

CITY OF WOODBURN

CITY COUNCIL AGENDA

NOVEMBER 9, 2020– 7:00 P.M.

ERIC SWENSON, MAYOR
DEBBIE CABRALES, COUNCILOR WARD 1
LISA ELLSWORTH, COUNCILOR WARD II
ROBERT CARNEY, COUNCILOR WARD III
SHARON SCHAUB, COUNCILOR WARD IV
MARY BETH CORNWELL, COUNCILOR WARD V
ERIC MORRIS, COUNCILOR WARD VI

VIA VIDEO CONFERENCING

1. CALL TO ORDER AND FLAG SALUTE
2. ROLL CALL
3. ANNOUNCEMENTS AND APPOINTMENTS

Announcements:
None.

Appointments:
None.

4. COMMUNITY/GOVERNMENT ORGANIZATIONS

None.

5. PROCLAMATIONS/PRESENTATIONS

Proclamations:
A. November 2020 as Small Business Month 1

Presentations:
A. Community Center Update
B. Mary Tennant Award
C. Covid-19 Update 2

6. COMMUNICATIONS
None.

7. BUSINESS FROM THE PUBLIC – *This allows the public to introduce items for Council consideration not already scheduled on the agenda.*

This facility is ADA accessible. If you need special accommodation, please contact the City Recorder at 503-980-6318 or *Statewide Toll Free Relay (800) 735-1232*, at least 48 hours prior to this meeting.

Si usted necesita asistencia especial, comuníquese al 503-980-6322 o a la línea telefónica gratuita, (800) 735-1232, con un mínimo de 48 horas, antes de la reunión.

Habrán intérpretes disponibles para aquellas personas que no hablan Inglés, previo acuerdo. Comuníquese al (503) 980-6322.

8. **CONSENT AGENDA** – *Items listed on the consent agenda are considered routine and may be adopted by one motion. Any item may be removed for discussion at the request of a Council member.*
 - A. **Woodburn City Council minutes of October 12, 2020** 15
Recommended Action: Approve the minutes.
 - B. **Woodburn City Council Executive Session minutes of October 12, 2020** 18
Recommended Action: Approve the minutes.
 - C. **Acceptance of a Public Utility Easement at 691 N. First Street, Woodburn, OR 97071 (Tax Lot 051W07DC04500)** 20
Recommended Action: Authorize the dedication of a public utility easement granted by Matthew John Waite, owner of the property located at 691 N. First Street, Woodburn, OR 97071 (Tax Lot 051W07DC04500).
 - D. **Crime Statistics through September 2020** 25
Recommended Action: Receive the report.
 - E. **Building Activity for October 2020** 30
Recommended Action: Receive the report.
9. **TABLED BUSINESS**

None.
10. **PUBLIC HEARINGS**

None.
11. **GENERAL BUSINESS** – *Members of the public wishing to comment on items of general business must complete and submit a speaker's card to the City Recorder prior to commencing this portion of the Council's agenda. Comment time may be limited by Mayoral prerogative.*
 - A. **Council Bill No. 3137 – An Ordinance Providing for the Management of Utility Services Within the City and Access to and use of the City's Rights-of-Way** 40
Recommended Action: Enact the Utility Services Ordinance.
 - B. **Council Bill No. 3138- A Resolution Setting the Right-of-Way Utility License and Usage Fee Rates within the City of Woodburn** 71
Recommended Action: Adopt a Resolution setting ROW utility

license and usage fee rates in the City.

- C. **Council Bill No. 3140 - A Resolution Adopting the Updated Woodburn Transit System Title VI Program** 74
Recommended Action: Adopt via resolution the updated Title VI Civil Rights Program for public transit programs, as required by the Federal Transit Administration.
- D. **PUBLIC TESTIMONY ON THIS ITEM IS CLOSED. NO PUBLIC COMMENTS WILL BE RECEIVED** 92

Design Review DR 2019-05 Allison Way Apartments Final Decision
Recommended Action: Authorize the mayor to sign the attached final land use decision document.

- E. **Memorandum of Understanding (MOU) with Portland General Electric (PGE)** 126
Recommended Action: Authorize the City Administrator to sign the enclosed MOU with PGE, which serves to memorialize the City's commitment to resolve PGE's concerns with the proposed Utility Services Ordinance prior to the June 30, 2023 expiration of PGE's franchise agreement with the City.

12. PLANNING COMMISSION OR ADMINISTRATIVE LAND USE ACTIONS – *These are Planning Commission or Administrative Land Use actions that may be called up by the City Council.*

- A. **Call-Up Briefing: Planning Commission Approval of a Conditional Use and Variance application package for AT&T Cell Tower at 1414 Commerce Way (CU 2020-02 & VAR 2020-07)** 129
Recommended Action: Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section [4.02.02](#). The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.
- B. **Call-Up Briefing: Planning Commission approval of a Design Review and Property Line Adjustment application package for La Morenita Tortilla Bakery at 2230 & 2400 N. Pacific Hwy (DR 2020-05 & PLA 2020-03)** 131
Recommended Action: Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section 4.02.02. The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.
- C. **Call-Up Briefing: Planning Commission Approval of a Modification to Conditions of Approval for Mid Valley Community Church at 591** 133

Gatch Street (MOC 2020-01)

Recommended Action: Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section 4.02.02. The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.

13. CITY ADMINISTRATOR'S REPORT

14. MAYOR AND COUNCIL REPORTS

15. EXECUTIVE SESSION

None.

16. ADJOURNMENT

COUNCIL GOALS 2019-2021

Thematic Goals

1. *Create an inclusive environment where residents participate and are engaged in the community (that is vibrant, safe and active).*
2. *Promote an environment that encourages sustainable economic health maximizing our geographic, workforce, cultural and community assets.*

Strategic Goals

3. *Create an inclusive environment where Woodburn residents want to participate and are engaged in the community.*
4. *Develop innovative funding sources to help support the completion of capital improvement projects.*
5. *Grow and support strategic partnerships for economic health.*
6. *Explore the development of a non-profit consolidation facility.*
7. *Improve Communication and Coordination with School District on matters of mutual interest.*
8. *Completion of the First Street remodel.*
9. *Completion of Phase 1 & 2 of the Community Center Project including the formation of an ad hoc steering committee to review and recommend design.*
10. *Creation of the Dick Jennings Community Leadership Academy.*
11. *Develop a strategy to limit PERS liability.*
12. *Establishment of a Woodburn 20 year community-visioning plan.*



PROCLAMATION

NOVEMBER 2020 AS SMALL BUSINESS MONTH

WHEREAS, the City of Woodburn celebrates our small businesses and the contributions they make to our local economy and community; and

WHEREAS, small businesses employ 50 percent of all businesses with employees in the United States; and

WHEREAS, small businesses contribute positively to the local economy by providing jobs and generating revenue; and

WHEREAS, small businesses are critical to the overall economic health of the United States economy; and

WHEREAS, the City of Woodburn supports our local businesses that create jobs, boosts our local economy and preserves our neighborhoods; and

WHEREAS, advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving (November 28, 2020) as Small Business Saturday.

NOW, THEREFORE, I, Eric Swenson, Mayor of Woodburn, do hereby proclaim the month of November 2020, as **SMALL BUSINESS MONTH** and urge the residents of our community, and communities across the country, to support small businesses and merchants during the month of November and on **Small Business Saturday** on November 28, 2020 and throughout the year.

Dated this 9th day of November 2020.

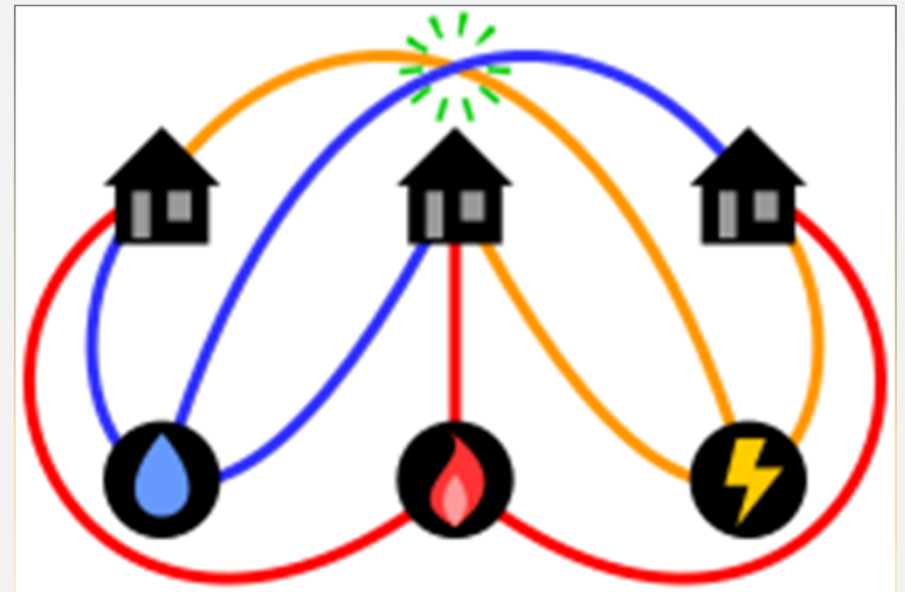
Eric Swenson, Mayor
City of Woodburn, OR

COVID19 COMMUNITY FUNDING PROGRAMS

Woodburn City Council November 9 , 2020

COVID19 COMMUNITY PROGRAMS & OFFERINGS

- Covid19 Update
- Business Assistance
- Food Security
- Mortgage Assistance
- Rental Assistance
- Utility Assistance
- Internet Assistance
- Childcare Payment Assistance
- PPE and Education Materials
- Public Transit



BUSINESS ASSISTANCE PROGRAMS

- Amount of total funding: \$180,000
- Funding Sources: Business Oregon, Woodburn Rotary, City CARES Funds
- Who is administering funds: City
- Allocation per program participant: \$500 - \$5000
- Number of program participants: 60+
- Current funds distributed: \$90,000 (still distributing)
- Date funds must be distributed: December 30, 2020



FOOD SECURITY

- Amount of total funding: \$20,000
- Funding Sources: Northwest Senior Disability Services
- Who is administering funds: AWARE Foodbank
- Program Support: Food security for seniors in the Latinx community
- Number of program participants: Program being administered
- Date funds must be distributed: December 30, 2020



MORTGAGE ASSISTANCE

- Amount of total funding: \$413,000
- Funding Sources: City Housing Rehabilitation Funding Reallocation
- Who is administering funds: DevNW
- Max allocation per program participant: \$20,000
- Number of program participants: 12 inquires, 4 applicants and 1 pending allocation.
- Current funds distributed: Pending
- Date funds must be distributed: Open ended



RENTAL/INTERNET ASSISTANCE

- Amount of total funding: \$50,000
- Community funds available: \$45,000
- Funding Sources: City CARES Funding
- Who is administering funds: Love INC.
- Max allocation per program participant: \$2,500
- Number of program participants: Program began November 2nd
- Current funds distributed: Pending
- Date funds must be distributed: December 30, 2020



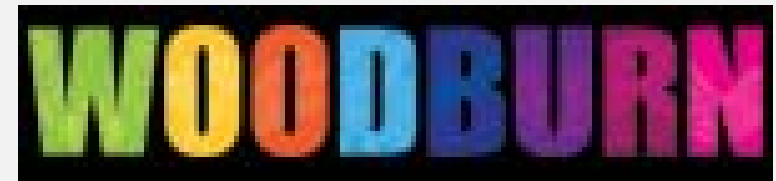
UTILITY/CHILDCARE/ PRESCRIPTION ASSISTANCE

- Amount of total funding: \$225,000
- Community funds available: \$155,000
- Funding Sources: Marion County & Oregon Health Authority
- Who is administering funds: Love INC.
- Max allocation per program participant: \$2,500
- Number of program participants: Program began November 2nd
- Current funds distributed: Pending
- Date funds must be distributed: December 30, 2020 and June 30, 2021



PPE & EDUCATION ASSISTANCE

- Amount of total funding: \$95,265
- Funding Sources: Oregon Health Authority
- Who is administering funds: Woodburn Downtown Association/City
- Program Support: Providing PPE and Education Materials
- Number of program participants: 20+ Local Businesses
- Current items distributed: Sneeze guards, facial coverings, physical distance markers and hand sanitizer
- Date funds must be distributed: December 30, 2020



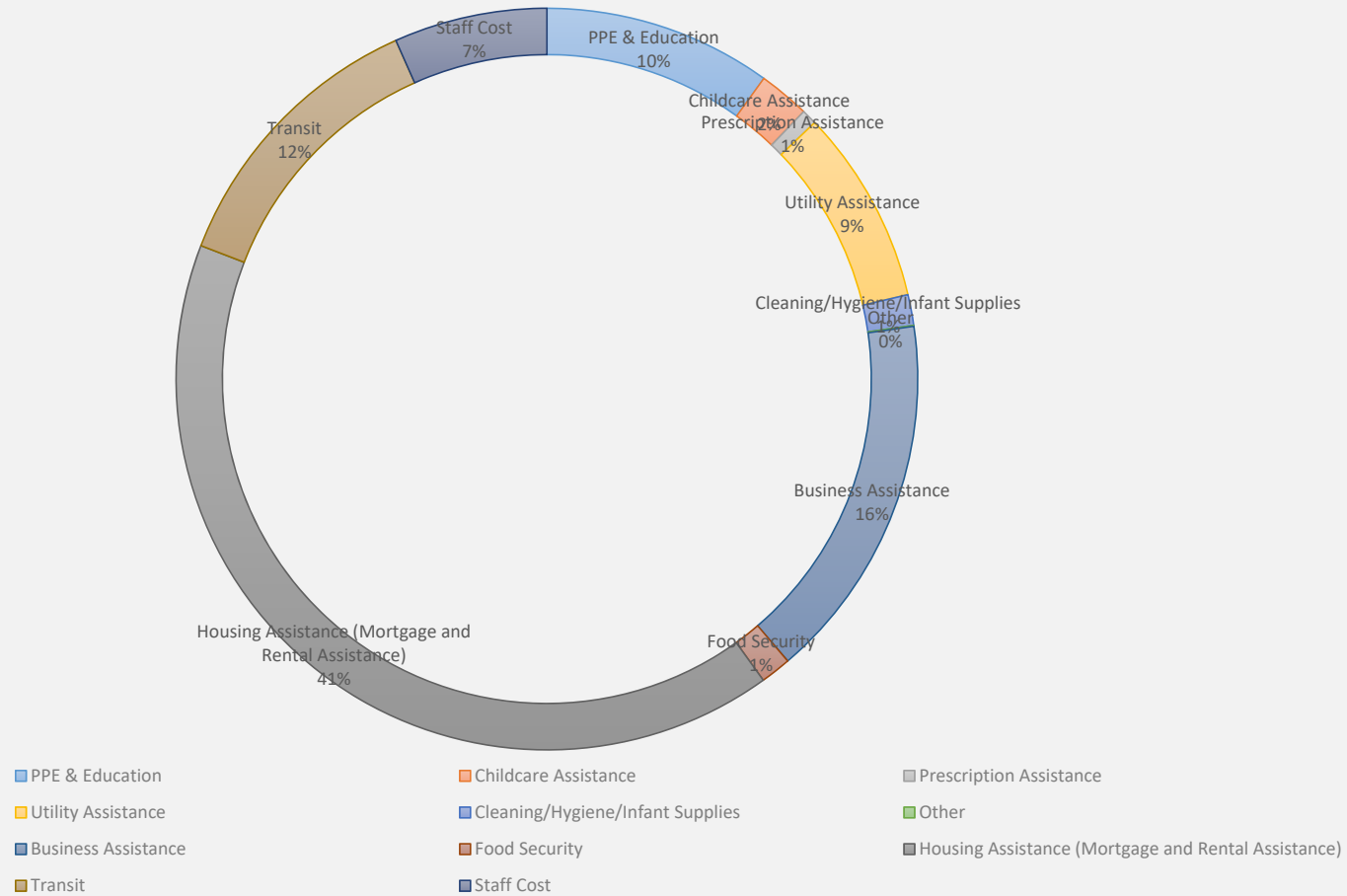
PUBLIC TRANSPORTATION



- Amount of total funding: \$139,996
- Current funds distributed: \$101,447
- Funds Remaining: \$38,549
- Funding Sources: Federal Transit Administration, administered by the Oregon Department of Transportation
- Who is administering funds: City of Woodburn
- Number of program participants: 1, City of Woodburn's Transit Division
- Date funds must be distributed: June 30, 2021

TOTAL COMMUNITY FUNDING SUPPORT

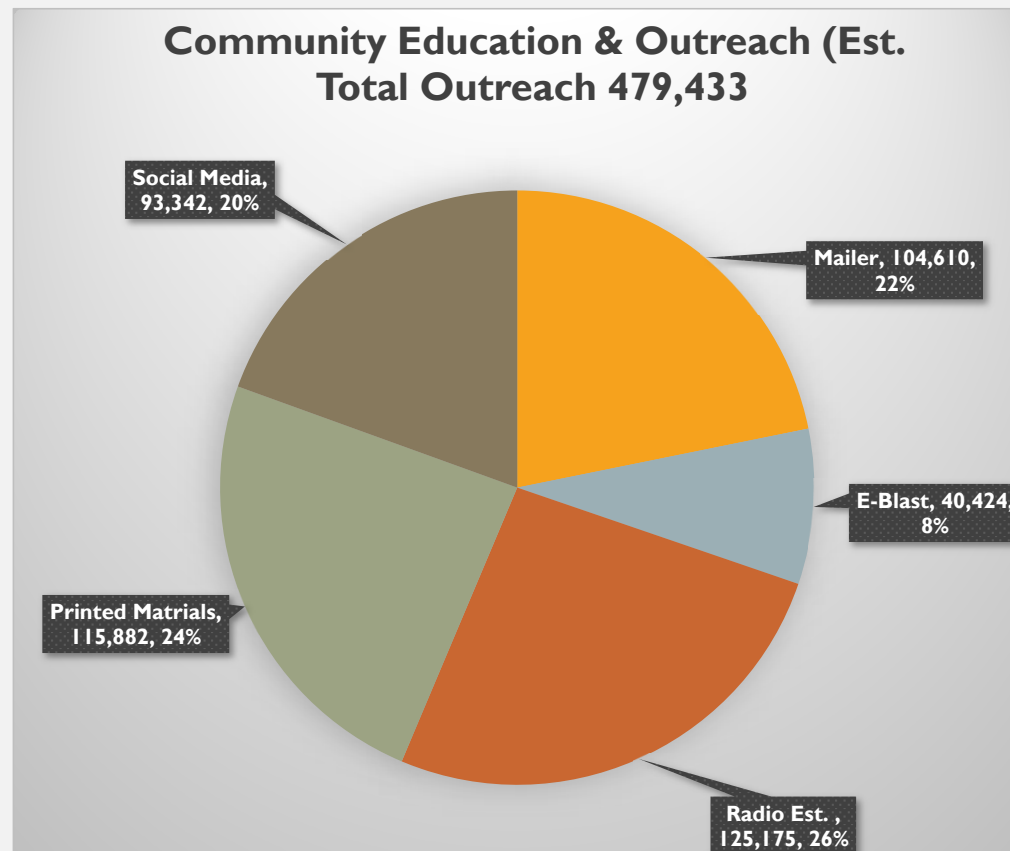
Community Support Type	Total Fund Amount
PPE & Education	\$111,765
Childcare Assistance	\$25,000
Prescription Assistance	\$7,500
Utility Assistance	\$95,500
Cleaning/Hygiene/Infant Supplies	\$15,000
Other	\$500
Business Assistance	\$180,000
Food Security	\$15,000
Transits	\$139,996
Housing Assistance (Mortgage and Rental Assistance)	\$458,000
Staff Cost	\$75,000
Total	\$1,123,261



TOTAL GRANT FUNDING SOURCES

Grant Funding Source	Total Fund Amount
Oregon Health Authority	\$170,265
Marion County Health Department	\$150,000
City of Woodburn	\$413,000
City of Woodburn CARES Funds	\$160,000
Northwest Senior Disability Services	\$20,000
Business Oregon	\$60,000
Woodburn Rotary	\$10,000
Federal Transit Administration	\$139,996
Total	\$1,123,261

MARKETING AND OUTREACH



QUESTIONS?



COUNCIL MEETING MINUTES

OCTOBER 12, 2020

DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, OCTOBER 12, 2020

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

ROLL CALL

Mayor Swenson	Present
Councilor Carney	Present -via video conferencing
Councilor Cornwell	Present -via video conferencing
Councilor Schaub	Present -via video conferencing
Councilor Morris	Present -via video conferencing
Councilor Ellsworth	Present -via video conferencing
Councilor Cabrales	Present -via video conferencing

Staff Present (via video conferencing): City Administrator Derickson, City Attorney Shields, Assistant City Administrator Row, Economic Development Director Johnk, Police Chief Ferraris, Finance Director Turley, Assistant City Attorney Granum, Human Resources Director Gregg, Engineering Director Liljequist, Parks and Recreation Manager Cuomo, City Recorder Pierson

ANNOUNCEMENT

City Hall and the Library will be closed on November 11 in observance of Veterans Day.

PROCLAMATION

The Mayor read a proclamation declaring October 2020 as Domestic Violence Awareness Month.

CONSENT AGENDA

- A. Woodburn City Council minutes of September 14, 2020,
- B. Acceptance of a Statutory Warranty Deed for Right-of-Way Dedication and Two Public Utility Easements at 1220 Fifth Street, Woodburn, OR 97071 (Tax Lot 051W07DB02500),
- C. Leasing Specialist, LLC. Contract Award,
- D. Liquor License Application – Metropolis LLC.,
- E. Crime Statistics through August 2020,
- F. Building Activity for September 2020.

Councilor Morris stated his concerns with not giving a recommendation to OLCC for the Metropolis, LLC liquor license application. **Carney/Cornwell...** adopt the Consent Agenda. The motion passed unanimously.

WORK SHOP UTILITY SERVICE ORDINANCE & RESOLUTION SETTING ROW UTILITY LICENSE AND USAGE FEE RATES

Reba Crocker with Right of Way consultants provided information to the City Council on the proposed utility service ordinance and the resolution for right of way utility license and usage fee rates. Councilors asked questions and provided comments. Wendy Veliz with PGE stated that she appreciates the opportunity to work with Jim and McKenzie on this item and that she is pleased to say that they landed in a good place addressing the energy pieces that were raised in their discussions.

The Mayor noted that item 11B will be deferred to the next meeting.

CALL-UP BRIEFING: PLANNING COMMISSION APPROVAL OF A VARIANCE FOR

COUNCIL MEETING MINUTES

OCTOBER 12, 2020

ERIC & CHARMAINE COTTRELL AT 1311 E. LINCOLN STREET (VAR 2020-04)

The Council declined to call this item up.

CITY ADMINISTRATOR'S REPORT

The City Administrator reported the following:

- The League of Oregon Cities is having a virtual conference this week on Wednesday and Thursday and if anyone that is not already signed up but wants to be to let him or Brenda know.
- The Oregon Senate reaffirmed the Governor's appointment of him to the DPSST Board.
- Presented to the Greeter's meeting last Friday and took questions about the City and discussed the things that were going on in the City.
- A group of regional City managers have tried to start a chapter of the Local Government Hispanic Network Organization which is affiliated with ICMA. He will be helping to draft the bylaws for this and will assist with getting the chapter going.
- Three new officers have been hired. Chief Ferraris provided information on the officers and the steps the police department takes in hiring new officers.
- The agenda setting meeting will not take place this week due to the LOC conference taking place.

MAYOR AND COUNCIL REPORTS

Councilor Morris reminded people that October 13 is the last day to register to vote. He asked if this is the last meeting until after the election and City Administrator Derickson stated that it was his understanding that there would be one meeting a month unless the Mayor called a second meeting for a work session.

Councilor Ellsworth stated that she has been reflecting on what the Council has done and that she is proud of the work that has been accomplished. She thanked Council and staff for everything and that she looks forward to what's next for Woodburn.

Councilor Cornwell thanked staff for all of the work they have done.

Councilor Cabrales asked that people not forget to fill out the Census.

Councilor Schaub stated that she concurs with Councilor Ellsworth and Councilor Cornwell. She added that she is proud to be associated with a great City, a terrific Council and a great staff. She thanked the City Administrator for all the great work that he and his team are doing. She asked people to vote and support Councilor Ellsworth and Councilor Morris.

Councilor Carney gave a shout out to McKenzie Granum for pulling the workshop together and that he concurs with the commentary by Councilor's Ellsworth, Cornwell, and Schaub.

Mayor Swenson stated that he attended a Council of Governments meeting and they are looking for a Director. Attended the final community center meeting and thanked Jim and the committee for a job well done. He added that it was great to see Scott during the Chamber of Commerce Greeters.

EXECUTIVE SESSION

Mayor Swenson entertained a motion to adjourn into executive session under the authority of ORS 192.66 (2)(i). **Carney/Cornwell...** move into executive session. The motion passed unanimously. The Council adjourned to executive session at 8:18 p.m. and reconvened at 8:58 p.m. Mayor

COUNCIL MEETING MINUTES OCTOBER 12, 2020

Swenson stated that no action was taken by the Council while in executive session.

Carney/Morris... direct the Mayor sign an amendment to the City Administrators current Employment Agreement to do the following: 1. Extend the term of the present agreement by five years, 2. Increase severance pay to one full year, 3. Add an additional five vacation days to the City Administrators vacation bank and 4. Change the vacation cap from 288 hours to 328 hours. The motion passed unanimously.

Carney/Cornwell... direct the Mayor to sign an amendment to the City Attorney's current Employment Agreement to do the following: 1. Agree to 2 year term with a one year termination notice, 2. Increase severance pay to one full year. 3. Add an additional 5 vacation days to the City Attorney's vacation bank. The motion passed unanimously.

Mayor Swenson entertained a motion to adjourn into executive session under the authority of ORS 192.660 (2)(f). **Carney/Cabrales...** move into executive session. The motion passed unanimously. The Council adjourned to executive session at 9:02 p.m. and reconvened at 9:52 p.m. Mayor Swenson stated that no action was taken by the Council while in executive session.

ADJOURNMENT

Morris/Ellsworth... meeting be adjourned. The motion passed unanimously. The meeting adjourned at 9:52 p.m.

APPROVED _____

ERIC SWENSON, MAYOR

ATTEST _____

Heather Pierson, City Recorder
City of Woodburn, Oregon

**EXECUTIVE SESSION
COUNCIL MEETING MINUTES
OCTOBER 12, 2020**

DATE COUNCIL CHAMBERS, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, OCTOBER 12, 2020

CONVENED The Council met in executive session at 8:18 p.m.

ROLL CALL

Mayor Swenson	Present
Councilor Carney	Present -via video conferencing
Councilor Cornwell	Present -via video conferencing
Councilor Schaub	Present -via video conferencing
Councilor Morris	Present -via video conferencing
Councilor Ellsworth	Present -via video conferencing
Councilor Cabrales	Present -via video conferencing

Mayor Swenson reminded those in attendance that information discussed in executive session is not to be discussed with the public.

Media Present: None.

Staff Present: City Administrator Derickson, City Attorney Shields, City Recorder Pierson

The executive session was called:

To review and evaluate, pursuant to standards, criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing pursuant to ORS 192.660 (2)(i).

ADJOURNMENT

The executive session adjourned at 8:58 p.m.

CONVENED The Council met in executive session at 9:02 p.m.

ROLL CALL

Mayor Swenson	Present
Councilor Carney	Present -via video conferencing
Councilor Cornwell	Present -via video conferencing
Councilor Schaub	Present -via video conferencing
Councilor Morris	Present -via video conferencing
Councilor Ellsworth	Present -via video conferencing
Councilor Cabrales	Present -via video conferencing

Mayor Swenson reminded those in attendance that information discussed in executive session is not to be discussed with the public.

