



# Agenda Item

September 26, 2016

TO: Honorable Mayor and City Council

FROM: Jamie Johnk, Economic Development Director  
Stuart Rodgers, Woodburn Area Chamber of Commerce Executive Director

SUBJECT: **Tourism Development Plan Update**

**BACKGROUND:**

In February, 2016 City and Chamber staff presented the Woodburn Tourism Development Plan to the City Council for feedback and consensus. Since that time, the Chamber has hired a new Executive Director, Stuart Rodgers. Since starting at the Chamber, staff has been working with Mr. Rodgers reviewing the Tourism Plan and together updating and refining in order to move it forward.

**DISCUSSION:**

Incorporating feedback from the new Chamber of Commerce Executive Director, we are presenting an updated Tourism Development Plan and providing an update on progress made to date.

**RECOMMENDATION**

City Council support of the updated Tourism Development Plan.

**FINANCIAL IMPACT:**

City commitment of Transient Occupancy Tax at \$50,000 per year for three (3) years.

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Agenda Item Review: City Administrator  City Attorney  Finance

*Woodburn  
Tourism Plan Update*

**City of Woodburn  
Woodburn Area Chamber of Commerce**

**Woodburn City Council Meeting  
September 26, 2016**

# WHY IS TOURISM IMPORTANT TO WOODBURN?

- Creates and Sustains Jobs
- Brings New Business to Woodburn
- Contributes to a Vital Downtown
- Generates Tax Revenues
- Visitors Spend \$ in Woodburn
- Contributes to the Quality of Life
- Brings Special Events to Woodburn
- Promotes the Community
- Woodburn's Economic Vitality
- Community Pride

# WOODBURN TOURISM DEVELOPMENT PLAN

GOAL: TO DEVELOP A COLLABORATIVE  
THREE-YEAR TOURISM DEVELOPMENT  
PLAN FOR THE WOODBURN AREA.



# TOURISM GOALS

- Inventory and Evaluate Tourism Assets
- Analyze Challenges/Barriers
- Visitor Demographic Profile
- Establish a Tourism Taskforce
- Develop Tourism Vision, Goals, and Objectives
- Develop Implementation and Marketing Strategies
- Create Marketing Materials



# CITY AND CHAMBER ROLES

## CITY ROLE:

- **Inventory and Outreach:**
  - Develop tools and resources
- **Tourism Climate Report and Visitor Profile:**
  - Analyze data and compile report
- **Tourism Taskforce:**
  - Develop Taskforce criteria
- **Tourism Goals, Objectives and Implementation:**
  - Participation and collaboration
- **Marketing – Branding:**
  - City Role – Support Chamber

## CHAMBER ROLE:

- **Inventory and Outreach:**
  - Outreach and interaction
- **Tourism Climate Report and Visitor Profile:**
  - Conduct survey and interact with visitors
- **Tourism Taskforce:**
  - Promote Taskforce
- **Tourism Goals, Objectives and Implementation:**
  - Participation and collaboration
- **Marketing – Branding:**
  - Lead in marketing and branding efforts

# NEXT STEPS

- Year 1:
  - Inventory and Evaluate Existing Tourism Assets
  - Conduct Tourism Climate Survey
  - Compile Visitor Activity Outreach and Profile
  - Identify Tourism Partners and Stakeholders
  - Establish a Tourism Taskforce



# NEXT STEPS

- Year II:
  - Develop Tourism Goals and Objectives
  - Create Implementation Strategies
  - Develop Marketing Strategies
    - Branding



# NEXT STEPS

- Year III:
  - Implement Tourism Development Plan and projects that result from the Plan
- On-Going:
  - Collaborate with partners on projects and programs as they arise



# PROJECT CONCEPTS FROM PLAN

- Tourism Website with Mobile Application
- Updated Marketing Tools
- Community-wide Events Calendar
- Gateway and Directional Signage
- Tourism Signage
- Informational Kiosks



ANY  
QUESTIONS  
?

THANK

YOU

# LAW ENFORCEMENT INTENTIONAL USE OF DEADLY PHYSICAL FORCE RESPONSE PLAN

Marion County  
Intentional Use of Deadly Physical Force  
Planning Authority

*Revision Date 7/2016*

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## Members of the Planning Authority

Marion County District Attorney (co-chair)  
Marion County Sheriff (co-chair)  
Oregon State Police Administrative Representative  
Salem Police Chief  
Keizer Police Chief  
Silverton Police Chief  
Woodburn Police Chief  
Police Labor Union Representatives  
Public Member

On March 20, 2008, this Plan was approved by the Planning Authority, and submitted for approval to governing bodies of the following jurisdictions:

Marion County-----Approved on 4/23/2008  
City of Aumsville-----Approved 5/12/2008  
City of Aurora-----Approved 5/13/2008  
City of Detroit-----Approved 4/8/2008  
City of Donald-----Approved 5/13/2008  
City of Gates-----Approved 3/20/2008  
City of Gervais-----Approved 5/1/2008  
City of Hubbard-----Approved 4/8/2008  
City of Idanha-----Approved 4/14/2008  
City of Jefferson-----Approved 3/27/2008  
City of Keizer-----Approved 5/19/2008  
City of Mill City-----Approved 4/8/2008  
City of Mt. Angel-----Approved 4/8/2008

City of St. Paul-----  
City of Salem----- Approved 5/5/2008  
City of Scotts Mills-----  
City of Silverton----- Approved 5/5/2008  
City of Stayton----- Approved 4/7/2008  
City of Sublimity ----- Approved 4/14/2008  
City of Turner----- Approved 4/10/2008  
City of Woodburn----- Approved 4/28/2008

Upon receiving a vote of approval from 2/3 of the above jurisdictions, this Plan was submitted to the Attorney General, who approved the Plan on July 3, 2008.

## Preamble

Marion County law enforcement agencies recognize the importance to both their agencies and our communities to ensure that any intentional use of deadly physical force by a peace officer is investigated in a professional, competent and impartial manner. The openness with which we proceed in these investigations is critical to establishing and maintaining trust within the community. It is clear our citizens examine closely the actions any law enforcement agency takes when their officers intentionally use deadly physical force, and it is our goal to ensure the community is confident and accepting of the actions Marion County law enforcement agencies take when involved in these situations.

## Section 1: Administration

- (1) In the event that a member of the planning authority is unable to continue to serve, a replacement shall be appointed as provided in Section 2(1) of Senate Bill 111, Oregon Laws 2007.
- (2) There shall be six voting members of the Planning Authority. The approval of the Plan, elements or revisions thereof, shall be by majority vote.
- (3) The presence of 2/3 of the voting members shall be required in order to hold any vote.

## Section 2: Applicability of the Plan

This plan shall be applicable, as set forth herein, to any intentional use of deadly physical force by a peace officer acting in the course of and in furtherance of his/her official duties, occurring within Marion County.

## Section 3: Definitions

**Agency** Means the law enforcement organization employing the peace officer who intentionally used deadly physical force.

**Plan** Means the final document approved by the Planning Authority, adopted by two-thirds of the governing bodies employing law enforcement agencies, and approved by the Attorney General. Any approved revisions shall become a part of the Plan.

**Deadly Physical Force** Means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

<b>Serious Physical Injury</b>	Means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ. (ORS 161.015(8))
<b>Physical Injury</b>	Means impairment of physical condition or substantial pain that does not amount to “serious physical injury.”
<b>Involved Officer</b>	Means the peace officer whose official action was or whose official order precipitated an intentional use of deadly physical force. Also includes a peace officer who was involved before or during the intentional use of deadly physical force, and this involvement was reasonably likely to expose the officer to a heightened level of stress or trauma.

## Section 4: Immediate Aftermath

When a peace officer intentionally uses deadly physical force, the officer shall immediately take whatever steps are reasonable and necessary to protect the safety and health of the officer and any member of the public.

After taking such steps, the officer shall immediately notify his or her agency of the intentional use of deadly physical force.

Thereafter, the officer, if able, shall take such steps as are reasonably necessary to preserve the integrity of the scene and to preserve evidence.

Upon request, the officer shall provide information regarding the circumstances as necessary to protect persons and property, preserve any evidence, and to provide a framework for the investigation.

## Section 5: Intentional Use of Deadly Physical Force

When intentional deadly physical force is used against any person, in addition to the requirements of Section 4 (1) of this Plan and notwithstanding agency policy, the following provisions apply:

- (1) Upon the arrival of additional peace officers, sufficient to manage the scene, each Involved Officer shall be relieved of the above duties set forth in Section 4(1) of the Plan, and the duties shall be re-assigned to uninvolved peace officer personnel.

- (2) The on-scene supervisor shall take immediate action to stabilize the situation, ensure notification of the appropriate staff and agencies, and shall obtain information relevant to public safety (e.g. outstanding suspects, location of evidence, direction of travel, etc.).
- (3) As soon as practicable, each Involved Officer shall leave the scene with a companion officer, as directed by his or her supervisor, and be offered an opportunity for a medical examination. If the officer is not in need of medical treatment, the officer shall be taken to a location designated by the investigative agency. Following the intentional use of deadly physical force, the officer's union representative shall be notified. Management or non-represented employees shall be afforded the same opportunity to consult with legal representation.
- (4) After consultation with the involved officer, the agency or officer shall notify the officer's family according to the agency's policy regarding such notification.
- (5) Notification shall be made to the District Attorney as provided in Section 7(1) of this Plan. This provision does not prevent the agency from requiring additional notification requirements within their respective agency policies.
- (6) As soon as practicable, any weapon used by an involved officer shall be seized by investigators and, if appropriate, replaced with a substitute weapon. Other involved officers' weapons, even if not used, are also subject to seizure by the investigative agency.
- (7) Interview of an Involved Officer:

As used in this section "interview" refers to formal interview of an officer by assigned investigative personnel that occurs a reasonable time after the incident, and after the officer has had an opportunity to consult with counsel, if so desired. It's noteworthy that there may be multiple involved officers, and this process shall be followed with each of them.

- (a) The interview of the involved officer who intentionally used deadly physical force shall occur after a reasonable period of time to prepare for the interview and taking into account the emotional and physical state of the officer(s). The interview shall occur no sooner than 48 hours after the incident, unless this waiting period is waived by the officer.
- (b) The waiting period does not preclude an initial on-scene debriefing with the officer to assess and make an initial evaluation of the incident.
- (c) The scene shall be secured and managed consistent with the control of any other major crime scene. Only personnel necessary to conduct the investigation shall be permitted access to the scene. When it is determined

that no evidence will be contaminated or destroyed, the involved officer may conduct a “walk through” to assist in the investigation.

- (8) Immediately after the initial on-scene debriefing (see Section 5(7)(b)), an involved officer shall be placed on administrative leave until sufficient information exists to justify the intentional use of deadly physical force and the officer has had an opportunity for initial mental health counseling.
- (9) Notwithstanding subsection (8) above, for no less than 72 hours immediately following an incident in which deadly physical force was intentionally used by a peace officer, a law enforcement agency may not return an Involved Officer to duties that might place the officer in a situation in which the officer has to use deadly force. (See also related subsection (10) below.)
- (10) In the six months following an intentional use of deadly physical force incident that results in a death, the agency shall offer each Involved Officer a minimum of two opportunities for mental health counseling. The officer shall be required to attend at least one session of mental health counseling.
  - (a) At agency expense, the involved officer (s) shall be scheduled for an appointment with a licensed mental health counselor for a counseling session with a follow-up session scheduled at a date determined by the mental health professional.
  - (b) The counseling sessions are not to be considered fitness for duty evaluations, and are to be considered privileged between the officer and counselor.
- (11) In the event of an intentional use of deadly physical force, it is recommended that members of an organization outside the involved officer’s agency conduct the investigation under the direction of the District Attorney. Members of the involved officer’s agency may assign personnel to assist in the investigation as directed by the lead investigative agency.
  - (a) An outside agency may include the Oregon State Police, the Marion County Homicide Assault Response Team (HART), or any other agency which has the expertise necessary to investigate a deadly force situation.
  - (b) The District Attorney shall be consulted whenever one agency requests another to investigate any intentional use of deadly physical force.
  - (c) At least one officer from an outside agency shall be assigned to the investigative team in the event an agency investigates their own officer’s intentional use of deadly physical force.

- (12) The assignment of outside investigative personnel does not preclude the agency involved from conducting a concurrent investigation for administrative purposes as established by that agency. Such investigations may be necessary for civil preparation, determination of policy violations or training issues.
- (13) In order to preserve the integrity of the investigation, the scene supervisor and investigative supervisor shall notify all involved officers to refrain from making public statements about the investigation, until such time as the investigation has concluded and the District Attorney has made a determination regarding the criminal responsibility of all involved persons.
- (14) As soon as practical, and in conjunction with the District Attorney's Office and the lead investigative agency, the involved officer's agency shall release an initial public statement about the incident. The statement shall include, as appropriate:
  - (a) The time and location of the incident;
  - (b) The condition of any suspect;
  - (c) The nature of the intentional use of deadly physical force;
  - (d) Any other information the District Attorney, lead investigative agency, or the involved officer's agency deems necessary given the particular circumstances of the incident.

## Section 6: Investigation Protocols

- (1) The investigation, at a minimum, shall consist of the following:
  - (a) Eyewitness and involved party interviews
  - (b) Evidence collection
  - (c) Scene documentation
  - (d) Involved Officer(s) interview(s)
- (2) The investigation shall be documented in written reports, and all police reports and taped statements shall be provided to the investigative agency, the Involved Officer(s) agency(ies), and the District Attorney.

## Section 7: District Attorney

- 1) When an intentional use of deadly physical force by an officer occurs the agency shall immediately notify the District Attorney's Office. Notification shall be made through the established on-call procedure.
- 2) When an intentional use of deadly physical force by an officer occurs, the District Attorney or his or her designee will consult with the agency regarding the investigation and implementation of elements of this plan.
- 3) The District Attorney has the sole statutory and constitutional duty to make the decision on whether to present a matter to a Grand Jury.
  - (a) The District Attorney will consult with the investigating agency and make a decision on whether to present the case to a Grand Jury.
  - (b) The timing of the decision will be made by the District Attorney based upon all considerations.
  - (c) If the District Attorney decides to present a case to the Grand Jury, the District Attorney shall promptly notify the investigating agency, the involved officer's agency, and the involved officer through his or her representative.
  - (d) Upon a final decision by the Grand Jury or the District Attorney, the District Attorney shall notify the investigating agency and the involved officer's agency of the conclusions of the Grand Jury proceeding under this plan.
  - (e) The District Attorney shall release the Grand Jury conclusions to the public.

## Section 8: Debriefing

The intentional use of deadly physical force by a peace officer has the potential to create strong emotional reactions which have the potential to interfere with an officer's ability to function. These reactions may be manifested immediately, or over time. Further, these reactions may occur not only in an officer directly involved in the incident, but also in other officers within the agency.

The requirements of this section provide a minimum framework and are not intended to take the place of agency policy. Agencies are encouraged to develop formal procedures to deal with an officer's stress response following an intentional use of deadly force incident. Such policies should include a procedure that are implemented from the time of the incident and continue over time.

- (1) Upon a final determination by the District Attorney, the agency shall conduct an internal review of the matter for compliance with agency policy. Such review, at a minimum shall include a review of the incident with the involved officer(s).
- (2) Each agency shall provide a process for any officer(s) who make(s) a request, to participate in a critical incident debriefing.
- (3) If available, agencies should encourage officers to take advantage of Employee Assistance Programs, and if appropriate, agencies should request assistance from other agencies that may have in place formal programs for dealing with critical incidents.

## Section 9: Agency Reporting, Training, Outreach

- (1) Each law enforcement agency within Marion County shall make available a copy of this Plan to every officer and shall incorporate the Plan into agency policies and provide training to officers on the implementation of the plan.
- (2) Upon the conclusion of an investigation, the announcement by the District Attorney pursuant to Section 7(3) of the Plan, and the debriefing, the agency shall complete the Attorney General's report regarding the use of force, and submit the report to the Attorney General.
- (3) Each agency subject to this Plan shall comply with the Department of Public Safety Standards and Training rules on use of force training, as well as establish department training requirements on the use of force. The training must include education on the agency's use of force policy. This training may also include, but is not limited to the following:
  - (a) Defensive Tactics
  - (b) Tactical Shooting
  - (c) SWAT training
  - (d) Use of force in making an arrest
  - (e) Use of non-lethal force

Each agency shall have a written policy and monitoring system to ensure that the training standards are met.

- (4) After adoption of this Plan, to the extent they are fiscally able, each agency shall take steps to publicize the Plan to their respective communities, by providing information to the media, general public, community organizations, and quasi-governmental bodies.

## Section 10: Fiscal Impact

The Planning Authority has noted only de minimis fiscal impact resulting from the above process.

## Section 11: Plan Revision

The Planning Authority shall conduct a biennial review of the Plan. If a revision of the Plan becomes advisable, the Planning Authority shall meet and discuss such a revision. If the Planning Authority adopts a revision, such revision shall be submitted for approval as provided by statute.

## Section 12: Agency Policies

*Agency Policies attached.*

**COUNCIL MEETING MINUTES  
SEPTEMBER 12, 2016**

**DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, SEPTEMBER 12, 2016**

**CONVENED** The meeting convened at 7:03 p.m. with Mayor Figley presiding.

**ROLL CALL**

Mayor Figley	Present
Councilor Carney	Present
Councilor Lonergan	Present
Councilor Schaub	Absent
Councilor Morris	Present
Councilor Ellsworth	Present
Councilor Alonso Leon	Present

**Staff Present:** City Administrator Derickson, City Attorney Shields, Assistant City Administrator Row, Economic and Development Services Director Hendryx, Economic Development Director Johnk, Police Chief Ferraris, Public Works Director Scott, Assistant City Attorney Granum, Community Relations Manager Gutierrez-Gomez, Communications Coordinator Horton, City Recorder Pierson

0:00 **PROCLAMATIONS**  
Hispanic Heritage Month

0:05 **PRESENTATION**  
Youth Advisory Board – Mayor Figley presented the Youth Advisory Board with a check in the amount of \$1,000 to go to their scholarship program.

0:09 **COMMUNICATIONS**  
Mayor Figley announced that she received an email from the American Association of State Highway and Transportation Officials and that the I-5 Woodburn Interchange project is a finalist in the top 12 projects for their America’s Transportation Award. She added that voting can be done at [www.americastransportationawards.org](http://www.americastransportationawards.org).

0:14 **BUSINESS FROM THE PUBLIC**

Bill Christiansen, 1263 Bernard St., a member of Henry Farm HOA, stated that he would like the City to reconsider the barbwire that they placed around the water facility and perhaps have guard dogs outside instead. He stated that he would like his neighborhood to continue to have a parklike setting.

Jerry Erdt, 1266 Woodland Ave, stated that he would like to see a Trader Joe’s store go into the old Chevy lot and added that he would like to see more pressure on the developer to try and get Trader Joe’s to Woodburn.

Steve Rippeteau, 562 Prairie St, stated that he owns a small RV and parks it on a pad on his property. He added that a problem he sees is a lack of planning for parking by developers. He asks

## COUNCIL MEETING MINUTES SEPTEMBER 12, 2016

that the City Council not only be considerate of the homeless people but the taxpayers as well when considering the amendments to the traffic ordinance.

0:23

### CONSENT AGENDA

- A. Woodburn City Council minutes of August 8, 2016,
- B. Woodburn Special City Council minutes of August 17, 2016,
- C. Woodburn Special City Council minutes of August 31, 2016,
- D. Woodburn Planning Commission minutes of July 28, 2016,
- E. Building Activity through August 2016.

**Lonergan/Ellsworth...** adopt the Consent Agenda. The motion passed unanimously.

0:24

### PUBLIC HEARINGS

#### **A. Annexation - 1385 Cooley Road (ANX 2016-02) Alexsey Bodunov**

A Public Hearing to consider input on 1385 Cooley Road (ANX 2016-02) Alexsey Bodunov. Mayor Figley declared the hearing open at 7:28 p.m. for the purpose of hearing public input on 1385 Cooley Road (ANX 2016-02) Alexsey Bodunov. Mayor Figley stated for the record that she drives by the property at least once a week and is prepared to approach this with an open mind. Councilor Lonergan stated that he is familiar with the area and can make a decision with an open mind as well. Economic and Development Director Hendryx provided a presentation. Mayor Figley asked if anyone from the public would like to speak on this subject. No members of the public wished to speak in either support or opposition of 1385 Cooley Road (ANX 2016-02) Alexsey Bodunov. Mayor Figley declared the hearing closed at 7:41 p.m. Councilor Lonergan stated that he is in favor of this. Councilor Alonso Leon concurred. Councilor Carney stated that this looked good to him. **Lonergan/Alonso Leon...** instruct staff to go forward with the annexation of 1385 Cooley Road. The motion passed unanimously.

#### **B. Legislative Amendment LA 2016-01**

A Public Hearing to consider input on Legislative Amendment LA 2016-01. Mayor Figley declared the hearing open at 7:42 p.m. for the purpose of hearing public input on Legislative Amendment LA 2016-01. Economic and Development Director Hendryx provided a presentation. Mayor Figley asked if anyone from the public would like to speak on this subject. Dennis Ortega, 408 Turnberry Ave, stated that he is in favor of the changes to the fence code. Mayor Figley asked if anyone wished to speak in opposition of the proposal. No members of the public wished to speak in opposition to Legislative Amendment LA 2016-01. **Lonergan/Morris...**instruct staff to prepare an ordinance amendment for LA 2016-01 and present it to us at our next meeting. The motion passed unanimously. **Lonergan/Ellsworth...**direct staff to notice a new public hearing before Council on October 10, 2016 and consider that portion of LA 2016-01 on scrivener's errors. The motion passed unanimously.

#### **C. Public Hearing to Consider Adopting an Updated Parks SDC Methodology**

A Public Hearing to consider input on Updated Parks SDC Methodology. Mayor Figley declared the hearing open at 8:03 p.m. for the purpose of hearing public input on Updated Parks SDC Methodology. Assistant City Administrator Row provided a staff report.

## **COUNCIL MEETING MINUTES SEPTEMBER 12, 2016**

Deborah Ghalardia with Galardi Rothstein Group, provided a presentation on the updated Methodology. Mayor Figley declared the hearing closed at 8:14 p.m.

1:10 **COUNCIL BILL NO. 3013 - AN ORDINANCE AMENDING AND REPEALING SECTIONS OF ORDINANCE 2250 (THE PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGES ORDINANCE) BASED UPON A METHODOLOGY REPORT DATED JULY 11, 2016 AND SETTING AN EFFECTIVE DATE**

**Lonergan** Introduced Council Bill No. 3013. Recorder Pierson read the bill twice 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. 3013 duly passed.

1:12 **COUNCIL BILL NO. 3014 – A RESOLUTION SETTING THE AMOUNT OF THE PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGES PURSUANT TO A RECENTLY UPDATED PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGES METHODOLOGY; ESTABLISHING AN ALTERNATIVE RATE REVIEW FEE; AND SETTING AN EFFECTIVE DATE FOR IMPOSITION OF THE FEES AND CHARGES**

**Lonergan** Introduced Council Bill No. 3014. Recorder Pierson read 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. 3014 duly passed.

1:15 **REVISED TRAFFIC ORDINANCE DISCUSSION**

Assistant City Attorney Granum provided a staff report. Councilor Carney stated that he is in favor of the revisions but suggested changing it to 36 hours to load an RV and 3 days to be off of a city street. Councilor Ellsworth stated that 48 hours makes sense to her. Jerry Erdt, 1266 Woodland Ave, stated that he is in favor of allowing RV's three days to park on the street. Steve Rippeteau, 562 Prairie St, stated that he has a 17' Chevy van and that the Council may want to consider that there are a wide variety of RV's out there. He added that he uses his RV for short trips to Portland and they will find that other people do as well. There was a consensus of the Council on the revisions and for staff to get public input before adopting the proposed ordinance revisions. The City Administrator stated that they will bring back the ordinance to the next meeting regarding the access to fire lanes with an emergency clause and based on public outreach on RV parking they will implement that as well.

1:49 **PLANNING COMMISSION APPROVAL OF A VARIANCE FOR REMOVING BALCONIES AT WOOD PARK TERRACE APARTMENTS, LOCATED AT 1025 PARK AVENUE (VAR 2016-05)**

Council declined to call this item up for review.

**CITY ADMINISTRATOR'S REPORT**

City Administrator Derickson invited Community Relations Manager Gutierrez-Gomez to come up to extend an invitation to the Council and the community to the Hispanic Heritage Month - Woodburn Community Celebration on Saturday, September 17<sup>th</sup> at the Downtown Plaza from 11:00 a.m. to 10:00 p.m.

1:52 **MAYOR AND COUNCIL REPORT**

**COUNCIL MEETING MINUTES  
SEPTEMBER 12, 2016**

Councilor Ellsworth stated that she looks forward to attending the Woodburn Hispanic Heritage Month celebration and added that she will also be attending the Hispanic Heritage breakfast in Salem.

Mayor Figley stated that she will also be at the Woodburn Hispanic Heritage Community Celebration. She added that she was part of a discussion in Donald regarding congestion across the Boone Bridge and using rural roads and that we should support our neighbors when these type of issues come up.

Councilor Lonergan asked if someone could get into contact with Mr. Christiansen regarding his concerns at the water plant. He also wanted to make a formal request to Marion County to take care of the unsightly house on Parr Rd.

Councilor Carney stated that the legislative work group the Mayor appointed him to will meet for the fourth time on Tuesday of next week and added that the work group is dealing with youth employment.

Councilor Alonso Leon thanked the Mayor for allowing her to read the Hispanic Heritage Proclamation in Spanish and added that she has been asked to speak alongside the governor on Hispanic Heritage Month.

**ADJOURNMENT**

**Morris/Ellsworth...** meeting be adjourned. The motion passed unanimously.  
The meeting adjourned at 9:02 p.m.

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

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

# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES

### 2016 Year to Date

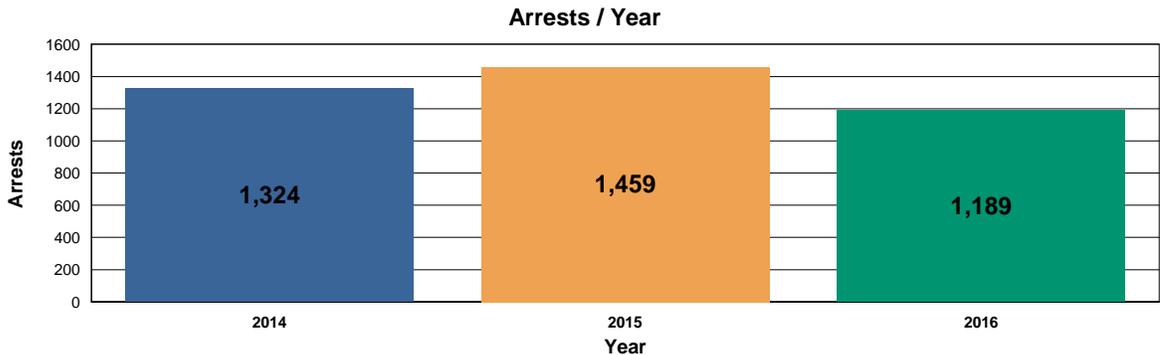
CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
AGGRAVATED ASSAULT	1	0	2	7	3	1	1	2	17
ANIMAL CRUELTY	0	0	1	0	0	0	0	2	3
ANIMAL ORDINANCES	6	0	0	2	1	0	3	0	12
ARSON	0	0	0	0	0	1	0	0	1
ASSAULT SIMPLE	9	7	6	11	11	11	9	18	82
ATTEMPTED MURDER	1	0	0	0	0	0	0	0	1
BURGLARY - BUSINESS	0	0	0	0	0	0	0	2	2
BURGLARY - OTHER STRUCTURE	0	0	0	2	0	0	0	0	2
BURGLARY - RESIDENCE	2	0	1	1	1	0	0	0	5
CHILD NEGLECT	5	2	1	0	0	1	0	1	10
CITY ORDINANCE	0	0	0	0	0	1	0	0	1
CRIME DAMAGE-NO VANDALISM OR ARSON	4	1	1	1	1	1	2	5	16
CRIMINAL MISTREATMENT	0	0	0	0	2	0	0	0	2
CURFEW	0	2	2	1	3	6	4	5	23
CUSTODIAL INTERFERENCE	0	0	0	0	0	0	0	1	1
CUSTODY - DETOX	0	0	0	0	0	0	0	1	1
CUSTODY - MENTAL	3	3	6	3	4	3	6	2	30
CUSTODY - PROTECITVE	0	1	0	0	0	0	0	0	1
DISORDERLY CONDUCT	14	6	2	7	6	2	7	14	58
DRIVING UNDER INFLUENCE	10	3	10	5	5	4	6	7	50
DRUG LAW VIOLATIONS	2	12	21	8	10	9	24	15	101
DWS/REVOKED - FELONY	0	0	0	0	1	0	0	0	1
DWS/REVOKED-MISDEMEANOR	3	1	5	3	3	1	5	2	23
ELUDE	5	1	0	0	0	0	0	0	6
ESCAPE FROM YOUR CUSTODY	1	0	1	0	0	1	0	0	3
FAIL TO DISPLAY OPERATORS LICENSE	0	0	2	1	0	0	1	1	5
FAILURE TO REGISTER AS SEX OFFENDER	0	0	0	1	0	1	0	0	2
FORCIBLE RAPE	0	1	0	0	0	0	1	0	2
FORGERY/COUNTERFEITING	0	0	2	0	2	4	0	2	10
FRAUD - BY DECEPTION/FALSE PRETENSES	0	0	0	0	2	2	1	0	5
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	0	0	0	0	2	2	0	0	4
FRAUD - OF SERVICES/FALSE PRETENSES	0	1	0	0	0	0	0	0	1
FRAUD-OTHER	0	0	0	0	0	1	0	0	1
FUGITIVE ARREST FOR ANOTHER AGENCY	27	33	32	29	39	30	47	47	284
FURNISHING	0	0	1	1	0	0	0	0	2
GARBAGE LITTERING	0	0	0	1	0	0	0	0	1
HIT AND RUN FELONY	0	1	1	0	0	0	0	1	3
HIT AND RUN-MISDEMEANOR	3	0	3	1	1	5	1	3	17
IDENTITY THEFT	0	0	1	1	3	3	2	1	11
INTIMIDATION /OTHER CRIMINAL THREAT	3	1	2	3	4	2	5	3	23
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	0	0	2	0	0	0	0	2
MINOR IN POSSESSION	0	3	2	5	3	0	0	1	14
MOTOR VEHICLE THEFT	5	0	1	1	2	0	2	4	15
OTHER	2	2	1	3	10	5	3	10	36
OTHER TRAFFIC CRIME	0	0	0	0	0	1	0	0	1
PROPERTY RECOVER FOR OTHER AGENCY	0	1	0	1	0	0	0	0	2
RECKLESS DRIVING	4	0	1	2	1	2	0	2	12
RECKLESSLY ENDANDERING	3	0	0	1	2	3	1	1	11
RESTRAINING ORDER VIOLATION	1	0	0	3	0	0	0	2	6
ROBBERY - BUSINESS	1	0	0	0	0	1	0	0	2
ROBBERY - OTHER	0	0	0	0	1	0	0	0	1
RUNAWAY	1	0	2	2	0	0	0	1	6
SEX CRIME - FORCIBLE SODOMY	0	0	0	1	0	0	0	0	1
SEX CRIME - INCEST	0	0	2	1	0	0	0	0	3

# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES 2016 Year to Date

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
SEX CRIME - MOLEST (PHYSICAL)	0	1	0	1	0	0	0	0	2
SEX CRIME - NON FORCE SODOMY	0	0	1	1	0	0	0	0	2
SEX CRIME - NON-FORCE RAPE	0	0	0	0	0	1	0	0	1
SEX CRIME - PORNOGRAPHY/OBSCENE MATERIAL	0	0	1	0	0	2	0	0	3
SEX CRIME - SEXUAL ASSAULT WITH AN OBJECT	0	1	0	0	0	1	1	0	3
STALKER	0	1	0	2	0	2	0	0	5
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	0	0	1	0	0	1	0	0	2
THEFT - BICYCLE	0	0	0	1	0	0	0	0	1
THEFT - BUILDING	0	1	1	0	0	0	0	3	5
THEFT - FROM MOTOR VEHICLE	0	0	0	0	1	0	0	0	1
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	0	0	0	0	1	0	0	0	1
THEFT - OTHER	1	2	3	3	7	6	3	2	27
THEFT - SHOPLIFT	11	4	7	4	11	12	15	3	67
TRAFFIC VIOLATIONS	7	9	9	11	3	2	6	16	63
TRESPASS	2	1	4	1	2	7	3	7	27
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	0	0	1	1	2	0	0	0	4
VANDALISM	1	1	0	4	5	1	3	2	17
VEHICLE RECOVERD FOR OTHER AGENCY	0	0	2	0	1	0	1	2	6
WEAPON - CARRY CONCEALED	1	1	1	3	0	1	0	1	8
WEAPON - EX FELON IN POSSESSION	0	3	0	0	0	1	0	0	4
WEAPON - POSSESS ILLEGAL	0	1	1	0	0	0	0	1	3
WEAPON - SHOOTING IN PROHIBITED AREA	1	0	0	1	0	0	0	0	2

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
<b>2016 Total</b>	<b>140</b>	<b>108</b>	<b>144</b>	<b>144</b>	<b>156</b>	<b>141</b>	<b>163</b>	<b>193</b>	<b>1,189</b>
<b>2015 Total</b>	<b>206</b>	<b>157</b>	<b>155</b>	<b>187</b>	<b>166</b>	<b>249</b>	<b>200</b>	<b>139</b>	<b>1459</b>
<b>2014 Total</b>	<b>139</b>	<b>120</b>	<b>127</b>	<b>126</b>	<b>146</b>	<b>171</b>	<b>179</b>	<b>316</b>	<b>1324</b>



# Woodburn Police Department

## MONTHLY CRIMINAL OFFENSES

2016 Year to Date

CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
AGGRAVATED ASSAULT	2	4	3	4	4	1	3	4	25
ANIMAL CRUELTY	0	0	1	0	1	1	0	2	5
ANIMAL ORDINANCES	6	0	0	2	2	0	4	0	14
ARSON	0	0	2	1	1	1	0	1	6
ASSAULT SIMPLE	11	9	11	14	17	15	13	24	114
ATTEMPTED MURDER	2	1	0	0	0	0	0	0	3
BURGLARY - BUSINESS	3	2	1	2	2	1	1	2	14
BURGLARY - OTHER STRUCTURE	1	0	0	3	0	0	0	4	8
BURGLARY - RESIDENCE	6	2	5	4	8	2	2	6	35
CHILD ADBANDONMENT	0	0	1	0	0	0	0	0	1
CHILD NEGLECT	5	2	1	0	0	0	1	2	11
CITY ORDINANCE	0	0	0	0	0	1	0	0	1
CRIME DAMAGE-NO VANDALISM OR ARSON	23	6	6	9	7	5	10	10	76
CRIMINAL MISTREATMENT	0	0	0	0	0	1	0	0	1
CURFEW	0	2	2	1	3	2	2	2	14
CUSTODIAL INTERFERENCE	1	0	0	0	0	0	0	1	2
CUSTODY - DETOX	0	0	0	0	0	0	0	1	1
CUSTODY - MENTAL	3	3	6	3	4	3	7	2	31
CUSTODY - PROTECTIVE	0	1	0	0	0	0	0	1	2
DISORDERLY CONDUCT	10	6	3	6	6	3	8	5	47
DRIVING UNDER INFLUENCE	10	3	10	5	5	5	6	7	51
DRUG LAW VIOLATIONS	2	13	20	8	11	8	20	14	96
DWS/REVOKED - FELONY	0	0	0	0	1	0	0	0	1
DWS/REVOKED-MISDEMEANOR	3	1	5	3	3	3	5	2	25
ELUDE	6	4	0	3	0	1	0	4	18
EMBEZZLEMENT	1	0	0	0	0	0	0	0	1
ESCAPE FROM YOUR CUSTODY	1	0	1	0	0	1	0	0	3
EXTORTION/BLACKMAIL	0	0	0	0	0	1	0	0	1
FAIL TO DISPLAY OPERATORS LICENSE	0	1	2	2	0	0	1	1	7
FAILURE TO REGISTER AS SEX OFFENDER	0	0	0	1	0	1	0	0	2
FORCIBLE RAPE	0	2	3	1	2	1	0	0	9
FORGERY/COUNTERFEITING	1	3	4	0	6	10	1	4	29
FRAUD - BY DECEPTION/FALSE PRETENSES	5	4	2	2	5	5	4	9	36
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	2	2	2	2	6	3	1	1	19
FRAUD - OF SERVICES/FALSE PRETENSES	0	1	0	0	0	1	1	0	3
FRAUD - WIRE	0	0	1	0	0	0	0	0	1
FRAUD-OTHER	0	0	1	0	0	0	0	0	1
FUGITIVE ARREST FOR ANOTHER AGENCY	26	32	31	26	35	25	40	39	254
FURNISHING	0	0	1	1	0	0	0	0	2
GARBAGE LITTERING	0	0	0	1	0	0	0	1	2
HIT AND RUN FELONY	0	1	1	0	1	2	1	4	10
HIT AND RUN-MISDEMEANOR	18	8	18	15	9	18	10	12	108
IDENTITY THEFT	2	5	9	7	11	7	4	4	49
INTIMIDATION /OTHER CRIMINAL THREAT	7	3	4	3	7	4	8	5	41
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	0	1	1	0	0	0	0	2
MINOR IN POSSESSION	0	2	2	2	2	0	0	1	9
MISCELLANEOUS	8	11	9	9	7	11	12	9	76
MOTOR VEHICLE THEFT	10	8	8	6	8	7	8	5	60
NON CRIMINAL DOMESTIC DISTURBANCE	0	0	0	0	0	0	3	13	16
OTHER	2	3	1	3	12	9	3	9	42
OTHER TRAFFIC CRIME	0	0	0	0	0	1	0	0	1
PROPERTY - FOUND LOST MISLAID	3	2	3	3	1	2	4	4	22
PROPERTY RECOVER FOR OTHER AGENCY	0	0	0	2	1	0	1	1	5
RECKLESS DRIVING	5	1	2	3	1	2	0	5	19
RESTRAINING ORDER VIOLATION	1	2	0	3	1	1	1	1	10
ROBBERY - BUSINESS	3	0	0	0	0	1	1	0	5
ROBBERY - CONV.STORE	2	0	0	0	0	0	0	0	2

