music, DJ music, recorded music, video lottery games, and dancing. The Police Department has received no communication from the public or surrounding businesses in support of or against the new outlet.

**DISCUSSION:**

The Police Department has completed a background investigation, in connection with the OLCC, on the applicant and found nothing of a questionable nature, which would preclude the issuance of this license. The Woodburn Police Department has met with the owner, Mr. Legaria-Olivera, where Mr. Legaria-Olivera agreed to and signed a Compliance Action Plan (see attached).

**FINANCIAL IMPACT:**

None



# WOODBURN POLICE DEPARTMENT

1060 Mt. Hood Ave., Woodburn, Oregon 97071

Phone: (503) 982-2345 FAX: (503) 982-2371

Scott D. Russell • Chief of Police  
Doug Garrett • Patrol Division Captain  
Jason Alexander • Support Division Captain

Mr. Legaria-Olivera,

You are seeking approval from the City of Woodburn for a liquor license for your new business, Legaria's Bar and Grill. The City of Woodburn encourages and supports local business growth within the city. In order to aide you and your business, I am requesting that you enter into an agreement of compliance for your new establishment.

Over the years the Woodburn Police Department has had several alcohol serving establishments fail for one reason or another. Criminal activity that is inherent to establishments, who serve alcohol, are a main contributor for failing businesses. In years past, other licensed establishments located in the same complex you have requested to operate in, have had significant and repeated non-criminal and criminal issues. The Woodburn Police Department encourages a close relationship between the establishment and the Woodburn Police Department.

Therefore, the Woodburn Police Department would like to propose the following Compliance Action Plan for Legaria's Bar and Grill:

1. Legaria's Bar and Grill will hold quarterly meetings with all employees to review: Applicable laws, this action plan, and the names of patrons suspect to be involved with drugs or any other unlawful activity.
2. Legaria's Bar and Grill will post three signs inside the premises, indicating that no drug dealing or usage is permitted, and that the business invites and encourages police on the premises. One of these signs will be visible on the wall when entering and exiting the building; the other two will be posted on each restroom door. These signs will be in both English and Spanish.
3. Legaria's Bar and Grill will maintain a daily log, kept on the premises. Any illegal or disturbing behavior will be logged. Also logged will be attempted violation of OLCC rules such as: Minors attempting entrance into the lounge/dance area or any other area where minors or not permitted, visibly intoxicated persons attempting entrance into the lounge/dance are. The log book will contain:
  - a. Date, time and type of incident
  - b. Name and/or photo of person(s) involved
  - c. Make, Model, year, color and license number of vehicles associated with persons engaged in problem behavior
  - d. Action taken by Legaria's Bar and Grill employees during or after the incident.

4. Any patrons observed to be engaged in the following activity shall be permanently barred by Legaria's Bar and Grill:
  - a. Illegal Drug Activity
  - b. Serious Fights or Disturbances
  - c. Carrying Weapons Illegally
5. Any patrons observed to be engaged in minor arguments or disturbances shall be barred by Legaria's Bar and Grill for a period of at least six months.
6. Legaria's Bar and Grill will constantly monitor restrooms for illegal activity and excessive or suspicious use.
7. Legaria's Bar and Grill patrons allowed entrance for any use of the establishment must have valid identification such as:
  - a. Oregon ID issued by DMV
  - b. Valid US drivers license
  - c. Other legitimate ID (Passport, etc)
8. To reduce the possibility of criminal activity outside the restaurant any patron who leaves the building during hours of operation will not be allowed entrance back in by Legaria's Bar and Grill. Signs will be posted at the door in both English and Spanish to inform patrons of this policy.
9. Legaria's Bar and Grill will not serve any patron who exhibits signs of visible intoxication for the remainder of the day. If another patron is observed passing alcoholic beverages to the visibly intoxicated person (VIP), that patron will not be served for the remainder of the day either.
10. Legaria's Bar and Grill will have appropriate number of security personnel ( as determined by the industry standard for ratio of patrons to security) to monitor the dance area, remaining areas located inside of the establishment and areas located outside of the business.
11. Legaria's Bar and Grill will insure that all security guards shall be properly trained in accordance with the Oregon Department of Public Safety Standards and Training rules and state laws.

Agreed upon and signed by:

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Juan Legaria-Olivera  
Responsible person:  
Legaria's Bar and Grill  
990 North Pacific Hwy Suite B  
Woodburn, Oregon 97071  
503.902.0175

# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES JANUARY THRU DECEMBER 2013

CHARGE DESCRIPTION	Total	Jan	Feb	Mar
AGGRAVATED ASSAULT	6	1	3	2
ANIMAL ORDINANCES	4	0	1	3
ASSAULT SIMPLE	29	11	11	7
ATTEMPTED MURDER	3	0	3	0
BOMB THREAT	3	3	0	0
BURGLARY - BUSINESS	1	0	1	0
BURGLARY - RESIDENCE	3	1	2	0
CHILD NEGLECT	6	1	3	2
CRIME DAMAGE-NO VANDALISM OR ARSON	3	1	0	2
CURFEW	2	2	0	0
CUSTODY - MENTAL	11	5	1	5
DISORDERLY CONDUCT	17	8	5	4
DRIVING UNDER INFLUENCE	44	9	12	23
DRUG LAW VIOLATIONS	49	28	9	12
DRUG PARAPHERNALIA	1	0	1	0
DWS/REVOKED-MISDEMEANOR	11	3	2	6
ELUDE	2	0	1	1
ESCAPE FROM YOUR CUSTODY	1	0	0	1
FAIL TO DISPLAY OPERATORS LICENSE	8	5	2	1
FORGERY/COUNTERFEITING	2	1	1	0
FRAUD - BY DECEPTION/FALSE PRETENSES	1	0	1	0
FRAUD - IMPERSONATION	1	0	1	0
FRAUD-OTHER	2	2	0	0
FUGITIVE ARREST FOR ANOTHER AGENCY	47	22	11	14
GARBAGE LITTERING	1	0	0	1
HIT AND RUN-MISDEMEANOR	4	3	0	1
IDENTITY THEFT	1	0	0	1
INTIMIDATION /OTHER CRIMINAL THREAT	5	3	1	1
MINOR IN POSSESSION	9	2	7	0
OTHER	19	10	7	2
PROPERTY RECOVER FOR OTHER AGENCY	3	0	3	0
PROSTITUTION - ENGAGE IN	2	2	0	0
RECKLESS DRIVING	4	3	1	0
RESTRAINING ORDER VIOLATION	2	1	1	0
ROBBERY - BUSINESS	3	1	0	2
ROBBERY - OTHER	2	0	1	1
RUNAWAY	1	1	0	0
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	1	0	0	1
SEX CRIME - MOLEST (PHYSICAL)	2	0	0	2
SEX CRIME - NON FORCE SODOMY	1	1	0	0
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	7	2	3	2
THEFT - BUILDING	4	2	1	1
THEFT - OTHER	8	4	3	1
THEFT - PURSE SNATCH	2	2	0	0
THEFT - SHOPLIFT	52	22	19	11
TRAFFIC VIOLATIONS	31	3	19	9
TRESPASS	18	5	8	5
VANDALISM	6	4	1	1
WARRANT ARREST FOR OUR AGENCY	35	12	15	8
WEAPON - EX FELON IN POSSESSION	2	1	0	1
WEAPON - POSSESS ILLEGAL	6	1	4	1
		Jan	Feb	Mar
<b>2013 Total</b>	<b>488</b>	<b>188</b>	<b>165</b>	<b>135</b>