Media Present: None.

Staff Present: Assistant City Administrator Row, Human Resources Director Gregg, City Attorney Shields, City Recorder Pierson

Others in attendance: Kathy Peck with Peck Rubanoff Hatfield

The executive session was called:

To consider records that are exempt by law from public inspection pursuant to ORS 192.660 (2)(f).

ADJOURNMENT

The executive session adjourned at 9:52 p.m.

APPROVED _____
Eric Swenson, Mayor

ATTEST _____
Heather Pierson, City Recorder
City of Woodburn, Oregon



Agenda Item

November 9, 2020

TO: Honorable Mayor and City Council through City Administrator
FROM: Eric Liljequist, Public Works Projects & Engineering Director
SUBJECT: **Acceptance of a Public Utility Easement at 691 N. First Street,
Woodburn, OR 97071 (Tax Lot 051W07DC04500)**

RECOMMENDATION:

That City Council authorize the dedication of a public utility easement granted by Matthew John Waite, owner of the property located at 691 N. First Street, Woodburn, OR 97071 (Tax Lot 051W07DC04500).

BACKGROUND:

The property owner is required to provide this public utility easement in order to satisfy the conditions of building permit No. 971-20-000067-DWL.

DISCUSSION:

The public utility easement is a 5' x 55' area that provides a permanent easement and right-of-way, including the permanent right to construct, reconstruct, operate, and maintain public utilities.

FINANCIAL IMPACT:

There is no cost to the City for the Public Easement.

Attachments

A Copy of the Public Utility Easement document is included as Exhibit "A" and Exhibit "B".

Agenda Item Review: City Administrator __x__ City Attorney __x__ Finance __x__

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)**

Matthew John Waite, *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 franchise 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

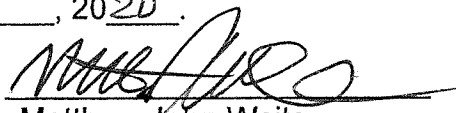
GRANTOR reserves the right to use the surface of the land for any purpose that will not be inconsistent or interfere with the use of the easement by *CITY*. No building or utility shall be placed upon, under, or within the property subject to the foregoing easement during the term thereof, however, without the written permission of *CITY*.

Upon completion of the construction, *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 (\$0), 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 20th day of October, 2020.


Matthew John Waite

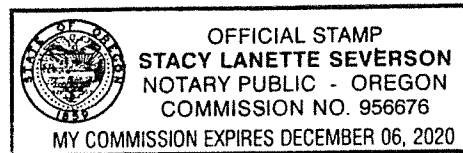
PERSONAL ACKNOWLEDGEMENT

STATE OF OREGON, County of Clackamas) ss.

The foregoing instrument was acknowledged before me this 20th
day of October, 2020 by Matthew John Waite.

Stacy Lanette Severson
NOTARY PUBLIC FOR OREGON
My Commission Expires: December 06, 2020

City of Woodburn
270 Montgomery Street
Woodburn, OR 97071



(Grantee's Name and Address)

By Signature below, the City of Woodburn, Oregon,
Approves and Accepts this Conveyance Pursuant to
ORS 93.808.

City Recorder:

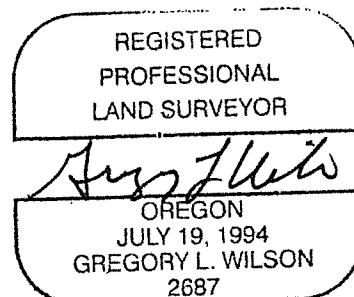
Heather Pierson

EXHIBIT "A"

Legal Description of Permanent Easement

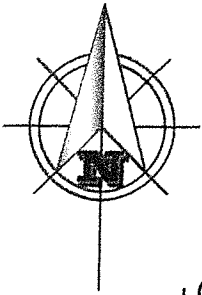
A 5.00-foot wide strip of land situated in the southeast one-quarter of Section 7, Township 5 South, Range 1 West of the Willamette Meridian, in the City of Woodburn, Marion County, Oregon, more particularly described as follows:

Beginning at the most Southerly corner of Lot 5, GOODMAN'S FIRST ADDITION TO
WOODBURN, as platted and recorded in Volume 3, Page 58, Book of Town Plats for
Marion County, Oregon; and running thence:
North 48°45'00" West 5.00 feet along the southwesterly line of said Lot 5;
thence North 41°15'00" East 55.00 feet along a line parallel with the northwesterly right of way of
1st Street to a point on the northeasterly line of said Lot 5;
thence South 48°45'00" East 5.00 feet along said northeasterly line to the most Easterly corner of
said Lot 5;
thence South 41°15'00" West 55.00 feet along the aforementioned northwesterly right of way to the
Point of Beginning, containing 275 square feet of land, more or less.



EXPIRES: 6-30-22

EXHIBIT "B"



TAX LOT 5500

TAX LOT 4601

LOT 5
GOODMAN'S FIRST ADDITION
TAX LOT 4500

TAX LOT 4400

S48°45'00"E
5.00'

N41°15'00"E 55.00'

S41°15'00"W 55.00'

N48°45'00"W
5.00'

P.O.B.

1ST STREET (60' R/W)

5' PUBLIC UTILITY EASEMENT



= 275 SQ. FT.

0' 20' 40'

SCALE: 1" = 20'

PUBLIC UTILITY EASEMENT

OWNER NAME/ADDRESS

MATTHEW JOHN WAITE
15177 UNION SCHOOL RD NE
WOODBURN, OR 97071

Public Utility Easement (Permanent)
Page 4 of 4

SITE ADDRESS:
961 N 1ST ST.
WOODBURN, OR 97071

TAX MAP: 05 1W 07DC
TAX LOT: 4500
SE 1/4 SEC. 7,
TOWNSHIP 5 SOUTH,
RANGE 1 WEST, W.M.,
CITY OF WOODBURN,
MARION COUNTY, OREGON

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gregory L. Wilson

OREGON
JULY 19, 1994
GREGORY L. WILSON
2687

EXPIRATION DATE: 6/30/2022

BY G.L.W.

DATE: 10-06-20

Woodburn Police Department

MONTHLY ARRESTS BY OFFENSES

2020 Year to Date

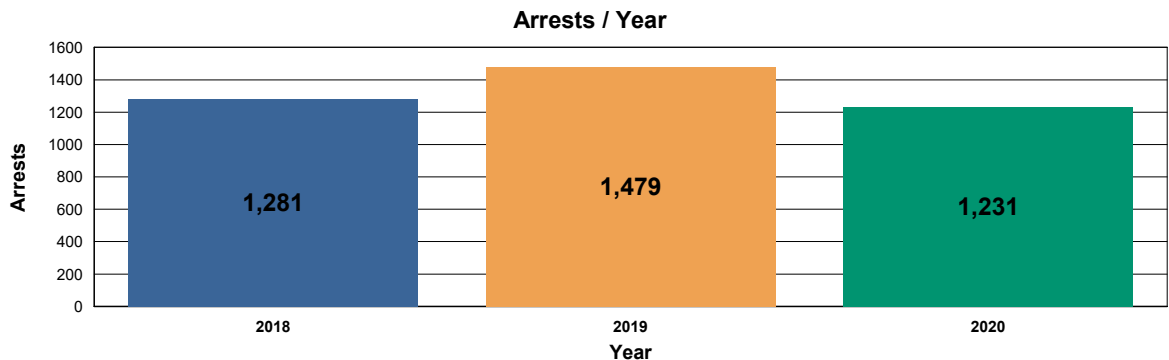
CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
AGGRAVATED ASSAULT	2	0	0	3	1	4	1	2	3	16
ANIMAL CRUELTY	0	0	0	0	1	0	0	0	1	2
ANIMAL ORDINANCES	2	2	0	0	2	3	1	0	1	11
ARSON	1	0	0	0	0	0	1	0	1	3
ASSAULT SIMPLE	14	7	5	9	8	12	9	6	7	77
ATTEMPTED MURDER	0	0	0	0	0	0	0	1	0	1
BURGLARY - BUSINESS	0	1	0	0	0	0	0	1	1	3
BURGLARY - OTHER STRUCTURE	0	1	0	0	0	0	0	0	0	1
BURGLARY - RESIDENCE	0	1	1	0	0	1	1	0	0	4
CHILD NEGLECT	0	0	0	0	1	0	0	0	0	1
CRIME DAMAGE-NO VANDALISM OR ARSON	2	2	3	4	2	0	0	3	1	17
CURFEW	0	0	0	1	0	0	0	0	0	1
CUSTODY - MENTAL	4	0	0	8	4	5	3	3	1	28
DISORDERLY CONDUCT	8	9	5	7	10	3	4	5	7	58
DRINKING IN PUBLIC	0	0	0	0	4	0	0	0	0	4
DRIVING UNDER INFLUENCE	5	9	3	1	3	8	8	9	16	62
DRUG LAW VIOLATIONS	16	17	10	9	21	18	6	15	18	130
DWS/REVOKED - FELONY	0	0	0	0	0	1	0	0	2	3
DWS/REVOKED-MISDEMEANOR	2	1	2	3	3	3	5	3	2	24
ELUDE	0	0	2	4	0	3	0	1	1	11
ESCAPE FROM YOUR CUSTODY	1	1	0	1	0	0	0	0	1	4
EXTORTION/BLACKMAIL	0	1	0	3	0	1	1	1	0	7
FAIL TO DISPLAY OPERATORS LICENSE	0	3	0	1	1	0	0	0	1	6
FAILURE TO REGISTER AS SEX OFFENDER	0	0	1	0	1	0	0	0	0	2
FORCIBLE RAPE	0	0	1	0	0	0	1	0	0	2
FORGERY/COUNTERFEITING	0	1	0	0	1	0	0	1	0	3
FRAUD - BY DECEPTION/FALSE PRETENSES	0	2	0	0	0	0	0	0	0	2
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	0	1	0	0	1	0	0	0	0	2
FRAUD - OF SERVICES/FALSE PRETENSES	0	0	0	0	0	1	0	0	0	1
FUGITIVE ARREST FOR ANOTHER AGENCY	47	24	23	19	33	35	32	39	35	287
GARBAGE LITTERING	0	0	0	0	1	0	0	0	0	1
HIT AND RUN FELONY	0	0	0	0	0	0	0	0	1	1
HIT AND RUN-MISDEMEANOR	4	4	2	2	1	3	3	4	1	24
IDENTITY THEFT	0	1	0	0	1	0	0	0	0	2
INTIMIDATION /OTHER CRIMINAL THREAT	5	4	2	4	4	5	2	3	2	31
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	2	0	0	0	0	1	0	1	4
MINOR IN POSSESSION	0	1	2	1	0	0	5	3	0	12
MOTOR VEHICLE THEFT	2	4	6	12	7	3	1	7	3	45
OTHER	4	3	6	4	10	3	6	2	3	41
PROPERTY RECOVER FOR OTHER AGENCY	0	0	0	1	0	0	0	1	1	3
RECKLESS DRIVING	2	4	2	4	1	4	0	3	3	23
RECKLESSLY ENDANDERING	3	2	0	2	1	1	0	2	1	12
RESTRAINING ORDER VIOLATION	3	2	0	2	1	0	1	1	1	11
ROBBERY - BUSINESS	0	0	0	0	1	0	0	0	0	1
ROBBERY - CAR JACKING	0	0	0	0	0	0	0	0	1	1
ROBBERY - CONV.STORE	0	0	0	0	0	1	0	0	0	1
ROBBERY - OTHER	1	1	0	0	0	0	0	0	0	2
ROBBERY - RESIDENCE	1	0	0	0	0	0	0	0	0	1
RUNAWAY	0	1	0	1	0	0	0	0	0	2
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	0	0	0	0	0	0	0	1	0	1
SEX CRIME - EXPOSER	1	0	0	0	0	0	0	2	0	3
SEX CRIME - FORCIBLE SODOMY	0	0	1	0	0	0	0	0	0	1
SEX CRIME - INCEST	0	0	1	0	0	0	0	0	0	1
SEX CRIME - MOLEST (PHYSICAL)	2	1	1	0	0	0	0	0	0	4

Woodburn Police Department

MONTHLY ARRESTS BY OFFENSES 2020 Year to Date

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
SEX CRIME - NON-FORCE RAPE	0	0	0	0	0	1	0	0	0	1
SEX CRIME - SEXUAL ASSAULT WITH AN OBJECT	0	0	0	0	0	0	0	0	1	1
STALKER	1	0	0	1	0	1	1	1	1	6
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	1	2	0	1	1	0	0	4	1	10
SUICIDE	0	0	0	0	0	1	0	0	0	1
THEFT - BUILDING	0	0	0	3	0	0	0	1	0	4
THEFT - FROM MOTOR VEHICLE	1	1	0	2	0	0	0	1	0	5
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	2	0	0	0	0	0	0	0	0	2
THEFT - OTHER	2	7	3	2	1	0	2	1	1	19
THEFT - SHOPLIFT	4	4	3	0	3	11	2	1	1	29
TRAFFIC VIOLATIONS	7	4	4	1	5	6	1	3	5	36
TRESPASS	8	3	7	7	5	7	3	6	2	48
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	0	1	2	3	1	1	0	1	0	9
VANDALISM	0	1	0	1	1	2	3	2	2	12
VEHICLE RECOVERD FOR OTHER AGENCY	0	0	0	1	3	1	1	0	4	10
WEAPON - CARRY CONCEALED	1	1	2	1	2	0	1	2	0	10
WEAPON - EX FELON IN POSSESSION	0	1	0	0	1	0	0	0	0	2
WEAPON - OTHER	0	0	0	1	0	0	0	0	0	1
WEAPON - POSSESS ILLEGAL	1	1	3	3	1	4	3	1	2	19
WEAPON - SHOOTING IN PROHIBITED AREA	1	0	2	0	0	0	0	1	0	4
WILLFUL MURDER	0	0	0	0	0	0	0	0	1	1

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
2020 Total	161	139	105	133	149	153	109	144	138	1,231
2019 Total	178	115	157	146	172	174	231	172	134	1479
2018 Total	187	111	138	136	147	101	162	155	144	1281



Woodburn Police Department

MONTHLY CRIMINAL OFFENSES

2020 Year to Date

CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
AGGRAVATED ASSAULT	2	4	0	4	3	6	4	4	5	32
ANIMAL CRUELTY	0	0	0	0	1	1	0	0	1	3
ANIMAL ORDINANCES	2	1	0	0	4	2	1	0	1	11
ARSON	1	1	0	0	0	2	3	0	1	8
ASSAULT SIMPLE	18	16	9	10	15	17	13	14	15	127
ATTEMPTED MURDER	0	0	0	0	0	0	1	1	0	2
BURGLARY - BUSINESS	1	5	1	1	3	3	0	2	2	18
BURGLARY - OTHER STRUCTURE	1	1	3	0	1	1	0	1	2	10
BURGLARY - RESIDENCE	2	8	2	1	0	5	3	4	0	25
CHILD NEGLECT	0	0	0	0	1	0	0	1	0	2
CITY ORDINANCE	0	0	0	1	0	0	0	0	0	1
CRIME DAMAGE-NO VANDALISM OR ARSON	9	23	4	12	15	13	16	12	10	114
CRIMINAL MISTREATMENT	1	0	0	0	0	0	1	0	0	2
CURFEW	0	0	0	1	0	0	0	0	0	1
CUSTODY - MENTAL	5	0	0	8	4	5	3	3	1	29
DISORDERLY CONDUCT	8	6	4	6	5	3	8	5	8	53
DRINKING IN PUBLIC	0	0	0	0	1	0	0	0	0	1
DRIVING UNDER INFLUENCE	5	10	2	1	3	8	9	8	17	63
DRUG LAW VIOLATIONS	13	9	7	9	17	14	9	10	12	100
DRUG PARAPHERNALIA	0	0	0	0	0	1	0	0	0	1
DWS/REVOKED - FELONY	0	0	0	0	0	1	0	0	2	3
DWS/REVOKED-MISDEMEANOR	2	1	2	3	3	3	6	2	2	24
ELUDE	1	2	2	4	1	4	0	4	8	26
ESCAPE FROM YOUR CUSTODY	1	1	1	1	0	0	0	0	1	5
EXTORTION/BLACKMAIL	0	0	0	3	0	1	1	1	0	6
FAIL TO DISPLAY OPERATORS LICENSE	0	3	0	1	1	0	0	0	1	6
FAILURE TO REGISTER AS SEX OFFENDER	0	0	1	0	1	0	0	0	0	2
FORCIBLE RAPE	2	3	3	1	2	6	1	0	1	19
FORGERY/COUNTERFEITING	2	5	4	4	2	3	3	1	2	26
FRAUD - BY DECEPTION/FALSE PRETENSES	3	5	9	2	4	4	6	4	6	43
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	3	4	2	1	1	1	1	2	1	16
FRAUD - NOT SUFFICIENT FUNDS CHECK	0	0	2	0	0	0	0	0	0	2
FRAUD - OF SERVICES/FALSE PRETENSES	0	0	0	0	0	1	0	0	0	1
FRAUD - WIRE	0	0	0	1	0	0	2	0	0	3
FUGITIVE ARREST FOR ANOTHER AGENCY	35	20	15	13	19	26	22	25	26	201
GARBAGE LITTERING	0	0	0	0	1	0	0	0	0	1
HIT AND RUN FELONY	0	1	0	0	0	0	0	0	2	3
HIT AND RUN-MISDEMEANOR	18	14	9	14	16	18	19	38	13	159
IDENTITY THEFT	3	5	6	1	3	4	0	2	3	27
INTIMIDATION /OTHER CRIMINAL THREAT	3	5	4	1	5	6	5	4	0	33
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	1	1	0	0	0	0	2	0	3	7
MINOR IN POSSESSION	0	2	2	1	0	0	2	0	0	7
MISCELLANEOUS	24	19	15	12	17	14	27	26	18	172
MOTOR VEHICLE THEFT	8	12	26	31	53	30	22	30	20	232
NEGLIGENT MANSLAUGHTER	0	0	0	0	0	0	1	0	0	1
NON CRIMINAL DOMESTIC DISTURBANCE	15	6	13	21	14	16	16	16	21	138
OTHER	3	4	3	6	8	8	5	2	6	45
PROPERTY - FOUND LOST MISLAID	5	1	4	0	6	3	3	6	2	30
PROPERTY RECOVER FOR OTHER AGENCY	0	0	0	0	1	1	0	3	2	7
PUBLIC HEALTH AND SAFETY ORDINANCES	0	0	0	1	0	0	0	0	0	1
RECKLESS DRIVING	4	6	1	4	2	4	0	4	6	31
RESTRAINING ORDER VIOLATION	5	2	0	2	1	0	1	1	1	13
ROBBERY - BUSINESS	0	1	0	0	1	0	0	0	0	2
ROBBERY - CAR JACKING	0	0	0	0	0	0	0	0	1	1
ROBBERY - CONV.STORE	0	0	0	0	0	1	0	0	0	1
ROBBERY - HIGHWAY	0	0	1	0	0	0	0	0	0	1
ROBBERY - OTHER	4	2	0	0	0	0	1	1	0	8

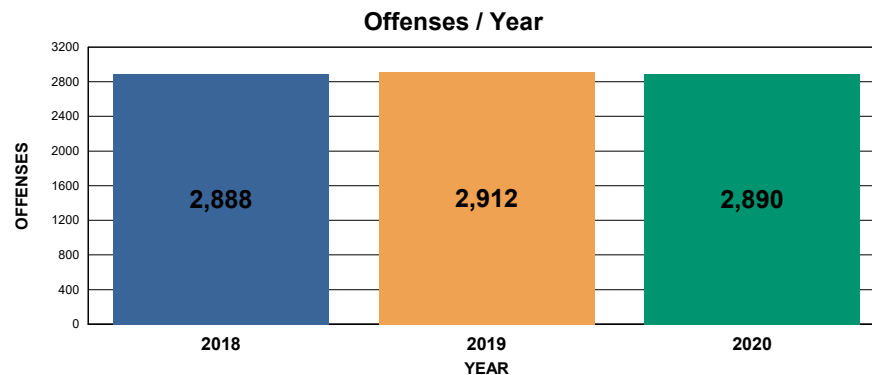
Woodburn Police Department

MONTHLY CRIMINAL OFFENSES

2020 Year to Date

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
ROBBERY - RESIDENCE	0	0	0	0	0	0	0	0	1	1
RUNAWAY	1	4	1	2	0	2	2	1	6	19
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	1	1	0	0	0	1	1	0	0	4
SEX CRIME - EXPOSER	0	1	1	0	1	0	0	2	0	5
SEX CRIME - FORCIBLE SODOMY	1	0	0	0	0	1	0	0	2	4
SEX CRIME - INCEST	0	0	1	0	0	0	0	0	0	1
SEX CRIME - MOLEST (PHYSICAL)	3	2	2	1	1	1	0	0	0	10
SEX CRIME - NON-FORCE RAPE	0	0	1	0	0	1	1	0	0	3
SEX CRIME - OBSCENE PHONE CALL	0	0	0	0	0	0	0	0	1	1
SEX CRIME - OTHER	1	0	0	0	0	0	0	0	0	1
SEX CRIME - PORNOGRAPHY/OBSCENE MATERIAL	0	0	1	0	0	1	0	0	0	2
SEX CRIME - SEXUAL ASSAULT WITH AN OBJECT	0	0	0	0	0	0	0	0	1	1
STALKER	1	0	0	1	0	3	1	1	1	8
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	1	2	1	0	1	0	1	0	1	7
SUICIDE	0	0	0	0	0	1	0	0	0	1
THEFT - BICYCLE	2	2	3	3	3	3	2	3	0	21
THEFT - BUILDING	2	4	1	4	0	1	2	0	0	14
THEFT - COIN OP MACHINE	0	2	1	0	1	0	1	1	0	6
THEFT - FROM MOTOR VEHICLE	14	15	18	25	29	18	14	17	14	164
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	4	4	6	5	8	10	4	7	8	56
THEFT - OTHER	15	23	13	7	18	14	13	5	17	125
THEFT - PICKPOCKET	0	1	0	0	0	0	0	2	0	3
THEFT - SHOPLIFT	12	16	8	5	7	16	14	16	10	104
TRAFFIC VIOLATIONS	8	11	6	1	5	4	1	6	9	51
TRESPASS	11	5	5	7	7	8	4	5	2	54
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	2	0	2	0	5	7	2	0	3	21
VANDALISM	14	15	14	22	20	31	36	15	13	180
VEHICLE RECOVERD FOR OTHER AGENCY	1	1	1	7	14	11	10	7	14	66
WEAPON - CARRY CONCEALED	1	1	1	1	2	1	2	1	0	10
WEAPON - EX FELON IN POSSESSION	0	1	1	2	0	1	0	0	1	6
WEAPON - OTHER	0	0	1	0	0	0	0	0	0	1
WEAPON - POSSESS ILLEGAL	1	2	2	2	1	4	6	3	2	23
WEAPON - SHOOTING IN PROHIBITED AREA	1	0	1	1	3	0	2	0	2	10
WILLFUL MURDER	0	0	0	0	0	0	0	0	1	1

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
2020 Total	307	322	249	278	361	376	336	329	332	2,890
2019 Total	330	235	325	297	371	374	352	346	282	2,912
2018 Total	409	284	317	342	316	309	311	308	292	2,888



Woodburn Police Department

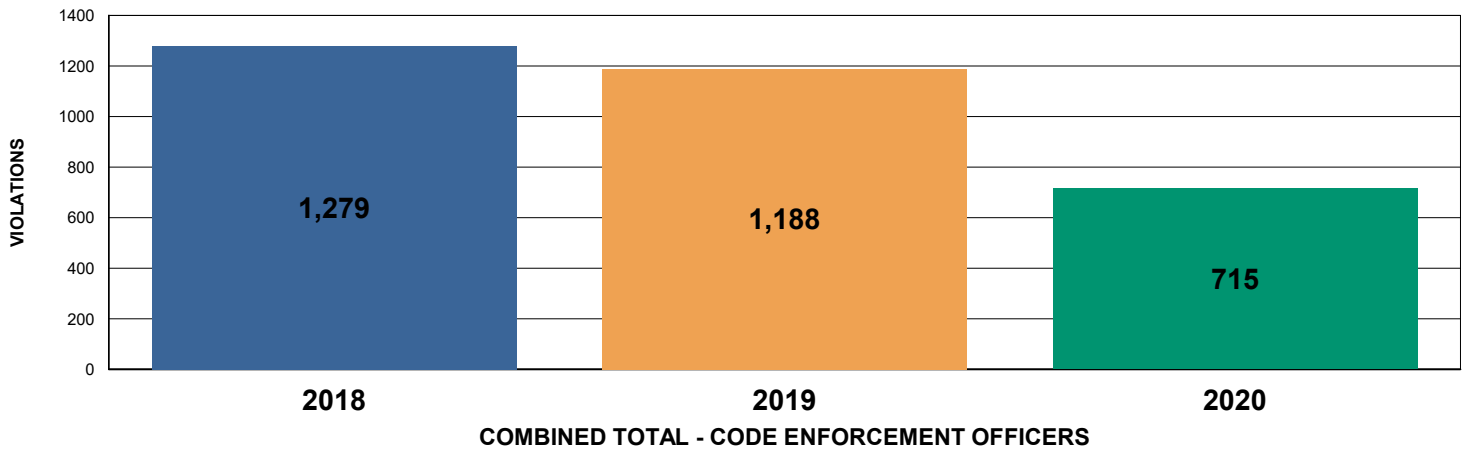
ORDINANCE VIOLATIONS

2020 Year to Date

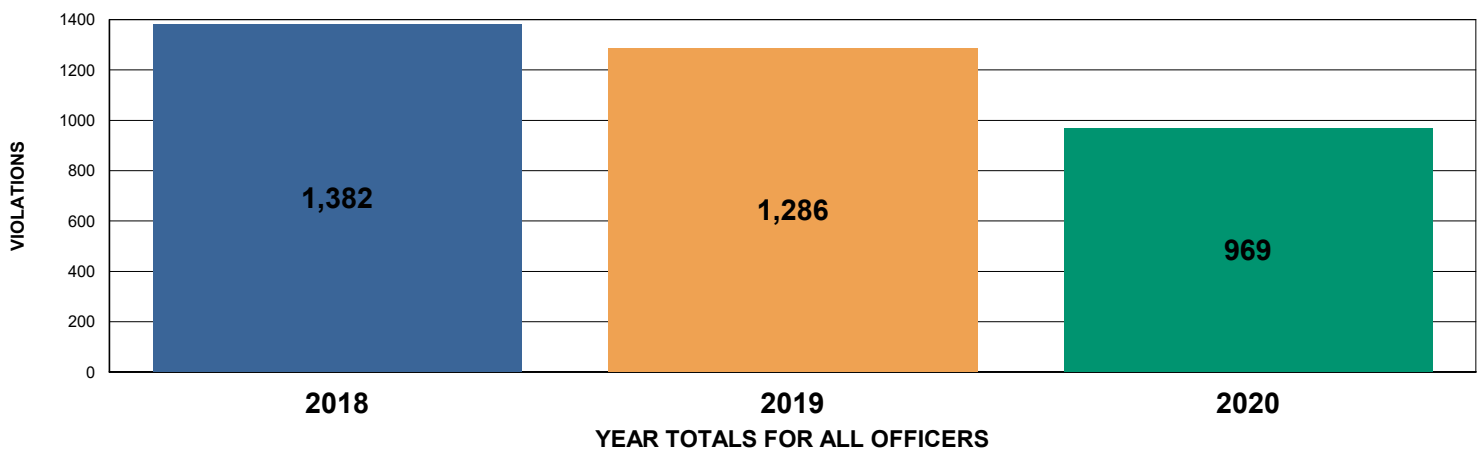
10/19/2020

Ordinance Discription	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
Animal Complaint	49	43	35	26	45	37	35	27	30	327
Ordiinance - Abate/Nuisances	0	0	1	2	0	0	0	0	0	3
Ordinance - Abandoned Vehicles	21	47	34	17	21	26	35	23	27	251
Ordinance - Abate Graffiti	4	1	0	1	0	0	1	1	0	8
Ordinance - Land Use Violations	1	2	2	4	7	3	4	0	4	27
Ordinance - Oth Violation	34	28	25	30	26	26	20	22	18	229
Ordinance - Tall Grass	0	0	0	0	57	31	19	17	0	124
2020 Total	109	121	97	80	156	123	114	90	79	969
2019 Total	141	99	148	116	205	197	173	207	144	1,430
2018 Total	176	133	156	182	223	167	140	205	121	1,503

