

## MISSION STATEMENT

The City of Sweet Home will work to build an economically strong community with an efficient and effective local government that will provide infrastructure and essential services to the citizens we serve. As efficient stewards of the valuable assets available, we will be responsive to the community while planning and preparing for the future.



# CITY OF SWEET HOME CITY COUNCIL AGENDA

September 24, 2019, 6:30 p.m.

Sweet Home City Hall, 3225 Main Street  
Sweet Home, OR 97386

WIFI Passcode:  
guestwifi

PLEASE silence all cell phones – Anyone who wishes to speak, please sign in.

### A. Call to Order and Pledge of Allegiance

### B. Roll Call:

Councilor Coleman  
Councilor Gerson  
Councilor Goble  
Councilor Gourley

Mayor Mahler  
Councilor Nash  
Councilor Trask

### C. Consent Agenda:

- a) Approval of Minutes: September 10, 2019 City Council Minutes (pg. 3-7)

### D. Recognition of Visitors and Hearing of Petitions:

### E. Old Business:

- a) **Public Hearing:** Resolution No. 23 for 2019 – A Resolution Adopting a Supplemental Budget for the Building Reserve Fund (pg. 8-22)
- b) Discussion Only – Livability Ordinance/Residential Rental Registration (pg. 23-66)
- c) Discussion Only – Exclusion Ordinance (pg. 67-70)
- d) Discussion Only – Utility Management (pg. 71-76)
- e) Request for Council Action – Title VI Plan Updates – Resolution No. 27 for 2019 – A Resolution to Adopt the Revised Limited English Proficiency (LEP) Plan.(pg. 77-101)

### F. New Business:

- a) Request for Council Action – ODOT IGA – Resolution No. 28 for 2019 – A Resolution Authorizing City Ownership of Art in the Right-of-Way at Main Street and Holley Road and an ODOT Intergovernmental Agreement (pg. 102-113)
- b) Request for Council Action – Revisions to the OCWCOG IGA for Technological Services Rate Changes (pg. 114-117)
- c) Request for Council Action - LBCC SBDC IGA for Business Advising and Training Services (pg. 118-124)

*The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the City Manager's Office at 541-367-8969.*

## MISSION STATEMENT

The City of Sweet Home will work to build an economically strong community with an efficient and effective local government that will provide infrastructure and essential services to the citizens we serve. As efficient stewards of the valuable assets available, we will be responsive to the community while planning and preparing for the future.

### G. Ordinance Bills

- i. **Request for Council Action and First Reading of Ordinance Bills**
  - (1) Public Hearing: An Ordinance Amending Title 16 and Title 17 of the Sweet Home Municipal Code and Declaring a Need for an Expediency Clause (pg. 125-132)
  - (2) Request for Council Action – Noise Ordinance (pg.133-137)
  - (3) Request for Council Action – Urinating or Defecating Ordinance (pg. 138-140)
- ii. **Second Reading of Ordinance Bills**
  - (1) Request for Council Action - ATV/UTV Ordinance (pg. 141-145)
  - (2) Request for Council Action – Traffic Safety Ordinance (pg. 146-148)
- iii. **Third Reading of Ordinance Bills (Roll Call Vote Required)**

### H. Reports of Committees:

Administrative & Finance/Property	Goble
Park and Tree Committee	Trask
Youth Advisory Council	Gourley
Chamber of Commerce	Gerson
Council of Governments	Gerson
Area Commission on Transportation	Mahler
Solid Waste Advisory Council	Goble
Ad Hoc Committee on Health (Minutes from June 17, 2019) (pg. 149-150)	Gourley
Legislative Committee	Coleman

### I. Reports of City Officials:

- a) Mayor's Report
- b) City Manager's Report
- c) Department Director's Reports: (1<sup>st</sup> Meeting of the Month)
  - i. Library Services Director
  - ii. Community and Economic Development Director
    - (1) Planning Commission Minutes – July 2019 (pg. 151-155)
    - (2) Planning Commission Minutes – August 2019 (pg. 156-163)
    - (3) Planning Commission Minutes – September 2019 (pg. 164-172)
  - iii. Public Works Director
- d) Department Director's Reports: (2<sup>nd</sup> Meeting of the Month)
  - i. Finance Director
    - (1) Department Report (pg. 173-174)
    - (2) Checks by Date (pg. 175-178)
    - (3) Revenue & Expense Graphs (pg. 179-180)
  - ii. Police Chief
    - (1) Department Stats – August 2019 (pg. 181)
  - iii. City Attorney's Report

### J. Council Business for Good of the Order:

### K. Adjournment

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# SWEET HOME CITY COUNCIL MEETING MINUTES

September 10, 2019

Mayor Mahler called the meeting to order at 6:30 p.m. in the Sweet Home City Hall. The Pledge of Allegiance was recited.

Staff Present: City Manager Ray Towry, City Attorney Robert Snyder, Public Works Director Greg Springman, Finance Director Brandon Neish, Police Chief Jeff Lynn, Community and Economic Development Director Blair Larsen and Recording Secretary Julie Fisher.

Visitors Registered to Speak: Kitsey Trewin, Wendi Melcher, Sherman Weld, John Cannon

Media: Sean Morgan, The New Era and Jennifer Moody, Albany Democrat

<b>Roll Call:</b>	Councilor Coleman	AB	Mayor Mahler	P
	Councilor Gerson	P	Councilor Nash	P
	Councilor Goble	AB	Councilor Trask	P
	Councilor Gourley	P		

**Motion to Excuse Councilor Coleman and Councilor Goble (Gourley/Gerson) Motion passed with 5 Ayes, 0 Opposed and 2 Absent (Coleman, Goble)**

**Consent Agenda:** **Motion was made to approve the Consent Agenda as submitted (Trask/Nash) Motion passed with 5 Ayes, 0 Opposed, 2 Absent (Coleman, Goble).**

Items on the consent agenda are as follows:

Approval of Minutes: August 27, 2019 Council Minutes

August 30, 2019 Council Work Session

August 30, 2019 Council Executive Session

**Recognition of Visitors & Hearing of Petition:** None

## **Old Business:**

**Discussion Only – Noise Ordinance** City Manager Towry introduced the draft Noise Ordinance for discussion only. There was discussion on current ordinance noting the current code excludes the human voice from enforcement. Adding human voice to the Noise Ordinance will allow enforcement as a violation not just a misdemeanor, which gives law enforcement a “middle step”. There was additional discussion on what determines loud and unreasonable noise. Consensus was Human Voice will be added to the Noise Ordinance and brought back to the Council during a code update.

**Discussion Only – Livability Ordinance** City Attorney Snyder introduced a draft ordinance regarding a livability code. City Attorney Snyder stated that many of the items in the draft ordinance can be dealt with in our hazardous building code, nuisance code or thru Landlord Tenant Laws. City Manager Towry added that he spoke with Corvallis City staff

who reported they have 5 staff members who are dedicated to their livability code enforcement. City Manager Towry stated the livability code would require additional staffing to be effective. City Attorney Snyder is working to create an Educational Campaign and has reached out to Legal Aid in an effort to bring services to Sweet Home.

John Cannon  
Sherman Weld  
Wendi Melcher  
Kitsey Trewin

Several members of the public spoke with concerns regarding the livability code and its invasive nature. It was stated that there is already a housing shortage in Sweet Home and if the City was to overregulate, landlords may decide to sell their rentals rather than deal with the rules. This would cause an additional shortage of rentals and increase in rent. It was noted that there is already a bill in place known as the Rent Control Bill that property owners need to comply with. It was also mentioned that emergency personnel have the tools to call for a wellness check on any property they enter where they are concerned for the welfare of the occupants. Members of the public spoke against targeting only rental properties.

City Manager Towry stated that a goal of the Council is to increase Code Enforcement community wide and strengthen current code that would apply to the entire community.

Council added the ordinance is not focusing on rentals, but there are issues community wide that need to be addressed for safety and health issues. A Certificate of Occupancy program was suggested where vacant homes would receive a certificate prior to being rented. The Council also wanted to review the use of a tarp on property and discussed whether they should be allowed for an extended period of time.

Staff was directed to compile a list of examples and see if current codes already in place would address those issues to find gaps. Staff was also directed to research a Certificate of Occupancy Program for rentals. This item will return to Council for further discussion.

#### Discussion Only – Exclusion Ordinance

Chief Lynn explained this ordinance would be a solution for repeat offenders in the downtown corridor which is identified as 4<sup>th</sup> Avenue to 22<sup>nd</sup>. Repeat offenders could be excluded for 30 to 90 days. Discussion ensued on who the ordinance was intended for and it was a concern that the ordinance was targeting the homeless. City Manager Towry explained the ordinance is intended for repeat offenders such as someone who shoplifts, is drinking in public, or any other arrests. The Council discussed expanding the exclusion zone eastward to include the entire commercial zone. City Attorney Snyder will report back to Council on the feasibility of the extended area and bring the item back to Council for further discussion.

#### Discussion Only – Urinating or Defecation in Public Places Ordinance

City Attorney Snyder stated the specific language must be in ordinance for it to be enforced. Currently the City uses language from state law regarding “offensive substance”. The consensus of the Council was to continue with the ordinance and move forward.

## **New Business:**

Request for Council Action -  
Resolution No. 26 for 2019 – A  
Resolution Concerning Street  
Closures and Restrictions

Associate Planner Angela Clegg introduced the request for street closure during the Harvest Festival for the safety of participants of the fun run.

**Motion to approve Resolution No. 26 for 2019 – A Resolution Concerning Street Closures and Restrictions (Gerson/Trask) Motion passed with 5 Ayes, 0 Opposed and 2 Absent (Coleman, Goble).**

## **Request for Council Action and First Reading of Ordinance Bills:**

Request for Council Action –  
Ordinance No. \_\_\_\_ for 2019 - Sweet  
Home Ordinance Pertaining to  
Authorizing the Operation of Class  
IV All- Terrain Vehicles on Streets  
Located within the City of Sweet  
Home, Oregon, but Subject to the  
Provision of ORS 821.200(1), and  
Providing a Penalty for the Violation  
Thereof

**Motion to move Ordinance No. \_\_\_\_ for 2019 – Sweet Home Ordinance Pertaining to Authorizing the Operation of Class IV All-Terrain Vehicles on Streets Located within the City of Sweet Home, Oregon, but Subject to the Provision of ORS 821.200(1), and Providing a Penalty for the Violation Thereof, to first reading (Trask/Nash) Motion passed with 5 Ayes, 0 Opposed and 2 Absent (Coleman, Goble).**

City Attorney Snyder and City Manager Towry read in its entirety Ordinance No. \_\_\_\_ for 2019 - Sweet Home Ordinance Pertaining to Authorizing the Operation of Class IV All- Terrain Vehicles on Streets Located within the City of Sweet Home, Oregon, but Subject to the Provision of ORS 821.200(1), and Providing a Penalty for the Violation Thereof.

**Motion to move Ordinance No. \_\_\_\_ for 2019 – Sweet Home Ordinance Pertaining to Authorizing the Operation of Class IV All- Terrain Vehicles on Streets Located within the City of Sweet Home, Oregon, but Subject to the Provision of ORS 821.200(1), and Providing a Penalty for the Violation Thereof, to second reading on 09/24/19 (Trask/Gourley) Motion passed with 5 Ayes, 0 Opposed and 2 Absent (Coleman, Goble).**

Request for Council Action –  
Ordinance No. \_\_\_\_ for 2019 – An  
Ordinance Relating to the Unlawful  
Transfer on Vehicular Portion of the  
Right-of-Way.

**Motion to move Ordinance No. \_\_\_\_ for 2019 – An Ordinance Relating to the Unlawful Transfer on Vehicular Portion of the Right-of-Way, to first reading (Gerson/Trask) Motion passed with 5 Ayes, 0 Opposed and 2 Absent (Coleman, Goble).**

City Attorney Snyder read in its entirety Ordinance No. \_\_\_\_ for 2019 - An Ordinance Relating to the Unlawful Transfer on Vehicular Portion of the Right-of-Way.

**Motion to move Ordinance No. \_\_\_\_ for 2019 – An Ordinance Relating to the Unlawful Transfer on Vehicular Portion of the Right-of-Way, to second reading on 09/27/19 (Gerson/Trask) Motion passed with 5 Ayes, 0 Opposed and 2 Absent (Coleman, Goble).**

## **Second Reading:**

None

**Third and Final Reading of  
Ordinance Bills:**

None

**Reports of Committees:**

Administration & Finance/  
Property Committee

No Report

Park & Tree Commission

No Report

Youth Advisory Council

No Report

Chamber of Commerce

Councilor Gerson reported the next meeting will be on 09/19.

Council of Governments (COG)

Councilor Gerson reported the Executive Director has resigned.

Area Commission on Transportation

No Report

Solid Waste Advisory Council  
(SWAC)

No Report

Ad Hoc Committee on Health

No Report

Legislative Committee

No Report

**Reports of City officials**

Mayor's Report

No Report

City Manager's Report

City Manager Towry reported the Executive Department has been working on HR updates.  
City Manager Towry will be out Friday 09/12 and Tuesday 09/17.  
The League of Oregon Cities Annual Conference is scheduled for 09/26 – 09/28. PWD Springman and City Manager Towry are presenting on Saturday. Councilor Coleman and Finance Director Neish are also attending the Conference.

Department Directors Reports

Written reports were submitted by the following Departments:  
Public Works and CEDD. There were no questions of the Council.  
FD Neish reported 84 customers are scheduled for shut off.  
PWD Springman reported the flashing speed lights are out on 1<sup>st</sup> and Airport road.

City Attorney

No Report.

Council Business for Good of the  
Order:

It was reported the annual Police vs. Fire softball game scheduled for 09-11-19 has been rained out.

Adjournment:

With no further business the meeting adjourned at 8:14 pm.

The foregoing is a true copy of the proceedings of the City Council at the September 10, 2019 regular City Council Meeting.

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Mayor


ATTEST:

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City Manager – Ex Officio City Recorder



# REQUEST FOR COUNCIL ACTION

<b>PREFERRED AGENDA:</b> September 24, 2019	<b>TITLE:</b> Supplemental Budget for the Building Reserve Fund	<b>TYPE OF ACTION:</b> <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> MOTION <input type="checkbox"/> OTHER
<b>SUBMITTED BY:</b> Brandon Neish, Finance Director		
<b>REVIEWED BY:</b> Ray Towry, City Manager 	<b>ATTACHMENTS:</b> Notice of Supplemental Budget Hearing Budget Status Report Furniture Quote Sign Quotes	<input checked="" type="checkbox"/> Roll Call Vote
<b>RELEVANT CODE/POLICY:</b> ORS 294.471(3)(a) SH Financial Policy Section IX	<b>TOWARD COUNCIL GOAL:</b>	

## **PURPOSE OF THIS RCA:**

To review the prior costs for construction of City Hall, the available budget at 2019 fiscal year end and additional needs for the current fiscal year.

## **BACKGROUND/CONTEXT:**

Prior to 2017, Council and staff discussed the condition of City Hall at 1140 12<sup>th</sup> Avenue and determined that an opportunity existed to improve the facility. Subsequently, during the 2017 fiscal year, the Council approved the purchase of the building at 3225 Main Street for \$725,000.

In January 2018, the Council entered into a contract with Scott|Edwards Architecture to design the new City Hall. Those designs were reviewed by the Council over multiple meetings during the summer of 2018 and a final design was later approved by the Council including flooring, paint schemes and wall materials. The next phase of the project was construction/renovation.

The renovation of the new City Hall facility was expected to cost +/- \$1.1 million plus architectural fees of \$100,000 according to estimates provided by S|EA. The total actual cost for the renovation of 3225 Main Street totaled \$1,209,282.28 and stretched over fiscal years 2018 and 2019. At the end of fiscal year 2019, \$38,833 remained in the Building Reserve fund plus an additional \$14,703 in interest earnings totaling \$53,536 in available fund balance. The City has additional needs for the building and will request use of this fund balance in the 2020 fiscal year through a supplemental budget to purchase a sign for the front of the site and furniture for the conference rooms and lobby. Additionally, some office furniture is necessary.

The new City Hall facility has three conference rooms in addition to the Council Chambers. Previously, the City had one conference room and associated furniture. Furthermore, City Hall previously did not have a lobby space for waiting guests or for individuals filling out necessary paperwork. As a result, additional furniture is necessary to furnish these spaces for use. The City worked with King Office in Albany to provide furniture that would fit the theme of the facility and would withstand the day-to-day use of an office building. The attached quote outlines the furniture that staff has selected.

Having moved into the new facility, additional office furniture for employees is needed. Some of the furniture is not industrial and the move was hard on it causing some damage. It also does not meet current needs for the new space. The Community & Economic Development Department wishes to purchase three new desks, one for the Permit Technician, the Associate Planner and another for a position approved in the 2019-2020 budget, a new Engineering Technician. These desks will then allow current furniture that does not match to be phased out and other furniture to be shuffled to other staff in the department to provide uniformity. Additionally, the City Manager needs office furniture to replace the folding tables currently being used.

Updated signage is also needed to identify the building to the public and those passing through town. The City requested quotes from three vendors for signage that would fit the stone pedestal left by the Forest Service. Staff reviewed the quotes from the vendors and selected ES&A Sign & Awning Company who provided three quotes for different sign styles. All three include a static "Sweet Home City Hall" sign. From there, the first option includes a digital, red lettered reader board display which would allow the City to publicize meetings and events in Sweet Home. The second and third options include a multi-line, full color LCD display for image display. Staff believes that the third option, the 19mm full color LCD display would best meet the needs of the community and provide the City with an opportunity to advertise on a major Oregon arterial highway (Highway 20).

Staff will attempt to utilize existing operations budgets to complete these purchases. However, if staff is unable to use these existing funds, authorization to spend from the remaining building funds would ensure that departments can continue their operations as initially budgeted without impacting services.

#### **THE CHALLENGE/PROBLEM:**

Should the City utilize leftover building funds from the 2018-2019 budget to purchase needed furniture and signage for the new City Hall?

#### **STAKEHOLDERS:**

- City of Sweet Home citizens – Citizens who use City Hall need to have space to fill out paperwork or a place to sit while waiting for a meeting. The items proposed ensure that citizens visiting City Hall feel welcome and comfortable in a building that belongs to the constituents of Sweet Home. Additionally, the conference room space is available to citizens for reservation and conference room furniture makes using those spaces easier and more convenient.
- City of Sweet Home staff – City Hall houses many city employees who need the items considered to effectively communicate and complete their jobs.
- City of Sweet Home City Council – The Council must authorize any supplemental budget that increases expenditure authority after a budget has been adopted. Effective communication methods and office furniture also benefits the Council who will rely on these items for notification and hosting of committee and Council meetings.

#### **ISSUES & FINANCIAL IMPACTS:**

The City estimates it will need \$45,000 to purchase the needed furniture and signage for City Hall. As adopted, the budget does not have much of in the way of operational funds to accommodate these items unless budgeted services come in under anticipated levels. As a precaution, staff is requesting that the available balance of \$53,500 be authorized for spending in the Building fund to mitigate impacts on operational needs. This would eliminate the fund balance in the Building fund.

#### **ELEMENTS OF A STABLE SOLUTION:**

A decision from the City Council on the importance of uniformity in City Hall and communication methods moving forward.

**OPTIONS:**

1. Do Nothing. Council could choose to do nothing at this time. Staff will evaluate further whether these items can be purchased using operating funds or if they'll need to be deferred to another budget year.
2. Approve Resolution No. 23 for 2019. This supplemental budget authorizes expenditure authority from the Building Reserve fund for purchase of a sign and furniture for City Hall.
3. Request staff return with a different authorization amount. Council could determine that the \$53,500 requested from the Building Reserve fund exceeds what Council is willing to authorize. Staff would return to a future Council meeting with a revised resolution and a second Public Hearing as required by ORS.

**RECOMMENDATION:**

Staff will recommend option 2, Make a motion to adopt Resolution No. 23 for 2019, A Resolution Adopting A Supplemental Budget for the Building Reserve Fund.



## RESOLUTION NO. 23 FOR 2019

### A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET FOR THE BUILDING RESERVE FUND

WHEREAS, the Sweet Home City Council adopted the 2019-2020 budget on May 28, 2019, and;

WHEREAS, the City recently completed a renovation of the building at 3225 Main Street, and;

WHEREAS, additional items are needed related to the construction of the aforementioned facility, and;

WHEREAS, staff requests additional expenditure authority in Fund 310, the Building Reserve Fund, and;

WHEREAS, Oregon Local Budget Law requires a public hearing for any supplemental budget which adds ten (10) percent or more in expenditure authority, and;

WHEREAS, a public hearing was held on September 24, 2019 to hear testimony over the proposed supplemental budget, and;

WHEREAS, the Council has heard public testimony on the topic of the supplemental budget.