# Woodburn Police Department

## MONTHLY CRIMINAL OFFENSES JANUARY THRU DECEMBER 2013

CHARGE DESCRIPTION	Total	Jan	Feb	Mar
AGGRAVATED ASSAULT	10	4	2	4
ANIMAL ORDINANCES	4	0	1	3
ARSON	1	1	0	0
ASSAULT SIMPLE	34	15	11	8
ATTEMPTED MURDER	4	1	2	1
BOMB THREAT	1	1	0	0
BURGLARY - BUSINESS	5	4	1	0
BURGLARY - OTHER STRUCTURE	4	3	1	0
BURGLARY - RESIDENCE	16	3	8	5
CHILD NEGLECT	4	1	1	2
CRIME DAMAGE-NO VANDALISM OR ARSON	40	18	7	15
CURFEW	1	1	0	0
CUSTODY - MENTAL	11	5	1	5
DISORDERLY CONDUCT	12	4	4	4
DRIVING UNDER INFLUENCE	43	9	11	23
DRUG LAW VIOLATIONS	26	9	8	9
DRUG PARAPHERNALIA	1	0	1	0
DWS/REVOKED-MISDEMEANOR	11	3	2	6
ELUDE	6	1	4	1
ESCAPE FROM YOUR CUSTODY	1	0	0	1
EXTORTION/BLACKMAIL	1	0	0	1
FAIL TO DISPLAY OPERATORS LICENSE	7	4	2	1
FORCIBLE RAPE	1	0	0	1
FORGERY/COUNTERFEITING	15	6	5	4
FRAUD - ACCOUNT CLOSED CHECK	2	1	0	1
FRAUD - BY DECEPTION/FALSE PRETENSES	6	2	2	2
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	3	1	0	2
FRAUD - IMPERSONATION	2	0	1	1
FRAUD - NOT SUFFICIENT FUNDS CHECK	1	0	1	0
FRAUD - OF SERVICES/FALSE PRETENSES	1	0	1	0
FRAUD-OTHER	4	1	1	2
FUGITIVE ARREST FOR ANOTHER AGENCY	44	19	11	14
GARBAGE LITTERING	1	0	0	1
HIT AND RUN FELONY	2	2	0	0
HIT AND RUN-MISDEMEANOR	28	14	8	6
IDENTITY THEFT	11	2	4	5
INTIMIDATION /OTHER CRIMINAL THREAT	10	4	2	4
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	2	1	0	1
MINOR IN POSSESSION	5	2	3	0
MISCELLANEOUS	11	3	5	3
MOTOR VEHICLE THEFT	14	6	3	5
OTHER	29	19	8	2
PROPERTY - FOUND LOST MISLAID	11	5	1	5
PROPERTY RECOVER FOR OTHER AGENCY	6	1	4	1
PROSTITUTION - ENGAGE IN	1	1	0	0
RECKLESS DRIVING	4	3	1	0
RESTRAINING ORDER VIOLATION	3	2	1	0
ROBBERY - BUSINESS	5	2	0	3
ROBBERY - CAR JACKING	1	0	0	1
ROBBERY - OTHER	6	2	1	3
RUNAWAY	3	3	0	0
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	3	2	0	1
SEX CRIME - MOLEST (PHYSICAL)	8	5	0	3
SEX CRIME - NON FORCE SODOMY	1	1	0	0
SEX CRIME - PORNOGRAPHY/OBSCENE MATERIAL	2	1	0	1
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	10	4	5	1
THEFT - BICYCLE	7	1	3	3

# Woodburn Police Department

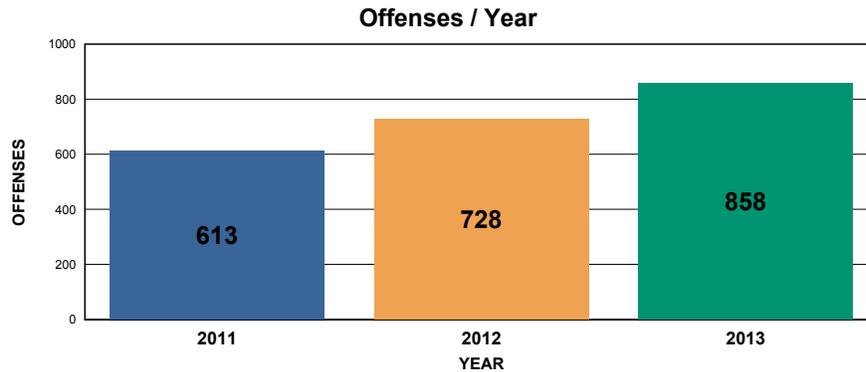
## MONTHLY CRIMINAL OFFENSES JANUARY THRU DECEMBER 2013

	Total	Jan	Feb	Mar
THEFT - BUILDING	14	4	5	5
THEFT - FROM MOTOR VEHICLE	38	20	7	11
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	4	3	1	0
THEFT - OTHER	47	13	18	16
THEFT - PICKPOCKET	3	0	2	1
THEFT - PURSE SNATCH	4	0	2	2
THEFT - SHOPLIFT	60	24	20	16
TRAFFIC VIOLATIONS	48	13	23	12
TRESPASS	18	5	7	6
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	12	5	2	5
VANDALISM	56	21	22	13
VEHICLE RECOVERD FOR OTHER AGENCY	5	1	3	1
WARRANT ARREST FOR OUR AGENCY	35	13	14	8
WEAPON - POSSESS ILLEGAL	7	2	2	3
WILLFUL MURDER	1	0	0	1