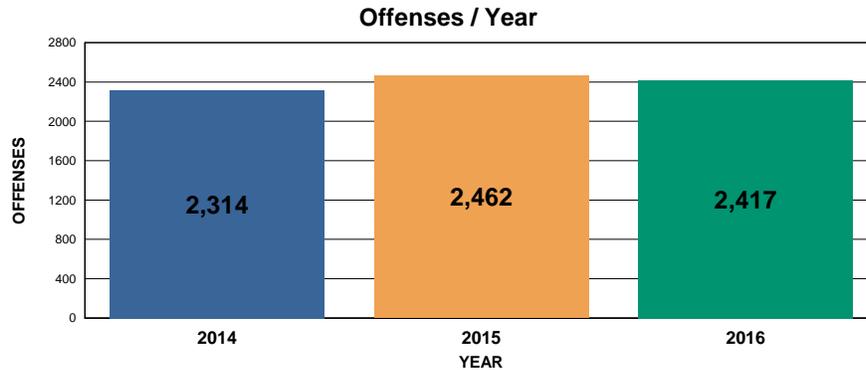
# Woodburn Police Department

## MONTHLY CRIMINAL OFFENSES

### 2016 Year to Date

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
ROBBERY - OTHER	0	0	0	1	1	1	1	1	5
RUNAWAY	1	3	3	3	3	2	3	1	19
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	0	0	0	0	1	0	0	0	1
SEX CRIME - EXPOSER	0	1	0	0	1	0	0	0	2
SEX CRIME - MOLEST (PHYSICAL)	2	3	0	2	1	2	2	2	14
SEX CRIME - NON FORCE SODOMY	0	0	0	0	0	1	0	0	1
SEX CRIME - NON-FORCE RAPE	1	0	0	0	3	0	0	1	5
SEX CRIME - OTHER	0	0	3	0	0	1	0	0	4
SEX CRIME - PORNOGRAPHY/OBSCENE MATERIAL	1	0	0	0	0	2	0	0	3
SEX CRIME - SEXUAL ASSAULT WITH AN OBJECT	2	1	1	0	0	0	0	0	4
STALKER	0	1	1	1	0	2	0	0	5
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	0	1	0	0	0	1	0	1	3
SUICIDE	0	1	0	0	0	2	0	0	3
THEFT - BICYCLE	0	3	1	1	2	1	0	1	9
THEFT - BUILDING	4	4	4	8	4	3	1	7	35
THEFT - COIN OP MACHINE	3	1	0	1	0	0	0	0	5
THEFT - FROM MOTOR VEHICLE	12	11	17	5	26	3	4	5	83
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	1	0	0	0	1	1	0	2	5
THEFT - OTHER	17	14	11	16	15	19	13	13	118
THEFT - PICKPOCKET	0	0	2	0	0	0	0	0	2
THEFT - PURSE SNATCH	1	1	0	0	0	2	0	0	4
THEFT - SHOPLIFT	14	10	17	13	22	18	22	11	127
TRAFFIC VIOLATIONS	11	12	24	14	11	10	12	20	114
TRESPASS	3	1	3	2	9	9	4	8	39
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	8	4	14	5	24	0	1	4	60
VANDALISM	24	20	29	37	46	23	57	24	260
VEHICLE RECOVERD FOR OTHER AGENCY	1	3	2	1	3	2	4	3	19
WEAPON - CARRY CONCEALED	1	1	1	2	0	1	0	1	7
WEAPON - EX FELON IN POSSESSION	0	3	0	0	0	1	0	0	4
WEAPON - POSSESS ILLEGAL	1	1	1	0	0	0	1	1	5
WEAPON - SHOOTING IN PROHIBITED AREA	1	1	0	1	0	0	0	0	3

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
<b>2016 Total</b>	<b>300</b>	<b>251</b>	<b>317</b>	<b>274</b>	<b>363</b>	<b>273</b>	<b>311</b>	<b>328</b>	<b>2,417</b>
<b>2015 Total</b>	<b>357</b>	<b>270</b>	<b>271</b>	<b>309</b>	<b>290</b>	<b>359</b>	<b>327</b>	<b>279</b>	<b>2,462</b>
<b>2014 Total</b>	<b>280</b>	<b>263</b>	<b>255</b>	<b>272</b>	<b>316</b>	<b>277</b>	<b>332</b>	<b>319</b>	<b>2,314</b>



# Woodburn Police Department

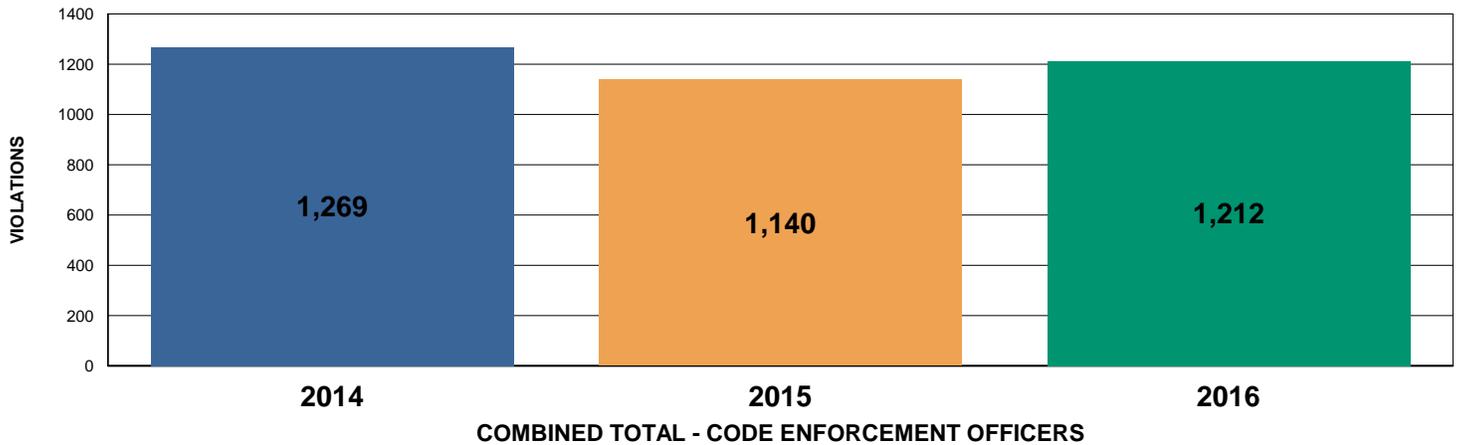
## ORDINANCE VIOLATIONS

### 2016 Year to Date

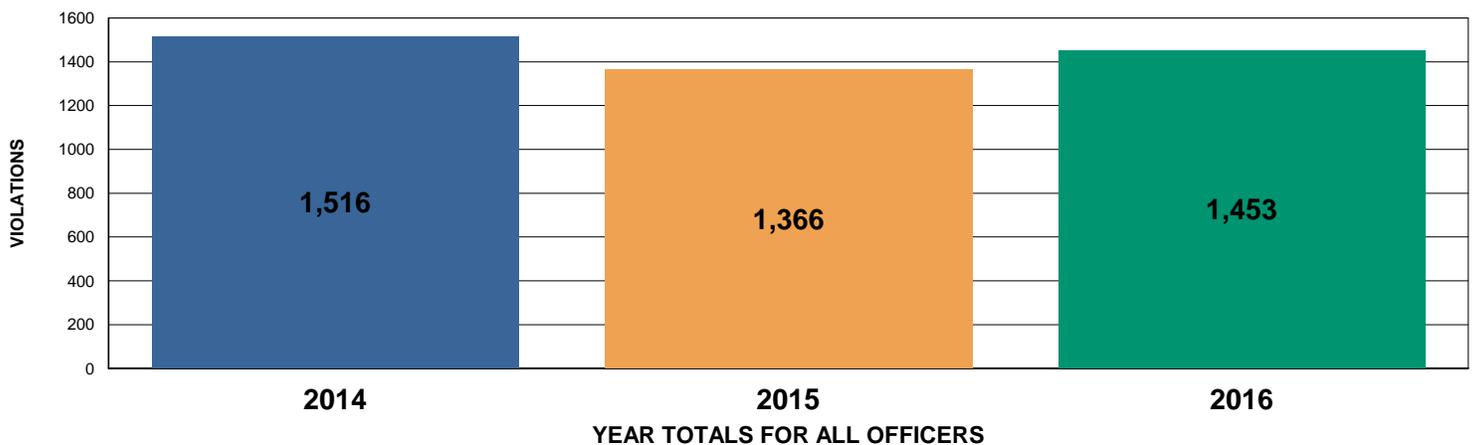
9/20/2016

Ordinance Discription	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
Animal Complaint	37	38	45	52	42	73	63	60	<b>410</b>
Ordiinance - Abate/Nuisances	0	1	0	0	1	0	1	0	<b>3</b>
Ordinance - Abandoned Vehicles	33	43	26	12	25	18	16	15	<b>188</b>
Ordinance - Abate Graffiti	9	5	6	13	19	14	25	8	<b>99</b>
Ordinance - Land Use Violations	1	1	0	4	0	1	4	5	<b>16</b>
Ordinance - Oth Violation	54	85	74	44	58	75	69	80	<b>539</b>
Ordinance - Tall Grass	0	0	1	0	112	45	30	10	<b>198</b>
<b>2016 Total</b>	<b>134</b>	<b>173</b>	<b>152</b>	<b>125</b>	<b>257</b>	<b>226</b>	<b>208</b>	<b>178</b>	<b>1,453</b>
<b>2015 Total</b>	<b>136</b>	<b>136</b>	<b>154</b>	<b>138</b>	<b>263</b>	<b>197</b>	<b>185</b>	<b>157</b>	<b>1,366</b>
<b>2014 Total</b>	<b>116</b>	<b>122</b>	<b>189</b>	<b>193</b>	<b>342</b>	<b>193</b>	<b>177</b>	<b>184</b>	<b>1,516</b>

### Ordinance Violations / Code Enforcement Officers



### Ordinance Violations / Year





# Agenda Item

September 26, 2016

TO: Mayor and City Council

FROM: Scott Derickson, City Administrator

SUBJECT: **An Ordinance Amending Ordinance 2285 (the Traffic Ordinance) as part of the Ordinance Review/Revision Project Initiated by City Council.**

**RECOMMENDATION:**

After deliberation the City Council can consider the adoption of the following amendments to the Traffic Ordinance:

- (1) Prohibit the parking of vehicles in designated and marked fire lanes on both public City streets and private right-of-ways; and
- (2) Regulate overnight parking and storage of recreational vehicles (RVs) on City streets.

An emergency clause was added to this ordinance because of the importance of the fire lane amendment to public safety.

**BACKGROUND:**

A proposed amendment to the City’s Traffic Ordinance first came before the Council at the August 8, 2016, meeting for an in-depth discussion. It was brought back to the Council on September 12, 2016, for further discussion (see the attached September 12, 2016, staff report).

**DISCUSSION:**

Following the September 12<sup>th</sup> Council meeting, staff presented the most current version of the ordinance, which is again before the Council tonight. During the September 2016 Council meeting, the City Council asked that staff use the weekly E-blast to inform the community of the proposed traffic ordinance changes and ask for community feedback. As of the time of this Agenda Item the City had not received additional feedback. Staff will bring copies of any community feedback to the Council meeting.

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Agenda Item Review: City Administrator  City Attorney  Finance

**FINANCIAL IMPACT:**

None.



# Agenda Item

September 12, 2016

TO: Mayor and City Council through City Administrator

FROM: N. Robert Shields, City Attorney  
 Jim Hendryx, Economic & Development Services Director  
 James C. Ferraris, Chief of Police

SUBJECT: **Revised Traffic Ordinance Discussion**

**RECOMMENDATION:**

After the City Council considers the Revised Ordinance regulating the overnight parking and storage of recreational vehicles (RVs) on City streets and the parking of any vehicles in designated and marked fire lanes on both public City streets and private right-of-ways, the City Council could:

1. Direct staff to undertake a community outreach and information campaign designed to take public feedback on the proposed revisions and raise awareness about the issue per the Public Outreach Plan contained within this Agenda item.
2. Adopt the revised Ordinance as submitted.
3. If there is no consensus on the revised provisions, provide further direction on how to proceed with the proposed Ordinance as the Council deems appropriate.

**BACKGROUND:**

Proposed amendments to the Traffic Ordinance were first brought before the Council at the August 8, 2016, meeting as part of the Ordinance Review/Revision Project. Draft modifications were proposed on the basis of two primary issues:

- Fire Lane parking enforcement; and
- RV parking/storage on City streets.

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Agenda Item Review: City Administrator  City Attorney  Finance

During the August 8<sup>th</sup> meeting, a consensus by the Council was reached on the matter of new enforcement provisions for fire lane parking violations. That portion of the proposed ordinance amendment remains unchanged.

Most of the Council discussion, however, was centered on RV parking and storage. Councilors expressed differing points of view as to how to best address the issues related to this topic. After an extensive Council discussion, it was agreed that a Revised Ordinance (attached) would be prepared.

### **DISCUSSION:**

In preparing the Revised Ordinance, the comments and concerns expressed by Council members at the August 8<sup>th</sup> meeting were reviewed and considered. Additionally, various city ordinances from around the state and home owner association rules that address RVs were considered.

Proposed changes to Section 16 and 17 of the ordinance regulating RV parking, so as to respond to many of the comments and concerns Council raised at the August 8<sup>th</sup> meeting, have been outlined below:

- **Comment/Concern:** The concern that the 1-day out of 7-day parking regulation would be unreasonable and/or overly restrictive to those who require more than 1-day or evening to pack their RV and/or desire to return and unload their RV within that 7-day window. Additionally, the concern over the 10-day out of 1-year parking regulation would be unreasonable and/or overly restrictive to those who more regularly use their RV and require the overnight parking to prepare or unload from trips on a more frequent basis.
  - o **Proposed Revision:** Change to a simple 48-hour restriction that has no limitations on number of days per week or year that an RV can be parked on City Streets. This change would still require movement of the RV off city streets on a more stringent timeline than the 72-hours allowed for regular motor vehicles—cutting down on the consecutive days an RV may be parked,—but it also allows a family to an unlimited number of trips they could take.
- **Comment/Concern:** A desire to really formulate an ordinance that has the purpose and effect of getting at those who are currently abusing the RV storage ordinance, while not penalizing the individual or family that is trying to follow the rules.

- **Proposed Revision:** Adding language that the parking of an RV on City streets for any 48-hour period is for the purpose of loading, unloading, or otherwise preparing the RV for use and that using the street for storage is not allowed.
- **Comment/Concern:** Having an ordinance that puts an onus on the RV owner to either be actively using his or her RV for going out on trips or finding alternative off-street storage for the RV.
  - **Proposed Revision:** Placing emphasis on the definition within Section 17 of what constitutes "movement" of the RV that has been differentiated from the definition of "movement" for regular motor vehicles. For RVs, the proposed revision requires that the RV is actually moved off of the city street, not just the block where it was parked.
- **Comment/Concern:** Location restrictions in the proposed ordinance for where an RV can park were inconsistent and/or problematic for homeowners who live on corner lots.
  - **Proposed Revision:** Rephrasing the proposal to include that parked RVs must merely be located adjacent to the home of the owner (or if it is a guest, the home where they are visiting). Parking can then occur on either frontage of a corner or through-lot, but still must be in close proximity to the home.
- **Comment/Concern:** That the following part of the ordinance language should stand alone so as to emphasize its importance: "Failure to move a [vehicle within the regulated time] constitutes prima facie evidence of violation of the section."
  - **Proposed Revision:** Change was made to move this language from Section 16 alone, to be added to Section 17 that regulates the calculation of storage time for both Section 15 and 16. This language was then put into its own subsection so as to emphasize its importance in how the parking restrictions are enforced.
- **Comment/Concern:** That the ordinance could or should include restrictions that deter individuals from sleeping in RVs while they are parked on City streets.

- **Proposed Revision:** Adding a restriction that human occupancy of RVs is not permitted while the vehicle is parked on City streets during any allowable time period.
- **Comment/Concern:** That regular motor vehicles still have a safe means to navigate through city streets and not be obstructed by RVs, which instigates many of the calls received by code enforcement about this issue.
  - **Proposed Revision:** Adding language that states that regardless of whether somebody meets all of the other criteria for parking their RV on the street, their RV must still be parked in a manner that does not interfere with traffic or create a hazard by obstructing the view of drivers.

### **PROPOSED PUBLIC OUTREACH PLAN**

At the direction of the City Council, the City will engage in the following public outreach effort to take public feedback on the proposed traffic ordinance amendments by highlighting the issue per the following:

- 1) Staff will draft a series of articles to be pushed to the community via the City's Weekly E-Blast including an email address for citizens to submit any comments they may have regarding the proposed amendments electronically.
- 2) The City will take out a paid advertisement in the Woodburn Independent highlighting the issue of illegal parking and the proposed amendments being considered by the City Council.
- 3) The City will also send direct notifications to the City's various home owner and neighborhood associations informing them of the proposed revisions and asking for input.
- 4) The City will schedule a Parking Ordinance Open House at the Woodburn Police Department's Community Room where the issue will be presented and public feedback taken.

Once the City has completed this effort, all feedback and the proposed parking ordinance amendments will come back to the City Council for final consideration.

**FINANCIAL IMPACT:**

None.

ORDINANCE 2285

AN ORDINANCE REGULATING MOTOR VEHICLE, BICYCLE AND PEDESTRIAN TRAFFIC WITHIN THE CITY OF WOODBURN; REPEALING ORDINANCES 1904, 2078 AND 2191; AND DECLARING AN EMERGENCY.

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

**Section 1. Short Title.** This ordinance may be cited as the "City of Woodburn Traffic Ordinance."

**Section 2. Definitions.**

(1) The definitions contained in the Oregon Vehicle Code, ORS Chapter 801, as constituted on the date this ordinance takes effect, are hereby incorporated by reference.

(2) As used in this Ordinance, the following words and phrases mean:

(a) **Bus stop.** A space on the edge of a roadway designated by sign for use by buses loading or unloading passengers.

(b) **Chief of Police.** The Chief of Police of the City of Woodburn or designee.

(c) **City.** The City of Woodburn.

(b) **City Administrator.** The City Administrator of the City of Woodburn or designee.

(d) **Council.** The City Council of the City of Woodburn.

(e) **Emergency.** A situation where an unforeseen combination of circumstances calls for immediate action in order to avoid damage to a vehicle or where a vehicle was rendered inoperable but does not include a situation where the vehicle is left standing in excess of 24 hours.

(f) **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.

(g) **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 of specified days.

(h) **Parade.** Any march, demonstration, procession or motorcade consisting of persons, animals, or vehicles or a combination thereof upon the streets, parks or other public grounds within the City with an intent of attracting public attention that interferes with the normal flow or regulation of traffic upon the streets, parks or other public grounds.

(i) **Person.** A natural person, firm, partnership, association, or corporation, company or organization of any kind.

(j) **Street.** Any place or way set aside or open to the general public for purposes of vehicular traffic.

(k) **Traffic lane.** That area of the highway used for or designated for the movement of a single line of traffic.

(l) **Truck.** A "motor truck" vehicle as defined by ORS 801.355 that is vehicle designed and used primarily for drawing other vehicles, such as truck trailers, or for carrying loads other than passengers, and subject to state licensing for ten thousand (10,000) pounds or more gross vehicle weight.

**Commented [MHG1]:** Proposed change to align the defined term w/ the ORS chapter 801 definition of Motor Truck for better precision.

(m) **Truck Trailer.** Any trailer designed and used primarily for carrying loads other than passengers whether designed as a balance trailer, pole trailer, semitrailer or self-supporting trailer.

**Administration**

**Section 3. Powers of the Council.** Subject to state law, the Council constitutes the City road authority under ORS 810.010 and is empowered with all municipal traffic authority for the City except those powers specifically and expressly delegated herein or by another ordinance.

**Section 4. Duties of the City Administrator.** The City Administrator shall implement the ordinances, resolutions and motions of the Council. Installation of traffic control devices shall be based on the standards contained in the Oregon Manual on Uniform Traffic Control Devices for Streets and Highways.

**Section 4A. Duties of Chief of Police.** In addition to any other duties provided herein, the Council delegates to the Chief of Police the authority under ORS 810.030 to impose temporary street closures for a period not to exceed 14 days. Temporary street closures may be made because of traffic accidents or hazards, construction activity, natural disasters, special events, or any other reason where temporary closure is necessary to protect the interest and safety of the general public. (Section 4A added by Ordinance 2323 adopted July 17, 2002.)

**Section 5. Public Danger.** Under conditions constituting a danger to the public, the City Administrator may install temporary traffic control devices which are determined to be necessary.

**Section 6. Standards.** The regulations of the Mayor and City Council or its designate shall be based upon:

- (1) Traffic engineering principles and traffic investigations.
- (2) Standards, limitations and rules promulgated by the Oregon Transportation Commission.
- (3) Other recognized traffic control standards.

**Section 7. Authority to Enforce Ordinance.** Police officers as defined by ORS 801.395 and all other City employees designated by the City Administrator have the authority to enforce the provisions of this Ordinance to all City of Woodburn owned or operated property, highways as defined by ORS 801.305, and all private streets within the City limits specifically noted by this Ordinance.

**Commented [MHG2]:** Authority language for enforcement on private streets where designated by the ordinance, which is only "Fire Lanes" at this point in time.

**Section 7A. Right of Entry.** When necessary to investigate a suspected violation of this Ordinance, the enforcement officer may enter on any site open to the public for the purpose of investigation, provided entry is done in accordance with law. Absent a search warrant, no site that is closed to the public shall be entered without the consent of the owner or occupant. If entry is refused, the enforcement officer shall have recourse to the remedies provided by law to secure entry.

**Commented [MHG3]:** This "Right of Entry" language is similar in scope to what we include in the code enforcement section for nuisance properties. It curtails some of the authority to act on private property to what is lawful under Oregon/Federal law, while still providing an appropriate means by which enforcement can take action under this ordinance.

**Section 8. Alteration of Traffic Control Devices Prohibited.** No unauthorized person shall install, move, remove, alter the position of, or deface or tamper with a traffic control device.

**Section 9. Presumption that Traffic Control Device was Lawfully Authorized and Installed.** A traffic control device is presumed to be lawfully authorized and installed unless the contrary is established by competent evidence.

**General Regulations**

**Section 10. 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.

**Section 11. Unlawful Riding.**

(1) 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.

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

**Section 12. Prohibited Devices.** No person shall use the streets for traveling on skis, toboggans, sleds, skates, skateboards roller blades or other similar devices.

**Section 13. Removing Glass and Debris.** A party to a vehicle accident or a person causing broken glass or other debris to be deposited upon a street shall remove the glass and other debris from the street.

**Section 14. Obstructing Streets.** No unauthorized person shall obstruct the free movement of motor vehicles or pedestrians using the streets.

**Section 15. Storage of Vehicles on Streets.** No person shall store or permit to be stored on a street or other public property, without permission of the City, a vehicle or personal property. Failure to remove a vehicle or other personal property for a period of 72 hours shall constitute prima facie evidence of storage of a vehicle.

**Section 16. Storage and Parking Trucks, Trailers, Boats, Campers, Car Units and Other Vehicles.**

(1) No person shall park a truck, or truck trailer upon any street, alley, avenue or public way in any residential area of the City adjacent to any residence, apartment, hotel, care facility, church, school, hospital, multiple dwelling, park or playground in any area of the City. The provisions of this section shall not be deemed to prohibit the lawful parking of such equipment upon any street, avenue or public way in the City for the actual loading or unloading of goods or to make repairs necessitated by an emergency.

(2) No person shall store or permit to be stored on a street or other public property, without permission of the city, park a bus or vacation house trailer, motor home, recreational vehicle, travel trailer, camper, boat and/or boat trailer, whether attended or unattended, motor home, tent trailer, utility trailer, or any motorized or unmotorized vehicle on any street or on any avenue or public way within the City for longer than 72 hours. A bus, motor home, recreational vehicle, travel trailer, camper, boat and/or boat trailer may be parked on a street for a period of not more than forty-eight (48) hours if it meets the criteria listed below:

(a) It is parked for the purpose of loading, unloading, or otherwise being prepared for use;

(b) It is owned by the resident or guest of the resident of the property it is parked adjacent to;

(c) It is not being used for human occupancy while parked on the street;

and

**Commented [MHG4]:** Additional locations added to the scope of this provision for consistency with the Oregon Fire Code.

**Commented [MHG5]:** Delineating from the start that the use of public streets for the storage of RVs is generally prohibited. This change emphasizes the general purpose of the overall regulation and tracks consistently with the language from Section 15 above.

**Commented [MHG6]:** Scope of terms for this provision revised to align w/ ORS chapter 801 defined terms.

**Commented [MHG7]:** Revised limitation to a simpler 48-hour calculation of parking time being allowed with the added criteria of subsection (a) – (d) below.

**Commented [MHG8]:** Emphasizing again that RV parking on the city street cannot be for mere storage, and will be limited to the scope of loading/unloading/prep of the RV for usage.

**Commented [MHG9]:** Location restriction for RV parking is rephrased to “adjacent to property,” so that residents on corner or through lots can have more flexibility for where they may park their RV; while the provision still maintains the purpose of restricting non-residents from parking their RVs on City streets or from residents parking their RVs on City streets that are not in proximity to where they actually reside.

**Commented [MHG10]:** Added provision that includes a restriction against human occupancy of an RV while it is parked on City Streets. While not by itself an anti-camping ordinance, this added section may be a helpful tool in addressing any future instances of people living in RVs on City Streets.

(d) It is parked in a manner that does not interfere with traffic or create a hazard by obstructing the view of other drivers.

**Commented [MHG11]:** Added provision to address potential safety concerns and visibility issues for other drivers on City streets.

**Section 17. Calculation of Time of Storage.**

(1) Failure to move a vehicle regulated by Section 15 and 16 of this Ordinance after expiration of any of the time periods set forth constitutes prima facie evidence of violation of that Section.

**Commented [MHG12]:** Changed to make this section of the provision stand alone so as to emphasize its importance in how time under this ordinance for storage is calculated.

(2) For purposes of Section 15 of this Ordinance, "move" means ~~When calculating hours under Sections 15 and 16 of this Ordinance, the continuity of time shall not be deemed broken by the movement of the motor vehicle or personal property elsewhere on the block unless the movement~~ removing the motor vehicle or personal property from the block where it is located before it is returned.

(3) For purposes of Section 16 of this Ordinance, "move" means removing the bus, motor home, recreational vehicle, travel trailer, camper, boat and/or boat trailer off the City's streets or other public property before it is returned.

**Commented [MHG13]:** These revisions are included to distinguish how "movement" of a vehicle will differ in calculating the time of storage based on the vehicle type and the Section on Storage (either 15 or 16) that applies. The difference being highlighted is that regular vehicles just have to "leave the block" vs. RVs have to be "removed off the City's streets" before returning.

**Parking Regulations**

**Section 18. Method of Parking.**

(1) 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 motor vehicle makes compliance impossible, within a single marked space.

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

(3) 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 the police or fire officers.

**Section 19. Prohibited Parking or Standing.** In addition to the state motor vehicle laws prohibiting parking, no person shall park or stand:

(1) A vehicle 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 30 consecutive minutes.

(2) A motor vehicle upon a street for the principal purpose of:

(a) Displaying the vehicle for sale.

(b) Repairing or servicing the vehicle, except to make repairs necessitated by an emergency.

(c) Displaying advertising from the vehicle.

(d) Selling merchandise from the vehicle, except when authorized.

(3) A motor vehicle parked in such a manner that it damages or causes to be damaged any public improvement within the City including streets, alleys, or other public ways. The person who parked the vehicle shall be liable to the City for the damage caused thereby.

(4) A vehicle on a highway or street clearly designated as a fire apparatus access road or fire lane per Section 2 of the Oregon Fire Code. A curb painted red or otherwise marked as a "Fire Lane" designates a fire apparatus access road or fire lane and may be established on public or private property.

**Commented [MHG14]:** New prohibition against parking in designated "Fire Lanes," whether marked on public or private property.

**Section 20. Affirmative Defense of Emergency Repairs.** Under Sections 15, 16 and 19 of this Ordinance, it shall be an affirmative defense that the prohibited parking was necessitated by an emergency and the defendant shall have the burden of proving the existence of the emergency by a preponderance of the evidence.

**Section 21. 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 loading zone shall not exceed 30 minutes.

**Section 22. Unattended Vehicles.** Whenever a police officer finds a motor vehicle parked unattended with the ignition key in the vehicle, the police officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the police station.

**Section 23. Standing or Parking of Buses.** The operator of a bus shall not stand or park the vehicle upon a street in a business district at a place other than a bus stop, except that this provision shall not prevent the operator from temporarily stopping the bus outside a traffic lane while loading or unloading passengers.

**Section 24. Restricted Use of Bus Stops.** No person shall stand or park a vehicle other than 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 waiting to enter or about to enter the restricted zone.

**Section 25. Extension of Parking Time.** Where maximum parking time limits are designated by sign, movement of a vehicle in a block shall not extend the time limits for parking.

**Section 26. Exemption.** The provisions of this ordinance 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 operated by the United States while in use for the collection, transportation or delivery of mail.

**Abandoned Vehicles**

**Section 27. Authority Over Abandoned Vehicles within City.** City police officers and code enforcement personnel employed by the City and supervised by the Chief of Police shall have authority pursuant to ORS 819.140(1)(c) to take abandoned vehicles into custody and exercise powers over abandoned vehicles pursuant to state law.

**Section 28. Abandoned Vehicle Procedure.** All abandoned vehicles shall be processed under the provisions of state law.

**Bicycles**

**Section 29. Bicycle Operating Rules.** In addition to observing all other applicable provisions of this ordinance and state law pertaining to bicycles, a person shall:

(1) Not leave a bicycle, except in a bicycle rack. If no bike 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.

(2) Not ride a bicycle upon a sidewalk within the downtown core area bounded on the north by Harrison Street, on the west by Second Street, on the south by Cleveland Street, and on the east by Front Street.

**Section 30. Licensing.** The owner or lawful possessor of a bicycle may obtain a license in the following manner:

(1) The police department shall issue licenses and in so doing, shall obtain and record the name and address of each person purchasing a license and the make, model and serial number (if any) of the bicycle.

(2) A number shall be assigned to each bicycle so licensed, and a record of the license issued shall be maintained as part of the police records. A license plate assigned shall be affixed to the frame of the bicycle.

(3) A fee for a bicycle license shall be \$1.00; all license fees collected shall be paid over to the general fund.

**Section 31. Impounding of Bicycles.**

(1) No person shall leave a bicycle on public or private property without the consent of the person in charge or the owner thereof.

(2) A bicycle left on public property for a period in excess of 24 hours may be impounded by the police department.

(3) In addition to any citation issued, a bicycle parked in violation of this ordinance may be immediately impounded by the police department.

(4) If a bicycle impounded under this ordinance is licensed, or other means of determining its ownership exist, the police shall make reasonable efforts to notify the owner.

(5) A bicycle impounded under this ordinance which remains unclaimed shall be disposed of in accordance with the city's procedures for disposal of abandoned or lost personal property.

**Pedestrians**

**Section 32. Right Angles.** A pedestrian shall cross a street at a right angle, unless crossing within a crosswalk.

**Section 33. Use of Available Crosswalk.** No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within 150 feet of a marked crosswalk.

**Section 34. Skates, Skateboards, and Roller blades.** No person shall use skates, skateboards, roller blades or other similar devices upon a sidewalk within the downtown core area bounded on the north by Harrison Street, on the west by Second Street, on the south by Cleveland Street, and on the east by Front Street.

**Funeral Processions**

**Section 35. Funeral Processions.**

(1) A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practical.

(2) The procession shall be accompanied by adequate escort vehicles for traffic control purposes.

(3) All motor vehicles in the procession shall be operated with their headlights turned on.

(4) No person shall unreasonably interfere with a funeral procession.

(5) No person shall operate a vehicle which is not a part of the procession between the vehicles of a funeral procession.

**Parades**

**Section 36. Permit Required.** No person shall engage in or conduct any parade unless a permit is issued by the Chief of Police.

**Section 37. Parade Permit Application.**

(1) Application for a parade permit shall be made, except for a funeral procession, to the Chief of Police at least seven days prior to the intended date of parade, unless the time is waived by the Chief of Police.

In considering whether to waive the minimum time within which an application for a permit must be made, the Chief of Police shall consider the following factors:

(a) Whether the size, route or nature of the proposed parade is such that additional law enforcement or other resources are required;

(b) Time needed to inform the public of the parade in order to minimize public inconvenience.

(2) Applications shall be signed by the applicant and include the following information:

(a) The name, address and telephone number of the persons responsible for the proposed parade.

(b) The name, address and telephone number of the headquarters of the organization for which the parade is to be conducted, if any, and the authorized and responsible heads of the organization.

(c) The requested date of the proposed parade.

(d) The desired route, including assembling point.

(e) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traveled.

(f) The location by street of any assembly areas for such parade.

(g) The number of persons, vehicles and animals which will be participating in the parade.

(h) The estimated number of spectators.

(i) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade.

(j) The intervals of space to be maintained between units of such parade.

(k) The proposed starting and ending times.

**Section 38. Standards for Issuance.**

(1) The Chief of Police shall issue a parade permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, the Chief of Police finds that:

(a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;

(b) The conduct of the parade will not require the diversion of so great a number of City police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the City;

(c) The concentration of persons, animals, and vehicles at public assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such public assembly areas;

(d) The conduct of the parade is not reasonably likely to cause injury to persons or property;

(e) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

(f) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;

(g) There are sufficient parking places near the site of the parade to accommodate the number of vehicles reasonably expected;

(h) No parade permit application for the same time and location is already granted or has been received and will be granted.

**Section 39. Denial of Permit.** If the Chief of Police denies the permit based upon the standards for issuance specified in Section 38, written findings shall be issued specifying the reasons for the decision and a copy of the findings shall be furnished to the applicant.

**Section 40. Alternative Permit.**

(1) The Chief of Police, in denying an application for a parade permit, may authorize the conduct of the parade at a date, time, location, or route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police.

(2) An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit issued under this Ordinance.

**Section 41. Notification of Decision.**

(1) The Chief of Police shall notify the applicant of the decision within five days of receipt of the application.

(2) If the Chief of Police requires an alternate route or an alternate date or refuses to issue a permit, the applicant shall have the right to appeal this decision to the Council.

**Section 42. Appeal to Council.**

(1) The applicant may appeal the decision of the Chief of Police by filing a written request of the appeal with the City Recorder within five days after the Chief of Police has proposed alternatives or refused to issue a permit.

(2) The Council shall schedule a hearing date which shall not be later than the second regular session following the filing of the written appeal with the City Recorder and shall notify the applicant of the date and time that he may appear either in person or by a representative.

**Section 43. Public Conduct During Parades.**

(1) No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or with any person, vehicle or animal participating or used in a parade.

(2) No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(3) The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a parade.

**Section 44. Prohibited Conduct.** The following prohibitions shall apply to all parades:

(1) It shall be unlawful for any person to stage, present, or conduct any parade without first having obtained a permit as herein provided;

(2) It shall be unlawful for any person to participate in a parade for which the person knows a permit has not been granted;

(3) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly licensed parade to knowingly fail to comply with any condition of the parade permit;

**Section 45. Permit Revocable.** The City Administrator may revoke a parade permit if:

(1) An imminent threat of violence and personal injury to the parade participants exists, all reasonable efforts to protect the parade participants have failed, and a request to disband the parade made to the parade organizers has been refused;

(2) Actual violence that endangers public safety has been caused by parade participants and public safety cannot be protected without revocation of the permit; or

(3) There is significant deviation from the route designated in the application or approval, or assembly at points not shown in the application or approval, which occurs without approval of the Chief of Police.

**Parking Citations and Owner Responsibility**

**Section 46. Citation on Illegally Parked Vehicle.** Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this ordinance 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 and at the time and place specified in the citation.

**Section 47. 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.

**Section 48. 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.

**Impoundment and Penalties**

**Section 49. Authority to Impound Improperly Parked Vehicles.** When any unattended vehicle is parked upon a street, alley or public way of the City in such a manner that it is unlawfully parked in any prohibited or restricted area or is unlawfully parked for a length of time prohibited by this Ordinance, such vehicle is declared by the

Council to be a public nuisance and it shall be subject to abatement, removal and impounding in accordance with the procedures provided for abandoned vehicles pursuant to state law.

**Section 50. Civil Infraction Assessment.** Each violation of any provision of this Ordinance constitutes a class 4 civil infraction and shall be dealt with according to the procedures established by City ordinance.

**General**

**Section 51. Severability Clause.** If a portion of this ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this ordinance.

**Section 52. Repeal.** Ordinances 1904, 2078 and 2191 are hereby repealed.

**Section 53. Saving Clause.** The repeal of any ordinance by this Ordinance shall not preclude any action against any person who violated the ordinance prior to the effective date of this ordinance.

**Section 54. 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.

COUNCIL BILL NO. 3015

ORDINANCE NO. 2537

**AN ORDINANCE AMENDING ORDINANCE 2285 (THE TRAFFIC ORDINANCE) TO PROHIBIT PARKING IN DESIGNATED FIRE LANES, TO MODIFY THE RV PARKING AND STORAGE PROVISIONS, TO MAKE OTHER MINOR AMENDMENTS, AND DECLARING AN EMERGENCY**

**WHEREAS**, in 2001, the Woodburn City Council adopted Ordinance 2285 (“the Traffic Ordinance”) establishing and providing for the regulation of motor vehicles, bicycles, and pedestrian traffic within the City of Woodburn; and

**WHEREAS**, the City Council, as part of the Ordinance Review and Revision Project, has considered revisions to the Traffic Ordinance as provided herein; and

**WHEREAS**, the City Council has determined that it wants to more particularly define that parking in designated fire lanes, whether on public or private property, is prohibited; and

**WHEREAS**, more specifically, the City Council has determined that it is in the public interest and promotes public safety to amend the Traffic Ordinance to grant enforcement officers the specific authority to enforce fire lane parking on private roads; and

**WHEREAS**, the City Council has further determined that adding more specific restrictions that would only allow recreational vehicle (“RV”) parking on City streets for certain loading and unloading purposes, for a limited period of time and in limited city locations, would reasonably address neighborhood concerns of public safety and aesthetics; and

**WHEREAS**, more specifically, Section 16(2) will specify certain restrictions on RV parking and storage on City streets; and Section 19 will prohibit parking in certain areas or for particular purposes; and

**WHEREAS**, the City Council has considered and added certain other minor amendments to the Traffic Ordinance as specified herein, **NOW, THEREFORE**,

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

**Section 1.** Section 2 (2)(l) of Ordinance 2285 is amended to read as follows:

**"Section 2. Definitions. . . .**

(2) As used in this Ordinance, the following words and phrases mean: . . ."

(l) **Truck.** A "motor truck" vehicle as defined by ORS 801.355 that is designed and used primarily for drawing other vehicles, such as truck trailers, or for carrying loads other than passengers, and subject to state licensing for ten thousand (10,000) pounds or more gross weight.