Ordinance Violations / Code Enforcement Officers



Ordinance Violations / Year



CITY OF WOODBURN
Economic and Development Services Department

MEMORANDUM

270 Montgomery Street

Woodburn, Oregon 97071

(503) 982-5246

Date: November 2, 2020

To: Chris Kerr, Community Development Director

From: Ted Cuno, Building Division 

Subject: Building Activity for October 2020

	2018		2019		2020	
	No.	Dollar Amount	No.	Dollar Amount	No.	Dollar Amount
Single-Family Residential	3	\$451,323	1	\$256,306	0	\$0
Multi-Family Residential	4	\$77,000	0	\$0	0	\$0
Assisted Living Facilities	0	\$0	0	\$0	0	\$0
Residential Adds & Alts	6	\$162,838	5	\$126,365	4	\$31,370
Industrial	0	\$0	0	\$0	0	\$0
Commercial	7	\$447,480	6	\$279,495	2	\$154,000
Signs and Fences	0	\$0	0	\$0	0	\$0
Manufactured Homes	0	\$0	0	\$0	1	\$127,000
TOTALS	20	\$1,138,641	12	\$662,166	7	\$312,370
Fiscal Year to Date (July 1 – June 30)		\$23,436,865		\$3,557,739		\$6,744,416



Permits Issued

WOODBURN BUILDING DEPARTMENT
270 Montgomery Street
Woodburn, OR 97071
503-982-5246
FAX: 503-980-2496

www.ci.woodburn.or.us

10/1/2020 through 10/31/2020

Includes all valuations

building.dept@ci.woodburn.or.us

Record Types Selected: -All-

Commercial Alarm or Suppression Systems

971-20-000410-FIRE		Issued: 10/1/20	Fees: \$608.29	Valuation: \$12,995.00
Address: 367 W CLEVELAND ST, WOODBURN, OR 97071		Parcel: 051W18BA07800		
Owner: PEREGRINA PROPERTIES LLC				
Licensed Prof:				
Category of Construction: Multi-family		Type of Work: New		
Work Description: FIRE ALARM - SPRINKLER MONITORING AND NOTIFICATION.				
971-20-000432-FIRE		Issued: 10/19/20	Fees: \$485.30	Valuation: \$8,972.00
Address: 1001 ARNEY RD NE, WOODBURN, OR 97071		Parcel: 052W12B 00200		
Owner: WOODBURN PREMIUM OUTLETS LLC PROPERTY TAX C/O SIMON PROPERTY GROUP				
Licensed Prof:				
Category of Construction: Commercial		Type of Work: Tenant Improvement		
Work Description: Tenant improvement of space 107 plans and specifications.				
971-20-000435-FIRE		Issued: 10/20/20	Fees: \$300.82	Valuation: \$2,730.00
Address: 348 BROADWAY ST, WOODBURN, OR 97071		Parcel: 051W18AC01200		
Owner: PACO LLC				
Licensed Prof:				
Category of Construction: Commercial		Type of Work: Other		
Work Description: Install UL-1254 compliant dry chemical fire suppression system in a vehicle paint spray booth.				
971-20-000447-FIRE		Issued: 10/23/20	Fees: \$331.57	Valuation: \$3,450.00
Address: 1542 MT HOOD AVE, WOODBURN, OR 97071		Parcel: 051W08DB01400		
Owner: POWELL-ROSEBERRY LLC				
Licensed Prof:				
Category of Construction: Commercial		Type of Work: New		
Work Description: Install of fire suppression system under exhaust hood				

Commercial Alarm or Suppression Systems	4 permits issued	\$1,725.98	\$28,147.00
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Permits Issued:

Page 2 of 9

Commercial Mechanical

971-20-000406-MECH	Issued: 10/2/20	Fees: \$347.89	Valuation: \$7,980.00
Address: 745 RAY J GLATT CIR, WOODBURN, OR 97071	Parcel: 051W07AC03800		
Owner: D A HORN PROPERTIES LLC			
Licensed Prof:			
Category of Construction: Commercial	Type of Work: Replacement		
Work Description: Replace gas furnace and AC			
971-20-000421-MECH	Issued: 10/6/20	Fees: \$206.70	Valuation: \$2,000.00
Address: 1390 N PACIFIC HWY, WOODBURN, OR 97071	Parcel: 051W08DB02700		
Owner: FOONG, FOOHONG			
Licensed Prof:			
Category of Construction: Commercial	Type of Work: Alteration		
Work Description: Alter ductwork and exhaust to accommodate for the new bathroom conversion			
971-20-000422-MECH	Issued: 10/21/20	Fees: \$826.80	Valuation: \$29,000.00
Address: 1542 MT HOOD AVE, WOODBURN, OR 97071	Parcel: 051W08DB01400		
Owner: POWELL-ROSEBERRY LLC			
Licensed Prof:			
Category of Construction: Commercial	Type of Work: Alteration		
Work Description: Demo existing 4' Type 1 exhaust hood replacing with new 9' Type 1 exhaust hood, new UL listed exhaust duct, new exhaust fan, new Heated MUA fan, new fire suppression system			
971-20-000424-MECH	Issued: 10/8/20	Fees: \$277.30	Valuation: \$5,000.00
Address: 1041 N BOONES FERRY RD, WOODBURN, OR 97071	Parcel:		
Owner:			
Licensed Prof: REED PLUMBING LLC			
Category of Construction: Commercial	Type of Work: Addition		
Work Description: Adding gas lines to rooftop on addition			
971-20-000425-MECH	Issued: 10/14/20	Fees: \$253.76	Valuation: \$4,000.00
Address: 307 N 1ST ST, WOODBURN, OR 97071	Parcel: 051W18BA00800		
Owner: NAM, BONG HYUN & NAM, WON HEE			
Licensed Prof:			
Category of Construction: Commercial	Type of Work: Alteration		
Work Description: Installation of Type 2 vapor hood over convection oven, with duct fan and curb			
971-20-000440-MECH	Issued: 10/19/20	Fees: \$2,494.82	Valuation: \$153,000.00
Address: 400 S WOODLAND AVE, WOODBURN, OR 97071	Parcel: 052W11 00100		
Owner: WINCO FOODS LLC ATTN TAX DEPARTMENT			
Licensed Prof:			
Category of Construction: Commercial	Type of Work: Replacement		
Work Description: Like for like switch-out of MAU 1-2 units.			

Permits Issued:

Commercial Mechanical

971-20-000446-MECH		Issued: 10/22/20	Fees: \$206.70	Valuation: \$1,900.00
Address: 1001 ARNEY RD NE, WOODBURN, OR 97071		Parcel: 052W12B 00200		
Owner: WOODBURN PREMIUM OUTLETS LLC PROPERTY TAX C/O SIMON PROPERTY GROUP				
Licensed Prof:				
Category of Construction:	Commercial	Type of Work:	Tenant Improvement	
Work Description:	install bathroom fan and hook up to existing duct			
971-20-000448-MECH		Issued: 10/30/20	Fees: \$206.70	Valuation: \$1,000.00
Address: 1001 ARNEY RD NE, STE# 300, WOODBURN, OR 97071		Parcel: 052W12B 00200		
Owner: WOODBURN PREMIUM OUTLETS LLC PROPERTY TAX C/O SIMON PROPERTY GROUP				
Licensed Prof:				
Category of Construction:	Commercial	Type of Work:	Alteration	
Work Description:	100 ft gas line for (1) RTU			

Commercial Mechanical	8 permits issued	\$4,820.67	\$203,880.00
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Commercial Structural

971-20-000436-STR		Issued: 10/14/20		Fees: \$1,984.18		Valuation: \$97,000.00	
Address: 311 EVERGREEN RD NE, BLDG# A and B, WOODBURN, OR 97071							
Owner: CASCADE MEADOW LLC C/O KWDS LLC							
Licensed Prof: KOHL INC							
Category of Construction: Multi-family				Type of Work: Replacement			
Work Description: Building A with lease office and building B remove vinyl siding and replace with Hardi-Plank.							
971-20-000439-STR		Issued: 10/19/20		Fees: \$1,415.38		Valuation: \$57,000.00	
Address: 1785 N FRONT ST, WOODBURN, OR 97071							
Owner: WOODBURN SCHOOL DISTRICT 103							
Licensed Prof:							
Category of Construction: Accessory Structure				Type of Work: Addition			
Work Description: Replace a pole-barn storage building at the end of track.							

Commercial Structural	2 permits issued	\$3,399.56	\$154,000.00
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Residential Manufactured Dwelling			
971-20-000408-MD	Issued: 10/5/20	Fees: \$634.90	Valuation: \$127,000.00
Address: 448 Barley ST, WOODBURN, OR 97071	Parcel: 052W13 00102		
Owner: DETOM LLC			
Licensed Prof: VALLEY RESIDENTIAL SERVICES LLC			
Category of Construction: Manufactured Dwelling	Type of Work: Replacement		
Work Description: Replace Manufactured Home That Has Already Been Removed.			
Residential Manufactured Dwelling	1 permits issued	\$634.90	\$127,000.00

Permits Issued:

Page 5 of 9

Residential Mechanical

971-20-000418-MECH		Issued: 10/1/20	Fees: \$100.80	Valuation: \$0.00
Address: 256 E CLACKAMAS CIR, WOODBURN, OR 97071				
Owner: DUNCAN, MADALYN C				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Replacement	
Work Description:	REPLACE GAS FURNACE			
971-20-000419-MECH		Issued: 10/1/20	Fees: \$100.80	Valuation: \$1,500.00
Address: 1053 YOUNG ST, WOODBURN, OR 97071				
Owner: DEJESUS, PAULINO				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Replacement	
Work Description:	Gas Line Pressure Test Installing a Gas Furnace Installing a AC unit			
971-20-000420-MECH		Issued: 10/2/20	Fees: \$100.80	Valuation: \$4,198.00
Address: 2835 ROANOKE ST, WOODBURN, OR 97071				
Owner: REISDORF, APRIL A				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description:	Installing Gas Furnace			
971-20-000423-MECH		Issued: 10/6/20	Fees: \$100.80	Valuation: \$1,500.00
Address: 1070 KELOWNA CT, WOODBURN, OR 97071				
Owner: LOPEZ, DAMASO FALCON & FALCON,MA CATALINA A				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Replacement	
Work Description:	Furnace Replacement from Hallway to Garage			
971-20-000426-MECH		Issued: 10/7/20	Fees: \$100.80	Valuation: \$850.00
Address: 1358 GARDEN WAY, WOODBURN, OR 97071				
Owner: YOHO, JULIE				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description:	Install 30 ft of gas line to gas stove			
971-20-000427-MECH		Issued: 10/7/20	Fees: \$100.80	Valuation: \$0.00
Address: 1760 RAINIER RD, WOODBURN, OR 97071				
Owner: CONNELLY, JAMES A & CONNELLY, ELIZABETH A				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Addition	
Work Description:	install gas furnace			

Permits Issued:

Residential Mechanical

971-20-000428-MECH		Issued: 10/7/20	Fees: \$100.80	Valuation: \$500.00
Address: 3249 OXFORD ST, WOODBURN, OR 97071				
Owner: BRANSON, JERRY & BRANSON, GUDELIA				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Addition	
Work Description: install new gas line to kitchen range				
971-20-000430-MECH		Issued: 10/9/20	Fees: \$100.80	Valuation: \$0.00
Address: 427 Oats ST, WOODBURN, OR 97071				
Owner: DETOM LLC				
Licensed Prof: ADVANTAGE HEATING AND AIR CONDITIONING LLC				
Category of Construction:	Manufactured Dwelling	Type of Work:	Alteration	
Work Description: 427 Oat St. Install air handler and heat pump				
971-20-000431-MECH		Issued: 10/9/20	Fees: \$100.80	Valuation: \$5,686.00
Address: 750 ELANA WAY, WOODBURN, OR 97071				
Owner: WILSON, MICHAEL L & WILSON, HEATHER				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description: Wood Stove & Chimney				
971-20-000433-MECH		Issued: 10/12/20	Fees: \$100.80	Valuation: \$0.00
Address: 612 N CASCADE DR, SPC# 78, WOODBURN, OR 97071				
Owner: WESTERN SAGE MANAGEMENT INC C/O MICHAEL HUARTE				
Licensed Prof: ADVANTAGE HEATING AND AIR CONDITIONING LLC				
Category of Construction:	Manufactured Dwelling	Type of Work:	Alteration	
Work Description: SPC #78 Install air handler and heat pump.				
971-20-000434-MECH		Issued: 10/12/20	Fees: \$100.80	Valuation: \$9,719.00
Address: 953 WOODLAND AVE, WOODBURN, OR 97071				
Owner: TANZER, JUDY A				
Licensed Prof:				
Category of Construction:	Manufactured Dwelling	Type of Work:	Alteration	
Work Description: install heat pump and air handler				
971-20-000437-MECH		Issued: 10/14/20	Fees: \$100.80	Valuation: \$9,719.00
Address: 953 WOODLAND AVE, WOODBURN, OR 97071				
Owner: TANZER, JUDY A				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description: INSTALL HEAT PUMP AND AIR HANDLER				

Permits Issued:

Residential Mechanical

971-20-000442-MECH		Issued: 10/17/20	Fees: \$100.80	Valuation: \$10,049.00
Address: 1241 WILLOW AVE, WOODBURN, OR 97071		Parcel: 052W01CC04300		
Owner: BURNETT, JACQUELINE ANN BURNETT, MARIO				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description: INSTALL AIR HANDLER & HEAT PUMP				
971-20-000443-MECH		Issued: 10/19/20	Fees: \$100.80	Valuation: \$4,930.00
Address: 885 MCKINLEY ST, WOODBURN, OR 97071		Parcel: 051W17BB01800		
Owner: ELLIS, RICHARD & DEPUE, TAMARA				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Replacement	
Work Description: install gas furnace				
971-20-000444-MECH		Issued: 10/19/20	Fees: \$100.80	Valuation: \$0.00
Address: 925 N CASCADE DR, WOODBURN, OR 97071		Parcel: 052W12DA02003		
Owner: PUENTE, RICARDO & PUENTE, VELEN M				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Replacement	
Work Description: REPLACE GAS FURNACE AND AIR CONDITIONER				
971-20-000445-MECH		Issued: 10/19/20	Fees: \$100.80	Valuation: \$3,926.00
Address: 209 E CLACKAMAS CIR, WOODBURN, OR 97071		Parcel: 052W12DC09600		
Owner: CAMPBELL, PATRICK L & CAMPBELL, BARBARA A				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description: Gas Insert to Existing Gas				
971-20-000456-MECH		Issued: 10/26/20	Fees: \$100.80	Valuation: \$3,692.00
Address: 365 BRANDYWINE CT, WOODBURN, OR 97071		Parcel: 051W18CB05300		
Owner: ESPINOZA, PEDRO & ESPINOZA, LUCIA				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description: install gas furnace				
971-20-000458-MECH		Issued: 10/28/20	Fees: \$100.80	Valuation: \$5,204.00
Address: 1450 FOXGLOVE ST, WOODBURN, OR 97071		Parcel: 051W18CC12800		
Owner: WOODBURN DEVELOPMENT LLC				
Licensed Prof:				
Category of Construction:	Single Family Dwelling	Type of Work:	Alteration	
Work Description: install air conditioner				

Permits Issued:

Residential Mechanical

971-20-000459-MECH		Issued: 10/28/20	Fees: \$100.80	Valuation: \$825.00
Address: 1358 GARDEN WAY, WOODBURN, OR 97071				
Owner: YOHO, JULIE				
Licensed Prof:				
Category of Construction: Single Family Dwelling		Type of Work: Alteration		
Work Description: Install gas line to range				
971-20-000461-MECH		Issued: 10/29/20	Fees: \$100.80	Valuation: \$0.00
Address: 2671 HAZELNUT DR, WOODBURN, OR 97071				
Owner: EDWARDS FAM TR & EDWARDS, EARL VERNON JR TRE & EDWARDS,CAROL A TRE				
Licensed Prof:				
Category of Construction: Single Family Dwelling		Type of Work: Replacement		
Work Description: Replace gas furnace				
971-20-000463-MECH		Issued: 10/30/20	Fees: \$100.80	Valuation: \$4,238.50
Address: 1340 WALTON WAY, WOODBURN, OR 97071				
Owner: REGAN, MICHAEL C				
Licensed Prof:				
Category of Construction: Single Family Dwelling		Type of Work: Alteration		
Work Description: Gas Insert to existing gas				
971-20-000464-MECH		Issued: 10/30/20	Fees: \$100.80	Valuation: \$7,965.00
Address: 1396 JUNE WAY, WOODBURN, OR 97071				
Owner: MARAVILLA, LYNDIA E & MARAVILLA, THOMAS I				
Licensed Prof:				
Category of Construction: Single Family Dwelling		Type of Work: Alteration		
Work Description: INSTALL GAS FURNACE & AIR CONDITIONER				

Residential Mechanical	22 permits issued	\$2,217.60	\$74,501.50
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Permits Issued:

Residential Structural

971-20-000414-STR	Issued: 10/22/20	Fees: \$250.57	Valuation: \$8,162.70
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Address: 2846 ROANOKE ST, WOODBURN, OR 97071

Parcel: 051W06CD10900

Owner: SMITH, RICHARD C & SMITH, CHERI L

Licensed Prof:

Category of Construction: Other

Type of Work: New

Work Description: 13x26 Patio cover

971-20-000429-STR	Issued: 10/9/20	Fees: \$336.00	Valuation: \$4,683.92
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Address: 2225 W HAYES ST, WOODBURN, OR 97071

Parcel: 052W12DC01900

Owner: WALTER, ERIC

Licensed Prof:

Category of Construction: Single Family Dwelling

Type of Work: Alteration

Work Description: INSTALLATION OF UTILITY INTERACTIVE PHOTOVOLTAIC SOLAR SYSTEM
3.78 kW DC PHOTOVOLTAIC SOLAR ARRAY
ROOF TYPE: Comp Shingle
MODULES: (12) Jinko Solar Eagle 315W M 60CEL BLACK
INVERTER(S): Enphase IQ7-60-2-US Microinverters,----
RACKING: Unirac SFM Infinity

971-20-000438-STR	Issued: 10/19/20	Fees: \$336.00	Valuation: \$5,000.00
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Address: 1311 FOXGLOVE ST, WOODBURN, OR 97071

Parcel: 051W18CC07200

Owner: SINGER, PAUL E JR

Licensed Prof:

Category of Construction: Single Family Dwelling

Type of Work: Alteration

Work Description: 5.00kWAC Solar PV prescriptive roof mount installation

971-20-000441-STR	Issued: 10/28/20	Fees: \$333.12	Valuation: \$13,524.00
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Address: 1227 JACOB ST, WOODBURN, OR 97071

Parcel: 051W07BD04600

Owner: MORALES, SALVADOR A & MORALES, IMELDA P

Licensed Prof: ALPHA CONTRACTORS LLC

Category of Construction: Single Family Dwelling

Type of Work: Addition

Work Description: 560 sqft. 14' X 40' new back yard patio cover

Residential Structural	4 permits issued	\$1,255.69	\$31,370.62
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41 permits issued		\$14,054.40	\$618,899.12
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November 9, 2020

TO: Honorable Mayor and City Council

FROM: Jim Row, Assistant City Administrator
McKenzie Granum, Assistant City Attorney

SUBJECT: **Utility Service Ordinance & Resolution setting ROW Utility License and Usage Fee Rates**

RECOMMENDATION:

As part of the City's implementation of a new licensing program to regulate utility services providers that access, use, and occupy the City's rights-of-way ("ROW"):

1. Enact the Utility Services Ordinance; and
2. Adopt a Resolution setting ROW utility license and usage fee rates in the City.

BACKGROUND:

Earlier this year, staff initiated a review of the City's process for regulating utility services providers' use of the City's ROW. At the July 13th City Council Meeting, Consultant Reba Crocker of ROW Consultants LLC, introduced what is to be a new utility licensing program in the City. At that a meeting a general introduction to the topic was presented and an initial draft ordinance and associated fee resolution was presented for the Council's review. Following that meeting, the proposed draft was sent to numerous providers of telecommunications, gas, and electric services in Oregon.

The City received written feedback regarding its ordinance proposal from four companies (AT&T, Verizon, Fatbeam, and PGE). The Council then reviewed this feedback and other policy considerations regarding the ordinance and fee resolution at a work session during its October council meeting.

DISCUSSION:

Agenda Item Review: City Administrator ___x___ City Attorney ___x___ Finance ___x___

By adopting the Utility Service Ordinance and correlating fee schedule, the City will join roughly one dozen other municipalities in Oregon that have implemented a uniform ROW licensing system.

Given the complexity of developing and implementing the proposed ROW management program, staff has worked closely with ROW Consultants LLC, and its Principal Reba Crocker, to develop the program, which if adopted will have an implementation date of January 1, 2021.

After the City adopts the new Utility Services Ordinance, utility service providers will be actively identified and subjected to the new licensing program. The six (6) providers that are currently operating under franchise agreements will not be subject to the new ROW management/licensing program until their existing agreements expire.

As provided previously, the pertinent provisions of the enclosed Utility Services Ordinance include:

- Utilities operated by the City and other municipalities are exempted from the requirements of this ordinance (currently managed under a different ordinance);
- Providers are required to maintain a City of Woodburn Business Registration;
- Providers with existing franchises agreements are exempted until their agreements expire;
- Preserves the City's right to enter into franchise agreements with individual providers in situations where the public interest warrants;
- Wire line cable television providers will continue to operate under franchise agreements due to protections under FCC law;
- Each license with utility providers will be for a term of five (5) years;
- Licenses are transferrable upon the written consent of the City, provided the transfers are consistent with state and federal law;
- Providers seeking license renewals shall submit license applications at least thirty (30) days, but not more than ninety (90) days prior to expiration;
- Includes provisions under which the City may terminate licenses;
- Includes requirements that providers must comply with related to the location, construction, maintenance and removal of facilities in the ROW; and
- Provides for ROW license and usage fees to be established by resolution.
- Current vs. Proposed usage fees are shown in the below chart with substantive changes highlighted in red:

	Current	Proposed	End User
NW Natural	3% + 2% (5%)	5%	2%
PGE	3.5% + 1.5% (5%)	5%	1.5%
Cable <ul style="list-style-type: none"> Wave 	Franchised @5% of Gross Revenue	5%	5%
Small Cell Wireless	0%	\$270 per year, per cell	Unknown
Facility Owners-providing services <ul style="list-style-type: none"> Data Vision LightSpeed Wave Zayo 	Franchised @ 7% of Gross Revenue	7% of Gross Revenue	Up to 7%
Facility Owners – not providing services <ul style="list-style-type: none"> Longhaul/backhaul 	0%	\$3.00 per linear foot - \$5,000 minimum	0%
Non-Facility Owners <ul style="list-style-type: none"> Wireless Providers Resellers ESS providers 	0%	7% of Gross Revenue	Up to 7%

Program Implementation Timeline:

- November 9 – Ordinance & Resolution Adoption
- November 10 – December 31
 - Management systems and forms developed
 - Contact with all known providers
 - License applications processed and issued
 - Several providers have already requested applications
- January 1, 2021- Ordinance and Resolution in effect
- April 30, 2021 - first usage payments are remitted
- Ongoing – at least yearly updates and housekeeping to the Ordinance

FINANCIAL IMPACT:

The development of a uniform utility service provider licensing program is anticipated to result in an increase in ROW usage fees, formerly referred to as franchise fees. The amount of the increase is unknown at this time and will depend

on the number of utility service providers the City is able to determine are utilizing the ROW.

Enclosures:

Utility Service Ordinance

Utility License & Usage Fee Resolution

COUNCIL BILL NO. 3137

ORDINANCE NO. 2583

AN ORDINANCE PROVIDING FOR THE MANAGEMENT OF UTILITY SERVICES WITHIN THE CITY AND ACCESS TO AND USE OF THE CITY'S RIGHTS-OF-WAY

WHEREAS, the City of Woodburn ("City") has a statutory and Constitutional authority to manage its rights-of-way and to receive compensation for private use of the rights-of-way consistent with applicable state and federal law;

WHEREAS, the City has generally granted individually-negotiated franchises to each utility using the City's rights-of-way to provide utility services;

WHEREAS, the City has determined that it can more effectively, efficiently, and fairly manage the City's rights-of-way and provide consistent standards for utility use of the rights-of-way through licenses rather than franchises;

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Title. The ordinance will be known and may be referenced as the Utility Service Ordinance.

Section 2. Purpose and Intent. The purpose and intent of this Ordinance is to:

A. Permit and manage reasonable access to and use of the City's rights-of-way for utility purposes and conserve the limited physical capacity of those rights-of-way held in trust by the City consistent with applicable state and federal law;

B. Assure that the City's current and ongoing costs of granting and regulating access to, the use of the rights-of-way and utility services provisioned in the City, are fully compensated by the persons seeking such access and causing such costs;

C. Secure fair and reasonable compensation to the City and its residents for permitting use of the rights-of-way by persons who generate revenue by placing, owning, controlling, using or operating facilities therein or generate revenue for utility services;

D. Assure that all utility companies, persons and other entities owning, operating facilities, using facilities, or providing services within the City comply with the ordinances, rules and all regulations of the City heretofore or hereafter amended or adopted;

1. For the purposes of this Ordinance, all utility services owned or operated by the City are excluded.
2. For the purposes of this Ordinance, all utility services owned or operated by other municipalities are excluded.

E. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare of its residents;

F. Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the City by,

1. Allowing the City to enter into other or additional agreements with Utility Providers and Operators, if the public's interest is served, and to amend the requirement of this Ordinance and the City regulations, as new technology is developed;
2. Allowing the City to be resilient and adaptive to changes in technology; and

G. Comply with applicable provisions of state and federal law.

Section 3. Jurisdiction and Management of the Public Rights-of-way.

A. The City has jurisdiction and exercises regulatory management over, all rights-of-way within the City and provision of services, under authority of the City Charter and Oregon law.

B. The City has jurisdiction and exercises regulatory management over each right-of-way whether the City has a fee, easement, or other legal interest in the right-of-way, and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

C. The exercise of jurisdiction and regulatory management of a right-of-way by the City is not official acceptance of the right-of-way and does not obligate the City to maintain or repair any part of the right-of-way.

D. The provisions of this Ordinance are subject to and will be applied consistent with applicable state and federal laws, rules and regulations, and, to the extent possible, will be interpreted to be consistent with such laws, rules and regulations.

Section 4. Regulatory Fees and Compensation Not a Tax.

A. The fees and costs provided for in this Ordinance, and any compensation charged and paid for use of the rights-of-way and the provision of services provided for in this Ordinance, are separate from, and in addition to, any and all other federal, state, local, and City charges, including but not limited to: any permit fee, or any other generally applicable fees, tax, or charge on business, occupations, property, or income as may be levied, imposed, or due from a utility operator, utility provider, franchisee or licensee, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of utility services.

B. The City has determined that any fee or tax provided for by this Ordinance is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees or taxes are not imposed on property or property owners.