	Total	Jan	Feb	Mar
<b>2013 Total</b>	<b>858</b>	<b>327</b>	<b>266</b>	<b>265</b>

<b>2012 Total</b>	<b>728</b>	<b>246</b>	<b>249</b>	<b>233</b>
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<b>2011 Total</b>	<b>613</b>	<b>202</b>	<b>184</b>	<b>227</b>
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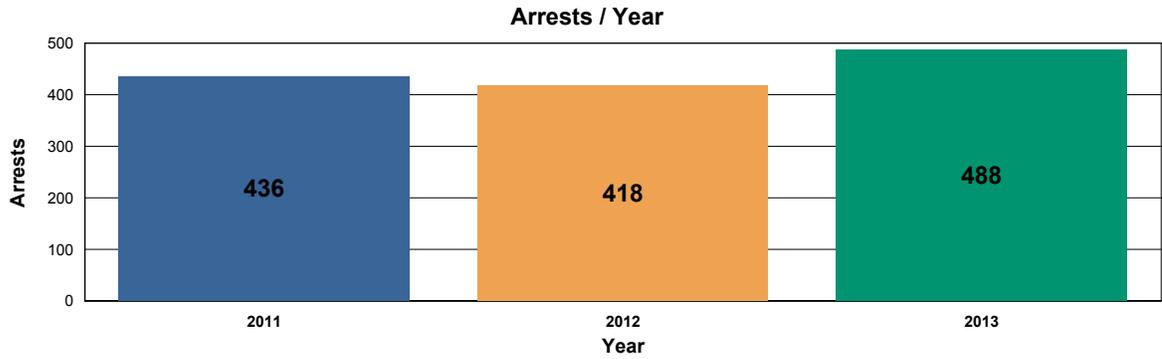


# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES JANUARY THRU DECEMBER 2013

2012 Total	418	165	158	95
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2011 Total	436	156	95	185
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April 22, 2013

TO: Honorable Mayor and Council through City Administrator

FROM: Christina Shearer, Finance Director

SUBJECT: **2012-2013 SUPPLEMENTAL BUDGET REQUEST**

**RECOMMENDATION:**

Adopt the attached resolution approving a supplemental budget for fiscal year 2012-2013 for the funds and departments listed on Exhibit A.

**BACKGROUND:**

Legion Park Adjustments – Final grant funding and project cost totals have been received, necessitating adjustments to revenue and project expenditure accounts.

Transit Equipment & PT Salaries Adjustments – Grant awards were received to purchase dispatch tablets and a security camera system. Increases in Part-Time wages and benefits due to unanticipated costs associated with expanded fixed route service and Salem mid-day service.

Search & Seizure Fund Correction – In Fiscal Year 2009-2010, expenditures in the Search & Seizure fund exceeded the available cash balance of the fund. This was because anticipated revenues were not received and the expenditures were not curtailed to meet the funds available. In the absence of grant funds or seizure funds received, the General Fund would fund the expenditures of the Search & Seizure Fund. Therefore, a General Fund transfer is proposed to bring the fund balance to zero. Future expenditures will be limited to a funds available basis only.

Aquatics Center Adjustments – Additional supervisory staffing have been added to improve the financial controls and procedures at the Aquatic Center that were not anticipated in the FY2012-2013 budget.

Health Savings Account Funding Adjustments – When the budget was prepared and adopted for FY2012-2013, the City had not yet transitioned to the new High Deductible Health care plan. In addition, it was not known how many employees would take advantage of the plan by department. Most departmental budgets were able to absorb the cost of the Health Savings

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Agenda Item Review: City Administrator  City Attorney  Finance

Account (HSA) funding utilizing existing budget limitation, but a few were not. Those departments, Administration, Finance, HR, and Aquatics require additional limitation to make the transition year payments to employee HSA accounts.

**FINANCIAL IMPACT:**

Legion Park – Total project expenditure adjustment is \$11,650. This is funded via a \$5,000 transfer from the Parks SDC Fund, \$4,400 in increased State Grant revenue, and a \$2,225 donation from the Woodburn Kiwanis Club.

Transit Adjustments – Total expenditures in the Transit fund will increase by \$80,000, \$58,000 in personal services for Part-Time wages and benefits and \$22,000 in capital outlay. This is funded by increased grant revenue totaling \$45,000, increased fare revenue of \$5,000, and \$30,000 from fund contingency. The remaining contingency balance of \$76,495 remains above the Council's policy of 10% of operating expenses.

Search & Seizure Fund – The fund deficit will be corrected with a \$7,100 transfer from the General Fund. This transfer will be offset by a reduction in the retirement expenditure limitation of the Police Department (see discussion below).

Aquatics Center – Aquatics expenditure adjustments (excluding HSA adjustments) total \$60,000. This increase is funded by \$20,000 in increased program revenue (\$15,000 admissions and \$5,000 sales) and by redirecting \$40,000 in unnecessary retirement expenditure limitation in the Police Department (see discussion below).

Health Savings Account Funding Adjustments – General Fund departmental budgets will be increased as follows for employee HSA account funding:

Administration	\$ 6,500
City Attorney	\$ 2,200
Finance	\$ 2,600
Human Resources	\$ 1,400
Aquatics	<u>\$ 2,300</u>
Total	\$15,000

The \$22,100 necessary for this adjustment will be offset by a decrease in the Police Department retirement line item budget (see discussion below).

Police Retirement Budget - An error in the rate assumption for PERS was made in the initial budget for 2012-13 and the total Police budget for retirement will not

Honorable Mayor and City Council

April 22, 2013

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be required. The reduction will result in no operational or staffing changes to the Police department. The reallocation of these funds to other General Fund budgets means that there will be no reduction to the General Fund contingency.