**Section 2.** Section 7 of Ordinance 2285 is amended to read as follows:

**Section 7. Authority to Enforce Traffic Ordinance.** Police officers as defined by ORS 801.395 and all other City employees designated by the City Administrator have the authority to enforce the provisions of this Ordinance to all City of Woodburn owned or operated property, highways as defined by ORS 801.305, and all private streets within the City limits specifically notes by this Ordinance.

**Section 3.** Section 7A of Ordinance 2285 is added to read as follows:

**Section 7A. Right of Entry.** When necessary to investigate a suspected violation of this Ordinance, the enforcement officer may enter on any site open to the public for the purpose of investigation, provided entry is done in accordance with law. Absent a search warrant, no site that is closed to the public shall be entered without the consent of the owner or occupant. If entry is refused, the enforcement officer shall have recourse to the remedies provided by law to secure entry.

**Section 4.** Section 16 of Ordinance 2285 is amended to read as follows:

**Section 16. Storage and Parking Trucks, Trailers, Boats, Campers, and Other Vehicles.**

(1) No person shall park a truck, or truck trailer upon any street, alley, avenue or public way in any residential area of the City adjacent to any residence, apartment, hotel, care facility, church, school, hospital, multiple dwelling, park or playground in any area of the City. The provisions of this section shall not be deemed to prohibit the lawful parking of such equipment upon any street, avenue or public way in the City for the actual loading or unloading of goods or to make repairs necessitated by an emergency.

(2) No person shall store or permit to be stored on a street or other public property, without permission of the city, a bus, motor home, recreational vehicle, travel trailer, camper, boat and/or boat trailer, whether attended or unattended. A bus, motor home, recreational vehicle, travel trailer, camper, boat and/or boat trailer may

be parked on a street for a period of not more than forty-eight (48) hours if it meets the criteria listed below:

(a) It is parked for the purpose of loading, unloading, or otherwise being prepared for use;

(b) It is owned by the resident or guest of the resident of the property it is parked adjacent to;

(c) It is not being used for human occupancy while parked on the street;  
and

(d) It is parked in a manner that does not interfere with traffic or create a hazard by obstructing the view of other drivers.

**Section 5.** Section 17 of Ordinance 2285 is amended to read as follows:

**Section 17. Calculation of Time of Storage.**

(1) Failure to move a vehicle regulated by Section 15 and 16 of this Ordinance after expiration of any of the time periods set forth constitutes prima facie evidence of violation of that Section.

(2) For purposes of Section 15 of this Ordinance, "move" means removing the motor vehicle or personal property from the block where it is located before it is returned.

(3) For purposes of Section 16 of this Ordinance, "move" means removing the bus, motor home, recreational vehicle, travel trailer, camper, boat and/or boat trailer off the City's streets or other public property before it is returned.

**Section 6.** Section 19 (4) of Ordinance 2285 is added to read as follows:

**"Section 19. Prohibited Parking or Standing.** In addition to the state motor vehicle laws prohibiting parking, no person shall park or stand: . . . "

(4) A vehicle on a highway or street clearly designated as a fire apparatus access road or fire lane per Section 2 of the Oregon Fire Code. A curb painted red or otherwise marked as a "Fire Lane" designates a fire apparatus access road or fire lane and may be established on public or private property.

**Section 7. Emergency Clause.** This ordinance being necessary for the immediate preservation of the public peace, health and safety in that the

amendment regarding fire lane enforcement involves significant public safety issues and should be effective immediately, an emergency is declared to exist and this ordinance shall take effect immediately upon passage by the City Council and approval by the Mayor.

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



# Agenda Item

September 26, 2016

TO: Honorable Mayor and City Council through City Administrator  
FROM: Jim Hendryx, Community Development Director  
SUBJECT: **Legislative Amendment - LA 2016-01**

## **RECOMMENDATION:**

It is recommended that the City Council adopt the attached ordinance making textual amendments to the Woodburn Development Ordinance regarding Nodal Overlay Districts and Accessory Structures (fence and wall standards).

## **BACKGROUND:**

Beginning in 2009, the Woodburn Development Ordinance (WDO) was entirely rewritten. Initially, sign standards were revised (2010). Then, in 2011, administrative provisions were updated and in 2013, the remaining sections of the ordinance, primarily dealing with land use standards, were updated. The ordinance was again readopted in the fall of 2013 in order to address scrivener errors, resulting in reformatting the WDO.

The WDO states that the Director shall keep a list of potential modifications to the ordinance and report those to the Council, who may initiate such modifications if they so choose. Additionally, Council can initiate such modifications at their discretion. Council gave direction to address these WDO issues this past February.

At the August 25, 2016 Planning Commission meeting, the Commission held a public hearing on LA 2016-01 and took action on fence and nodal standards, recommending that the City Council approve amendments to those sections of the WDO.

The City Council held a public hearing on September 13, 2016 and approved amendments to sections of the Woodburn Development Ordinance Nodal Standards (Sections 2.02 and 2.05.04) and Fence and Wall Standards (Section 2.06) as recommended by the Planning Commission. They requested an ordinance be prepared implementing the approved changes to the WDO.

## **DISCUSSION:**

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

The City Council considered Legislative Amendment LA 2016-01 at its September 12, 2016 meeting and directed staff to return with an ordinance implementing those changes. The attached ordinance carries out Council's direction.

**FINANCIAL IMPACT:**

Legislative Amendment LA 2016-01 revises development standards and is anticipated to have no public sector financial impact.

**COUNCIL BILL NO. 3016**

**ORDINANCE NO. 2538**

**AN ORDINANCE MAKING CERTAIN TEXTUAL AMENDMENTS TO THE WOODBURN DEVELOPMENT ORDINANCE REGARDING NODAL OVERLAY DISTRICTS AND ACCESSORY STRUCTURES (FENCE AND WALL STANDARDS)**

**WHEREAS**, the Woodburn Development Ordinance (WDO) was originally adopted by the City Council in 2002; and

**WHEREAS**, starting in 2009, the WDO was entirely rewritten. Sign standards were revised in 2010, administrative provisions were updated in 2011, and land use standards were updated in 2013; and

**WHEREAS**, the WDO requires the Director to keep a list of potential modifications and report these to the Council; and

**WHEREAS**, in February 2016, by Resolution 2072, the City Council initiated this WDO revision in response to the Director's report; and

**WHEREAS**, the Woodburn Planning Commission conducted a workshop on June 23, 2016 and a public hearing on August 25, 2016 regarding proposed amendments to the nodal overlay districts and fence and wall standards and forwarded said amendments to the City Council, with a unanimous recommendation of approval; and

**WHEREAS**, the City Council conducted a public hearing on September 12, 2016 and tentatively approved amendments to the nodal overlay districts and fence and wall standards in the WDO and directed staff to prepare this Ordinance effecting the proposed amendments; **NOW, THEREFORE**,

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

**Section 1.** The text of Section 2.05.04 (Nodal Overlay Districts), Table 2.02C and Table 2.02F of the WDO are amended as set forth in Exhibit A.

**Section 2.** The text of Section 2.06 (Accessory Structures) of the WDO is amended as set forth in Exhibit B.

**Section 3.** The legislative action taken by this Ordinance is explained and justified by the City Council Staff Report as set forth in Exhibit C.

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

# Exhibit A

## **2.05.04 Nodal Overlay Districts**

### A. Purpose

Development within the Nodal Overlay Districts includes multi-family, single family, attached single family (row houses) and small-lot single family development, with limited commercial development and accessible parks. The intent of the overlay districts is to provide community identity to higher density residential developments within walking distance (generally one-half mile or less) of the neighborhood commercial center. Nodal development will be designed with a pedestrian focus, with interconnected streets and pedestrian walkways, alleys serving garages located at the rear of lots, and with limited on-street parking.

Nodal Overlay Districts are shown on the Comprehensive Plan Map with zoning applied at the time of annexation. To ensure that land is efficiently used within the Urban Growth Boundary (UGB), master plans shall be required for land within Nodal districts.

### B. Nodal Single Family Residential (RSN) and Nodal Medium Density Residential (RMN) Districts

1. Vehicular access directly to a public street is prohibited and alley access to garages facing the alley is required for anything other than standard single family development. Off-street parking, maneuvering and storage is prohibited within a required front or side setback, or any yard abutting a street with attached single family and small-lot single family development.
2. Alleys shall be required for all small lot single-family residential subdivisions and attached single family (row houses) development. Alleys shall be dedicated and paved to a minimum width of 20 feet. No parking shall be allowed within an alley right-of-way.

### C. Master Planning Requirement

1. A master development plan shall be approved by the City Council for the entire area designated as Nodal Overlay on the Comprehensive Plan Map, prior to annexation of any property within the Nodal Development Overlay Comprehensive Land Use Plan map designation. The master plan shall be conceptual and non-binding in nature, but may be used as a general guide for development within the Nodal Overlay Districts.
2. The required master plan shall show:
  - a) The location and rights-of-way for existing and planned streets. These streets shall provide access to all existing and proposed parcels, consistent with the Transportation System Plan (TSP);
  - b) The location and size of existing and planned sanitary sewer, storm water

and water facilities, at adequate levels to serve existing and proposed development;

- c) The location and area of the Riparian Corridor and Wetlands Overlay District (RCWOD). Planned streets and public facilities that cannot reasonably avoid the RCWOD shall be indicated;
- d) A development plan for the Nodal Neighborhood Commercial center, neighboring multi-family areas, and potential parks, including planned pedestrian and bicycle connections within the Nodal Overlay District as shown on the Transportation System Plan, and pedestrian and bicycle connections to Southwest Industrial Reserve areas;
- e) A development plan for all residential areas, demonstrating consistency with applicable nodal design standards.

D. Removal of a Nodal Overlay District

- 1. Removal of a Nodal Overlay District from any area or parcel shall require the following:
  - a) A revised transportation, housing and commercial land needs analysis, consistent with the Goal 9, 10 and 12 Rules (OAR Chapter 660, Divisions 8, 9 and 12);
  - b) A Comprehensive Plan Amendment that demonstrates compliance with all applicable Statewide Planning Goals, applicable goals and policies of the Marion County Framework Plan, and applicable goals and policies of the Comprehensive Plan;
  - c) A zoning map amendment that demonstrates consistency with the Comprehensive Plan.

## Nodal Residential Single-Family (RSN) - Site Development Standards

### Table 2.02C

Lot Area, Minimum (square feet)	Standard lot	Interior or cul-de-sac lot		6,000 <sup>1</sup>
		Corner lot	Single-family dwelling, child care facility or group home <sup>2</sup>	8,000
			Any other use	10,000
	Small lot and row house	Interior or cul-de-sac lot		4,000 <sup>1</sup>
		Corner lot		5,000
	Lot Width, Minimum (feet)	Standard lot	Interior or cul-de-sac lot	
Corner lot			80	
Small lot and row house		Interior or cul-de-sac lot		30
		Corner lot		50
Lot Depth, Average (feet)	Standard lot			90
	Small lot and row house			80
Standard lot Residential Density, Minimum (units per net acre)				5.2
Small lot and row house Residential Density, Minimum (units per net acre)				7.9
Street Frontage, Minimum (feet)	Standard lot	Interior or cul-de-sac lot		40
		Corner lot	Single-family dwelling, child care facility or group home <sup>2</sup>	40
			Any other use	50
	Small lot and row house	Interior lot		40
		Corner lot		50
		Cul-de-sac lot		30
Front Setback and Setback Abutting a Street, Minimum (feet)				20 <sup>3, 4</sup>

## Nodal Residential Single-Family (RSN) - Site Development Standards

### Table 2.02C

Front Porch Setback, Maximum (feet)		10
Side Setback, Minimum (feet)		5 <sup>7, 8</sup>
Rear Setback, Average (feet)	Primary structure	20 or 0 <sup>5, 7, 10</sup>
	Accessory structure	5
Setback to a Private Access Easement, Minimum (feet)		5
Lot Coverage, Maximum (percent)	Primary building height 16 feet or less	40 <sup>9</sup>
	Primary building height more than 16 feet	35 <sup>9</sup>
	Accessory structure	25 of rear yard <sup>6, 9</sup>
Building Height, Maximum (feet)	Primary structure	35
	Features not used for habitation	70
	Accessory structure	15

1. Flag lots are not allowed in the RSN zone.
2. Child care facility for 12 or fewer children, group home for five or fewer persons
3. Measured from the Special Setback (Section 3.03.02), if any
4. Infill lots between developed lots: average of abutting residential buildings, plus or minus 5 feet, but not less than 10 feet
5. With a maximum deviation of five feet from the setback standard
6. Accessory structures are included in the total lot coverage. Accessory structures are also limited to 25% coverage of the rear yard.
7. A house of worship shall be set back at least 20 feet from a property line abutting a residential zone or use.
8. Row houses have a 0 foot side setback on interior lots
9. Lot coverage limitations determined by setbacks for small lot and row house development
10. Garages have a 20 ft or 0 ft setback

## Nodal Medium Density Residential (RMN) - Site Development Standards

### Table 2.02F

Lot Area, Minimum (square feet)	Single-family dwelling, child care facility or group home	Interior or cul-de-sac lot	4,000 <sup>1,2</sup>
		Corner lot	5,000 <sup>2</sup>
	Row house	Interior lot	3,000 <sup>1</sup>
		Corner or cul-de-sac lot	3,600
	Duplex		8,000 <sup>1</sup>
	Multiple-family dwelling, child care facility, group home or nursing home		87,120 <sup>1,3</sup>
	Any other use		Not specified <sup>7</sup>
Lot Width, Minimum (feet)	Single-family dwelling, child care facility or group home	Interior or cul-de-sac Lot	45 <sup>2</sup>
		Corner lot	60 <sup>2</sup>
	Row house	Interior lot	20
		Corner or cul-de-sac lot	35
	Duplex		80
	Multiple-family dwelling, child care facility, group home or nursing home		200 <sup>3</sup>
	Any other use		Not specified <sup>7</sup>
Lot Depth, Average (feet)	Single-family dwelling, child care facility or group home or row house		80 <sup>2</sup>
	Duplex		90
	Multiple-family dwelling, child care facility, group home or nursing home		200 <sup>3</sup>
	Any other use		Not specified <sup>7</sup>
		Interior lot	20
		Corner lot	35

## Nodal Medium Density Residential (RMN) - Site Development Standards

### Table 2.02F

Street Frontage, Minimum (feet)	Single-family dwelling, child care facility, group home, or multiple-family dwelling <sup>2</sup>		Cul-de-sac lot	30
	Row house	Interior lot		20
		Corner or cul-de-sac lot		35
	Duplex			80
	Any other use			200
Residential Density (units per net acre)	Minimum	Single-family dwelling		7.9
		Duplex or row houses		10
		Multiple-family dwelling		19
		Any other use		Not specified <sup>7</sup>
	Maximum	Multiple-family dwelling		24 <sup>7</sup>
		Child care facility, group care facility or nursing home		32 <sup>3, 7</sup>
		Manufactured dwelling park		12 <sup>7</sup>
		Any other use		Not specified <sup>7</sup>
Front Setback and Setback Abutting a Street, Minimum (feet)	Single-family dwelling, child care facility or group home		20 <sup>2, 4</sup>	
	Row house	Abutting an arterial street	20 <sup>4</sup>	
		Not abutting an arterial street	10 <sup>4</sup>	
	Any other use	Abutting commercial or industrial zone, or collector or arterial street	20 <sup>4</sup>	
		Not abutting commercial or industrial zone, or collector or arterial street	10 <sup>4</sup>	

## Nodal Medium Density Residential (RMN) - Site Development Standards

### Table 2.02F

		Abutting an RS zone		10 plus 5 for each story over 1 <sup>4</sup>	
Front Setback and Setback Abutting a Street, Maximum (feet)	Row houses	To front porch		10	
	Duplex, multiple-family dwelling, group home or nursing home	Abutting commercial or industrial zone, or collector or arterial street		Not specified <sup>3</sup>	
		Not abutting commercial or industrial zone, or collector or arterial street		15 <sup>3</sup>	
	Any other use			Not specified	
Side Setback, Minimum (feet)	Single-family dwelling, child care facility or group home			5 <sup>2</sup>	
	Row house			15 <sup>5,9</sup>	
	All other uses	Abutting RS, RM, or P/SP zone, or an existing single-family, duplex, or multiple-family dwelling	Building height (feet)	16 or less	24
				more than 16 and less than 28	30
				28 or more	36
	Abutting NNC, or CG zone			10 <sup>8</sup>	
	Abutting SWIR zone			15	
Accessory structure			Same as primary		
Rear Setback, Minimum (feet)	Single-family dwelling, child care facility or group home	Building height (feet)	16 or less	24 <sup>2,6</sup>	
			more than 16 and less than 28	30 <sup>2,6</sup>	
			28 or more	36 <sup>2,6</sup>	
	Row houses			20 or 0 <sup>11</sup>	

## Nodal Medium Density Residential (RMN) - Site Development Standards

### Table 2.02F

	Any other use	Same as side
	Accessory structure	5
Setback to a Private Access Easement, Minimum (feet)		5
Lot Coverage, Maximum (percent)	Single-family dwelling, child care facility or group home	Primary building height 16 feet or less 40 <sup>2</sup>
		Primary building height more than 16 feet or less 35 <sup>2</sup>
	Any other use	Not specified <sup>7, 10</sup>
Building Height, Maximum (feet)	Primary structure	45
	Features not used for habitation	70
	Accessory structure	15

1. Flag lots are not allowed in the RMN zone.
2. Child care facility for 12 or fewer children, group home for five or fewer persons
3. Child care facility for 13 or more children, group home for six or more persons
4. Measured from the Special Setback (Section 3.03.02), if any
5. For row houses, there is no side setback along common lot lines.
6. With a maximum deviation of five feet from the setback standard
7. The minimum lot dimensions, maximum density, and maximum lot coverage are determined by setbacks, off-street parking, and landscaping requirements.
8. A house of worship shall be set back at least 20 feet from a property line abutting a residential zone or use.
9. Row houses have a 0 foot side setback on interior lots
10. Lot coverage limitations determined by setbacks for small lot and row house development
11. Garages have a 20 ft or 0 ft setback

# Exhibit B

## 2.06 Accessory Structures

The purpose of this Section is to set forth the regulations for accessory structures such as fences, walls, storage buildings, detached garages and gazebos.

2.06.01	Applicability
2.06.02	Fences and Walls
2.06.03	Structures

### **2.06.01**                    **Applicability**

The following standards are applicable to accessory structures in all zones.

### **2.06.02**                    **Fences and Walls**

#### A. Location and Height Abutting a Street in Residential Zones

1. The height shall comply with the vision clearance area standards, Section 3.03.06.
2. The height shall not exceed 42 inches (3½ feet) above the ground elevation under the fence or wall located at the lot line abutting the street.
3. The height may increase one foot for each 6 feet of setback from the lot line abutting the street. Fences may increase to their maximum height (7 ft) when flush with the house or garage.
4. For corner lots, one frontage shall not exceed the standards in #2 above. The alternative frontages are treated as interior lot line(s), allowing fencing in excess of 42 inches up to, and equal with, the house frontage. The remaining frontage shall not exceed the 42 inch limitation.
5. For through lots, abutting streets and/or alleys on two opposite frontages, the rear frontage opposite the front is to be treated as an interior lot line, allowing a maximum height of 7 ft.
6. Fences and walls may be constructed in the special setback, provided the property owner agrees to removal at such time as street improvements are made.

#### B. Height in Yards Not Abutting a Street

1. In residential zones, the maximum height of a fence or wall other than for corner and/or through lots, shall be seven feet, relative to the ground elevation under the fence or wall.

### C. Height in Non-Residential Zones

1. In commercial, industrial, or public zones, the maximum height of a fence or wall located in a yard abutting a street shall be 6 feet, relative to the ground elevation under the fence or wall. Fence height may increase to 9 feet once flush with the building face, or 20 feet from street right-of-way.
2. Fences and walls may be constructed in the special setback provided the property owner agrees to removal at such time as street improvements are made.

### D. Fence Materials

1. Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls, such as wood, stone, rock, or brick, or other durable materials.
2. Chain link fences are acceptable as long as the fence is coated and includes slats made of vinyl, wood or other durable material. Slats may not be required when visibility into features such as open space, natural areas, parks and similar areas is needed to assure visual security, or into on-site areas in industrial zones that require visual surveillance.
3. For manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a building in industrial districts, the preceding standards apply when visible from, and within 20 feet of, a public street.

Figure 2.06A – Fence or Wall Height

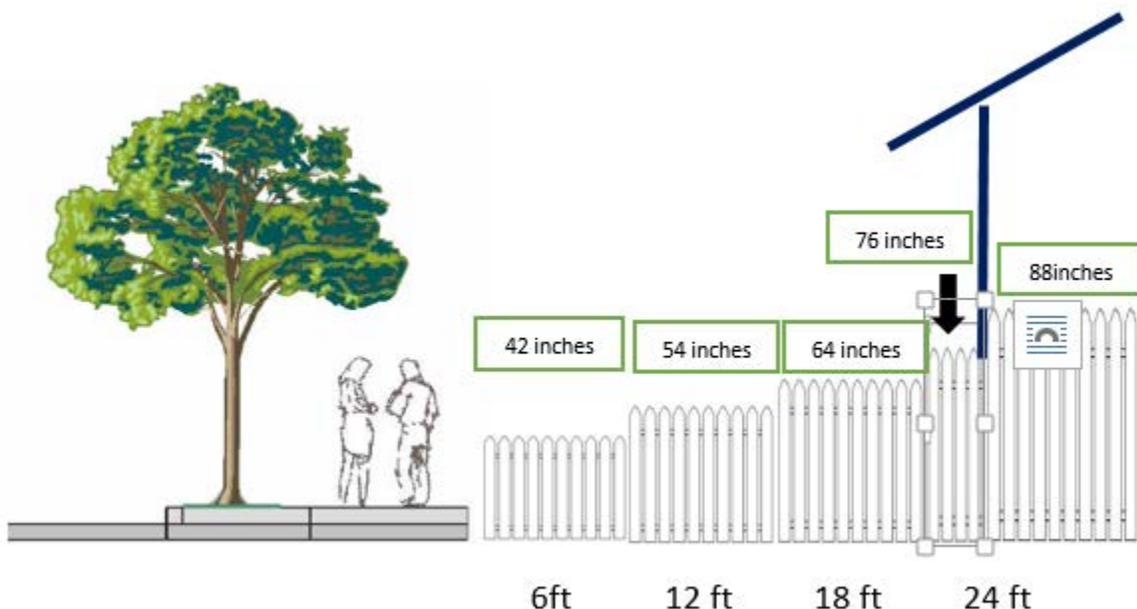
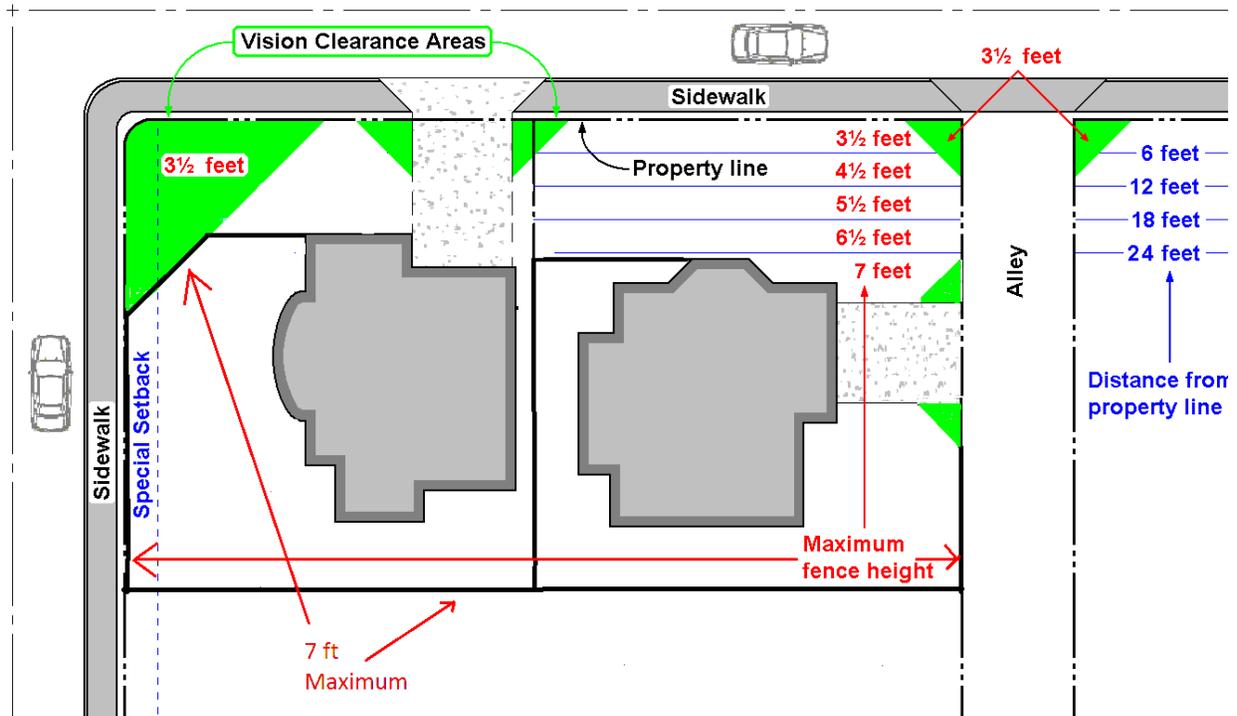


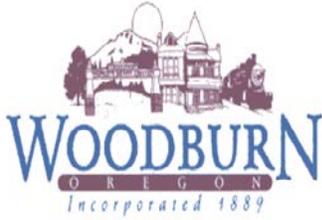
Figure 2.06B – Stepped Fence or Wall



**2.06.03 Structures**

- A. Accessory structures attached to a primary building shall be considered as a portion of the primary building and subject to the same requirements as the primary building.
- B. The minimum separation between detached accessory structures and the primary building shall be six feet.

# EXHIBIT C



## Community Development Planning Division

270 Montgomery Street, Woodburn, Oregon 97071 • (503) 982-5246

### CITY COUNCIL STAFF REPORT PUBLIC HEARING

<b>Application Type</b>	Type V Legislative Amendment
<b>Application Number</b>	LA 2016-01
<b>Project Description</b>	Revise Sections 2.05 Nodal Standards; 2.06 Fences and Walls; and revise various sections to correct scrivener errors in the Woodburn Development Ordinance
<b>Area</b>	Entire City
<b>Zoning</b>	All zones
<b>Planner Assigned</b>	Jim Hendryx, Community Development Director
<b>120-Day Deadline</b>	Not applicable to legislative decisions
<b>Date of Staff Report</b>	August 17, 2016
<b>Date of Public Hearings</b>	Planning Commission: August 25, 2016 City Council: September 12, 2016

#### **BACKGROUND**

Beginning in 2009, the Woodburn Development Ordinance (WDO) was entirely rewritten. Initially, sign standards were revised (2010). Then, in 2011, administrative provisions were updated and in 2013, the remaining sections of the ordinance, primarily dealing with land use standards, were updated. The ordinance was again readopted in the fall of 2013 to address scrivener errors, resulting in reformatting the WDO.

## EXHIBIT C

The WDO states that the Director shall keep a list of potential modifications to the ordinance and report those to the Council, who may initiate such modifications if they so choose. Additionally, Council can initiate such modifications anytime, at their discretion. Council gave direction to address these WDO issues this past February.

At the June Planning Commission Workshop, there was recognition of the need to update City fence standards. The current standards are restrictive for corner and through lots. Additionally, fencing regulations in non-residential areas is similar to residential standards and does not address security needs for businesses.

With the 2005 Periodic Review and Urban Growth Boundary (UGB) amendments, the City enacted four new zoning districts, three of which are nodal zones (single family, multi-family and commercial) as well as the South West Industrial Reserve (SWIR). None of these zones have been utilized before, since these areas have always been outside City limits in the contested Urban Growth Boundary (UGB). However, now that the UGB is approved, discussions with potential developers have highlighted the need to resolve any oversights and mistakes.

At the August 25, 2016 Planning Commission meeting, the Commission held a public hearing on LA 2016-01 and took action on fence and nodal standards, recommending that the City Council approve amendments to those sections of the WDO. The Commission continued the public hearing on the remaining amendments, which primarily address scrivener errors, to their September 25<sup>th</sup> meeting. Those amendments will proceed to the Council separately at its October 10, 2016 meeting.

### **ANALYSIS AND FINDINGS OF FACT – Woodburn Development Ordinance**

#### *WDO 4.101                      Decision Making Procedures*

Findings: Under Section 4.101.02.E of the Woodburn Development Ordinance, decisions involving legislative actions where the City Council amends the City's land use regulations, Comprehensive Plan, Zoning Map or some component of these documents where changes are of such a size, diversity of ownership or interest as to be legislative in nature under state law, are Type V decisions. The Planning Commission holds an initial public hearing, which they did on August 25, 2016 on the proposal and makes a recommendation to the City Council. The City Council then holds a *final* public hearing and makes the City's final decision. The City Council's action is the City's final decision and is appealable to the Land Use Board of Appeals (LUBA) within 21 days after it becomes final.

Conclusion: This legislative amendment is correctly processed as a Type V decision.

## EXHIBIT C

Findings: Under Section 4.101.03, the City Council may initiate any type of land use action by a motion designating the appropriate City department to complete and file the application. The City Council passed a resolution this past February, initiating Legislative Amendment 2016-01. The Commission conducted a work shop in June and provided direction for the attached amendments. Other work shop meetings and public hearings will follow to address other needed revisions.

Conclusion: The City Council directed staff to initiate amendments to the WDO. The Commission conducted a workshop and provided direction on initial amendments to the Ordinance.

Findings: Under Section 4.101.10, the Planning Commission shall hold at least one public hearing, which it did on August 25, 2016 and recommended that the Council approve amendments to the fence and nodal standards contained in the WDO. Several people presented both written and oral testimony in support of the proposed amendments to the fence standards at the Planning Commission hearing.

The Director provided notice to the Oregon Department of Land Conservation and Development (DLCD) at least 35 days before the first hearing, as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

Once the Planning Commission hearing was scheduled and notices sent out, the Director prepared and made available a report on the legislative proposal at least seven days before the hearing.

At the conclusion of the hearing, the Planning Commission recommended approval of the fence and nodal standards to the City Council. This staff report summarizes the report and recommendation to the City Council on Legislative Amendment 2016-01.

The City Council is scheduled to hold a public hearing on the proposal at its September 12, 2016 meeting. Any interested person may provide written or oral testimony on the proposal at, or prior to, the hearing. At the conclusion of the hearing, the City Council may adopt, modify or reject the legislative proposal, or it may remand the matter to the Planning Commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby enact or amend the City's land use regulations, Comprehensive Plan, official Zoning Map or some component of any of these documents, the City Council's decision shall be enacted as an ordinance.

Not later than five working days following the City Council's final decision, the Director shall mail notice of the decision to the DLCD, in accordance with ORS Chapter 197.

## EXHIBIT C

Conclusions: The Planning Commission held a public hearing on fence and nodal standards at its August 25, 2016 meeting and made recommendations to the City Council. They continued the portion of the public hearing on scrivener errors to their September 22<sup>nd</sup> meeting. Notice has been provided to the Oregon Department of Land Conservation and Development (DLCD) and Marion County. Background information, including the staff report, has been made available for public inspection. The City Council is scheduled to conduct a public hearing on September 12, 2016 to receive the Commission's recommendations and public input. All provisions of this section of the WDO and State statute have been met.

Findings: Public notice is provided for all public hearings in accordance with Section 4.101.14 of the WDO. Notification was provided to affected agencies, including the Department of Land Conservation and Development and Marion County, in advance of the Commission's hearing. Notification was provided to the Woodburn Historic Neighborhood Association. Notice of the public hearing was published in the Woodburn Independent newspaper.

All notifications contained information regarding the time, date, and location of the public hearings, the file number, and staff contact information for questions or submission of testimony. All notifications also included a summary of the proposed amendments. All notification documents provided information regarding the public hearing procedures and how to review or obtain copies of the documents to be considered.

Conclusion: Notification requirements consistent with the provisions of the Woodburn Development Ordinance and statutory requirements were met.

### *WDO 5.104.04 Zoning Map Change, Owner Initiated*

Findings: Section 5.104.04 governs changes to the Zoning Map that are initiated by a property owner. This case is initiated by the City and applies to many separate properties.

Conclusion: Section 5.104.04 does not apply to the proposed Zoning Map amendment.

Findings: Under State statute, all cities and counties in Oregon must have an approved comprehensive plan, along with implementing ordinances. Amendments to an approved comprehensive plan must be consistent with State statutes. Implementing ordinances must also be consistent with each comprehensive plan.

The Woodburn Comprehensive Plan was originally adopted in 1978, and subsequently amended several times. The Woodburn Development Ordinance was adopted 2008, and most recently amended in 2013.

## EXHIBIT C

Conclusion: Amendments to the Woodburn Comprehensive Plan and the Woodburn Development Ordinance will be evaluated for consistency with the Comprehensive Plan and State statute.

### **ANALYSIS AND FINDINGS OF FACT – Woodburn Comprehensive Plan**

Findings: The Comprehensive Plan (Volume 1 Goals and Policy Amendments) states:

“The keystone of plan implementation is the Woodburn Development Ordinance (WDO). This WDO ensures that the location and design of various land uses and in some cases, the timing of those land uses, is in compliance with the Comprehensive Plan. The WDO ensures that incompatible uses do not occur, while allowing flexibility consistent with the purpose of the plan. The Zoning Map will be more specific than the Comprehensive Plan Map, and may have more designations than the Comprehensive Plan Map. In addition, there will be many cases where the zoning ordinance will be more restrictive than the map. This is because there are areas which must be retained in a more restrictive zone until public facilities are developed or public need is established for a zone change to a less restrictive zone. However, in no case should the Zoning Map allow a use which is less restrictive than that called for in the Comprehensive Plan.”

The current fence and wall standards are restrictive for corner and through lots. Additionally, fencing regulations in non-residential areas, which at present are similar to residential standards, do not address security needs for businesses. Property and business owners continue to express frustration with the current regulations. While the City offers free fence permits, homeowners and business owners continue to complain about the current fence standards. Residents want to fence their properties to address privacy and security needs. Business owners continue to be primarily concerned about security.

In 2005, City enacted four new zoning districts, three of which are nodal zones (single family, multi-family and commercial) as well as the South West Industrial Reserve (SWIR). None of these zones have been utilized before, since these areas have generally been outside City limits. Recent discussions with potential developers have highlighted the need to update and revise the nodal standards. For example, while row housing is encouraged, current standards discourage their development; lot standards (width and depth) should be reduced in recognition of the narrowness of this particular type of development. Likewise, nodal standards recognize conventional development, but the WDO rewrite precludes that type of development. The proposed update addresses these issues.

Conclusions: The amendments insure that the WDO implements the Comprehensive Plan. The proposed amendments clarify the intent of the WDO and simplify administration of the Ordinance. The proposed amendments are consistent with the Comprehensive Plan.

## EXHIBIT C

Findings: The Comprehensive Plan (Volume 1 Goals and Policy Amendments) states:

“The planning process is continuous. There is no plan that can foresee all of the problems the future will bring. In most cases for decision, the Planning Commission and Council will be petitioned by private citizens to change the Comprehensive Plan designation of a particular parcel of property. This is a quasi-judicial activity and should follow the procedures set out for quasi-judicial rulings. The Planning Commission should ensure that any change it makes in the Comprehensive Plan is consistent with other goals and policies established in this Plan. These changes, in general, should be justified by a solid body of evidence presented by the petitioner showing the following:

1. Compliance with the goals and policies of the Comprehensive Plan;
2. Compliance with the various elements of the Comprehensive Plan;
3. Compliance with Statewide goals and guidelines;
4. That there is a public need for the change;
5. That this land best suits that public need;”

Between the years 2010–2013, the Woodburn Development Ordinance was completely rewritten. Current fence standards for both residential and non-residential properties are not meeting the needs of residents and businesses. While nodal standards encourage particular types of development, existing standards make it difficult to develop. The rewrite addresses these deficiencies.

Conclusions: The Comprehensive Plan recognizes that plans and implementing ordinances like the WDO continue to evolve and change over time. The amendments are consistent with the intent of the Comprehensive Plan and Statewide goals and guidelines.

Findings: The Comprehensive Plan (Volume 1, Goals and Policy Amendments) states:

“Goal C-1 of the Comprehensive Plan is to coordinate with Marion County regarding planning issues that extend beyond the boundaries of the City of Woodburn, including amendments to the Comprehensive Plan and Transportation System Plan, and achieve a compact urban growth form.”

Affected public agencies, including Marion County, have been notified on the proposed amendments to the WDO.

## EXHIBIT C

Conclusion: Legislative 2016-01 complies with Goal C-1 of the Comprehensive Plan.

Findings: The State adopted 19 goals for state and local land use decisions. The statewide planning goals applicable to this case are Goals 1 (Citizen Involvement), 2 (Land Use Planning), 9 (Economic Development) and 12 (Transportation).

- Goal 1 requires that the City develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. Agency and public notice has been provided. Open houses have been held and public hearings conducted.
- Goal 2 requires that the City establish a land use planning process and policy framework as a basis for all decision and actions related to the use of land and to assure an adequate factual base for such decisions and actions. The Woodburn Development Ordinance contains procedures and requirements for facts and findings. The proposed amendments clarify the intent of the WDO by:
  - Including diagrams, illustrations, tables, charts and maps
  - Updating and standardizing terminology
  - Eliminating conflicting standards and circular references
  - Making the ordinance more user-friendly
  - Correcting scrivener errors
- Goal 9 requires the City to provide adequate opportunities for a variety of economic activities vital to health, welfare, and prosperity. The amendments clarify the standards of the Ordinance.
- Goal 12 requires that the City provide and encourage a safe, convenient and economic transportation system. The proposed amendments recognize the need fencing while recognizing vision clearance standards along public streets.

Conclusion: The proposed additions and amendments are consistent with applicable statewide planning goals.

### ***Woodburn Development Ordinance***

Findings: Legislative amendments are Type V legislative decisions. The Development Ordinance addresses Type V decisions in Section 4.101.06.E, Decision Making Procedures. The Planning Commission held an initial public hearing on the proposal on August 25, 2016 and made a recommendation to the City Council. The City Council then holds a *de novo* public hearing, scheduled for September 12, 2016 and makes the City's final decision.

Conclusions: The proposed amendment is a Type V legislative decision. The decision-maker is the City Council.

## EXHIBIT C

Findings: The Oregon Department of Land Conservation and Development was sent a Notice of Proposed Amendment, as required by statute. Affected agencies (Marion County, the State of Oregon, the Woodburn School District, and the Woodburn Fire District,) as well as the Woodburn Historic Neighborhood Association, were also notified by mail. Notice was published in the Woodburn Independent.

Conclusion: The public hearing has been publicized as required by State statute and the Woodburn Development Ordinance.