C. The fees and costs provided for in this Ordinance are subject to applicable federal and state laws.

Section 5. Definitions. For the purpose of this Ordinance the following terms, phrases, words and their derivations will have the meaning given herein. When not inconsistent with the context, words not defined herein will be given the meaning set forth in the Communications Act of 1934, as amended, the Cable Act, and the Telecommunications Act. If not defined in those statutes, the words will be given their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive.

"Cable Act" means the Cable Communications Policy Act of 1987, 47 U.S.C., Section 521, et seq., as now and hereafter amended.

"Cable service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of: (i) video programming, or (ii) other

programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

“Calendar year” means January 1 to December 31, unless otherwise noted.

“City” means the city of Woodburn, an Oregon municipal corporation, and individuals authorized to act on the City’s behalf.

“City council” means the elected governing body of the city of Woodburn, Oregon.

“City facilities” means City or publicly owned structures or equipment located within the right-of-way or public easement used for governmental purposes.

“City standards” means the all ordinances, codes, regulations and rules of the City of Woodburn, in effect at the time of any work.

“City property” means and includes all real property owned by the City, other than public right-of-way and utility easement as those are defined herein, and all property held in proprietary capacity by the City.

“Communications services” means any service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself. Communications service includes all forms of telephone services and voice, video, data or information transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 C.F.R. 76; (3) private communications system services provided without using the public rights-of-way; (4) public communications systems; (5) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and (6) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act.

“Construction” means any activity in the public right-of-way resulting in physical change thereto, including excavation or placement of structures.

“Control” or “Use of Facilities” means actual working control over utility facilities in whatever manner exercised, whether or not the facility is owned. For example, but not limitation, Control means and includes leased capacity, transport, or any other use.

"Days" mean calendar days unless otherwise specified.

"Emergency" means a circumstance in which immediate work to repair damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

"Federal Communications Commission" or "FCC" means the federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Gross Revenue" means any and all amounts, of any kind, nature or form, without deduction for expense, less net uncollectable, derived from the operation (including revenue derived from a leases or other agreements allowing use of facilities to other utility operators or providers), or use of utility facilities in the City, operation of a Communications Services or the provision of utility service(s) in the City, subject to all applicable limitations in federal or state law.

"License" or "Utility License" means the authorization granted by the City to a utility operator or utility provider pursuant to this Ordinance.

"Licensee" or "Utility Licensee" means any person that has a valid Utility licensed issued by the City.

"Person" means and includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint-stock company, trust, limited liability company, association, municipality, special district, government entity or other organization, including any natural person or any other legal entity.

"Private communications system" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for sale or resale, including trade, barter or other exchange of value, directly or indirectly, to any person.

"Public communications system" means any system owned or operated by a government entity or entities for its exclusive use for internal communications or communications with other government entities, and includes services provided by the state of Oregon pursuant to ORS 283.140. "Public communications system" does not include any system used for sale or resale, including trade, barter or other exchange of value, of communications services or capacity on the system, directly or indirectly, to any person.

“Public utility easement” means the space in, upon, above, along, across, over or under an easement for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of utilities facilities. “Public utility easement” does not include an easement (i) that has been privately acquired by a utility operator, (ii) solely for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of city facilities, or (iii) where the proposed use by the utility operator is inconsistent with the terms of any easement granted to the City.

“Right-of-way” , “Rights-of-Way”, “Public right-of-way”, or “ROW” means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other city property not generally open to the public for travel. This definition applies only to the extent of the City’s right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.

“Small Cell Wireless Facility” means Facilities owned or operated for the provision of communications that are shorter ranged, wireless systems affixed to a structure with generally smaller components than traditional Macro Wireless Facilities and are deployed where suitable in flexible configurations to provide capacity and coverage. Small Cell Wireless Facilities means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(l), as may be amended or superseded:

- (1) The facilities (i) are mounted on structures 50 feet or less in height including the antennas, or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and,
- (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume; and,
- (3) All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and,
- (4) The facilities do not result in human exposure to radio

frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

“State” means the state of Oregon.

“Structure” means any facility a Utility Provider or Utility Operator places in the ROW, including but not limited to poles, vaults or manholes, hand holds, or junction boxes, conduit, direct bury cable, wires, pedestals, aerial cables or wires and transformers.

“Telecommunications Act” means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C., 151 et seq.) and as hereafter amended.

“Utility facility” or “facility” means any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plant, equipment and other facilities, located within, under or above the rights-of-way, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.

“Utility operator” or “operator” means any person who owns, places, controls, operates or maintains a utility facility within the City.

“Utility provider” or “Provider” means any person who provides utility service or communication services to customers within the City limits, whether or not any facilities in the ROW are owned by such provider.

“Utility service” means the provision, by means of utility facilities permanently located within, under or above the rights-of-way, whether or not such facilities are owned by the service provider, of electricity, natural gas, communications services, or cable services, to or from customers within the City limits, or the transmission or provision of any of these services through the City whether or not customers within the City are served by those transmissions and whether or not the facilities used for transmission are owned by the service provider.

“Work” means the construction, demolition, installation, replacement, repair, maintenance or relocation of any utility facility, including but not limited to any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance or relocation.

Section 6. Business Registration. Business Registration Required. Every person that desires to use, operate or control utility facilities, or provide utility

services to customers within the City will register with the City prior to use, operation, control of utility facilities, or providing any utility services to any customer in the City, in compliance with Ordinance No. 2399. Every person using, operating, controlling, or providing utility services to customers within the City as of the effective date of this Ordinance will obtain a Business Registration within thirty (30) days of the effective date of this Ordinance. Every person subject to this Ordinance will renew and maintain a Business Registration as required in Woodburn's Ordinances that are heretofore or hereafter amended, at all times that the person, uses, operates, controls, provides or operates a utility services, to customers within the City.

Section 7. Utility License.

A. License Required. Except those utility operators and utility providers with a valid franchise or other valid agreement from the City, every person will obtain a Utility License from the City prior to conducting any work in or use of the ROW, or providing utility services or communication services to or from customers within the City limits, or the transmission or provision of any of these services through the City whether or not customers within the City are served by those transmissions and whether or not the facilities used for transmission are owned by the service provider.

1. Every person that owns, or controls, provides utility services, or uses utility facilities in the rights-of-way as of the effective date of this Ordinance will apply for a Utility License from the City within thirty (30) days of the later of: (1) the effective date of this Ordinance, or (2) the expiration of a valid agreement granted by the City, unless a new agreement is granted by the City (3) for a person that is not a utility operator, providing utility services within the City.
2. The provisions of this section do not apply to any person subject to and in compliance with the cable television franchise requirement, except that subsection K will apply to the extent such person provides multiple services, subject to applicable law.

B. Utility License Application. The license application will be on a form provided by the City, and will be accompanied by any additional documents required by the application or the City, in the City's sole discretion, to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, a description of the facilities over which the utility service will be

provisioned, and other information necessary to determine the applicant's ability to comply with the terms of this Ordinance.

C. Utility License Application & Renewal Fee. The application and renewal application will be accompanied by a nonrefundable fee or deposit set by resolution of the City Council.

D. Determination by City. The City will issue, within a reasonable period of time, a written determination granting or denying the Utility License in whole or in part. If the Utility License is denied, the written determination will include the reasons for denial. The Utility License will be evaluated based upon the provisions of this Ordinance, the information contained on the Utility License application, the continuing capacity of the rights-of-way to accommodate the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.

E. Changes to information contained on the Utility License application. Within thirty (30) days of a change to the information contained in the license application, the Licensee will notify the City in writing of such change(s).

F. Franchise and other Agreements. If the public interest warrants, as determined by the City in its sole discretion, the City and any communications provider – including cable providers, utility operator or utility provider, including Small Cell wireless providers, may enter into a written franchise or other agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this Ordinance, consistent with applicable state and federal law. The agreement may conflict with the terms of this Ordinance with the review and approval of City Council. The franchisee will be subject to the provisions of this Ordinance to the extent such provisions are not in conflict with the express provisions of any such franchise or agreement. In the event of a conflict between the express provisions of a franchise or other agreement and this Ordinance, the franchise or other agreement will control.

1. The provider requesting a franchise agreement will deposit a non-refundable fee, as set by resolution of the City Council before negotiations occur.

G. Rights Granted.

1. The Utility License granted hereunder will authorize and permit the licensee, subject to the provisions of the City regulations and ordinance and other applicable provisions of the City, state or

federal law, in effect and as may be subsequently amended, to construct, place, maintain, upgrade, repair and operate, control or use utility facilities in the rights-of-way for the term of the license for the provision of utility service(s) authorized in the license. In the event the licensee offers different service(s) than those authorized in the license, the licensee will inform the City of such changes no later than thirty (30) days after the change.

2. Any Utility License granted pursuant to this Ordinance will not convey equitable or legal title in the rights-of-way and may not be assigned or transferred except as permitted in subsection L of this section.

Neither the issuance of the Utility License nor any provisions contained therein will constitute a waiver or bar to the exercise of any governmental right or power, including without limitation, the police power or regulatory power of the City, in existence at the time the license is issued or thereafter obtained.

H. Term. Subject to the termination provisions in subsection N of this section, the Utility License granted pursuant to this Ordinance will be effective as of the date it is issued by the City or the date services began, whichever comes first, and will have a term of five (5) calendar years beginning: (1) January 1st of the year in which the license took effect for licenses that took effect between January 1st and June 30th; or (2) January 1st of the year after the license took effect for licenses that become effective between July 1st and December 31st.

I. Utility License Nonexclusive. No license granted pursuant to this section will confer any exclusive right, privilege, license or franchise to occupy or use the rights-of-way for delivery of utility services or any other purpose. The City expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the City's right to use the rights-of-way, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the rights-of-way. Nothing in the license will be deemed to grant, convey, create, or vest in licensee a real property interest in land, including any fee, leasehold interest or easement.

J. Reservation of City Rights. Nothing in the Utility License will be construed to prevent the City from grading, paving, repairing and/or altering any rights-of-way, constructing, laying down, repairing, relocating or removing City facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any city facilities. If any of licensee's

utility facilities interfere with the construction, repair, replacement, alteration or removal of any rights-of-way, public work, city utility, city improvement or city facility, except those providing utility services in competition with a licensee, licensee's facilities will be removed or relocated as provided in subsections C, D and E of Section 9, in a manner acceptable to the City and consistent with City standards, industry standard engineering and safety codes in effect at the time the work is required.

K. Multiple Services.

1. A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and Usage fee requirements of this Ordinance for the portion of the facilities and extent of utility services delivered over those facilities. Nothing in this subsection J (1) requires a utility operator to pay the Usage use fee, if any, owed to the City by another person using the utility operator's facilities.
2. A utility operator that provides or transmits more than one utility service to customers in the City may not be required to obtain a separate Utility License or franchise for each utility service, but is required to file separate reports, remittances and submit any Usage fees due for each service provided.

L. Transfer or Assignment. To the extent permitted by applicable state and federal laws, the Utility Licensee will obtain the written consent of the City prior to the transfer or assignment of the license. The license will not be transferred or assigned unless:

1. The proposed transferee or assignee is authorized under all applicable laws to own or operate the utility facilities and/or provide the utility service authorized under the license; and
2. The transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment.

The Utility Licensee requesting the transfer or assignment will fully cooperate with the City and provide requested documentation, as the City deems necessary, in the City's sole discretion, at no cost to the City, to sufficiently understand the transferees' ability to perform under the license.

If the City approves such transfer or assignment, the transferee or assignee will become responsible for fulfilling all obligations under the Utility License. A transfer or assignment of a license does not extend the term of the license.

M. Renewal. At least thirty (30) days, but no more than ninety (90) days prior to the expiration of a Utility License granted pursuant to this section, a licensee seeking renewal of its license will submit a license application to the City, including all information required in subsection B of this section and applicable fees fee required in subsection C of this section. The City will review the application as required by subsection D of this section and grant or deny the license. If the City determines that the licensee is in violation of the terms of this Ordinance, or other City Ordinances, rules or regulations, at the time it submits its application, the City may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the City, before the City will consider the application and/or grant the license. If the City requires the licensee to cure or submit a plan to cure a violation, the City will grant or deny the license application within ninety (90) days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

N. Termination.

1. Revocation or Termination of a Utility License. The City may terminate or revoke the license granted pursuant to this Ordinance for any of the following reasons:
 - a. Violation of any of the provisions of this Ordinance;
 - b. Violation of any provision of the license;
 - c. Misrepresentation in a license application;
 - d. Failure to pay taxes, compensation, fees or costs due the City after final determination by the City, of the taxes, compensation, fees or costs;
 - e. Failure to restore the rights-of-way after construction as required by this Ordinance or other applicable state and local laws, ordinances, rules and regulations;
 - f. Failure to comply with technical, safety and engineering standards related to work in the rights-of-way; or
 - g. Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance and/or operation of the utility facilities.

2. Standards for Revocation or Termination. In determining whether termination, revocation or some other sanction is appropriate, the following factors will be considered:
 - a. The egregiousness of the misconduct;
 - b. The harm that resulted;
 - c. Whether the violation was intentional;
 - d. The Licensee's history of compliance; and/or
 - e. The Licensee's cooperation in discovering, admitting and/or curing the violation.
3. Notice and Cure. The City will give the Utility Licensee written notice of any apparent violations before terminating a Utility License. The notice will include a short and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time (no less than twenty (20) and no more than forty (40) days) for the Licensee to demonstrate that the Licensee has remained in compliance, that the Licensee has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the Licensee is in the process of curing a violation or noncompliance, the Licensee must demonstrate that it acted promptly and continues to actively work on compliance. If the Licensee does not respond or if the City determines that the Licensee's response is inadequate, the City may revoke and/or terminate the Utility License.
4. Termination by Utility Licensee. If a licensee ceases to be required to have a Utility License, as defined under this Ordinance, the licensee may terminate or surrender its license, with a thirty (30) day notice to the City. Licensee may reapply for a Utility License at any time. No refunds or credits will be given for licenses terminated by the licensee or the City.
 - a. Within thirty (30) days of surrendering a Utility License, the licensee will file a final remittance form with the City stating, "final remittance" and will remit any funds due.
 - b. Upon surrendering a Utility License, the licensee will file a written statement that it has removed, or will remove within 60 days, any and all facilities from the City and no longer provides Utility Services, as defined in this ordinance.

Section 8. Construction and Restoration.

A. Construction Codes. Utility facilities will be constructed, installed, operated, repaired and maintained in accordance with all applicable federal, state and local codes, rules and regulations, including but not limited to the National Electrical Code and the National Electrical Safety Code and the City Standards, in effect at the time of the work. When a utility operator, utility provider or licensee, or any person acting on its behalf, does any work in or affecting the rights-of-way, the utility operator will, at its own expense, promptly restore the rights-of-way as directed by the City consistent with applicable city codes, rules and regulations, in effect at the time of the work. A utility operator, utility provider, licensee or other person acting on its behalf will use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person(s), vehicle or property by reason of such work in or affecting the rights of way or property.

B. Construction Permits.

1. No person will perform any work on utility facilities within the rights-of-way without first obtaining all required permits. The City will not issue a permit for the construction, installation, maintenance or repair of utility facilities unless the utility operator of the facilities has applied for and received a valid license, franchise agreement or other valid agreement (if applicable), required by this Ordinance, and all applicable fees have been paid. No permit is required for routine maintenance or repairs to customer service drops where such, repairs or maintenance do not require cutting, digging, or breaking of, or damage to, the right of way and do not result in closing or blocking any portion of the travel lane for vehicular traffic, bicycle lanes or sidewalks.
2. In the event of an Emergency, a utility operator or provider with a license pursuant to this Ordinance or its contractor may perform work on its utility facilities without first obtaining a permit from the City, provided that, to the extent reasonably feasible, it attempts to notify the City prior to commencing the emergency work and in any event applies for a permit from the City as soon as reasonably practicable, but not later than 5:00pm PST of the next business day after commencing the emergency work.

Section 9. Location of Facilities.

A. Location of Facilities. Unless otherwise agreed to in writing by the City:

1. All utility operators are required to make good faith effort to both cooperate with and coordinate their construction schedule with those of the City and other users.
2. Utility facilities will be installed underground in all areas of the City where there are no existing poles in the ROW, there is no space on existing poles in the ROW, or where the only poles in the ROW are used only for high voltage lines (as defined below). This requirement will not apply to facilities used for transmission of electric energy at nominal voltages in excess of thirty-five thousand (35,000) volts or to antennas, pedestals, cabinets or other above-ground equipment of any utility operator for which the utility operator has written authorization to place above-ground.
3. Whenever any existing electric utilities, cable facilities or communications facilities are located underground within the ROW of the City, the utility operator with permission to occupy the same ROW will install all new facilities underground at no cost to the City. This requirement will not apply to facilities used for transmission of electric energy at nominal voltages in excess of thirty-five thousand (35,000) volts ("high voltage lines") or to antennas, pedestals, cabinets or other above-ground equipment of any utility operator. The City reserves the right to require written approval of the location of any such above-ground equipment in the ROW.

B. Interference with the Rights-of-Way. No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the rights-of-way by the City, by the general public or by other persons authorized to use or be present in or upon the rights-of-way. Utility facilities will not be located in area of restricted sight distance nor interfere with the proper function of traffic control signs, signals, lighting, or other devices that affect traffic operation. All use of the rights-of-way will be consistent with City codes, ordinances, rules and regulations in effect and as may be subsequently amended.

C. Relocation of Utility Facilities. Unless otherwise agreed to in writing by the City:

1. A utility operator will, at no cost to the City, temporarily or permanently remove, relocate, change or alter the position of any utility facility within the ROW, including relocation of aerial facilities

underground, when requested to do so in writing by the City. If relocation is required by the City, the City will bear no responsibility or incur any costs, to provide or in any way secure alternate locations.

2. Nothing herein will be deemed to preclude the utility operator from seeking reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs or agreements, provided that the utility operator will timely comply with the requirements of this section regardless of whether or not it has requested or received such reimbursement or compensation.
3. The City may coordinate the schedule for relocation of utility facilities and based on such effort will provide written notice of the time by which the utility operator must remove, relocate, change, alter or underground its facilities. If a utility operator fails to remove, relocate, change, alter or underground any utility facility as requested by the City by the date reasonably established by the City, the utility operator will pay all costs incurred by the City due to such failure, including but not limited to costs related to project delays, and the City may cause, using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations, the utility facility to be removed, relocated, altered, or undergrounded at the utility operator's sole expense. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days.
4. The City will cooperate with the utility operator in securing alternate locations. However, the City will bear no responsibility or costs for securing alternate locations. The City will bear no responsibility to obtain, compensate, or otherwise assist the utility operator in relocation of its facilities to location not in the control of the City.

D. Removal of Unauthorized Facilities.

1. Unless otherwise agreed to in writing by the City, within thirty (30) days following written notice from the City or such other time agreed to in writing by the City, a utility operator and any other person that owns, controls, or maintains any abandoned or unauthorized utility facility within the rights-of-way will, at its own expense, remove the facility and restore the affected area.

2. A utility system or facility is unauthorized under any of the following circumstances:
 - a. The utility facility, or any portion of the facility, is outside the scope of authority granted by the City under the Utility License, franchise or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the City has provided written authorization for abandonment in place.
 - b. The facility has been abandoned and the City has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of twelve (12) consecutive months. A utility operator may overcome this presumption by presenting plans for future use of the facility.
 - c. The utility facility is improperly constructed or installed or is in a location not permitted by the construction permit, license, franchise or this Ordinance.
 - d. The utility operator is in violation of a material provision of this Ordinance and fails to cure such violation within thirty (30) days of the City sending written notice of such violation, unless the City extends such time period in writing.

E. Removal by City.

1. The City retains the right and privilege to cut or move any utility, without notice, as the City determines, at its sole discretion to be necessary, appropriate or useful in response to a public health or safety emergency. The City will use qualified personnel or contractors consistent with applicable state and federal safety laws and regulations to the extent reasonably practicable without impeding the City's response to the emergency. The City will use best efforts to provide the utility operator with notice prior to cutting or moving facilities. If prior notice is not possible, the City will provide such notice as soon as reasonably practicable after resolution of the emergency.
2. If the utility operator fails to remove any facility when required to do so under this Ordinance, the City may remove the facility using qualified personnel or contractors consistent with applicable state

and federal safety laws and regulations, and the utility operator will be responsible for paying the full cost of the removal and any administrative costs incurred by the City in removing the facility and obtaining reimbursement. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days. The obligation to remove will survive the termination of the license or franchise.

3. The City will not be liable to any utility operator for any damage to utility facilities, or for any incidental or consequential losses resulting directly or indirectly therefrom, by the City or its contractor in removing, relocating or altering the facilities pursuant to this Section 9, or resulting from the utility operator's failure to remove, relocate, alter or underground its facilities as required by this Section 9, unless such damage arises directly from the City's or its contractor's negligence or willful misconduct.

F. Engineering Record Drawings. The utility operator will provide the City with two complete sets of record drawings in a form acceptable to the City showing the location of all its utility facilities after initial construction if such plan changed during construction. The utility operator will provide updated complete sets of as built plans upon request of the City, but not more than once per year.

G. Facility Map. Utility operator, Utility provider and Utility Licensee will provide, at no cost to the City, a comprehensive map showing the location of any facility in the City. Such map will be provided in a format acceptable to the City, with accompanying data sufficient enough for the City to determine the exact location of facilities, currently in Shapefile or Geodatabase format. The Utility Operator, Utility Provider and Utility Licensee will provide such map yearly by February 1 if any changes occurred during the prior year. The City may also request and will be provide the map, at no cost to the City, upon request, no more than once per year.

Section 10. Leased Capacity. A utility operator may lease capacity on or in its facilities to others, provided that the utility operator requires and has verified with the City, that the proposed lessor has obtained proper authority from the City prior to leasing capacity or allowing use of its facilities. Upon request, at no cost to the City, the utility operator will provide a complete list with the name, business address and contact information of any lessee. If requested by the City, the utility operator will also provide exact details of any attachment by lessee. A utility operator is not required to provide such information if disclosure is expressly prohibited by applicable law.

Section 11. Maintenance.

A. Every utility operator will install and maintain all facilities in a manner that complies with applicable federal, state and local laws, rules, regulations and policies. The utility operator will, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose.

B. If, after written notice from the City of the need for repair or maintenance as required in subsection A of this section, a utility operator fails to repair and maintain facilities as requested by the City and by the date reasonably established by the City, the City may perform such repair or maintenance using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations at the utility operator's sole expense. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days.

Section 12. Vacation. If the City vacates any ROW, or portion thereof, that a utility operator uses, the utility operator will, at its own expense, remove its facilities from the ROW unless the City reserves a public utility easement, which the City will make a reasonable effort to do provided that there is no expense to the City, or the utility operator obtains an easement for its facilities. If the utility operator fails to remove its facilities within thirty (30) days after a ROW is vacated, or as otherwise directed or agreed to in writing by the City, the City may remove the facilities using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations at the utility operator's sole expense. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days.

Section 13. Usage Fee.

A. Except as set forth in subsection B of this section, every person that owns utility facilities in the City's rights-of-way and every person that uses or controls utility facilities in the City's rights-of-way to provide utility service, whether or not the person owns the utility facilities used to provision the utility services and every person that provides utility services within the City, will pay the usage fee for every utility service provided in the amount determined by resolution of the City Council.

B. A utility operator whose only facilities in the ROW are facilities mounted on above-ground structures within the ROW, which structures are owned by another person, and with no facilities strung between such structures

or otherwise within, under or above the ROW (other than equipment necessary to operate the mounted facilities that has been expressly approved by the City to be placed in the ROW), will pay the attachment fee set by City Council resolution for each attachment, or such other fee set forth in the license granted by the City. Unless otherwise agreed to in writing by the City, the fee will be paid quarterly, in arrears, within thirty (30) days after the end of each calendar quarter and will be accompanied by information sufficient to illustrate the calculation of the amount payable.

C. No acceptance of any payment will be construed as accord that the amount paid is in fact the correct amount, nor will such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable.

D. Usage fee payments required by this section will be reduced by any franchise fees or privilege taxes, due to the City, but in no case will be less than zero dollars (\$0).

E. Unless otherwise agreed to in writing by the City, the Usage fee set forth in subsection A of this section will be paid quarterly, in arrears, within thirty (30) days after the end of each calendar quarter. Each payment will be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable (a remittance form will be provided by the City). The City may request and will be provided at no cost to the City, any additional reports or information it deems necessary, in its sole discretion, to ensure compliance by the utility provider, utility operator or licensee. Such information may include, but is not limited to: chart of accounts, total revenues by categories and dates, list of products and services, narrative documenting calculation, details on number of customers within the City limits, or any other information needed for the City to easily verify compliance.

F. The calculation of the Usage fee required by this section will be subject to all applicable limitations imposed by federal or state law in effect and as may be subsequently amended.

G. The City reserves the right to enact other fees and taxes applicable to the utility providers, utility operators and licensee subject to this Ordinance. Unless expressly permitted by the City in enacting such fee or tax, or required by applicable state or federal law, no utility operator may deduct, offset or otherwise reduce or avoid the obligation to pay any lawfully enacted fees or taxes based on the payment of the Usage fees or any other fees required by this Ordinance

Section 14. Penalties and Interest on Usage Fee. Penalties and interest imposed by this section are in addition to any penalties that may be assessed under other ordinances or regulations of the City.

A. Any person who has not submitted the required remittance forms or remitted the correct fees when due as provided in Section 13 will pay a penalty listed below in addition to the amount due:

1. First occurrence during any one calendar year; Ten percent (10%) of the amount owed, or Twenty-five dollars (\$25.00), whichever is greater.
2. Second occurrence during any one calendar year; Fifteen percent (15%) of the amount owed, or Fifty dollars (\$50.00), whichever is greater.
3. Third occurrence during any one calendar year; Twenty percent (20%) or the amount owed, or Seventy-five dollars (\$75.00), whichever is greater.
4. Fourth occurrence during any one calendar year; Twenty-five percent (25%) of the amount owed, or One hundred dollars (\$100.00), whichever is greater.

B. If the City determines that the nonpayment of any remittance due under this section is due to fraud or intent to evade the provisions hereof, an additional penalty of twenty-five percent (25%) of the amount owed, or Five hundred dollars (\$500.00), whichever is greater, will be added thereto in addition to other penalties stated in section 14.

C. In addition to the penalties imposed, any person who fails to remit any fee when due as provided in Section 13 will pay interest at the rate of 1.5% per month or fractions thereof, without proration for portions of a month, on the total amount due (including penalties), from the date on which the remittance first became delinquent, until received by the City.

D. Every penalty imposed, and such interest as accrues under the provision of this section, will be merged with, and become part of, the fee required to be paid.

The City or its designee, in their sole discretion, will have the authority to reduce or waive the penalties and interest due under Section 14.

Section 15. Audits and Records Requests.

A. Within thirty (30) days of a written request from the City, or as otherwise agreed to in writing by the City:

1. Every Utility Licensee, Utility Operator and Utility Provider will furnish the City, at no cost to the City, with information sufficient to demonstrate compliance with all the requirements of this Ordinance, any franchise agreements or other agreements, if any, including but not limited to payment of any applicable Business Registration fee, licensing fee, usage fee, attachment fee, franchise fee or privilege taxes.
2. Every Utility Operator, Utility Provider and Utility Licensee will make available for inspection by the City at reasonable times and intervals all maps, records, books, diagrams, plans and other documents, maintained by the utility operator with respect to its facilities or use of facilities, within the rights-of-way. Access will be provided within the City unless prior arrangement for access elsewhere has been made and approved by the City.