**COUNCIL BILL NO. 2926**

**RESOLUTION NO. 2029**

**A RESOLUTION APPROVING TRANSFERS OF FY 2012-2013 APPROPRIATIONS AND APPROVING A SUPPLEMENTAL BUDGET**

**WHEREAS**, ORS 294.463(1) permits "transfers of appropriations" within any fund "when authorized by official resolution or ordinance of the governing body"; and

**WHEREAS**, ORS 294.463(2) limits "transfers of general operating contingency appropriations to no more than ten (10) percent of the total appropriations of the fund" unless adopted pursuant to a supplemental budget; and

**WHEREAS**, transfers made pursuant to any of the above must state the need for the transfer, the purpose for the authorized expenditure, and the amount of the appropriation transferred; and

**WHEREAS**, ORS 294.471(1)(a) permits supplemental budgets when "an occurrence of condition which had not been ascertained at the time of the preparation of a budget for the current year or current budget period which requires a change in financial planning"; and

**WHEREAS**, ORS 294.473 requires the governing body to hold a public hearing on the supplemental budget when the estimated expenditures contained in the supplemental budget for fiscal year or budget period differ by then (10) percent or more of any one of the individual funds contained in the regular budget for that fiscal year; and

**WHEREAS**, the transfers contained herein are made pursuant to ORS 294.463; and

**WHEREAS**, the supplemental budget contained herein is made pursuant to ORS 294.471; and

**WHEREAS**, a public hearing was held April 22, 2013 on the supplemental budget changes pursuant to ORS 294.480(4); **NOW, THEREFORE**,

**THE CITY OF WOODBURN RESOLVES AS FOLLOWS:**

**Section 1.** That pursuant to the applicable ORS provisions cited above,

the City Council hereby approves the transfers of appropriations and supplemental budget for FY 2012-2013 in the amounts listed in Exhibit "A."

Approved as to Form: \_\_\_\_\_  
City Attorney Date

APPROVED: \_\_\_\_\_  
Kathryn Figley, Mayor

Passed by the Council \_\_\_\_\_  
Submitted to the Mayor \_\_\_\_\_  
Approved by the Mayor \_\_\_\_\_  
Filed in the Office of the Recorder \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Heather Pierson, City Recorder  
City of Woodburn, Oregon

City of Woodburn  
2012-2013 Supplemental Budget  
Exhibit A  
April, 2013

Fund	Original	Supplemental	Revised
<b>Parks SDC</b>			
<b>Expenditure Adjustments</b>			
Transfers to General CIP	20,000	5,000	25,000
Contingency	133,647	(5,000)	128,647
<b>Expenditures Adjustments Total</b>	<u>153,647</u>	<u>-</u>	<u>153,647</u>
<b>General Capital Construction Fund</b>			
<b>Revenue Adjustments</b>			
State Grants	40,000	4,400	44,400
Donations - Other	-	2,250	2,250
Transfer from Parks SDC	20,000	5,000	25,000
<b>Revenue Adjustments Total</b>	<u>60,000</u>	<u>11,650</u>	<u>71,650</u>
<b>Expenditure Adjustments</b>			
Legion Park Playground	60,000	11,650	71,650
<b>Expenditures Adjustments Total</b>	<u>60,000</u>	<u>11,650</u>	<u>71,650</u>
<b>Transit Fund</b>			
<b>Revenue Adjustments</b>			
5310 Discretionary Cap	13,527	30,000	43,527
New Freedom Grant	46,762	15,000	61,762
Transit System Fares	30,000	5,000	35,000
<b>Revenue Adjustments Total</b>	<u>90,289</u>	<u>50,000</u>	<u>140,289</u>
<b>Expenditure Adjustments</b>			
Personal Services - PT Wages & Benefits	345,430	58,000	403,430
Capital Outlay	42,000	22,000	64,000
Contingency	106,495	(30,000)	76,495
<b>Expenditures Adjustments Total</b>	<u>493,925</u>	<u>50,000</u>	<u>543,925</u>
<b>General Fund</b>			
<b>Program Revenue Adjustments</b>			
Aquatics	225,000	20,000	245,000
<b>Total Program Revenue Adjustments</b>	<u>225,000</u>	<u>20,000</u>	<u>245,000</u>
<b>Program Expenditure Adjustments</b>			
Administration	164,608	6,500	171,108
City Attorney	137,798	2,200	139,998
Finance	287,550	2,600	290,150
HR	40,885	1,400	42,285
Non-Departmental	786,077	7,100	793,177
Police	6,334,170	(62,100)	6,272,070
Aquatics	449,739	62,300	512,039
<b>Total Program Expenditure Adjustments</b>	<u>8,200,827</u>	<u>20,000</u>	<u>8,220,827</u>



# Agenda Item

April 22, 2013

TO: Honorable Mayor and City Council

FROM: Scott Derickson, City Administrator  
N. Robert Shields, City Attorney

SUBJECT: Ordinance Review/Revision Project  
Repeal of Ordinance 2378 (Measure 37 Claim Processing)

**RECOMMENDATION:**

Adopt the ordinance repealing Ordinance 2378 (Measure 37 Claim Processing).

**BACKGROUND:**

This matter is brought before you by the City Attorney and City Administrator as part of the Ordinance Review/Revision Project, which was initiated by the City Council. As part of this ongoing effort, each general ordinance of the City is being legally and administratively evaluated. Based on this evaluation, a recommendation is then made to the City Council.

Ordinance 2378(Measure 37 Claim Processing) was adopted by the City Council after the Oregon voters approved Measure 37 at the November 2, 2004 general election. Measure 37 was an initiative petition that required the payment of compensation to real property owners if government land use regulations reduced the fair market value of their property. Ordinance 2378 was passed by the City Council to establish a process for the City to evaluate and decide Measure 37 claims.

**DISCUSSION:**

In 2007, the Oregon Legislature placed Measure 49 on the November 6, 2007 general election ballot. Measure 49 drastically limited the legal application of Measure 37 and was approved by the voters. After an extended period of litigation, both the state and federal courts ultimately ruled that Measure 49 legally replaced Measure 37. This means that there is no longer a need for Ordinance 2378(Measure 37 Claim Processing).

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Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_ Finance \_\_\_x\_\_\_

**FINANCIAL IMPACT:**

None.