**THEREFORE, BE IT RESOLVED THAT THE CITY OF SWEET HOME** adopts a supplemental budget authorizing \$53,500 to be used to complete the construction at Sweet Home City Hall.

This resolution shall take effect upon its approval and passage.

PASSED by the Council and approved by the Mayor this 24<sup>th</sup> day of September 2019

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Mayor

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City Manager – Ex Officio City Recorder

# General Ledger REVENUES VS. EXPENSES



User: bneish  
Printed: 8/22/2019 11:45:46 AM  
Period 01 - 13  
Fiscal Year 2019

Account Number	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
<b>310</b>	<b>BUILDING RESERVE FUND</b>					
310-000-300-000	BEGINNING FUND BALANCE	0.00	-343,757.84	-364,290.00	-20,532.16	94.36
310-000-361-000	INTEREST	0.00	-14,807.86	0.00	14,807.86	0.00
310-000-390-001	MISC. REVENUES	0.00	-1,400.00	0.00	1,400.00	0.00
	<b>Revenues</b>	<b>0.00</b>	<b>-359,965.70</b>	<b>-364,290.00</b>	<b>-4,324.30</b>	<b>98.81</b>
<b>002</b>	<b>Non-Departmental</b>					
310-002-480-320	Professional Services	0.00	30,365.28	75,000.00	44,634.72	40.49
310-002-480-431	Building Repair & Maintenance	0.00	945.21	0.00	-945.21	0.00
310-002-480-610	Office Supplies	0.00	399.00	0.00	-399.00	0.00
310-002-480-612	Operating Supplies	0.00	1,644.55	0.00	-1,644.55	0.00
310-002-480-614	Tools & Small Equipment	0.00	84.99	0.00	-84.99	0.00
310-002-480-619	Computers	0.00	11,160.00	0.00	-11,160.00	0.00
	<b>Material &amp; Services</b>	<b>0.00</b>	<b>44,599.03</b>	<b>75,000.00</b>	<b>30,400.97</b>	<b>59.47</b>
310-002-480-731	Construction	0.00	1,131,726.26	1,119,290.00	-12,436.26	101.11
310-002-480-741	Machinery	0.00	10,000.00	0.00	-10,000.00	0.00
	<b>Capital Outlay</b>	<b>0.00</b>	<b>1,141,726.26</b>	<b>1,119,290.00</b>	<b>-22,436.26</b>	<b>102.00</b>
Revenue Total		0.00	-359,965.70	-364,290.00	-4,324.30	-0.9881
Expense Total		0.00	1,186,325.29	1,194,290.00	7,964.71	0.9933
<b>002</b>	<b>Non-Departmental</b>	<b>0.00</b>	<b>1,186,325.29</b>	<b>1,194,290.00</b>	<b>7,964.71</b>	<b>99.33</b>
<b>010</b>	<b>Transfers</b>					
310-010-391-040	Transfer In for Capital	0.00	-880,000.00	-830,000.00	50,000.00	106.02
	<b>Transfer</b>	<b>0.00</b>	<b>-880,000.00</b>	<b>-830,000.00</b>	<b>50,000.00</b>	<b>106.02</b>
Revenue Total		0.00	-359,965.70	-364,290.00	-4,324.30	-0.9881
Expense Total		0.00	306,325.29	364,290.00	57,964.71	0.8409
<b>310</b>	<b>BUILDING RESERVE FUND</b>	<b>0.00</b>	<b>-53,640.41</b>	<b>0.00</b>	<b>53,640.41</b>	<b>0.00</b>



# PROPOSAL

## Proposal #: 29368

Proposal Date: 07/30/19  
Customer #: CRM009802  
Page: 1 of 5  
Salesperson: Jason Spear

SOLD TO:	JOB LOCATION:
CITY OF SWEET HOME 3225 MAIN STREET SWEET HOME OR 97386	CITY OF SWEET HOME 3225 MAIN STREET SWEET HOME OR 97386

ES&A SIGN CORP. (HEREINAFTER CALLED THE "COMPANY") HEREBY PROPOSES TO FURNISH ALL THE MATERIALS AND PERFORM ALL THE LABOR NECESSARY FOR THE COMPLETION OF:

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	QUOTE #29368 Mobilization	\$625.00	\$625.00
1	QUOTE #29368A Fabricate and install (1) one approx 2' x 6' D/F internally illuminated monument sign with 19mm monochrome LED message center as per specifications on ES&A design #29368A. - Install to existing rock base and poles. - Cut poles to height if necessary. - Power to sign by customer. - 4G wireless modem communication.	\$16,117.00	\$16,117.00
1	QUOTE #29368A1 Fabricate and install (1) one approx 2' x 6' D/F internally illuminated monument sign with 19mm RGB Color LED message center as per specifications on ES&A design #29368A1. - Install to existing rock base and poles. - Cut poles to height if necessary. - Power to sign by customer. - 4G wireless modem communication.	\$18,616.00	\$18,616.00
1	QUOTE #29368A2 Fabricate and install (1) one approx 2' x 6' D/F internally illuminated monument sign with 16mm RGB Color LED message center as per specifications on ES&A design #29368A2. - Install to existing rock base and poles. - Cut poles to height if necessary. - Power to sign by customer. - 4G wireless modem communication.	\$20,276.00	\$20,276.00

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED, AND THE ABOVE TO BE IN ACCORDANCE WITH THE DRAWINGS AND OR SPECIFICATIONS SUBMITTED FOR THE ABOVE WORK AND COMPLETED IN A WORKMANLIKE MANNER FOR THE SUM OF:

COMPANY INITIALS \_\_\_\_\_

ES&A Sign and Awning  
89975 Prairie Rd Eugene, OR 97402  
P 541-485-5546; F 541-485-5813

CUSTOMER INITIALS \_\_\_\_\_



# PROPOSAL

## Proposal #: 29368

Proposal Date: 07/30/19  
Customer #: CRM009802  
Page: 2 of 5  
Salesperson: Jason Spear

TOTAL PROPOSAL AMOUNT: N/A

TERMS: 50.0% DOWN, BALANCE DUE ON COMPLETION

THIS PRICE DOES NOT INCLUDE ELECTRICAL HOOKUP, PERMITS, ENGINEERING OR TAX UNLESS SPECIFICALLY STATED.

NOTE: THIS PROPOSAL MAY BE WITHDRAWN IF NOT ACCEPTED WITHIN 30 DAYS. WORK WILL NOT BEGIN UNTIL DOWN PAYMENT AND WRITTEN ACCEPTANCE IS RECEIVED.

ANY ALTERATION FROM THE ABOVE SPECIFICATIONS INVOLVING EXTRA COSTS, WILL BE EXECUTED ONLY UPON WRITTEN ORDERS, AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE ESTIMATE TO BE PAID BY THE PURCHASER.

### TERMS AND CONDITIONS

Payment terms: 50% down with order. Balance due upon delivery or installation. Work will not begin until down payment and written acceptance have been received. Permits are additional and are charged at cost with a \$350 procurement fee. Engineering, private locates, and special inspections are additional at cost plus 10%. Primary Electrical to display(s) and hook-up is not included. All signs will be manufactured for 120 Volts unless otherwise requested in writing. Dedicated circuit(s) must be provided with a continuous ground to panel. Voltage at sign must be within 117v to 123v or warranty will be void. Sales tax is additional.

Face changes and modifications to existing signs: Unless specified in writing, repairs to ballasts, power supplies, LED's, transformers, neon, fluorescent lamps, lamp sockets, and all other lighting components are not included in price.

Not responsible for underground obstructions and damage to same.

Expiration: Due to fluctuations in fuel, energy, labor, and material costs, sale agreements may be withdrawn if not accepted within (60) sixty days.

1. **Agreement.** Seller agrees to sell, and Buyer agrees to purchase, an advertising display, sign, or awning (Display) in conformity with the terms of this agreement.
2. **Buyer's Duties.** Unless this agreement provides otherwise, Buyer shall, at Buyer's expense:
  - 2.1 Provide unobstructed access for personnel, vehicles and equipment directly adjacent to display location including attic, roof, and fascia.
  - 2.2 Prior to installation, supply unobstructed, dedicated electrical circuits within 5'-0" to the Display of an appropriate capacity in conformance with Federal, State, and local laws.
  - 2.3 Perform all necessary blocking, modifications and/or reinforcements to the building on which Display is to be installed.
  - 2.4 Identify location of, relocate or arrange for relocation, of all public and private underground utilities or overhead power lines as necessary to accommodate installation of Display, and/or to comply with laws and regulations of federal, state, or local municipal authorities.
  - 2.5 Acquire all necessary engineering, permits, performance bonds, and zoning variances.
  - 2.6 Provide necessary traffic control, barricades, parking, sidewalk, or other special use permits.
  - 2.7 Remove and store or dispose of any pre-existing display or architectural feature.
  - 2.8 Repair or restore exterior wall surfaces.
  - 2.9 Repair or replace landscaping damaged in the course of normal Display installation.
  - 2.10 Acquire all necessary permission to install the Display from the property owner where Display is to be installed.
  - 2.11 Maintain responsibility in the event that seller performs any of the Buyer's duties listed above.
3. **Seller's Duties.** The construction and installation of the Display shall be subject to delay caused by strikes, fires, acts of God, regulations or restriction of government or public authority, or other accident forces, conditions or circumstances beyond the control of Seller. Such circumstances shall suspend Seller's obligation to perform its duties under this agreement. Subject to those conditions, Seller shall, at Seller's expense:
  - 3.1 Design the Display in conformance with design specifications provided to Buyer. Seller reserves the right to modify any or all construction, fabrication or installation, provided it does not, per industry standards, significantly affect the quality, aesthetics, or structural integrity of the product, or increase the price to Buyer.
  - 3.2 Deliver the Display to a common carrier, if this agreement so provides.
  - 3.3 Install the Display, if this agreement so provides, in conformity with installation specifications provided to Buyer.

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CUSTOMER INITIALS \_\_\_\_\_



# PROPOSAL

## Proposal #: 29368

Proposal Date: 07/30/19  
Customer #: CRM009802  
Page: 3 of 5  
Salesperson: Jason Spear

- 3.4 Investigate in good faith any claims by Buyer under the Limited Warranty provided by this agreement.
4. **Purchase Price.** The purchase price listed in this agreement is subject to the following terms:
- 4.1 **Late Charge.** Account balances more than 30 days past due shall be assessed an additional charge of 1.50 percent of the outstanding balance per month.
- 4.2 **Additional Charges.** The purchase price listed in this agreement is negotiated based upon an assumption of the absence of unusual and/or unanticipated conditions. Buyer agrees to pay additional charges at Seller's prevailing rates for unanticipated work occasioned by any of the following:
- 4.2.1 Davis-Bacon Act, prevailing wage, overtime, and/or after-hours installations.
  - 4.2.2 Buyer's provision of inaccurate information affecting Display design or installation.
  - 4.2.3 Separation of a multiple sign order into individual orders no longer being manufactured concurrently.
  - 4.2.4 Additional trips to/from jobsite beyond original allocation resulting from Buyer's request and/or non-performance, or any third party's request and/or non-performance.
  - 4.2.5 Buyer's request for a change in Display design requiring: (a) nonstandard materials, production methods, colors, or finishes; or (b) alteration of completed design.
  - 4.2.6 Alteration of Display design to accommodate engineering, permits, soil conditions, architectural elements, or building conditions.
  - 4.2.7 Repairs to pre-existing illumination including but not limited to ballasts, fluorescent lamps, lamp holders, neon transformers, neon tubing, electrical insulators, and wiring.
  - 4.2.8 Unusual composition of soil or concealment in soil of obstructions.
  - 4.2.9 Unanticipated obstructions within building structure.
  - 4.2.10 Material restriction of access to the Display site.
  - 4.2.11 Storage of items completed by Seller but delayed at Buyer's request, by Buyer's non-performance, or by any third party's non-performance.
  - 4.2.12 Failure of Buyer to fulfill any of its duties under this agreement.
- 4.3 **Independent Covenant.** Buyer agrees that its duty to pay the purchase price is independent of Seller's duties under this agreement.
5. **Payment Terms.**
- 5.1 Upon seller's receipt of original signed purchase agreement, Buyer shall pay Seller a 50% down payment.
  - 5.2 Balance due upon delivery or installation.
  - 5.3 Additional charges will be invoiced separately and shall be due upon receipt.
6. **Time is of the Essence.**
- 6.1 Seller may withdraw purchase agreement if not accepted by Buyer within (60) sixty days of original bid date or if manufacturing has not commenced within (270) two hundred seventy days of original bid date. Seller, at its discretion, may update the purchase price in lieu of withdrawal.
  - 6.2 Work shall not commence until Seller has received original signed purchase agreement, down payment, and approved design from Buyer.
  - 6.3 Work shall be subject to delay until Seller receives all of the following applicable items from Buyer:
    - 6.3.1 Landlord approval
    - 6.3.2 Structural engineering calculations
    - 6.3.3 Permits
    - 6.3.4 Paint colors
    - 6.3.5 Graphic colors
    - 6.3.6 Ready-to-use vectorized electronic artwork
7. **Warranty.**
- 7.1 **Limited Warranty; Disclaimer.** Contingent on timely payment of the purchase price and subject to the exceptions and modifications listed in paragraphs 7.2 and 7.3, Seller shall, at its expense, make all repairs, replacements, or corrections of Display, at Seller's option, made necessary by reason of faulty workmanship or material and that appear within one year of Display's delivery. To exercise its rights under this limited warranty, Buyer must provide written notice of the defect to Seller within 30 days of discovery of the defect. Repair or replacement shall constitute Buyer's sole remedy, and in no event shall Seller be liable for incidental or consequential damages of any kind, including but not limited to personal injury, property loss, or lost profits. There are no warranties other than those stated in this agreement. SELLER EXPRESSLY DISCLAIMS THE IMPLIED WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.
  - 7.2 **Lamps, Ballasts and Transformers.** Seller's warranty as to labor involved in installing lamps, ballasts, and transformers, is limited to 1 year from installation. In all other respects, Seller's warranty is identical to the limited warranty listed in paragraph 7.1.
  - 7.3 **Exclusions.** Seller's warranty excludes damages caused by normal wear and tear, unusual weather, acts of vandalism, neglect, or other abuse.
8. **Shipping.**
- 8.1 **Risk of Loss.** Unless otherwise agreed, delivery is FOB Seller's place of business. If damage occurs en route, Buyer agrees that it will pursue redress only through the carrier or carriers charged with delivery.
  - 8.2 **Costs.** Unless otherwise agreed, Buyer will pay any shipping charges directly to the carrier charged with delivery.
  - 8.3 **Timing of Delivery.** Although Seller will make a good-faith effort to adhere to delivery schedules, Seller will not be responsible for delays caused by any circumstances beyond its control.
9. **Buyer's Default.** In the event of a default by Buyer in the payment of any of the amounts due under this agreement:

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89975 Prairie Rd Eugene, OR 97402  
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# PROPOSAL

## Proposal #: 29368

**Proposal Date:** 07/30/19  
**Customer #:** CRM009802  
**Page:** 4 of 5  
**Salesperson:** Jason Spear

- 9.1 Acceleration. The entire unpaid balance of the purchase price shall immediately be and become due and payable.
- 9.2 Collection of Amounts Owed. Buyer agrees to pay interest at the rate of 18 percent per annum on any amounts due plus reasonable attorney's fees. Seller may recover those amounts by any or all of the following means:
- 9.2.1 Removal and Resale. By entering upon the premises where the Display has been installed and removing and reselling the Display with or without notice and without liability on notice to Buyer.
- 9.2.2 Action for Collection. By bringing suit for the balance due under this contract.
- 9.2.3 Other Action. By exercising any other right allowed by law.
10. Intellectual Property. All designs, specifications, and artwork created by Seller shall remain property of Seller.
11. Force Majeure. Seller shall not be liable for any failure or delay in performance under this agreement to the extent that the failures or delays are proximately caused by forces beyond Seller's reasonable control and occurring without its fault, including, without limitation, natural disasters, war, imposition of government restrictions, and failure of suppliers, subcontractors, and carriers.
12. Authority. The individuals executing this agreement represent and warrant that they are authorized to do so, and that the execution of this agreement is the lawful and voluntary act of each of the parties.
13. Restriction on Assignment. This agreement shall not be assigned by Buyer without the written consent of Seller. Consent by Seller to one (1) assignment shall not constitute consent to other assignments, nor shall it be construed to be a waiver of this paragraph.
14. Notice. All notices required by this agreement shall be in writing addressed to the party to whom the notice is directed at the address of that party set forth below the signatures on this agreement and shall be deemed to have been given for all purposes upon receipt when personally delivered; one day after being sent, when sent by recognized overnight courier service; two days after deposit in United States mail, postage prepaid, registered or certified mail; or on the date transmitted by telegraph or facsimile. Any party may designate a different mailing address or a different person for all future notices by notice given in accordance with this paragraph.
15. Attorney Fees. In any proceeding to enforce or interpret this agreement, the prevailing party shall be entitled to recover from the losing party reasonable attorney fees, costs, and expenses incurred by the prevailing party before and at any trial, arbitration, bankruptcy, or other proceeding, and in any appeal or review.
16. Modification. No modification of this agreement shall be valid unless it is in writing and is signed by all of the parties.
17. Integration. This agreement is the entire agreement of the parties. There are no promises, terms conditions, or obligations other than those contained in this agreement. This agreement shall supersede all prior communications, representations, and agreements, oral or written, of the parties.
18. Interpretation. The paragraph headings are the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the paragraphs themselves. This agreement shall not be construed against the drafting party.
19. Severability. The invalidity of any term or provision of this agreement shall not affect the validity of any other provision.
20. Waiver. Waiver by any party of strict performance of any provision of this agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.
21. Binding Effect. Subject to restrictions in this agreement upon assignment, if any, this agreement shall be binding on and inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties.
22. Venue and Personal Jurisdiction. Should any action be filed to enforce this agreement, it is agreed that venue of such action shall lie in any court in Lane County, Oregon, having jurisdiction of the subject matter, and that the parties are subject to personal jurisdiction in Lane County, Oregon. Each party waives all right to challenge venue or personal jurisdiction in any action filed in Lane County, Oregon.

THIS PROPOSAL DOES NOT BECOME EFFECTIVE UNTIL SIGNED AND DATED BY THE COMPANY; ONCE SIGNED THIS PROPOSAL WILL EXPIRE AFTER 60 DAYS.

THE ABOVE PRICES, SPECIFICATIONS, AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO THE WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.