B. If the City's audit of the books, records and other documents or information of the Utility Licensee, Utility Operator or Utility Provider demonstrate that there has been underpaid the usage fee, licensing fee, attachment fee or franchise fee or any other fee or payment by two percent (2%) or more in any one (1) year, the licensee, utility operator, or utility provider will reimburse the City for the cost of the audit, in addition to any interest owed pursuant to Section 14 or as specified in other agreements or franchises with the City.

C. Any underpayment, including any interest or audit cost reimbursement, will be paid within thirty (30) days of the City's notice of such underpayment.

D. The Licensee, Utility Provider or Utility Operator is not required to maintain records for more than six (6) years. The City is not required to maintain records beyond the State retention schedules.

Section 16. Insurance and Indemnification.

A. Insurance.

1. All utility operators will maintain in full force and effect the following liability insurance policies that protect the utility operator and the City, as well as the City's officers, agents, and employees:
 - a. Comprehensive general liability insurance with limits not less than:
 - i. Three million dollars (\$3,000,000.00) for bodily injury or death to each person;
 - ii. Three million dollars (\$3,000,000.00) for property damage resulting from any one accident; and
 - iii. Three million dollars (\$3,000,000.00) for all other types of liability.
 - b. Commercial Automobile liability insurance for owned, non-owned and hired vehicles with a limit of one million dollars (\$1,000,000.00) for each person and three million dollars (\$3,000,000.00) for each accident.
 - c. Worker's compensation within statutory limits and employer's liability with limits of not less than one million dollars (\$1,000,000.00).
 - d. If not otherwise included in the policies required by subsection a. above, maintain comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000.00).
 - e. Utility operator may utilize primary and umbrella liability insurance policies to satisfy the preceding insurance policy limit requirements.
2. The limits of the insurance will be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon. The insurance will be without prejudice to coverage otherwise existing and will name, or the certificate of insurance will name, with the exception of worker's compensation, as additional insureds the City and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The insurance will not be canceled or materially altered without thirty (30) days prior written notice first being given to the City, and the certificate of insurance will include such an endorsement. If the insurance is canceled or materially altered, the utility operator will obtain a replacement policy that complies with the terms of this section and provide the City with a replacement certificate of insurance. The utility operator will maintain continuous uninterrupted

coverage, in the terms and amounts required. The utility operator may self-insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.

3. The utility operator will maintain on file with the City a certificate of insurance, or proof of self-insurance acceptable to the City, certifying the coverage required above.

B. Financial Assurance. Unless otherwise agreed to in writing by the City, before a franchise is granted or license issued pursuant to this Ordinance is effective, and as necessary thereafter, the utility operator will provide a performance bond or other financial security or assurance, in a form acceptable to the City, as security for the full and complete performance of the franchise or license, if applicable, and compliance with the terms of this Ordinance, including any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations or permits of the City. This obligation is in addition to the performance surety required under this Ordinance.

C. Indemnification.

1. Each utility licensee will defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all liability, causes of action, claims, damages, losses, judgments and other costs and expenses, including attorney fees and costs of suit or defense (at both the trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person in any way arising out of, resulting from, during or in connection with, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failure to act, or other misconduct of the utility licensee or its affiliates, officers, employees, agents, contractors, subcontractors, or lessees in the construction, operation, maintenance, repair, or removal of its facilities, and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this Ordinance or by a franchise agreement. The acceptance of a Utility license, or of a franchise granted by the City, will constitute such an agreement by the applicant whether the same is expressed or not, unless expressly stated otherwise in the license or franchise. Upon notification of any such claim the City will notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.

2. Every utility licensee will also indemnify the City for any damages, claims, additional costs or expenses assessed against or payable by the City arising out of or resulting, directly or indirectly, from the utility licensee's failure to remove or relocate any of its facilities in a timely manner, unless the utility licensee's failure arises directly from the City's negligence or willful misconduct.

Section 17. Compliance. Every Utility licensee, utility operator and utility provider will comply with all applicable federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all applicable ordinances, resolutions, rules and regulations of the City, heretofore or hereafter adopted or established during the entire term of any Utility License granted under this Ordinance.

Section 18. Confidential/Proprietary Information. If any person is required by this Ordinance to provide books, records, maps or information to the City that the person reasonably believes to be confidential or proprietary, and such books, records, maps or information are clearly marked as confidential at the time of disclosure to the City ("confidential information"), the City will take reasonable steps to protect the confidential information to the extent permitted by Oregon Public Records Laws. In the event the City receives a public records request to inspect any confidential information and the City determines that it will be necessary to reveal the confidential information, to the extent reasonably possible the City will notify the person that submitted the confidential information of the records request prior to releasing the confidential information. The City will not be required to incur any costs to protect any confidential information, other than the City's routine internal procedures for complying with the Oregon Public Records Law.

Section 19. Penalties and Violations.

A. Any person found in violation of any of the provisions of this Ordinance or the Utility License will be subject to a penalty of not less than one hundred fifty dollars (\$150), nor more than twenty-five hundred dollars (\$2,500) for each offense, which shall be processed in accordance with the procedures contained in the Woodburn Civil Infraction Ordinance (Ord. No. 1998). A violation will be deemed to exist separately for every section violated and be assessed each and every day during which a violation exists.

B. Nothing in this Ordinance will be construed as limiting any judicial or other remedies the City may have at law or in equity, for enforcement of this

Ordinance, including those Civil Infractions that may be imposed under Ordinance 1998.

C. The City or its designee, in their sole discretion, will have the authority to reduce or waive the penalties and interest due under this subsection 19.

Section 20. Severability and Preemption.

A. The provisions of this Ordinance will be interpreted to be consistent with applicable federal and state law, and will be interpreted, to the extent possible, to cover only matters not preempted by federal or state law.

B. If any article, section, subsection, sentence, clause, phrase, term, provision, condition or portion of this Ordinance is for any reason declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or decision, the remainder of this Ordinance will not be affected thereby but will be deemed as a separate, distinct and independent provision, and such holding will not affect the validity of the remaining portions hereof, and each remaining section, subsection, clause, phrase, term, provision, condition, covenant and portion of this Ordinance will be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules or regulations, the provision will be preempted only to the extent required by law and any portion not preempted will survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended or otherwise changed to end the preemption, such provision will thereupon return to full force and effect and will thereafter be binding without further action by the City.

Section 21. Application to Existing Agreements. To the extent that this Ordinance is not in conflict with and can be implemented consistent with existing franchise agreements, this Ordinance will apply to all existing franchise agreements granted to utility operators and utility providers by the City.

Section 22. Effective Date. This Ordinance shall take effect on January 1, 2021.

Approved as to form: _____
City Attorney Date

Approved: _____
Eric Swenson, 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

COUNCIL BILL NO. 3138

RESOLUTION NO. 2162

**A RESOLUTION SETTING THE RIGHT-OF-WAY UTILITY LICENSE AND USAGE FEE RATES
WITHIN THE CITY OF WOODBURN**

WHEREAS, the City of Woodburn ("City") has constitutional and charter authority to manage its rights-of-way and utility usage within the City; and

WHEREAS, the Woodburn City Council adopted an ordinance regulating utilities operating within the City and exercising the City's authority to secure compensation to the City and its residents for utility use;

WHEREAS, per the ordinance the Woodburn Council shall by resolution establish Utility Licensing fees;

WHEREAS, per the ordinance the Woodburn Council shall by resolution establish a Franchise negotiations fee; and

WHEREAS, per ordinance the Woodburn City Council shall by resolution establish Usage fees; **NOW, THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. The Utility License application fee shall be \$300.00 (excluding Small Cell Wireless Facilities) and shall include an initial five-year license (if approved).

Section 2. Utility License application fee for Small Cell Wireless Facilities, as they involve both access to rights-of-way and vertical infrastructure shall be \$500.00 for up to 5 sites and \$100.00 for each additional site, plus any additional reasonable fees the City must incur for outside expertise to evaluate such applications, including compliance with the Federal Communication Commission "RF" standards.

Section 3. The Utility License renewal fee (excluding Small Cell Wireless Facilities) shall be \$250.00 for a five-year license.

Section 4. The refundable franchise negotiation deposit shall be \$5,000.00;

Section 5. The usage fee shall be as follows, to the extent permitted under applicable law:

<i>Service</i>	<i>Usage Fee Rate</i>
Electric: Provides services to customer within Woodburn via owned or non-owned facilities located within the City's ROW	5% of gross revenue
Natural Gas: Providing services to customer within Woodburn via owned or non-owned facilities located within the City's ROW.	5% of gross revenue
Cable Television	5% of gross revenue
Communications* (other than Small Cell Wireless** Facilities): Providing services to customer within Woodburn via owned or non-owned facilities located within the City's ROW	7% of gross revenue
Attachment fee (other than Small Cell Wireless** Facilities)	\$5,000 per attachment per year
Small Cell Wireless** Communications Facilities	\$270.00 per attachment per year
Usage of owned or non-owned facilities in the rights-of-way for purposes other than generating revenue or providing services to customers within the City.	\$3.00 per linear foot of Utility Facilities in the rights-of-way or a minimum annual fee of \$5,000.00, whichever is greater. The per-linear-foot fee and the minimum fee shall increase 3% annually on July 1 st of each year, beginning July 1, 2022

"Gross Revenue" shall have the meaning defined in the Utility Services Ordinance.

Section 6: The annual attachment fee (excluding Small Cell Wireless Facilities) shall be \$5,000.00 per attachment. The attachment fee shall increase 3% annual on July 1st of each year, beginning on July 1, 2022.

Section 7: The annual attachment fee for Small Cell Wireless Facilities shall be the fair market value of such attachments, but until the Federal Communications Commission September 26, 2018 small cell order is overturned, City staff are directed to establish what the reasonable approximation of costs for such attachment are, but it no case less than \$270.00 per attachment, per year.

* "Communications" shall have the meaning defined in Woodburn's Utility Service Ordinance and shall include telecommunication utilities, long distance providers, private networks, wireless, wireline, VoIP, ILEC, CLEC, inter and intrastate.

** "Small Cell Wireless Facilities" shall have the meaning defined in Woodburn's Utility Service Ordinance.

Section 8. The fees implemented by this Resolution take effect on January 1, 2021.

Approved as to Form: _____
City Attorney Date

APPROVED: _____
Eric Swenson, 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

November 9, 2020

TO: Honorable Mayor and City Council through City Administrator

FROM: Jim Row, Assistant City Administrator
Mel Gregg, Human Resources Director

SUBJECT: **Title VI Program**

RECOMMENDATION:

Adopt via resolution the updated Title VI Civil Rights Program for public transit programs, as required by the Federal Transit Administration.

BACKGROUND:

Any entity receiving federal dollars, either directly from the Federal Transit Administration (FTA) or through the Oregon Department of Transportation Rail and Public Transit Division (RPTD), must not discriminate based on factors which include, but are not limited to, race, color, national origin, religion, age, marital status, sexual orientation, gender, or disability status.

Specifically, Title VI of the 1964 Civil Rights Act states:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Subject entities are required to adopt a Title VI Program meeting requirements established by the FTA every three years. The City last adopted a Title VI Program in October 2017.

DISCUSSION:

In Accordance with Title VI of the Civil Rights Act of 1964, this Title VI Program reflects the Woodburn Transit System's commitment to ensuring that no person shall, on the ground of race, color, national origin, religion, age, marital status, sexual orientation, gender, or disability be excluded from participation in, be

denied the benefits of, or be subjected to discrimination under any program or activity provided by the Woodburn Transit System (WTS).

Highlights of the Program include the following items:

- 1) A copy of the required Title VI public notice and a list of where the notice is located.
- 2) Instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form.
- 3) A list of any public transit-related investigations, complaints or lawsuits since the time of the last submission.
- 4) A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission.
- 5) A copy of the plan for providing language assistance to persons with limited English proficiency.
- 6) A description of efforts made to encourage the participation of minorities on such committees or councils.
- 7) Service standards for a fixed route.
 - a) Vehicle headways and periods of operations
 - b) On-time performance standards
 - c) Service availability standards.

FINANCIAL IMPACT:

No additional direct cost to the City related to the requirements of the Title VI Program is anticipated.

COUNCIL BILL NO. 3140

RESOLUTION NO. 2164

A RESOLUTION ADOPTING THE UPDATED WOODBURN TRANSIT SYSTEM TITLE VI PROGRAM

WHEREAS, any entity receiving federal dollars, either directly from the Federal Transit Administration (FTA) or through the Oregon Department of Transportation Rail and Public Transit Division must not discriminate based on factors which include, but are not limited to, race, color, national origin, religion, age, marital status, sexual orientation, gender, or disability status; and

WHEREAS, subject entities are required to adopt and submit a Title VI Program meeting requirements established by the FTA every three years; and

WHEREAS, the City of Woodburn previously adopted a Title VI Program on September 25, 2017; **NOW THEREFORE**,

THE CITY OF WOODBURN HEREBY RESOLVES AS FOLLOWS:

Section 1. The updated Woodburn Transit System Title VI Program, dated November 9, 2020 and attached hereto as Exhibit "A", is hereby adopted.

Approved as to form: _____
City Attorney Date

Approved: _____
Eric Swenson, 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



Woodburn Transit System
Title VI Program
November 9, 2020

City of Woodburn
Woodburn Transit System
270 Montgomery Street
Woodburn, Oregon 97071

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Introduction

This program reflects the Woodburn Transit System's commitment to ensuring that no person shall, on the ground of race, color, national origin, religion, age, marital status, sexual orientation, gender, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity provided by the Woodburn Transit System (WTS).

Policy Statement

It is the express policy of the WTS that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any of its programs or activities on the grounds of race, color, national origin, sex, age, disability, or income, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Aid Highway Act of 1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and Executive Order 13166.

Mel Gregg, Human Resources Director is the Title VI Coordinator for WTS, and can be reached at (503) 982-5231 by phone; at mel.gregg@ci.woodburn.or.us by email; or at 270 Montgomery St, Woodburn, OR 97071 by post.

Title VI Notice to the Public

The Title VI Notice to the Public can be found in **Attachment A** and will be posted at the Woodburn Transit office, on the Woodburn Transit webpage, and on board buses operated by Woodburn Transit System. The notice is provided in both English and Spanish.

Title VI Complaint Procedures

Complaints alleging discrimination which is prohibited under Title VI of the Civil Rights Act of 1964 shall be filed in accordance with the following procedure. The following procedures cover all complaints arising under Title VI. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal meetings between the Title VI Coordinator and affected parties may be utilized for resolution.

These procedures do not deny the right of the complainant after completion of the Title VI complaint process to file a complaint with state or federal agencies or to bring a private action based on the complaint.

1. Any person who believes he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by federal law, may file a complaint with the WTS. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to Title VI Coordinator for review and action.

2. In order to have the complaint considered under this procedure, the complainant must file the complaint no later than 180 days after:
 - a) The date of alleged act of discrimination; or
 - b) Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, WTS may extend the time for filing or waive the time limit in the interest of justice, as long as WTS specifies in writing the reason for so doing.

3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the alleged discrimination. In the event a person makes a verbal complaint of discrimination to an officer or employee of WTS, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to WTS's investigative procedures.

The complaint may be filed in writing with WTS at the following address:

Woodburn Transit System
Human Resources Director
270 Montgomery Street
Woodburn, OR 97071
503-982-5231
mel.gregg@ci.woodburn.or.us

4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, will determine if the City has jurisdiction over the complaint, whether the complaint is complete and if additional information is needed, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as the Oregon Department of Transportation (ODOT) and U.S. Department of Transportation (USDOT).
5. The Title VI Coordinator will advise ODOT and/or USDOT within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to ODOT and/or USDOT:
 - a) Name, address, and phone number of the complainant.
 - b) Name(s) and address(es) of alleged discriminating official(s).
 - c) Basis of complaint (i.e., race, color, national origin, or sex)
 - d) Date of alleged discriminatory act(s).
 - e) Date complaint received by the recipient.
 - f) A statement of the complaint.

- g) Other agencies (local, state, or Federal) where the complaint has been filed.
 - h) An explanation of the actions WTS has taken or proposed to resolve the issue in the complaint.
- 6. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report to the Woodburn City Manager. The report of will include identification of persons interviewed, findings, informal means of resolution attempted and results of such and recommended disposition. The Title VI Coordinator will provide City's investigative report and determination of appropriate action to ODOT and/or USDOT.
 - 7. Within 90 days of receipt of the complaint, the Title VI Coordinator will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with ODOT, or USDOT, if they are dissatisfied with the final decision rendered by WTS.
 - 8. Contact information for the state and federal Title VI administrative jurisdiction is as follows:

ODOT Public Transit Division
555 13th Street NE
Salem, OR 97301
503-986-4305
503-986-4189 fax

Federal Transit Administration Office of Civil Rights
Attention: Title VI Program Coordinator
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

Record of Title VI investigations, Complaints, or Lawsuits

The City of Woodburn will maintain a list of any and all transit related Title VI investigations, complaints, and lawsuits. The list shall be kept and maintained at the Woodburn City Hall located at 270 Montgomery Street, Woodburn, OR 97071.

Minority Representation on Non-elected Bodies

At this time, the WTS does not have any non-elected bodies, committees, or councils of which it must report racial membership rates. If the Transit system develops any non-elected bodies the City will encourage the participation of minorities in proportion to the minority makeup of the service area. Additionally, the City will maintain a table documenting the racial makeup of membership of such committees.

Title VI Public Participation Plan

The WTS shall strive to include minority and LEP (Limited English Proficiency) individuals in its decision-making processes. This includes outreach to minority groups in Woodburn and the surrounding area.

Summary of Ongoing Public Participation Efforts and Outreach

In accordance with Oregon public meetings law, all public meetings, including budget committee and City Council meetings where resource allocation and transportation planning discussions and actions are taken, are open to the general public. Accommodations are available for those with limited English proficiency if requested in advance of the meeting.

Passenger Surveys

WTS conducts onboard rider and general awareness surveys occasionally, in both English and Spanish.

Bilingual Outreach

The City maintains a list of fluent Spanish-speaking employees, and can contract for Spanish interpreters, if necessary. Additionally, the City's Outreach Coordinator has responsibility for coordinating the City's communication and outreach activities with the Spanish speaking population.

Phone Access

The City has a contract with the translation service "Language Line" for phone calls taken from LEP individuals.

Schedules translated in Spanish

The current service schedule includes a Spanish section. New service schedules will be provided in English and Spanish and made available via paper brochures and on the WTS website.

Woodburn Transit System Limited English Proficiency Outreach Plan

WTS is required to take responsible steps to ensure meaningful access to the benefits, services, information and other important portions of our programs and activities of individuals who are Limited English Proficient (LEP). WTS consulted the USDOT's LEP Guidance and performed a four factor analysis of our contact with the public to determine the appropriate mix of LEP services to offer.

Four Factor Analysis:

Factor 1: The number or proportion of LEP persons in the service area.

Step 1: Prior experience with LEP individuals. Over the past year, our dispatchers have taken approximately 2 calls per week from LEP persons which have required the use of an interpreter.

Step 2: Data was gathered from the following sources to identify information on persons who speak languages other than English at home and those who speak English less than well or not at all and would be classified as Limited English Proficient or “LEP”:

a. U.S. Census Bureau’s American Community Survey-American Factfinder data

A review of the 2018 American Community Survey data (<http://factfinder.census.gov>) on the numbers of limited English proficient or LEP persons revealed that in Woodburn, Oregon the number of people over age 5 who speak a language other than English at home was 54.4% of the total population 5 and over in Woodburn. The same data shows that 25.1% of the Woodburn population over age 5 speak English less than “very well.” The data indicates the most common language other than English spoken at home for population over 5 is Spanish, with 49%. (Source: American Community Survey 5-Year Estimates, S1601, Woodburn, Oregon).

Factor 2: The frequency with which LEP individuals come into contact with the service.

Woodburn Transit serves LEP persons daily through transit and paratransit services. Over the past year, our dispatchers took approximately 2 calls per week from LEP persons which have required the use of an interpreter.

Factor 3: The importance of the service to LEP persons.

Woodburn Transit provides important transit services to the public through its fixed route and complementary paratransit programs. Woodburn Transit is one of a few public transportation providers that serve the City of Woodburn and provides a link between residential areas, commercial centers, healthcare facilities, educational campuses, and social service offices. Language barriers would most affect users of the complementary paratransit system as reservations for the system are taken via telephone. The complementary paratransit portion of Woodburn Transit provides approximately 52% of the total rides provided through the Woodburn Transit System.

Factor 4: The resources available to the recipient of the federal funds to assure meaningful access to the service by LEP persons

WTS currently provides some information in Spanish through bus schedules, the transit website, and information on the buses. The City of Woodburn maintains a list of employees who are fluent in Spanish and other languages, and professional translation services are available if required. WTS also contracts with “language line” to assist LEP individuals with phone inquiries.

Processes for providing language assistance services by language

Based on the four factor analysis, WTS recognizes the need to continue providing language services. A review of WTS relevant programs, activities and services that are being offered by the City as of October 2020 include:

- If a bilingual employee is unavailable, the City has a contract with the translation service “Language Line” for phone calls taken from LEP individuals
- Spanish speaking translators who work for the City are available upon request during normal business hours
- Route and schedule information are available in Spanish on the Woodburn Transit website
- Community surveys are available in Spanish language

Based on the demand for alternate language services, and considering the limited budget of the Woodburn Transit programs, other activities and services that will be developed in the next three years include:

- Transit surveys conducted by Woodburn Transit will be available in Spanish
- Future route maps will be available in both English and Spanish
- Bilingual employees will continue to be available to provide written and verbal translation services

Woodburn Transit's outreach and marketing initiatives have yielded a list of community organizations that serve populations with limited English proficiency. The following list of community organizations will be contacted to assist in gathering information and see what services are most frequently sought by the LEP population:

- Woodburn Public School District
- Hispanic Advisory Council
- Woodburn Area Chamber of Commerce

Providing notice to LEP's of language assistance

Notice will be placed on the transit buses, transit website, and on the bus schedules, and brochures announcing the availability of Language assistance.

Monitoring, evaluating and updating LEP

Woodburn Transit staff will contact the community organizations that serve LEP persons, as well LEP persons themselves, and also perform a four factor analysis every three years to identify what, if any, additional information or activities might better improve transit services to assure non-discriminatory service to LEP persons. WTS will then evaluate the projected financial and personnel needed to provide the requested services and assess which of these can be provided cost-effectively.

Training Employees

Woodburn Transit will train all employees, staff and volunteers to proficiency regarding the need and availability of language assistance to LEP individuals who use the service. Employees will be encouraged to use the services provided when contact with LEP individuals prevents or hinders communication. This training will be provided at least annually.

Primary recipients and monitoring sub recipients

Currently the City of Woodburn is not a primary recipient of FTA funds and does not have any sub-recipients.

Title VI equity analysis

There are no current planned facilities or construction projects that require a Title VI equity analysis.

Service Standards

Vehicle Load for Each Mode Standard (expressed as a ratio)

The peak-hour vehicle load standards by mode for Woodburn Transit System are: Vehicle Load Standards are expressed as a ratio. (A 40 passenger bus that allows 12 standees would have a load standard of 1.3)

Fixed Route (35 passenger bus)	1.2
Express (8 passenger van)	.75
Demand Response (8 passenger van)	.75
Demand Response (4 passenger van)	.5

Vehicle Headway for Each Mode (Time between vehicles on same route)

Fixed Route (35 passenger bus)	1 hour
Express (8 passenger van)	30 min
Demand Response (8 passenger van)	n/a
Demand Response (4 passenger van)	n/a

On Time Performance for Each Mode

	May Run Early (yes/no)	On-time Consideration
Fixed Route (35-passenger bus)	NO	<10 minutes behind
Paratransit (16 passenger van)	NO	(+or –) 5 minutes
Demand Response (16 passenger van)	YES	(+or –) 15 minutes
Demand Response (4 passenger van)	YES	(+or –) 15 minutes

Service Availability for Each Mode

The Woodburn Transit System provides equitable service availability to customers within the service area.

Distribution of Transit Amenities for Each Mode

The Woodburn Transit System has a policy to distribute transit amenities equally across the system. Any new amenities will be distributed equally across the system without regard to race or national origin of users from that service area. This applies to:

- Seating and benches at stops and stations
- Bus shelters
- Provision of information including maps, route maps, and schedules
- Waste receptacles.

Vehicle Assignment for Each Mode

The Woodburn Transit System sets a policy of vehicle assignment for each mode without regard to race, color, national origin, religion age, marital status, sexual orientation, gender, or disability of users from that service area. Woodburn Transit will assign vehicles with higher capacity to routes with higher ridership. Age of the vehicles will only be considered a factor when assigning vehicles to routes.

Attachment A

Notifying the Public of Rights under Title VI City of Woodburn, Oregon

- The City of Woodburn operates its programs and services without regard to race, color and national origin in accordance with Title VI of the Civil Rights Act of 1964. Any person who believes they have been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the City of Woodburn.
- For more information on the City of Woodburn's Civil Rights Program and/ or the procedures for filing a complaint, contact Mel Gregg, Human Resources Director at (503) 982-5231 or mel.gregg@ci.woodburn.or.us or visit Woodburn City Hall at 270 Montgomery St, Woodburn, OR 97071.
- A complaint may also be filed directly with the Federal Transit Administration's Office of Civil Rights at:

Federal Transit Administration Office of Civil Rights
Attention: Title VI Program Coordinator
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

- If information is needed in another language, please contact the City of Woodburn's community outreach office at (503) 982-5233.

Notificación al Público bajo Los Derechos de Título VI Ciudad de Woodburn, Oregon

- Los programas y servicios de la Ciudad de Woodburn funcionan sin ninguna consideración por motivos raciales, de color y origen nacional de acuerdo con el Título VI de los Derechos Civiles de 1964. Alguna persona que cree que fue ofendido de una práctica discriminatoria ilegal bajo este Título VI puede presentar una queja con la Ciudad de Woodburn.
- Para más información tocante el Programa de Derechos Civiles de la Ciudad de Woodburn y/o para saber el proceso de presentar una queja, comuníquese con Mel Gregg, Director de Recursos Humanos al (503) 982-5231 o por correo electrónico al mel.gregg@ci.woodburn.or.us o visítenos en el Ayuntamiento de la Ciudad al 270 Montgomery St., Woodburn, OR 97071.
- Una queja también se puede presentar con las Oficinas de Derechos Civiles de la Administración Federal de Transito al:

*Oficinas de Derechos Civiles de la Administración Federal de Transito
Atentamente: Coordinador del Programa Title VI
East Building, 5th Floor – TCR*

*1200 New Jersey Avenue, SE
Washington, DC 20590*

- Si necesita la información en otra idioma por favor comuníquese con la oficina del Agente Comunitario al 503-982-5233.

Attachment B

City of Woodburn Title VI Complaint Form

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____

Were you discriminated against because of your:

☐ Race/Ethnicity

☐ National Origin

☐ Gender

☐ Religion

☐ Age

☐ Disability

☐ Other: _____

To your best recollection, date and time of alleged incident: _____

Explain as clearly as possible what happened and how you were discriminated against. Indicate who was involved and if applicable, the transit route and vehicle. Be sure to include the names and contact information of any witnesses. If more space is needed, please use additional pages.

Have you filed this complaint with any other federal, state or local agency or with any court? ☐ Yes ☐ No

If yes, check and identify all that apply:

- ☐ Federal Agency _____
- ☐ Federal Court _____
- ☐ State Agency _____
- ☐ State Court _____
- ☐ Local Agency _____

Please provide information for a contact person at the Agency or Court where the complaint was filed.

Name: _____

Address: _____

City, State, & Zip Code: _____

Telephone Number: _____

Please sign below (We cannot accept unsigned complaints). You may attach any additional written materials or other information you believe is relevant to your complaint.