Attachment: Ordinance 2378

**COUNCIL BILL NO. 2544**

**ORDINANCE NO. 2378**

**AN ORDINANCE REGARDING MEASURE 37 CLAIMS; ESTABLISHING A PROCESS FOR THE CITY TO EVALUATE SAID CLAIMS SO THAT THE CITY CAN DECIDE SAID CLAIMS ON A RATIONAL BASIS; AND DECLARING AN EMERGENCY.**

**WHEREAS**, on November 2, 2004, the Oregon voters passed Measure 37, amending ORS Chapter 197; and

**WHEREAS**, it is necessary that the City pass this Measure 37 claims processing ordinance as explained more fully herein; and

**WHEREAS**, it is appropriate that an emergency be declared so that this Ordinance can be in place prior to the Measure 37 effective date of December 2, 2004, **NOW, THEREFORE**,

**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Findings.** The City makes the following findings:

A. On November 2, 2004, the voters of the State of Oregon approved Measure 37. The measure amends ORS Chapter 197 to require, under certain circumstances, payment of compensation to owners of real property if government land use regulations reduce fair market property value; and

B. Measure 37 provides that to receive compensation, an owner of real property must make a "written claim for compensation" to the government entity enacting a new land use regulation or enforcing an existing a land use regulation that allegedly restricts the use of their property and has the effect of reducing its fair market value; and

C. Measure 37 authorizes the City to adopt necessary claims procedures; and

D. Measure 37 requires payment of just compensation for any reduction in fair market value of real property, or in the alternative allows cities to modify, remove or not apply the land use regulation allegedly reducing a property's fair market value; and

E. The City has a duty to safeguard public funds and not pay public funds to private parties without a legal justification and a rational basis; and

F. Measure 37 imposes a new duty on the City to review claims for compensation and make decisions on those claims. A determination to waive or modify a land use regulation, or compensate a property owner must be based on substantial factual information and analysis. Necessary information must be provided by a real property owner when making a written claim for compensation; and

G. Measure 37 states that if a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of the measure that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation; and

H. Except for certain new land use regulations, the City finds it is necessary and required that the City make a Measure 37 determination as to whether a land use regulation should be enforced prior to a claim accruing under Measure 37; and

I. The City finds that it is necessary for Measure 37 claimants to provide factual and analytical information regarding their claims so that the City can evaluate the claims and have a rational basis to decide the claims.

**Section 2. Accrual of Claims.** Except in cases where the enactment of a new land use regulation by the City is shown by Claimant to restrict the use of private real property and have the effect of reducing the fair market value of the property, no enforcement of a land use regulation under Measure 37 shall be deemed to have occurred and no claim under Measure 37 shall have accrued until the City is provided necessary information under this Ordinance to evaluate and decide the Measure 37 claim presented by Claimant on a rational basis.

**Section 3. Definitions.** As used in this Ordinance, the following words and phrases mean:

**City Administrator.** The City Administrator of the City of Woodburn, or the City Administrator's designee.

**Claim.** A claim filed under Measure 37.

**Claimant.** The owner of property making a claim under Measure 37 and this Ordinance, or their designee, so long as written authorization is provided to the City by the property owner for the designee to represent the owner in making the claim.

**Exempt Land Use Regulation.** A land use regulation that:

1. Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
2. Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, pollution control regulations, wetlands and floodplain regulations, grading and fill regulations, landslide hazard regulations, and street regulations, wireless communication facility siting regulations, tree preservation regulations, sign regulations, setback and fencing regulations and natural resource regulations to the extent they are determined necessary for public health and safety;
3. Is required in order to comply with federal law;
4. Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing;
5. Was enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first; or

**Family Member.** Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

**Land Use Regulation.** Includes:

1. Any statute regulating the use of land or any interest therein;
2. Administrative rules and goals of the Land Conservation and Development Commission;
3. Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances; and
4. Statutes and administrative rules regulating farming and forest practices as applicable to lands in the City.

A land use regulation does not include any City system development charge or any other City development fee or charge.

**Owner.** The present Owner of the property, or any interest therein.

**Section 4. Claim Filing Procedures.**

A. A person seeking to file a claim under this Ordinance must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the City Administrator's office, or another department of the City if so designated by the City Administrator.

B. A claim shall include a completed claim form, which will be provided by the City, together with the following additional information:

1. The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees or easement holders, and a description of the ownership interest of each;

2. The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued by a title company no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by Claimant, and the date the property was acquired by the present Owner. Where it is necessary for the City to evaluate the claim, all "chain of title" information shall be included;

3. The land use regulation that Claimant alleges restricts the use of the real property and allegedly causes a reduction in the fair market value of the property;

4. Claimant shall specify the remedy sought. Claimant may specify alternative remedies. If Claimant is seeking "just compensation," the amount of the claim, based on the alleged reduction in value of the real property shall be supported by an appraisal by an appraiser licensed by the State of Oregon establishing the reduction in the fair market value of the property as of the date of the claim;

5. Copies of any leases or Covenants, Conditions and Restrictions (CCR's) applicable to the property, if any, that impose restrictions on the use of the property, or which would affect its valuation;

6. Identification of the particular use that is proposed for the property and proof that the requested use was allowed as proposed at the time the owner or family member acquired the property;

7. Where the claim is based on family descent, proof that the former owner(s) was a family member of the present owner.

8. A list of names of property owners, certified by either a title company or the Marion County Assessor, or all current owners of record of all properties that lie within 500 feet of the perimeter boundary of the real property subject to the claim;

9. Signatures of all owners or those claiming ownership in the property over which the claim is being made; and

10. A deposit for costs in the amount of \$500, and which will be administered, billed and collected as provided for in this Ordinance.

**Section 5. Voluntary Claim Conference.** Before submitting a claim, or at any time after a claim is submitted, Claimant may request a claim conference with the City Administrator or designee. The City Administrator or designee is not authorized to settle any claim at a Claim Conference, but may use the conference to fully discuss the claim with Claimant and may include information on this discussion in the City Administrator's report to the City Council.

**Section 6. Burden of Proof.** Claimant has the burden of presenting sufficient evidence under this Ordinance so that the City can rationally apply Measure 37 to the claim.

**Section 7. Claim Review Process.**

A. The City Administrator shall assess any claim and make a recommendation to the City Council on the disposition of the claim.

B. The City Administrator shall mail notice of the claim to Claimant and to all owners of record of the property, and to all owners of property within five hundred (500) feet of the property that is subject of the notice, as listed on the most recent property tax assessment roll where such property is located.

C. The City Administrator's notice shall:

1. State the basis of the claim, the amount of the compensation sought and the regulation that causes the compensation to be alleged to be due.

2. Identify the property by the street address or other easily understood geographical reference;

3. State that persons notified may provide written comments on the claim, and provide the date written comments are due or, if a hearing has been scheduled, the date, time and location of the hearing;

4. Identify the City representative and telephone number to contact to obtain additional information; and

5. State that a copy of the claim and the supporting documents is available for inspection at no cost, and that copies will be provided at reasonable cost.

D. The City Administrator shall schedule a public hearing, in the City Administrator's discretion, after having an opportunity to review the Claim.

E. If a hearing is conducted:

1. Claimant and all interested parties may present and submit documents and evidence.

2. Any staff report used at the hearing shall be available prior to the hearing.

3. The City, at its discretion, may reopen a record to admit new evidence or testimony.

4. The failure of a person entitled to notice to receive notice as provided in this section shall not invalidate such proceedings. The notice provisions of this section shall not restrict the giving of notice by other means.