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CUSTOMER INITIALS \_\_\_\_\_



# PROPOSAL

## Proposal #: 29368

**Proposal Date:** 07/30/19  
**Customer #:** CRM009802  
**Page:** 5 of 5  
**Salesperson:** Jason Spear

SALESPERSON: \_\_\_\_\_

DATE: \_\_\_\_\_

ACCEPTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

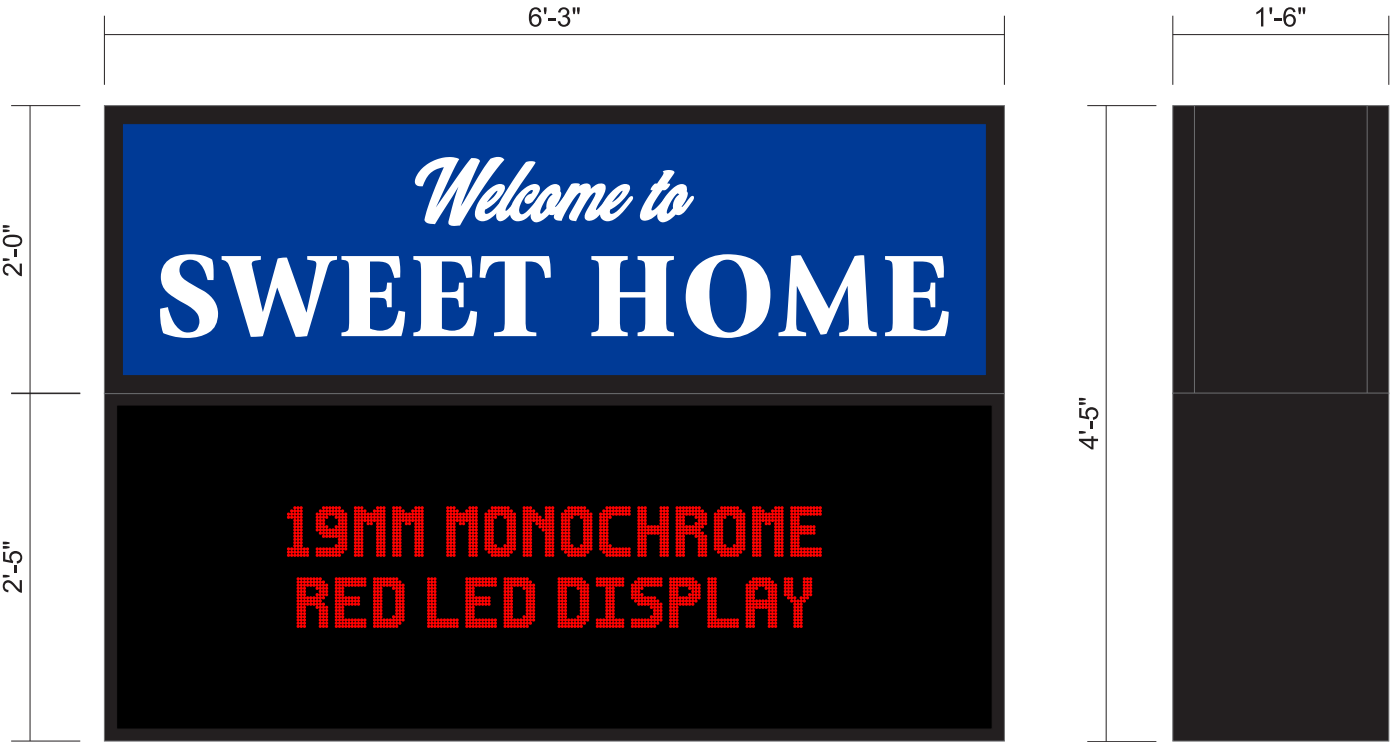
DATE: \_\_\_\_\_

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CUSTOMER INITIALS \_\_\_\_\_





Specifications

- Manufacture & Install (1) D/F LED Display & Internally Illuminated Header Sign
- Fabricated aluminum D/F sign cabinet with 1.5" retainers painted black with LED illumination.
- Lexan faces with translucent 230-157 Cobalt Blue PSV.
- Watchfire 19mm Red LED D/F Display.
- Install sign cabinet & LED display to existing (2) 4" steel poles on rock base.
- Install aluminum filler end panels painted black.
- Verify colors, artwork, LED display, dimensions, installation.

REVISIONS:

CLIENT APPROVAL  
INCLUDES COLORS, SPELLING, ARTWORK

PLEASE INITIAL:      PLEASE DATE:

DRAWING NUMBER: 29368A  
DATE OF ORIGINAL DRAWING: 7.26.19

SALES:      DESIGN:      PAGE NO:  
JS      BL      I of I

PRESENTATION FOR:  
CITY OF SWEET HOME  
3225 MAIN STREET  
SWEET HOME, OR

89975 PRAIRIE RD.  
EUGENE, OR 97402  
P | 541.485.5546  
F | 541.485.5813  
WWW.ESASIGNS.COM







Specifications

- Manufacture & Install (1) D/F LED Display & Internally Illuminated Header Sign
- Fabricated aluminum D/F sign cabinet with 1.5" retainers painted black with LED illumination.
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Specifications

- Manufacture & Install (1) D/F LED Display & Internally Illuminated Header Sign
- Fabricated aluminum D/F sign cabinet with 1.5" retainers painted black with LED illumination.
- Lexan faces with translucent 230-157 Cobalt Blue PSV.
- Watchfire 16mm RGB LED D/F Display.
- Install sign cabinet & LED display to existing (2) 4" steel poles on rock base.
- Install aluminum filler end panels painted black.
- Verify colors, artwork, LED display, dimensions, installation.

REVISIONS:

CLIENT APPROVAL  
INCLUDES COLORS, SPELLING, ARTWORK

PLEASE INITIAL: | PLEASE DATE:

DRAWING NUMBER: 29368A2  
DATE OF ORIGINAL DRAWING: 7.26.19

SALES: | DESIGN: | PAGE NO:  
JS | BL | 1 of 1

PRESENTATION FOR:  
CITY OF SWEET HOME  
3225 MAIN STREET  
SWEET HOME, OR

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WWW.ESASIGNS.COM





P.O. Box 631  
Albany, OR 97321  
541-926-5894  
Fax: 541-926-5895

## Furniture Quote

Date	Quote #
8/20/19	8003

Name/Address
<p align="center"><b>City of Sweet Home</b>  <b>1140 12th Ave.</b>  <b>Sweet Home, OR 97386</b></p>

<a href="http://www.kingoffice.biz">www.kingoffice.biz</a> Licensed, Bonded & Insured CCB#196752				Rep
				VB
Qty.	Item #	Description	List	Total
		FRONT OFFICE		
		SMALL FRONT DESK		
1	GLO	30x66 DESK WITH BOX-BOX-FILE PEDESTAL	1,279.00	1,279.00
1	GLO	24x48 RETURN WITH FILE-FILE PEDESTAL	1,013.00	1,013.00
		MOLLY'S DESK AND MIRROR / LARGER SPACE		
1	GLO	30x84 DESK WITH CENTER GROMMET AND BOX-BOX-FILE	1,342.00	1,342.00
1	GLO	30x72 CONNECTABLE TABLE	736.00	736.00
2	GLO	20x30 LATERAL FILE - UNDER DESK	950.00	1,900.00
1	GLO	20x60 CREDENZA TOP AND BACK	423.00	423.00
1	GLO	12x30x66 BOOKCASE	780.00	780.00
		ANGELA		
1	GLO	30x84 DESK WITH CENTER GROMMET AND BOX-BOX-FILE	1,342.00	1,342.00
1	GLO	30x72 CONNECTABLE TABLE	736.00	736.00
1	GLO	24x36 LATERAL FILE - UNDER DESK	1,178.00	1,178.00
		SUBTOTAL		10,729.00
	48 PERCENT DI...	48% DISCOUNT	-48.00%	-5,149.92

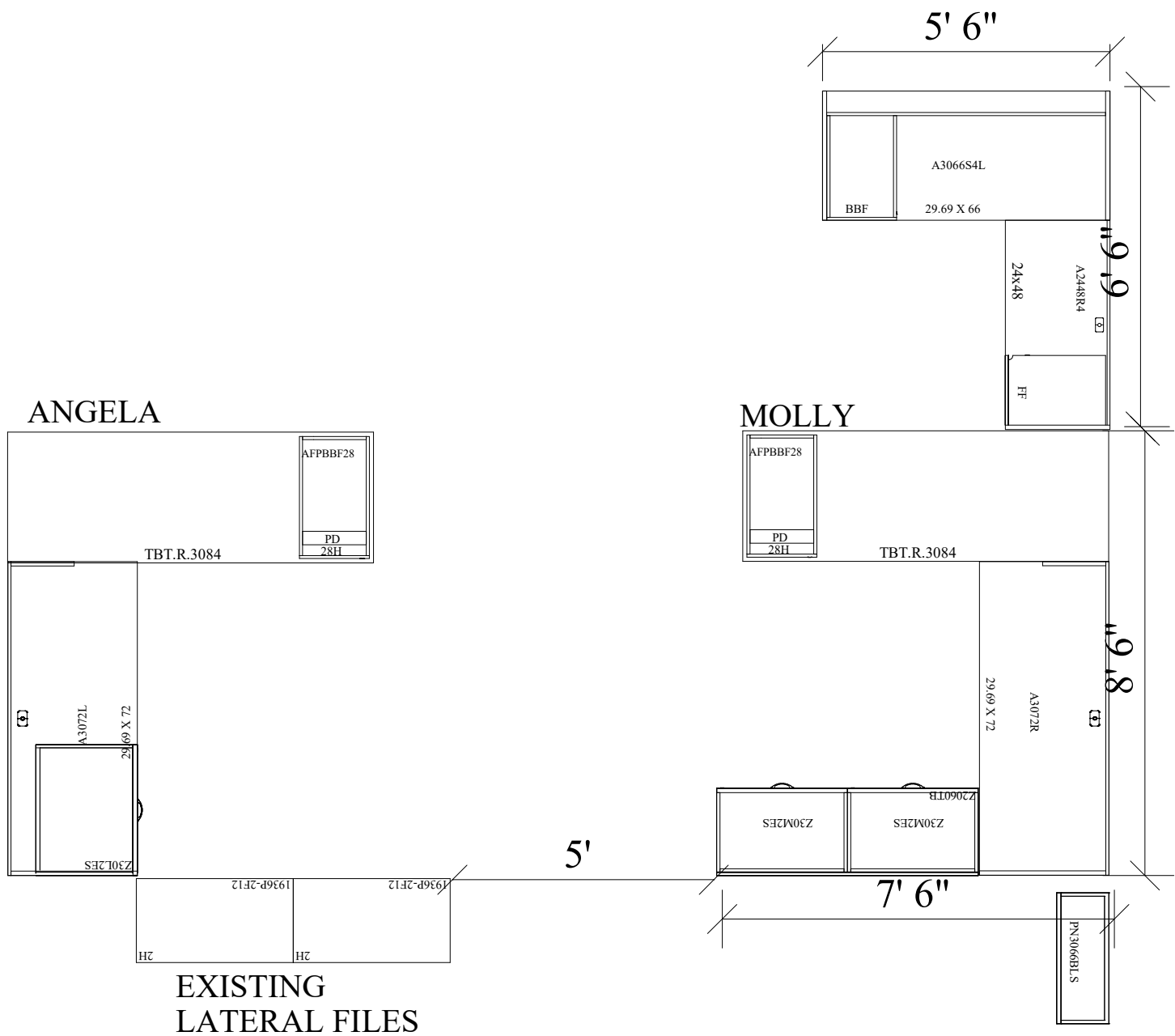
**Changes to the scheduled delivery date by the customer will require payment in full.**

**Total** \$5,579.08

We are please to submit the above quotation for your consideration. Please be aware that all custom and special ordered products are non-refundable. A 50% deposit is required upon ordering if this is your first order with King Office Designs. All installation cost is quoted based on space prepared for delivery. Any product requiring storage over 10 days after notice of delivery will incur a storage fee.

Accepted by:

FRONT COUNTER



## MEMO

DATE: SEPT 24, 2019  
TO: SWEET HOME CITY COUNCIL  
FROM: ROBERT SNYDER, CITY ATTORNEY  
TOPIC: RESIDENTIAL RENTAL REGISTRATION  
SUBJECT: \_\_\_\_\_

At the City Council meeting on September 10, 2019 residential rental registration was mentioned in regard to the livability ordinance as a topic to be researched. The following outline is of a City of Bellingham, Washington, ordinance:

1. **PURPOSE:** The purpose is to protect public health, safety and welfare of tenants by identifying, encouraging, and requiring correction of substandard housing conditions and preventing deterioration and blight.

2. **EXCEPTIONS:** The scope of the ordinance does not include owner-occupied of two units or less, units not for rent, hotels, motels, nursing homes, hospitals, shelters, government run units and mobile homes/manufactured homes (the MHs are regulated in Washington by a state agency).

3. **REGISTERING:** The ordinance requires that no person shall make available for rent to the public any residential housing unit without registering and maintaining registration of the rental property at which the unit is located.

4. **FEE:** A yearly fee (\$10 per unit) is set by council resolution and there are increased monetary penalties if not paid on time. There is an inspection fee of \$100.

5. **INSPECTION:** The inspection of the rental properties on the registration list shall be subject to inspection by a qualified rental housing inspector (city or private) under the ordinance. The city has a schedule for the inspections but will respond to a complaint in addition to the inspection process.

6. **INSPECTION FOR:** Minimum floor area, sanitation, structural, occupancy, heating, ventilation, electrical, emergency escape, garbage, monoxide alarms, fire alarms, passive fire construction, and fitness for human habitation as contained in Building Code and state law.

7. **LIMIT ON INSPECTION:** The city may only require a certificate of inspection on a rental property once every three years and a rental property that has a certificate of inspection within the last four years and has no code violations reported is exempt from inspection.

8. **NOTICE TO TENANT:** The landlord shall provide written notice to the tenant of a pending inspection with time and date and tenant's right to see inspector's identification.

**FOR ORDINANCE:** I contacted the City of Bellingham rental registration program and was told the following information:

The ordinance was a 2015-16 ordinance and is to be reviewed by council in 2019-20 to see how it is working with maybe changing the 3 year cycle for inspections to a 5 year cycle. Before passage the city held public meetings and had council discussions. Before passage the thought was that they would find a few bad apples but the inspection process has discovered no smoke alarms or monoxide detectors, windows painted shut (egress needed), and railings and decks in poor shape in more units than a few and these deficiencies are what is taking up a lot of the inspectors time.

**AGAINST ORDINANCE:** In the materials reviewed there was a 2014 letter from a landlords association in Washington that expressed its concerns with the City of Bellingham passing the rental registration ordinance which included Unequal Application Of Law (rental properties but not owner occupied); Rights of Privacy (no unapproved entry); Discrimination (minorities and other protected groups in rentals); Excessive fees (fees pass-overs to tenant); Affordable Housing (serviceable housing “not perfect” vs. higher rents to pay for repairs/improvements if over-zealous inspectors); and Anti-Growth (developers seek options outside city).

**INFORMATION:** There are estimated 15,000 rental units in Bellingham and based on other jurisdictions that have a registration program the city anticipates 10-15% of the total units would be considered substandard. The registration program creates a system to address and monitor rental property issues without the need for a tenant to complain first.

**LIVABILITY CHECK LIST:** The livability check list that will compare the livability ordinance to the current city laws on nuisance etc. will be in the next city council packet for the October 8, 2019 agenda.



## MEMO

DATE: AUGUST 27, 2019  
TO: SWEET HOME CITY COUNCIL  
FROM: ROBERT SNYDER, CITY ATTORNEY  
TOPIC: OUTLINE ON LIVABILITY ORDINANCE

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### SUBJECT:

The draft ordinance presented herewith is taken from a Corvallis Ordinance passed in 2015. The ordinance is 39 pages long so to concentrate on the provisions that would be an addition to the current Sweet Home Municipal Code please review the following pages 13 to 20. These pages set forth the provisions that deal mainly with regulating the interiors of rental properties. This set of regulations are the new provisions to Sweet Home laws.

The draft ordinance pages 1 to 13 deals with general provisions, warrant processes and definitions. The draft ordinance pages 18 to 25 covers mainly exterior regulations that apply to exterior parts of buildings and real property not just rentals. The draft ordinance pages 25 to 39 covers the enforcement of the ordinance provisions. These three parts of the draft ordinance are discussed below:

A. The general provisions of the ordinance (1-13) are important to the ordinance and can be read after the below decisions are made.

B. The exterior regulations (18-25) can be reviewed to see which ones City Council wants to adopt keeping in mind that the SHMC already covers the following regulations that apply to exterior issues:

1. SHMC Chapter 8.04 Nuisances which include Junk, Privies, Stagnant water, Water pollution, Decayed food, Odor, Open burning, Abandoned iceboxes, Attractive nuisances (to children), Nuisance buildings and structures (exterior blight-broken windows etc.), Metal tower, Glass openings, Sifting loads, Fences, Surface water, Notices on "poles", Radio and TV interference and Open storage of appliances and household goods.

2. SHMC Chapter 8.08 Weeds, Grass And Brush Control (requires mowing)

3. SHMC Chapter 8.12 Chronic Nuisance Property (holds owner responsible for crimes/violations at or near his/her real property)

4.SHMC Chapter 10.11 Abandoned, Disabled and Hazardous Vehicles (summary chapter)

5.SHMC Chapter 10.16 Destroyed, Abandoned and Junk Vehicles

6.SHMC Chapter 10.28 Recreational Vehicles

7.SHMC Chapter 15.01 Administration and Enforcement-Building Code

8.SHMC Chapter 15.03 Various Codes (specialty Codes for building)

C. The enforcement provisions(25-39) of the ordinance cover ways of abatement of the nuisance or problem on the property and collection of costs, attaching a lien and fines. The City has processes set out in its nuisance ordinance SHMC chapter 8.04 for abatement, collection of costs and attaching a lien and SHMC Chapter 9.36 sets up our violation system that provides for a maximum fine of \$500 per day so if the ordinance is passed in all likelihood the enforcement provisions would be made to follow the processes already used for enforcement through the abatement process for other nuisances and the use of the municipal court to impose fines.

The current laws that are used to enforce the issues that are addressed by the Livability Ordinance for interior issues in rental property are the Landlord/Tenant laws found at ORS Chapter 90. These laws require a Landlord to provide the following:

1. Carbon monoxide alarm. ORS 90.317 (certain conditions)

2. Landlord to maintain premises in habitable condition which includes waterproofing and weather protection for roof and walls; plumbing in good working order; water supply hot and cold and appropriate fixtures; sewage disposal system, adequate heating facilities; electrical lighting; and building and grounds at the time of commencement of rental agreement in safe condition for normal uses and free from accumulations of debris, filth, rodents and garbage; floors, walls, ceiling, stairways and railings maintained in good repair; ventilating and air conditioning in good repair if supplied by landlord; working locks; and safety from fire hazards including a smoke alarm. ORS 90.320

The Livability Ordinance is set up to put a city in the position of being the enforcement officer for the Landlord/Tenant laws in addition to the Tenant taking the needed steps to sue for violations of the law in small claims court per se or with an attorney (legal aid) and being able if he/she prevails in collecting his/her costs and attorney fees. ORS 90.255

In talking with Corvallis the Housing department has 6 persons doing various jobs therein including a full time and a part time code enforcement person. They have funding sources of



a \$15.00 yearly rental fee, federal funding and an excise tax to help fund their programs. They try to gain compliance by cooperation and communication and coordination. They obtain help from their Fire Dept. and Building Dept.

#### DECISIONS:

The first decision to be made is does the city want to adopt the provisions of the Livability Ordinance that pertain to interior issues in rental properties?

The second decision to be made is does the city see any provisions for the exterior of a building or on real property that it desires to incorporate into existing ordinances or be a part of the Livability Ordinance?

ORDINANCE BILL NO. \_\_\_\_ FOR 2019

ORDINANCE NO. \_\_\_\_

AN ORDINANCE ESTABLISHING A LIVABILITY CODE FOR SWEET HOME.

THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

**Chapter 9.40 - LIVABILITY CODE**

**Section 9.40.010 - Short Title.** This Chapter shall be known and may be cited as the Sweet Home Livability Code and may be referred to herein as “this chapter.”

**Section 9.40.020 - Purpose.** The purpose of this chapter is to ensure and protect the public health, safety and welfare and to prevent or reduce urban blight by establishing minimum property maintenance and livability standards for all premises.

**Section 9.40.030 - Application of other Laws.**

Nothing in this chapter shall be construed to relieve a person from complying with any federal, state or local law, including any other provisions of the Sweet Home Municipal Code or the requirement to obtain all necessary permits and approvals.

1) *Changes and Alterations.* Any repair, alteration, or addition to, or change of occupancy in an existing building, or any change of use of any property, shall be made in accordance with all applicable provisions of law, including, but not limited to the Sweet Home Municipal Code.

2) *Conflicts.*

a) Except as provided otherwise by federal, state or local law, if a provision of this chapter conflicts with a residential property maintenance law, rule or regulation promulgated by a state or federal authority having jurisdiction over residential property in the City of Sweet Home, the provision of the state or federal law, rule or regulation shall apply to the exclusion of the conflicting provision of this chapter.

b) This chapter is intended to supplement rather than conflict with the habitability standards and the assignment of landlord and tenant responsibilities of the State of Oregon Residential Landlord and Tenant Act.

c) If a provision of this chapter conflicts with a provision of the adopted building code, the provision of the building code shall apply to the exclusion of the conflicting provision of this chapter.

**Section 9.40.040 - Scope.** This chapter establishes minimum requirements and standards for the protection of structures and premises from the elements, life, safety and other hazards, and for their safe and sanitary maintenance; assigning the responsibility of owners and occupants; and, establishes the processes and standards for the administration of this chapter, its administration, enforcement, appeals and penalties.

1) Provisions of this chapter that address the interior conditions of residential structures apply to tenant occupied residential structures only.

2) Provisions of this chapter that address the exterior conditions of structures and the conditions of premises apply to all residential and nonresidential structures and all premises, with the exclusion of children's play structures which shall be exempt from the maintenance standards established by this chapter other than with respect to conditions that constitute imminent or incipient hazards, as those terms are defined in this chapter.

3) Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety and maintenance, as required by the provisions of this chapter.