Signature

Date

Please mail this form to or email:

Human Resources Director
City of Woodburn
270 Montgomery St
Woodburn, OR 97071

hr@ci.woodburn.or.us



Agenda Item

November 9, 2020

TO: Honorable Mayor and City Council

THROUGH: Scott Derickson, City Administrator

FROM: Chris Kerr, Community Development Director
Colin Cortes, AICP, CNU-A, Senior Planner

SUBJECT: **Design Review DR 2019-05 Allison Way Apartments Final Decision**

RECOMMENDATION:

Authorize the mayor to sign the attached final decision document.

BACKGROUND:

The City Council had called up the Planning Commission decision on the subject project pursuant to Woodburn Development Ordinance (WDO) 4.02.02 and then on July 13 and September 14, 2020 held public hearings that resulted in the Council on September 14 tentatively approving the project the same as did the Planning Commission except that Condition:

1. EX2 is revised such that Stacy Allison Way will have 5-foot bicycle lanes;
2. V9-2 that establishes the standard of approved Variance request 2 is revised from a parking ratio minimum average of 1.77 stalls per dwelling to an absolute minimum of 1.9 stalls per dwelling; and
3. V5-3-1 that establishes the standard of approved Variance request 3 is revised from a compact parking maximum of 60% to 25%.

DISCUSSION:

n/a.

FINANCIAL IMPACT:

n/a.

ATTACHMENT:

1. Final Decision document (November 9, 2020) with its Attachment 107 Applicant's letter (Excludes remaining attachments listed on final decision final page that were attachments to the July 13, 2020 Council agenda packet)



Final Decision

City Council

File number(s): DR 2019-05, EXCP 2020-05, PP 2019-01, PLA 2019-04, & VAR 2019-04

Project name: Allison Way Apartments

Date of decision: November 9, 2020

Applicant: Leeb Architects; attn Robert Leeb, Principal in Charge & Doug Hamilton, 308 SW 1st Avenue, Suite 200 Portland, OR 97204-3567

Landowner: Stacy Allison Way Holdings, Attn: Eugene Labunsky, 25030 SW Parkway Avenue, Suite 110, Wilsonville, OR 97070-9816

Site location: 0 Hooper St & 0 Stacy Allison Way NE; Tax Lots 052W14 02000, 2100, & 2300

Summary: First, the Planning Commission held a public hearing on May 28, 2020 and approved by 3-2 vote the consolidated applications package (Type III) with the conditions recommended by staff through the staff report published May 21, except for three revision items:

1. Striking transportation Condition T-BP9 that would have required the Evergreen Path, a bicycle/pedestrian path approximately 350 feet (ft) long within the unimproved Evergreen right-of-way (ROW) and extending from Smith Creek Development Phase 1A Tract 'D' boundary north to the existing Montebello 2 subdivision bicycle/pedestrian path that connects to Baylor Drive at Citadel Street per the image below:



Exhibit T-BP9A. Location and Conceptual Alignment

2. Revising Street Exception Condition EX2 to omit a landscaped median from the required custom cross section of the Stacy Allison Way extension to maintain a continuous two-way left turn lane along and between Interstate 5 and the approximately 800 ft of site development frontage that has no driveways; and



Exhibit EX2b revised June 2 (Median example concept not to scale.)

3. Approving variance request 2 regarding parking ratio minimum (WDO Table 3.05A, Residential 1) and setting a minimum average of 1.77 stalls per dwelling. (See Condition V9-2.)

Second, the City Council called up the Commission decision on June 8, 2020 pursuant to Woodburn Development Ordinance (WDO) 4.02.02 and held a public hearings on July 13 and September 14, 2020 that resulted in the Council on September 14 tentatively approving the project per the variance excerpts of the applicant's September 1 letter of testimony that was agenda item Attachment 1 (final decision Attachment 106).

The Council tentative approval results in conditions of approval the same as were in the Planning Commission decision document except that Condition:

1. EX2 is revised such that Stacy Allison Way will have 5-foot bicycle lanes (p. 10);

2. V9-2 that establishes the standard of approved Variance request 2 is revised from a parking ratio minimum average of 1.77 stalls per dwelling to an absolute minimum of 1.9 stalls per dwelling (p. 22); and
3. V5-3-1 that establishes the standard of approved Variance request 3 is revised from a compact parking maximum of 60% to 25% (p. 18).

Staff returned to Council on November 9, 2020 with this final decision document for the mayor's signature.

One party testified (besides the applicant). He is listed at the end.

The request was for site development of three lots totaling 19.03 acres into 586 apartments across 23 buildings across Phases 1 & 2 such that the one parcel north/northeast of Hooper Street (5.93 acres) would be 180 apartments across 7 buildings as Phase 1 and the two parcels south/southwest of Hooper (13.1 acres) would have 406 apartments across 16 buildings as Phase 2.

The buildings are three-story walk-ups, conventional for new construction. Each phase has a common building and landscaped and paved common areas.

Regarding street improvements, Phase 1 includes for existing Stacy Allison Way removal of curb-tight sidewalk to install a planter with street trees and construct new, wide sidewalk. Phase 2 includes extension of Stacy Allison Way that relocates the dead-end from Hooper Street south/southwest along Interstate 5 (I-5) to city limits.

The subject property is in the Commercial General (CG) zoning district.

Section references are to the [Woodburn Development Ordinance \(WDO\)](#).

Conditions of Approval:

General

G1. As part of building permit application, the applicant shall submit revised site plans meeting the conditions of approval and obtain Planning Division approval through sign-off on permit issuance.

G2. The applicant or successors and assigns shall develop the property in substantial conformance with the final plans submitted and approved with these applications, except as modified by these conditions of approval. Were the applicant to revise plans other than to meet conditions of approval or meet building code, even if Planning Division staff does not notice and signs off on building permit issuance, Division staff retains the right to obtain restoration of improvements as shown on an earlier land use review plan set in service of substantial conformance.

G3. References: The descriptions below define certain words, phrases, and assumptions in the context of the conditions of approval:

- “Access way” means an on-site walkway paved at least eight (8) feet wide to serve as a bicycle/pedestrian path to and from sidewalk – or to and from an off-street public bicycle/pedestrian path – and that is ADA-compliant.
- “ADA” refers to the federal Americans with Disabilities Act of 1990.
- “Allison” refers to Stacy Allison Way.
- “A1,” “A2,” & “A3” driveways refer to the three Allison driveways from north to south. A1 is in Phase 1, and A2 & A3 are in Phase 2.
- “County” refers to Marion County.
- “Courtyard” refers to each of five places – two in Phase 1 and three in Phase 2 – that is a landscaped linear central common area framed by three buildings forming a “U” shape or four buildings enclosing the common area.
- “Director” refers to the Community Development Director.
- “EV” refers to electric vehicle.
- “Evergreen” with a capital “E” refers to Evergreen Road, especially south from OR 214.
- “ft” refers to feet.
- “Hooper” refers to Hooper Street.
- “H1,” “H2,” “H3,” & “H4” driveways refer to the four Hooper driveways clockwise from the northwest. H1 & H2 are in Phase 1, and H3 & H4 are in Phase 2.
- “Lawson” refers to Lawson Avenue.
- “Modal share” means the percentage of travelers using a particular type of transportation or number of trips using a type, as examples walking, cycling, riding transit, and driving.
- “Modal shift” means a change in modal share.
- “MUTCD” refers to *Manual on Uniform Traffic Control Devices* of the U.S. Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA).
- “NE” means northeast.
- “NW” means northwest.
- “OAR” refers to Oregon Administrative Rules.
- “o.c.” refers to on-center spacing, such as of trees or shrubs.
- “ODOT” refers to the Oregon Department of Transportation.

- “OR 214” refers to Oregon Highway 214 / Newberg Highway.
- “Oxford” refers to Oxford Street.
- “Parking court” means each of three peninsulas of on-site surface parking extending southeast and framed by a “U” of five buildings. Phase 1 has one and Phase 2 has two.
- “Phase 1” or “Phase I” encompasses Tax Lot 052W14 02300 (Town Center at Woodburn subdivision Lot 9) and the full extents of adjacent Allison and Hooper and the whole of their intersection.
- “Phase 2” or “Phase II” encompasses Tax Lots 052W14 02000 & 2100 (Town Center at Woodburn subdivision Lots 7 & 8) to be consolidated and the full extent of adjacent Allison from Hooper.
- “PLA” refers to property line adjustment.
- “PUE” refers to public utility easement.
- “PW” refers to Public Works (the department) or public works (civil infrastructure) depending on context.
- “Root barrier” refers to that illustrated by PW SS&Ds, [Drawing No. 1 “Street Tree Planting New Construction”](#).
- “ROW” refers to right-of-way.
- “SDCs” refers to system development charges, also known as impact fees.
- “SE” means southeast.
- “Speed table” means a walkway crossing of a drive aisle that: is concrete; with a tabletop that is raised at least four (4) inches above drive aisle grade, at least six (6) ft wide, flat, and stamped or otherwise treated to have a pattern; and, with the vehicular ramps striped in compliance with *MUTCD* Figure 3B-30, Option A, and with minimum and maximum slope ratios of 1:25 and 1:10 respectively.
- “SS&Ds” refers to PW [standard specifications and drawings](#).
- “Street trees” refer to trees that conform to the WDO, including 3.06.03A and Table 3.06B.
- “SW” means southwest.
- “TSP” means the [Woodburn Transportation System Plan](#).
- “VCA” refers to vision clearance area as WDO 1.02 and 3.03.06 establish.
- “WDO” refers to the [Woodburn Development Ordinance](#).
- “W. Hayes” refers to W. Hayes Street.
- “WTS” refers to the Woodburn Transit System.

G4. Due dates / public improvements:

- a. By application: Unless a condition specifies otherwise, conditions including those relating to any of final subdivision, final partition, property line adjustment or lot consolidation recordation are due by building permit application. Prior to both any recordation of any final subdivision, final partition, or property line adjustment and building permit application, the applicant shall submit and obtain approval of an [Address Assignment Request](#).
- b. By issuance: Unless a condition specifies otherwise, ROW and easement dedications and recordation(s), construction of frontage/street improvements, and construction of off-site, park, and other public improvements are due by building permit issuance. Where phasing is relevant, building permit issuance means issuance for the phase in which the conditioned improvement is located. See also the Phasing Plan (PP) condition(s).

G5. Recordation due dates: The applicant shall apply to the County for recordations of items that the City requires no later than six (6) months past an anticipated Planning Commission tentative decision date, i.e. by December 30, 2022, and shall complete recordations no later than almost three years past, i.e. by May 25, 2023. The due date to complete recordations shall not supersede when recordations are due relative to the building permit stage.

G6. Public Improvements Civil Plan Review: The process by which to receive, review, and approve drawings and other documents related to public improvements required by these conditions of approval may be paired with or incorporated into building permit review, or, if directed by the City Engineer, through a civil engineering plans (CEP) review process led by the Engineering Division. If opting for CEP, the applicant shall not only follow the direction of the Engineer Division, but also take some actions to facilitate tracking by Planning staff and coordination with Engineering:

- a. Cover letter: Upon submitting application to the Engineering Division, simultaneously alert the Planning Division through a cover letter to the attention of the Planning Division referencing the intended or, if known, actual submittal date as well as the project name, project phase, tax lot number(s), street address(es), and the land use / planning / zoning final decision conditions of approval that require the public improvement that is the subject of the civil engineering plans. Referencing conditions may be by quotation or citing the identification numbers (e.g., T-A1). Identify the specific sheet (by number) or document page number that illustrates or notes how each subpart of a condition is met.
- b. Contact information: State the applicant's name, company, phone number, e-mail, and desired date for City staff to respond with review comments. The cover letter may include these.
- c. Plan copies: Submit to the attention of the Planning Division at least two plan size copies of plan sets (24 by 36 inches). Within the cover sheet title block(s), include the phrase "civil engineering plans" or "public improvements civil plans". Submit also Adobe PDFs using a fileshare service.
- d. Re-submittal fee: If there are multiple re-submittals, beginning with a third submittal / second revised submittal and continuing with each subsequent submittal, the applicant shall pay through the Planning Division into City general revenue a fee of \$100.

G-PW. Public Works: Follow the appended Public Works comments (May 19, 2020; Attachment 102A). If conflict arises between implementation of public works conditions and referenced standards in that document with implementation of the remaining conditions in this document, the Assistant City Administrator would arbitrate or mediate based on guidance from legal counsel, the Director, the Public Works Engineering Director, and the City Engineer.

Design Review 2019-05

D1. PUE(s): To meet WDO Figures 3.01D "Service Collector" & G "Local ...", as part of PLA recordation the applicant shall resolve existing easements with newly required easements so as to conform to the streetside PUE minimum width of five (5) ft per WDO 3.02.01B, conform to all other conditions, and follow the direction of the City Engineer per WDO 3.02.01A.

D2. Driveways:

- a. Number: To meet WDO 3.04.03B.1 regarding access management, the number of driveways is limited as follows:

ROW	Phase 1	Phase 2
Allison	1 joint (A1)	2 (A2 & A3)
Hooper	2 (H1 & H2)	2 (H3 & H4)

- b. Approach / apron / curb cut: Driveways shall conform to PW SS&Ds, Section [4150](#).

- c. Traffic control: To meet WDO 3.05.02J:

- (1) Parking on site: The central and narrowest drive aisle in each of the parking courts and between Buildings P & R shall have one-way traffic to the northwest, and the applicant shall:
- (a) Stripe on the pavement an arrow at each of the beginning and end of each aisle; and
 - (b) Install at the end of each aisle a do-not-enter sign that complies with *MUTCD* Figure 2B-11, sign R5-1.



- (2) Allison: Outbound left turns are prohibited from driveway A3, and the applicant shall install a no left turn sign that complies with *MUTCD* Figure 2B-4, sign R3-2.



D3. Cross access / joint driveway A1: To meet WDO 3.04.03B, the applicant shall:

- a. On Tax Lot 052W14 02300 (Town Center of Woodburn subdivision Lot 9; Phase 1):
- (1) Spur the easterly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb, and
 - (2) Spur the westerly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb.
- b. To meet WDO 3.04.03B.1 & 3, dedicate a public access and utility easement that is to the satisfaction of the Director, revocable only with the concurrence of the Director, and connects the two bulges with driveway A1.
- c. Have the easement width be either (i) minimum twenty (20) ft and centered on the drive aisle centerlines or (ii) minimum twenty-eight and a half (28½) ft measured southwest from the north lot line.

- d. Have the easement text include a paragraph that states that the delineated easement area serves as a public access easement to the benefit of Lot 10 of the Town Center at Woodburn subdivision plat (Tax Lot 052W13 01600), and such cross access to and from the joint driveway at Stacy Allison Way shall not be revoked without concurrence of the City Community Development Director in conformance with Woodburn Development Ordinance (WDO) 3.04.03B.3. Place such text under a Cross Access & Joint Driveway Easement header.

D4. Parking signage/stripping: To meet WDO 3.05.02J, the applicant shall designate compact stalls "COMPACT" in lettering one (1) foot high minimum and stripe them as such in the field prior to building permit final inspection.

D5. Parking stall double striping: To meet WDO 3.05.02K, the applicant shall delineate parking stalls with double parallel lines pursuant to Figure 3.05C and stripe them as such in the field prior to building permit final inspection.

D6. Bicycle parking near main entrance: To meet WDO 3.05.03E, prior to building permit final inspection the applicant shall provide bicycle parking within fifty (50) ft of a main entrance. In the context of a new construction apartment complex with conventional three-story buildings with open stairwells, each apartment building has two main entrances as follows:

- a. In all apartment buildings except Phase 1 B & C and Phase 2 B, C, J, & L there are four points where a building main wall plane intersects the walkway serving building ground floor entrances and the stairwell to upper floor entrances;
- b. In Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L there are six such points;
- c. Each building has either (a) two walkways with two points each totaling the four or (b) three walkways with six points total; and so
- d. The condition shall apply to three points minimum for each of Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L and two points minimum for remaining buildings and apply to one point minimum per walkway.

D7. Patios: Visual separation shall conform to WDO 3.07.05B.1a as follows:

- a. Pavement: As proposed, patios shall be paved with brick, concrete pavers, or poured concrete.
- b. Railings/fencing & gate: The outermost edges of patio concrete slabs that do not abut building walls shall have either metal or wood railings or cedar wood fencing at least three (3) ft high. If the latter, then opacity shall be full, but if fencing is higher than the minimum height, it shall be no more than ninety percent (90%) opaque, such as by being fully opaque from grade but from the top having a lattice pattern. The railings or fencing shall have a gated opening at least two (2) ft and four (4) inches wide.
- c. Height maximum: the railings or fencing maximum height shall be either five (5) ft or, where a patio faces a courtyard, three and a half (3½) ft.
- d. Shrubbery: Evergreen shrubbery shall line fully the outermost edges of patio concrete slabs, except along the gated opening.

Phasing Plan 2019-01

PP1. Phases / Phasing:

- a. Number and extent: As Condition G3 defines.
- b. Order / ordering: The applicant shall construct Phase 1 first.
- c. Improvements: Improvements within a phase are due by that phase.
- d. Vesting: Construction of Phase 1 shall vest land use / planning / zoning entitlement for Phase 2; but, were the applicant (or successors and assigns) to fail to make use of any of the two provisions of WDO 4.02.04B.1 or 3 to avoid expiration, expiration shall occur upon one of the two following events:
 - (1) The arrival of July 1, 2030; or
 - (2) City adoption of a unified development ordinance replacing the WDO were to have intervened on or between July 24, 2023 and June 24, 2030, approximately 3 to 10 years from the anticipated land use final decision date.

Property Line Adjustment 2019-04

PLA-1. Recording: To meet WDO 5.01.08B.5., upon City approval of the subject PLA, the applicant shall revise the drawing or drawings as needed and record the re-plat (or whatever it is that the County terms it) with the County. The expiration date is per WDO 4.02.04B, and were subsection 2 that refers to "the activity approved in the decision has commenced" to become relevant, that provision would mean recordation of the subject PLA, and to this end the applicant shall apply to Marion County for recordation by December 30, 2022 and complete recordation by May 25, 2023. In any case, the applicant shall record the re-plat prior to both City assignment of street addresses, which would follow the applicant submitting an address assignment request, and building permit application.

Street Exception 2020-05

EX1. Hooper:

- a. Existing improvements: The planter strips, including curb widths, may remain 6½ ft instead of 7 ft, sidewalks may remain 5½ ft instead of 5 ft, and existing curbs may remain in place where not otherwise disturbed by newer improvements.
- b. Curb extensions: The applicant shall construct the proposed four curb extensions that cap the on-street parking aisles.
- c. Mid-block crossing: The applicant shall construct of the proposed two mid-block crossings of Hooper Street only the southeastern one and shall:
 - (1) Construct it of poured concrete minimum width of eight (8) ft;
 - (2) Stamp or otherwise treat the concrete to have a pattern that drivers would sense tactilely as well as visually.
 - (3) Install ADA-compliant curb ramps and pave connections to the sidewalks.
 - (4) Provide signage and striping per PW SS&Ds, or, if none exist for a given topic, per the direction of the City Engineer. Required signage may include two advance warning signs for drivers; and

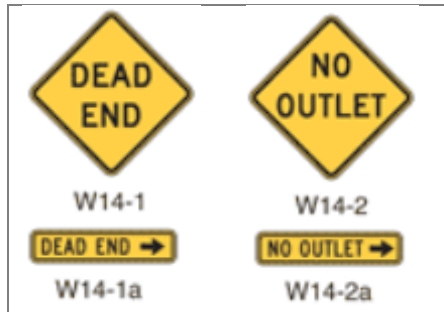
- (5) Meet federal or state criteria or guidelines that the City Engineer may establish in writing as standards for the mid-block crossing.
- d. Crosswalk upgrade: Instead of the proposed northwestern of the two proposed mid-block crossings, the applicant shall traffic calm the crosswalk of the southeast leg of the T-intersection of Allison & Hooper. The applicant shall construct a poured concrete crosswalk at minimum width of eight (8) ft and that is either stamped or otherwise treated to have a pattern tactilely that drivers would sense tactilely as well as visually. The applicant shall stripe the crosswalk.
- e. Street trees: The applicant shall plant trees at 1 per 30 ft of frontage, equaling fourteen (14) trees per frontage (instead of 1 per 50 typical, 9 trees per frontage). For up to no more than two (2) of the absolute number of trees required along each frontage (4 total), the applicant may pay a fee in-lieu of \$125 per tree. This fee provision is intended to substitute for the applicant invoking 3.06.03A.3 (Director modification/relocation).

EX2. Allison: The City modifies and approves the street exception request as follows regarding improvements and that applies to both phases:

- a. Phase 1:
 - (1) Northbound travel lane: Either narrow from twelve (12) to eleven (11) ft, or, restripe the center left turn lane from twelve (12) to eleven (11) and shift the travel lane accordingly. However, were the sidewalk described below within this list were to overlap the PUE by at least one and a half (1½) ft, if the bicycle lane is removed, or by up to four and a half (4½) ft, if the bicycle lane remains, no lane narrowing would be required.
 - (2) Bicycle lanes: ~~Remove or narrow to~~ Minimum five (5) ft each.
 - (3) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling twenty (20) trees along the Phase 1 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between either *Betula pendula* [silver or European white birch] or another *Betula* [birch] species and an evergreen species among any of *Magnolia grandiflora* "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-seven percent (97%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least two (2) distinct openings in the shrubbery that total the remaining area of three percent (3%) shall be lawn grass.
 - (4) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft (whether or not a northbound bicycle lane remains) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveway A1 or at the northeast corner of Allison & Hooper, it may fully overlap a streetside PUE.
 - (5) Striping:
 - (a) Bicycle: At the Phase 1 north end where the existing bicycle lane will continue at the north side of driveway A1, at the opening of the bicycle lane the developer shall stripe an MUTCD-compliant bicycle lane symbol or symbols.
 - (b) Turn: The applicant shall stripe a turn arrow within the existing center left turn lane southbound at Hooper.

- (6) Utilities: Relocate underground/subsurface utilities that would conflict with street trees, such as a potable water line, and surface utilities such as street light poles and boxes to be within either or both of the planter strip and a streetside PUE. Existing covered vaults may be incorporated within altered or additional sidewalk if meeting PW SS&Ds.
 - (7) NW side landscaping: The following applies between the project north end and the south end of the existing stormwater detention pond fencing – a point approximately 330 ft southwest along Allison ROW from Hooper centerline. The applicant shall plant at least two hundred and forty-eight (248) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.
- b. Phase 2 / extension:
- (1) Lanes, travel: Minimum width twelve (12) ft.
 - (2) Lane, center left turn lane and turn pockets: Width eleven (11) ft.
 - (3) Bicycle lanes: ~~Northbound: none; and, southbound, either none or m~~ Minimum five (5) ft each.
 - (4) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling forty-one (41) trees along the Phase 2 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between *Betula pendula* [silver or European white birch] or another *Betula* [birch] species and an evergreen species among any of *Magnolia grandiflora* “Victoria” cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-five percent (95%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least six (6) distinct openings in the shrubbery that total the remaining area of five percent (5%) shall be lawn grass.
 - (5) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft (whether or not there is a northbound bicycle lane) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveways A2 and A3 or at the southeast corner of Allison & Hooper, it may farther overlap a streetside PUE.
 - (6) ~~Median:~~ ... [previously struck by the Planning Commission]
 - (7) ~~Turn areas: At the north, the median shall~~ ... [previously struck by the Commission]
 - (8) NW side landscaping: The following applies between the fencing south end and the south end of extended Allison. The applicant shall plant at least two hundred and fifty-two (252) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.:
 - (9) Interim signage: Signed barricades remain required per WDO 3.01.05A.2.b & c. and to PW SS&Ds. The developer shall also install an *MUTCD*-compliant dead-end sign, either W14-1 or W14-2, at the intersection of Allison & Hooper for southbound drivers. The City Engineer may require the developer to install either (a) also at the intersection either a W14-1a or a W14-

2a sign to warn drivers turning south from Hooper that Allison ends in the left direction as the arrow within the sign copy would indicate, or (b) a sign or signs serving similar purpose.



Design Review 2019-05: Transportation

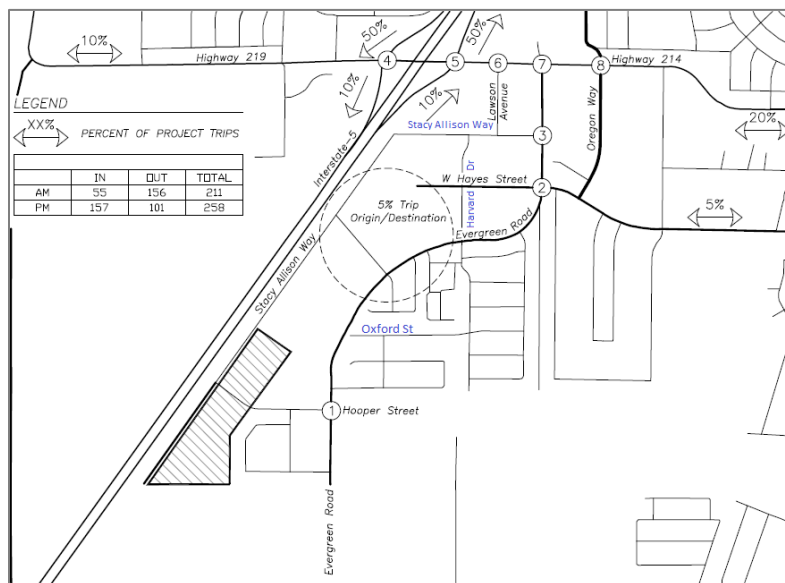


Exhibit T Vicinity map

T-A1. [Evergreen & W. Hayes](#): The developer shall:

- Mitigation fee / Fee in-lieu: Pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]
- Evergreen sidewalk west: See Condition T-BP2.

T-A2. [Allison & Evergreen](#): The developer shall pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]

T-A3. [OR 214 & Evergreen](#): The developer shall pay a mitigation fee or fee in-lieu of \$15,000 to fund a transportation study, specifically to investigate corridor signal timing and coordination adjustments in coordination with ODOT. This is due by Phase 1, building permit issuance. [R10]

T-BP1. Allison & Lawson: The developer shall upgrade the T-intersection so that the south landing of either the east or west leg crosswalk has an ADA-compliant curb ramp and the crosswalk is striped. This is due by Phase 1, building permit issuance.

T-BP2. Evergreen sidewalk west: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum eight (8) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The developer shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the intersection west leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 1, building permit issuance. [P6]

T-BP3. Evergreen sidewalk east: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lots 052W12DC01400 (2333 W. Hayes Street), 052W12DC01200 & 1300, and 052W12DB04400 (2330, 2340, & 2343 Oregon Court). The sidewalk shall be minimum six (6) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the W. Hayes intersection east leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 2, building permit issuance. [P6]

T-BP4. W. Hayes sidewalk: The developer shall fill in the sidewalk gap along the W. Hayes frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum six (6) feet wide. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, including to align sidewalk curb-tight. Within the parameters of this condition, the sidewalk placement shall otherwise reasonably conform to WDO Figure 3.01G, particularly regarding placement relative to centerline and establishing a planter strip with street trees where they can fit. This is due by Phase 2, building permit issuance.

T-BP5. Harvard curb ramp(s): At the T-intersection with W. Hayes, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing trees in or partially within existing ROW, including by using returned curbs instead of flares along ramps. This is due by Phase 2, building permit issuance.