F. The City Administrator shall make a recommendation on the claim to the City Council applying the standards of Measure 37 and based on all of the information received pursuant to this Ordinance.

G. The City Administrator may, in the City Administrator's discretion, retain the services of an appraiser to appraise the property and evaluate the claim to assist in determining the validity of the Claim.

H. In deciding a Claim, the City Council will consider the standards of Measure 37 and the information presented by Claimant pursuant to this Ordinance; the benefit(s) accruing to the public arising as a result of application

of the regulation; and the burden to the public in paying compensation to Claimant, taking into consideration the available financial resources of the City. The City Council may take, but is not limited to taking, any one or more of the following actions on a claim, as appropriate:

1. Deny the claim based on, but not limited to, any one or more of the following findings:

(a) The land use regulation does not restrict the use of the private real property;

(b) The fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;

(c) The claim was not timely filed;

(d) Claimant failed to provide the necessary information under this Ordinance;

(e) Claimant is not the property owner, or the property was not owned by a family member if that is required for compensation, or was not the property Owner at the time the land use regulation was enacted, enforced or applied;

(f) The land use regulation is an exempt land use regulation;

(g) The land use regulation in question is not an enactment of the City;

(h) The City has not taken action to enact, enforce or apply the land use regulation to the property;

(i) The owner is not entitled to compensation under Measure 37, for a reason other than those provided herein.

2. Award compensation, either in the amount requested, or in some other amount supported by the evidence in the record. Payment of any compensation is subject to the availability and appropriation of funds for that purpose.

3. Modify the regulation.

4. Remove the regulation.

5. Not apply the regulation.

6. Acquire the affected property through negotiation or eminent domain.

7. Take such other actions as the City Council deems appropriate consistent with Measure 37.

I. If the City Council removes or modifies the challenged land use regulation, it may, at its discretion, put back into effect with respect to the subject property, all of the land use regulations in effect at the time Claimant acquired the property.

J. The City Council shall have the right to condition any grant of waiver or modification of land use regulations for any purpose which protects the health, safety and welfare of the public. Any condition so imposed must be clear and concise and related directly to the claim and the use being proposed therein. Failure to comply with any condition of approval is grounds for revocation of the approval of the claim, grounds for recovering any compensation paid and grounds for revocation of any other action taken under Measure 37 and this Ordinance. All conditions, time limits or other restrictions imposed with approval of a claim will bind all subsequent owners of the property.

K. A decision by the City Council to remove or modify a land use regulation shall result in the proposed use allowed by the waiver or modification being thereafter considered a non-conforming use under Oregon Revised Statutes, Oregon Administrative Rules, and the Woodburn Development Ordinance. Upon grant of waiver or modification, Claimant shall cause notice thereof by way of a "License" form provided by the City, to be recorded in the deed records of the subject property so that all future owners thereof are put on notice of the non-conforming use status of the development on the property.

L. Any waiver or modification of land use regulation granted pursuant to this Ordinance under the authority of Measure 37 is personal and shall not be transferred to any third party.

### **Section 8. Deposit and Final Bill.**

A. Claimant shall be required to deposit with the City the sum of \$500 as costs for the processing of the claim. The City shall maintain a record of its claim processing costs, including the costs of obtaining information required herein which Claimant does not provide to the City.

B. If a claim is found to be valid by the City or a Circuit Court, then the City shall refund the amount of the deposit to Claimant.

C. If a claim is finally determined to be invalid, then the City Administrator shall send Claimant a final bill showing the total costs incurred by the City in reviewing and acting on the claim, showing credit for the deposits posted, and either refund or bill the balance as dictated by the deposit ledger.

D. If the property owner owes an amount to the City and does not pay the amount due within 30 days after the final bill is sent, then the City shall pursue collection, including filing a lien on the property. The City shall be entitled to costs of collection, including attorney fees, costs and disbursements incurred in collection.

**Section 9. Appellate Rights.** Any decision under this Ordinance is not a land use decision, and none of the formalities required of land use decisions by statute, rule or local ordinance are necessary. Appeal of any final decision of the City made hereunder shall not be to the Oregon Land Use Board of Appeals, but to Marion County Circuit Court on Writ of Review pursuant to ORS 34.010 to 34.102.

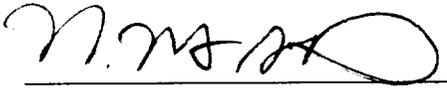
**Section 10. Record Keeping.** The City shall keep a central record of all Claims made hereunder and the disposition thereof. Specific notation shall be made on the comprehensive plan and zone maps of the existence and extent of any waiver or modification granted under this Ordinance.

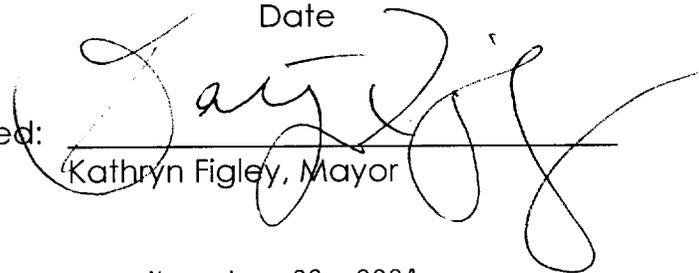
**Section 11. Private Cause of Action.** If the City's approval of a claim by removing or modifying a land use regulation causes a reduction in value of other property located in the vicinity of the property, the owner(s) of the other property shall have a cause of action in Circuit Court to recover from Claimant the amount of the reduction. This section shall not be construed to create a cause of action against the City of Woodburn.

**Section 12. Attorney Fees.** If an owner commences an action to collect compensation and the City prevails, the City is entitled to all fees and costs it incurred, as well as any sum that a court, including an appellate court, deems reasonable as attorney fees.

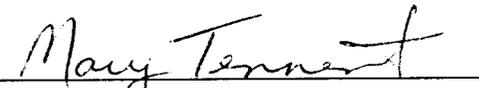
**Section 13. Severability.** If any phrase, clause, or other part or parts of this Section 1.950 is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

**Section 14. Emergency Clause.** This Ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this Ordinance shall take effect immediately upon passage by the Council and approval by the Mayor.