**Section 9.40.050 - Saving Clause.** Compliance with this chapter shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

**Section 9.40.060 - Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable.

**Section 9.40.070 - Administration.**

**9.40.070.01 - Responsibility.**

1) The City Manager is hereby authorized to administer and enforce all of the provisions of this chapter. The authority of the City Manager to enforce the provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of other city codes.

2) This chapter shall be liberally construed to the end that the City Manager shall not be required to personally perform the administrative or enforcement duties and functions that are the responsibilities of the City Manager under the terms and standards of this chapter.

#### **9.40.070.02 - Appointments.**

1) The City Manager may appoint a Director and delegate authority to administer this chapter to the Director.

2) The Director may appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration and enforcement of this chapter.

3) The Director is authorized to designate an employee as deputy who shall exercise all the powers of the Director during the temporary absence or disability of the Director.

4) Any acts done by any employee who is under the direct supervision and control of the Director and done pursuant to a delegation of authority given by the Director to said employee shall be deemed to be done by the Director as required by the terms and standards of this chapter.

#### **9.40.070.03 - Complaint Based Response**

1) Administrative and enforcement responses under this chapter will be initiated on the basis of a complaint.

2) Complaints may be filed by members of the public, by representatives of the city organization and by representatives of external agencies in a manner that shall be consistent with administrative operating guidelines.

3) Anonymous complaints will not be accepted.

4) Notwithstanding the provisions of Sweet Home Municipal Code 9.40.070.03(1), the Director may choose to initiate administrative or enforcement activities when conditions are known or suspected to be present on a property, premises or a structure that would constitute an imminent hazard or an incipient hazard, as those terms are defined herein.

#### **9.40.070.04 - Inspections.**

1) *Inspections.* The Director is authorized to make inspection of all premises for the purposes of enforcing this chapter.

2) *Coordination of Enforcement.* Whenever inspections are deemed necessary by the Director and any other division or department, the Director shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other divisions and departments for the purpose of eliminating conflicting orders before any are issued.

**9.40.070.05 - Right of Entry.** Following the process set out below, the Director may enter all premises, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this chapter, or whenever the Director has reasonable cause

to believe that there exists in any structure or upon any premises any condition which makes such premises substandard as defined in any regulations of this chapter.

#### **9.40.070.05.010 - Administrative Warrant.**

In the case of seeking entry into areas of any premises that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:

1) *Occupied Premises.* If any structure on the premises is occupied, the Director shall first present proper credentials and request entry. If entry is refused, the Director may attempt to obtain entry by obtaining an administrative warrant; or,

2) *Unoccupied Premises.*

a) If the premises is unoccupied, the Director shall first make a reasonable attempt to contact the property owner, or other persons having charge or control of the premises, and request entry. If entry is refused or if no response is received, the Director may attempt to obtain entry by obtaining an administrative warrant.

b) If structures on the premises are unoccupied, the Director shall first make a reasonable attempt to locate the owner or other persons having charge or control of the premises and request entry. If entry is refused or if no response is received from the owner or other persons having charge or control of the premises, the Director may attempt to obtain entry by obtaining an administrative warrant; or,

3) *Open, Unoccupied Structures.* If any structure on the premises is unoccupied and open:

a) The Director shall first make a reasonable effort to notify the owner of the specific condition and order the owner, or other persons having charge or control of the premises, to immediately secure the structure against entry of unauthorized persons.

b) If the structure is not secured within fifteen (15) days from the date notice is sent, the Director may secure the area on or about the premises of the certain hazardous condition concern, as provided in Sweet Home Municipal Code 9.40.110.05.

4) *Hazardous Conditions.*

a) If the Director believes that an imminent hazard condition exists, the Director may immediately secure the area on or about the premises of the certain hazardous condition concern, as provided in Sweet Home Municipal Code 9.40.110.05.

b) Following the summary abatement to secure the hazardous condition, the Director shall make a reasonable attempt to notify the owner, or other persons having charge or control of the premises, of the condition of the premises and request entry.

c) If entry is refused, the Director may attempt to obtain entry by obtaining an

administrative or abatement warrant.

#### **9.40.070.05.020 - Grounds for Issuance of Administrative Warrants.**

1) *Affidavit.* The Sweet Home Municipal Court or any Oregon Court having jurisdiction over violations of ordinances shall issue an administrative warrant only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant; the statute, ordinance or regulation requiring or authorizing the inspection or investigation; the premises to be inspected or investigated; and, the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition the affidavit shall contain either a statement that entry has been sought and refused, or a statement of facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an administrative warrant.

2) *Cause.* Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to any building or upon any premises, or there is probable cause to believe that a condition of nonconformity with any provision of this chapter exists with respect to the designated premises, or an investigation is reasonably believed to be necessary in order to discover or verify the condition of the premises for conformity with the provisions of this chapter.

#### **9.40.070.05.030 - Procedure for Issuance of Administrative Warrant.**

1) *Examination.* Before issuing an administrative warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.

2) *Issuance.* If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the premises to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 8:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

3) *Police Assistance.* In issuing an administrative warrant on private property, including abatement warrants pursuant to Sweet Home Municipal Code 9.40.120.05, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described premises to remove any person or obstacle and to assist the Director or representative of the department inspecting the premises in any way necessary to complete the inspection or abatement.

#### **9.40.070.05.040 - Execution of Administrative Warrant.**

1) *Occupied Premises.* Except as provided in paragraph 2) of this subsection, in executing an administrative warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and



purpose to an occupant or person in possession of the premises designated in the warrant and show the occupant or person in possession of the premises the warrant or a copy thereof upon request.

2) *Unoccupied Premises.* In executing an administrative warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in paragraph 1) of this subsection, but may promptly enter the premises if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted upon the property.

3) *Return* An administrative warrant must be executed within 10 business days of its issue and returned to the judge by whom it was issued within 10 business days from its date of execution. After the expiration of the time prescribed by this paragraph the warrant, unless executed, is void.

**9.40.070.06 - Historic Structures.** The provisions of this chapter shall not be mandatory for an existing structure designated as a local or national historic resource when such structure is judged by the Director to be safe and its continued maintenance in historic condition to be in the public interest.

**9.40.070.07 - Modifications.** Where there are extreme hardships involved in carrying out provisions of this chapter, the Director shall have the right to vary or modify such provisions upon application of an owner or occupant, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

#### **Section 9.40.080 - Definitions.**

**9.40.080.01** All words and terms assume their dictionary definitions unless they are specifically defined in this chapter.

**9.40.080.02** Words stated in the present tense in this chapter include the future; the singular number includes the plural, and the plural includes the singular.

**9.40.080.03** Whenever the words "dwelling unit," "dwelling," "premises," "structure," or "building" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof".

**9.40.080.04 - Defined Terms.** Unless the context otherwise specifically requires, for purposes of this chapter, the following terms and phrases mean:

1) *Abandoned Structure.* A vacant structure that is an attractive nuisance.

2) *Abatement (e.g., of a Nuisance).* The act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.

3) *Accessible Means of Egress.* This term shall have the meaning provided under the Oregon Fire Code, Sec. 1002.1: A continuous and unobstructed way of egress travel from any

accessible point in a building or facility to a public way.

4) *Accessory Structure.* Any structure not intended for human occupancy. Accessory structures may or may not be attached to a primary structure. Examples of accessory structures include, but are not limited to: garages, carports, sheds, playhouses, decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs, driveways and walkways.

5) *Agent.* A person authorized by another to act in his/her behalf.

6) *Approved.* Meets the standards set forth by this chapter, or is approved by the Director.

7) *Attic.* The unfinished, non-habitable part of a structure between the roof and the ceiling immediately below.

8) *Attractive Nuisance.* Buildings, structures, or premises that are in an unsecured, derelict or dangerous condition so as potentially to constitute an attraction to minors, vagrants, criminals or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing an unlawful act.

9) *Basement.* That portion of a building or structure which is partly or completely below grade.

10) *Bathroom.* A room containing plumbing fixtures including a bathtub or shower.

11) *Bedroom.* Any room or space used or intended to be used for sleeping purposes.

12) *Boarded.* The securing of an unoccupied building or structure against entry by the placement of material such as plywood, boards, or other similar material over openings, consistent with administrative operating guidelines, that are designed or intended for windows or doors, where the materials are visible off the premises and where the materials are not lawfully or customarily installed on a building or structure that would be occupied.

13) *Building.* Any structure designed for habitation, shelter, storage, trade, manufacture, business, education, or similar purposes.

14) *Building Code.* The specialty codes adopted and as may be amended by the City of Sweet Home, as provided in Sweet Home Municipal Code Chapter 15.03.

15) *Building Official.* The City of Sweet Home Building Official, or a designee authorized by the Building Official.

16) *Bulk Solid Waste.* Discarded bedding, mattresses and furniture, junk, yard debris, uprooted tree stumps, demolition or construction debris, or other nonputrefactive and nonhazardous materials not placed in a receptacle, or too large to be placed into a receptacle.



17) *Deterioration.* A lowering in the quality, condition or appearance of a building or structure, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, excessive use or lack of maintenance.

18) *Derelict Structure.* A building or structure that is unfit for human habitation, or poses an incipient hazard, or is detrimental to public health, safety or welfare, as a result of one or more of the following conditions:

- a) Is unoccupied and unsecured;
- b) Is partially constructed;
- c) Is an abandoned structure or attractive nuisance;
- d) Is in condition of deterioration;
- e) Has an infestation of pests;
- f) Has doors or windows boarded over, or;
- g) Other condition that in the opinion of the Director is detrimental to public health, safety or welfare.

19) *Dilapidation.* Being in a state of partial ruin, decay or disrepair.

20) *Director.* The person appointed by the City Manager as the Community Development Director for the City of Sweet Home, or the person charged by the City Manager with the implementation and enforcement of this chapter, or the appointed person's designee.

21) *Dwelling.* Any structure containing one or more dwelling unit.

22) *Dwelling Unit.* A single unit within a dwelling providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating cooking and sanitation.

23) *Exit.* A continuous, unobstructed means of egress from a dwelling to the exterior of the building and to a public way.

24) *Exterior Property.* The areas of a property which are outside the exterior walls and roof of a building. All parts of property that are exposed to the weather including the exterior of structures built for human occupancy. This includes, but is not limited to, yards, gardens, vehicles parked on the property; open and accessible porches, carports, garages, and decks; accessory structures, and any outdoor storage structure.

25) *Extermination.* The control, elimination and removal of pests by eliminating harborage places; by removing or making inaccessible materials that serve as food; by poison spraying, fumigating, trapping or by any other pest elimination method approved by the Director.

26) *Hazardous Solid Waste.* Any solid waste which, in the opinion of the Director, would constitute a danger to collection personnel or to anyone who may come in contact with such solid waste, and includes, without limitation, any hazardous waste as defined in ORS 466.005(7) as may be amended.

27) *Habitable*. Suitable for human habitation.

28) *Habitable Space*. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

29) *Hazardous Thicket*. Blackberry vines or other thickets that conceal trash, debris, or junk; or create a harborage for people involved in criminal activity or for products used for unlawful activity; or that encroach upon the public right of way, or private property of another in a manner that may be hazardous.

30) *Hearings Officer*. The person or persons appointed by the City Manager to serve in that capacity and to pass on matters stipulated for quasi-judicial review under this chapter.

31) *Human Habitation*. The use of a structure, portion of the structure, or space, in which any person remains for a continuous period of two or more hours per day, or for periods which will accumulate to four or more hours in a day.

32) *Imminent Hazard*. Any condition of deterioration that places public health, safety or welfare in high risk of peril, when the peril is immediate, impending, or on the point of happening.

33) *Incipient Hazard*. Any condition that can become an imminent hazard if further deterioration is allowed to occur.

34) *Indoor Fixture*. Any item that is designed to be used indoors or otherwise protected from environmental elements, including, but not limited to, heating, plumbing and electrical fixtures.

35) *Indoor Furnishing/Furniture*. Any item that is designed to be used indoors or otherwise protected from environmental elements including, but not limited to, upholstered furniture, indoor appliances and indoor carpet.

36) *Infestation*. The presence of pests in large numbers that is harmful or bothersome within or adjacent to a building or structure or upon premises.

37) *Junk*. Articles of personal property that have outlived their usefulness in their original form, or articles of personal property that have been discarded and are no longer used for their manufactured purpose, regardless of value. As used in this chapter the term “junk” includes, but is not limited to:

a) any derelict motor vehicle, trailer, or boat, i.e., any used motor vehicle, trailer, or boat, without a vehicle license or with an expired licence; or

b) neglected motor vehicle, trailer, or boat, i.e., a motor vehicle, trailer or boat that is missing critical parts required for the normal and legal operation of the vehicle, but has all of its body parts intact, including fenders, hood, trunk, glass, and tires; or,

c) wrecked motor vehicle, trailer, or boat or part thereof, i.e., a motor vehicle, trailer or boat, that is dismantled or partially dismantled, or having a broken or missing window or windshield, or lacking a wheel or tire; or,

d) machinery or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

e) any appliance or parts thereof that are inoperative, worn out, or in a state of disrepair; or,

f) any worn out or dilapidated indoor fixtures or furnishings, or parts thereof; or,

g) any bulk solid waste; and,

h) solid waste items that are of a type or quantity inconsistent with normal and usual use such as wood, metal, scrap and other similar items.

38) *Landlord.* The owner or lessor of a dwelling unit, a building, or premises, including a person authorized by the owner or lessor to manage the premises or to enter into a rental agreement.

39) *Legally Occupied.* The use of premises for a purpose authorized by law, including the building code and the Sweet Home land development code. For the purposes of this chapter, a premises shall be considered legally occupied, even if presently vacant, as long as the premises is maintained in compliance with the provisions of this chapter, and in the case of a building or structure, conditions that would qualify the building or structure as derelict are not present.

40) *Let for Occupancy or Let.* To permit, to provide, or to offer possession or occupancy of a dwelling unit, building, structure or premises, pursuant to a lease, permit, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

41) *Maintained Compost.* A small portion of property set aside for the purpose of methodically encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer or amendment for the soil on the property. Maintained compost shows clear indicators that the organic materials placed there are being actively managed to encourage its rapid decomposition. Possible signs of such active management may include evidence of regular turning, a mixture of yard debris types, any woody materials present having been chopped into small sizes, and the presence of internal heat in the composting mixture. A location where yard debris is placed primarily as a means to store it or dump it without reasonable expectation of rapid decomposition does not constitute maintained compost.

42) *Means of Egress/Doors.* A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way. Includes any doors that are present at the exit access, along the path of exit, and at the exit discharge.

43) *Multi-Family Dwelling.* A building or structure within which are comprised three or

more dwelling units.

44) *Must.* Mandatory

45) *Nature-scape.* Landscaping and gardening approaches that use predominately native plants for the purpose of creating improved outdoor habitat for native insects, birds, and mammals and reducing the need for pesticides, chemical fertilizers, and summer watering.

46) *Occupancy.* The purpose for which a building, structure or premises is used or intended to be used.

47) *Occupant.* Any person, including an owner, tenant or operator, using a building or any part of a building for its lawful, intended use or having possession of a space within a building or structure or possession of a premises.

48) *Owner.* The person recorded in the official records of the state, county or city as holding title to premises, and that person's agent; any person who has purchased or otherwise acquired a premises but whose ownership is not yet reflected in the official records of the state, county or city; a trustee, executor, administrator, guardian or mortgagee in possession and having control of the premises; a person who has care and control of a premises in the case of the absence or disability of the person holding title thereto.

49) *Partially Constructed.* An occupied or vacant structure, or portion thereof, that has been left in a state of partial construction for more than six months, or that has not been completed prior to the expiration of any building permit.

50) *Person.* An individual, corporation, limited liability company, cooperative, association, partnership, or any other entity in law or fact.

51) *Pests.* Animals detrimental to humans or human concerns including, but not limited to, insects, rodents, rats or vermin.

52) *Premises.* A lot or parcel of land, including any buildings or structures thereon.

53) *Rank Vegetation.* Any vegetation existing in a state of uncontrolled growth or without commonly recognized vegetation maintenance or management practices applied.

54) *Receptacle.* With respect to solid waste containment, a trash can, cart, bin, container, drop box or other vessel used for the disposal of solid waste that has been approved by the City Manager and into which solid waste, compostable material, mixed compostables, recyclable material or mixed recycling may be placed for such disposal.

55) *Recycling.* The process of transforming waste into new or different products in such a manner that the original waste products may lose their identity. Recycling includes collection, transportation and storage of waste that places the waste in the stream of commerce for recycling, resource recovery or utilization.

56) *Remediation.* The elimination or correction of a condition, including, but not limited to, repair, replacement, restoration or removal.

57) *Repair.* The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

58) *Residential Property.* Real property and all improvements thereon including edifices, structures, buildings, dwelling units or parts thereof used or intended to be used for residential purposes including single-family, duplex, multi-family structures and mixed-use structures which have one or more dwelling units. Hotels and other building types used exclusively for transient occupancy are excluded from this definition of residential property.

59) *Rubbish.* Worthless, discarded material, including, but not limited to, cardboard, plastic, glass, paper, rags, sweepings, wood, rubber, leather, and similar waste materials that ordinarily may accumulate on a premises.

60) *Shall.* Mandatory.

61) *Solid Waste.* This term shall have the same meaning as provided under Sweet Home Municipal Code \_\_\_\_\_.

62) *Structure.* That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner.

63) *Temporary.* Unless otherwise specified, a period up to 6 months in any 12 month period.

64) *Unfit for Human Habitation.* A building or structure that, as found by the Director, is unfit for human habitation due to unsanitary conditions, infestation, accumulation of filth or contamination, lack of required ventilation, illumination, sanitary or heating facilities, or is not connected to approved water or electricity, such that habitation would be injurious to the health, safety, or welfare of the occupants.

65) *Unoccupied.* Not legally occupied.

66) *Unsecured.* Any structure in which doors, windows, or apertures are open or able to be opened from the outside so as to allow access by unauthorized persons; unlocked or otherwise open to entry.

67) *Ventilation.* The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

68) *Watertight.* As secure as possible against the entry of rain, melt water and storm water.

69) *Waste Tire.* A tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

70) *Weather tight.* As secure as possible against the entry of wind, rain, melt water, storm water and natural elements.

71) *Workmanlike.* Executed in a skilled manner, consistent with generally accepted standards of construction and maintenance, e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work.

#### **Section 9.40.090 - Standards.**

**9.40.090.01 - General Maintenance Requirements.** No person shall maintain or permit to be maintained any structure or premises that does not comply with the requirements of this chapter. All systems, devices and safeguards required by this chapter or by a previous statute or code applicable to the building, structure or premises at the time the building structure or premises were erected or altered shall be maintained in good working order, thus ensuring the health and safety of all inhabitants.

**9.40.090.02 - Existing Structures.** An existing structure that does not comply with the provisions of this chapter shall be altered or repaired to provide a minimum level of public health, safety and maintenance as required herein.

**9.40.090.03 - Applicable Building Code.** All structures shall be constructed, altered or repaired in accordance with the standards of the applicable building code in effect at the time of construction, alteration or repair.

**9.40.090.04 - Skilled Work Required.** All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner.

**9.40.090.05 - Interior Conditions of Tenant Occupied Residential Structures.** The provisions of this subsection shall be exclusively applicable to all structures occupied for residential use by tenants, regardless of the terms of their possession.

##### **9.40.090.05.010 - Lighting of Accessible Means of Egress.**

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit or sleeping unit within any such space, other than in 1-2 family dwellings, shall at all times:

a) provide minimum illumination of 1 footcandle (11 lux) at floors, landings and stairs for all common areas and spaces in all residential occupancies, with responsibility to maintain functioning bulbs; and,

b) for all other accessible means of egress within dwelling units, shall provide the means for minimum illumination of either 3 foot-candles (33 lux) at floors, landings and stairs, or shall provide at least one operable fixture capable of illuminating a 60-watt standard incandescent

bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart.

2) Every landlord who rents, leases or lets one or more dwelling unit or sleeping unit of any 1-2 family structure shall provide the means for minimum illumination of either:

a) 3 foot-candles (33 lux) at floors, landings and stairs; or,

b) shall provide at least one operable fixture capable of illuminating a 6-watt standard incandescent bulb, or equivalent, for each 200 square feet of floor area, not spaced greater than 30 feet apart, for all accessible means of egress.

#### **9.40.090.020 - Ventilation.**

1) Every dwelling, including basements, and attics shall be maintained reasonably free from dampness to prevent conditions conducive to decay, mold, growth, or deterioration of the structure.

2) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to maintain legally existing ventilation systems in compliance with these requirements:

a) Except where another approved ventilation device is provided, the total openable window area in every bathroom and toilet room or compartment shall be equal to at least one-fortieth (2.5%) of the area of the room.

1) The glazed areas of a window in such spaces need not be openable where an approved mechanical ventilation system is provided that is functional and capable of producing 0.35 air changes per hour in the room.

b) In kitchens, a local exhaust ventilation system shall be independent of all other systems, shall be exhausted outside the structure and shall be installed in accordance with manufacturer's instructions.

c) Clothes dryer exhaust systems shall be independent of all other systems, shall be exhausted outside the structure and shall be installed in accordance with manufacturer's instructions.

d) Mechanical clothes drying appliances and exhaust systems shall be properly installed, connected, and maintained in a safe condition and good working order. Exhaust hoses must be free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards.

#### **9.40.090.05.030 - Electrical System.**

##### **9.40.090.05.030.01 - *Equipment Exposed to Water.***

1) Every landlord of any structure, building or premises who rents, leases or lets a dwelling



unit within any such space shall replace electrical equipment or portions of electrical systems that have been exposed to water.

2) For purposes of this subsection, “exposed to water” shall include but is not limited to: submersion due to flooding; inundation due to fire fighting activities; drenching by stormwater; intrusion of moisture; or plumbing system failures.

3) **Exception:** Electrical equipment or portions of electrical systems that are exposed to water shall be allowed to be repaired where an inspection and testing report from the equipment manufacturer, approved manufacturer’s representative, or a state of Oregon Licensed Supervising Electrician indicates that the electrical equipment or electrical system has not sustained damage that requires replacement and may repaired, safely reenergized, and placed back into service.

#### **9.40.090.05.030.02 - *Circuit Protection.***

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain each building and dwelling unit in accordance with these standards:

1) Every kitchen and other interior location with a water containment or water supply fixture in its area shall contain at least one grounded type receptacle or a receptacle with a ground fault circuit interrupter.

2) Every bathroom shall contain at least one receptacle. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.

3) All receptacle outlets shall have the appropriate faceplate cover for the location.

#### **9.40.090.05.040 - *Plumbing System.***

##### **9.40.090.05.040.01 - *General***

1) Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects, leaks and obstructions. Plumbing components shall be of materials allowed or approved by the Plumbing Code.

2) All sinks, lavatory basins, bathtubs and showers with a dwelling unit shall be supplied with both hot and cold running water facilities which are installed in an approved manner, properly maintained, properly connected and have a water pressure of at least fifteen psi,

##### **9.40.090.05.040.02 - *Hot Water.***

Every landlord of any structure, building or premises who rents, leases or let a dwelling unit within any such space shall be responsible to provide and maintain each dwelling unit in accordance with these standards;



1) Water heating facilities shall be supplied for each dwelling unit. Water heating facilities within a dwelling unit shall be capable of heating an adequate amount of water to provide water at a temperature of at least 120 degrees Fahrenheit for at least 10 minutes at each hot water outlet.

2) Exceptions:

a) at a bidet the temperature shall not exceed 110 degrees Fahrenheit; and,

b) at a shower or tub-shower combination equipped with a scald and thermal shock protection valve the temperature shall be at least 115 degrees Fahrenheit but shall not exceed 120 degrees Fahrenheit.

#### **9.40.090.05.050 - Interior Sanitation.**

##### **9.40.090.05.050.01 - *General.***

The interior of every structure that is rented, leased or let for residential occupancy shall be maintained in good repair, in a clean and sanitary condition, free from any accumulation of rubbish, garbage or solid wastes. For purposes of this subsection, the term “clean and sanitary” shall mean free from any material or condition that:

1) Provides a breeding place for insects, rodents or vermin; or,

2) Produces dangerous or offensive gases or odors; or,

3) Blocks exits, hallways, corridors or accessible means of egress; or,

4) Provides a surface, exposed or concealed, which is conducive for the growth of mold or mildew.

**9.40.090.05.050.02 - *Occupant Responsibilities.*** Occupants shall keep that part of the dwelling unit which they occupy or control in a clean and sanitary condition.

##### **9.40.090.05.050.03 - *Landlord Responsibilities.***

Every landlord of any dwelling who rents, leases or lets a dwelling unit within any such space shall:

1) Maintain the common halls, stairways, utility rooms and areas, and similar public areas of the dwelling in a clean and sanitary condition; and,

2) Pursuant to Sweet Home Municipal Code 9.40.090.05.050.01(4) of this chapter but not withstanding the requirement under Sweet Home Municipal Code 9.40.090.05.050.02 of this chapter that the occupants shall keep such spaces in a clean and sanitary condition, provide and maintain all interior surfaces in good repair, including windows and doors, as follows: Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered; cracked or loose plaster,

decayed wood and other defective surface conditions shall be corrected; walls, floors, ceilings, cabinets and interior doors shall be free of holes larger than four inches in diameter and cracks wider than one-half inch; and,

3) Pursuant to Sweet Home Municipal Code 9.40.090.05.050.01(4) of this chapter but not withstanding the requirement under Sweet Home Municipal Code 9.40.090.05.050.02 of this chapter that the occupants shall keep such spaces in a clean and sanitary condition, be responsible to ensure that every toilet compartment, bathroom, and kitchen floor surface of every dwelling unit is constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

#### **9.40.090.05.060 - Heat in Bathrooms and Habitable Rooms.**

Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space shall be responsible to provide and maintain every dwelling unit with permanent heating facilities capable of maintaining a year-round room temperature of not less than 68 degrees Fahrenheit (20 degrees Celsius) in all habitable rooms and all bathrooms.

1) Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

2) No portable, unvented or open flame fuel burning devices may be used to meet the heat requirements of this section.

3) All heating devices or appliances shall be of an approved type.

4) Every landlord of any structure, building or premises who rents, leases or lets a dwelling unit within any such space on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a year-round temperature of not less than 68 degrees Fahrenheit (20 degrees Celsius) in all habitable rooms and all bathrooms.

#### **9.40.090.05.070 - Window and Door Security.**

##### **9.40.090.05.070.02 - Entrance Doors.**

Every entrance door to a dwelling unit shall be provided with a door knob and a deadbolt lock, and keys for same, designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.

1) Deadbolt locks shall have a minimum lock throw of not less than 1 inch (25 mm) and shall be installed according to the manufacturer's specifications.

2) All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door to discourage unwanted entry.

3) For the purpose of this subsection, a sliding bolt shall not be considered an acceptable deadbolt lock.

**9.40.090.05.070.03. - Operable Windows.** Operable windows located in whole or in part within 10 feet above ground level or a walking surface below that provide access to a dwelling unit shall be equipped with a window sash locking device.

**9.40.090.05.070.04 - Basement Hatchways.** Basement hatchways that provide access to a dwelling unit shall be equipped with devices that secure the unit from unauthorized entry.

**9.40.090.06 - Exterior Structure and Premises Conditions.** The provisions of this subsection shall be applicable to all structures, properties and premises and for all occupancy and use types, with the exception that children's play structures shall be exempt from the maintenance standards herein established other than with respect to conditions that constitute imminent or incipient hazards, as those terms are herein defined. The assignment of responsibilities for owner, landlord and tenant occupants shall be as set forth within the following standards.

**9.40.090.06.010 - Weatherproofing and Waterproofing.** It is the responsibility of the owner of every property to maintain every building and structure on the property in a manner that complies with the following requirements:

**9.40.090.06.010.01 - Roofs and Drainage.** All roofs, flashing, vent stacks and boots, and chimneys shall have no defects which might admit rain or melt water.

1) Roof drainage shall be adequate to prevent rain or melt water from causing dampness in the walls, attic or interior portion of the building and shall channel rain or melt water in an approved manner to an approved point of disposal.

2) Any building or structure having originally been designed for and fitted with gutters and down-spouts shall continuously be maintained with such devices, in sound condition and good repair.

3) Roof drains, gutters and down-spouts of a building or structure shall be free from obstructions and maintained in good repair, so as not to be plugged, overflowing, or in a state of deterioration.

**9.4002.090.06.010.02 - Exterior Walls and Exposed Surfaces.**

Every exterior wall and weather-exposed exterior surface or attachment of a building or structure shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or melt water or dampness to the interior portions of the walls or the occupied spaces of the building or structure.

1) All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, and be maintained in good condition.

2) Every landlord of a structure, building or premises who rents, leases or lets a dwelling or dwelling unit for residential occupancy within any such space shall maintain in a weather-tight condition all siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights.

3) Every owner of any structure, building or premises that is not for rent, lease or to be let for residential occupancy, shall maintain in a watertight condition all siding and masonry and joints, including those between the building envelope and the perimeter of windows, doors and skylights.

4) Exterior metal surfaces shall be protected from rust and corrosion. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust and corrosion shall be stabilized and coated to inhibit future rust and corrosion.

**9.40.090.06.010.03 - *Windows and Doors.***

Every window, sash, door and door frame of a building shall be kept in sound condition and in good repair. Every exterior door, skylight, and window shall comply with the following:

1) Every exterior door, door hinge, door knob, door lock, and strike plate shall be maintained in good condition;

2) Every exterior door, when closed, shall fit reasonably well within its frame;

3) Every exterior door frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain or melt water as completely as possible; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, to also substantially exclude wind from entering a building;

4) Every window sash shall be maintained in sound condition and good repair; and, with respect to all dwellings and dwelling units that are for rent, lease of to be let for residential occupancy, shall also substantially exclude wind from entering a building when the window components are placed in a closed position within the frame and jamb;

5) Every window frame and casing shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude rain or melt water as completely as possible; and, with respect to all dwellings and dwelling units that are for rent, lease or to be let for residential occupancy, shall also substantially exclude wind from entering a building.

**9.40.090.06.010.04 - *Glazing.*** Every window sash of a building exterior envelope shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.

1) All glazing materials shall be maintained free from cracks and holes.

2) Glazing with holes, cracks, or that is partially or wholly missing shall be replaced within thirty (30) calendar days of the incident that caused the defect.

**9.40.090.06.010.05 - Basement Hatchways.** Every basement hatchway shall be maintained to prevent as completely as possible the entrance of rodents, rain or melt water and surface drainage water.

**9.40.090.06.010.06 - Temporary Measurers.** The use of tarps or similar material for emergency repair, or in place of a customary building component such as siding or roofing, shall not exceed 45 days in any 12 month period, except for use during construction in association with building permit, or as a requirement included in a lawfully served Dangerous Building or Public Nuisance notice.

**9.40.090.06.020 - Exterior Sanitation.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The exterior property and premises and the adjacent rights of way shall be maintained in a manner that complies with the following requirements:

**9.402.090.06.020.01 - Responsibilities.**

1) The owner of every property shall maintain the structures, premises and all common areas of the exterior property in compliance with these requirements.

2) The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

**9.40.090.06.020 - Holes, Tanks and Child Traps.** Remove, or fill where filling will abate the nuisance, all holes, cisterns, open cesspools, open or unsanitary septic tanks, excavations, open foundations, refrigerators, freezers, or iceboxes with unlocked attached doors and any other similar substance, material or condition which may endanger neighboring property or the health or safety of the public or the occupants of the property.

**9.40.090.06.020.03 - Unsecured Structures.** Board over or otherwise secure, and keep boarded over or otherwise secured, all open or broken exterior doors, windows, or apertures of any unsecured structure so as to prevent access by unauthorized persons through such openings. No requirement imposed under this section shall constitute relief from or an exemption to compliance with the provisions of SHMC 9.40.090.06.010.03 through SHMC 9.40.090.06.010,04 for weather-tight and watertight standards.

**9.40.090.06.020.04 - Rat Harborage.** Remove or repair, and keep removed or repaired, any condition that provides a place where rats gain shelter, feed, or breed.

**9.40.090.06.020.05 - Emergency Access Routes.** All brush, vines, overgrowth and other entangling or rank vegetation located with 10 feet of a structure or within 10 feet of a property line, which is likely to obstruct or impede the necessary passage of fire or other emergency personnel, shall be removed and kept clear.

**9.40.090.06.020.06 - Thickets that Conceal Hazards.**

Cut and remove and keep cut and removed all blackberry vines and other thickets when such growth

is found to be:

- 1) Concealing trash and debris; or,
- 2) Creating rat harborage; or,
- 3) Creating harborage for people involved in criminal or prohibited activity or for products used for criminal activity.

**9.40.090.06.020.07 - *Trash and Debris.***

Remove, and keep removed, unless specifically authorized by ordinance to do otherwise;

- 1) All garbage, offal, dead animals, animal and human waste, and waste materials;
- 2) Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash;
- 3) All dead bushes, dead trees, and stumps with the exception of such material which:
  - a) Is being maintained as a part of a naturescaped property; and,
  - b) Does not result in a nuisance as otherwise defined in this chapter; and,
  - c) Is located on a property which is otherwise substantially in compliance with this chapter;
- 4) All trees which are dead, dying or dangerous and are determined by the City Forester or a private certified arborist to require removal in order to safeguard people or property;
- 5) Accumulations of dead organic matter and yard debris, with the exception of small accumulations of such materia in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rat harborage, as otherwise defined in this chapter; and,
- 6) Accumulations of clothing and any other items not designed for outdoor storage.

**9.40.090.06.020.08 - *Storage of non-Trash Items.***

Remove, and keep removed, unless specifically authorized by ordinance to do otherwise:

- 1) Accumulations of wood pallets;
- 2) Any woody debris from Elm trees and all firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property. Elmwood which is infected with Dutch Elm Disease must be

properly disposed of at the direction of the City Forester;

3) Accumulations of vehicle parts or waste tires except for storage of non-waste, serviceable parts or tires that are reasonably expected to be used on a vehicle and are stored in a manner to protect their utility and prevent deterioration;

4) All construction materials except those that are stored in a manner to protect their utility and prevent deterioration and that are reasonably expected to be used at the site;

5) All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration;

6) All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property;

7) All recycling materials except for reasonable accumulations that are stored in a well-maintained manner;

8) All other non-trash items which:

a) Are of a type or quantity inconsistent with normal and usual use; or,

b) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

#### **9.40.090.06.030 - Solid Waste Removal.**

##### **9.40.090.06.030.01 - *General.***

All exterior property and premises, and the interior of every structure, shall be kept free from any accumulation of solid waste.

1) Approved receptacles for solid waste shall be provided and utilized for the containment and disposal of solid;

2) Bulk solid waste shall be disposed of within a week of discard, in accordance with franchise utility services, or approved alternative.

**9.40.090.06.030.02 - *Occupant Responsibilities.*** Every occupant of a structure or premises shall dispose of solid waste by placing all such material in an approved solid waste disposal facility or approved receptacles.

##### **9.40.090.06.030.03 - *Landlord Responsibilities.***

1) The landlord of any multi-family dwelling shall;



a) Provide, in a location accessible to all dwelling units, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which all solid waste from the dwellings unit may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid waste from occurring; and,

b) Subscribe to and pay for weekly solid waste management service, including recycling and yard waste service, by a person holding a valid franchise from the City of Sweet Home. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

2) The landlord of any 1 and 2 family dwelling, except as otherwise provided by written agreement between the landlord and the tenant, shall;

a) Provide, in a location accessible to each dwelling unit, adequate solid waste receptacle capacity for the containment of solid waste generated or discarded on the property or premises, whether that containment capacity is provided individually for each dwelling unit or cumulatively for more than individual dwelling units, into which solid waste from the dwelling unit(s) may be emptied for storage between days of collection. Receptacles must be of sufficient capacity to prevent the overflow of solid from occurring; and,

b) Subscribe to and pay for weekly solid waste management services, including recycling and yard waste service, by a person holding a valid franchise from the City of Sweet Home. Notwithstanding the minimum of solid waste management services herein established, the period and frequency of collection must be sufficient to prevent the overflow of solid waste from occurring.

**9.40.090.06.040 - Building and Accessory Structures.** It is the responsibility of the owner of any property, improved or unimproved, to maintain the exterior property, premises, buildings and structures of the property and the adjacent right of way in a manner that complies with the following requirements:

**9.40.090.06.040.01 - General Maintenance.** The exterior of a building or structure shall be maintained in good repair and structurally sound so as not to be in a state of deterioration, and in a sanitary condition so as not to pose a threat to the public health, safety or welfare.

**9.40.090.06.040.02 - Foundations and Structural Members.**

Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.

1) All foundation walls shall be maintained free from large open cracks and breaks and shall be kept in such condition so as to prevent the entry of insects, rodents or pests.

2) All supporting structural members in every building and structure shall be maintained

structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

**9.40.090.06.040.03 - Exterior Walls and Exposed Surfaces.** Every exterior wall of a building and all weather-exposed exterior surface or attachment of a building shall be free of holes, breaks, loose or rotting boards or timbers.

**9.40.090.06.040.04 - Brick and Veneers.** Every section of exterior brick, stone, masonry or other veneer applied to a building shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.

**9.40.090.06.040.05 - Chimneys.** Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of a structure shall be permanently sealed using approved materials.

**9.40.090.06.040.06 - Roofs.** All building roofs shall be structurally sound.

**9.40.090.06.040.07 - Decorative Features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features on a building or structure shall be maintained in good repair with proper anchorage and in a safe condition so as not to be in a state of deterioration.

**9.40.090.06.040.08 - Accessory Structures.** Every accessory structure, including sheds, trellises, awnings, fences, and other similar features, shall be maintained structurally safe and sound, and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

**9.40.090.06.040.09 - Vacant Structures and Land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

**9.40.090.06.040.10 - Decks, Stairs and Handrails; Maintenance.**

It is the responsibility of the owner of every property to maintain the building and structures on the property in a manner that complies with the following requirements:

1) Every exterior stairway, deck, porch and balcony and attachment to stairways, decks, porches and balconies shall be:

a) Maintained so as to be safe to use and capable of supporting the loads to which it is subjected;

b) Kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, rotten,

deteriorated or loose;

2) Every handrail and guardrail shall be firmly fastened, maintained in sound condition and good repair, and capable of supporting the loads to which it is subjected;

3) Handrails and guardrails required by building codes at the time of construction shall be maintained or, if removed, shall be replaced.

#### **9.40.09.07 - Fire Safety.**

**9.40.090.07.010 - Means of Egress Door Locks.** All means of egress doors shall be readily openable from the side from which egress is to be made without the use of a key or any special knowledge or effort.

#### **9.40.090.07.020 - Unobstructed Path of Travel.**

1) Every accessible means of egress, fire escape or stairway, stair platform, corridor or passageway which may be one of the regular accessible means of egress or means of emergency exit from a residential structure shall be kept free of encumbrances or obstructions of any kind.

2) Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.

#### **9.40.090.07.030 - Fire Resistive Assembly; Maintenance.**

1) Where required by the code in effect at the time of construction, the fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

2) The surfaces of all other non-rated interior walls, floors and ceilings shall be free of holes larger than four inches in diameter.

**9.40.090.07.040 - Smoke Detectors.** Every dwelling unit shall be equipped with an approved and properly functioning smoke alarm or smoke detector installed and maintained in accordance with the State Building Code, ORS 479.270, 479.275 and 479.285, and applicable rules of the State Fire Marshal.

### **Section 9.40.100 - Enforcement.**

#### **9.02.100.01 - Enforcing Compliance.**

To enforce any of the requirements of this chapter, the Director may gain compliance by:

1) Instituting an action before the Hearings Officer; or

2) Causing appropriate action to be instituted in a court of competent jurisdiction; or,

3) Imposing criminal or civil penalties, or both; or

4) Taking other action as the Director in the exercise of the Director's discretion deems appropriate.

**9.40.100.01.010 - *Initial Contacts.***

1) The city receives complaint or information of possible violation of this chapter.

2) One contact is made with responsible party, when possible, and the property is inspected.

3) If no violation exists or violation conditions are immediately corrected, the file is closed.

4) If violation exists and cannot be immediately corrected, the Director may issue to the responsible party a correction notice that identifies code violation, specifies required abatement action, and assigns a deadline for completion of abatement, consistent with the provision of this chapter. Service of the correction notice may be made:

a) in person when contact can be promptly made at the premises; or,

b) for occupant responsibility circumstances at 1-2 Family dwellings, the correction notice may be posted conspicuously on the dwelling if the person contact is not made; or,

c) via US First Class mail.

d) Failure for service to be made in the manner provided for within this paragraph shall not render the correction notice void.