### **CONCLUSION AND RECOMMENDATIONS**

The proposed amendments are consistent with the Woodburn Comprehensive Plan and the Woodburn Development Ordinance. The Planning Commission conducted a public hearing on August 25, 2016 and at the conclusion of the public hearing, recommended that the City Council approve amendments to the fence and nodal standards, as contained in LA 2016-01.

The Planning Commission continued the public hearing on that portion of LA 2016-01 dealing with scrivener errors to September 22, 2016. Those amendments will come separately for action at the City Council meeting on October 10, 2016. It is recommended that Council hold the public hearing on the fence and nodal standards, take action on those amendments, and continue LA 2016-01, which deals with scrivener errors, to October 10, 2016.



# Agenda Item

September 26, 2016

TO: Honorable Mayor and City Council through City Administrator  
FROM: Jim Hendryx, Community Development Director  
SUBJECT: **Annexation - 1385 Cooley Road (ANX 2016-02) Alexsey Bodunov**

## **RECOMMENDATION:**

It is recommended that the City Council adopt the attached ordinance granting application ANX 2016-02, with findings and conclusions, and annexing the subject real property and adjacent right-of-way to the City of Woodburn.

## **BACKGROUND:**

The applicant requested annexation of a 2.7 acre parcel fronting Cooley Road, approximately 1,200 feet south of Highway 211 and 225 feet north of Audrey Way. The City Council conducted a public hearing on the request (ANX 2016-02) at its September 12, 2016 meeting. At the conclusion of the hearing, Council approved the annexation and requested an ordinance return implementing Council's action.

## **DISCUSSION:**

The City Council considered a request to annex approximately 2.7 acres of property, located at 1385 Cooley Road, at its September 12, 2016 meeting. They approved the request and directed preparation of an ordinance carrying out their decision.

## **FINANCIAL IMPACT:**

This decision is anticipated to have no public sector financial impact.

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

**COUNCIL BILL NO. 3017**

**ORDINANCE NO. 2539**

**AN ORDINANCE ANNEXING 2.17 ACRES OF PROPERTY LOCATED AT 1385 COOLEY ROAD AND THE ADJACENT COOLEY ROAD RIGHT-OF-WAY INTO THE CITY OF WOODBURN AND DESIGNATING THE PROPERTY AS CITY OF WOODBURN RESIDENTIAL SINGLE-FAMILY (RS)**

**WHEREAS**, the City considered application ANX 2016-02 requesting annexation of the real property described below into the City of Woodburn, and

**WHEREAS**, the Woodburn Comprehensive Plan and Zoning Map have established certain land uses within the City of Woodburn's Urban Growth Boundary; and

**WHEREAS**, pursuant to ORS 222.120 and Resolution 2083 the Woodburn City Council noticed and conducted a public hearing on ANX 2016-02 on September 12, 2016; **NOW, THEREFORE**,

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

**Section 1.** That the subject real property owned by Alexsey and Juliana Bodunov and the adjacent Cooley Road right-of-way are depicted on the Exhibit Map for Annexation, which is attached as Exhibit "A."

**Section 2.** In reviewing ANX 2016-02, the City Council finds that no election is required because the legal requirements of ORS 222.125 (i.e., consent from all property owners and a majority of electors in the affected territory) have been met.

**Section 3.** Application ANX 2016-02 is granted and the subject real property and adjacent Cooley Road right-of-way depicted on the Exhibit Map for Annexation, attached as Exhibit "A," are annexed to the City of Woodburn.

**Section 4.** That the zoning designation of the subject real property is changed from Marion County Urban Transition 20 to City of Woodburn Residential Single-Family (RS) and the Woodburn Zoning Map is amended to reflect this change.

**Section 5.** That these land use actions are justified and explained by the Findings and Conclusions attached as Exhibit "B," which the City Council finds to be reasonable.

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

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

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

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

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

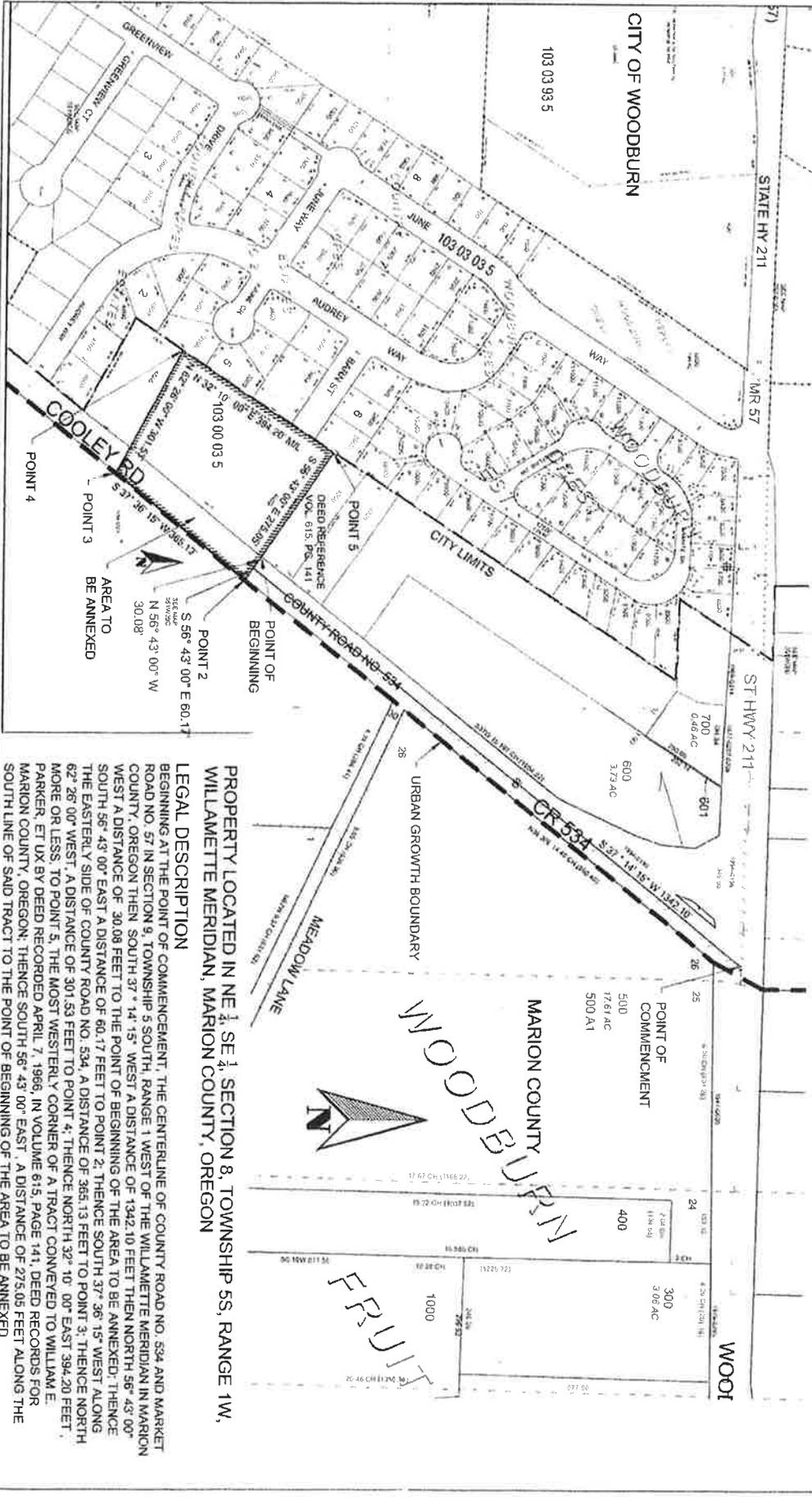
Filed in the Office of the Recorder \_\_\_\_\_

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

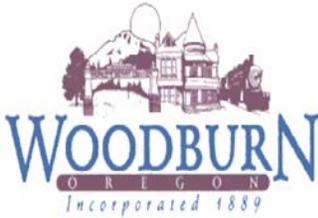
**PROPERTY DESCRIPTION**

1385 COOLEY ROAD  
 WOODBURN, OR 97071  
 SIZE: 2.17 ACRES TAXLOT 4400, 0.51 ACRES COOLEY ROAD R.O.W., TOTAL 2.68 ACRES  
 TAXLOT NUMBER: 051W080A04400

**DOR 24-P217-2016**



**LEGAL DESCRIPTION**  
 BEGINNING AT THE POINT OF COMMENCEMENT, THE CENTERLINE OF COUNTY ROAD NO. 534 AND MARKET ROAD NO. 57 IN SECTION 9, TOWNSHIP 5 SOUTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN IN MARION COUNTY, OREGON THEN SOUTH 37° 14' 15" WEST A DISTANCE OF 1342.10 FEET THEN NORTH 56° 43' 00" WEST A DISTANCE OF 30.08 FEET TO THE POINT OF BEGINNING OF THE AREA TO BE ANNEXED; THENCE SOUTH 56° 43' 00" EAST A DISTANCE OF 60.17 FEET TO POINT 2; THENCE SOUTH 37° 36' 15" WEST ALONG THE EASTERLY SIDE OF COUNTY ROAD NO. 534, A DISTANCE OF 365.13 FEET TO POINT 3; THENCE NORTH 62° 26' 00" WEST A DISTANCE OF 301.53 FEET TO POINT 4; THENCE NORTH 32° 10' 00" EAST 394.20 FEET, MORE OR LESS, TO POINT 5, THE MOST WESTERLY CORNER OF A TRACT CONVEYED TO WILLIAM E. PARKER, ET UX BY DEED RECORDED APRIL 7, 1966, IN VOLUME 615, PAGE 141, DEED RECORDS FOR MARION COUNTY, OREGON; THENCE SOUTH 56° 43' 00" EAST, A DISTANCE OF 275.05 FEET ALONG THE SOUTH LINE OF SAID TRACT TO THE POINT OF BEGINNING OF THE AREA TO BE ANNEXED.



## Community Development Planning Division

270 Montgomery Street, Woodburn, Oregon 97071 • (503) 982-5246

### **FINDINGS AND CONCLUSIONS ANX 2016-02**

#### **BACKGROUND AND PROPOSAL**

The applicant requests annexation of a 2.7 acre parcel fronting Cooley Road, approximately 1,200 feet south of Highway 211 and 225 feet north of Audrey Way. The property is designated Low Density Residential on the Comprehensive Plan Map. The subject property is zoned Urban Transition 20 by Marion County. The site includes a single family dwelling and a manufactured dwelling used for medical hardship by a relative. Abutting properties within the City are zoned Residential Single-Family (RS) and are designated Low Density Residential on the Comprehensive Plan Map. There are several significant trees on the site. No wetlands or floodplains exist on this site.

The applicant and his family live on the property. Marion County approved a Conditional Use Permit (CUP) for a Medical Hardship in 2014. Under County provisions, the CUP is annually renewed upon medical verification (a physician's certificate) that the hardship remains. Similar verification would continue, should the property be annexed.

Prior to the Planning Commission's public hearing, notices were mailed to Marion County, the Woodburn Fire District, the Woodburn School District, and surrounding property owners. A public hearing notice was posted on the property and published in the Woodburn Independent. The Department of Revenue gave preliminary approval for the map and legal description on July 7, 2016.

The Planning Commission conducted a public hearing on Annexation ANX 2016-02 on August 25, 2016 and recommends that the City Council approve the annexation.

#### **APPROVAL CRITERIA**

Applicable criteria from the Woodburn Development Ordinance (WDO) are Sections: 1.01, 1.02, 1.103, 2.01, 4.01, 4.02, and 5.04. Additional relevant criteria are the goals and policies of the Woodburn Comprehensive Plan, and the standards of the Transportation System Plan (TSP).

#### **ANALYSIS AND FINDINGS OF FACT**

### **General Provisions**

Findings: Per Section 5.04, annexations are Type IV decisions. Per Section WDO 4.01.02.D, the City Council is the decision-maker for Type IV decisions, after receiving a recommendation from the Planning Commission.

Conclusion: The application is correctly filed as a Type IV decision.

### **WDO 5.104.01 Annexation**

Findings: Section 5.04.01.B requires a pre-application conference with the applicant. The pre-application conference was conducted on February 3, 2016.

Conclusion: The application complies with Section 5.04.01.B.

Findings: Section 5.04.01.C.1 requires compliance with applicable Woodburn Comprehensive Plan goals and policies regarding annexation. The goals and policies of the Comprehensive Plan are discussed later in this report.

Findings: Section 5.04.01.C.2 requires that the territory to be annexed be contiguous to the City and either link to planned public facilities with adequate capacity to serve the existing and future development of the property, or guarantee that the present public facilities have adequate capacity to serve the existing and future development of the property. The property immediately borders the City limits, which are to the west. Water and sanitary sewer facilities extend to the property from the west (Barn Street). Storm and sewer facilities are located south at the Audrey/Cooley intersection. The Public Works Department notes that the existing public facilities have adequate capacity to the property as it presently exists. Ultimate development of the property will link to public facilities with capacity to serve the property's future needs.

Conclusion: The application complies with Section 5.04.01.C.2.

Findings: Section 5.04.01.C.3.a.1 provides that the territory to be annexed should be contiguous to the City on two or more sides. The term "should" is a discretionary term and subject to Council's review. The property is contiguous to the City on the west side, while compliance to the standard of "contiguous on two or more sides" would require neighboring properties to annex. The applicant contacted adjacent properties to determine interest in annexing. Adjacent property owners were not interested in annexing at this time.

Conclusion: The application complies with Section 5.04.01.C.3.a.1.

Findings: Section 5.04.01.C.3.a.2 provides that the annexation should not increase the inventory of buildable land designated on the Comprehensive Plan as Low or Medium Density Residential within the City to more than a five-year supply. The City annexed approximately 1 acre of residentially designated land in 2014. Few vacant developed lots exist in the City and the supply of vacant land available for development is limited. The subject property is adjacent to public utilities and is serviceable for development.

Conclusions: The proposed annexation represents less than a one month supply of residential land at the rate of building that has occurred in Woodburn in the past five years. The application complies with Section 5.04.01.C.3.a.2.

Findings: Section 5.04.01.C.3.a.3 provides that the annexation should reflect the City's goals for directing growth by using public facility capacity that has been funded by the City's Capital Improvement Program. The property abuts the City limits and utilities are available, or can be made available, to serve the property.

Conclusion: The application complies with Section 5.04.01.C.3.a.3.

Findings: Section 5.104.01.C.3.a.4 provides that the site should be feasible for development and extend the arterial/collector street pattern. The property is adjacent to existing residential development, is essentially flat, and is serviceable by public utilities. Cooley Road is designated as a Service Collector while Barn is a local street. Additional right-of-way and improvements would be provided upon development of the property.

Conclusion: The application complies with Section 5.04.01.C.3.a.4.

Findings: Section 5.04.01.C.3.a.5 provides that the annexation should fulfill a substantial unmet community need that has been identified by the City Council after a public hearing – such as park space and conservation of significant natural or historic resources. The annexation would address the need for additional residential land within the City. The last annexation of residential land occurred in 2014 and the City has few residential lots available for development.

Conclusion: The application complies with Section 5.04.01.C.3.a.5.

Findings: Section 5.04.01.D.1 provides that an annexation may be initiated by petition based on the written consent of one hundred percent of the owners and fifty percent of the electors within the territory proposed to be annexed. The annexation petition has been certified to be signed by one hundred percent of the owners. The applicant lives on the property with his family. Marion County permitted a temporary dwelling unit on the property under their medical hardship provisions. There are no resident electors.

Conclusion: The application complies with Section 5.04.01.D.1.

Findings: Section 5.14.01.E provides that an annexation shall be designated consistent with the Woodburn Comprehensive Plan, unless an application to re-designate the property is approved as part of the annexation process. The property is designated Low Density Residential on the Comprehensive Plan Map. The petitioner has not requested that either the Comprehensive Plan Map or the Zoning Map be amended.

Conclusion: The property would be zoned Residential Single-Family (RS) upon annexation, in accordance with Section 5.04.01.E.

Note: Compliance with Sections 2.02 (Single-Family Residential Zone), 3.01 (Street Standards), 3.02 (Utilities and Easements), 3.03 (Setback, Open Space and Lot Standards), 3.04 (Access), 3.05 (Off-Street Parking and Loading), 3.06 (Landscaping), 3.07 (Architectural Design), and 3.08 (Partition and Subdivision Standards) is not applicable to the annexation, and will be required when the property is developed.

### ***Woodburn Comprehensive Plan***

The annexation goals and policies of the Comprehensive Plan guide the shape and geographic area of the City within the Urban Growth Boundary, so that the City limits define a compact service area for the City, reflect a cohesive land area that is entirely contained within the City, and provide the opportunity for growth in keeping with the City's goals and capacity to serve urban development.

Findings: OAR 660-014-0070 requires that the annexation comply with all appropriate statewide planning goals, unless the acknowledged comprehensive plan controls the annexation. The property is within Woodburn's Urban Growth Boundary and upon annexation would be subject to Woodburn's Comprehensive Plan and Development Ordinance.

Conclusion: The proposed annexation complies with OAR 660-014-0070.

Findings: Policy G-2.1 requires an assessment of the proposed annexation's conformance with the City's plans, facility capacity, and impact on the community. The property is immediately adjacent to City limits and public infrastructure is available to serve the property. This report and the agency comments provide the required assessment.

Conclusion: The proposed annexation complies with Comprehensive Plan policy G-2.1.

Findings: Policy G-2.2 states that Woodburn will achieve more efficient utilization of land by incorporating all of the territory within the City limits that will be of benefit to the City, providing for the urban infill of vacant and underutilized property, fostering an efficient pattern of urban development in the City, maximizing the use of existing City facilities and

services, and balancing the costs of City services among all benefited residents and development. The property abuts the City limits and would utilize existing streets and utilities.

Conclusions: The proposed annexation maximizes the efficient use of existing City facilities and services, and is similar to infill development of vacant land. The proposed annexation complies with Comprehensive Plan policy G-2.2.

Findings: Policy G-2.3 states that Woodburn will use annexation as a tool to guide the direction, shape and pattern of urban development, smooth transitions in the physical identity and the development pattern of the community, and promote the efficient use and extension of City facilities and services. The proposed annexation would utilize existing streets and utilities and would not require the extension of City facilities and services.

Conclusion: The proposed annexation complies with Comprehensive Plan policy G-2.3.

### **OVERALL CONCLUSION**

The proposed annexation meets the requirements of the Woodburn Comprehensive Plan and Development Ordinance.

At the time of this annexation, Marion County had issued a Conditional Use Permit based upon a medical hardship for the existence of a residence on the property for a person with an infirmity. With annexation, the health hardship will be treated as a non-conforming use subject to the following:

1. Annually, a doctor of medicine or licensed psychologist shall sign a statement indicating the physical or mental condition that prevents the person(s) with the infirmity from providing the basic self-care needed to live on a separate lot. The statement shall also attest that the physician or licensed psychologist is convinced the person(s) with the infirmity must be provided the care so frequently or in such a manner that the caretaker must reside on the same premises.
2. The residence occupied by the person(s) with the infirmity shall be removed at such time as the person(s) with the infirmity no longer reside(s) on the lot.

An agreement to remove one of the residences within 60 days of the date the person(s) with the infirmity no longer reside(s) on the lot shall be signed by the property owner and those providing the care.

3. The use shall be subject to review every year and shall meet the above criteria in order to qualify for renewal.



# Agenda Item

November 25, 2013

TO: Honorable Mayor and City Council  
FROM: Scott Derickson, City Administrator  
SUBJECT: **SDC Ordinance Providing for Additional Public Input**

**RECOMMENDATION:**

It is recommended that the City Council adopt attached Ordinance 2540 extending the effective date of Ordinances 2250, 2536 and Resolution 2085 to allow for additional public input on the pending increase in Parks & Recreation System Development Charges.

**BACKGROUND AND DISCUSSION**

An issue has arisen concerning whether there was an adequate opportunity for public input during the September 12, 2016 public hearing on Ordinance 2536, which adopted a new Methodology Report for Park and Recreation System Development Charges. Out of an abundance of caution, it is recommended that the City Council adopt the attached Ordinance extending the effective dates established at the September 12 meeting so that there can be an opportunity for further public comment.

Should the City Council pass proposed Ordinance XXXX, the City will notice and conduct a second public hearing to occur on January 9, 2017 for the purposes of taking any additional comments on the pending Park and Recreation SDC increases.

**FINANCIAL IMPACT:**

None.

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Agenda Item Review: City Administrator  City Attorney  Finance

**COUNCIL BILL NO. 3018**

**ORDINANCE NO. 2540**

**AN ORDINANCE PROVIDING FOR ADDITIONAL PUBLIC INPUT ON THE PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGES AND AMENDING ORDINANCE 2250, ORDINANCE 2536 AND RESOLUTION 2085 TO PROVIDE FOR NEW EFFECTIVE DATES**

**WHEREAS**, ORS 223.297 – 223.314 authorizes local governments to impose System Development Charges (SDC’s); and

**WHEREAS**, the City has adopted Ordinance 2250 establishing Parks and Recreation SDC’s; and

**WHEREAS**, the City mailed the required statutory notice and the City Council conducted a public hearing on September 12, 2016 to consider amending Ordinance 2250 based upon a methodology report dated July 11, 2016; and

**WHEREAS**, after the public hearing, the City Council unanimously adopted Ordinance 2536 [An Ordinance Amending and Repealing Sections of Ordinance 2250 (The Parks and Recreation System Development Charges Ordinance) Based upon a Methodology Report Dated July 11, 2016 and Setting an Effective Date] and Resolution 2085 [A Resolution Setting the Amount of the Parks and Recreation System Development Charges Pursuant to a Recently Updated Parks and Recreation System Development Charges Methodology; Establishing an Alternative Rate Review Fee; and Setting an Effective Date for Imposition of the Fees and Charges]; and

**WHEREAS**, an issue has arisen concerning whether there was an adequate opportunity for public input at the September 12, 2016 public hearing; and

**WHEREAS**, the City Council always encourages public input and believes it is in the public interest to allow a second opportunity for interested parties to be heard; **NOW, THEREFORE**,

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

**Section 1.** In order to ensure adequate public input, the City shall provide the required statutory notice for a second public hearing to be

conducted on January 9, 2017 regarding proposed Parks and Recreation SDC's.

**Section 2.** The proposed Parks and Recreation SDC's are based upon the Methodology Report dated July 11, 2016, which is available for public inspection through the City Recorder.

**Section 3.** In order to accommodate this additional public input, Section 6 of Ordinance 2250 and Section 5 of Ordinance 2536 are amended to read as follows:

Effective Date. This Ordinance shall be legally effective on March 1, 2017.

**Section 4.** In order to accommodate this additional public input, it is further necessary to amend Section 3 of Resolution 2085 to read as follows:

Effective Date. The effective date for imposition of the fees and charges identified in this resolution shall be March 1, 2017.

**Section 5.** The City Council finds that if, after allowing this opportunity for additional public input, it wants to modify its actions taken based upon the SDC Methodology Report, there will be adequate time to do this prior to the new March 1, 2017 effective date. If the City Council instead wants to proceed with the new fees and charges based upon the SDC Methodology Report, then it will take no additional action and allow the already enacted ordinances and resolution to take effect.

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



# Agenda Item

September 26, 2016

TO: Honorable Mayor and Council through City Administrator

FROM: Sandra Montoya, Finance Director

SUBJECT: **FY 2016-2017 SUPPLEMENTAL BUDGET REQUEST**

### **RECOMMENDATION:**

Hold a public hearing and adopt the attached resolution approving a supplemental budget for fiscal year 2016-2017 for the funds and departments listed on Exhibit A.

### **SUPPLEMENTAL BUDGETS GENERALLY:**

Every year, after the budget is adopted by Council, circumstances and events arise that were either unforeseen or not quantifiable during the preparation. In addition, supplemental budgets can be used to correct errors or oversights.

Oregon Budget Law provides for changes to adopted budgets through a supplemental budget process that requires that the City provide public notice of the proposed changes and, if the change is greater than 10% of any fund's total expenditures, hold a public hearing to discuss the proposed changes and accept public testimony on the changes. Staff provided the required public notice via the Woodburn Independent and the hearing will be held at the Council meeting on the 26<sup>th</sup> prior to consideration of the resolution.

Like the adopted budget, supplemental budget requests must be balanced; in other words, net revenue and net expense for the request must be equal. This can be accomplished by budgeting additional revenue, or by reducing another expenditure category (such as contingencies).

### **DETAILS OF THIS REQUEST**

#### General Fund Cap Construction Fund: Capital Outlay \$225,000

The increase in Capital Outlay represents additional funds needed for the Centennial Splash Pad project. Offsetting revenues will include the State Grant in the amount of \$121,752 included in tonight's agenda. The grant acceptance includes a transfer from Parks SDCs of \$103,248, to complete the needed funding of \$225,000.

Agenda Item Review: City Administrator  City Attorney  Finance

Parks SDC Fund: Transfers Out \$103,248

The increase in Transfer Out represents a transfer to General Fund Cap Construction Fund 358 to be used as a match for a state grant for construction of the Centennial Splash Pad improvement with an offsetting decrease in Reserves.

General Fund: Transfers Out \$2,596

This transfer represents a correction to the recording of grant monies received in a prior year. The revenue should have been recorded in Search & Seizure Fund instead of the General Fund. As a result, the General Fund Contingency is being reduced.

Search & Seizure Fund: Materials & Services \$2,596

This \$2,596 represents an increase in Materials & Services with an offsetting revenue to Transfers In from the General Fund which correctly records the receipt of grant money.

**FINANCIAL IMPACT:**

Exhibit A displays the supplemental budget as posted in the newspaper.

**COUNCIL BILL NO. 3019**

**RESOLUTION NO. 2086**

**A RESOLUTION APPROVING TRANSFERS OF FY 2016-2017 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 fifteen (15) 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 ten (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 September 26, 2016 on the supplemental budget changes, **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 2016-17 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

**NOTICE**

A public hearing on a proposed supplemental budget for the **City of Woodburn, Marion County**, State of Oregon, for the fiscal year July 1, 2016 to June 30, 2017 will be held at the City of Woodburn City Hall, 270 Montgomery St Woodburn, Oregon 97071. The hearing will take place September 26, 2016 at 7:00 pm. The purpose of the hearing is to discuss the supplemental budget with interested persons. A copy of the supplemental budget document may be inspected or obtained on or after September 21, 2016 at the City of Woodburn City Hall, 270 Montgomery St Woodburn, Oregon 97071, between the hours of 8:00 am and 4:00 pm or on the City's website at [www.ci.woodburn.or.us](http://www.ci.woodburn.or.us).

**SUMMARY OF PROPOSED BUDGET CHANGES**

AMOUNTS SHOWN ARE REVISED TOTALS IN THOSE FUNDS BEING MODIFIED

**General Fund Cap Construction Fund 358**

Resource	Original	Supplem	Revised	Requirement	Original	Supplem	Revised
1 State Grant	-	121,752	121,752	1 Capital Outlay	-	-	225,000
2 Transfers In	-	103,248	103,248	2 Contingency			-

**Revised Total Fund Resources** 225,000 **Revised Total Fund Requirements** 225,000

*Comments: Addition of new Capital Construction project for Centennial Park Splash Pad*

**Parks SDC Fund 464**

Resource	Original	Supplem	Revised	Requirement	Original	Supplem	Revised
1	-		-	1 Transfers Out	-	103,248	103,248
2				2 Reserve for Future	356,500	(103,248)	253,252

**Revised Total Fund Resources** 366,500 **Revised Total Fund Requirements** 366,500

*Comments: Transfer for grant match for Centennial Park Splash Pad*

**General Fund 001**

Resource	Original	Supplem	Revised	Requirement	Original	Supplem	Revised
1	-		-	1 Transfers Out	207,453	2,596	210,049
2	-		-	2 Contingency	2,195,399	(2,596)	2,192,803

**Revised Total Fund Resources** 16,710,658 **Revised Total Fund Requirements** 16,710,658

*Comments: Correction of revenue received into General Fund instead of Search and Seizure Fund*

**Search & Seizure Fund 132**

Resource	Original	Supplem	Revised	Requirement	Original	Supplem	Revised
1 Transfers In	-	2,596	2,596	1 Materials & Services	6,975	2,596	9,571
2	-		-	2 Contingency			-

**Revised Total Fund Resources** 9,571 **Revised Total Fund Requirements** 9,571

*Comments: Correction of revenue received into General Fund instead of Search and Seizure Fund*



September 26, 2016

TO: Honorable Mayor and City Council  
FROM: Scott Derickson, City Administrator  
SUBJECT: **Rate Adjustment for United Disposal Service, Inc. dba Republic Services of Marion County-Woodburn**

**RECOMMENDATION:**

It is recommended the City Council conduct a public hearing pursuant to Woodburn Ordinance 2460 (Solid Waste Management Ordinance) to examine and consider the revised rate schedule and corresponding request for a rate increase proposed by United Disposal Service, Inc. dba Republic Services of Marion County-Woodburn (Republic Services). Staff has prepared a proposed resolution authorizing rate increases of 10.2% for residential, 15.6% for commercial, and 11.2% for industrial customers, effective November 1, 2016.

**BACKGROUND AND DISCUSSION:**

Republic Services serves 5,281 residential homes and 378 businesses with more than 750 containers in Woodburn. They also provided 2,370 industrial hauls in 2015. According to Republic Services, 16 collections vehicles provide service within the City.

In November 2009, the City Council adopted Ordinance 2460 (see Attachment A), which put into place a new Solid Waste Franchise Agreement. The Agreement is set to expire in December 2016. While Republic Services and the City have initiated negotiations to renew the franchise, they have been put on hold, given the significant nature of the requested rate increase, which is largely driven by the fact that Marion County Environmental Services will implement tipping fee increases for the first time in 20 years.

After discussing the process with representatives from Republic, we have decided to address the rate change separate from the franchise renewal. The rate change is a significant enough matter in and of itself, and we are concerned that the issue will be further complicated if we also take on the task of renewing the franchise at the same time. The current franchise allows for the City to grant a one-year extension, which we will ask the City Council to do later this calendar year. The extension will provide staff with enough time to prepare the franchise renewal for consideration by fall 2017.

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

Section 4 of the franchise agreement addresses rates and criteria for increasing refuse collection rates. In short, the agreement provides that the Franchisee (Republic Services) shall have the right to charge and collect reasonable compensation from those to which it furnishes franchised services.

In June 2014, the City Council approved a rate adjustment of 4%. Prior to that, the City Council approved rate increases of 3.2% in October 2012 and 6.6% in June 2010. The City also approved a 4% increase in 2006 and an 8% increase in 2005.

In April 2016, the Marion County Board of Commissioners adopted significant increases in solid waste disposal fees, including a 30% increase in the per ton tipping fee for franchised garbage haulers. These disposal fee increases, which is the leading driver of Republic's request, will go into effect on October 1, 2016.

On July 5, 2016, Republic Services submitted their initial rate proposal to the City, requesting a 13.2% increase to residential and commercial, and a 4% increase to industrial customers. In addition to the "haul" rates, Republic passes on Marion County's tipping fees to Industrial customers.

During early negotiations with Republic, we expressed our desire to keep costs to residents as low as possible, while also acknowledging that the rate structure must be modified to accommodate rising costs. To accomplish that objective, Republic revised their proposal to include rate increases of 10.2% for residential, 15.6% for commercial, and 11.2% for industrial customers, which still results in an overall revenue increase of 13.2% (see Attachment B).

To help residential customers mitigate these increased costs, Republic Services has indicated that they will offer residents an option for downsizing their garbage carts by encouraging them to use their yard debris cart for organic material. They report that individuals can divert 10-30% of their solid waste by placing all yard debris, food waste, and other organic material in an organics container, as opposed to a trash receptacle.

A representative will attend the City Council meeting to answer any questions you might have. Under Section 4 of Ordinance 2460, the Council may approve or deny a rate increase based upon, but not limited to, the following criteria:

- ✓ Increases in operating or capital costs;
- ✓ Increases in City population;
- ✓ Extension of City boundaries;
- ✓ Increase of intensive residential, commercial or industrial development within the City;

- ✓ Changes in solid waste or recycling technology;
- ✓ Changes in regulatory requirements;
- ✓ Inability of Franchisee to adequately handle increased needs for said service;
- ✓ The rates in other cities for similar services; and,
- ✓ The public interest by assuring reasonable rates to enable Franchisee to provide efficient and beneficial service to user of the service.

Rate of Return (ROR) Discussion

Solid waste franchises around the state of Oregon typically target a projected ROR of 8% to 12%. The rationale behind this level of return is to recognize the capital intensive nature of the industry and the risk therein. The goal is to compensate the franchisee with an appropriate cash flow to allow for the routine purchase of replacement vehicles and containers provided to residents and businesses.

In the past, the City has agreed to support the approach of funding capital replacement programs via the revenues generated in their rate of return, and not as an operation expense – thus, it should be noted that Republic Services rate of return supports the capital expenditures for the service program provided to customers. Republic Services supports this position in their proposal.

Rate Justification

*Republic Services Statement of Income for the period ended December 31, 2015*

	<b>2015</b>	<b>2016 NO Rate Change</b>	<b>% Chg</b>	<b>2016 WITH Rate Change</b>	<b>% Chg</b>	<b>Annualized WITH Rate Change</b>
<b>Revenue</b>	\$4,461,746	<b>\$4,508,008</b>	1.0%	<b>\$4,597,266</b>	3.0%	<b>\$5,003,827</b>
<b>Cost of Operations</b>	\$3,515,710	<b>\$3,716,498</b>	5.7%	<b>\$3,720,631</b>	5.8%	<b>\$4,048,411</b>
<b>Gross Profit</b>	\$946,036	<b>\$791,509</b>	- 16.3%	<b>\$876,636</b>	-7.3%	<b>\$955,416</b>
<b>Salaries, General &amp; Administrative</b>	\$506,916	<b>\$527,193</b>	4.0%	<b>\$527,193</b>	4.0%	<b>\$527,193</b>
<b>Operating Income</b>	\$439,120	<b>\$264,317</b>	- 39.8%	<b>\$349,443</b>	-20.4%	<b>\$428,223</b>
<b>Provision for Income taxes</b>	\$175,648	<b>\$105,727</b>	- 39.8%	<b>\$139,777</b>	-20.4%	<b>\$171,289</b>

<b>Income</b>	\$263,472	<b>\$158,590</b>	- 39.8%	<b>\$209,665</b>	-20.4%	<b>\$256,934</b>
<b>Income as % of Revenue</b>	<b>5.9%</b>	<b>3.5%</b>	-	<b>4.6%</b>	-	<b>5.1%</b>

According to Republic Services, if the City Council does not approve the requested rate increase, the projected 2016 ROR will fall below industry standards of 8%. Republic Services' *Statement of Income* (see above) for the 12 months ending December 31, 2015 shows total 2015 revenue (within the Woodburn Franchise Area) being **\$4,461,746**, with operating cost totaling **\$4,198,274** (all categories e.g. *Costs of operations, Salaries General Administration & Administration and Provision for Income Taxes*). This means that Republic Services' net income was approximately **\$263,472**, or ROR, was 5.9% in 2015. The chart in Republic's rate proposal (see Attachment B) also demonstrates a 6.3% ROR in 2014.

Republic Services' estimated revenues for 2016 remain relatively flat (**\$4,508,008**), however operating costs are projected to increase to **\$4,349,418**, lowering their rate of return to 3.5%, which is below what has been historically allowed.

Should the City Council approve their requested rate increase, Republic Services estimates their 2016 income to increase to **\$4,597,266**. All operating categories also increase to **\$4,387,601**, leaving an estimated 2016 annual income of **\$209,665**. This results in a 2016 ROR of 4.6%.

Since the proposed rate increases won't be effective until November 2016, it is helpful to review a 12 month annualized forecast. According to the annualized forecast, Republic estimates revenues of **\$5,003,827**, operating expenses of **\$4,746,893**, and income of **\$256,934**. This results in an estimated ROR of 5.1%.

**Note:** Republic Services *Statement of Income* was not audited. The information provided to the City was used as the basis for our discussions and the analysis included in this Agenda Item. Republic also provided the City with a comparison summary of the rates charged in the Woodburn franchise to those in other area communities, which is included in their attached proposal. This summary shows the proposed rates for Woodburn as slightly higher in some cases, and slightly lower in others when compared to other jurisdictions. All in all, staff found the proposed rate increase places the City in a comparable position to the other communities used in the comparison.

Rate Impacts

Republic Services' proposed rate increase of 13.2% (on average) is reflected over the various volumes of users. Because the rate increases vary by user categories, the impact is not uniform across residential, commercial, and industrial users. Below is the current and proposed change to monthly residential service (the full impact, by user category, is outlined in Attachment B):

Republic Services of Marion County  
 Proposed Monthly Residential Service Rates for Woodburn

Service	Current Monthly Rate	Proposed Monthly
20 gal cart	\$20.80	<b>\$22.92</b>
20 gal cart with no recycling/yard waste service	\$18.20	<b>\$20.63</b>
35 gal cart	\$23.70	<b>\$26.12</b>
65 gal cart	\$33.60	<b>\$37.03</b>
90 gal cart	\$38.00	<b>\$41.88</b>
On Call Service per pick up	\$10.50	<b>\$14.00</b>
Additional 65G Yard Waste Cart	\$10.95	<b>\$12.00</b>
Recycle only	\$7.00	<b>\$10.00</b>
Additional Can, Bag, Boc (no change)	\$6.00	<b>\$9.25</b>
Return for Service fee	\$11.95	<b>\$15.00</b>

**FINANCIAL IMPACT:**

The requested rate adjustment will increase rates by varying degrees across all customer categories, increasing Republic Services overall revenue by approximately 13.2%. The 10.2% increase to residential users will result in increased costs ranging from \$2.12 (20 gallon cart) to \$3.88 per-month (90 gallon cart) depending on cart size. Commercial rates will increase 15.6% and industrial rates will increase 11.2%. The franchise fee that Republic Services pays to the City is projected to increase to nearly \$232,000 on an annualized basis.

Attachments

Attachment A – Solid Waste Management Ordinance 2460

Attachment B – Republic Services' Rate Increase Proposal

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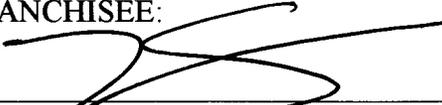
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To: City of Woodburn  
Re: Solid Waste Management Ordinance No. 2460

The above Ordinance that was approved by the City of Woodburn, including all the terms and conditions of the Franchise granted therein to Franchisee, is hereby accepted by the Franchisee.

DATED this 10<sup>th</sup> day of December, 2009.