Approved as to form:  11-30-2004  
City Attorney Date

Approved:   
Kathryn Figley, Mayor

Passed by the Council	<u>November 29, 2004</u>
Submitted to the Mayor	<u>November 29, 2004</u>
Approved by the Mayor	<u>December 1, 2004</u>
Filed in the Office of the Recorder	<u>December 1, 2004</u>

ATTEST:   
Mary Tennant City Recorder  
City of Woodburn, Oregon

**COUNCIL BILL NO. 2927**

**ORDINANCE NO. 2505**

**AN ORDINANCE REPEALING ORDINANCE 2378 (ESTABLISHING A PROCESS FOR THE CITY TO EVALUATE MEASURE 37 CLAIMS) AS PART OF THE ORDINANCE REVIEW/REVISION PROJECT INITIATED BY THE CITY COUNCIL**

**WHEREAS**, at the November 2, 2004 general election, the Oregon voters approved Measure 37, which required the payment of compensation to real property owners if government land use regulations reduced the fair market value of their property; and

**WHEREAS**, Ordinance 2378 was adopted by the City Council to establish a process for the City to evaluate and decide Measure 37 claims; and

**WHEREAS**, in 2007, the Oregon Legislature placed Measure 49 on the November 6, 2007 general election ballot; and

**WHEREAS**, Measure 49 was approved by the voters and drastically limited the legal application of Measure 37; and

**WHEREAS**, after an extended period of litigation state and federal courts have ruled that Measure 49 replaced Measure 37; **NOW, THEREFORE,**

**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1.** The City Council finds based upon legal advice of the City Attorney that there is no longer a need for Ordinance 2378.

**Section 2.** Ordinance 2378 is repealed.

Approved as to form: \_\_\_\_\_  
City Attorney Date

Approved: \_\_\_\_\_  
Kathryn Figley, Mayor

Passed by the Council \_\_\_\_\_

Submitted to the Mayor \_\_\_\_\_

Approved by the Mayor \_\_\_\_\_

Filed in the Office of the Recorder

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ATTEST: \_\_\_\_\_  
Heather Pierson, City Recorder  
City of Woodburn, Oregon



# Agenda Item

April 22, 2013

TO: Honorable Mayor and City Council

FROM: Scott Derickson, City Administrator  
N. Robert Shields, City Attorney

SUBJECT: Ordinance Review/Revision Project  
Revision or Repeal of Ordinance 2182 (City Council Bylaws)

**RECOMMENDATION:**

Consider whether Ordinance 2182 (City Council Bylaws) should be revised or repealed.

**BACKGROUND:**

This matter is brought before you by the City Attorney and City Administrator as part of the Ordinance Review/Revision Project, which was initiated by the City Council. As part of this ongoing effort, each general ordinance of the City is being legally and administratively evaluated. Based on this evaluation, a recommendation is then made to the City Council.

Ordinance 2182 (City Council Bylaws) was adopted in 1996 and was drafted with the active involvement of the City Council itself. The late former Mayor Dick Jennings spent numerous hours considering these procedural rules. Mayor Jennings believed that it was important for the City Council to have its basic rules in one place for easy reference.

**DISCUSSION:**

It is entirely a City Council decision as to whether Ordinance 2182 (City Council Bylaws) should be revised or repealed. As part of the Ordinance Review/Revision Project, however, we are placing the issue before you for discussion. The City Council, as a governing body, has the right to control its proceedings by the adoption of rules. If the City Council believes that its rules should be modified, the ordinance can be revised or repealed. If the City Council believes that its procedural rules are adequate, there is no need for this.

If the City Council is interested in revising or repealing Ordinance 2182 (City Council Bylaws), staff is available to assist in this effort. Specifically, the City

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Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_ Finance \_\_\_x\_\_\_

Attorney and City Recorder are available to assist a subcommittee of the City Council, if one is created for this purpose.

**FINANCIAL IMPACT:**

None.

Attachment: Ordinance 2182

**COUNCIL BILL NO. 1757**

**ORDINANCE NO. 2182**

**AN ORDINANCE ADOPTING BYLAWS GOVERNING PROCEEDINGS OF THE CITY COUNCIL, REPEALING ORDINANCE NO. 1971, AND DECLARING AN EMERGENCY.**

**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Purpose.** The purpose of this ordinance is to prescribe rules to govern all meetings and proceedings of the Council, consistent with all provisions contained in the Woodburn City Charter and Oregon state law. The intent of this ordinance is to supplement the Woodburn City Charter to allow implementation of any substantive charter requirements. In this respect, provisions of the Woodburn City Charter and Oregon state law override and supersede any conflicting provisions of this ordinance. If any section or subsection of this ordinance is determined by a court to be invalid or unenforceable, then such section or subsection shall be severed from this ordinance and the remainder of this ordinance shall remain in full force and effect.

**Section 2. Ordinances and Resolutions.**

**A. Proposed Ordinances and Resolutions (Council Bills) may be introduced by any member of the Council.**

**B. An Ordinance shall receive two readings prior to final passage.**

**C. Readings of an Ordinance may be by title only unless a Councilor requests that the Ordinance be read in full.**

**D. A Resolution shall receive one reading prior to final passage and this reading shall be by title only unless a Councilor requests a full reading.**

**E. Procedure.**

**(1) A Councilor presents a proposed Ordinance or Resolution (Council Bill). (No motion is necessary since no vote is required for introduction of a bill, e.g. "Mr./Madam Mayor, I introduce Council Bill \_\_\_\_\_.")**

**(2) The Mayor asks that the Council Bill be read in full/or by title only if there is no objection from the Council.**

**(3) The Council Bill is read as requested.**

(4) If the Council Bill is a proposed Resolution, the Mayor asks if there is any discussion. After discussion and motions, if any, the Mayor shall call for a vote on the Resolution. Upon the request of any Councilor, the ayes and nays shall be taken and entered in the record.

(5) If the Council Bill is a proposed Ordinance, the Mayor asks that the Council Bill be read a second time by title only if there are no objections from a Councilor.

(6) The Council Bill (proposed Ordinance) is read as requested.

(7) The Mayor then asks if there is any discussion on the Council Bill (proposed Ordinance). After discussion and motions, if any, the Mayor shall call for a vote and the ayes and nays shall be taken and entered in the record.

F. A Resolution shall be declared passed by affirmative vote of a majority of the Councilors present at the meeting.

G. An Ordinance may be enacted in a single meeting by unanimous consent of the Councilors present. If not approved by unanimous consent of the Councilors present, the Ordinance shall be read and voted upon on a different day at another meeting, and enacted if a majority of the Councilors present at that meeting vote affirmatively.

H. All Resolutions and Ordinances passed or enacted by the Council are subject to veto of the Mayor as provided in Chapter V, Section 20, of the Woodburn City Charter.