5) A copy of a correction notice issued shall be forwarded to the landlord and the occupant if either is not the responsible party identified as recipient of the notice;

a) copy will be mailed to the owner of the property at the address on record with the county assessor's office;

b) a link to an electronically accessible copy will be emailed to the landlord when that person is registered with the city and has provided an email address;

c) copy will be mailed to the occupant(s) of the affected premises by situs address(es).

**9.40.100.01.020 - *Notice of Violations.***

1) If violation exists and remains uncorrected after issuance of correction notice, the Director may issue a notice of violation to the responsible party.

a) Notice of violation will identify code violation, will specify required abatement action, and will assign a deadline for completion of abatement, consistent with the provision of

this chapter.

b) A copy of a notice of violation issued shall be forwarded to the landlord and the occupant if either is not the responsible party identified as recipient of the notice.

1) copy will be mailed to the owner of the property at the address on record with the county assessor's office;

2) a link to an electronically accessible copy will be emailed to the landlord when that person is registered with the city and has provided an email address;

3) copy will be mailed to the occupant(s) of the affected premises by situs address(es).

c) Person receiving a notice of violation may request an extension of period of time to correct the violation.

#### **9.40.100.02 - Compliance Period for Required Abatement Response.**

1) Other than as specifically provided for under paragraph 2) of this subsection, the landlord or occupant responsible for any violation of the standards specified under subsection 9.40.090 shall be ordered to complete required repairs or abatement within 7 days, plus three days if the notice and order are mailed rather than served on the person.

2) When the finding of violation of a standard of this chapter is due to any of the following conditions the landlord or occupant, as applicable, shall be ordered to complete the required repair or abatement with 48 hours:

a) lack of heat, per SHMC 9.40.090.05.060;

b) lack of water, or any properly functioning toilets or sinks, per SHMC 9.40.090.05.040.01;

c) lack of hot water, per SHMC 9.40.090.05.040.02;

d) lack of any properly functioning smoke detector, per SHMC 9.40.090.07.040;

e) uncontained solid waste, other than bulk solid wastes, per SHMC 9.40.090.06.030.

#### **9.40.100.03 - Failure to Obey Order of Director.**

1) It shall be unlawful for any person acting intentionally to refuse to obey an order by the Director acting in the discharge or apparent discharge of official duty administering this chapter.

2) It is no defense to a prosecution for a violation of this section that the Director lacked legal authority to issue the order, provided the Director was acting under color of official authority.

## **Section 9.40.110 - Derelict Structures.**

**9.40.110.01 - Derelict Structures Prohibited.** Derelict structures on any premises are hereby declared to be a public nuisance and their presence prohibited.

### **9.40.110.02 - Prohibited Habitation.**

1) No person shall inhabit a derelict structure, and no owner shall allow any person to inhabit a derelict structure, or a building or structure ordered vacated by the Director.

2) A violation of this subsection is a separate Class C misdemeanor each day that the violation exists or continues.

### **9.40.110.03 - Order to Vacate Buildings or Structures.**

1) If the Director finds that a building or structure is or exists in a condition in violation of SHMC 9.40.110.01, the Director may order that a placard be posted on the building or structure ordering the building or structure vacated. The placard shall additionally contain the information required in SHMC 9.40.120.02(2).

2) Persons performing active work to abate a violation are exempt from a vacation order while working at a premises subject to a vacation order.

### **9.40.110.04 - Removal of Placard Prohibited.**

The Director shall remove a placard whenever the conditions that resulted in the order to vacate the building or structure have been eliminated.

1) No person shall deface or remove a placard without the approval of the Director.

2) A violation of this subsection is a separate offense each day that the violation exists or continues.

### **9.40.110.05 - Temporary Safeguards.**

Notwithstanding any other provisions of this chapter, whenever, as determined by the Director, a building or structure poses an imminent hazard or incipient hazard, the Director may:

1) Order necessary work to be performed, including the boarding of openings or installation of security fencing, to render such building or structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted; and,

2) Cause such other action to be taken that the Director deems necessary to meet such condition.



**9.40.1106 - Abatement of Derelict Structure by Remediation.**

1) *Public Hearing.* In addition to, and not in lieu of, the abatement remedies provided for in SHMC 9.40.120.01 through SHMC 9.40.120.02 and receivership authority in SHMC 9.40.120.08, the Director may file a notice with the City Recorder to set a public hearing before the Hearings Officer to seek an order for remediation of the conditions creating a derelict structure.

a) Notice. Upon receipt of such notice, the City Recorder shall:

- 1) set the matter for prompt public hearing before the Hearings Officer; and,
- 2) not less than fifteen days prior to the hearing, cause notice thereof to be served via certified mail to the owner at the owner's address as reflected on the most recent tax rolls of the county assessor, and on the occupant; and,
- 3) cause notice to be posted on or near the derelict structure.

b) Service. Failure of the owner or occupant to receive such notice shall not render the notice void, and an unsuccessful attempt to deliver the notice shall be deemed sufficient service.

2) *Presentation at Hearing.* At the hearing, the Director shall present whatever information, evidence or testimony the Hearings Officer may deem relevant in support of the Director's determination, and the owner(s) and occupant(s) shall be afforded a like opportunity to rebut the determination.

a) Any information, opinion, testimony, or evidence may be received which the Hearings Officer deems material, relevant, and probative of the matters in issue.

b) The owner and occupants may represent themselves or be represented by counsel provided that such counsel is admitted to the practice of law in the state of Oregon.

3) *Order of Remediation.* If the Director demonstrates, by a preponderance of the evidence, that the building or structure is a derelict structure, the Hearings Officer shall order the conditions creating the derelict structure be remediated.

4) *Remediation Factors.* In determining whether the conditions are such that remediation is required, the Hearings Officer shall determine whether the building is:

- a) In a condition unfit for human habitation; or
- b) In a condition that is an incipient hazard, based on the number and extent of the following factors:
  - 1) Dilapidation;
  - 2) Disrepair;

- 3) Structural defects noted by the Building Official;
- 4) Defects increasing the hazards of fire, accident or other calamity, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury;
- 5) Uncleanliness or infestation of pests;
- 6) Condition of sanitary facilities;
- 7) The presence of a public nuisance; and,
- 8) The history of unlawful activity in or around the building or structure.

#### **Section 9.40.120 - Public Nuisances.**

##### **9.40.120.01 - Public Nuisance Prohibited.**

1) *Declared Public Nuisances.* The following are specifically declared to be public nuisances: Any thing, condition, or act which is or may become a detriment or menace to the public health, welfare, and safety, where such thing, condition, or act is or exists contrary to the provisions of this chapter.

2) *Prohibition.* In addition to the provision of SHMC 9.40.110.01, no person shall cause, permit, or maintain a public nuisance on public or private property.

3) *Joint Responsibility.* If more than one person is responsible for a public nuisance, they shall be jointly and severally liable for correcting the violation and for any costs incurred by the city in abating the nuisance.

##### **9.40.120.02 - Notice to Person Responsible.**

1) *Notice.* Whenever the Director has reasonable grounds to believe that a violation of SHMC 9.40.120.01 has occurred, a notice and order shall be served on the owner(s) and occupant(s).

2) *Form of Notice.* Such notice prescribed in SHMC 9.40.120.02(1) and SHMC 9.40.110.03(1) shall:

- a) Be in writing;
- b) Include a description of the premises sufficient for identification;
- c) Include a statement of the reason or reasons why the notice is being issued;
- d) Include a correction order allowing a reasonable time, as specified under SHMC 9.40.100.02, for the repairs and improvements required to bring the premises into compliance with

the provisions of this chapter;

e) )Include a notice that the city may abate the nuisance pursuant to this chapter and that the person responsible for correcting the public nuisance shall be responsible for the costs of such abatement;

f) Include instructions for requesting an appeal.

3) *Method of Service.*

a) Notices issued under this section shall be deemed to be properly served if a copy thereof is:

1) Personally delivered to the owner(s) and occupant(s); or

2) Sent by first class mail to the owner(s) and occupant(s) at their last known address; or,

3) Posted at the premises and also sent first class mail to the owner(s) and occupant(s) at their last known address, if they cannot be located.

b) Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of the owner(s) or occupants(s) shall not render the notice void and in such case the service shall be deemed sufficient.

4) *Effective Date of Notice.* All notices served pursuant to this section shall be considered served on the date of personal service or as of the date of mailing, if not personally served.

**9.40.120.03 - Action by Responsible Party.** Within the time specified for achieving compliance, as provided for under SHMC 9.40.100.02, the responsible party or person in charge of the property on whom the notice has been served or posted shall remove the nuisance or shall request an appeal hearing in accordance with SHMC 9.40.130.01 through SHMC 9.40.130.03.

**9.40.120.04 - Recording a Violation.**

1) The city may record a notice of violation issued under this section with the County Recorder.

2) Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice.

3) When the property is brought into compliance, a satisfaction of notice of violation shall be recorded if a notice of violation had been recorded against the property.

**9.40.120.05 - Abatement Procedures - by the City.**

1) If, within time prescribed under SHMC 9.40.100.02, the violation has not been corrected the Director may cause the violation to be corrected.

2) The Director shall keep an accurate record of the expense incurred while physically correcting the violation and shall include therein a 15 percent charge for administrative overhead.

3) The Director or a person authorized by the Director may enter upon the subject property to abate the nuisance only upon obtaining consent of the person in possession or in charge of the property; or upon obtaining an administrative abatement warrant pursuant to SHMC 9.40.070.05.

**9.40.120.06 - Abatement Procedures - Assessment of Costs.**

1) After abatement by the city, the Finance Director, by first class mail, shall forward to the owner(s) and occupants(s) a notice stating:

a) The total cost of correction, including the administrative overhead; and,

b) That the costs and administrative overhead as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of notice.

2) If the costs and administrative overhead are not paid within thirty days of the billing date, the Director shall thereafter file with the Hearings Officer an itemized statement of costs and overhead, including an additional administrative fee in an amount of ten percent of the actual cost of correction to cover the additional expenses involved in collecting the unpaid balance.

3) Upon filing of such statement of costs and overhead required under paragraph 2) of this subsection, the City Recorder shall set the matter for prompt public hearing before the Hearings Officer and cause notice thereof to be served via certified mail to the owner(s) and occupant(s), consistent with procedures under SHMC 9.40.110.06 (1) (a).

4) After the hearing, the Hearings Officer shall declare the correctness of such statement and shall declare those as may be accordingly validated to be a lien upon the property.

5) An error in the contents or service of any notice shall not void the assessment nor will a failure of the owner to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

**9.40.120.07 - Abatement Procedures - Summary Abatement.** The Director may summarily abate a situation involving a health, safety, or other nuisance which unmistakably exists and from which there is imminent danger to human life or to property. The abatement procedure provided by this chapter is not exclusive but is in addition to procedures provided by other laws.

**9.40.120.08 - Receivership Authority.** In addition to, and not in lieu of any other provision in this chapter, when the Director finds residential property in violation of this chapter, and believes that the violation is a threat to the public's health, welfare and safety, and that the owner has not acted in a timely manner to correct the violation, the Director may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

**9.40.120.09 - Collections.** Collection of abatement costs, fees and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court or entered into the city's lien docket in the manner below as a lien for the entire amount placed against the real property.

1) Any cost of abatement, fine, assessment or civil penalty imposed pursuant to this chapter, which remains unpaid 30 days after the penalty is imposed (or after the fine, assessment or civil penalty has been affirmed on appeal), shall be filed as a lien against the lot, lots or parcels of land involved in the city lien docket.

2) At the time of filing in the city lien docket, notice shall be provided to the responsible person. If the responsible person is not the owner of the property shown in the electronic records of the Linn County Assessor on that date, then notice shall also be sent to the owner of the property. Failure to provide notice shall not in any way effect the validity of the lien. The notice shall state that the amounts imposed as penalties shall be payable and due, and that the penalties shall be liens against the lots, parcels of land involved, respectively.

3) All such liens remaining unpaid after 30 days from the date of recording on the city lien docket shall become delinquent and shall bear interest at the rate of 10 percent per annum from and after that date. The liens shall be enforced in the manner provided for municipal liens in ORS Chapter 223 and shall have priority over all such other liens and encumbrances of any character.

4) Pursuant to this chapter, the City Council, as the legislative body of the city, elects to treat costs associated with the enforcement of property maintenance and livability standards, and any related fine, assessment or administrative civil penalties, as a routine obligation of property owners. Therefore, any municipal costs incurred in the abatement of any derelict structure or public nuisance and/or any fine, assessment or administrative civil penalty not paid within 30 days shall be an assessment and lien against the property where the building is located.

#### **Section 9.40.130 - Appeals.**

**9.40.130.01 - Appeals Generally.** Any person served a notice, order, interpretation or decision under authority of this chapter has the right of appeal from the notice, order, interpretation or decision to the Hearing Officer.

#### **9.40.130.02 - Filing of Appeal.**

1) *Appeal Period.* An appeal must be submitted to the Director within seven days, plus three days for mailing, from the date that the notice or order was issued.

2) *Appeal Fee.* Any appeal submitted under this chapter shall include a filing fee set by City Council resolution.

3) *Scope of Appeal.* Appeals may be filed regarding technical matters of notices or determinations, administrative orders, and interpretations and decisions made by the Director relative to this chapter.

4) *Form of Appeal.* An appeal must be in writing and include the following:

- a) Name of person filing the appeal;
- b) Copy of the subject notice or order;
- c) Copy of the section of this chapter which is being appealed;
- d) A complete explanation of the appeal;
- e) An explanation of what is requested of the Hearings Officer.

#### **9.40.130.03 - Appeal Procedure.**

1) The Director shall confirm that the appeal meets the filing criteria as prescribed under SHMC Sections 9.40.130.02 (1 - 4), and that the person filing the request for an appeal has standing.

2) If the filing criteria have not been met, or if the filing party does not have standing, the person filing the appeal will be so notified and hearing before the Hearings Officer will not be convened. The Director, at his/her discretion, may extend the filing deadline by an additional three (3) days to allow a prospective appellant with standing to resubmit a request for an appeal that has been deemed incomplete. Only one extension may be granted.

3) If the filing criteria are met, the Director shall, within 30 days of the filing of the appeal, set the schedule for a hearing before the Hearings Officer. The hearing shall be held not later than 60 days after the filing of the appeal.

- a) The appeal shall be conducted on the record.
- b) Formal rules of evidence are not required.

c) The Hearings Officer shall have the authority to hear appeals of orders, decisions or determinations made under authority of this chapter to determine whether the substance of the



order, decision or determination was arbitrary and capricious.

d) The Hearings Officer shall not be empowered to waive requirements of this chapter, but shall be empowered to interpret this chapter and determine whether a violation has occurred.

e) The Hearings Officer shall issue a written finding and conclusion on the appeal within seven (7) days of the hearing, and shall provide a copy to the person filing the appeal and to the Director.

#### **Section 9.40.140 - Penalties.**

**9.40.140.01 - Violation Penalties.** Persons who violate a provision of this chapter or fail to comply with any of the requirements of this chapter or a directive of the Director authorized by this chapter shall be subject to the provisions of SHMC 9.40.140.02 through SHMC 9.40.140.04.060.

#### **9.40.140.02 - Separate Violations.**

1) Each day's violation of a provision of this chapter constitutes a separate offense.

2) The abatement of a nuisance or violation shall not constitute a penalty for violating this chapter but shall be an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance or violation.

#### **9.40.140.03 - Violations.**

**9.40.140.03.010 - Imposition of Penalty.** Any person who shall violate any of the provisions herein or fail to comply therewith or who shall violate or fail to comply with any order made hereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Hearing Officer or by a court of competent jurisdiction within the time fixed herein shall severally for each and every such violation and noncompliance respectively be guilty of a violation, as designated under SHMC Chapter 9.36, unless otherwise provided for by the provisions of this chapter.

1) All such persons shall be required to correct or remedy such violations or defects within a reasonable time, consistent with SHMC 9.40.100.02, and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

2) Upon conviction of a misdemeanor offense, any person shall be liable for the fines and terms of imprisonment provided for under law.

3) Upon conviction of a violation offense, any person shall be liable for the fines provided for under SHMC Chapter 9.36.

#### **9.40.140.03.020 - *Classification of Offenses.***

1) Violation of the provisions of this chapter shall be designated as follows:

a) Violation of SHMC 9.40.090.06.030.01 through SHMC 9.40.090.06.030.03 Solid Waste is a Class A misdemeanor.

b) Violation of SHMC 9.40.120.01 (2) Public Nuisances is a Class B misdemeanor.

c) Violation of SHMC 9.40.090.07.010 through SHMC 9.40.090.07.040 Fire Safety provisions; SHMC 9.40.100.03 Failure to Obey; or SHMC 9.40.110.02 Prohibited Habitation is a Class C misdemeanor.

d) Violation of every provision of this chapter not otherwise designated herein is deemed a violation punishable upon conviction by a fine of not more than \$500 provided that 4 or more offenses for violation of same provision of this chapter within 24 month period shall constitute a Class C misdemeanor.

2) *Declaration of Violation.* Notwithstanding the designations provided for under paragraph 1) of this subsection, any violation of the provisions of this chapter may be declared to be an violation by the city.

#### **9.40.140.04 - Civil Penalties.**

1) In addition to and not in lieu of any other means of enforcement or any other penalty provided by law any person who shall violate a provision of this chapter or who shall fail to comply with any of the requirements thereof or an order of the Director may incur a civil penalty in an amount as specified in SHMC 9.40.140.04.060, plus an administrative fee and any cost of service or recording.

2) All such persons incurring a civil penalty shall be required to correct or remedy such violations or defects within a reasonable time, consistent with SHMC 9.40.100.02, and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

**9.40.140.04.010 - *Purpose.*** The purpose of a civil penalty is to provide an efficient, convenient, and practical system to enforce a violation of this chapter.

**9.40.140.04.020 - *Civil Penalty against Agents.*** Any person who act as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty shall likewise be subject to a civil penalty.

**9.40.140.04.030 - *Procedure for Issuing Civil Penalty.*** A civil penalty shall be imposed under this section by issuance of a notice of civil money penalty. A civil penalty may be imposed for each day

the violation continues or remains. The notice of civil money penalty shall be issued and served in accordance with the procedures specified within this subsection.

**9.40.140.04.030.01 - Notice of Civil Money Penalty.**

1) If a civil penalty is imposed, the Director shall issue a notice of civil money penalty to the person responsible for the code violation.

2) The notice of civil money penalty shall include:

- a) reference to the applicable code provision(s);
- b) a statement of the basis of the finding of a violation;
- c) a statement of the amount of civil money penalty;
- d) a statement of the party's right to protest the civil penalty to a Hearings Officer;
- e) a statement that a delinquent civil money penalty may become a lien against the

and,

property.

3) The notice of civil money penalty shall be served on the person responsible for the code violation by:

a) Personal service; or,

b) posted in a conspicuous place in, on or about the structure or premises affected by such notice; or,

c) sent by US first class mail or US certified mail, return receipt requested, to the person's last known address;

1) failure of the recipient to sign for the certified mail shall not make the notice void;

2) notice served by mail shall be deemed received three days after the date mailed to an address within Oregon or seven days to an address outside of Oregon;

3) notice served by mail shall be concurrently posted in a conspicuous place in, on or about the structure or premises affected by such notice.

**9.40.140.04.030.02 - Courtesy Notice to Owner.** If the subject violation relates to real property and the person responsible for the violation is not the owner of the property, an informational copy of the notice of civil money penalty shall be sent to the owner of the property by first class mail, at the owner's address as reflected on the most recent tax rolls of the county assessor, at the same time as service on the person responsible.

#### **9.40.140.04.040 - Protest of Civil Penalty.**

1) A person issued a notice of civil money penalty may protest the existence of a violation or the circumstances involved in the presence of a violation that resulted in imposition of a civil penalty to a Hearings Officer.

2) An appeal request must be submitted to the City Recorder with seven days, plus three days for mailing, from the date of service of the notice of civil money penalty.

a) After a hearing in which the Hearings Officer determines that a violation did or does exist, the Hearings Officer may uphold or reduce the original penalty imposed after considering reasonable mitigating factors as determined by the Hearings Officer.

1) The Hearings Officer may not reduce the civil money penalty by any amount if a violation has not been corrected by the responsible party and inspected by the city.

2) The civil money penalty imposed by the Hearings Officer shall not be less than the minimum amount specified under SHMC 9.40.140.04.060(1).

#### **9.40.140.04.050 - Collection of Civil Penalty.**

1) The civil penalty shall become final upon expiration of the time for filing a protest or, if a protest is filed and the Hearings Officer affirms the civil penalty, the civil penalty shall become final upon issuance of the Hearings Officer's decision.