FRANCHISEE:

By   
UNITED DISPOSAL SERVICE, INC.,  
An Oregon Corporation  
DBA "ALLIED WASTE SERVICES  
OF MARION COUNTY. MARION COUNTY"

**COUNCIL BILL NO. 2804**

**ORDINANCE NO. 2460**

**AN ORDINANCE REGULATING SOLID WASTE MANAGEMENT INCLUDING, WITHOUT LIMITATION, GRANTING AN EXCLUSIVE SOLID WASTE FRANCHISE TO UNITED DISPOSAL SERVICE, INC., AN OREGON CORPORATION, dba ALLIED WASTE SERVICES OF MARION COUNTY – WOODBURN”; ESTABLISHING SERVICE STANDARDS AND ESTABLISHING PUBLIC RESPONSIBILITY; REPEALING ORDINANCE 1641; PRESCRIBING PENALTIES; AND STATING AN EFFECTIVE DATE.**

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

**Section 1 - Introduction**

**1.1 Short Title.** This ordinance shall be known as the “Solid Waste Management Ordinance,” and may be cited herein as “this Ordinance.”

**1.2 Purpose and Policy.** In order to protect the health, safety and welfare of the people of the City of Woodburn, it is the public policy of the City of Woodburn to regulate and to provide a solid waste management program.

**1.3 Solid Waste Management Goals.**

**1.3.1** Ensure the safe and sanitary accumulation, storage, collection, transportation and disposal or resource recovery of solid wastes. Ensure proper handling of household hazardous waste, ensure that the community has an ongoing resource recovery and disposal service, and ensure that waste shed recycling goals are met.

**1.3.2** Promote technologically and economically feasible resource recovery including source separation, recycling and reuse, and separation by and through the collector. Research, develop and promote waste reduction strategies.

**1.3.3** Ensure efficient, economical and comprehensive solid waste service. Maximize collection services to reduce the adverse environmental impacts of individual collection and disposal efforts. Minimize duplication of service or routes to conserve energy and material resources, to reduce air pollution and truck traffic, and to increase efficiency, thereby minimizing consumer cost, street wear, and public inconvenience.

**1.3.4** Protect and enhance the public health and the environment.

**1.3.5** Protect against improper and dangerous handling of hazardous and infectious wastes.

**1.3.6** Ensure service rates and charges that are just and reasonable and

adequate to provide necessary public services.

**1.3.7** Provide for charges to the users of solid waste services that are reasonable, equitable, and adequate to provide necessary service to the public, justify investment in solid waste management systems, and provide for equipment and systems modernization to meet environmental and community service requirements.

**1.3.8** Prohibit discrimination on the basis of race, color, creed, religion, sex, age, and national origin, source of income, political affiliation, disability, sexual orientation, or marital status.

**1.3.9** Work in cooperation with the City of Woodburn, Marion County, and local industries to reduce the quantity of waste produced, increase recycling, generate efficiencies, and conserve resources.

**1.3.10** Demonstrate a responsive, customer-service oriented business philosophy.

**1.4 Definitions.** For the purpose of the ordinance, the following terms shall have the following meaning:

**“Bin”** means receptacle provided by Franchisee, used by customers for the containment and disposal of recyclable material.

**“Can”** means receptacle owned by a customer, used for the containment and disposal of solid waste. The customer’s use of a can requires manual collection.

**“Cart”** means receptacle provided by Franchisee, used by a customer for the containment and disposal of solid waste or recyclable material. The customer’s use of a cart requires automated collection service.

**“City”** means the City of Woodburn, Oregon, and the area within its boundaries including its boundaries as extended in the future and all property owned by the City, outside City limits.

**“City Administrator”** means the City Administrator or his/her designee.

**“City Council”** means the legislative body of the City.

**“Compact and Compaction”** means the process of, or to engage in the shredding of material, or the manual or mechanical compression of material.

**“Compensation”** means consideration of any kind paid for solid waste management services, including but not limited to, the direct payment of money, including the proceeds from resource recovery or the provision of solid waste services to customers.

**“Container”** means a receptacle one cubic yard or larger in size, used to store solid waste or wastes or recyclable material, but not a drop box or compactor.

**“Dispose or Disposal”** means the accumulation, storage, discarding, collection, removal, transportation, recycling or resource recovery of solid waste.

**“Drop Box”** means a single receptacle designed for storage and collection of large volumes of solid waste or wastes or recyclable materials, which is usually ten cubic yards or larger in size, and provides for transportation of large volumes of solid waste or recyclable materials and is transported to a disposal or processing site for transfer, landfilling, recycling, materials recovery or utilization and then emptied and returned to either its original location or to some other location.

**“Excluded Waste”** means hazardous waste; household hazardous waste; infectious waste; toxic substances, wastes or pollutants; contaminants; pollutants; or radioactive wastes.

**“Franchisee”** means **UNITED DISPOSAL SERVICE, INC., AN OREGON CORPORATION, dba ALLIED WASTE SERVICES OF MARION COUNTY – WOODBURN** granted a franchise pursuant to Section 2 of this Ordinance or a subsequent ordinance.

**“Generator”** means the person who produces solid waste or recyclable material to be placed, or that is placed for collection and disposal. As used in this Ordinance, “generator” does not include any person who manages an intermediate function resulting in the alteration or compaction of the solid waste or recyclable material after it has been produced by the generator and placed for collection.

**“Hazardous Waste”** means any hazardous wastes as defined by ORS 466.005.

**“Holidays”** means legal holidays observed by the City of Woodburn.

**“Household Hazardous Waste”** means any discarded or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment, is commonly used around households and is generated by the household.

**“Infectious Waste”** means biological waste, cultures and stocks, pathological waste, and sharps, or as infectious waste is defined in ORS 459.386.

**“Mixed Recycling”** means the process where two or more types of recyclable materials are collected together (i.e., not separated) in a combination allowed by the City Administrator, and as approved by the Oregon Department of Environmental Quality.

**“Persons”** means any individual, partnership, business, association, corporation, cooperative, trust, firm, estate, joint venture or other private entity or any public agency.

**“Pilot Program”** means a program which allows Franchisee to offer services on a trial basis for six months or less and to determine rates for such services outside the approved rate structure. City Council approval is required prior to implementation of a pilot program.

**“Placed for Collection”** means to put solid waste, recyclable material or yard debris out for collection by Franchisee, as provided by this Ordinance.

**“Public Place”** means any City-owned park, place, facility or grounds within the City that is open to the public, but does not include a street or bridge.

**“Public Rights-of-Way”** means, without limitation, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, park strips and all other public ways or areas, including subsurface and air space over these areas.

**“Putrescible Material”** means organic materials that can decompose, which may create foul-smelling, offensive odors or products.

**“Rate”** means the amount approved by the City Council as a charge for service rendered and charged by Franchisee, including the franchise fee, to users of the service.

**“Receptacle”** means cans, carts, bins, containers, drop boxes, or other vessel used for the disposal of solid waste, recyclable material or yard waste that has been approved by the City Administrator and into which solid waste, recyclable material or yard debris may be placed for collection.

**“Recyclable Material”** means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material and excludes excluded waste.

**“Recycling”** means any process by which solid waste is transformed into new or different products in such a manner that the original products may lose their original identity. As used in this Ordinance, recycling includes the collection, transportation and storage of solid waste, done in order to place the solid waste in the stream of commerce for recycling; or for resource recovery.

**“Resource Recovery”** means the process of obtaining useful material or energy resources from solid waste, including reuse, recycling, and other material recovery or energy recovery of or from solid wastes.

**“Service”** means the collection, transportation, storage, transfer, or disposal of or resource recovery from solid waste by Franchisee. It also includes, without

limitation, collection or source separated materials for compensation. "Service" includes the providing of "Special Service" as defined below.

**"Solid waste"** means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper, cardboard, sewage sludge, septic tank and cesspool pumpings, or other sludge, useless or discarded commercial, industrial, demolition, and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, dead animals and infectious waste as defined in ORS 459.386. Solid waste does not include excluded waste.

**"Solid Waste Management"** means the business of collection, transportation, storage, treatment, utilization, processing, disposal, recycling and resource recovery of solid waste.

**"Source Separation"** means the separation of waste materials by the generator in preparation for recovery by recycling or reuse.

**"Special Service"** means collection of bulky waste, including furniture, appliances and large quantities of waste.

**"Total Source Separation"** means the complete separation by the source generator or producer of the waste by type or kind of waste from all other types or kinds of waste.

**"Train System"** means a group of small receptacles (typically 1-2 cubic yard capacity) placed in various locations around a customer's property, by the customer and once full, either linked together or placed upon a trailer for transport and disposal to a larger receptacle or compactor on the premises.

**"Waste"** means any material that is no longer wanted by or is no longer usable by the generator, producer or source of the material, which material is to be disposed of or to be resource-recovered by another person. Even though materials which would otherwise come within the definition of "waste" may from time to time have value and thus be resource-recovered does not remove them from this definition. Source-separated wastes are "wastes" within this definition.

**"Yard Debris"** means grass clippings, leaves, tree and shrub prunings of no greater than four inches in diameter, or similar yard and garden vegetation. Yard Debris does not include dirt, sod, stumps, logs or tree/shrub prunings larger than four inches in diameter.

## **Section 2 - Grant of Authority and General Provisions**

**2.1 Franchise.** Subject to the conditions and reservations contained in this

ordinance, the City Council hereby grants to **UNITED DISPOSAL SERVICE, INC. , AN OREGON CORPORATION, dba ALLIED WASTE SERVICES OF MARION COUNTY – WOODBURN**,” the exclusive right, privilege, and franchise to collect, dispose, sell and transport solid waste and recyclable material generated as of the effective date of this ordinance within the corporate limits of the City of Woodburn and in any area that may thereafter be annexed to the City.

**2.2 Exceptions.** Unless accepted by subsections below, or granted an exclusive franchise pursuant to this Ordinance, no person shall solicit customers for service, or advertise the providing of service, or provide service in the City. Nothing in this ordinance requires a franchise for the following:

**2.2.1** The collection, transportation and reuse of repairable or cleanable discards by a private charitable organization regularly engaged in such activity.

**2.2.2** The collection, transportation, and reuse or recycling of totally source-separated materials or operation of a collection center for totally source-separated materials by a religious, charitable, benevolent or fraternal organization, provided the organization is using the activity for fund raising. Organizations engaged in these activities shall make periodic reports in a form as the City Administrator may reasonably require.

**2.2.3** The collection, transportation or redemption of returnable beverage containers under ORS Chapter 459A and that portion commonly known as the “Bottle Bill.”

**2.2.4** The generator or producer who transports and disposes of waste created as an incidental part of regularly carrying on the business of auto wrecking to the extent licensed by the state of Oregon; janitorial service; septic tank pumping, sludge collection or disposal service; or gardening or landscape maintenance. “Janitorial service” does not include primarily collecting wastes generated by a property owner or occupant.

**2.2.5** The transportation of solid waste by an individual, produced by such individual or the individual’s household, to a disposal site or resource recovery site. In the case of non-owner-occupied property, the waste is produced and owned by the tenant and not by the landlord, property owner or agent.

**2.2.6** A contractor registered under ORS Chapter 701 for hauling waste created in connection with the demolition, construction, or remodeling of a building structure or in connection with land clearing and development. Such waste shall be generated by the contractor in connection with the contractor’s construction site and hauled in equipment owned by the contractor and operated by the contractor’s employees.

**2.2.7** Government employees providing solid waste and recycling collection services to City operations and facilities.

### **2.3 Term.**

(a) This franchise ordinance and the rights and privileges granted herein shall take effect upon written acceptance by Franchisee and remain in effect for a term of seven (7) years.

(b) Upon an affirmative finding based on its annual review of the material submitted pursuant to Sections 3.16 and 3.17, et. seq. of this agreement, at the end of the franchise term, the Council may add an additional year to the term of the franchise.

(c) The City Council may choose to not extend a franchise after seven (7) years under this section for any reason. If the City Council chooses not to extend a franchise, at least sixty days before the date that the franchise would otherwise expire, the City Council shall provide Franchisee with written notice of the City Council's intent not to extend the franchise. Franchisee shall have thirty days from the date of the notice to request a public hearing. If, following the public hearing, the City Council reaffirms the decision not to extend the franchise term, the franchise shall expire at the end of its existing term, and shall not automatically be extended as provided in this section. Nothing in this subsection shall prevent a Franchisee from applying for a new franchise.

(d) Prior to the issuance or extension of a franchise, the City Council shall provide notice and opportunity for public comment.

(e) If the City Administrator determines service standards are not being met, the City Administrator may re-open this franchise for renegotiation.

(f) The terms of the franchise must be unconditionally accepted by **UNITED DISPOSAL SERVICE, INC. , AN OREGON CORPORATION, d/b/a ALLIED WASTE SERVICES OF MARION COUNTY – WOODBURN** in writing, and signed by an officer of the corporation within 30 days after the date this ordinance is passed by the City. If **UNITED DISPOSAL SERVICE, INC. , AN OREGON CORPORATION, d/b/a ALLIED WASTE SERVICES OF MARION COUNTY – WOODBURN** fails to do so, this ordinance shall be void.

**2.4 Ownership of Waste.** Unless otherwise stated, solid waste properly placed out for collection is the property of the Franchisee.

**2.5 Infectious Waste.** Franchisee is not required to store, collect, transport, dispose of or resource infectious waste.

**2.6 Hazardous Waste.** Except as otherwise provided in this ordinance, Franchisee is not required to store, collect, transport, dispose of or resource recover hazardous waste or excluded waste.

**2.7 Separation of Waste.** The City Council reserves the right to require the

separation of component parts or materials in or from solid wastes, and to require the deposit thereof in receptacles or places and to prescribe the method of disposal or resource recovery.

**2.8 City Authority.** The City reserves the right to determine the services authorized by this franchise agreement.

## **Section 3 - Community Standards for Collection and Disposal of Solid Waste and Recyclable Materials**

**3.1 Collection Standards.** Collection of solid waste and recyclable material shall be performed in such a way as to comply with all Federal, State and local environmental regulations. In addition Franchisee shall:

**3.1.1** Provide solid waste and recycling collection services to all persons living within or conducting business within the City limits of the City.

**3.1.2** Collect putrescible material at least once each week.

**3.1.3** Provide collection of infectious waste as defined in ORS 459.387,. Collection shall be provided in a manner consistent with the requirements of all applicable laws and regulations.

**3.1.4** Perform collections twice weekly in the business districts of the City, except Sundays and holidays. Downtown business district collection hours are 4:30 am to 6:30 am. Collection hours shall be scheduled to minimize noise and disruption to residents in or near the downtown business district.

**3.1.5** Perform curbside collections of solid waste at least once weekly in residential districts or as often as required by ORS 459 and ORS 459.A. Collection hours shall be between the hours of 6:00 am and 5:30 pm, Monday through Friday. All collections shall be made as safely, efficiently and quietly as possible.

**3.1.6** Perform curbside collections of recyclable materials at least bi-weekly or as often as required by ORS 459 and ORS 459.A. Collection of recyclable materials shall be made subject to the same requirements and within the same hours as those made for solid waste.

**3.1.7** Provide collection of residential solid waste carts or cans, recyclable materials, and yard debris carts on the same day of the week. Franchisee shall not go into garages or other buildings to make pick-ups at residences, nor shall Franchisee go into closed areas, through enclosed gates, or up or down stairs to make pick-ups., unless defined as a special service.

**3.1.8** Provide will-call service for container service for residential and commercial

customers within 48 hours of initial request for service.

**3.1.9** Use due care to prevent solid waste from being spilled or scattered during collection. If any solid waste or recyclable material is spilled during collection, Franchisee shall promptly clean up all spilled materials. All can/cart and container lids must be replaced after contents are emptied and the can/cart or container shall be returned to its original position so as to not jeopardize the safety of motorist, pedestrians or bicyclists. Franchisee shall also collect any solid waste or recyclable materials that may have been spilled or scattered prior to collection, in the immediate area of cans and carts.

**3.1.10** Use reasonable care in handling all collection receptacles and enclosures. Damage caused by the negligence of Franchisee's employees to private property, including landscaping, is the responsibility of Franchisee and shall be promptly adjusted with the owner.

**3.1.11** Ensure that all solid waste and recycling collection operations shall be conducted as quietly as possible and shall conform to applicable Federal, State, County and City noise emission standards. Unnecessarily noisy trucks or equipment are prohibited. The City Administrator may conduct random checks of noise emission levels to ensure such compliance.

**3.1.12** Determine, with approval of the City Administrator, the maximum allowable capacity of cans, carts or containers. If Franchisee refuses to service an overweight can, cart or container, a notice describing the problem must be provided. The notice shall include the name of Franchisee, employee, alternative solutions to resolve the problem and a local phone number for additional information. Franchisee must provide double the customer's subscribed service level at no additional charge on the customer's next scheduled collection day, if a special pick-up has not been requested in the meanwhile. If a special pick-up has been requested, Franchisee may charge the normal will-call rate.

**3.1.13** Refuse specific residential collections, if access to a can, cart or container, is blocked by a vehicle. For purposed of this section, "blocked" shall be defined as parked immediately in front of, or at the curb within ten feet to either side of such containers. If Franchisee refuses to service a can, cart or container for this reason, a notice describing the problem must be provided. The notice shall include the name of Franchisee, employee, reason for collection refusal, solution for resolving the problem and a local phone number for additional information. Franchisee must provide double the customer's subscribed service level at no additional charge on the customer's next scheduled collection day, if a special pick-up has not been requested in the meanwhile. If a special pick-up has been requested, Franchisee may charge the normal will-call rate.

**3.1.14** Offer unlimited vacation credits to customers who temporarily discontinue service in a calendar year for any period of two (2) weeks or more. The customer must request the discontinuance no later than noon on the business day, excluding

weekends, prior to the date of discontinuance.

**3.1.15** Notify, in the event of changes to the collection schedule, all affected customers within fourteen (14) calendar days of any change. Franchisee shall not permit any customer to go more than seven (7) calendar days without service in connection with a collection schedule change.

**3.1.16** Have the option to limit acceptable methods of payment. Franchisee must, however, at a minimum, accept cash, personal checks, cashiers checks, money orders, and bank drafts, and provide for online payment with a credit card.

**3.1.17** Have the option to refuse collection service upon non-payment of a billing or portion of a billing after account becomes 45 days past due, or upon refusal to pay required advance payments, delinquent charges, or charges associated with starting a new service. Franchisee may withhold collection services, providing at least a ten (10) day notice is given to subscriber.

**3.1.18** Continue collection services except in cases of street or road blockage, excessive weather conditions, natural or man-made disasters, or customer violations of public responsibilities beyond Franchisee's control. Adverse labor relations issues such as strikes or walk-outs shall be considered to be within the control of the franchisee and shall not prevent collection and disposal services as required by this ordinance.

**3.1.19** Franchisee shall dispose of solid waste in the nearest disposal site permitted by the Oregon Department of Environmental Quality unless extraordinary circumstances apply. City Council reserves the right to approve any disposal site used by Franchisee.

**3.2. Preventing Interruption of Service.** In the event of an immediate and serious danger to the public creating a health hazard or serious public nuisance, the City Administrator may, after a minimum of 24 hours notice to Franchisee, authorize another person to temporarily provide emergency service under this ordinance or the City may elect to provide such service.

Upon request of Franchisee, a public hearing shall be provided before the City Council and the decision to provide temporary service shall be reconsidered. Franchisee agrees as a condition to this franchise that any equipment used for the services provided under this franchise may be used to provide such emergency service. The City shall return any such property of Franchisee upon abatement of the health or nuisance hazards created by the general interruption of service. In the event the power under this section is exercised, the usual charges for service shall prevail and Franchisee shall be entitled to collect for such usual services, but shall reimburse the City for its actual costs, as determined by the City.

**3.3 Recycling Standards.** Recycling services shall include the following:

**3.3.1** For residential customers with regular weekly solid waste service, provide

on-route residential recycling service including one 65-gallon (1) roll cart, one (1) recycle bin and one (1) yard debris cart or composter at no additional charge. Customers may, at their option, upgrade to a 95 gallon roll cart at no additional cost. Additional carts and bins for recycling shall be provided upon request at a cost not greater than the actual cost incurred by Franchisee.

**3.3.2** For customers in single-family households, the following material at a minimum shall be picked up curbside once every other week on a designated collection day: newspapers, corrugated cardboard, brown paper bags, mixed paper consisting of household mail, paperboard, and magazines, glass bottles and jars, aluminum and tin, plastics, and aerosol cans. Batteries, oil, and latex paint shall also be collected every other week, but shall be segregated from other recyclable materials in a bin provided by the Franchisee for that purpose.

**3.3.3** For apartments and other multi-family households and units requesting such service, the following material at a minimum shall be collected once each week on a designated collection day: newspapers, corrugated cardboard, brown paper bags, mixed paper consisting of household mail, paperboard, and magazines; and glass bottles and jars, aluminum and tin, plastics, and aerosol cans. Batteries, oil and latex paint shall also be collected weekly, but shall be segregated from other recyclable materials in a bin provided by the Franchisee for that purpose. . Materials shall be collected curbside or in a designated collection center in cooperation with the building owner or manager.

**3.3.4** Yard debris carts for residential customers shall be picked up weekly on the same day as solid waste collection. Yard debris must be disposed at a compost/mulch facility registered with the Oregon Department of Environmental Quality.

**3.3.5** Recycling-only customers shall be offered 65 gallon Carts and be provided bi-weekly recycling service at a rate established by the City Council.

**3.3.6** Commercial recycling service includes carts, recycle bins, and cardboard recycling containers and shall be provided at no additional charge.

**3.3.7** For commercial customers, the following recyclable material, at a minimum, shall be collected once each week on a designated collection day: office paper and mail, corrugated cardboard, newspapers, paperboard, magazines, brown paper bags, wood, glass bottles and jars, aluminum and tin, plastic, and aerosol cans. Batteries, oil, and latex paint shall also be collected weekly, but shall be segregated from other recyclable materials in a bin provided by the Franchisee for that purpose.

**3.3.8** For large quantities of cardboard, the frequency of pickup-service shall be determined by agreement between the generator and the collector. Agreements shall give due consideration to the volume of the material, storage capacity of generator, and generator's location.

**3.3.9** Franchisee must provide notice to customer if recyclable material placed at

curbside is not collected due to improper preparation. Notice must include adequate explanation of refusal for collection, name of employee and local phone number for additional information. Employee shall leave notice securely attached to the customer's bin or the customer's front door. Employee shall collect any properly prepared material that is accessible. The purpose of the notice is to educate residents and increase program participation, and shall be written in such a manner as to accomplish this purpose.

**3.3.10** Operate and maintain at least one (1) collection center within the City limits that permits residents to deliver recyclables to the site. Collection center shall be open to the public between the hours of 8 am to 5 pm Monday through Friday, and 8 am to Noon on Saturdays. Said site shall accommodate at a minimum all recyclable materials collected at curbside, as well as scrap metal and other types of glass and plastic. Materials such as Styrofoam, textiles, and electronics shall be recycled when it is technologically or economically feasible to do so.

**3.3.11** Facilitate a reuse program referring useable items to local thrift shops, resale shops, non-profit groups or others who may have a legitimate use for the item. Maintain a list of businesses and groups that submit requests for needed items, and provide this information to others as requested.

**3.3.12** Research and develop improved recycling and reuse systems.

**3.4 Public Education.** Franchisee shall provide the following public education and promotion of activities for waste reduction, recycling, reuse, and source separation, and cooperate with other persons, companies, or local governments providing similar services. Franchisee shall:

**3.4.1** Provide a recycling information center within City limits, with local telephone access and information concerning collection schedules, recycling locations, recyclable material preparation, conservation measures, reuse programs, waste reduction strategies and on-site demonstration projects. Recycling information booths at appropriate community events shall also be provided by Franchisee to promote and increase recycling awareness and participation.

**3.4.2** Provide recycling notification and educational packets for all new residential, commercial, and industrial collection service customers specifying the collection schedule, materials collected, proper material preparation, reuse programs, waste reduction strategies and recycling benefits.

**3.4.3** Provide semi-annual informational/promotional pamphlets to residences and businesses in the City that include the materials collected and the schedule for collection. Information about waste reduction, reuse opportunities, proper handling and disposal of special wastes (household hazardous wastes) and the reduction of junk mail shall be included on a regular basis. Special community solid waste events, and the holiday tree removal program shall also be promoted when appropriate. Informational/promotional pamphlets shall be distributed to all mailing addresses within

the City.

**3.4.4** Develop by December 31, 2009 and then maintain an Internet web site that includes a listing of all franchised solid waste and recycling services and applicable rates charged for such services.

**3.4.5** Perform waste audits for those commercial and industrial customers requesting one, and conduct, at least annually, workshops on waste reduction strategies and reuse opportunities.

**3.4.6** Coordinate with the Woodburn School district and local private schools to assist in promoting awareness of recycling and waste reduction strategies to children, and to cooperate with the district in their recycling efforts and programs.

**3.4.7** Promote solid waste reduction and recycling education through local widespread media, such as radio or newspapers, no less than 18 times each year. Promotional information shall focus on recycling, reuse and waste reduction strategies.

**3.4.8** Provide the City Administrator with sufficient copies of all promotional fliers and other related information as requested.

**3.4.9** Conduct a bi-annual survey to evaluate customer participation in recycling programs and customer opinion of solid waste and recycling services offered by Franchisee. Statistics shall be used to enhance existing recycling educational materials and increase program participation. Significant statistical changes in the survey shall afford the City Administrator the option to renegotiate Section 3 of this agreement.

### **3.5 Resource Recovery Services.**

**3.5.1** Aggressively seek markets for reusable, recyclable, and recoverable materials and purchase such materials from others.

**3.5.2** Develop strategies to promote the reduction of solid waste generated by residential, commercial and industrial customers. Promote programs preventing or reducing at the source those materials which would otherwise constitute solid waste.

**3.6 County Wasteshed.** Coordinate recycling efforts with other solid waste collection efforts in the Marion County Wasteshed to further enhance recycling and recovery, efforts, and to meet wasteshed recovery goals as mandated by the state.

### **3.7 Additional Recycling Requirements.**

**3.7.1** The City Administrator reserves the right to require specific materials to be separated, collected and recycled.

**3.7.2** Franchisee shall provide other recycling services as required by Oregon Revised Statute 459.A, City Council, ordinance, or municipal code.

**3.7.3** Franchisee shall recycle additional materials when economically feasible and provide for an on-site collection center for household hazardous waste.

**3.8 Community Service Standards.**

**3.8.1** Franchisee shall provide for storm debris collection of tree limbs, leaves, etc., on an as needed basis. Franchisee may charge a fee for such service.

**3.8.2** Franchisee shall provide an annual residential cleanup, collecting scrap and recyclable material, yard debris and appliances, at no additional charge; however, Franchisee may charge, as a pass-through cost, the CFC evacuation fee on appliances.

**3.8.3** Franchisee shall provide collection and recycling of holiday trees placed at curbside for a period of three (3) weeks, beginning December 26<sup>th</sup> of each year, at no additional charge.

**3.8.4** Franchisee shall provide twice weekly solid waste collection and disposal service of public litter receptacles, in the central business district of the City, including the Woodburn Downtown Plaza, except weekends and holidays.

**3.8.5** Franchisee shall provide once weekly solid waste collection and disposal service at the following facilities at no charge to the City:

- a. City Hall
- b. Woodburn Public Library
- c. Woodburn Memorial Aquatic Center
- d. Woodburn Police Facility
- e. Woodburn Public Works Annex
- f. Public Works Corporation Yard

**3.9 Additional Services.** Where a new service or a substantial expansion of an existing service is proposed by the City Administrator, another person or Franchisee, the following shall apply:

**3.9.1** If service is proposed by the City Administrator, Franchisee shall receive prior written notice of the proposed service and justification by the City Administrator. If service is proposed by Franchisee or another person, the City Administrator must be notified in writing prior to any consideration by the City.

**3.9.2** The City may hold a public hearing on the proposed service and justification.

**3.9.3** In determining whether the service is needed, the City shall consider the public need for the service, the effect on rates for service and the impact on other services being provided or planned, the impact on any city, county or regional solid waste management plan, and compliance with any applicable statutes, ordinances or

regulations.

**3.9.4** If the City determines the service is needed, Franchisee shall have the option to provide the service on a temporary basis through a pilot program to determine if the service is functional on a permanent basis or Franchisee may agree to provide the service on a permanent basis within a specified time.

**3.9.5** If Franchisee rejects the service, the City may issue a franchise or permit to another person to provide only that service. The provider of the limited service shall comply with all applicable provisions of this ordinance.

### **3.10 Special Service.**

**3.10.1** If a customer requires an unusual service requiring added or specialized equipment solely to provide that service, Franchisee may require a contract with the customer to finance and assure amortization of such equipment. The purpose of this subsection is to assure that such excess or specialized equipment does not become a charge against other ratepayers.

**3.11 Sub-Contract.** Franchisee may sub-contract with other persons to provide specialized or temporary service covered by this franchise, but shall remain totally responsible for compliance with this agreement. Franchisee shall provide written notice of intent to sub-contract services prior to entering into agreements. If sub-contracting involves a material portion of the franchised service, Franchisee shall seek the approval of the City.

### **3.12 Equipment and Facility Standards.**

**3.12.1** All equipment shall be kept well painted, and properly maintained in good condition. Vehicles and containers used to transport solid waste shall be kept clean to ensure no contamination to the environment or the City's storm water system.

**3.12.2** All vehicles and other equipment shall be stored in a safe and secure facility in accordance with applicable zoning and environmental regulations.

**3.12.3** Trucks shall be equipped with a leak proof metal body of the compactor type including front, rear, or automatic loading capabilities.

**3.12.4** Pick-up trucks, open bed trucks or specially designed, motorized local collection vehicles used for the transporting of solid waste must have a leak proof metal body and an adequate cover over the container portion to prevent scattering of the load.

**3.12.5** All fuel, oil, or vehicle fluid leaks or spills which result from Franchisee's vehicles must be cleaned up immediately. All vehicles must carry an acceptable absorbent material for use in the event of leaks or spills. Damages caused by fuel, oil, or other vehicle fluid leaks or spills from Franchisee's vehicles or equipment shall be at Franchisee's expense.

**3.12.6** All vehicles used by Franchisee in providing solid waste and recycling collection services shall be registered with the Oregon Department of Motor Vehicles and shall meet or exceed all legal operating standards. In addition, the name of Franchisee, local telephone number and vehicle identification number shall be prominently displayed on all vehicles.

**3.12.7** All collection vehicles shall not exceed safe loading requirements or maximum load limits as determined by the Oregon Department of Transportation. Franchisee shall endeavor to purchase and operate equipment that minimizes damage to City streets.

**3.12.8** Franchisee shall provide and maintain equipment that meets all applicable laws, ordinances, municipal codes, and regulations or as directed by the City Administrator.

**3.12.9** Franchisee shall provide and replace as necessary, garbage collection carts, yard debris carts, and recycle bins at no charge to the public. Cart sizes offered for solid waste disposal include 20, 32, 64, and 90 gallon capacity. Yard debris carts shall be 65 gallon capacity. Recycle carts may be either 65 or 95 gallon capacity, depending on customer choice. Solid waste, yard debris, and recycling carts shall be leak-proof, rigid, fireproof, and of rodent proof construction and not subject to cracking or splitting. The City Administrator has the right to approve all receptacles provided by Franchisee for use in the City and may require additional or alternative receptacle sizes. Customers may, at their election, change their cart size once each calendar year at no cost. For each subsequent change within the same calendar year, Franchisee may charge a fee, to recover the administrative costs of such change, as approved by the City Council.

**3.12.10** Franchisee shall clean containers used by commercial customers once annually if requested by customer for no additional charge. If Franchisee determines such containers are becoming a health hazard, requiring more frequent cleaning, such service shall be an additional maintenance charge to the waste producer or generator.

**3.12.11** In cooperation with the Woodburn Police Department, Franchisee shall remove graffiti from all containers or facilities within of the time Franchisee is notified of such need. Notification may be verbal, or in writing.

**3.12.12** All surface areas around Franchisee's site facilities including vehicle and equipment storage areas, service shops, wash stations, transfer sites, collection centers, and administrative offices must be kept clean to eliminate direct site run-off into the City's storm water and open drainage system.

**3.13 Safety Standards.** Franchisee shall operate within guidelines of the Oregon Refuse and Recycling Association, Oregon Department of Transportation, Oregon Public Utility Commission, Oregon Occupational Health and Safety Administration, Department of Environmental Quality, Woodburn Municipal Code and all

other rules and regulations as they apply.

**3.13.1** Franchisee shall provide suitable operational and safety training for all of its employees who maintain, use, or operate vehicles, equipment, or facilities for collection of waste or who are otherwise directly involved in such collection. Employees involved in collection services shall be trained to identify, and not to collect, excluded waste. Employees who do handle such excluded waste shall be properly trained.

**3.14 Right-of-Way Standards.** Franchisee shall ensure proper and safe use of public right-of-ways and provide compensation to the City in consideration of the grant of authority to operate a solid waste collection and disposal system in the City of Woodburn as directed in this franchise agreement.

**3.15 Customer Service Standards.** Franchisee shall:

**3.15.1** Provide sufficient collection vehicles, carts, bins, containers, drop boxes, facilities, personnel and finances to provide the services set forth in this franchise agreement.

**3.15.2** Sufficiently staff, operate and maintain a business office and operations facility within the City.

**3.15.3** Establish minimum office hours of 8:00 am through 5:00 pm, Monday through Friday, not including holidays.

**3.15.4** Ensure a responsive, customer service oriented business. Provide customers with a local telephone number, listed in a local directory, to a local business office. Adequately staff operations to provide prompt response to customer service requests or inquiries and respond promptly and effectively to any complaint regarding service. Calls received by 1:00 pm by office staff shall be returned the same business day as call received, and by noon of the following business day if call is received after 1:00 pm. Franchisee shall promptly respond to all written complaints about service or rates.

**3.15.5** Train collection crews prior to their beginning solid waste and recycling collection, and office staff prior to having public contact. The scope of the training shall include, but is not limited to, acceptable safety practices, acceptable standards of service to the public, courteous customer service, and accuracy and completeness of information

**3.15.6** Require all employees of Franchisee and all employees of persons under contract with Franchisee under this franchise agreement to present a neat appearance and conduct themselves in a courteous manner. Franchisee shall require its drivers and all other employees who come into contact with the public, to wear suitable and acceptable attire that identifies Franchisee.

**3.15.7** Designate at least one (1) qualified employee as supervisor of field

operations. The supervisor shall devote an adequate portion of his/her workday in the field checking on collection operations, including responding to issues.

**3.16 Annual Customer Service Reporting Standards.** Franchisee shall provide annual reports to the City Administrator by March 31st of each year during the term of the franchise.

**3.16.1** Reports shall include a written log of all oral and written complaints or service issues registered with Franchisee from customers within the City. Franchisee shall record the name and address of complainant, date and time of issue, nature of issue, and nature and date of resolution. The City Administrator may require more immediate reports documenting complaints and resolutions.

**3.16.2** Provide a summary of educational and promotional activities as required in Sub-section 3.4.

**3.17 Annual Financial Reporting Standards.** Franchisee shall keep current, accurate records of account. The City may inspect the Records any time during business hours and may audit the Records from time to time. If an audit of the Records is required, the cost of an independent audit, reasonably satisfactory to the City, shall be the responsibility of franchisee. Franchisee shall submit to the City Administrator a report annually, no later than March 31<sup>st</sup> of each year, documenting the activities and achievements of all programs undertaken pursuant to this franchise for the previous year. The City Administrator shall evaluate the effectiveness of the programs in terms of the amount, level, and quality of the services provided by Franchisee. The report shall include the following specified information:

**3.17.1** Total franchise payments remitted and basis for calculations;

**3.17.2** Year-end financial statements of Franchisee for service within the City limits only, including:

- Summary of financial highlights
- Statement of income and retained earnings
- Balance sheet
- Statement of changes in financial position
- Schedule of expenses

**3.17.3** Annual recycling data form as submitted to the Marion County Environmental Services Division.

**3.17.4** Current and previous year total of residential, commercial and industrial customers within City limits, including tons of solid waste generated. Number of recycling customers within City limits and percentage of materials recycled.

**3.17.5** A summary of the customer survey as required in Sub-section 3.4.9 and a summary of the annual customer service reports as required in Sub-section 3.16.

**3.17.6** Document industry trends and direction of Franchisee over the next seven years.

**3.17.7** Provide a summary of Community Involvement activities as required in Section 3.

**3.17.8** Other information pertaining to performance standards specified in the franchise agreement.

## **Section 4 - Rates**

**4.1 Rate Structure.** The City Council reserves the right to examine the rate structure of Franchisee, and to require specific services and approve rate changes which, in the discretion of the City Council, are reasonably required in view of the following considerations:

**4.1.1** Franchisee shall have the right to charge and collect reasonable compensation from those whom it furnishes franchised services. The term "reasonable compensation" shall be defined at the discretion of the City after a study and consideration of rates for similar service under similar conditions in other areas, and as affected by local conditions in the local area. However, nothing in this section prohibits Franchisee from volunteering services at a reduced cost for a civic, community, benevolent or charitable program. Cash or in-kind contributions to such organizations shall be the sole responsibility of Franchisee and shall not be a factor in determining rates or increase the total amounts paid by ratepayers for which Franchisee serves under this agreement and shall not reduce the total amount of revenue paid to the City. Contributions shall not be taken into consideration in the rate approval process.

**4.1.2** Franchisee shall provide to the City Administrator a copy of the published rate schedule which shall contain the rates and charges made for all its operations. The rate schedule shall be kept current. Franchisee shall file with the City Administrator, at least 90 days prior to any contemplated change, a complete, new and revised rate schedule which shall be examined by Council in a public hearing, subject to applicable notice requirements and affording due process. Franchisee shall also provide documented evidence of actual or projected increased operating costs within City limits which may justify proposed increases. Council may approve or deny any request based on criteria consisting of, but not limited to: increases in operating or capital costs, increases in City population; extension of City boundaries; increase of intensive residential, commercial or industrial development within the City; changes in solid waste or recycling technology; changes in regulatory requirements; inability of Franchisee to adequately handle increased needs for said service; the rates in other cities for similar services; and the public interest by assuring reasonable rates to enable Franchisee to provide efficient and beneficial service to users of the service. The request shall be considered denied unless approved by Council prior to 30 days before the effective date. In the event of denial, the current rate schedule remains in effect and Franchisee may file with the Council further information to justify the rate schedule changes.

**4.1.2.1** Rates established by Council are fixed rates and Franchisee shall not charge more or less than the fixed rate unless changed pursuant to Section 4. Franchisee shall not charge rates not in the rate schedule.

**4.1.2.2** Rates for a given service must be established under the provisions of these guidelines before such service can be provided to customers unless services are being offered under a pilot program. If the City Administrator determines Franchisee is providing services for a fee without following these guidelines, the City Administrator may require Franchisee to continue providing such services at no charge to the customer until such time as the rates are approved as described under Section 4. If rates are not subsequently approved, Franchisee may discontinue service and shall take full responsibility in explaining to customers as to why the service is no longer being provided.

**4.1.3** Franchisee may not give any rate preference to any person, locality, or type of solid waste collected, transported, stored, disposed of or resource recovered. This section shall not prohibit uniform classes of rates based on length of haul, time of haul, type or quantity of solid waste handled, and location of customers, so long as such rates are reasonably based on the cost of service and approved by City Council in the same manner as other rates.