I. Except in extreme emergencies, copies of Council Bills shall be provided the Mayor and members of the Council at least 48 hours prior to any session at which they could be introduced.

### **Section 3. Meetings.**

A. A majority of the incumbent members of the Council constitutes a quorum.

B. The Council shall hold a regular meeting at least once each month in the city at a time and place it designates.

C. The Council may hold a special meeting at the call of the Mayor or at the request of three Councilors in accordance with Chapter IV, Section 13 of the Woodburn City Charter.

**Section 4. City Officers.**

**A. Mayor**

(1) The Mayor shall preside over all Council meetings at which he/she is present in accordance with the Woodburn City Charter.

(2) Consistent with the Woodburn City Charter all appointments by the mayor are subject to Council confirmation.

(3) The Mayor shall make a good faith effort to confer with the Council about who he/she will appoint to a committee so that any comments, objections, etc. Of individual councilors may be considered by the Mayor prior to the appointment. Both the Mayor and Council shall make every possible effort to avoid embarrassment to appointees.

(4) In the event that the Council does not confirm any appointment made by the Mayor and submitted to the Council for consideration, the Mayor shall within 10 days make a new appointment and submit it to the Council.

B. The Council President shall be elected by the Council and shall serve in accordance with the Woodburn City Charter.

**Section 5. Agenda.**

A. Matters to be considered by the Council shall be placed on an agenda to be prepared by the Mayor and the City Administrator. Any Councilor desiring to have a matter considered by the Council shall advise the Mayor or City Administrator to place it on the agenda.

B. In addition to the written agenda, any Councilor may bring items to the attention of the Council during a meeting, in accordance with the provisions of this ordinance, the Woodburn City Charter and state law.

C. At the discretion of the presiding officer and in accordance with state law, any visitor may speak on any matter of city business. The presiding officer may establish time limits on such comments by visitors to insure that all persons desiring to be heard shall have the opportunity to speak.

**Section 6. Public Hearings.**

A. Consistent with the provisions of state law, the following procedure shall be used at all public hearings:

- (1) Public hearing opened
- (2) Declarations:
  - (a) The presiding officer will ask if any member of the Council has a conflict of interest in the matter.
  - (b) The presiding officer will ask if any member of the Council has had any EX-PARTE contact he wishes to disclose.
  - (c) The presiding officer will ask if anyone from the audience wishes to challenge any member of the council from acting on the matter.
- (3) Staff report
- (4) Testimony by applicant
- (5) Testimony by proponents
- (6) Testimony by opponents
- (7) Rebuttal by applicant
- (8) Hearing is closed
- (9) COUNCIL Discussion
- (10) Final decision (or motion to direct staff to draft ordinance for CONSIDERATION at next Council meeting if land use decision is involved)

B. Any questions by the Mayor and Council addressed to individuals giving public testimony must be asked to these individuals prior to the close of the public hearing.

**Section 7. Roberts Rules of Order.**

A. Roberts Rules of Order, Newly Revised, shall be used as the guideline for conduct of Council meetings, except in those cases where specific provisions contrary to Robert Rules are provided herein.

B. The Chair will not condone any inappropriate conduct in a meeting. Meetings will be conducted in an orderly and dignified manner.

C. If in the chair's judgment any person is not in accordance with these rules, that person will be asked to leave.

**Section 8. Miscellaneous Rules of Procedure.**

A. In all matters to be heard by the Council, the City Administrator or member of his staff shall be given the first opportunity to speak thereon. Proponents of the matter before the Council shall be afforded the next opportunity to speak thereon. Opponents of the matter before the Council shall be afforded the opportunity to speak thereon after proponents have completed their presentations. Councilors have the privilege of asking questions at any time. After all presentations are complete, the Council may discuss the matter and take action as desired.

B. Official "public hearings" shall be conducted as prescribed by law and/or current regulations governing said hearings. All persons attending official "public hearings" will be given reasonable time to present their arguments, but such persons are requested to avoid repetitious and irrelevant statements.

C. Visitors desiring to speak will formally address the chair, and visitors will identify themselves by their name, address, and whether they represent a person, group or organization.

D. If at all possible, all regular and special Council meetings shall be tape recorded. Council members, staff and visitors shall use the microphones provided for that purpose. The visitors microphone shall not be removed from its stand without permission of the presiding officer.

**Section 9. Suspension of the Rules.** In accordance with the Woodburn City Charter, the rules contained in this Ordinance may be suspended by the concurrence of a majority of the Council present at a Council meeting.

**Section 10. Repeal of Ordinance 1971.** Ordinance 1971 is hereby repealed

Approved as to form:   
City Attorney

10-22-96  
Date

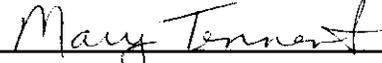
APPROVED:   
Nancy A. Kirksey, Mayor

Passed by the Council October 28, 1996

Submitted to the Mayor October 29, 1996

Approved by the Mayor October 29, 1996

Filed in the Office of the Recorder October 29, 1996

ATTEST:   
Mary Tennant, City Recorder  
City of Woodburn, Oregon



# Agenda Item

April 22, 2013

TO: Honorable Mayor and City Council

FROM: Scott Derickson, City Administrator

SUBJECT: **City Council FY 2013/14 Goals**

## **RECOMMENDATION:**

Via a motion, approve the proposed FY 2013/14 City Council goals as established during the City Council's April 13, 2013 Special Meeting.

## **BACKGROUND:**

During the City Council's April 13, 2013 Special Meeting, the City Council developed a set of prioritized goals for 2013/14. It was also determined the goal list, while certainly not all inclusive of all of the City Council's desires for the community – would focus on a reasonable number of goals the City Council felt were important and could be accomplished within the next twenty four months. Prioritized goal areas included:

1. Fiscal Sustainability
2. Public Safety
3. Continued Economic Development
4. Interchange Project Response and Management
5. Community Outreach and Communication
6. Identify a plan for all city-owned property
7. Ordinance Review/Revision

## **DISCUSSION:**

Now that the City Council has reached consensus on the 2013/14 goals, officially adopting those goals is the next step in the implementation process. Proposed 2013/14 City Council goals are being presented for council deliberation and approval.

## **FINANCIAL IMPACT:**

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Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_ Finance \_\_\_x\_\_\_

The fiscal impact, if any, associated with the implementation of these goals is unknown at this time. Staff will work diligently to utilize existing resources, partnerships and grant programs whenever possible for achieving City Council goals in the upcoming year.