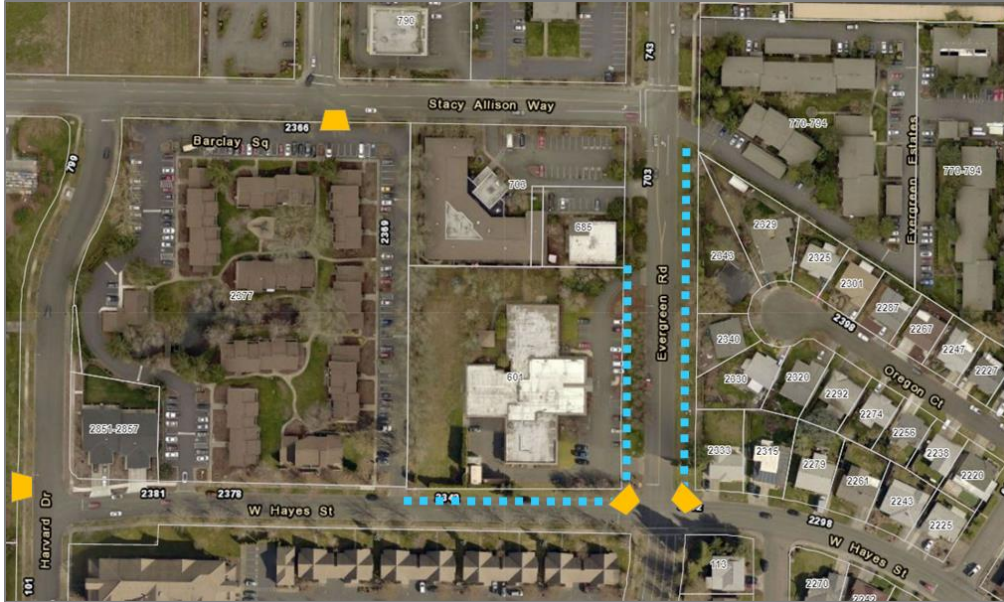


Exhibit T-BP North: This exhibit illustrates locations and represents improvements related to Conditions T-BP1 through 5. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP6. Evergreen sidewalk south: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 02400 (0 Evergreen Road NE). The minimum width and placement shall conform to WDO Figure 3.01C, and within the planter strip the applicant shall plant at least two (2) street trees with root barriers, one each near Harvard and the driveway and to allow future adjacent site development to add trees to conform fully with the quantity required by WDO 3.06.03A (1 per 50 ft typical). This is due by Phase 2, building permit issuance.

T-BP7. Evergreen / Walmart driveway curb ramp: The developer shall fill in the sidewalk gap along the Evergreen frontage of the pole of the flag lot that is Tax Lot 052W12C 01900 (3002 Stacy Allison Way) and install an ADA-compliant curb ramp at the west side of the driveway. This is due by Phase 2, building permit issuance.

T-BP8. Evergreen curb ramp(s): At the T-intersection with Oxford, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing street trees, including by using returned curbs instead of flares along ramps. This is due by Phase 1, building permit issuance.

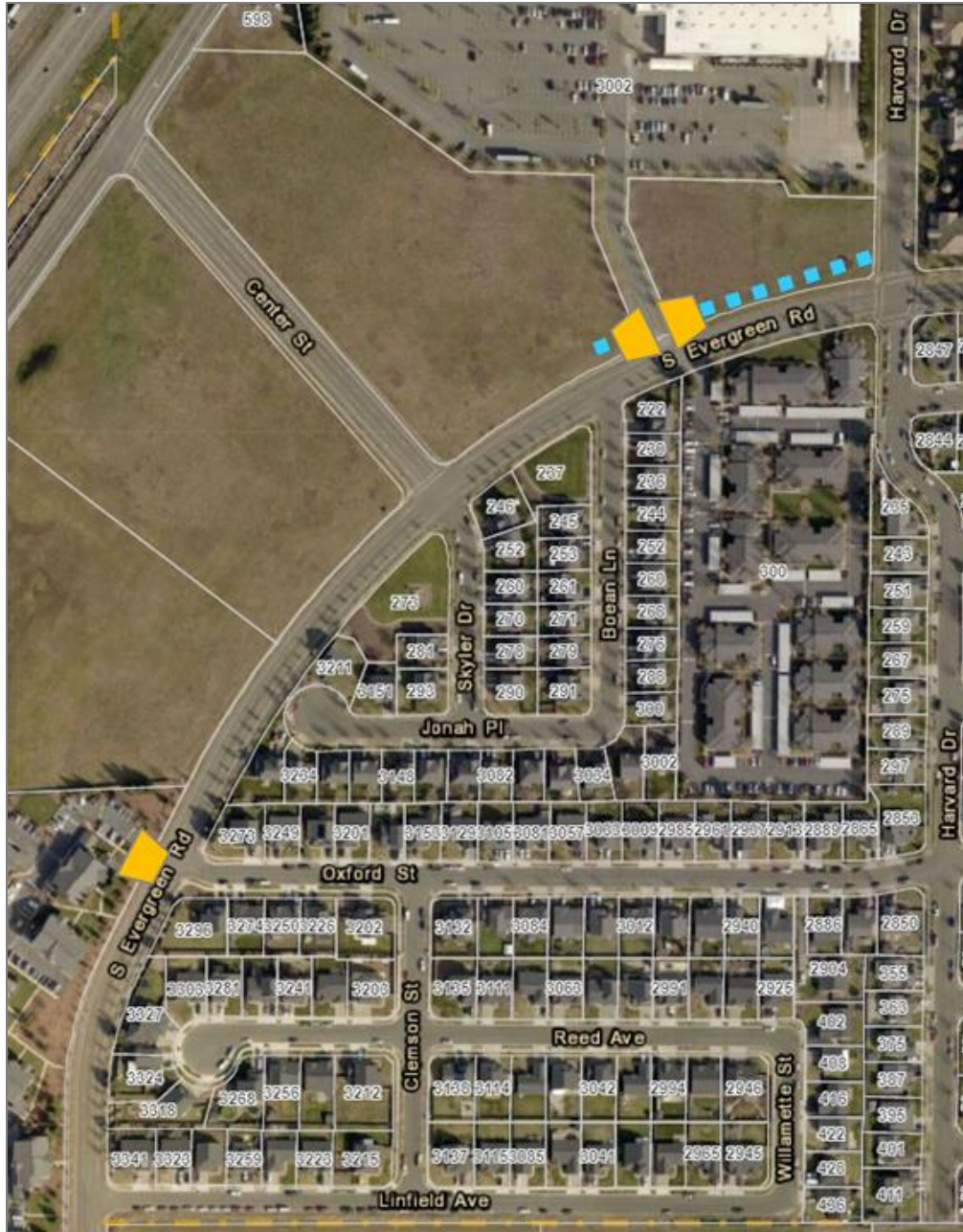


Exhibit T-BP South: This exhibit illustrates locations and represents improvements related to Conditions T-BP6 through 8. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP9. ~~Evergreen Path~~: ... [previously struck by the Planning Commission]

T-BP10. BP fee in-lieu option: In order for the City to construct any of the bicycle/pedestrian improvements that Condition T-A1b (Evergreen sidewalk west) and the T-BP conditions above describe, a developer may pay a fee in-lieu as follows:

- a. Percentage: Equal to at least one hundred and twenty (120%) of a licensed civil engineer's cost estimate.
- b. Estimate: An estimate shall have construction cost item estimates based on the improvements being bid on as a "Public Works Project" paying prevailing wages. The City Engineer shall review and approve a construction estimate prior to acceptance of a fee in-lieu payment.
- c. Bond/bonding/performance guarantee: If the applicant were to bond, then the above condition subparts a. and b. about percentage and estimate shall apply also to a bond.

T-T. Bus transit fee: The developer shall pay a mitigation fee that is a total of a fixed base amount plus a rate per dwelling of \$208.28. The fixed base amount shall be \$12,510.20 for Phase 1 and \$46,750 for Phase 2. (This condition relates to TSP projects T1, 2, 4, 16, 18 & TSP Fig. F5, and TPU projects 9, 11, 12, & 20.)

Variance 2019-04

V1-1. Driveway (WDO Table 3.04A):

- a. The minimum driveway widths shall be per the table below (instead of 24 feet typical):

<i>Minimum Driveway Width (feet)</i>			
<i>One-way Travel</i>		<i>Two-way Travel</i>	
<i>Single Lane</i>	<i>Paired Lanes</i>	<i>Paired Lanes</i>	<i>With Left Turn Lane</i>
10	9 per lane; 18 total	20	30 total

- b. The maximum driveway widths shall be per the table below (instead of 38 feet typical):

<i>Maximum Driveway Width (feet)</i>			
<i>One-way Travel</i>		<i>Two-way Travel</i>	
<i>Single Lane</i>	<i>Paired Lanes</i>	<i>Paired Lanes</i>	<i>With Left Turn Lane</i>
11	10 per lane; 20 total	22*	31 total

*Except 26 ft where required by Oregon Fire Code (OFC) Appendix D

- c. The condition applies within ROW, and may apply outside ROW along driveway throat length, so as not to interfere with the drive aisle width provisions of WDO Table 3.05C.

V2-4. Drive aisle (WDO Table 3.05C):

- a. The minimum drive aisle widths shall be per the table below (instead of 24 feet typical):

<i>Parking Context</i>	<i>Minimum Drive Aisle Width (feet)</i>		
	<i>One-way Travel</i>		<i>Two-way Travel</i>
	<i>Single Lane</i>	<i>Paired Lanes</i>	
<i>Standard or ADA-compliant stalls</i>	18	10 per lane; 20 total	20
<i>Compact stalls</i>	16	9 per lane; 18 total	20
<i>No adjacent stalls</i>	10	9 per lane; 18 total	20

- b. The condition applies up to newly dedicated ROW so as not to interfere with the driveway minimum width provisions of WDO Table 3.04A.

V3-5. Curb dimensions, parking area (WDO 3.06.02I): Curb or curbing that delineates on-site walkways and landscaped, parking, and vehicular circulation areas shall have a minimum height and width each of four (4) inches (instead of 6 inches typical).

- a. Speed table: The applicant shall construct a speed table along the walkway crossing nearest and between the Phase 2 clubhouse, play area, and Building R. (See Condition G3 for specifications.)
- b. Wheel stops: Wherever required or proposed, wheel stops shall be four (4) inches high maximum.

V4-6. Architectural Wall (WDO Table 3.06D & 3.06.06):

- a. The property lines subject to the Architectural Wall provisions of Table 3.06D and 3.06.06 are exempt from those provisions.
- b. Landscaping:
 - (1) Along the Phase 2 southeast and east lot lines, the applicant shall landscaped a buffer of minimum width five (5) ft to the minimum planting density of WDO Table 3.06A, row "Buffer yards".
 - (2) The landscaping shall include evergreen shrubbery planted at the large category minimum size per WDO Table 3.06B.
 - (3) The applicant shall include within fifteen (15) ft of the lot lines at least twenty-one (21) trees. The applicant shall add at least four (4) trees of large category per WDO Table 3.06B for a total of 25 trees. The four additional trees shall be in the lawns near Buildings Q & R, within sixty (60) ft of the lot lines, and with one (1) near Building Q and three (3) near Building R. The proposed site perimeter tree closest to the east/northeast corner of Building R shall be changed to a coniferous or evergreen species.
 - (4) Transformer box: Any on-site at-grade electrical transformer box shall be screened with evergreen shrubbery on all sides except the panel door side.
- c. Fence, cedar: Along the two segments of the Phase 2 southeast and east lot lines within six (6) ft of parking stalls that face the lot lines, the applicant shall install a treated cedar wood fence at least five (5) ft, ten (10) inches high and with boards arranged for opacity, except that the highest foot may be mostly opaque lattice pattern. Fence height shall not supersede applicable height limits per WDO 2.06.02.
- d. Lighting: If proposed, exterior light fixtures shall be full cut-off or fully shielded and limited in height as follows:
 - (1) Full cut-off: Exterior lighting fixtures shall be full cut-off or fully shielded models.
 - (2) Heights: As measured to the underside of the fixture:
 - (a) Wall: Exterior wall-mounted fixtures shall be no higher than ten (10) feet above walkway finished grade. (This height limit is not applicable to emergency egress lighting and permanent wall signs allowed through WDO 3.10 were they to have interior illumination.)
 - (b) Parking pole: Exterior pole-mounted fixtures within four (4) feet of or in parking, loading, and vehicular circulation areas shall be no higher than fourteen-and-a-half (14½) feet above vehicular finished grade.
 - (c) Other pole: Remaining exterior pole-mounted fixtures, if any, shall be no higher than twelve (12) feet above grade.

V5-3-1. Compact parking (WDO 3.05.03C):

- a. Percentage: The compact parking maximum as a percentage of the required minimum amount of parking shall be ~~sixty~~**twenty-five** percent (~~60~~**25**%; instead of 20% typical) and hundred percent (100%) of any amount in excess of the minimum required. For each phase, at least twenty percent (20%) of the minimum amount of stalls shall be compact
- b. Striping: The applicant shall stripe each stall with the word "COMPACT" in lettering one (1) foot high minimum.
- c. Wheel stops: Where used, wheel stops shall be four (4) inches high maximum.

V6-3-2. Off-street parking provisions:

- a. Bicycle parking amount and distribution: For each phase unless otherwise specified, the applicant shall provide a minimum number of bicycle parking stalls as follows:
 - (1) At least one (1) per dwelling in each dwelling in the outdoor closet of the balcony or patio in which the applicant shall install a wall-mounted folding or retractable hook designed for the hanging of a bicycle;
 - (2) At least one (1) stall at the base of each building stairwell, with each of these locations having a bicycle parking sign with minimum face dimensions of (1) foot wide by one-and-a-half (1½) feet high;
 - (3) Phase 1: Guest: Excluding outdoor closet and stairwell stalls, a set of at least two (2) stalls within five to fifteen (5-15) ft of Hooper ROW and near or along the access way;
 - (4) Phase 2: Guest: Excluding outdoor closet and stairwell stalls, at least two sets of at least two (2) stalls each, one northwesterly within five to fifteen (5-15) ft of Hooper and one southeasterly within ninety (90) ft of Hooper ROW.
 - (5) Phase 1: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least twenty (20) outdoor stalls. Of these at least four (4) shall be among the clubhouse / leasing office, clubhouse plaza, or barbeque (BBQ) area, and sixteen (16) shall be covered/sheltered.
 - (6) Phase 2: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least fifty-six (56) outdoor stalls. Of these at least four (4) shall among the clubhouse / leasing office, clubhouse plaza, BBQ area and play area, two (2) shall be northeast of Building F and within ninety (90) ft of Allison ROW, two (2) shall be northeast of Building K and within ninety (90) ft of Allison ROW, and thirty-two (32) shall be covered/sheltered.
 - (7) At least two (2) stalls outside and near each apartment building spaced to conform to the 50-foot distance provision of WDO 3.05.03E as applied through a Design Review (D) condition.
 - (8) In no case shall the total number of bicycle parking stalls equal fewer than 1.2 per dwelling, and in no case shall the minimum coverage/sheltering from precipitation of bicycle parking be for fewer than forty-eight (48) stalls excluding outdoor closet and stairwell stalls.
- b. Bicycle standards: Stalls shall conform to City of Portland [Title 33, Chapter 33.266.220C](#) (amended 5/24/2018), except that the applicant may ignore subsections C6, C7, & C5c, and that C4b does not apply to the outdoor storage closets for which the minimum stall depth from wall instead shall be four (4) feet minimum. Vertical clearance instead shall be eight (8) feet or, where a stall is under stairs, six (6) feet.

- c. Access ways:
 - (1) Phase 1: At least one access way shall remain as proposed that extends from Hooper sidewalk at least one-hundred and fifty (150) ft to the plaza between the clubhouse and the barbeque (BBQ) shelter.
 - (2) Phase 2: At least one access way shall remain as proposed that extends from Hooper sidewalk at least five-hundred and fifty (550) ft from to the clubhouse southwest doors / play area.
- d. Walkways:
 - (1) Courtyards: The applicant shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and each Note 6 to illustrate and note the proposed decorative pavement of the segments of courtyard walkways that the landscape plans (Exhibits 38-42) illustrate.
 - (2) Drive aisle crossings: The shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and install in the field at least six (6) walkway drive aisle crossings not only as striping but also as extensions of poured concrete, listed north to south clockwise:
 - (a) Phase 1, north of Building A
 - (b) Phase 2, north of Building R
 - (c) Phase 2, north of Building P
 - (d) Phase 2, south of Building L
 - (e) Phase 2, east of Building M, and
 - (f) Phase 2, SW of Building K.
 - (3) Parking courts: The applicant shall pour concrete or lay concrete pavers to form a pedestrian shortcut up and over the curbed landscaped strip island within each parking court, in order to pass amid groundcover and shrubbery. It shall be roughly aligned at the boundaries of parking stalls, with the side of a landscaped peninsula, and with the nearest walkways that orient northeast-southwest and are between buildings. The minimum width shall be twenty-one (21) inches.
 - (4) Building stormwater scuppers shall not dump onto walkways.
- e. EV: As proposed and premised on OAR 918-020-0380 "Electric Vehicle Ready Parking", a minimum of either 36 stalls or three and half percent (3.5%) of minimum required parking— whichever is greater – shall be a designated EV stall or stalls and with a charging station or stations, which the landowner may limit to tenant use. Of 36 or more stalls, Phase 1 shall have at least twelve (12) and Phase 2 at least twenty-four (24).
 - (1) Striping: Stripe each stall in lettering 1 ft high minimum "ELECTRIC VEHICLE CHARGING" or similar and also stencil an EV image or logo. Reflect this on revised site plans.
 - (2) Signage: Post at each stall a wall-mounted or pole-mounted sign for "Electric Vehicle Charging Only" or similar and also include an EV image or logo. Use a minimum sign face size of one (1) foot wide by one-and-a-half (1½) feet high. The top of a posted sign is to be between five-and-a-half (5½) and six-and-a-half (6½) feet above vehicular grade. Reflect this on revised site plans including with an elevation detail.
- f. Balconies/patios: WDO 3.07.05B.1 (area/size and narrowest dimension) shall apply as minimum standards, except that for whatever balconies and patios among those proposed exceed these dimensions, their larger areas/sizes and wider narrowest dimensions shall be the minimum standards for those.

- g. Common open space facilities:
 - (1) Benches: Install at courtyards, clubhouse plazas, or common lawns at least two (2) Phase 1 benches and at least eight (8) Phase 2 benches. Each bench shall at least six (6) feet wide and with a back. In Phase 2 were 7 benches are proposed, add the eighth bench at the lawn southeast of Building M. Relocate two Phase 2 benches:
 - 1. From NW of Building G to the lawn NE of Building R and roughly in line with the walkway drive aisle crossing; and
 - 2. From NE of Building K to the lawn SE of Building R.
 - (2) Clubhouse plazas and BBQ grill shelters: As proposed, build at least one (1) each of a clubhouse plaza and a barbeque (BBQ) grill shelter in each of Phase 1 and 2.
 - (3) Administrative minor adjustment by the Director to the above common open space facilities is permissible.
- h. Windows:
 - (1) Proportion: All windows shall be square or vertically proportioned, except that horizontally proportioned windows are allowed if they have grilles or muntins dividing lights or panes so as to be vertically proportioned.
 - (2) Per room: Within apartments, every habitable room abutting a building exterior wall shall have at least one window.
 - (3) Insect screens: All operable windows shall have insect screens.

V7-3-3. Public access easement:

- a. Dedication: Regarding the Phase 1 proposed public park in the form of a plaza along Hooper and its related improvements, the applicant as part of re-plat recordation shall dedicate to the City a public access and utility easement encompassing the plaza and some extra perimeter area, specifically with a boundary that follows the centerlines of the walkways to the northwest and northeast that border the plaza and, to the southeast, along the back side of drive aisle curb. The easement shall grant public access during the same hours and subject to the rules and regulations for City parks per Ordinance Nos. 2060 (1991) and 2377 (2004) or as the City may amend ordinances.
- b. Boundary marking: The developer shall mark the public boundary through one of the following two options:
 - (1) Caps: Metal caps that either are or mimic land survey markers, are minimum diameter of three and a quarter (3¼) inches, and at a minimum number equal to and with average placement of 1 cap per 10 lineal ft of walkway. There shall be two additional caps along the boundary where it follows the drive aisle curb. The caps shall have the phrases "Open to Public" and "Private Property", and a line as a separator between the two phrases.
 - (2) Plaques: Metal plaques embedded within walkway concrete, aligned with the boundary, and that read "Property beyond Plaque not Dedicated to Public" with text oriented to be read by persons looking away from the plaza. The minimum size shall result from a minimum lettering height of two (2) inches, and the minimum number shall be equal to and with average placement on center of 1 plaque per 20 lineal ft of walkway. There shall be two additional plaques along the boundary where it follows the drive aisle curb.

c. Sign:

The applicant shall install a permanent sign conforming to WDO 3.10 that reads “Plaza Open to Public 7AM - 10PM April - September, & 7AM - 7 PM October - March” with minimum lettering height of two (2) inches. The developer shall place it near the plaza entry that is along the sidewalk and within five (5) to nine (9) ft of ROW.

- (1) If a monument sign type, the sign face area shall be twelve (12) sq ft minimum, with a flat top at least three (3) ft above grade and in the form of a concrete cap at least three (3) inches wide.
- (2) If a pole sign type, the lettering shall be green, and the sign face shall be no lower than three and a half (3½) ft above grade and no higher than five (5) ft and of minimum dimensions of two (2) ft by one-and-a-half (1½) ft.

d. Due date: These shall be due by Phase 1, building permit issuance.

V8-3-4. Parking management:

a. Survey: The applicant or any successor and assigns such as a property manager shall collect data about off-street parking usage or allocation and provide it to the City to the attention of the Director.

- (1) Reporting period: Collect data by each half of a year – January through June and July through December. Submit each biannual report by the last City business day in the last month of the next quarter of a year and that is not a federal holiday. (For example, a report for January through June 2022 would be due by September 30, 2022.)
- (2) First report: The first report shall cover whatever irregular length of time would pass between phase occupancy and the end of the next half of a year ending June or December.
- (3) Attributes: Collect and report on:
 - (a) Geography: Report numbers divided between Phases 1 & 2 (as defined in Condition G3).
 - (b) The number of off-street spaces/stalls that are available and how many, if any, are closed due to occasional events such as parking area resurfacing, temporary outdoor events, outdoor storage, or the stationing of large trucks or truck trailers.
 - (c) Track stalls and usage by type: regular standard size, regular compact, accessible/ADA/handicap, EV, and any other type (such as those designated for visitors, leasing office employees, staff golf cart, or mail carrier).
 - (d) Collection: The property manager shall do field counts as per condition subpart (4 “field count”) below and also provide a separate set of assumed counts based on lease agreements, i.e. what tenant households are allocated a stall or stalls and for what periods, assumed that stalls are occupied as lease agreements describe.
 - (e) Usage: Report how many stalls are used and allocated. For vacant apartments in the context of assumed counts, record stalls associated with vacant apartments as unallocated.
 - (f) If and when a parking area resurfacing project were to happen, provide written notice to the Director of approximate start date and duration, location, and number of stalls involved.

- (g) Format: Use tables to report by phase absolute numbers and percentages of stall type occupancies. Include phase and sitewide totals.
- (4) Field count: The property manager shall do at least two field counts per reporting period, meaning to travel the project and count in real time occupied and vacant stall types such as by marking a project site plan. Each count shall be on Tuesday, Wednesday, or Thursday that is neither a federal holiday nor within a week (7 days) of a federal holiday. One count shall be daytime starting no earlier than 9:30 a.m. and concluding no later than 4:30 p.m., and one count shall be nighttime starting no earlier than 10:00 p.m. and concluding no later than 12:30 a.m. Report when on a given date the counts were done and how long it took, for example, from 11:30 a.m. to noon.
- (5) Bicycle parking: For outdoor bicycle parking stalls, including those within stairwells but excluding outdoor closets, the property manager shall also do field counts the same way as per condition subpart (4) above and as part of the larger report confirm the total number of existing outdoor bicycle stalls.
- (6) Parking demand management: The reporting that a parking demand management condition requires, if it exists, may be incorporated with the parking usage data collection report.
- (7) Context: In each report, cite the project name, phases, street addresses, master/parent case file number DR 2019-05, and the condition identification(s), state what period the report covers, state the number of vacant apartments and when and how the number was determined given fluctuation over six months, and provide an employee name and direct contact information for questions City staff might have.
- (8) Intent: It is not the express intent of this condition to police property management or punish tenants or management for perceived misuse of parking, but instead without judgment to collect data on how parking is actually used in a conventional large apartment complex.
- (9) Change of ownership: If and when property ownership were to change, the property manager shall pass along record of the conditions of approval to the contract purchaser and successive property manager.
- (10) Expiration: This parking usage/allocation data collection condition becomes optional as of July 1, 2031. If reporting were to cease, the last report – for the January to June 2031 period – would be due September 30, 2031.

V9-2. Parking ratio minimum:

- a. The minimum ratio shall be ~~by unit type as follows for each:~~

~~(1) Studio dwelling, 1.0 stall;~~

~~(2) One bedroom, 1.0 stall;~~

~~(3) Two bedroom, 1.77 stalls; and~~

~~(4) Three or more bedroom unit type, 4.14;~~

~~which would result in an average of 1.771.9 stalls per dwelling based on the unit type mix across both phases.~~

- b. Location: Regarding Phase 1, the applicant may exercise WDO 3.05.02D.1.b. regarding “another site” if that site is Phase 2.
- c. Trial period: Until July 1, 2025, there shall be a trial period in which the Director may receive evidence of a chronic parking overflow problem and choose to investigate, review, and act upon it, including by obtaining the latest documentation of any parking permit system were the property manager to have instituted and be managing such.
 - (1) This condition authorizes the Director to require that the applicant or any successors and assigns apply for and receive approval of a solution to the satisfaction of the Director. The review shall default to a Type II process, but the Director may instead elevation the review to Type III to obtain Planning Commission review and decision.
 - (2) The Director may condition that the applicant or any successors and assigns fulfill the offer made through the revised narrative (submitted March 25, 2020, p. 12; Attachment 106) to contact a car share company and allow a parking space or two to be allocated such a company car or cars for tenant use. (This condition does not supersede WDO 4.02.07 Modification of Conditions.)
- d. EV: The property manager:
 - (1) Shall keep EV stalls available for EVs and plug-in hybrid vehicles and keep conventional gasoline vehicles from parking in them. Priority users shall be tenants and property management company employees; guests/visitors would be secondary.
 - (2) May charge EV stall users for the costs of charging an EV through a charging station, but shall not (a) charge tenants for either simply parking an EV or plug-in hybrid vehicle in an EV stall or for leaving such a vehicle parked without actively charging, and (b) shall charge to recoup costs to the property manager and not generate profit for the property manager. (This does not preclude the property manager contracting with a for-profit company to manage EV charging stations).
 - (3) Regardless of whether tenant demand is less than, meets, or exceeds the sitewide supply of EV stalls, may – whether or not the manager expands supply – institute a permit system, including a waiting list and assigning a tenant EV to a particular delineated group or zone of stalls, and as part of doing so shall not charge any fee that discriminates among particular EV parking stalls based on the perception of some stalls being more convenient or otherwise desirable than others. “Sitewide” shall mean the combined supplies of Phases 1 and 2, regardless of any division of property management between the two phases.

Expiration: Per Woodburn Development Ordinance (WDO) 4.02.04B., a final decision expires within three years of the date of the final decision unless:

- 1. A building permit to exercise the right granted by the decision has been issued;
- 2. The activity approved in the decision has commenced; or
- 3. A time extension, Section 4.02.05, has been approved.