**4.1.4** The rates shall be subject to review and change only one (1) time in a calendar year, beginning January 1 and ending December 31; provided:

**4.1.4.1** The City Council may at its sole discretion and with appropriate documentation submitted by Franchisee, grant an interim or emergency rate for changes in service, including pilot programs.

**4.1.4.2** An additional application for a rate adjustment may be made when the cost of collection is increased by governmental regulations, or there is a single large increase in cost not anticipated at the last rate adjustment.

**4.1.5** The approved rate schedule (Exhibit 1), as of the effective date of this ordinance, shall be deemed to be in effect.

## **Section 5 - Financial**

**5.1 Compensation.** In consideration of the rights and privileges granted by this ordinance, Franchisee shall pay to the City of Woodburn, five percent (5%) per annum of its gross revenues derived from all services within the City and from the sale of recyclable material collected within the City. Franchisee shall also pay five percent (5%) per annum of the gross revenues derived from franchised services within the City, as defined in this ordinance, earned by subcontractors of Franchisee within the City for services rendered pursuant to this franchise agreement.

**5.1.1** Gross revenue of Franchisee shall mean revenues derived by Contractor within the City pursuant to this franchise agreement.

**5.1.2** No expenses, encumbrances, or expenditures shall be deducted from the gross revenue in determining the total gross revenue subject to the franchise fee, except net uncollectables.

**5.1.3** The compensation required in this section shall be due quarterly, on or before the 30th day of the month following last business day of every quarter. Franchisee shall furnish with each payment a notarized statement, executed by the General Manager, showing the amount of gross revenue of Franchisee within the City for the period covered by the payment computed on the basis as determined by Sub-section 5.1, Compensation. If Franchisee fails to pay the entire amount of compensation due to the City through error or otherwise within the time allotted for, the unpaid balance shall be subject to a late penalty of an additional ten percent (10%), plus interest of two percent (2%) per month on the amount of fee due and unpaid from the date due until it is paid together with the late penalty.

**5.1.4** If Franchisee is prohibited by state or federal law from paying a fee based on gross revenues or the City is prohibited by state or federal law from collecting such a fee, or if any legislation reduces the actual or projected amount of compensation collected in any given year, the City Administrator may renegotiate the compensation section of this franchise agreement.

**5.1.5** Franchisee shall not separately identify its franchise fee on billing statements to customers unless it separately identifies all costs which constitute five percent (5%) or more of the costs paid by the revenues received from customers.

**5.1.6** Nothing contained in this franchise shall give Franchisee any credit against any ad valorem property tax levied against real or personal property within the City, or against any local improvement assessment or any business tax imposed on Franchisee, or against any charges imposed upon Franchisee including permit and inspections fees or reimbursement or indemnity paid to the City.

**5.2 Insurance.** Franchisee shall pay, save harmless, protect, defend and indemnify the City from any loss or claim against the City on account of, or in connection with, any activity of Franchisee in the operation or maintenance of its facilities and services except those that arise out of the sole negligence of the City. Franchisee shall, for the purposes of carrying out the provisions of this agreement, have in full force and effect, and file evidence with the City Administrator the following requirements:

**5.2.1** Workers' Compensation insurance as required by Oregon Law, including Employers Liability Coverage.

**5.2.2** Commercial General Liability insurance as broad as Insurance Services

Office (ISO) form CG 00 01, providing Bodily Injury, Property Damage and Personal Injury on an occurrence basis with the following as minimum acceptable limits:

Bodily Injury and Property Damage - Each Occurrence	\$2,000,000
Personal Injury - Each Occurrence	\$2,000,000
Products & Completed Operations - Aggregate	\$3,000,000
General Aggregate	\$3,000,000

**5.2.3** Business Automobile Liability as broad as Insurance Services Office (ISO) form CA 00 01, providing bodily injury and property damage coverage for all owned, non-owned and hired vehicles, with the following as minimum acceptable limits:

Bodily Injury and Property Damage - Each Occurrence	\$1,000,000
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**5.2.4** Franchisee shall furnish the City Administrator with Certificates of Insurance and with original endorsements for each insurance policy (if needed). All certificates and endorsements are to be received and approved by the City Administrator before the effective date of this ordinance. The Commercial General Liability Certificate shall name the City of Woodburn, its officers, officials, employees and agents as Additional Insureds as respects to operations performed under this franchise agreement.; Franchisee shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self insurance. All such deductibles, retentions, or self-insurance must be declared to and approved by the City Administrator.

**5.2.5** Any Certificate shall state, "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail 30 days written notice to the certificate holder named to the left." Any "will endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives." shall be omitted.

**5.3 Hold Harmless.** The Franchisee agrees to indemnify, defend and hold harmless the City, its officers, employees, volunteers and agents from any and all claims, demands, action, or suits arising out of or in connection with the City Council's grant of this franchise. Franchisee shall be responsible to defend any suit or action brought by any person challenging the lawfulness of this franchise or seeking damages as a result of or arising in connection with its grant; and shall likewise be responsible for full satisfaction of any judgment or settlement entered against the City in any such action. The City shall tender the defense to the Franchisee , and Franchisee shall accept the tender whereupon the City shall assign to Franchisee, complete responsibility of litigation including choice of attorneys, strategy and any settlement.

**5.3.1** Franchisee's costs incurred in satisfying its obligations as defined in 5.3 above, shall not decrease the total amount of compensation paid to the City and shall not increase the total amounts paid by the ratepayers for which Franchisee serves under the authority of the franchise agreement. All such expenses shall be the sole responsibility and burden of Franchisee.

**5.3.2 Damages.** Damages and penalties under this Section 5.3 include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, theft, and fire Franchisee.

## **Section 6 - Administration and Enforcement**

### **6.1 Customer Dispute Resolution Process.**

**6.1.1** Any citizen of Woodburn who is aggrieved or adversely affected by any application of the franchise or policy of Franchisee shall first attempt to settle the dispute by notifying Franchisee of the nature of the dispute and affording Franchisee the opportunity to resolve the dispute.

**6.1.2** If the dispute is unresolved, the citizen may contact the City Administrator. The City Administrator may require a written description of the dispute from either party, and shall attempt to mediate and resolve the grievance with the citizen and Franchisee.

**6.1.3** If the dispute is still unresolved, the citizen or Franchisee may appeal to the City Council who shall hear the dispute. The decision of the City Council shall be final and binding.

**6.2 Penalties and Procedures.** Subject to the requirement of prior notice as set forth in Section 6.3 below, for violations of this ordinance occurring without just cause, the City Administrator may assess penalties against Franchisee as follows:

**6.2.1** For failure to adhere to material provisions of this franchise, as defined in Section 6.4.1, Two Hundred Fifty Dollars (\$250.00) per day for each provision not fulfilled.

**6.2.2** For failure to comply with Oregon Occupational Safety and Health Administration and Oregon Department of Transportation safety requirements or Oregon Department of Environmental Quality rules and regulations, the penalty shall be Two Hundred Fifty Dollars (\$250.00) per day, per occurrence.

**6.2.3** For failure to comply with any provision of this franchise, for which a penalty is not otherwise specifically provided, the penalty shall be One Hundred Twenty Five Dollars (\$125.00) per day, per occurrence.

**6.2.4** For failure to comply with reasonable requests of the City Administrator related to service, the penalty shall be One hundred Dollars (\$100.00) per day per request.

### **6.3 Procedure for Imposition of Penalties.**

**6.3.1** Whenever the City Administrator finds that Franchisee has violated one (1)

or more terms, conditions or provisions of this franchise, a written notice, or a verbal notice followed by a written notice, shall be given to Franchisee informing it of such violation or liability. If the violation concerns requirements mandated by the Oregon Occupational Health and Safety Administration or the Oregon Department of Environmental Quality, a verbal notice followed by a written notice may be given. For these safety or public health violations, Franchisee shall have 24 hours from notification to correct the violation. For all other violations and liabilities the written notice shall describe in reasonable detail the specific violation so as to afford Franchisee an opportunity to remedy the violation. Franchisee shall have ten (10) days subsequent to receipt of the notice in which to correct the violation. Franchisee may, within five (5) days of receipt of notice, notify the City Administrator that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Franchisee to the City Administrator shall specify with particularity the matters disputed by Franchisee.

**6.3.2** The City Council shall hear Franchisee's dispute at its next regularly or specially scheduled meeting. The Council shall supplement its decision with written findings of fact.

**6.3.3** If after hearing the dispute the claim is upheld by the Council, Franchisee shall have ten (10) days from such a determination to remedy the violation or failure. Penalties shall accrue from time of initial notification until such time as the violation or failure is resolved to the satisfaction of the City Administrator.

**6.3.4** Franchisee shall be liable for full payment of all penalties imposed under this section.

**6.4 City's Right to Revoke.** In addition to all other rights which the City has pursuant to law or equity, the Council reserves the right to revoke, terminate, or cancel this franchise, and all rights and privileges pertaining thereto, in the event that:

**6.4.1** Franchisee violates any of the following provisions of this franchise which are deemed to be material to the performance of the franchise, and fails to cure such violation in accordance with Section 6.3:

Standards for Collection and Disposal of Solid Waste and Recyclable Materials (Section 3)

Compensation (Section 4 )

Insurance (Section 5)

Assignment or Sale of Franchise (Section 8)

**6.4.2** Franchisee practices any fraud upon the City or customer.

**6.4.3** Franchisee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt.

**6.4.4** Franchisee misrepresents a material fact in the negotiation of, or renegotiation of, or renewal of, the franchise.

**6.4.5** After conducting a public hearing and documenting in findings of fact that it is in the best interest of the public to do so.

**6.5 Enforcement.**

**6.5.1** The City Administrator shall have the right to observe and inspect all aspects of collection operations, facilities, services, and records which are subject to the provisions of this franchise, to insure compliance.

**6.5.2** If Franchisee at any time fails to promptly and fully comply with any obligation of this agreement after receiving a written notice and a reasonable opportunity to comply, the City Administrator may elect to perform the obligation at the expense of Franchisee.

**6.5.3** If Franchisee defaults in any of the terms required to be performed by it under the terms of this franchise, and the default continues for ten (10) days after written notification by the City Administrator, this franchise may, at the option of the Council, become null and void.

**6.5.4** The City Administrator reserves the right to make such further regulations as may be deemed necessary to protect the interests, safety, welfare and property of the public and carry out purposes stated in Section 3 of this franchise agreement. The City Administrator or Franchisee may propose amendments to this franchise. Proposals shall be in writing and shall be afforded an adequate review process. After review of the proposed amendments to the franchise, the Council may adopt the amendments.

**6.5.5** All remedies and penalties under this franchise agreement, including termination, are cumulative, and the recovery or enforcement of one is not a waiver or a bar to the recovery or enforcement or any other recovery, remedy or penalty. In addition, the remedies and penalties set out in this ordinance are not exclusive, and the City reserves the right to enforce the penal provisions of any other ordinance, statute or regulation, and to avail itself of any all remedies available at law or in equity. Failure to avail itself of any remedy shall not be construed as a waiver of that remedy. Specific waiver of any right by the City for a particular breach shall not constitute a general waiver of the City's right to seek remedies for any other breach, including a repetition of the waived breach.

**6.6 Non-enforcement by the City.** Franchisee shall not be relieved of its obligation to comply with any of the provisions of this franchise by reason of any failure of the City Administrator to enforce prompt compliance.

**6.7 Written Notice.** All notices, reports, or demands required to be given in writing under this franchise shall be deemed to be given when a registered or certified mail receipt is returned indicating delivery as follows:

If to the City:                      City of Woodburn

270 Montgomery Street  
Woodburn, Oregon 97071  
Attn: Mary Tennant, City Recorder

If to Franchisee: United Disposal Service, Inc  
P.O. Box 608  
Woodburn, Oregon 97071  
Attn: Robin Murbach, General Manager

Such addresses may be changed by either party upon written notice to the other party given as provided in this section.

## **Section 7 - Public Responsibilities**

**7.1 Excluded Waste.** No person shall place hazardous wastes or excluded waste for collection or disposal by Franchisee at the curbside. Hazardous waste and excluded waste shall only be disposed at collection events for this specific purpose.

**7.2 Accumulation of Waste.** No person shall accumulate or store waste that is unsightly or in violation of the City's nuisance ordinance, or in violation of regulations of the Oregon Environmental Quality Commission.

**7.3 Approved Receptacles.** No customer shall use any waste collection receptacle unless it is supplied by or approved by Franchisee.

**7.4 Safe Loading Requirements.** No stationary compactor, can, cart or container for residential, commercial or industrial use shall exceed the safe loading requirements designated by Franchisee.

**7.5 Access to Receptacle.** No receptacle shall be located behind any locked or latched gate or inside of any building or structure unless authorized by Franchisee. No person shall block the access to a receptacle.

**7.6 Safe Access.** Each customer shall provide safe access to the solid waste or solid waste receptacle without hazard or risk to Franchisee.

**7.7 Can/Cart Placement.** Placement of cans/carts must be within three (3) feet of curb but shall not restrict access to bicycle lanes or sidewalks and shall not be blocked by vehicles or other items. Items not for collection must be at least three (3) feet from cans/carts. Placement of cans/carts is limited to a time period of 24 hours prior to pick-up and 24 hours after pick-up. Cans/carts within alleys shall be placed to accommodate collection vehicles.

**7.8 Clean Cans/Carts and Surrounding Areas.** Generators or producers of waste shall clean cans/carts and shall keep the area around cans/carts and containers free of accumulated wastes.

**7.9 Removal of Solid Waste Prohibited.** No person, other than the person producing the materials contained therein, or an officer, employee or permittee of the City, or an employee of the Franchisee shall interfere with any solid waste receptacle, compact the contents of a receptacle, or remove any such receptacle or its contents from the location where the same has been placed by the person so producing the contents of said container. This subsection does not apply to the purchase of materials for fair market value as exempted by Section 2, 2.6 of this ordinance.

**7.10 Collection of Solid Waste Prohibited.** No person shall remove the lid from any solid waste receptacle, nor enter into such solid waste receptacle, nor shall any person collect, molest, compact or scatter solid waste placed out for collection and resource recovery, except the person so producing the materials contained therein, or an officer, employee or permittee of the City, or an employee of the Franchisee.

**7.11 Disposal of Unauthorized Solid Waste Prohibited.** No unauthorized person shall remove the lid from or interfere with any solid waste receptacle to deposit solid waste into such receptacle.

**7.12 Stationary Compactor.** No person shall install a stationary compacting device for handling of solid wastes unless it complies with all applicable federal, state, and local laws and regulations. Franchisee shall not service any such device unless these requirements are adhered to at all times.

**7.13 Train System.** No person shall install or operate a "train system" for the purpose of solid waste collection under this franchise agreement.

**7.14 Penalties.** In addition to, and not in lieu of any other available legal remedies, a violation of sections 7.1, 7.2, 7.6, 7.8, 7.9, 7.10, 7.11, or 7.12 of this Ordinance constitutes a Class 2 Civil Infraction, which shall be processed according to the procedures contained in the Woodburn Infraction Ordinance. Each day of continued violation is a separate offense and is separately punishable, but may be joined in a single prosecution.

## **Section 8 – Miscellaneous**

### **8.1 Transfer of Ownership or Control**

**8.1.1** This franchise shall not be sold, assigned, transferred, leased or disposed of either in whole or in part, in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person or entity without the prior written consent of the City Council, which consent shall not be unreasonably withheld.

**8.1.2** Franchisee shall promptly notify the City of any actual or proposed change in or transfer of, or acquisition by any other party of control of the Franchisee. The word

“control” as used herein is not limited to majority stockholders, but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Franchisee shall make this Franchise subject to cancellation unless and until the City Council has consented thereto.

**8.1.3** The parties to the sale or transfer of this franchise agreement shall make a written request to the City Council for its approval and furnish all information reasonably required for City Council consideration.

**8.1.4** The City Council's approval shall be based upon the financial responsibility of the party whom the franchise is proposing for sale, assignment or transfer. In reviewing a request for sale or transfer, the City Council may inquire into the financial capability, technical ability, legal qualifications, demonstrated ability, and experience of the prospective controlling party or transferee to comply with the terms of the franchise as determined by the City, and must agree to comply with all provisions of the franchise agreement.

**8.1.5** The City shall be deemed to have approved the proposed transfer or assignment in the event that its decision is not communicated in writing to the franchisee within 90 days following receipt of written notice of the proposed transfer.

**8.1.6** Within thirty (30) days of any transfer or sale, if approved or deemed granted by the City Council, Franchisee shall file with the City a copy of the deed, Agreement, lease, bill of sale, stock power or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by the Franchisee and the transferee.

**8.2 Performance Bond.** As part of any assignment or transfer of franchise, as provided in Subsection 8.1, Franchisee shall provide a performance bond in the a form acceptable to the City, in the amount of \$1,000,000 with a surety licensed to do business in the State of Oregon conditioned upon the full and faithful performance of this franchise agreement and franchise and this chapter.

### **8.3 Change of Law; Amendment of Franchise Agreement.**

**8.3.1.** It is the intent of the parties that this Agreement may be amended from time to time to conform to any changes in the controlling federal or state law or other changes material to this agreement. Each party agrees to bargain in good faith with the other party concerning such proposed amendments.

**8.3.2** This Agreement may be amended or terminated by the mutual consent of the parties and their successors-in interest.

**8.3.3** To the extent any lawful City rule, ordinance or regulation is adopted on a jurisdiction-wide basis and is generally imposed on similarly situated persons or entities, the rule, ordinance or regulation shall apply without need for amendment of this

Agreement. City shall provide Franchisee notice of any such change in law prior to its adoption.

**8.4 Severability and Constitutionality.** If any portion or phrase of this ordinance is for any reason held invalid or declared unconstitutional by any court, such portion shall be deemed a separate and independent provision; and such holding shall not affect the constitutionality of the remaining portion hereof. The council hereby declares that it would have passed this ordinance and each portion and phrase hereof, irrespective of the fact that any one (1) or more portions or phrases be declared illegal, invalid or unconstitutional. If, for any reason, the franchise fee under Section 5 of this ordinance is invalidated or amended by the act of any court or governmental agency, the City Administrator may either renegotiate the compensation section of this agreement or adopt the highest reasonable franchise fee allowed by such court or other governmental agency as the franchise fee charged by this ordinance.

**8.5 Continuity of Service Mandatory.** Upon expiration or the termination of this franchise, the City Administrator may require Franchisee to continue to operate the system for an extended period of time, not to exceed twelve (12) months. Franchisee shall, as trustee for its successor in interest, continue to operate under the terms and conditions of this franchise. In the event Franchisee does not so operate, the City Administrator may take such steps as deemed necessary to assure continued service to subscribers. Costs associated with such actions shall be the sole responsibility of Franchisee.

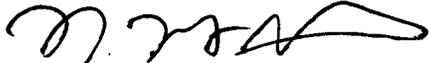
**8.6 Rules of Construction.** This ordinance shall be construed liberally in order to effectuate its purposes. Unless otherwise specifically prescribed in this ordinance, the following provisions shall govern its interpretation and construction:

**8.6.1** The singular may include the plural number, and the plural may include the singular number.

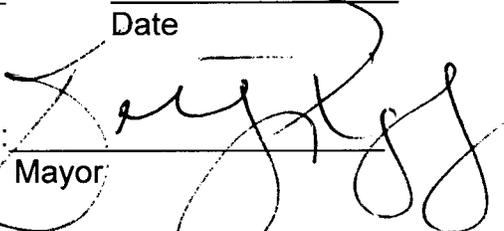
**8.6.2** "May" is permissive and "shall" is mandatory.

**8.7 Calculation of Time.** Time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time unless stipulated otherwise in this agreement. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

**8.8 Repeal; Effective Date.** This ordinance shall repeal Ordinance 1641. If this ordinance is void for any reason, Ordinance 1641 shall remain repealed in its entirety. This ordinance shall be in full force and effect as of the date indicated below, but this ordinance shall be void unless Franchisee files with the City Recorder, within 30 days, Franchisee's unconditional written acceptance of the terms, conditions, and obligations to be complied with or performed by it under this ordinance.

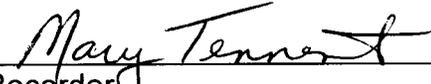
Approved as to form:   
City Attorney

11-30-2009  
Date

APPROVED:   
Mayor

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

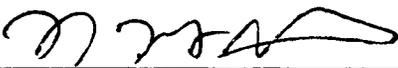
November 23, 2009  
November 25, 2009  
November 25, 2009  
November 25, 2009

ATTEST   
Recorder  
City of Woodburn

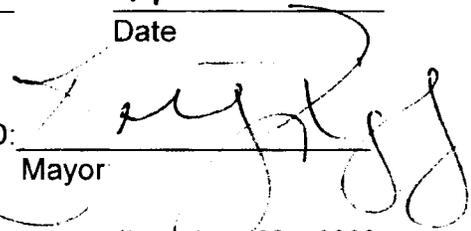
ACCEPTED BY FRANCHISEE this \_\_\_\_\_ day of \_\_\_\_\_, 2009:

By \_\_\_\_\_  
United Disposal Service, Inc.  
dba Allied Waste Services of Marion County-Woodburn

**8.8 Repeal; Effective Date.** This ordinance shall repeal Ordinance 1641. If this ordinance is void for any reason, Ordinance 1641 shall remain repealed in its entirety. This ordinance shall be in full force and effect as of the date indicated below, but this ordinance shall be void unless Franchisee files with the City Recorder, within 30 days, Franchisee's unconditional written acceptance of the terms, conditions, and obligations to be complied with or performed by it under this ordinance.

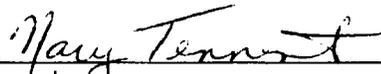
Approved as to form:   
City Attorney

11-30-2009  
Date

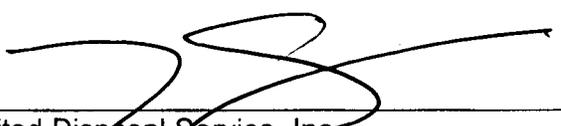
APPROVED:   
Mayor

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

November 23, 2009  
November 25, 2009  
November 25, 2009  
November 25, 2009

ATTEST   
Recorder  
City of Woodburn

ACCEPTED BY FRANCHISEE this 10<sup>th</sup> day of December 2009:

By   
United Disposal Service, Inc.  
dba Allied Waste Services of Marion County-Woodburn



September 7<sup>th</sup>, 2016

Honorable Kathy Figley, Mayor and  
Members of the City Council  
City of Woodburn  
270 Montgomery ST  
Woodburn, OR 97071

RE: Rate Adjustment

Dear Mayor and Councilors:

Republic Services, Inc. is requesting an aggregate rate adjustment of 13.2%, effective November 1, 2016 to continue providing the quality services specified in our franchise with the City of Woodburn. The city last approved a 4.0% rate adjustment for our company effective July 1, 2014.

The effect of this rate adjustment for the approximate one-half of our residential Woodburn customers who use 35-gallon roll carts would be \$3.13 per month.

A number of changes have occurred since our last rate adjustment. These changes have negatively impacted our rate of return. Our company has virtually no ability to control these increases in operating costs

- Inflation increased 5.56%
- Marion County raised disposal rates 29.65% effective October 1<sup>st</sup>, 2016
- Labor has increased 17% since the 2014 rate adjustment
- Declining recycling commodity revenue. Commodity revenue in 2013 was about 4-5% of gross revenue. Today this revenue is less than 2% of gross revenue.

Our company has 31 full-time employees and 16 collection vehicles dedicated to serve our residential, commercial and industrial customers in the City of Woodburn. These employees consist of managers, collection vehicle drivers, mechanics and customer service representatives. This employee count does not include our general and administrative employees, such as accounting, customer billing, purchasing, etc., who provide support services for the operation.

It is a pleasure to be of service to the Woodburn community. Thank you for this opportunity.

Respectfully,

Jason Jordan, General Manager

CC: Matt Cofer, Operations Manager  
Rebecca Karageorge, Assistant Division Controller  
Ray Phelps, Regulatory Affairs Manager

City of Woodburn  
2016 Rate Increase  
Packet



Republic Services of Marion County

# Financial



We'll handle it from here.™

*Republic Services of Marion County  
City of Woodburn  
Statement of Income  
For the twelve months ended December 31, 2015*

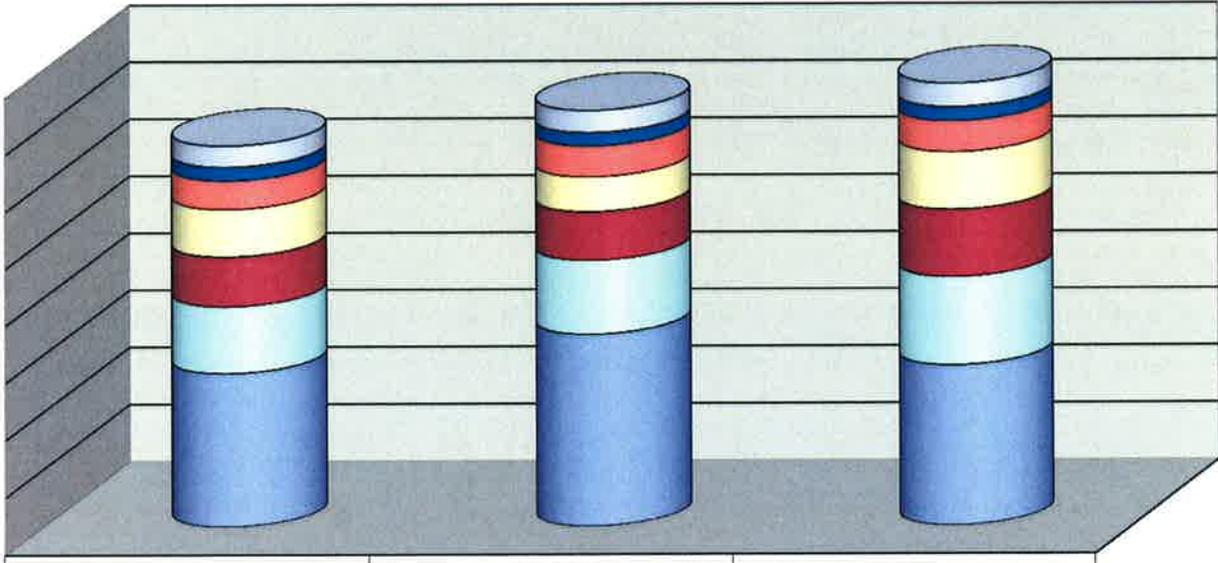
	2013	2014	2015	2016 No Rate Change	% Change	2016 With Rate Change	% Change	Annualized With Rate Change
<i>Revenue</i>	4,107,507	4,269,269	4,461,746	4,508,008	1.0%	4,597,266	3.0%	5,003,827
<i>Cost of Operations</i>	3,118,055	3,512,779	3,515,710	3,716,498	5.7%	3,720,631	5.8%	4,048,411
<i>Gross Profit</i>	989,452	756,490	946,036	791,509	-16.3%	876,636	-7.3%	955,416
<i>Salaries, General and Administrative</i>	417,413	306,420	506,916	527,193	4.0%	527,193	4.0%	527,193
<i>Operating Income</i>	572,039	450,070	439,120	264,317	-39.8%	349,443	-20.4%	428,223
<i>Provision for Income Taxes</i>	228,816	180,028	175,648	105,727		139,777		171,289
<i>Income</i>	343,223	270,042	263,472	158,590	-39.8%	209,666	-20.4%	256,934
<i>Income as a Percentage of Revenue</i>	8.4%	6.3%	5.9%	3.5%		4.6%		5.1%

Republic Services of Marion County  
City of Woodburn  
Proforma Schedule of Direct Expenses  
For the twelve months ended December 31, 2015

	2013	2014	2015	2016 No Rate Change	% Change	2016 with Rate Change	% Change	annualized
<b>COST OF OPERATIONS</b>								
Labor	586,373	648,255	774,936	826,857	6.7%	826,857	6.7%	826,857
Repairs and Maintenance	206,879	232,379	397,416	437,158	10.0%	437,158	10.0%	437,158
Fuel	170,150	166,480	157,421	158,995	1.0%	158,995	1.0%	158,995
Vehicle Operating Costs	58,721	26,600	33,559	33,895	1.0%	33,895	1.0%	33,895
Facility	120,996	116,476	122,546	122,546	0.0%	122,546	0.0%	122,546
Insurance	88,141	63,006	53,669	54,742	2.0%	54,742	2.0%	54,742
Disposal	1,340,239	1,677,366	1,399,492	1,502,478	7.4%	1,502,478	7.4%	1,811,436
Commodity Rebates	109,472	91,572	47,289	47,289	0.0%	47,289	0.0%	47,289
Franchise Fees	185,246	195,178	206,567	208,709	1.0%	212,841	3.0%	231,664
Other Operating Costs	1,107	23,365	50,744	51,759	2.0%	51,759	2.0%	51,759
Depreciation	250,731	272,102	272,071	272,071	0.0%	272,071	0.0%	272,071
<b>TOTAL COST OF OPERATIONS</b>	<b>3,118,055</b>	<b>3,512,779</b>	<b>3,515,710</b>	<b>3,716,498</b>	<b>5.7%</b>	<b>3,720,631</b>	<b>5.8%</b>	<b>4,048,411</b>
<b>TOTAL SALARIES, GENERAL &amp; ADMINISTRATIVE</b>	<b>417,413</b>	<b>306,420</b>	<b>506,916</b>	<b>527,193</b>	<b>4.0%</b>	<b>527,193</b>	<b>4.0%</b>	<b>527,193</b>



Republic Services of Marion County 2013-2015 Cost Structure

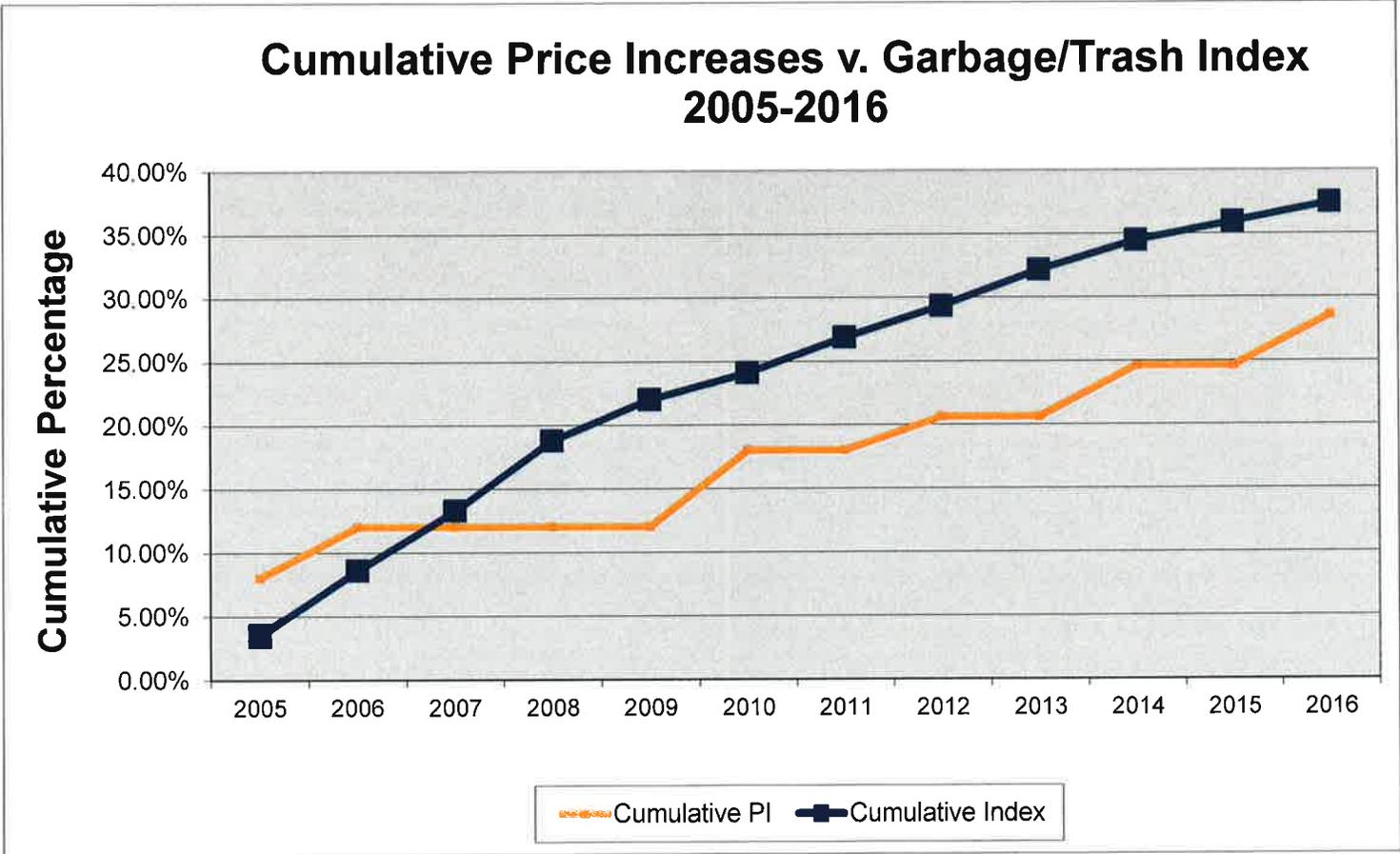


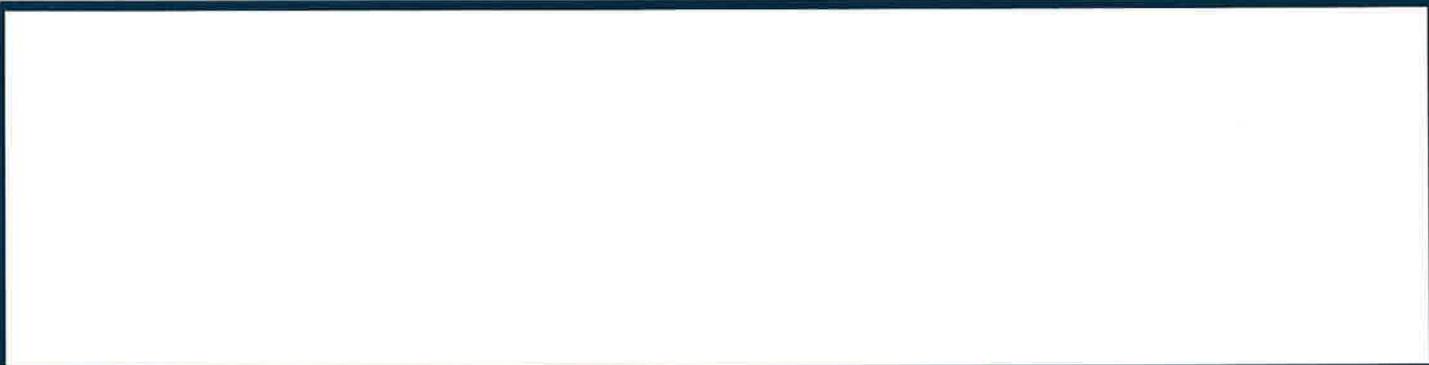
2013

2014

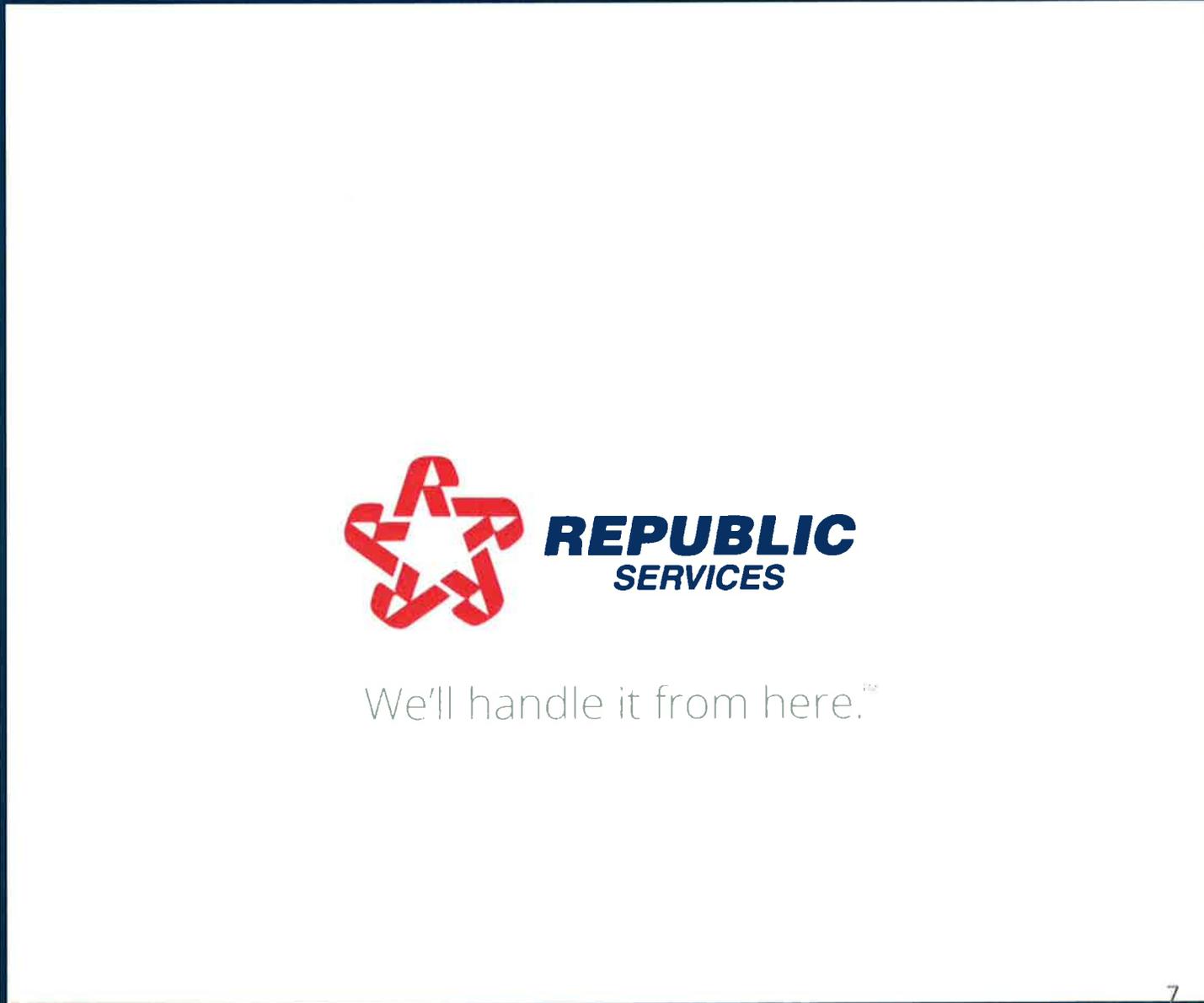
2015

- Disposal
- Labor
- Fuel & Vehicle
- Admin Expenses
- Depreciation
- Facility Expenses
- Franchise Fees