2) The civil penalty shall be delinquent if not paid within 30 days from the date the civil penalty becomes final.

a) A late payment charge shall begin to accrue from the date of delinquency.

b) If the civil penalty is imposed on the owner of the property where the violation occurred, and is delinquent, the notice of civil money penalty and a late payment charge shall be entered in the docket of city liens in the manner provided under SHMC 9.40.120.09.

1) Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or otherwise provided by law.

2) An error in the name of the owner shall not void the lien, nor shall a failure of the owner to receive the notice render the lien void, but it shall remain a valid lien against the property.

**9.40.140.04.060 - Amount of Civil Penalty.**

The Director is authorized to impose civil penalties in the amounts as follows, and the Hearings Officer may allow reductions consistent with SHMC 9.402.140.04.040(2) (a) and operational guidelines in the amounts as follows:

1) Violation of a provision of this chapter may be subject to a civil penalty in an amount no less than \$50.00 and not exceeding \$5,000.00 per offense, or in the case of a continuing offense, not more than \$1,000.00 for each day of the offense;

2) In imposing a penalty authorized by this section, the Director shall consider:

a) The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;

b) Any prior violations of statutes, rules, orders and permits;

c) The gravity and magnitude of the violation;

d) Whether the violation was repeated or continuous;

e) Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;

f) The violator's cooperativeness and efforts to correct the violation; and

g) Any relevant rule of this or other city code.

PASSED by the Council and approved by the Mayor this      day of      , 201 .

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager - Ex Officio City Recorder

ORDINANCE BILL NO. \_\_\_\_ FOR 2019

ORDINANCE NO. \_\_\_\_\_

SWEET HOME ORDINANCE PERTAINING TO EXCLUSION FROM ENHANCED LAW ENFORCEMENT AREAS OF CITY OF SWEET HOME

WHEREAS, the City desires to reduce unlawful behavior in certain areas within the City of Sweet Home by excluding certain persons therefrom that are the cause of said unlawful behavior;

NOW THEREFORE,

The City of Sweet Home does ordain as follows:

Section 1. Sweet Home Municipal Code Section 9.20.050 titled ENHANCED LAW ENFORCEMENT AREAS is created to read as follows:

A. Enhanced law enforcement areas are designed to protect the public from those whose illegal conduct poses a threat to safety and welfare. Enhanced law enforcement areas include the area within the City of Sweet Home encircled by the following boundary (and including those portions of the streets and rights-of-way mentioned herein): See Exhibit A attached hereto for area in blue.

B. A person is subject to exclusion for a period of 30 days from entering or remaining within an enhanced law enforcement area if that person has been cited to appear and/or arrested within an enhanced law enforcement area for a total of three (3) or more instances of unlawful behavior within the enhanced law enforcement area within the last five years. If the person to be excluded has been excluded from that enhanced law enforcement area at any time within two years before the date of the present exclusion, the exclusion shall be for 90 days. For purposes of this Section, unlawful behavior means violating or being charged with violating the crimes and violations listed in SHMC 8.12.020.

C. If a person excluded from an enhanced law enforcement area is found within the perimeter of the enhanced law enforcement area during the exclusion period, that person may be arrested for trespass in the second degree, as defined by ORS 164.245. A person is not considered to be within the enhanced law enforcement area if the person is within a vehicle that is



passing through the exclusion area.

D. The Chief of Police is designated as the person in charge of enhanced law enforcement areas for the purpose of issuing exclusion notices in accordance with this Section. Any Sweet Home Police Officer can issue exclusion notices in accordance with this Section.

E. At the time a person is cited to appear and/or arrested within an enhanced law enforcement area for any of the offenses specified in this Section, the officer making such cite to appear and/or arrest may deliver to that person a written notice excluding that person from the enhance law enforcement area. Any exclusion notice shall not take effect until the sixth day after the notice is issued.

1. The notice shall specify the area from which the person is excluded, the length of the exclusion, the penalty for entering the excluded area and contain information concerning the right to appeal the exclusion to the Judge of the Municipal Court.

2. The person to whom the exclusion is issued shall sign a written acknowledgment of receipt or the arresting officer shall make a written record of the refusal.

F. The person to whom an exclusion notice is issued shall have the right to an appeal from the issuance of the notice. The exclusion notice will notify the person of the right to appeal and process for appeal.

1. An appeal of the exclusion must be filed, in writing, within five business days of the issuance of the notice. The appeal must be filed with the Municipal Court. A hearing on the appeal shall be held before the Judge of the Municipal Court within 20 business days of the appeal. The exclusion shall be stayed during the pendency of the appeal.

2. The City shall have the burden to show by a preponderance of evidence that the exclusion was based upon the conduct proscribed by this Section. Copies of documents in its control and which are intended to be used by the City at the hearing shall be made available to the appellant at least two days prior to the hearing.

3. A determination by a court having jurisdiction of the

matter that the officer who issued the exclusion notice at the time had probable cause to cite and/or arrest the person to whom the exclusion notice was issued for the conduct described in this Section shall be prima facie evidence that the exclusion was based on conduct prohibited by those statutes, ordinances or code.

G. Variances from the exclusion may be granted at any time during the exclusion period by the Chief of Police, or by the Municipal Court.

1. The Chief of Police or the Municipal Court shall grant a variance to any person who can establish that he or she is a resident of the exclusion area, is employed within the exclusion area, or will use the waiver to visit the residence of a family member, to consult with an attorney, to attend alcohol or drug treatment sessions, to attend religious services or otherwise exercise a constitutional right, to pass through the exclusion area, to attend a public meeting, to attend a court hearing, to engage in any activity ordered by a court, to obtain social, medical or like services, or for employment purposes. A variance may also be granted when, in the discretion of the Chief of Police or the Municipal Court, the exclusion order is no longer necessary to preserve public health, safety or welfare. The denial of a variance may be appealed within five business days to the Municipal Court using the same procedures as for an appeal of the imposition of the exclusion.

2. All variances shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated on the variance.

3. The person shall keep the variance on his or her person at all times the person is within the exclusion area.

Passed by the Council and approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2019.

Mayor

ATTEST:

\_\_\_\_\_  
City Manager - Ex Officio City Recorder

ORDINANCE BILL NO. \_\_\_\_ FOR 2019



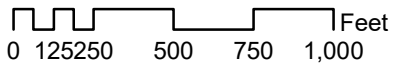


Exhibit A





# Water/Wastewater Treatment Facilities - Operation & Administration Services Evaluation

By: Greg Springman, Public Works Director



**JACOBS®**

# Treatment Services Option Timelines



# City of Sweet Home – Status Quo

1

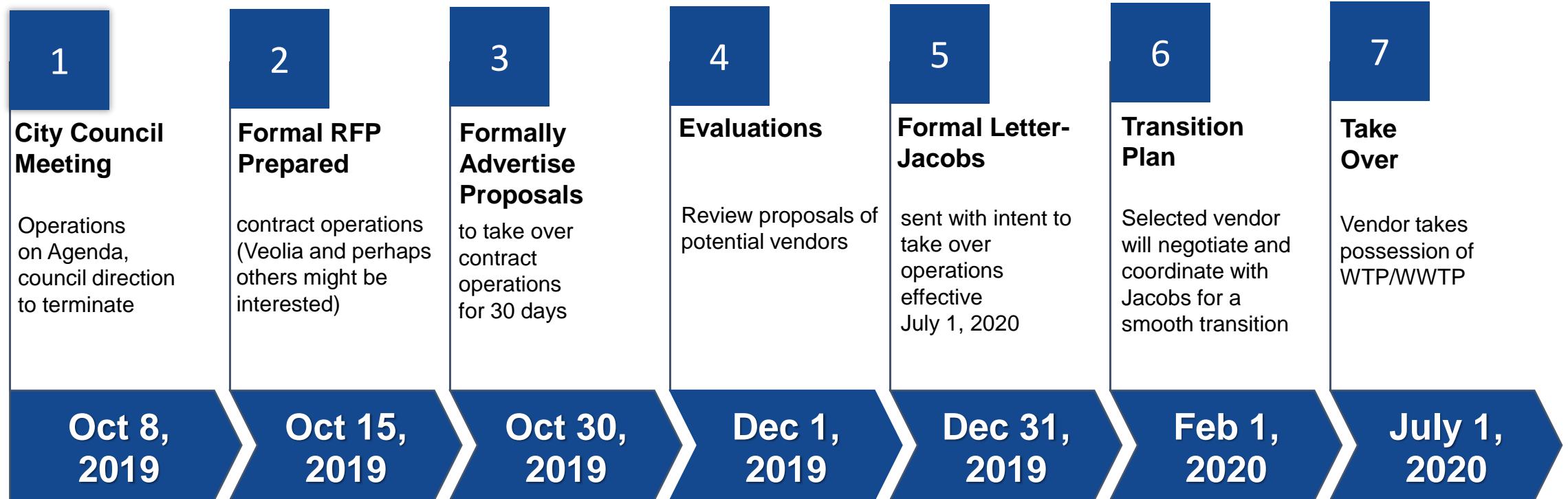
## **Maintain Current Contract**

Operations  
on Agenda, assumption  
asking for change



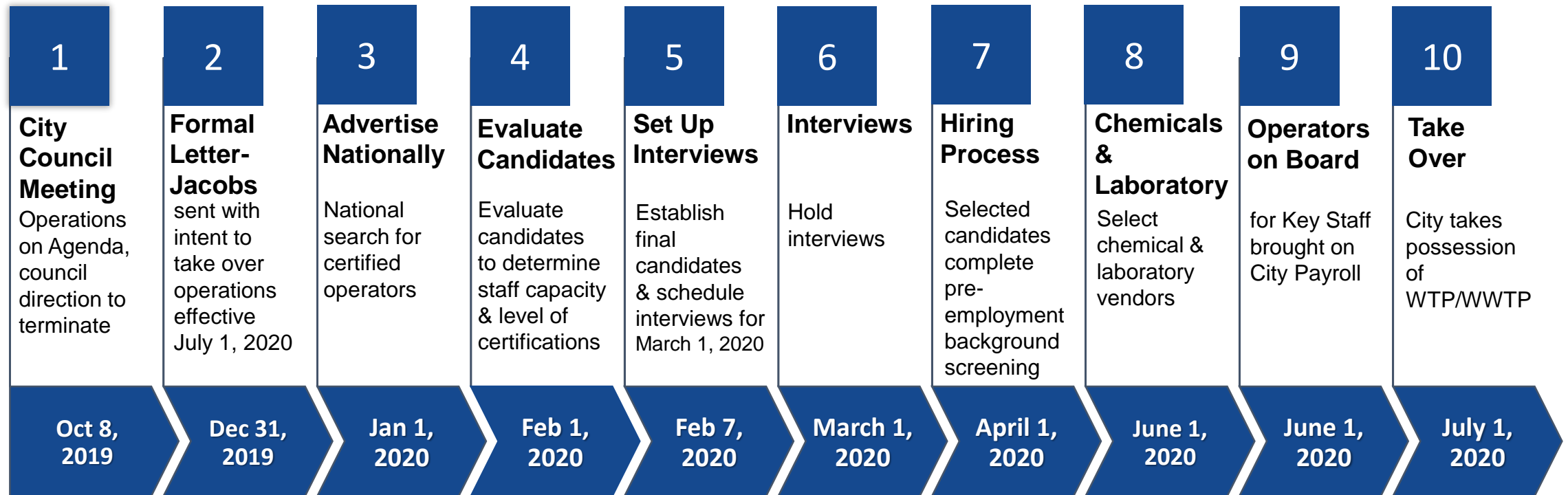


# City of Sweet Home – New Contract Operator Timeline





# City of Sweet Home – Take Over Scenario Timeline





# Discussion



# REQUEST FOR COUNCIL ACTION

**PREFERRED AGENDA:**

September 24, 2019

**SUBMITTED BY:**

R. Towry, City Manager

**REVIEWED BY:**

R. Towry, City Manager

**TITLE:**

Updates to the City of Sweet Home Title VI Plan of the 1964 Civil Rights Act in compliance with Federal Transit Administration Circular 4702.1

**ATTACHMENTS:**

Title VI Plan  
Resolution No. 27 for 2019  
Signed Completion Letter from ODOT Civil Rights Division

**TYPE OF ACTION:**

- ☒ RESOLUTION
- ☐ MOTION
- ☐ ROLL CALL
- ☐ OTHER

**RELEVANT CODE/POLICY:**

Title VI Plan

**TOWARD COUNCIL GOAL:**

2.1: Update & streamline process

**PURPOSE OF THIS RCA:**

Council approval of updates to the City of Sweet Home Title VI Plan of the 1964 Civil Rights Act in compliance with Federal Transit Administration (FTA) Circular 4702.1

**BACKGROUND/CONTEXT:**

Sweet Home is a regular recipient of FTA Funds through the Oregon Department of Transportation Rural Transit Program (RTP). The RTP funds are used as grant match to assist in funding the Sweet Home Dial A Bus Program operated by the Sweet Home Senior Citizens Inc.

FTA has determined that all agencies that receive Federal Transit Funds either directly or indirectly must have an adopted Title VI Plan so that no person is excluded from participation in, or denied the benefits of its program and services on the basis of race, color, sex, or national origin as protected by Title VI in Federal Transit Administration circular 4702.1A.

The City of Sweet Home adopted the Title VI plan in 2015. Revisions were completed and adopted by Council January 22, 2019. Oregon Department of Transportation Civil Rights Division contacted staff with additional revisions they deemed necessary. Those revisions included adding an additional complaint process for customers to file directly with the Civil Rights Division if they choose to do so, removal of Google Translate (which is no longer available to the City), and clarification in the plan that the City does not have any nonelected governing boards. Adoption of the revised Title VI plan will bring the City into compliance as a sub-recipient of these Federal Transit Administration funds.

**THE CHALLENGE/PROBLEM:**

Should the City Council adopt Resolution No. 27 for 2019, a resolution adopting a Title VI Plan of the 1964 Civil Rights Act to comply with Federal Transit Administration (FTA) circular 4702.1, to allow continued federal funding for the Dial A Bus Program?

**STAKEHOLDERS:**

- City of Sweet Home Citizens – Citizens utilize the Sweet Home Dial A Bus Program operated by the Sweet Home Senior Center.
- City of Sweet Home Staff – Staff is responsible for keeping City plans and policy up to date.
- City of Sweet Home City Council – An adopted Title VI plan is necessary to receive Federal Transit Funds. Council has the authority to approve the Plan.

#### **ISSUES & FINANCIAL IMPACTS:**

Sweet Home Dial a Bus Program - Compliance with this provision of the FTA/ODOT Transit Program is necessary to maintain the City's eligibility to receive approximately \$135,000.00 annually to fund operations of the Sweet Home Dial Bus Program.

#### **ELEMENTS OF A STABLE SOLUTION:**

An ODOT approved Title VI Plan to continue to be eligible for federal funds for the Dial A Bus Program.

#### **OPTIONS:**

1. Do Nothing.
2. Adopt Resolution No. 27 for 2019 – A Resolution amending a Title VI Plan of the 1964 Civil Rights Act to comply with Federal Transit Administrative (FTA) circular 4702.1.
3. Make additional changes to the Title VI Plan.

#### **RECOMMENDATION:**

1. Option #2 – Make a Motion to adopt Resolution No. 27 for 2019 – A Resolution amending a Title VI Plan of the 1964 Civil Rights Act to comply with Federal Transit Administrative (FTA) circular 4702.1.



# Oregon

Kate Brown, Governor

## Department of Transportation

Office of Civil Rights

3930 Fairview Industrial Dr. SE

Salem, Oregon 97302

Phone: (503) 986-4371

Fax: (503) 986-6382

September 12, 2019

Ray Towry  
City Manager  
City of Sweet Home  
1140 12<sup>th</sup> Avenue  
Sweet Home, OR 97386

RE: City of Sweet Home 2019 Title VI Plan Completion

Dear Mr. Towry,

The Oregon Department of Transportation (ODOT) Office of Civil Rights acknowledges receipt of the completed 2019 City of Sweet Home Title VI Plan. ODOT Office of Civil Rights has reviewed your Title VI Plan, as well as other documents, and has determined that your Title VI Plan demonstrates a comprehensive program that contains the necessary components to comply with Title VI provisions of the Civil Rights Act of 1964. Please move forward in pursuing final board approval of your 2019 Title VI Plan and forward a copy of your board approval to the ODOT Office of Civil Rights as soon as possible.

In accordance with 49 CFR 21.9(b), Title VI Plans must be reviewed every three years. City of Sweet Home's Title VI Plan will be due for review again in September 2022. Additionally, the City of Sweet Home will need to submit annual reports to the ODOT Office of Civil Rights informing us of any public outreach activities, complaints, lawsuits or major Title VI Plan changes that occurred during the annual reporting period.

Should you have any questions or concerns, feel free to contact me at 503-986-3169 or email [carroll.j.cottingham@odot.state.or.us](mailto:carroll.j.cottingham@odot.state.or.us). We look forward to continued collaboration with your organization in the future, as we strive to make Oregon a leader in Title VI awareness and implementation.

Sincerely,

Carroll Cottingham  
Intermodal Civil Rights Manager  
Office of Civil Rights



**RESOLUTION NO. 27 FOR 2019**

**A RESOLUTION TO ADOPT THE REVISED LIMITED ENGLISH PROFICIENCY POLICY AND LANGUAGE ACCESS PLAN.**

WHEREAS, the City of Sweet Home undertakes to ensure that persons with Limited English Proficiency (LEP) shall not be discriminated against nor denied meaningful access to, and participation in, the programs and services provided by the City; and

WHEREAS, the LEP Plan applies to all City administered programs, services and facilities, regardless of whether they receive Federal financial support or not; and

WHEREAS, it is the intent of the City, in providing language services to LEP persons, to achieve a balance that ensures meaningful access to programs and services while not incurring undue burdens on City resources; and

WHEREAS, the City Manager's Office is the central coordinator for the LEP Plan and language services, and provides oversight for the implementation of the LEP Plan.

NOW, THEREFORE, BE IT RESOLVED THE CITY COUNCIL authorizes the City of Sweet Home to adopt and implement the Limited English Proficiency Policy and Language Access Plan for the City.

This Resolution shall be effective immediately upon its passage.

PASSED by the City Council and APPROVED by the Mayor this 24th day of September 2019.

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Mayor

ATTEST:

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City Manager - Ex Officio City Recorder

# City of Sweet Home

## Title VI Plan - FTA Recipients



City Manager's Office ♦ City Hall ♦ 3225 Main Street, Sweet Home,  
Oregon 97386 ♦ 541-367-8969 ♦ [www.sweethomeor.gov](http://www.sweethomeor.gov)

Revised and Adopted February 2019



# ***Title VI Plan***

## **City of Sweet Home**

Adopted on: October 27, 2015

Adopted by: Sweet Home City Council

Revised on: February 12, 2019

*This plan is hereby adopted and signed by:*

**City of Sweet Home**

Mayor:

City Manager- Ex Officio City Recorder:

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### **Introduction**

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color and national origin in programs and activities receiving Federal Financial assistance.

The City of Sweet Home is committed to ensuring that no person is excluded from participation in, or denied the benefits of its programs and services on the basis of race, color, sex, or national origin, as protected by Title VI in Federal Transit Administration (FTA) Circular 4702.1.A

### **Title VI Plan Elements**

The **City of SWEET HOME's** Title VI plan includes the following elements:

1. Evidence of Policy Approval
2. Notice to the Public
3. Complaint Procedure
4. Complaint Form
5. List of transit related Title VI Investigations, Complaints and Lawsuits
6. Language Assistance Plan
7. Minority Representation Information
8. Public Participation Plan
9. Facility Location Equity Analysis
10. Title VI Policy Review Procedure

Note: Additional materials will be attached, if required.