Notes to the Applicant: The following are not planning / land use / zoning conditions of approval, but are notes for the applicant to be aware of and follow:

1. Records: Staff recommends that the applicant retain a copy of the subject approval.
2. Fences, fencing, & free-standing walls: The approval excludes any fences, fencing, & free-standing walls, which are subject to WDO 2.06 and the permit process of 5.01.03.
3. Signage: The approval excludes any private signage, which is subject to WDO 3.10 and the permit process of 5.01.10.
4. PLA Time Limit: WDO 4.02.04B. specifies that, “A final decision on any application shall expire within three years of the date of the final decision unless: 1. a building permit to exercise the right granted by the decision has been issued; 2. the activity approved in the decision has commenced; or 3. a time extension, Section 4.02.05, has been approved. Because unrecorded re-plats lingering indefinitely have burdened staff, a condition sets sooner time limits for subsection 2. to begin and finish recordation.
5. Mylar signature: The Community Development Director is the authority that signs plat Mylars and not any of the mayor, City Administrator, Public Works Director, or City Engineer. Only one City signature title block is necessary.
6. PLA Plat Tracker: Marion County maintains a plat tracking tool at <http://apps.co.marion.or.us/plattracker/>. Use it to check on the status of a recordation request to the County. City staff does not track County plat recordation.
7. Technical standards:
 - a. Context: A reader shall not construe a land use condition of approval that reiterates a City technical standard, such as a PW standard, to exclude remaining standards or to assert that conditions of approval should have reiterated every standard the City has in order for those standards to be met.
 - b. Utilities: A condition involving altered or additional sidewalk or other frontage/street improvement that would in the field result in displacement or relocation of any of utility boxes, cabinets, vaults, or vault covers does not exempt the developer from having to move or pay to move any of these as directed by the City Engineer and with guidance from franchise utilities.
8. Other Agencies: The applicant, not the City, is responsible for obtaining permits from any county, state and/or federal agencies, which may require approval or permit, and must obtain all applicable City and County permits for work prior to the start of work and that the work meets the satisfaction of the permit-issuing jurisdiction. The Oregon Department of Transportation (ODOT) might require highway access, storm drainage, and other right-of-way (ROW) permits. All work within the public ROW or easements within City jurisdiction must conform to plans approved by the Public Works Department and must comply with a Public Works Right-of-Way permit issued by said department. Marion County plumbing permits must be issued for all waterline, sanitary sewer, and storm sewer work installed beyond the Public Right-of-Way, on private property.

9. Inspection: The applicant shall construct, install, or plant all improvements, including landscaping, prior to City staff verification. Contact Planning Division staff at least three (3) City business days prior to a desired date of planning and zoning inspection of site improvements. This is required and separate from and in addition to the usual building code and fire and life safety inspections. Note that Planning staff are not primarily inspectors, do not have the nearly immediate availability of building inspectors, and are not bound by any building inspector's schedule or general contractor convenience.
10. Stormwater management: The storm sewer system and any required on-site detention for the development must comply with the City Storm Water Management Plan, Public Works storm water practices and the Storm Drainage Master Plan.
11. Public Works Review: Staff performs final review of the civil plans during the building permit stage. Public infrastructure must be constructed in accordance with plans approved by the City, as well as current [Public Works construction specifications, Standard Drawings, Standard Details](#), and general conditions of a permit type issued by the Public Works Department.
12. ROW:
 - a. Dedication: The Public Works Department Engineering Division has document templates for ROW and easement dedications that applicants are to use.

ROW – and public utility easement (PUE) – dedications are due prior to building permit issuance per Public Works policy.
 - b. Work: All work within the public ROWs or easements within City jurisdiction must require plan approval and permit issuance from the Public Works Department. All public improvements construction work must be performed in accordance with the plans stamped “approved” by the City, and comply with the City's Standard Specifications and Standard drawings.
13. Franchises: The applicant provides for the installation of all franchised utilities in any required easements.
14. Water: All water mains and appurtenances must comply with Public Works, Building Division, and Woodburn Fire District requirements. Existing water services lines that are not going to be use with this new development must be abandoned at the main line. The City performs required abandonment of existing water facilities at the water main with payment by the property owner. All taps to existing water mains must be done by a “Hot Tap” method and by approved City of Woodburn Contractors. The applicant shall install the proper type of backflow preventer for all domestic, lawn irrigation and fire sprinkler services. The backflow devices and meters shall be located near the city water main within an easement, unless approved otherwise by Public Works. Contact Byron Brooks, City of Woodburn Water Superintendent, for proper type and installation requirements of the backflow device at (503) 982-5380.
15. Grease Interceptor/Trap: If applicable, a grease trap would need to be installed on the sanitary service, either as a central unit or in the communal kitchen/food preparation area. Contact Marion County Plumbing Department for permit and installation requirements, (503) 588-5147.
16. Fire: Fire protection requirements must comply with Woodburn Fire District standards and requirements, including how the District interprets and applies Oregon Fire Code (OFC). Place fire hydrants within the public ROW or public utility easement and construct them in accordance with

Public Works Department requirements, specifications, standards, and permit requirements. Fire protection access, fire hydrant locations and fire protection issues must comply with current fire codes and Woodburn Fire District standards. See City of Woodburn Standard Detail No. 5070-2 Fire Vault. The fire vault must be placed within the public right-of-way or public utility easement.

17. SDCs: The developer pays System Development Charges prior to building permit issuance. Staff will determine the water, sewer, storm and parks SDCs after the developer provides a complete Public Works Commercial/Industrial Development information sheet.

Appeals: Per WDO 4.01.11E., the decision is final unless appealed pursuant to Oregon Revised Statutes (ORS), state administrative rules, and WDO [4.02.01](#). The appeal to City Council due date is twelve (12) days from the mailing date of this final decision notice per 4.02.01B.1. A valid appeal must meet the requirements of 4.02.01.

A copy of the decision is available for inspection at no cost, and the City would provide a copy at reasonable cost at the Community Development Department, City Hall, 270 Montgomery Street, Woodburn, OR 97071. For questions or additional information, contact Vicki Spitznogle, Administrative Assistant, at (503) 982-5246 or vicki.spitznogle@ci.woodburn.or.us.

Attachments:

- Planning Commission May 28, 2020 Staff Report Attachment 101. Tax Maps Marked (2 sheets)
- 101A. Town Center at Woodburn Subdivision Plat, Sheet 1 (2004)
- 102A. Public Works Comments May 21, 2020 (2 pages)
- 104. Transportation System Plan (TSP) Figure 7-1 (2005)
- 105. Site plans excerpted (submitted Mar. 25, 2020; 16 sheets)
- 105A. Site plans revised (submitted Sept. 1, 2020; 3 sheets; new attachment)
- 106. Applicant's narrative page 12 (submitted Mar. 25, 2020)
- 107. Applicant's letter (submitted Sept. 1, 2020; 4 pages; new attachment)

Sincerely,



Colin Cortes, AICP, CNU-A

Senior Planner

Affirmed,

November ____, 2020

Eric Swenson, Mayor

CP/cmc

cc: Chris Kerr, Community Development Director

Dago Garcia, P.E., City Engineer

Ted Cuno, Building Official

Jason Space, GIS Technician

Robert Leeb, Principal in Charge, Leeb Architects (applicant)

Doug Hamilton, Leeb Architects (project manager)

Eugene Labunsky, West Coast Real Estate Holdings (landowner)

Testifiers (1):

Stephen D. Rippeteau (562 Prairie St, Woodburn, OR 97071-4496)

Casey Knecht, P.E., Development Review Coordinator, Oregon Dept. of Transportation (ODOT) Region 2
Marion County Assessor's Office
Marion County Public Works Dept.



308 SW First Avenue
Suite 200
Portland Or 97204
Phone 503.228.2840
leebarc.com

01 September 2020

Mayor Swenson & Woodburn City Council
c/o Chris Kerr, Community Development Director
City of Woodburn Community Development Department
970 N. Cascade Drive
Woodburn, OR 97071

Reference: DR 2019-05, PLA 2019-04, PP 2019-01 & VAR 2019-04 "Allison Way Apartments" for Tax Lots 052W14 020000, 2100, & 2300 (three undeveloped, unaddressed lots along Stacy Allison Way); Accela record no. 971-19-000094-PLNG
Subject: Proposed Land Use Review Revisions

Dear Mayor Swenson and Councilors,

In response to comments received during the 7/13/20 Woodburn City Council Meeting, please find the attached revisions to the Allison Way Apartments land use review narrative, exhibits and additional supporting documents for your consideration. The proposal has been revised as follows:

1. The five main courtyards were narrowed to provide as much parking as possible. Ground floor patios are now located 2' into the 5' Hooper Street setbacks as permitted by WDO 3.03.03E. Because these setbacks also serve as 5' public utility easements, the City Engineer has provided conditions of approval for the 8 patio encroachments.
2. The ratios of compact spaces and parking spaces per unit were revised to meet zoning code requirements as closely as possible. Parking was increased from 1.77 to 1.9 spaces per unit and compact spaces were reduced from 53.5% overall to 25%.
3. Drive aisles are 24 feet minimum at all locations except 20 feet as indicated at the three main parking lots facing Stacy Allison Way (see new Exhibit 61).
4. The southernmost driveway on Stacy Allison Way was removed to reduce traffic conflicts and to increase on-site parking.
5. The unit mix of a few building types were changed slightly (more 1-bedroom units) but the total unit count is unchanged.
6. Although the landscape plans are not included in this resubmittal, staff will review all applicable landscaping requirements of the zoning code and Condition of Approval V4-6 Architectural Wall during the plan review process.



Three parking variances were the subject of the most discussion at the last Council meeting. The revised proposal still requests the three variances, but now provides parking much closer to what is required by the zoning code:

PARKING VARIANCES:

1. Parking Ratio (WDO Table 3.05A)

Required: 2 spaces per unit.

Proposed: 1.9 spaces per unit.

2. Compact Parking (WDO Table 3.05.03C)

Required: 20% maximum.

Proposed: 25% maximum.

3. Drive Aisle Width (WDO Table 3.05C)

Required: 24 feet minimum.

Proposed: 24 feet minimum except 20 feet at 25% of stalls maximum.

Staff attached the following Conditions of Approval to mitigate the parking variance requests. Because these conditions are above and beyond what is required by the zoning code, we feel they justify granting the requested variances:

PARKING CONDITIONS OF APPROVAL:

1. Bike Parking (WDO Section 3.05.03E)

Required: One space per ten vehicle parking spaces, with a maximum of 20 rack spaces: $1117 \text{ vehicle spaces} / 10 = 112 \text{ spaces minimum required}$.

Condition of Approval (V6-3-2a & b): $1.2 \text{ spaces per unit} = 704 \text{ spaces minimum}$.

Proposed: 758 spaces.

2. Electric Vehicle Ready Parking (OAR 918-020-0380)

Required: Not adopted by the City of Woodburn. Requires the installation of an electrical conduit system and electrical service for the future installation of electric vehicle charging stations at 5% of parking spaces. The installation of the electric vehicle charging stations is not required.

Condition of Approval (V6-3-2e): Full installation of 36 electric vehicle charging stations.

Proposed: As conditioned.



3. Public Plaza

Required: Not required.

Condition of Approval (V7-3-3): An approximately 3,000 sf public access easement and public park is to be provided in Phase 1 with landscaping, signage, pavement, seat walls, benches, drinking fountains, bicycle racks, trash receptacles and an ornamental fountain as requested and specified by staff.

Proposed: As conditioned. To address Woodburn's lack of parks in the southwestern area of the city, the applicant has voluntarily agreed to provide an access easement and a public plaza with amenities benefitting the neighborhood on a portion of the site that would otherwise be dedicated to required vehicle parking.

4. Parking Management

Required: Not required.

Condition of Approval (V8-3-4): The applicant is to collect data regarding off-street parking usage and provide half-yearly reports to the City of Woodburn through July 1, 2031.

Proposed: As conditioned. The applicant has voluntarily agreed to provide these reports to aid the City in its analysis of how parking is used in conventional large apartment complexes.

Condition of Approval D7 for railings or fencing at ground floor patios is also requested to be removed. The condition is not a zoning code requirement and does not support any of requested variances.

GROUND FLOOR PATIO CONDITION OF APPROVAL

Private Open Space (WDO Section 3.07.05B1a.2)

Required: Ground level private open space should/shall* be visually and physically separated from common open space, through the use of perimeter landscaping or fencing.

*For Type III reviews, these requirements are to be read as "should" and are applied as guidelines only:

Condition of Approval (D7):

- a. Pavement: As proposed, patios shall be paved with brick, concrete pavers, or poured concrete.
- b. Railings/fencing & gate: The outermost edges of patio concrete slabs that do not abut building walls shall have either metal or wood railings or cedar wood fencing at least three (3) ft high. If the latter, then opacity shall be full, but if fencing is higher than the minimum height, it shall be no more than ninety



percent (90%) opaque, such as by being fully opaque from grade but from the top having a lattice pattern. The railings or fencing shall have a gated opening at least two (2) ft and four (4) inches wide.

- c. Height maximum: the railings or fencing maximum height shall be either five (5) ft or, where a patio faces a courtyard, three and a half (3½) ft.
- d. Shrubbery: Evergreen shrubbery shall line fully the outermost edges of patio concrete slabs, except along the gated opening.

Proposed: Perimeter landscaping at ground floor patios as suggested by the zoning code guideline. The developer would prefer to avoid the management and maintenance issues associated with ground floor railings and gates.

The applicant and design team have worked closely with planning and engineering staff to follow their direction and provide everything that has been requested. West Coast Home Solutions is dedicated to making this a successful project that will benefit residents, the neighborhood and the City of Woodburn.

We hope the revisions to our proposal address your concerns and you agree that the conditions of approval justify the requested variances. We thank you for pushing us to create a better project and look forward to making it happen!

Sincerely,
Leeb Architects

Doug Hamilton

November 9, 2020

TO: Honorable Mayor and City Council

FROM: Jim Row, Assistant City Administrator
McKenzie Granum, Assistant City Attorney

SUBJECT: **Memorandum of Understanding (MOU) with Portland General Electric (PGE)**

RECOMMENDATION:

Authorize the City Administrator to sign the enclosed MOU with PGE, which serves to memorialize the City's commitment to resolve PGE's concerns with the proposed Utility Services Ordinance prior to the June 30, 2023 expiration of PGE's franchise agreement with the City.

BACKGROUND:

Earlier this year, staff initiated a review of the City's process for regulating utility services providers' use of the City's ROW. At that time, staff retained ROW Consultants LLC to develop a Right of Way (ROW) Management Program, including a Utility Services Ordinance and associated fee structure.

Prior to it being presented to the City Council at their regular meeting in September, the draft ordinance was distributed to utility providers for their review. The City received written feedback from four providers, including PGE. Subsequent discussions with PGE highlighted the fact that electric utility providers are uniquely different from other providers and that some of the sections in the ordinance should be modified as it pertains to those types of services.

DISCUSSION:

During discussions with PGE, City staff agreed that PGE's comments and requested modification were valid and should be addressed, either through changes to the Utility Services Ordinance, the execution of a "short form" franchise, or the renewal of a traditional franchise agreement that would be specific to the electric utility services provided by PGE.

Staff agreed that these issue would need to be resolved prior to the June 30, 2023 expiration of PGE's current franchise agreement. The enclosed MOU serves to memorialize the City's and PGE's agreement to do so. With MOU in place, PGE has expressed their support for the Utility Services Ordinance and associated fee structure, as presented to the City Council on tonight's agenda.

FINANCIAL IMPACT:

N/A

MEMORANDUM OF UNDERSTANDING

Portland General Electric Franchise Agreement

This Memorandum of Understanding (MOU) is entered into by and between the City of Woodburn (City) and Portland General Electric Company (PGE), and is for the purpose of memorializing the agreement of both parties to address issues that are unique to the provision of electric utility services and to ensure that these matters are resolved prior to the June 30, 2023 expiration of PGE's Franchise with the City.

Whereas, in early 2020, staff retained ROW Consultants LLC to develop a Right of Way (ROW) Management Program, including a Utility Services Ordinance and associated fee structure; and

Whereas, The ROW Management Program has many benefits to the City; and

Whereas, PGE provided comments to the City regarding concerns they have with the draft Utility Services Ordinance; and

Whereas, the City agrees that electric power providers are uniquely different from other utility services providers; and

Whereas, PGE's Franchise Agreement with the City expires on June 30, 2023; and

Now, Therefore, the parties have agreed to address the unique needs of electric utility providers prior to the June 30, 2023 expiration of PGE's Franchise Agreement with the City. These issues may be resolved through future edits to the Utility Services Ordinance, the execution of a "short form" franchise that addresses the limited number of issues specific to electric utilities, or the renewal of a traditional Franchise Agreement with PGE.

In Witness Whereof, the parties have caused this MOU to be signed in their respective names by their duly authorized representatives as of the dates set forth below:

CITY OF WOODBURN

Portland General Electric
Company

City Administrator

Date

Vice President

Date

November 9, 2020

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director *CK*

Subject: **Call-Up Briefing: Planning Commission Approval of a Conditional Use and Variance application package for AT&T Cell Tower at 1414 Commerce Way (CU 2020-02 & VAR 2020-07)**

RECOMMENDATION:

Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section [4.02.02](#). The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.

BACKGROUND:

The subject property is within the Light Industrial (IL) zoning district and a portion of the property is within the Riparian Corridor and Wetlands Overlay District (RCWOD). The proposal included a 100-foot tall monopole telecommunications facility with additional site improvements including a paved driveway and screening around the base of the facility. The image to the right is a rendering of what the facility will look like.

Telecommunications facilities are a "Specific Conditional Use" within the IL zone and have certain review criteria they must meet, including provisions for setbacks, height, visual impact, noise, lighting, and others.



Agenda Item Review: City Administrator ___x___ City Attorney ___x___

The applicant's Variance application included requests to waive the following [Woodburn Development Ordinance \(WDO\)](#) provisions:

- WDO 3.01.01, 3.01.02A, 3.01.03, 3.01.04, and Figure 3.01F – Dedication of right-of-way and construction of minimum street improvements along Commerce Way;
- WDO 3.02.01B – Dedication of a 5-foot public utility easement along Commerce Way;
- WDO 3.02.02A – Dedication of a public use easement for the RCWOD overlay area on the subject property;
- WDO 3.02.03A – Installation of street lighting along Commerce Way; and
- WDO 3.06.03A – Installation of street trees along Commerce Way.

The Planning Commission held a public hearing on October 8, 2020 for the proposal. Prior to the hearing, staff received written testimony from the applicant and from opponents of the proposal. Both the applicant and opponents presented oral testimony during the hearing. A request was made to continue the hearing and the Commission voted to continue the hearing until October 29, 2020.

Staff received additional written testimony from the applicant and from opponents prior to the October 29 continuation of the public hearing. In response to concerns raised at the October 8 meeting, staff recommended a new condition be added to require the applicant fix any damage done to the gravel portion of Commerce Way during construction of the cell tower.

At the October 29 meeting, the Planning Commission heard additional oral testimony from the applicant and opponents, closed the public hearing, and deliberated. Commissioners found the applicant's arguments in favor of the Variance to be compelling and unanimously approved the application with the conditions recommended by staff, except that the condition to dedicate easements over the RCWOD area was removed.

Variance requests to waive the following requirements were denied:

- Dedication of right-of-way along Commerce Way; and
- Dedication of a 5-foot public utility easement along Commerce Way.

Variance requests to waive the following requirements were approved:

- Construction of minimum improvements along Commerce Way;
- Dedication of a public use easement for the RCWOD overlay area on the subject property;
- Installation of street lighting along Commerce Way; and
- Installation of street trees along Commerce Way.

November 9, 2020

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director *CK*

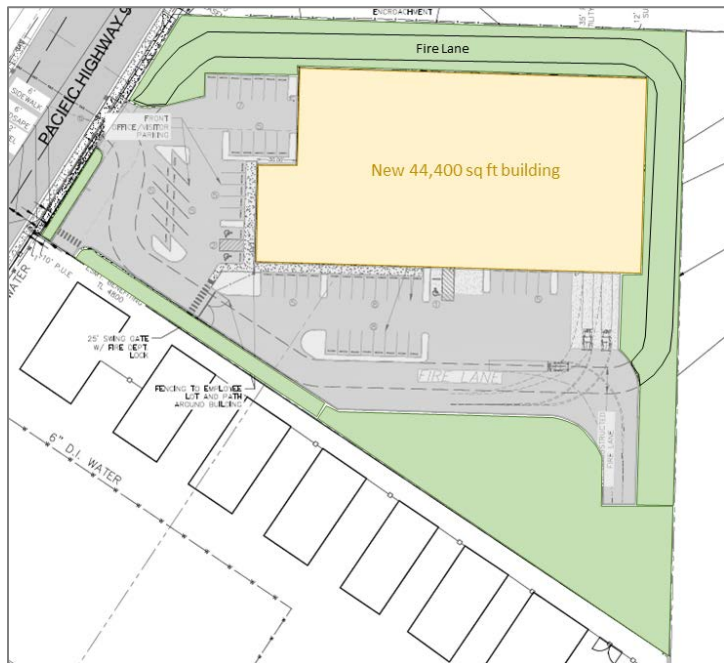
Subject: **Call-Up Briefing: Planning Commission approval of a Design Review and Property Line Adjustment application package for La Morenita Tortilla Bakery at 2230 & 2400 N. Pacific Hwy (DR 2020-05 & PLA 2020-03)**

RECOMMENDATION:

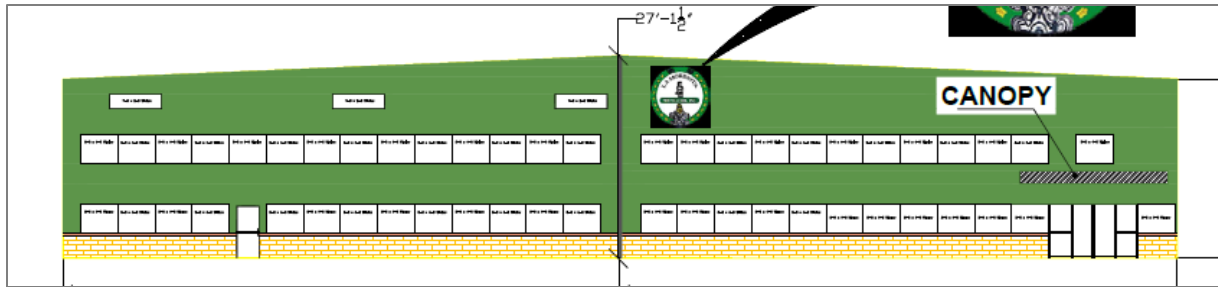
Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section [4.02.02](#). The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.

BACKGROUND:

The subject properties are within the Commercial General (CG) zoning district. The proposal included a Property Line Adjustment to consolidate the three lots and a Design Review to construct a new 44,400 square foot commercial tortilla bakery with frontage improvements to N. Pacific Highway and on-site landscaping and parking upgrades. The image to the right is a colored site plan of the proposal.



Agenda Item Review: City Administrator ___x___ City Attorney ___x___



The west (front) façade of the proposed building.

The Planning Commission held a public hearing on October 22, 2020 and unanimously approved the application package with the conditions recommended by staff, except the Commission voted to modify two conditions. No parties testified in opposition to the proposal.

The first modified condition is related to a public utility easement along the north property line, required in order to reserve the area for a future street identified in the Transportation System Plan. The condition was modified to state the property owner would receive compensation in accordance with state and federal law if and when the easement was modified to include allowance for public access, or if and when the area covered by the easement was dedicated as right-of-way.

The second modified condition was a Public Works condition regarding street lighting along N. Pacific Hwy. The condition was modified to only be applicable if street lighting is required by Oregon Department of Transportation (ODOT).

November 9, 2020

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director *CK*

Subject: **Call-Up Briefing: Planning Commission Approval of a Modification to Conditions of Approval for Mid Valley Community Church at 591 Gatch Street (MOC 2020-01)**

RECOMMENDATION:

Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section [4.02.02](#). The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.

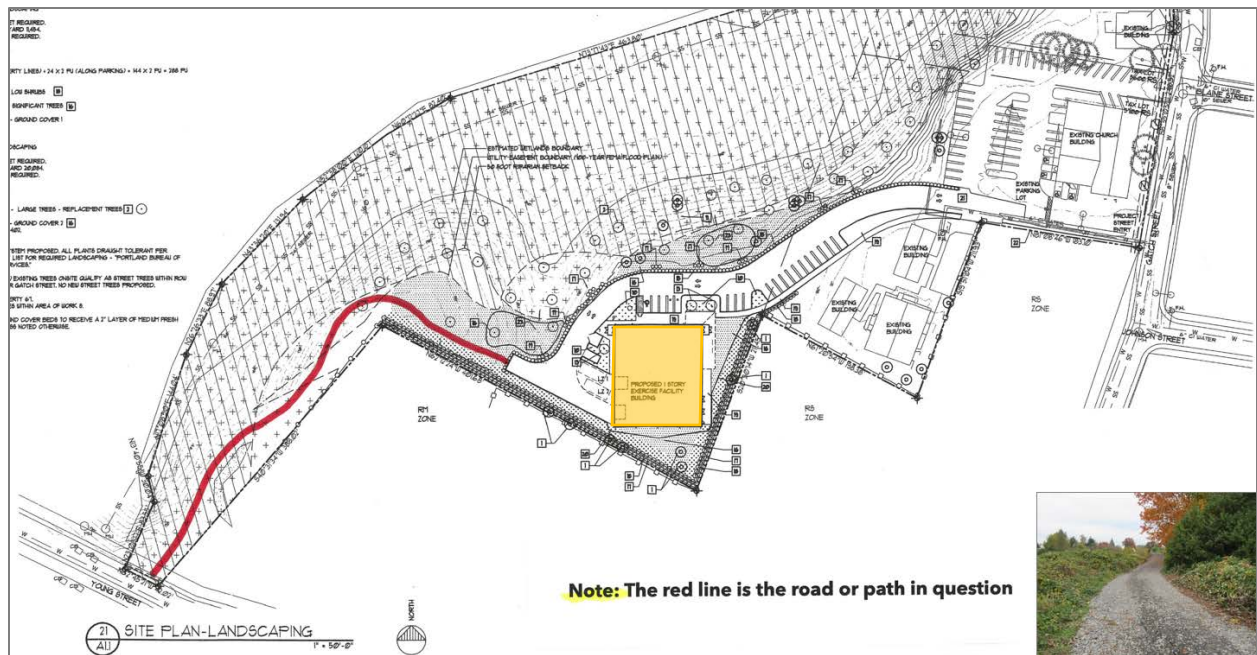
BACKGROUND:

In September 2017, the Planning Commission approved a land use package for a new gymnasium building for Mid Valley Community Church. Several months later, in November 2017, a code enforcement case was opened for an illegal gravel driveway within the Riparian Corridor and Wetland Overlay District (RCWOD) on the church's property. In response to the code enforcement case, the church applied for a Variance to the prohibited uses within the RCWOD.

On January 24, 2019, the Planning Commission approved the Variance application with conditions, allowing for the temporary use of the gravel driveway. Rather than removing the driveway immediately, the applicant was afforded additional time to allow it to be used for construction of the gym building. A condition of approval for this Variance was to remove the driveway curb cut along Young Street and restore the street improvements, due by either October 31, 2020 or upon building permit final inspection, whichever came first.

An image on the following page illustrates the driveway's location on the property.

Agenda Item Review: City Administrator ___x___ City Attorney ___x___



Site plan showing the gym building in yellow and the illegal gravel driveway in red.

In September of this year, the church indicated that it did not anticipate being able to meet this deadline and submitted a Modification of Conditions of Approval application on September 15, 2020. The request was to modify the due date of the condition mentioned on the previous page to instead be simply by building permit final inspection.

Staff was amenable to granting the applicant more time, but not an indefinite amount of time. Because the gravel driveway in question is prohibited within the RCWOD and is part of a code enforcement case, staff wanted a "date certain" its removal. Staff therefore recommended the condition due date be modified to be July 1, 2021 or building permit final inspection, whichever comes first.

On October 22, 2020, the Planning Commission held a public hearing and unanimously approved the modification as recommended by staff. No parties testified in opposition.