# Rates



We'll handle it from here.™

**Republic Services of Marion County**

2016 Rates

**Effective 11/1/16**

	<b>Current</b>	<b>New</b>	<b>% Change</b>	<b>\$ Change</b>
<b>Residential Cart Rates</b>				
20 gallon	\$ 20.80	\$ 22.92	10.2%	\$ 2.12
35 gallon	\$ 23.70	\$ 26.12	10.2%	\$ 2.42
65 gallon	\$ 33.60	\$ 37.03	10.2%	\$ 3.43
90 gallon	\$ 38.00	\$ 41.88	10.2%	\$ 3.88
<b>Commercial Rates</b>				
35 gallon	\$ 20.70	\$ 23.93	15.6%	\$ 3.23
65 gallon	\$ 30.50	\$ 35.26	15.6%	\$ 4.76
90 gallon	\$ 40.30	\$ 46.59	15.6%	\$ 6.29
1 yard	\$ 90.60	\$ 104.73	15.6%	\$ 14.13
1.5 yard	\$ 120.30	\$ 139.07	15.6%	\$ 18.77
2 yard	\$ 154.60	\$ 178.72	15.6%	\$ 24.12
3 yard	\$ 231.90	\$ 268.08	15.6%	\$ 36.18
4 yard	\$ 309.10	\$ 357.32	15.6%	\$ 48.22
5 yard	\$ 386.30	\$ 446.56	15.6%	\$ 60.26
6 yard	\$ 456.80	\$ 528.06	15.6%	\$ 71.26
8 yard	\$ 609.10	\$ 704.12	15.6%	\$ 95.02
<b>Industrial Rates</b>				
10 yard	\$ 134.70	\$ 149.79	11.2%	\$ 15.09
20 yard	\$ 151.90	\$ 168.91	11.2%	\$ 17.01
30 yard	\$ 171.60	\$ 190.82	11.2%	\$ 19.22
40 yard	\$ 190.90	\$ 212.28	11.2%	\$ 21.38
90 gallon cart upgrade		\$ 1.75		
Additional 90 gallon cart		\$ 13.10		
Additional 65 gallon cart		\$ 13.00		

**Republic Services of Marion County**  
2016 Rates  
Effective 11/1/16

	<b>Current</b>	<b>Proposed</b>	<b>Silverton '14</b>	<b>Hubbard '13</b>	<b>Marion Co '15</b>	<b>Mt. Angel '13</b>	<b>Stayton '13</b>
<b>Residential Cart Rates</b>							
20 gallon	\$ 20.80	\$ 22.92	\$ 22.30	\$ 21.10	\$ 26.77	\$ 19.50	\$ 20.80
35 gallon	\$ 23.70	\$ 26.12	\$ 25.50	\$ 23.65	\$ 27.52	\$ 21.95	\$ 24.50
65 gallon	\$ 33.60	\$ 37.03	\$ 30.85	\$ 27.50	\$ 34.37	\$ 27.10	\$ 33.30
90 gallon	\$ 38.00	\$ 41.88	\$ 33.00	\$ 31.30	\$ 41.87	\$ 29.85	\$ 37.30
<b>Commercial Rates</b>							
35 gallon	\$ 20.70	\$ 23.93	\$ 18.05	\$ 18.65	\$ 22.77	\$ 17.35	\$ 17.95
65 gallon	\$ 30.50	\$ 35.26	\$ -	\$ -	\$ 34.27	\$ 22.80	\$ 29.60
90 gallon	\$ 40.30	\$ 46.59	\$ 28.70	\$ 36.70	\$ 44.17	\$ 28.10	\$ 39.20
1 yard	\$ 90.60	\$ 104.73	\$ 93.60	\$ 107.80	\$ 77.20	\$ 92.20	\$ 94.60
1.5 yard	\$ 120.30	\$ 139.07	\$ 124.40	\$ 143.10	\$ 103.45	\$ 122.35	\$ 117.45
2 yard	\$ 154.60	\$ 178.72	\$ 159.60	\$ 185.25	\$ 132.75	\$ 157.45	\$ 154.45
3 yard	\$ 231.90	\$ 268.08	\$ 225.50	\$ 278.35	\$ 199.50	\$ 222.70	\$ 219.45
4 yard	\$ 309.10	\$ 357.32	\$ 291.45	\$ 370.80	\$ 265.80	\$ 298.35	\$ 274.20
5 yard	\$ 386.30	\$ 446.56	\$ 385.00	\$ 433.65	\$ 333.00	\$ 366.05	\$ 317.65
6 yard	\$ 456.80	\$ 528.06	\$ 424.40	\$ 555.80	\$ 356.80	\$ 433.70	\$ 352.30
8 yard	\$ 609.10	\$ 704.12	\$ 556.25	\$ -	\$ -	\$ -	\$ -
<b>Industrial Rates</b>							
10 yard	\$ 134.70	\$ 149.79	\$ 129.80	\$ 140.10	\$ 173.40	\$ 126.70	\$ 169.80
20 yard	\$ 151.90	\$ 168.91	\$ 141.50	\$ 158.60	\$ 173.40	\$ 139.05	\$ 169.80
30 yard	\$ 171.60	\$ 190.82	\$ 157.50	\$ 179.20	\$ 198.45	\$ 156.35	\$ 169.80
40 yard	\$ 190.90	\$ 212.28	\$ 186.30	\$ 198.80	\$ 256.75	\$ 178.20	\$ 169.80

**WOODBURN RATE SHEET**

**Effective 11/1/16**

**RESIDENTIAL RATES**

**Pick-up dates:** Mon/Fri.  
**Included with service weekly:** Trash  
**Bi-weekly:** 65G Mixed Recycle Cart and Bin

SIZE	PKG PRICE
<b>20 gallon</b>	
REGULAR	\$22.92
OPT OUT - 35g RC CART	\$20.63
<b>35 gallon</b>	
REGULAR	\$26.12
NON-CURB	
HARDSHIP	
OWN CAN	
<b>65 gallon</b>	
REGULAR	\$37.03
NON-CURB	
HARDSHIP	
OWN CAN	
<b>90 gallon</b>	
REGULAR	\$41.88
NON-CURB	
HARDSHIP	
OWN CAN	

Return fee:\$15.00  
 On-call pick-up:\$14.00  
 Sharps:\$18.00  
 Recycle only: \$10.00  
 Extra can/bag/box: \$9.25  
 Request to change or switch container: \$22.00  
 (after allowed one change @ n/c)  
 Recycle/Yard cart contaminated:\$17.00/cart

**Additional Yard Debris cart:**  
 65G: \$12.00/month  
 90G: \$12.25/month

A late fee of 18% per annum with a \$5.00 monthly minimum will be charged for non-payment after 30 days from invoice date.  
 A \$25.00 Service Interrupt Fee will be charged 45 days from invoice date

**MFC Apts & Mobile Home Parks**

(4 or more adjoining units, under one billing)

SIZE	W/REC & BIN	
<b>20 gallon</b>		
<b>35 gallon</b>	\$28.75	
<b>65 gallon</b>	\$39.15	
<b>90 gallon</b>	\$44.15	

**WOODBURN RATE SHEET**  
**Effective 11/1/16**

**COMMERCIAL RATES**

SIZE	COMM. CART	EXTRA TRIP (EXT)
35 gallon	\$23.93	\$21.00
65 gallon	\$35.26	\$23.80
90 gallon	\$46.59	\$26.60
<b>CBB</b>	\$7.20	
<b>Yard Cart</b>	\$12.60	

Extra Trip (EXT) - OFF ROUTE: 1/4 MONTHLY RATE + \$15 (round to nearest \$.05)

Request to change or switch container:\$41.00  
Container re-delivery/re-start for non-pmt:\$30.25

SIZE (loose)	ONE X/WEEK	TWO X/ WEEK	THREE X/WEEK	FOUR X/WEEK	FIVE X/WEEK	EXTRA TRIP
1 yard	\$104.73	\$207.37	\$303.73	\$395.90	\$511.10	\$41.20
1.5 yard	\$139.07	\$275.35	\$403.29	\$525.67	\$678.64	\$49.80
2 yard	\$178.72	\$353.86	\$518.28	\$675.55	\$872.14	\$59.70
3 yard	\$268.08	\$530.79	\$777.42	\$1,013.33	\$1,308.21	\$82.00
4 yard	\$357.32	\$707.50	\$1,036.23	\$1,350.67	\$1,743.72	\$104.30
5 yard	\$446.56	\$884.19	\$1,295.03	\$1,688.01	\$2,179.22	\$126.60
6 yard	\$528.06	\$1,045.56	\$1,531.38	\$1,996.07	\$2,576.93	\$147.00
8 yard	\$704.12	\$1,394.16	\$2,041.95	\$2,661.57	\$3,436.11	\$191.00

**Manual Service rate:**

1-2 empties per week:\$20.00/month/container  
3-6 empties per week:\$23.00/month/container

\*Cardboard available w/weekly service for NO CHARGE  
\*Compacted containers charged @ 2.5 X's loose rate

**EXY (extra yardage):**  
**\$39.30 / yard**

**TEMPORARY CONTAINERS**

SIZE	TOTAL	DELIVERY	DISPOSAL	EXY
3 yard	\$165.90	\$48.00	\$117.90	\$39.30/yard

Rent charge (\*apply 7 days from delivery date):

Day:\$8.00

Month: \$94.00

**WOODBURN RATE SHEET**  
**Effective 11/1/16**

**INDUSTRIAL-DROP BOX RATES**

Rent charge (\*apply 4 days from delivery date):

<b>Temporary:</b>	<b>Permanent:</b>
	(more than two hauls/month)
Day: \$12.50	Day: \$8.50
Month: \$140.00	Month: \$102.00

Screen box, per haul: \$16.00
Relocate, per box: \$57.25
Liner, per box: \$57.25
Dry run, per box: \$57.25
Overweight, per box: \$170.00

SIZE	TOTAL	DELIVERY	HAUL	DISPOSAL
*weight limit is 10 tons/ 20,000 pounds				
<b>GARBAGE</b>				
<b>10 yard</b>	\$324.79	\$45.00	\$149.79	\$130.00
<b>20 yard</b>	\$473.91	\$45.00	\$168.91	\$260.00
<b>30 yard</b>	\$504.45	\$45.00	\$190.82	\$390.00
<b>40 yard</b>	\$777.28	\$45.00	\$212.28	\$520.00

<b>COMPACTOR HAUL</b>
*Disposal: 111% of WTEF rate (\$87.45)
<b>10 yard</b>
\$182.26 /haul \$97.07/ton disp.
<b>15 yard</b>
\$193.93 /haul \$97.07/ton disp.
<b>20 yard</b>
\$205.55 /haul \$97.07/ton disp.
<b>25 yard</b>
\$217.17 /haul \$97.07/ton disp.
<b>30 yard</b>
\$217.17 /haul \$97.07/ton disp.
<b>40 yard</b>
\$253.37 /haul \$97.07/ton disp.

**Unacceptable drop box items:**

Hazardous materials, televisions, computer monitors and modems.

Tires and appliances will incur additional disposal costs (per item);

Passenger without rims	\$6.00
Passenger with rim	\$7.00
Truck without rims	\$11.00
Truck with rims	\$17.00
Tractor-falls under hourly labor rate	

Large appliances that contain Freon	\$35.00
Large appliances <i>without</i> Freon	N/C

## WOODBURN SUPPLEMENTAL SERVICES

**Effective 11/1/16**

TYPE OF SERVICE	RATE
<b>Hourly labor rates (port to port):</b>	
\$2.50/minute (one person, one truck)	
\$3.50/minute (two persons, one truck)	
<b>Special services not listed:</b>	
Hauler will charge the reasonable cost of collection and disposal.	
Charge to be related to a similar schedule fee where possible.	
<b>Appliances:</b>	
Large appliances that contain Freon (accessible @ curb)	\$34.00
Large appliances <i>without</i> Freon (accessible @ curb)	\$12.00
<b>Bathtub/Sink/Toilet:</b>	
Fiberglass tub/shower	\$17.00
Cast iron tub/shower	\$ negotiable
Toilet	\$15.00
Sinks	\$15.00
<b>Car Batteries:</b>	
Return to place of purchase or call recycle hotline for drop off locations, 503.588.5169	
For Hauler to pick up at curb	\$15.00
<b>Carpets:</b>	
Wet/dry	\$39.00/yard
<b>Christmas Trees:</b>	
Tinsel or flocked trees-garbage disposal rates would apply	\$17.00
Residential Green-picked up at curb:	
Two weeks following Christmas day:	\$0.00
Commercial (accessible @ curb)	\$17.00
<b>Large furniture:</b>	\$34.00
(per item)	
<b>Small furniture:</b>	\$23.00
(per item)	
<b>Hide-a-bed:</b>	\$34.00
(per item)	
<b>Mattresses:</b>	
Twin mattress	\$12.00
Twin box spring	\$12.00
Double/queen mattress	\$17.00
Double/queen box spring	\$17.00
King mattress	\$23.00
King box spring	\$23.00

Customers shall not place hazardous chemicals, paints, corrosive materials, hot ashes or dirt/rocks into the carts or bins.

Damaged carts or bins due to noncompliance with the above restrictions, or unretrieved carts or bins may be replaced by the hauler the below cost to the customers:

**Damaged or unretrieved carts or bin:**

Cart:	\$82.00	Each
Bin	\$15.00	Each

**Vacation credit:**

There will be a prorated credit allowed on the regular monthly charge for service which is canceled for two weeks or more, when Hauler is notified no later than noon on the business day, excluding weekends, prior to the date of discontinuance.

No credit will be allowed for service which is canceled for less than two weeks.

**Return trip fee:**

Where the customer does not have the cart, container or drop box at the regular location ready to be emptied when the hauler's truck arrives is subject to a return trip fee as detailed on the rate structure spreadsheets.

**Manual Service Charge:**

Receptacle(s) must be located in a single location with acceptable vehicle turning radius and adequate drive up access. Receptacle(s) must be accessible without manual movement, if manual movement by driver is required in order to service receptacle(s), a monthly manual service charge will apply.

**Bankruptcy and account closures for failure to pay:**

Payment of service provided and two months advance payment required for residential and commercial service. Payment is due at delivery of service for industrial service.

**Service interrupt fee/late fees:**

A late fee of 18% per annum with a \$5.00 monthly minimum will be charged for non-payment after 45 days from invoice date for all lines of business.

Flat fee of \$25.00 will charged after 60 days of non-payment for all lines of business.



We'll handle it from here.™

Republic Services of Marion County  
2215 N Front St  
Woodburn, OR 97071  
503.981.1278 • [republicservices.com](http://republicservices.com)

**COUNCIL BILL NO. 3020**

**RESOLUTION NO. 2087**

**A RESOLUTION APPROVING AN ADJUSTED RATE SCHEDULE FOR PROVIDING SOLID WASTE SERVICE WITHIN THE CITY OF WOODBURN AND REPEALING RESOLUTION 2049**

**WHEREAS**, Ordinance 2460 grants an exclusive franchise to United Disposal Services, Inc. (“United Disposal”) dba Allied Waste Services of Marion County-Woodburn to collect, transport, and convey solid waste in the City; and

**WHEREAS**, Allied Waste Services of Marion County has merged into Republic Services and United Disposal, Inc. now does business as Republic Services of Marion County-Woodburn; and

**WHEREAS**, the City Council previously adopted Resolution 2049 which established certain rates; and

**WHEREAS**, Republic Services has requested an adjustment to its residential, commercial, and Industrial rates and has submitted satisfactory evidence to the City Council to justify the proposed rate schedule; and

**WHEREAS**, the City Council conducted a public hearing to receive testimony and other evidence regarding the proposed rate schedule; **NOW, THEREFORE**,

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

**Section 1.** That the Council finds that the rates proposed by United Disposal Inc., dba Republic Services of Marion County-Woodburn are fair and appropriate under the existing franchise. In making this determination, the Council has considered the following factors pursuant to Section 4 of Ordinance 2460:

- (1) increases in operating or capital costs;
- (2) increases in City population;
- (3) extension of City boundaries;
- (4) increase of intensive residential, commercial or industrial development within the City;



**WOODBURN RATE SHEET**

*Effective 11/1/16*

**RESIDENTIAL RATES**

Pick-up dates: Mon/Fri  
 Included with service weekly: Trash  
 Bi-weekly: 65G Mixed Recycle Cart and Bin

SIZE	PKG PRICE
<b>20 gallon</b>	
REGULAR	\$22.92
OPT OUT - 35g RC CART	\$20.63
<b>35 gallon</b>	
REGULAR	\$26.12
NON-CURB	
HARDSHIP	
OWN CAN	
<b>65 gallon</b>	
REGULAR	\$37.03
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OWN CAN	
<b>90 gallon</b>	
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OWN CAN	

Return fee: \$15.00  
 On-call pick-up: \$14.00  
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 Extra can/bag/box: \$9.25  
 Request to change or switch container: \$22.00  
 (after allowed one change @ n/c)  
 Recycle/Yard cart contaminated: \$17.00/cart

**Additional Yard Debris cart:**  
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(4 or more adjoining units, under one billing)

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**WOODBURN RATE SHEET**  
*Effective 11/1/16*

**COMMERCIAL RATES**

SIZE	COMM. CART	EXTRA TRIP (EXT)
35 gallon	\$23.93	\$21.00
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<b>CBB</b>	\$7.20	
<b>Yard Cart</b>	\$12.60	

Extra Trip (EXT) - OFF ROUTE: 1/4 MONTHLY RATE + \$15 (round to nearest \$.05)

Request to change or switch container: \$41.00  
Container re-delivery/re-start for non-pmt: \$30.25

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**Manual Service rate:**  
1-2 empties per week: \$20.00/month/container  
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\*Cardboard available w/weekly service for **NO CHARGE**  
\*Compacted containers charged @ 2.5 X's loose rate

**EXY (extra yardage):**  
\$39.30 / yard

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SIZE	TOTAL	DELIVERY	DISPOSAL	EXY
3 yard	\$165.90	\$48.00	\$117.90	\$39.30/yard

Rent charge (\*apply 7 days from delivery date):  
Day: \$8.00  
Month: \$94.00

## WOODBURN RATE SHEET Effective 11/1/16

### INDUSTRIAL-DROP BOX RATES

Rent charge (\*apply 4 days from delivery date):

<u>Temporary:</u>	<u>Permanent:</u> (more than two hauls/month)
Day:\$12.50	Day:\$8.50
Month: \$140.00	Month: \$102.00

Screen box, per haul: \$16.00
Relocate, per box: \$57.25
Liner, per box: \$57.25
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SIZE	TOTAL	DELIVERY	HAUL	DISPOSAL
*weight limit is 10 tons/ 20,000 pounds				
<b>GARBAGE</b>				
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40 yard \$253.37 /haul \$97.07/ton disp.

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Tires and appliances will incur additional disposal costs (per item);

Passenger without rims	\$6.00
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Tractor-falls under hourly labor rate	

Large appliances that contain Freon	\$35.00
Large appliances <i>without</i> Freon	N/C

**WOODBURN SUPPLEMENTAL SERVICES**  
*Effective 11/1/16*

TYPE OF SERVICE	RATE
<b>Hourly labor rates (port to port):</b>	
\$2.50/minute (one person, one truck)	
\$3.50/minute (two persons, one truck)	
<b><u>Special services not listed:</u></b>	
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Charge to be related to a similar schedule fee where possible.	
<b><u>Appliances:</u></b>	
Large appliances that contain Freon (accessible @ curb)	\$34.00
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<b><u>Bathub/Sink/Toilet:</u></b>	
Fiberglass tub/shower	\$17.00
Cast iron tub/shower	\$ negotiable
Toilet	\$15.00
Sinks	\$15.00
<b><u>Car Batteries:</u></b>	
Return to place of purchase or call recycle hotline for drop off locations, 503.588.5169	
For Hauler to pick up at curb	\$15.00
<b><u>Carpets:</u></b>	
Wet/dry	\$39.00/yard
<b><u>Christmas Trees:</u></b>	
Tinsel or flocked trees-garbage disposal rates would apply	\$17.00
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Two weeks following Christmas day:	\$0.00
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(per item)	
<b>Small furniture:</b>	\$23.00
(per item)	
<b>Hide-a-bed:</b>	\$34.00
(per item)	
<b><u>Mattresses:</u></b>	
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Bin	\$15.00	Each

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Flat fee of \$25.00 will charged after 60 days of non-payment for all lines of business.



# Agenda Item

September 26, 2016

TO: Honorable Mayor and City Council through City Administrator

FROM: Eric Liljequist, City Engineer

VIA: Randy Scott, Public Works Director

SUBJECT: **Acceptance of a Public Utility Easement at 2851 W. Hayes Street, Woodburn, OR 97071 (Tax Lot 052W12C01203)**

**RECOMMENDATION:**

That the City Council accept the Public Utility Easement located at 2851 W. Hayes Street, granted by Kirkstone Investments LLC.

**BACKGROUND:**

The public utility easement is required by the Woodburn Development Ordinance (WDO) as a condition of approval for building permit B16-692. This public utility easement will allow the installation of public utilities through the entire property frontage along both Harvard Drive and W. Hayes Street.

**DISCUSSION:**

Per the WDO, the Public Utility Easement is a 5 foot wide easement that is located along the existing property frontage along both Harvard Drive and W. Hayes Street within the proposed Development at 2851 W. Hayes Street, Woodburn OR 97071. It provides a permanent easement and right-of-way to construct, reconstruct, operate, and maintain public utilities.

**FINANCIAL IMPACT:**

There is no cost to the City for this Public Utility Easement.

**ATTACHMENTS**

A Copy of the properly signed public utility easement document is included as Attachment "A"

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Agenda Item Review: City Administrator  City Attorney  Finance

**ATTACHMENT A**

AFTER RECORDING RETURN TO:

Woodburn City Recorder  
City of Woodburn  
270 Montgomery Street  
Woodburn, OR 97071

**CITY OF WOODBURN, OREGON  
PUBLIC UTILITY EASEMENTS  
(Temporary and Permanent)**

KIRSTONE INVESTMENTS LLC, GRANTOR, grants to the CITY OF WOODBURN, OREGON, hereinafter called CITY, a permanent easement and right-of-way, including the permanent right to construct, reconstruct, operate, and maintain Public Utilities on the following described land:

*See attached Exhibit "A" Legal Description of Permanent Easement and attached Exhibit "B" Sketch for Legal Description of Permanent Easement which are by this reference incorporated herein*

GRANTOR reserves the right to use the surface of the land for any purpose that will not be inconsistent or interfere with the use of the easement by CITY. No building or utility shall be placed upon, under, or within the property subject to the foregoing easement during the term thereof, however, without the written permission of CITY.

Upon completion of the construction, maintenance and repair, CITY shall restore the surface of the property to its original condition and shall indemnify and hold GRANTOR harmless against any and all loss, cost, or damage arising out of the exercise of the rights granted herein.

The true consideration of this conveyance is Zero DOLLARS (\$0.00) and other valuable consideration, the receipt of which is acknowledged by GRANTOR.

GRANTOR covenants to CITY that GRANTOR is lawfully seized in fee simple of the above-granted premises, free from all encumbrances and that GRANTOR and their heirs and personal representatives shall warrant and forever defend the said premises and every part thereof to CITY against the lawful claims and demands of all persons claiming by, through, or under GRANTOR.

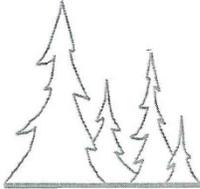
DATED this 20<sup>th</sup> day of July, 2016.

KIRSTONE INVESTMENTS LLC

BY: \_\_\_\_\_

Roger B. Midura,





**LEONARD A. RYDELL, P.E., P.L.S., W.R.E.** Consulting Civil Engineer - Land Surveyor

601 PINEHURST DRIVE, NEWBERG, OREGON 97132-1625  
(503) 538-5700 Mobile: (503) 781-4138  
LARydell@teleport.com

**LEGAL DESCRIPTION - 5' Public Utility Easement**  
Parcel 3, Partition 92-17  
Prepared for Kirian Enterprises, L. L. C.

W.O. No. 1505  
22 June 2016  
**Exhibit "A"**

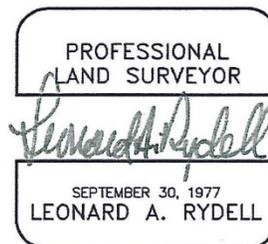
A 5.00 foot wide public utility easement for across a portion of Parcel 3 of Partition 1992-17, a partition recorded 6 March 1992 in the Marion County Records of Partition Plats and Marion County Deed Records as Reel 930, Page 49, located in the East Half of the Southwest Quarter of Section 12, Township 5 South, Range 2 West of the Willamette Meridian, City of Woodburn, Marion County, Oregon, and being more particularly described based on said Partition No. 1992-17 by Clarence E. Barker, Professional Land Surveyor No. 636, as follows:

A five foot wide strip of land, parallel to and adjoining the South and West lines of said Parcel 3 of said Partition 1992-17.

It is the intent of the above referenced description that all easement side lines shall converge or extend onto themselves at angle points to create an easement in its entirety of no less than 5.00 feet wide.

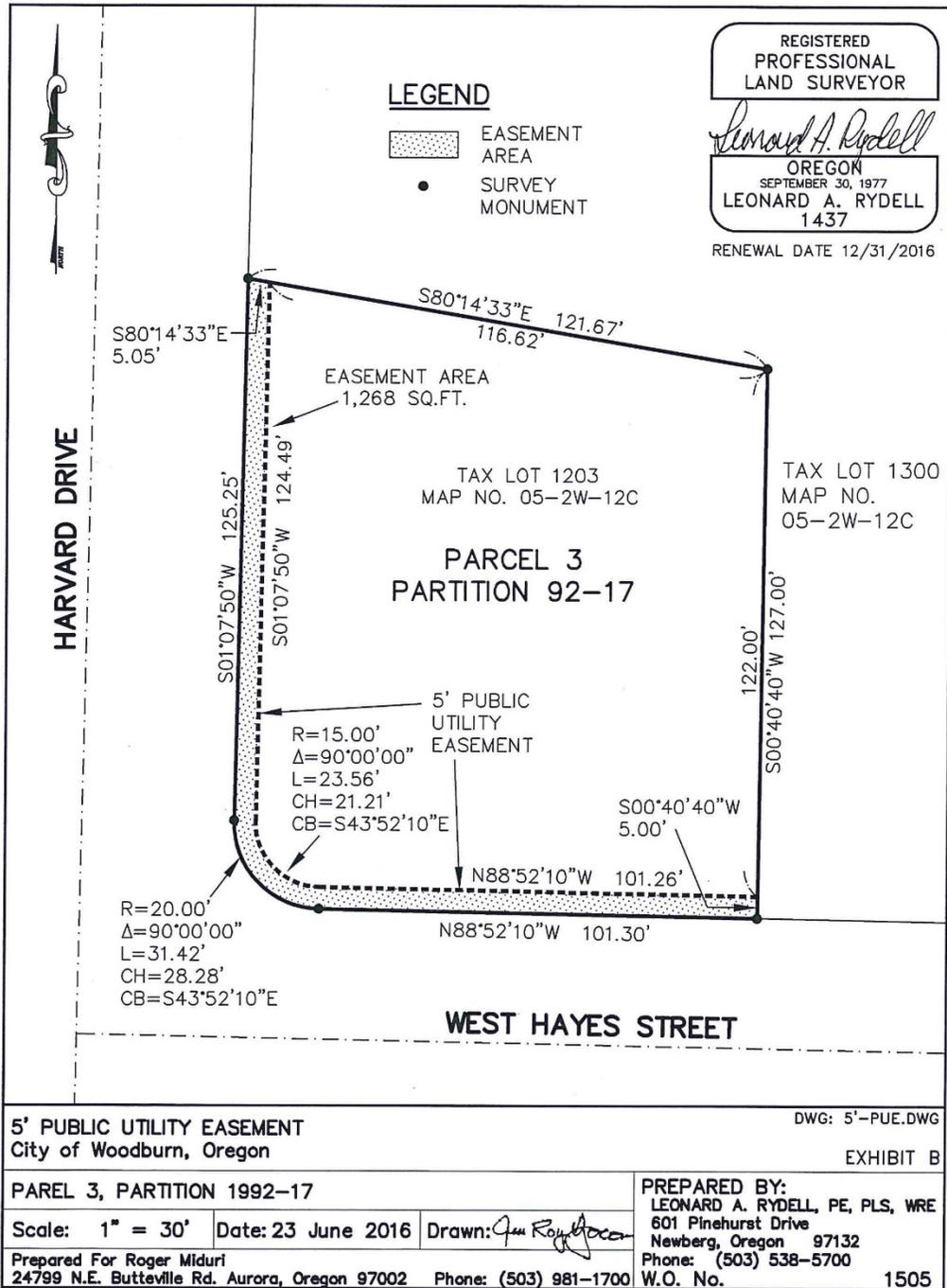
Said easement containing 1,268 square feet more or less.

A map of said easement to be released is attached as Exhibit "B".



RENEWAL DATE 12/31/2016

**PLANNED DEVELOPMENTS • RESIDENTIAL SUBDIVISIONS  
WATER, SANITARY SEWER AND DRAINAGE SYSTEMS  
LAND SURVEYS • WATER RIGHTS**





# Agenda Item

September 26, 2016

TO: Honorable Mayor and City Council through City Administrator  
FROM: Kristin Wierenga, Recreation Services Manager  
Via: Jim Row, Assistant City Administrator  
SUBJECT: **Centennial Park Splash Pad Grant Agreement**

## **RECOMMENDATION:**

Authorize the City Administrator to enter into the enclosed Local Government Grant Agreement with the Oregon Parks and Recreation Department. The \$121,752 grant was awarded for the Centennial Park Splash Pad Project.

## **BACKGROUND:**

The Community Services Department, working through the Recreation and Park Board and with the community, has identified the need to construct a splash pad at Centennial Park.

This project involves the installation of a splash pad with all necessary components including piping, electrical, storm drainage rain garden, irrigation, landscaping, etc. The project meets the funding criteria for the State's Local Government Grant Program, which requires a 40% local match of cash, contributions of materials, and volunteer labor.

## **DISCUSSION:**

The 2009 Parks and Recreation Master Plan recognizes the need for a splash pad/ water feature and lists it as a priority to be completed in the 2013–2016 planning horizon. During the January 2016 Recreation and Park Board goal setting workshop, the Board reviewed a community survey that asked the community to rank potential park project priorities for the year. In that survey, the community identified the Centennial Park Splash Pad project as the highest priority project for 2016. The Recreation and Park Board also recognizes the need for a splash pad in the community.

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

Much of the design work for the splash pad was completed in 2009, as plans were being finalized for the last phase of improvements to Centennial Park. However, available funding was inadequate at the time and the splash pad was put on hold. With much of the design work already completed, we expect to have the project ready to bid this fall. Construction should take place in spring 2017, with a planned opening in early summer 2017.

The Local Government Grant program, which is funded by Oregon Lottery proceeds, continues to be the strongest source of park development funds available to the City. This project was very competitive, ranking 5<sup>th</sup> out of 38 projects competing for funds in the large grant (greater than \$75,000) category.

**FINANCIAL IMPACT:**

The \$121,752 Local Government Grant will be matched with \$103,248 in Parks SDCs. The total project budget of \$225,000 includes a reasonable contingency. Included in the project budget is a \$30,000 Water SDC charge for the upsized water service. All or a portion of the \$30,000 budgeted for design and construction management services will be performed by in-house engineering employees, with those costs being reimbursed to the General Fund.

# Oregon Parks and Recreation Department

## Local Government Grant Program Agreement

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THIS AGREEMENT ("Agreement") is made and entered into by and between the State of Oregon, acting by and through its Oregon Parks and Recreation Department, hereinafter referred to as "OPRD" or the "State" and the **City of Woodburn**, hereinafter referred to as the "Grantee".

**OPRD Grant Number:**            **LG16-005**  
**Project Title:**                **Centennial Park Splash Pad**  
**Project Type (purpose):**       **Development**

**Project Description:**        The project will install an interactive splash pad with all necessary components including piping, electrical, storm drainage rain garden, irrigation and landscaping, in Woodburn, Oregon.

The Project is further described in the Application included as Attachment B.

**Grant Funds /**

<b>Maximum Reimbursement:</b>	<b>\$121,752</b>	<b>(59.89%)</b>
<b>Grantee Match Participation:</b>	<b><u>\$ 81,529</u></b>	<b>(40.11%)</b>
<b>Total Project Cost:</b>	<b>\$203,281</b>	

**Grant Payments:** Grant funds are awarded by the State and paid on a reimbursement basis, and only for the Project described in the Agreement, and the original Application included as Attachment B. To request reimbursement, Grantee shall submit a State supplied Request for Reimbursement form, copies of project invoices, and documentation confirming project invoices have been paid. In addition to the final reimbursement requested upon completion of the Project, Grantee may request mid-Project reimbursement, as often as quarterly, for costs accrued to date. Advance payments may be provided under hardship conditions.

**Reimbursement Procedures:** Based on the estimated Project Cost of **\$203,281**, and the Grantee's Match participation rate of **40.11%**, **the reimbursement rate will be 59.89%**. Upon successful completion of the Project and receipt of the final reimbursement request, the State will pay Grantee the remaining Grant Funds balance, or **59.89%** of the total cost of the Project, whichever is less.

**Matching Funds:** The Grantee shall contribute matching funds or the equivalent in labor, materials, or services, which are shown as eligible match in the rules, policies and guidelines for the Local Government Grant Program. Volunteer labor used as a match requires a log with the name of volunteer, dates volunteered, hours worked, work location and the rate used for match, to be eligible.

**Retention:** OPRD shall disburse up to 90 percent of the Grant Funds to Grantee on a cost reimbursement basis upon approval of invoices submitted to OPRD. OPRD will disburse the final 10 percent of the Grant Funds upon approval by OPRD of the completed Project and the Final Report substantially in the form of Attachment C.

**Progress Reports:** Grantee shall submit written Progress Reports on forms provided by the State with each reimbursement request, or at a minimum, Progress Reports shall be submitted at six month intervals, starting from the effective date of the Agreement.

**Agreement Period:** The effective date of this Agreement is the date on which it is fully executed by both parties. Unless otherwise terminated or extended, the Project shall be completed by **October 31, 2018**. This Agreement shall expire on the date final reimbursement payment is made by OPRD to Grantee.

**Project Sign:** When project is completed, Grantee shall post an acknowledgement sign of their own design, or one supplied by the State, in a conspicuous location at the project site, consistent with the Grantee's requirements, acknowledging grant funding and the State's participation in the Project.

**Agreement Documents:** Included as part of this Agreement are:

- Attachment A: Standard Terms and Conditions
- Attachment B: Project Application including Description and Budget
- Attachment C: Sample Progress Report form
- Attachment D: Sample Request for Reimbursement form including guidelines

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents is as follows, listed from highest precedence to lowest precedence: this Agreement without Attachments; Attachment A; Attachment B; Attachment C; Attachment D.

**Contact Information:** A change in the contact information for either party is effective upon providing notice to the other party:

Grantee Administrator

Kristin Wierenga  
 City of Woodburn  
 270 Montgomery St  
 Woodburn, OR 97071  
 503-982-5266  
 kristin.wierenga@ci.woodburn.or.us

Grantee Billing Contact

Kristin Wierenga  
 City of Woodburn  
 270 Montgomery St  
 Woodburn, OR 97071  
 503-982-5266  
 kristin.wierenga@ci.woodburn.or.us

OPRD Contact

Mark Cowan, Coordinator  
 Oregon Parks & Rec. Dept.  
 725 Summer ST NE STE C  
 Salem, OR 97301  
 503-986-0591  
 mark.cowan@oregon.gov

**Signatures:** In witness thereof, the parties hereto have caused this Agreement to be properly executed by their authorized representatives as of the last date hereinafter written.

**GRANTEE**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Oregon Department of Justice (ODOJ)** approved for legal sufficiency for grants exceeding \$150,000:

By:                     N/A                      
ODOJ Signature or Authorization

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Date

**STATE OF OREGON  
Acting By and Through Its  
OREGON PARKS AND RECREATION DEPT.**

By: \_\_\_\_\_  
Tracy Loudon, Business and Tech. Solutions Administrator

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Jan Hunt, Grants Section Manager

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Mark Cowan, Grant Program Coordinator

\_\_\_\_\_  
Date

# Attachment A – Standard Terms and Conditions

## Oregon Parks and Recreation Department Local Government Grant Program Agreement

1. **Compliance with Law:** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation, OAR chapter 736, Division 6 (the Local Government Grant Program administrative rules).
2. **Compliance with Workers Compensation Laws:** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS.656.017 and provide the required Worker's Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included.
3. **Amendments:** This Agreement may be amended only by a written amendment to the Agreement, executed by the parties.
4. **Expenditure Records:** Grantee shall document, maintain and submit records to OPRD for all Project expenses in accordance with generally accepted accounting principles, and in sufficient detail to permit OPRD to verify how Grant Funds were expended. These records shall be retained by the Grantee for at least six years after the Agreement terminates, or until all audits initiated within four years have been completed, whichever is later. The Grantee agrees to allow Oregon Secretary of State auditors, and State agency staff, access to all records related to this Agreement, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **Equipment:** Equipment purchased with Local Government Grant Program funds must be used as described in the Project Agreement and Application throughout the equipment's useful life. The Grantee will notify the State prior to the disposal of equipment and will coordinate with the State on the disposal to maximize the equipment's ongoing use for the benefit of the Local Government Grant Program.
6. **Use of Project Property:** Grantee warrants that the land within the Project boundary described in the Application (Attachment B) shall be dedicated and used for a period of no less than 25 years from the completion of the Project. Grantee agrees to not change the use of, sell, or otherwise dispose of the land within the Project boundary, except upon written approval by OPRD. Leases for projects placed on federally owned property must be at least 25 years.

Land acquired using Local Government Grant funds shall be dedicated, by an instrument recorded in the county records, for recreational use in perpetuity, unless OPRD or a successor agency, consents to removal of the dedication.

7. **Conversion of Property:** Grantee further warrants that if the Grantee converts lands within the Project boundary to a use other than as described in the grant application or disposes of such land by sale or any other means, the Grantee must provide replacement property acceptable to OPRD within 24 months of either the conversion or the discovery of the conversion.

If replacement property cannot be obtained within the 24 months, the Grantee will provide payment of the grant program's prorated share of the current fair market value to the State. The prorated share is that percentage of the original grant (plus any amendments) as compared to the original project cost(s). The replacement property must be equal to the current fair market value of the converted

property, as determined by an appraisal. The recreation utility of the replacement property must also be equal to that of the lands converted or disposed.

If conversion should occur through processes outside of the Grantee's control such as condemnation or road replacement or realignment, the Grantee will be required to pass through to the State that prorated share of whatever consideration is provided to the Grantee by the entity that caused the conversion. The monetary value of whatever consideration provided by the taking will normally consist of the fair market value of the property established by an appraisal.

The warranties set forth above are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. **Contribution:** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the Grantee (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with the State (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Grantee shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that

the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

9. **Condition for Disbursement:** Disbursement of grant funds by OPRD is contingent upon OPRD having received sufficient funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to make the disbursement.
10. **No Third Party Beneficiaries.** OPRD and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as intended beneficiary of the terms of this Agreement.
11. **Repayment:** In the event that the Grantee spends Grant Funds in any way prohibited by state or federal law, or for any purpose other than the completion of the Project, the Grantee shall reimburse the State for all such unlawfully or improperly expended funds. Such payment shall be made within 15 days of demand by the State.
12. **Termination:** This Agreement may be terminated by mutual consent of both parties, or by either party upon a 30-day notice in writing, delivered by certified mail or in person to the other party's contact identified in the Agreement. On termination of this Agreement, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination. Full credit shall be allowed for reimbursable expenses and the non-cancelable obligations properly incurred up to the effective date of the termination.
13. **Governing Law:** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
14. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, Agreements, or representations, oral or written, not specified herein regarding this Agreement. The Grantee, by signature of its authorized representative on the Agreement, acknowledges that the Grantee has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

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Grant Application for

# **Centennial Park Splash Pad**

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# Contact

**Application Type: DEVELOPMENT:**

**Applicant Agency:**

City of Woodburn

**First Name:**

Kristin

**Last Name:**

Wierenga

**Title:**

Recreation Services Manager

**Address 1:**

270 Montgomery St.

**Address 2:**

**City:**

Woodburn

**State:**

OR

**Zip Code:**

97071

**Contact Phone:**

503-982-5266

**Contact Fax:**

503-980-2448

**Contact Email:**

kristin.wierenga@ci.woodburn.or.us

**Federal Tax ID:**

93-6002282

# Project

**Project Name:**

Centennial Park Splash Pad

**Site Name:**

Centennial Park

**Site City / Town / Area:**

Woodburn

**Site County:**

Marion

**Funds Requested:**

\$121,752.00

**Matching Funds:**

\$81,529.00

**Total Cost:**

\$203,281.00

**Percent of Grant:**

0.6000000000000000

**Percent of Match:**

0.4000000000000000

**Brief Project Description (40 word limit):**

This project involves the installation of an interactive splash pad with all necessary components including piping, electrical, storm drainage rain garden, irrigation, landscaping, etc.

**Projected Start Date:**

09/01/2016

**Projected End Date:**

10/01/2017

**Site Description:**

Centennial Park is a 27 acre park located on Parr Road. The park contains two soccer fields, four baseball fields, restrooms, picnic pavilion, playground, concession stand, a one mile non-motorized trail with fitness equipment stations, and a dog park. The site is level turf and is adjacent to the park playground and picnic shelter. A new playground will be installed in May 2016.

**Latitude:**

45.133412999999997

**Longitude:**

-122.875586000000000

**Township, Range & Section:**

5, SW, 13

**Site Acreage:**

27.00

**Land Control:**

Fee Simple

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# Supplemental

## A. PROJECT NARRATIVE (Please limit all answers to 400 words or less.):

### 1. Describe all elements of the project, project objectives, and the need for assistance. Describe who will do the work and who will provide supervision. :

This project involves the installation of an interactive splash pad with all necessary components including piping, electrical, storm drainage rain garden, irrigation, landscaping, etc. The splash pad will utilize potable water with many different spray nozzles operated by a controller and timing system to create a user-interactive water feature. A wireless activator will turn the splash pad on and off to ensure it is only running when in use. During use, the feature's runoff water will be directed into an adjacent rain garden, which will include water tolerant soil and plants. This highly sustainable feature will filter the water and dramatically reduce the volume that is directed into the City's stormwater management system and create a habitat for animals, such as birds and butterflies. The objective of this project is to meet a high community need and increase outdoor physical activity in Woodburn's youth. Through various survey's and feedback tools, the community has expressed that a splash pad is a high priority amenity to help ensure their children are active, outdoors and enjoying the local community parks. We expect the splash pad to significantly increase the number of community members that utilize the park's playground/splash pad area. Residential development in Woodburn has been slow over the past eight years, which has resulted in reduced parks SDC collections. This situation has created a gap in funding for new park development projects. As a result, the need for park development funding assistance is very high in Woodburn. Without Local Government Grant Program assistance, this project would not be possible for the City to complete. With an estimated 125,000+ visitors per year, Centennial Park is the largest, most used park in Woodburn. The amenities of the 27 acre park include two soccer fields, four baseball fields, a one mile non-motorized trail with fitness equipment stations, dog park, restrooms, pavilion, concession stand and playground. Located on Parr Road, the Park is adjacent to Woodburn's largest schools, Heritage Elementary School and Valor Middle School. The Park acts as an extension campus to 1,600 students and attracts a large number of youth. Site preparation and construction will be completed by an experienced contractor. The City of Woodburn's project engineer will provide supervision on the project with assistance from the Recreation Services Manager and the Assistant City Administrator. The project is anticipated to start in the fall of 2016 and will be completed by October 2017.

### 2. Describe any new facilities to be constructed, existing facilities which are to be renovated, removed or demolished. Describe present development on the site and how the proposed project fits in with future development. :

The current site is an open lawn area, adjacent to a large picnic shelter and playground. The splash pad will be 58 ft in diameter with entrances in two locations from the adjacent sidewalk. During a park improvement project in 2010, the area was supplied with electrical service in anticipation of future splash pad construction. A three inch water line will be installed to provide the water volume necessary for the features to function effectively. The project has been fully designed and the City is ready to solicit bids for construction. Centennial Park is a fully developed community/regional park with two soccer fields, four

baseball/softball fields, playground, restrooms, picnic pavilion, concession stand, dog park, and a one mile walking path with fitness equipment stations. All park amenities are in new or very good condition. The project is identified in the 2009 Parks & Recreation Master Plan and the Centennial Park Master Plan and fits within future development of Centennial Park. Woodburn recently experienced approval of an urban growth boundary expansion, which will lead to hundreds of acres of vacant land adjacent to Centennial Park being developed for residential use. Ensuring the park has sufficient and ample amenities in this time of growth for Woodburn is key to providing opportunities for youth to connect with nature and the outdoors through park use in their own neighborhood.

**B. CONSISTENCY With STATEWIDE PRIORITIES - SCORP Criteria (0-20 points) :**

**To what extent does the project address ONE OR MORE of the following FOUR (1-4) priorities identified in the 2013-2017 SCORP? :**

**1. MAJOR REHABILITATION projects involve the restoration or partial reconstruction of eligible recreation areas and facilities. If the project includes major rehabilitation, please check all that apply: :**

**a) Please list the specific facilities that are in need of rehabilitation. Upload photos in the Attachments tab showing the facilities in need of rehabilitation. :**

**b) If only part of the project is rehabilitation, approximately what percentage of the project is rehabilitation? :**

**2. NON-MOTORIZED TRAIL CONNECTIVITY. Trail connectivity involves linking urban trails to outlying Federal trail systems; linking neighborhood, community and regional trails; connecting community parks and other recreational public facilities; connecting parks to supporting services and facilities; connecting neighboring communities; and providing alternative transportation routes. To what extent does the project address non-motorized trail connectivity? :**

The Splash Pad area is connected to Centennial Park's one mile non-motorized trail, which is extremely well used by the public for exercise.

**3. ACTIVE PARTICIPATION projects support or provide a base for individual active participation. 'Active' means those forms of recreation that rely predominantly on human muscles and includes walking, sports of all kinds, bicycling, running, and other activities that help people achieve currently accepted recommendations for physical activity. To what extent does the project support or improve access to individual active participation? :**

The project incorporates a fun, active water play area that will stimulate youth to play outdoors and engage in physical activity. The new feature is targeted for children aged 12 and under. The water feature play elements help address Oregon's physical activity crisis

by facilitating outdoor youth activity and connecting youth with nature. The entire amenity provides an interactive feature, in which children will rely predominantly on human muscles to use and engage with the water features. The Woodburn population is comprised of 58.9% Hispanic and studies have shown that the obesity rates for Latino children are much higher starting at a young age. For example, for 2 to 5 year olds, the rates are more than quadruple those of Whites (16.7% compared with 3.5%). By ages 6 to 11, 26.1% of Latino children are obese compared with 13.1% of Whites. Knowing these statistics, the need for more free, recreational active participation opportunities in the Woodburn community is key to the communities overall health. One great benefit to the splash pad project is that it is an all age activity that even youth as young as 2 are able to physically engage with.

**4. SUSTAINABILITY. To what extent does the project address sustainability recommendations for OPRD-administered grant programs? Please see Chapter Seven (pages 115-117) of the SCORP for sustainability recommendations for land acquisition, new facility development, major rehabilitation, and trail projects. :**

This project addresses the program's sustainability recommendations by incorporating a "rain garden" storm water management system into the design. Water runoff from the splash pad is directed into the rain garden, which includes soil and landscaping features designed to thrive in a wet environment. The rain garden is designed to accommodate water volumes created by anticipated splash pad usage levels and will provide habitat for small animals, including birds and butterflies.

**C. LOCAL NEEDS AND BENEFITS - SCORP Criteria (0-30 points):**

**1. A map clearly identifying the project location and UGB or unincorporated community boundary or Tribal community boundary drawn on it must be uploaded in the attachments section of this application. Is your project in a CLOSE-TO-HOME area (located within an urban growth boundary (UGB), unincorporated community boundary, or a Tribal Community) or in a DISPERSED AREA (located outside of these boundaries)? :**

CLOSE-TO-HOME

**2. Please identify how the project satisfies county-level needs by using priorities identified in one of the following local public planning processes. See SCORP Chapter 5, Pgs 86-102 for specific county priorities. :**

**a) Public Recreation Provider Identified Need - Does the project satisfy county-level needs identified by the Public Recreation Provider Survey beginning on page 86 in the SCORP? If so, enter which priority or priorities are identified for the project county. Please use either the Close-to-Home Priorities or Dispersed Area Priorities, not both. :**

This project satisfies the Marion County-level need for children's playgrounds in the Close-to-Home priorities category. Behind only public restrooms, children's playgrounds were ranked as the second highest need in Marion County. The Splash Pad will serve as an extension of the playground area at Centennial Park. In addition, Woodburn has unique needs in that 30.9% of the population is under the age of 18, 58.9% of the population is

Hispanic or Latino and close to 20% of residents have an income level below the poverty level. Knowing that nearly 1/3 of the Woodburn population is comprised of youth and that Latino children ages 15 and younger rank highest among all obese groups creates a high demand and need for access to free, recreational opportunities to increase active participation for all regardless of income level. and the fact that obesity in Latino children the obesity rates for Latino children are much higher starting at a young age — for 2 to 5 year olds, the rates are more than quadruple those of Whites (16.7 percent compared with 3.5 percent).<sup>7</sup> By ages 6 to 11, 26.1 percent of Latino children are obese compared with 13.1 percent of Whites.

**b) Oregon Resident Identified Need - Does the priority project satisfy county-level need identified by the Oregon Resident Survey beginning on page 86 in the SCORP? If so, enter which priority or priorities are identified for the project county. :**

This project satisfies the Marion County-level need for children's natural play areas, as identified by the Oregon Resident survey. With a score of 3.3, children's natural play areas are the third highest ranked need. Children playing and interacting with water gives them the opportunity to interact with one of the most natural and primary elements in nature.

**c) Local Planning -To what extent does the project satisfy priority needs, as identified in a current local planning document (park and recreation master plan, city or county comprehensive plan, trails master plan, transportation system plan or bicycle and pedestrian plan)? :**

The project is identified in the 2009 Parks & Recreation Master Plan and the Centennial Park Master Plan. It is consistent with Goals 7 (provide Equitable Level of Service in Existing Parks) and 8 (Plan for Community Growth) of the Parks and Recreation Master Plan, which listed "Centennial Park Splash Pad" as a recommended priority for 2013-2016. The Woodburn Recreation & Park Board and City Council have also formally identified the project as a high community priority for FY 16/17.

**d) Public Involvement Effort - If the project is not included in a current local planning document, describe the public involvement effort that led to the identification of the priority project including citizen involvement through public workshops, public meetings, surveys, and local citizen advisory committees during the project's planning process.:**

This project benefited from extensive public input secured through the 2009 Woodburn Parks Master Plan Update process. Four focus group meetings were held involving 50 stakeholders and a public forum was held. A community survey of randomly-selected households was conducted with 349 responses (7.1% of the total surveys delivered). Additionally, a series of individual discussions took place with community partners to achieve in-kind commitments. This includes a Woodburn Charter School (Arthur Academy; operated by Mastery Learning Associates), Immanuel Lutheran Church, Woodburn Worship Center and the Lincoln Street Neighbors group. This project has also been the subject of much public review and discussion during the Recreation & Park Board's meetings and City Council meetings. In addition, staff created a public survey with the top 10 projects for the year listed and distributed the survey through various communication forums. The response was overwhelming, with the Splash Pad coming in at the top of the list with a ranking of #2 on the community's list of desired, high priority projects for 2016. Staff also conducted a needs analysis in the fall of 2015 and the Splash Pad once again

ranked high, #2, in the list of desired community projects.

**D. LONG TERM COMMITMENT TO MAINTENANCE – SCORP Criteria (0-15 points):**

**1. How will the project's future maintenance be funded? Please include specific maintenance funding sources such as tax levies, fee increases, and other funding sources which will be used. A Resolution to Apply submitted with this application should address funding for on-going operation and maintenance for this project. :**

The City of Woodburn is fully committed to maintaining the Centennial Park Splash Pad Project after it is completed. The City has a robust Parks & Facilities maintenance program, which is funded by the City of Woodburn's general fund. The City has developed a 3 tiered maintenance program for its parks, with level 1 parks receiving the highest level of maintenance. Due to its extremely high level of use, Centennial Park is currently designated a Level 1 site. Because it includes highly manicured sports fields and is used heavily by the public, the Park receives regular mowing and a high degree of playground and specialty amenity maintenance.

**2. How much do you expect to spend annually or how many staff hours will be needed to maintain the completed project?:**

The annual total Parks maintenance budget is approximately \$630,000 (FY 15/16). With 110 acres of parkland, the City spends more than \$5,700/ per acre on maintenance activities annually. It is estimated that maintenance personnel will spend approximately 200 hours per year maintaining the Centennial Park Splash Pad Project. At current wage rates, this level of maintenance is anticipated to cost approximately \$6,000.

**3. Do you have partnerships with other agencies or volunteer maintenance? Provide documentation such as letters of support from volunteer organizations, cooperative agreements, donations, or signed memoranda of understanding to demonstrate commitment to maintenance. :**

All maintenance will be provided by the City of Woodburn Parks & Facilities Maintenance division.

**E. OVERALL SITE SUITABILITY (0-10 points):**

**1. To what extent is the site suitable for the proposed development? :**

The current site is perfectly suitable for the proposed development, as the foundational elements for the project were put in place when the park was developed, such as electrical and some initial underground plumbing. With a direct connection to the park's one mile non-motorized trail and close access to the parking lot, playground and picnic shelter, the Splash Pad is ideally located within the park.

**2. Also describe the extent to which the site or project design minimizes negative impacts on the environment and surrounding neighborhood and integrates sustainable elements. :**

The design of this project was created to minimize negative impacts on the environment, surrounding neighborhoods, while integrating sustainable elements through the use of the

rain garden. The project incorporates a "rain garden" storm water management system into the design in which water runoff from the splash pad is directed into the rain garden, which minimizes impact to the storm water system.

#### **F. COMMUNITY SUPPORT (0-5 points):**

**1. To what degree can you demonstrate community support for the project? Can you provide letters of support and/or survey analysis? If yes, please include supporting documentation with this application. :**

This project is strongly supported by the community. The Park Board considers this project a top community priority for 2016. A letter of support from the Park Board is attached to the application. Staff created a public survey with the top 10 projects for the year listed and distributed the survey through various communication forums. The response was overwhelming, with the Splash Pad coming in at the top of the list with a ranking of #2 on the community's list of desired, high priority projects for 2016. Staff also conducted a needs analysis in the fall of 2015 and the Splash Pad once again ranked high, #2, in the list of desired community projects. Survey analysis for both surveys are included as an attachment.

#### **G. FINANCIAL COMMITMENT (0-10 points):**

**1. What is the source of local matching funds for the project? A Resolution to Apply must be submitted with this application to indicate a commitment of local match funding for the project. :**

Local matching funds will be provided by the System Development Charge fund through the City of Woodburn. The City of Woodburn is also providing in-kind project management labor from staff.

**2. Project applicants are encouraged to develop project applications involving partnerships between the project applicant, other agencies, or non-profit organizations. Project applicants are also encouraged to demonstrate solid financial commitment to providing necessary project maintenance and upkeep. To what extent does the project involve partnerships with other agencies or groups? Are donations and/or funding from other agencies or groups secured? :**

This project involves partnerships with local service clubs such as the Woodburn & French Prairie Kiwanis Clubs, Woodburn Rotary Club, Woodburn Youth Advisory Board, and Boys & Girls Club of Woodburn. The uniqueness of this project lends itself to partner with various parent groups in town, which has not been done before on previous projects; however staff are excited to involve new user groups in this project since it is one the entire community is excited to rally around. The main source of funding for this project will be system development charges and staff labor from City of Woodburn staff. Staff and partner organizations are soliciting contributions toward the project, which will enable the City to add amenities to the project, such as additional seating and landscaping.

**3. To what extent has funding been secured to complete the project?:**

The main source of funding for this project will be system development charges and City

staff labor. The system development charges needed for this project are in the fund, available and ready for use on this project.

#### **H. ACCESSIBILITY COMPLIANCE:**

**1. Does your agency have a board or city council adopted/approved ADA Transition Plan and/or Self Certification? :**

Yes

**2. How will your proposed project meet current accessibility standards?:**

The main Splash Pad area will be accessible by an ADA ramp from the adjacent sidewalk. All project elements will be developed in compliance with ADA requirements.

#### **I. READINESS TO PROCEED:**

**1. Have you submitted a signed Land Use Compatibility Statement with this application? :**

Yes

**2. Have you submitted construction or concept plans with this application?:**

Yes

**3. List required permits and status of permit applications for the project (i.e. Corps of Engineers, Division of State Land, Building Permits, etc.). Describe any possible delays or challenges that could occur in receiving permits. :**

Standard building permits will be required for this project and sufficient time has been built into the project timeline to allow for permit processing.

#### **J. ACTIVE AND PAST GRANTS PERFORMANCE:**

**1. Describe your performance and compliance with all active and past OPRD grant awards. :**

The City has always maintained high performance and compliance with the OPRD grants it has managed.

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Description	Qty	Unit	\$/Unit	Cost	Match	Request	Source of Funding
Utilities	1	LS	\$18,150.00	\$18,150.00	\$0.00	\$18,150.00	
Rain Garden	1	EA	\$14,405.00	\$14,405.00	\$0.00	\$14,405.00	
Concrete	3200	SF	\$6.60	\$21,120.00	\$0.00	\$21,120.00	
Landscaping/ Irrigation	1	LS	\$13,943.00	\$13,943.00	\$0.00	\$13,943.00	
Site Prep	1	LS	\$12,100.00	\$12,100.00	\$0.00	\$12,100.00	
Design	100	Hours	\$100.00	\$10,000.00	\$10,000.00	\$0.00	Force Account
Water SDCs	1	N/A	\$30,000.00	\$30,000.00	\$30,000.00	\$0.00	Parks SDCs
Install Equipment	1	LS	\$63,563.00	\$63,563.00	\$21,529.00	\$42,034.00	Parks SDCs
Project Mgmt	200	Hours	\$100.00	\$20,000.00	\$20,000.00	\$0.00	Force Account
Totals				\$203,281.00	\$81,529.00	\$121,752.00	

**Total Project Cost:** \$203,281.00  
**Total Match for Sponsor:** \$81,529.00  
**Grant Funds Requested:** \$121,752.00

**PROGRESS REPORT FORM**  
**LOCAL GOVERNMENT GRANT PROGRAM**  
QUARTERLY       FINAL

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

Project Name: \_\_\_\_\_

Project Number: \_\_\_\_\_

Project Sponsor/Grantee: \_\_\_\_\_

Date of Project Approval: \_\_\_\_\_ Date Work Started: \_\_\_\_\_

**Describe Work Completed This Quarter:**

**Describe Any Problems or Delays:**

Percentage of Project Completed to Date: \_\_\_\_\_ %

Report Completed By: \_\_\_\_\_

Title: \_\_\_\_\_





## Request for Reimbursement Guide

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All files for projects benefiting from Oregon Parks and Recreation Department administered grant funds must be able to pass a State audit. When preparing to submit a Request for Reimbursement, plan on submitting the following documentation:

- Progress Report Form** – Available online at:  
<http://www.oregon.gov/oprd/GRANTS/Pages/local.aspx> → Application and Forms.
- Request for Reimbursement Form** - Available online at:  
<http://www.oregon.gov/oprd/GRANTS/Pages/local.aspx> → Application and Forms.
- Project Invoices** – Please submit copies of all project **bills/invoices**.
- Bill Payment Confirmation** – Please submit documentation confirming that all project bills/invoices have indeed been paid. The best way to document this is with some type of **Accounts Paid Report** for the project that lists **Payments, Payee, Payment Date and Check Number**. (This is different from an Accounts Payable Report which would only list payments pending.) If an Accounts Paid Report is not available, please submit copies of canceled payment checks (with account numbers blocked out).

Once the project is completed . . .

- Project Pictures** – Please plan to submit 5-10 digital pictures of the completed project site, for the project file. Digital pictures can be sent as email attachments. For **Planning Projects**, rather than pictures, please submit a copy of the final **Planning Document**.
- Acknowledgement Sign** - Is there any type of signage on site acknowledging OPRD grant support for the project? If not, we will send you one.

If you have questions, please contact:

Mark Cowan  
Grant Program Coordinator  
Oregon Parks and Recreation Dept.  
725 Summer St. NE Suite C  
Salem, OR 97301-1266  
[mark.cowan@oregon.gov](mailto:mark.cowan@oregon.gov)  
503-986-0591  
[www.oregon.gov/OPRD/GRANTS/index.shtml](http://www.oregon.gov/OPRD/GRANTS/index.shtml)



# Oregon

Kate Brown, Governor

Parks and Recreation Department  
State Historic Preservation Office  
725 Summer St NE Ste C  
Salem, OR 97301-1266  
Phone (503) 986-0690  
Fax (503) 986-0793  
[www.oregonheritage.org](http://www.oregonheritage.org)

June 23, 2016

Mr. Mark Cowan  
Oregon Parks and Recreation Department  
725 Summer St NE STE C  
Salem, OR 97301



RE: SHPO Case No. 16-1044

OPRD LG Grant 2906, Project LGPL-16-05, Centennial Park Splash Pad  
install splash pad; includes piping, electrical, storm drainage garden, irrigation, landscaping  
Centennial Park, Woodburn, Marion County

Dear Mr. Cowan:

Our office recently received a request to review your application for the project referenced above. In checking our statewide archaeological database, it appears that there have been no previous surveys completed near the proposed project area. However, the project area lies within an area generally perceived to have a high probability for possessing archaeological sites and/or buried human remains. In the absence of sufficient knowledge to predict the location of cultural resources within the project area, extreme caution is recommended during project related ground disturbing activities. Under state law (ORS 358.905 and ORS 97.74) archaeological sites, objects and human remains are protected on both state public and private lands in Oregon. If archaeological objects or sites are discovered during construction, all activities should cease immediately until a professional archaeologist can evaluate the discovery. If you have not already done so, be sure to consult with all appropriate Indian tribes regarding your proposed project. If the project has a federal nexus (i.e., federal funding, permitting, or oversight) please coordinate with the appropriate lead federal agency representative regarding compliance with Section 106 of the National Historic Preservation Act (NHPA). If you have any questions about the above comments or would like additional information, please feel free to contact our office at your convenience. In order to help us track your project accurately, please reference the SHPO case number above in all correspondence.

Sincerely,

Dennis Griffin, Ph.D., RPA  
State Archaeologist  
(503) 986-0674  
[dennis.griffin@oregon.gov](mailto:dennis.griffin@oregon.gov)

September 26, 2016

TO: Honorable Mayor and City Council

FROM: Randy Scott, Public Works Director  
Jim Hendryx, Community Development Director  
Jamie Johnk, Economic Development Director

SUBJECT: **Special Public Works Fund (SPWF) , Technical Assistance Grant: SWIR Infrastructure Planning Project**

**RECOMMENDATION:**

Accept the Special Public Works Technical Assistance grant funds of \$60,000 for the SWIR Infrastructure Planning Area Project and authorize staff to move forward with project implementation.

**BACKGROUND:**

At the August 8, 2016 City Council meeting, staff shared that they had applied for a \$60,000 SPWF Technical Assistance grant for the purpose of reviewing and substantiating the existing Public Facilities Plan and complete an engineering analysis to determine infrastructure (streets, storm, sewer, and, utilities, etc.) costs, timeline, funding options and next steps.

**DISCUSSION:**

Since the August meeting, staff has received confirmation of the award of the SPWF Technical Assistance grant from Business Oregon's Infrastructure Finance Authority (IFA).

This award is a great opportunity for Woodburn, it provides collaboration with our State economic development partners (Business Oregon) and will bring more awareness to the area for business and industrial planning and development.

**FINANCIAL IMPACT:**

\$60,000

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Agenda Item Review: City Administrator  City Attorney  Finance



September 9 2016

The Honorable Kathryn Figley  
Mayor of Woodburn  
c/o Jamie Johnk, Economic Development Director  
270 Montgomery St  
Woodburn OR 97071-4730

RE: Special Public Works Fund, Technical Assistance, City of Woodburn, Woodburn  
Southwest Industrial Reserve Area Infrastructure Planning, Project Number A17002,  
(\$60,000)

Dear Mayor Figley:

Attached to this email are all the financing documents for your project, numbered as follows:

1. **Contract**
2. **Signature Card**, which authorizes cash drawdowns for the project
3. **Deposit Option Notification** form

Please refer to the Checklist of Contract Documents and Instructions on the next page for handling the above documents.

Also attached for future use is a **Disbursement Request** form.

We are anxious for your project to succeed and wish to extend any help you need. Please contact Regional Coordinator Michelle Bilberry at 503-986-0142 or Michelle.Bilberry@Oregon.gov if you have any questions.

Sincerely,

Robert Ault, Manager  
Program Services Division  
Infrastructure Finance Authority

Infrastructure Finance Authority/A17002 Woodburn Letter.docx

Recipient: City of Woodburn

Project Number: A17002

## CHECKLIST OF CONTRACT DOCUMENTS AND INSTRUCTIONS

Please use the following checklist to ensure that all documents have been completed, and return all contract documents as soon as feasible, but not later than 60 days.

1.  **Contract** signed and dated by the authorized official. Please return signature page only.
2.  **Signature Card** with certification by the authorized official. Please return the complete document.
3.  **Deposit Option Notification** form. Please return the complete form. If you choose to have funds electronically deposited in a financial institution (and not the Local Government Investment Pool), please follow the provided link and send a **Direct Deposit Authorization** form (SFMS ACH-1) to the Oregon Department of Administrative Services.

Please let your Regional Coordinator know how you would like to receive the final contract documents, once signed by the IFA.

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Document provided for your future use:

**Disbursement Request Form.** This form is provided in Excel format for you to fill out and submit to your Regional Coordinator as needed once your project is underway.

Later in your project, your Regional Coordinator will provide any necessary report forms.

SPECIAL PUBLIC WORKS FUND PLANNING PROJECT  
FINANCING CONTRACT

Project Name: Woodburn Southwest Industrial Reserve Area Infrastructure Planning

Project Number: A17002

This financing contract (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through the Oregon Infrastructure Finance Authority (“IFA”), and the City of Woodburn (“Recipient”) for financing of the project referred to above and described in Exhibit C (“Project”). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

- Exhibit A General Definitions
- Exhibit B NOT APPLICABLE
- Exhibit C Project Description
- Exhibit D Project Budget

**SECTION 1 - KEY TERMS**

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$70,590.

“Grant Amount” means \$60,000.

“Project Closeout Deadline” means 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

“Project Completion Deadline” means 24 months after the date of this Contract.

**SECTION 2 - FINANCIAL ASSISTANCE**

Commitment. The IFA shall provide Recipient, and Recipient shall accept from IFA, financing for the Project as a grant in an aggregate amount not to exceed the Grant Amount (the “Grant”).

**SECTION 3 - DISBURSEMENTS**

- A. Reimbursement Basis. The Financing Proceeds will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Financing Proceeds on an IFA-provided or IFA-approved disbursement request form (“Disbursement Request”).
- B. Financing Availability. The IFA’s obligation to make and Recipient’s right to request disbursements under this Contract terminates on the Project Closeout Deadline.

#### SECTION 4 - CONDITIONS PRECEDENT

- A. Conditions Precedent to IFA's Obligations. The IFA's obligations are subject to the receipt of the following items, in form and substance satisfactory to IFA and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient.
  - (2) Such other certificates, documents, opinions and information as IFA may reasonably require.
- B. Conditions to Disbursements. As to any disbursement, IFA has no obligation to disburse funds unless all following conditions are met:
- (1) There is no Default or Event of Default.
  - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
  - (3) The IFA, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
  - (4) The IFA (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as IFA may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
  - (5) The Recipient has delivered documentation satisfactory to IFA that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.
  - (6) Any conditions to disbursement elsewhere in this Contract are met.

#### SECTION 5 - USE OF FINANCIAL ASSISTANCE

- A. Use of Proceeds. The Recipient shall use the Financing Proceeds only for the activities described in Exhibit C and according to the budget in Exhibit D. The Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of IFA.
- B. Costs of the Project. The Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act, and Oregon law as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, unless permitted by Exhibit C.
- C. Costs Paid for by Others. The Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project from another State of Oregon agency or any third party.

## SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to IFA:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded.
- B. Organization and Authority.
- (1) The Recipient is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon.
  - (2) The Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive financing for the Project.
  - (3) This Contract has been duly executed by Recipient, and when executed by IFA, is legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. The Recipient has disclosed in writing to IFA all facts that materially adversely affect the Project, or the ability of Recipient to perform all obligations required by this Contract. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract is true and accurate in all respects.
- D. Pending Litigation. The Recipient has disclosed in writing to IFA all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.
- E. No Defaults.
- (1) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract.
  - (2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.
- F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (i) cause a breach of any agreement to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

## SECTION 7 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify IFA of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to perform all obligations required by this Contract.
- B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
  - (2) OAR 123-042-0165 (5) requirements for signs and notifications.
- These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.
- C. Project Completion Obligations. The Recipient shall:
- (1) When procuring professional consulting services, provide IFA with copies of all solicitations at least 10 days before advertising, and all contracts at least 10 days before signing.
  - (2) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
  - (3) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by the IFA in writing.
  - (4) No later than the Project Closeout Deadline, provide IFA with a final project completion report on a form provided by IFA, including Recipient's certification that the Project is complete, all payments are made, and no further disbursements are needed; provided however, for the purposes of this Contract, IFA will be the final judge of the Project's completion.
- D. Industrial Lands. The land involved in this Project must remain zoned industrial and not be converted to another use for at least 5 years after the completion of the Project. If this condition is not met, the Grant must be immediately repaid, unless otherwise allowed by IFA and agreed in writing by IFA and Recipient.
- E. Inspections; Information. The Recipient shall permit IFA and any party designated by IFA: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as IFA may reasonably require.
- F. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds until the date that is three years following the later of the final maturity of the Lottery Bonds, or the final maturity or redemption date of any obligation, or series of obligations, that refinanced the Lottery Bonds, or such longer period as may be required by other provisions of this Contract or applicable law.

- G. Economic Benefit Data. The IFA may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by IFA.
- H. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans owned and emerging small businesses...” The IFA encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at [https://www.oregonlegislature.gov/bills\\_laws/ors/ors200.html](https://www.oregonlegislature.gov/bills_laws/ors/ors200.html). Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.
- I. Professional Responsibility. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty.
- J. Notice of Default. The Recipient shall give IFA prompt written notice of any Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes a Default is likely.
- K. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless IFA and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys’ fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.
- L. [Reserved]
- M. Exclusion of Interest from Federal Gross Income and Compliance with Code.
- (1) The Recipient shall not take any action or omit to take any action that would result in the loss of the exclusion of the interest on any Lottery Bonds from gross income for purposes of federal income taxation, as governed by Section 103(a) of the Code. IFA may decline to disburse the Financing Proceeds if it finds that the federal tax exemption of the Lottery Bonds cannot be assured.
  - (2) The Recipient shall not take any action (including but not limited to the execution of a management agreement for the operation of the Project) or omit to take any action that would cause any Lottery Bonds to be “private activity bonds” within the meaning of Section 141(a) of the Code. Accordingly, unless Recipient receives the prior written approval of IFA, Recipient shall not permit in excess of ten percent (10%) of either (a) the Financing Proceeds or (b) the Project financed or refinanced with the Financing Proceeds to be directly or indirectly used in any manner that would constitute “private business use” within the meaning of Section 141(b)(6) of the Code, including not permitting more than one half of any permitted private business use to be “disproportionate related business use” or private business use unrelated to the government use of the Financing Proceeds. Unless Recipient receives the prior written approval of IFA, Recipient shall not directly or indirectly use any of the Financing Proceeds to make or finance loans to persons other than governmental units, as that term is used in Section 141(c) of the Code.

- (3) The Recipient shall not directly or indirectly use or permit the use of any of the Financing Proceeds or any other funds, or take any action or omit to take any action, which would cause any Lottery Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.
- (4) The Recipient shall not cause any Lottery Bonds to be treated as “federally guaranteed” for purposes of Section 149(b) of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to “federally guaranteed” obligations described in Section 149(b) of the Code. For purposes of this paragraph, any Lottery Bonds will be treated as “federally guaranteed” if: (a) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (b) five percent (5%) or more of the proceeds of the Lottery Bonds will be (i) used in making loans if the payment of principal or interest is guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (ii) invested directly or indirectly in federally insured deposits or accounts, and (c) none of the exceptions described in Section 149(b)(3) of the Code apply.
- (5) The Recipient shall assist IFA to ensure that all required amounts are rebated to the United States of America pursuant to Section 148(f) of the Code. The Recipient shall pay to IFA such amounts as may be directed by IFA to satisfy the requirements of Section 148(f) applicable to the portion of the proceeds of any tax-exempt bonds, including any Financing Proceeds or other amounts held in a reserve fund. The Recipient further shall reimburse IFA for the portion of any expenses it incurs related to the Project that is necessary to satisfy the requirements of Section 148(f) of the Code.
- (6) Upon IFA’s request, Recipient shall furnish written information regarding its investments and use of Financing Proceeds, and of any facilities financed or refinanced therewith, including providing IFA with any information and documentation that IFA reasonably determines is necessary to comply with the arbitrage and private use restrictions that apply to the Lottery Bonds.
- (7) Notwithstanding anything to the contrary, so long as is necessary to maintain the exclusion from gross income for purposes of federal income taxation of interest on any Lottery Bonds, the covenants contained in this subsection will survive the Project, including the application of any unexpended Financing Proceeds. The Recipient acknowledges that the Project may be funded with proceeds of the Lottery Bonds and that failure to comply with the requirements of this subsection could adversely affect any exclusion of the interest on the Lottery Bonds from gross income for federal income tax purposes.
- (8) Neither Recipient nor any related party to Recipient, within the meaning of 26 C.F.R. §1.150-1(b), shall purchase any Lottery Bonds, from which proceeds were used to finance the Project, in an amount related to the amount of the Grant.

## **SECTION 8 - DEFAULTS**

Any of the following constitutes an “Event of Default”:

- A. Any false or misleading representation is made by or on behalf of Recipient in this Contract or in any document provided by Recipient related to the Project or in regard to compliance with the requirements of Section 103 and Sections 141 through 150 of the Code.

- B. (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
- (2) The Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
- (3) The Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
- (4) The Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
- (5) The Recipient takes any action for the purpose of effecting any of the above.
- C. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through B of this section 8, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by IFA. The IFA may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

## SECTION 9 - REMEDIES

- A. Remedies. Upon any Event of Default, IFA may pursue any or all remedies in this Contract and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
- (1) Terminating IFA's commitment and obligation to make the Grant or disbursements under the Contract.
- (2) Barring Recipient from applying for future awards.
- (3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449.
- (4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.
- B. Application of Moneys. Any moneys collected by IFA pursuant to section 9.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by IFA; then, as applicable, to repay any Grant proceeds owed; and last, to pay any other amounts due and payable under this Contract.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to IFA is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The IFA is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 8 of this Contract.
- D. Default by IFA. In the event IFA defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of IFA's obligations.



a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.

- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to IFA by its attorneys.
- I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.
- J. Integration. This Contract (including all exhibits, schedules or attachments) constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



**STATE OF OREGON**  
acting by and through the  
Oregon Infrastructure Finance Authority



**CITY OF WOODBURN**

By: \_\_\_\_\_  
Robert Ault, Manager  
Program Services Division

By: \_\_\_\_\_  
The Honorable Kathryn Figley  
Mayor of Woodburn

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

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

**APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:**

Not Required as per OAR 137-045-0030

## EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means ORS 285B.410 through 285B.482, as amended.

“Award” means the award of financial assistance to Recipient by IFA dated 31 August 2016.

“C.F.R.” means the Code of Federal Regulations.

“Code” means the Internal Revenue Code of 1986, as amended, including any implementing regulations and any administrative or judicial interpretations.

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, IFA or Recipient.

“Default” means an event which, with notice or lapse of time or both, would become an Event of Default.

“Financing Documents” means this Contract and all agreements, instruments, documents and certificates executed pursuant to or in connection with IFA’s financing of the Project.

“Financing Proceeds” means the proceeds of the Grant.

“Lottery Bonds” means any bonds issued by the State of Oregon that are special obligations of the State of Oregon payable from unobligated net lottery proceeds, the interest on which is exempt from federal income taxation, together with any refunding bonds, used to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Grant.

“Municipality” means any entity described in ORS 285B.410(9).

“ORS” means the Oregon Revised Statutes.

“Project Completion Date” means the date on which Recipient completes the Project.

## EXHIBIT C - PROJECT DESCRIPTION

Recipient shall contract with a licensed engineer to review and substantiate the existing Public Facilities Plan and complete an engineering analysis to determine future infrastructure (streets, storm, sewer, water and utilities) costs, timeline, funding options and next steps.

**Exhibit D: Project Budget**

	<b>IFA Funds</b>	<b>Other / Matching Funds</b>
Activity	Approved Budget	Approved Budget
Engineering – Professional Services	\$60,000	\$10,590
<b>Total</b>	\$60,000	\$10,590