## TITLE VI Notice to the Public

The City of Sweet Home's Notice to the Public is as follows:

### Notifying the Public of Rights Under Title VI

## THE CITY OF SWEET HOME

- ✓ The City of SWEET HOME operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the City of Sweet Home.
- ✓ For more information on the City of Sweet Home's civil rights program, and the procedures to file a complaint, contact 541-367-8969, email [cmadmin@sweethomeor.gov](mailto:cmadmin@sweethomeor.gov); or visit our administrative office at 1140 12<sup>th</sup> Avenue, Sweet Home, Or 97386. For more information, visit [www.sweethomeor.gov](http://www.sweethomeor.gov)
- ✓ A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5<sup>th</sup> Floor-TCR, 1200 New Jersey Ave., SE Washington, DC, 20590.
- ✓ If information is needed in another language, contact 1-800-523-1786 Code 542980  
*Si se necesita informacion en otro idioma de contacto, 1-800-523-1786 Code 542980.*  
*如果信息是需要用另一种语言，请致电 1-800-523-1786 Code 542980*

The City of Sweet Home's Notice to the Public is posted in the following locations: (*check all that apply*)

- ✓ Agency website [[www.sweethomeor.gov](http://www.sweethomeor.gov)]
- ✓ Public areas of the agency office (common area, public meeting rooms, etc.)
- ✓ [Inside Vehicles](#)
- ✓ [Riders Guides and Schedules](#)

Transit shelters and stations

Other, \_\_\_\_\_

## Title VI Complaint Procedure

The City of Sweet Home's Title VI Complaint Procedure is made available in the following locations: (*check all that apply*)

- ✓ Agency website, either as a reference in the Notice to Public or in its entirety
- ✓ Hard copy in the central office
- ☐ Available in appropriate languages for LEP populations, meeting the Safe Harbor Threshold.
- ☐ Other, \_\_\_\_\_

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Any person who believes she or he has been discriminated against on the basis of race, color, or national origin by the City of Sweet Home may file a Title VI complaint by completing and submitting the agency's Title VI Complaint Form.

The City of Sweet Home investigates complaints received no more than 180 days after the alleged incident. The City of Sweet Home will process complaints that are **completely filled out and signed**.

Once the complaint is received, the City of Sweet Home will review it to determine if our office has jurisdiction. The complainant will receive an acknowledgment letter informing her/him whether the complaint will be investigated by our office.

The City of Sweet Home has 30 days to investigate the complaint. If more information is needed to resolve the case, the city may contact the complainant.

The complainant has 10 business days from the date of the letter to send requested information to the investigator assigned to the case.

If the investigator is not contacted by the complainant or does not receive the additional information within 10 business days, the city can administratively close the case. A case can be administratively closed also if the complainant no longer wishes to pursue their case.

After the investigator reviews the complaint, she/he will issue one of two (2) letters to the complainant: a closure letter or a letter of finding (LOF).

- ✓ A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed.
- ✓ A letter of finding (LOF) summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member or other action will occur.

If the complainant wishes to appeal the decision, she/he has 30 days after the date of the letter or the LOF to do so.

A person may also file a complaint directly:

Federal Transit Administration  
FTA Office of Civil Rights  
1200 New Jersey Avenue SE  
Washington, DC 20590

Office of Civil Rights - MS 23  
3930 Fairview Industrial Drive SE  
Salem, OR 97302  
**503-986-4350**

If information is needed in another language, then contact 1-800-523-1786 Code 542980.  
*Si se necesita informacion en otro idioma de contacto, 1-800-523-1786 Code 542980*



## Title VI Complaint Form

The City of Sweet Home's Title VI Complaint Procedure is made available in the following locations: *(check all that apply)*

- ☒ Agency website, either as a reference in the Notice to Public or in its entirety
- ☒ Hard copy in the central office
- ☐ Available in appropriate languages for LEP populations, meeting the Safe Harbor Threshold.
- ☐ Other, \_\_\_\_\_

<b>Section I:</b>				
<b>Name:</b>				
<b>Address:</b>				
<b>Telephone (Home):</b>			<b>Telephone (Work):</b>	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	TDD		Other	
<b>Section II:</b>				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If not, please supply the name and relationship of the person for whom you are complaining:				
Please explain why you have filed for a third party: _____				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
<b>Section III:</b>				
I believe the discrimination I experienced was based on (check all that apply):				
<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.				
_____ _____				
<b>Section IV</b>				
Have you previously filed a Title VI complaint with this agency?			Yes	No

<b>Section V</b>	
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, check all that apply:	
<input type="checkbox"/> Federal Agency: _____	
<input type="checkbox"/> Federal Court _____	<input type="checkbox"/> State Agency _____
<input type="checkbox"/> State Court _____	<input type="checkbox"/> Local Agency _____
Please provide information about a contact person at the agency/court where the complaint was filed.	
<b>Name:</b>	
<b>Title:</b>	
<b>Agency:</b>	
<b>Address:</b>	
<b>Telephone:</b>	
<b>Section VI</b>	
Name of agency complaint is against:	
Contact person:	
Title:	
Telephone number:	

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date required below:

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

Please submit this form in person at the address below, or mail this form to:

**City of Sweet Home** City Manager  
3225 Main Street  
Sweet Home, OR 97386

**List of Transit Related Title VI Investigations, Complaints and Lawsuits**

The **City of Sweet Home** maintains a list or log of all Title VI investigations, complaints and lawsuits, pertaining to its transit-related activities.

**Check One:**

☒ There have been no investigations, complaint and/or lawsuits filed against us during the report period.

\_\_\_\_\_

There have been investigations, complaints and/or lawsuits filed against us. *See list below. Attach additional information as needed.*

\_\_\_\_\_

	<b>Date</b> (Month, Day, Year)	<b>Summary</b> (include basis of complaint: race, color, or national origin)	<b>Status</b>	<b>Action(s) Taken</b>
<b>Investigations</b>				
1.				
2.				
<b>Lawsuits</b>				
1.				
2.				
<b>Complaints</b>				
1.				
2.				

# **City of Sweet Home**

## **Limited English Proficiency (LEP) Plan**

### **CONTACT INFORMATION**

Ray Towry, City Manager  
Title VI Coordinator  
rtowry@sweethomeor.gov

Greg Mahler, Mayor  
gmahler@sweethomeor.gov

City of Sweet Home—City Hall  
3225 Main Street  
Sweet Home, OR 97386  
Phone: (541) 367-8969 FAX: (541) 367-5113

This document addresses the needs of the citizens of the  
City of Sweet Home with Limited English Proficiency

Revised and Adopted February 2019

**RESOLUTION NO. 4 FOR 2019**

**A RESOLUTION TO ADOPT THE REVISED LIMITED ENGLISH PROFICIENCY POLICY AND LANGUAGE ACCESS PLAN.**

WHEREAS, the City of Sweet Home undertakes to ensure that persons with Limited English Proficiency (LEP) shall not be discriminated against nor denied meaningful access to, and participation in, the programs and services provided by the City; and

WHEREAS, the LEP Plan applies to all City administered programs, services and facilities, regardless of whether they receive Federal financial support or not; and


WHEREAS, it is the intent of the City, in providing language services to LEP persons, to achieve a balance that ensures meaningful access to programs and services while not incurring undue burdens on City resources; and

WHEREAS, the City Manager's Office is the central coordinator for the LEP Plan and language services, and provides oversight for the implementation of the LEP Plan.

NOW, THEREFORE, BE IT RESOLVED THE CITY COUNCIL authorizes the City of Sweet Home to adopt and implement the Limited English Proficiency Policy and Language Access Plan for the City.

This Resolution shall be effective immediately upon its passage.

PASSED by the City Council and APPROVED by the Mayor this 22nd day of January, 2019.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Manager - Ex Officio City Recorder

## City of Sweet Home Oregon Limited English Proficiency Plan

### Introduction

The City of Sweet Home Oregon is situated in Linn County, Oregon with an approximate population of 9,090<sup>1</sup>. The city encompasses a multitude of services, including the Mayor and City Council, City Manager, Community Development, Finance, Parks and Recreation, Police, Public Works, and a Library.

The population of Sweet Home is predominantly English speaking, with the largest minority language being Spanish<sup>1</sup>, and includes a variety of other Indo-European, Asian and Pacific Islander, and other languages. English is the primary language of approximately 97.2% of the population, with 1.2% speaking Spanish. .09% speaking Asian and Pacific Island Languages, and .7% speaking other Indo-European Languages as their primary language. Of those languages other than English, 111 or 45.5% speak English less than “very well”.

The City of Sweet Home (City) undertakes to ensure that persons with Limited English Proficiency (LEP) shall not be discriminated against nor denied meaningful access to, and participation in, the programs and services provided by the City. In order to ensure meaningful access and participation for LEP persons, the City takes reasonable steps to see that language services are provided according to the provisions of the City’s LEP Plan as described below.

The LEP Plan applies to all City administered programs, services and facilities, regardless of whether they receive Federal financial support or not. However, the LEP Plan does not apply to the operation or administration of any properties or projects wherein the City is not the primary owner (i.e., the City is a funding agency and not the entity with primary control over said property) and the primary owner qualifies as recipient or sub-recipient of federal financial assistance.

It is the intent of the City, in providing language services to LEP persons, to achieve a balance that ensures meaningful access to programs and services while not incurring undue burdens on City resources.

Sweet Home’s City Manager’s office is the central coordinator for the LEP Plan and language services. The office provides oversight for the implementation of the LEP Plan, coordinates and facilitates delivery of LEP language services, ensures that staff are informed on LEP services and procedures, and directs the monitoring and assessment of the LEP Plan’s effectiveness.

### Definitions:

*Limited English Proficiency person.* Any person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English. Such person or persons shall be entitled to language assistance at no cost to themselves with respect to a *particular type of service, benefit, or encounter*.

*Vital document.* Any document that contains information that is critical for obtaining or maintaining the services or benefits that are supported by Federal funds, or that are required by law. Such documents may include but are not limited to applications, consent forms, notices of participant rights and responsibilities, disciplinary notices, letters or notices that require a response from the participant or beneficiary, legal notices, and notices advising LEP persons of the availability of free language services.

<sup>1</sup> Population estimate based on Portland State Certified Population Estimate: July 1, 2017: 9,090

*Interpretation.* The act of listening to spoken words in one language (the source) and orally translating it into another language (the target).

*Translation.* The replacement of a written text from one language into an equivalent written text in another language. NOTE: Some LEP persons cannot read in their own language and back up oral interpretation services may be needed for written documents.

*Four-Factor Assessment.* This is an assessment tool used by the City, as a recipient of federal funding, to determine the extent of its obligation to provide LEP services. These four factors are: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided the program to people's lives; and (4) the resources available to the grantee/recipient and costs.

### ***Who is covered?***

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

Under regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with LEP. The purpose of the LEP is to ensure that the City, as a recipient of Federal Funding, is complying with its Title VI responsibilities and that access to their programs or activities, normally provided in English, are accessible to LEP persons.

In order to avoid discrimination against LEP persons on grounds of national origin, the City has taken adequate steps to ensure that LEP persons receive the language assistance necessary to afford them meaningful access to the programs, services, and information the City provides, free of charge.

Pursuant to Executive Order 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the LEP Guidance of the Federal Register (FR-4878-N-01) are to apply to programs and activities receiving federal assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

Federally assisted recipients are required to make reasonable efforts to provide language assistance to ensure meaningful access for LEP persons to the recipient's programs and activities. To do this, the recipient has: (1) conducted the four-factor assessment; (2) developed a language access plan (LAP); and (3) provided access to appropriate language assistance.

Coverage under Title VI and Executive Order 13166 extends to all of a recipient's programs or activities, (i.e., to all parts of a recipient's operations). This is true—even if only one part of the recipient receives the federal assistance.

As the City of Sweet Home encompasses a variety of services, application of the Four-Factor analysis varies depending on the specific service.



## **Four-Factor Assessment**

### **1. Population Size of LEP Persons who Need Language Services Assistance**

The City has used the following methodology and data sources to identify and determine the number of LEP persons currently using the City's services, the number of LEP persons in the City's area of operations who may be eligible for programs and services and the particular languages used by both groups. The City used various methods to identify LEP persons with whom they have contact. These included:

- Past experiences with LEP by City staff.
- Latest Census Department data. Census data has been reviewed and matched to the extent possible with the City area of operations. When Census data is updated, it will be reviewed to identify commonly encountered languages other than English.

Assessment: Housing and Urban Development, in its final guidance for providing program access to LEP individuals, has detailed a 'Safe Harbor' where providing a certain level of translated materials for a LEP population of a specified size will "be considered strong evidence of compliance with the recipient's written translation obligations." The City of Sweet Home has determined that, in regard to its LEP language populations, the Spanish LEP population is below both 5% and 1,000 individuals, and thus translated vital documents are not required. The City of Sweet Home's remaining LEP populations for each spoken language are also below 5%. According to the 'Safe Harbor' Guidelines, any language population that falls below 50 individuals and 5% of the service population is not required to receive any written translations. As the remaining LEP populations fall below this level, the City of Sweet Home is not required to provide any translated documents under 'Safe Harbor' guidelines to non-Spanish LEP individuals.

### **2. Frequency of Contact with LEP Persons who Need Language Services Assistance**

Linn County is the primary provider of social services within Sweet Home and has the most contact with LEP persons who need language service assistance. The majority of contact the City has with non-English speaking citizens is through Police Department stops and other activity. Frequency of contact with LEP persons for other City services such as applications, consent forms, notices of participant rights and responsibilities, disciplinary notices, letters or notices that require a response from the participant or beneficiary, and public legal notices is relatively rare, less than once a year. City staff indicates that generally, individuals with limited English proficiency will bring a family member or friend, who will translate.

Assessment: Need for LEP services approximates the percentage of Sweet Home residents with limited English proficiency—less than 1% of staff encounters or contacts. Ongoing monitoring of LEP contact with the City occurs and should the level or difficulty of serving this population increase, the City is prepared to add resources.

### **3. Nature and Importance of Programs and Service Utilized or Needed by LEP Persons**

The City recognizes that, within the range of programs and services it provides, some programs and services, such as those that directly impact the well-being of the local population, are of higher priority than others. While it is the City's intent to provide meaningful access to all participants and eligible persons, the availability of resources may limit the provision of language services in some instances.

Activities such as outreach, intake forms, leases, rules of occupancy, legal actions, life and safety notices, and the like have a high priority. Information about and an understanding of these activities should be effectively communicated to all persons affected by them. Other activities such as recreation programs, social activities, optional meetings, and related areas are of a lesser priority.

Assessment: Given that Police stops are generally where the City has the highest contact with LEP individuals, the City has designated translation services to be available during normal working hours within the Police Department. For other services, the City provides on call translation services and public information in multiple languages on its website.

#### **4. Availability of Resources to LEP Persons Who Need Language Assistance**

The City of Sweet Home may contract with authorized interpreters who are available over the telephone. Other sources for interpretation may include:

- Qualified bilingual staff members of the City.

- Individuals employed exclusively to perform interpretation services

- Contracted in-person interpreters

- Other qualified interpreters from other local agencies or organizations within the Sweet Home Community

Language assistance may be available from community volunteers who have demonstrated competence in their monolingual (direct) communication and/or in interpretation or translation as noted above and have been approved by the City to communicate with LEP individuals.

Where qualified bilingual staff members or other authorized interpreters are unavailable to assist approved community volunteers who have demonstrated competence may be called upon when appropriate.

Family and Friends of an LEP individual may offer to assist with communication or interpretation.

Assessment: The City is both pro-active in providing persons with limited English proficiency public information about Sweet Home's public services, and in having translation resources available to those having direct contact with City staff. The City works to ensure that at a minimum, at least one bilingual-Spanish staff person is available during normal business hours, and to provide translation in other languages when arranged for in advance.

#### **City of Sweet Home Limited English Proficiency (LEP) Plan**

The City provides language services to LEP persons by a variety of methods based upon the relative numbers of such persons and the frequency of contacts or anticipated contacts. Reasonable steps are taken to accomplish this. Specifically, this LEP Plan outlines the City's approach to working with persons needing language assistance:

##### **I. Identification of LEP Individuals who Need Language Assistance: Activities include:**

- Posting of notices in City Hall and in separate lobbies of other City facilities accessible by the public. Notices are also posted in the Dial-a-Bus and Sweet Home Shopper bus. These posted notices will be in commonly encountered languages and will encourage LEP persons needing language assistance to self-identify.
- “Language Identification” cards (<http://www.lep.gov/resources/ISpeakCards2004.pdf> ) will be available in the languages identified in the City’s area of operations. The cards will also be used by staff on a day-to-day basis to determine and document the need for particular language services during routine activities and encounters.
- Notification to applicants for assistance, licensing, or permits that language services will be provided at no cost.
- Periodic reviews with staff to determine if the needs of residents with limited English continue to be met.

**II. Provision of Language Assistance Measures:** Procedures and activities for the provision language assistance include:

**A. Types of Language Services Available**

**A. 1. Written Translation Measures**

- Postings in conspicuous places in City Hall, Police Department Main Lobby, and any other City facility accessed by the public informing applicants or members of the general public that translation services are available at no charge to the individual who is seeking services or information regarding such services. The City has a list of interpreters and translators for staff to use when language services are required for LEP persons.
- Bi-lingual public notice communications and outreach. The City also provides language services in the conduct of its web-based outreach efforts which are intended to make the general public aware of its programs and services. In this manner, LEP persons who are a part of the population in the City's area of operations have an equal opportunity to learn about the City's programs and services and to access and participate in them.

**A. 2. Oral Translation Measures**

- The City shall strive to have bilingual staff available during normal business hours. Should the City not have bilingual Spanish speaking staff, the City will contract with a telephone interpretive service that will allow tenants, applicants or members of the general public who do not speak English to communicate with staff at the time they call or come into City Hall, the Police Department, and any other City facility regularly accessed by the public.
- The City shall offer oral interpretation at no charge at meetings, events, and other activities, provided that the need is identified by the participant(s) at least forty-eight (48) hours prior to the event, dependent upon the availability of an interpreter for the requested language.

**A. 3. Additional Measures to be Considered and Used Based on an Assessment of Need**

The following list outlines potential future measures that could be undertaken, should the level of need for LEP services increase from the current assessment.

- Use of and/or hiring bilingual staff to handle the majority of the verbal and written translation duties for the City. (Essential in the daily operations.) At the time of adoption of this LEP plan, 1 bilingual staff member is available during normal working hours.
- Contracting with qualified interpreters and translators, either individually or through an interpreting service agency which provides such persons when other City employees are not available or not skilled. (Essential when accuracy and details are important or critical.)
- Centralizing language services and/or sharing language services with another City if/when available. (If needed to minimize costs.)

- Use of telephone (or video conferencing) interpreter services. (If prompt delivery of interpretation services is required.)
- Pooling resources and/or standardization of documents and forms. (If needed to minimize costs.)

B. Connecting Staff to Available Language Services Available

City staff should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The City will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The City will use all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept City provided LEP services at no cost or they may choose to provide their own.

City provided LEP services may include but are not limited to the assistance methods described in this policy.

C. Telephone System Protocols

If City staff cannot understand a LEP caller, and a translator is not immediately available, the caller's phone number is taken, and a bi-lingual interpreter/translator calls the individual back.

D. Responding to Written Communications from LEP Persons

The City will utilize a bi-lingual interpreter/translator to read and respond in the LEP's language in written communications.

E. Responding to In-Person Contact with LEP Persons

Should staff be unable to communicate with a LEP person, the City's bilingual interpreter/translator is contacted, and communications are either continued in-person or over the phone. Should the interpreter/translator be unavailable, contact information for the individual will be recorded, including nature of the inquiry, and an interpreter/translator will re-contact the person.

F. Ensuring the Competency of Interpreter and Translator Services

The City makes every reasonable effort to assure that the language services it provides to LEP persons are of the highest quality and that the competency of interpreters and translators is appropriate to the situation. This applies to both the use of internal bilingual employees and contracted interpreters and translators.

- 1) Interpreters (outside the use of internal bilingual employees). Oral interpretation of encounters, interviews, meetings and the like require a certain level of competency and professionalism on the part of the interpreter. These characteristics do not necessarily exist in a person who is simply bilingual. Likewise, formal certification while helpful may not always be required. Often the importance of the encounter or the consequences will direct the level of professionalism needed. When using an interpreter, the City uses the following general criteria to ensure effective communications with LEP persons:
  - a) Demonstrated proficiency in and ability to communicate information accurately in both English and in the other language and able to identify and employ the

appropriate mode of interpreting (consecutive, simultaneous, summarization, or sight translation).

- b) Knowledge in both languages of any specialized terms or concepts particular to the City programs or services and of any particularized vocabulary and phraseology used by the LEP person, or the ability to explain either in English or the necessary language, the specialized term(s), concept(s), particularized vocabulary or phraseology.
  - c) Understanding of and ability to follow confidentiality and impartiality rules to the same extent that the City employee for whom they are interpreting or to the extent that their position requires or both.
  - d) Understanding of and adherence to their role as interpreter without deviating into a role as counselor, legal advisor, or other role.
  - e) Awareness of regionalisms (dialects) used by the LEP persons for whom they are interpreting.
- 2) Translators (outside the use of internal bilingual employees). When selecting translators, the list of criteria applied to determine competency and professionalism for interpreters above shall be applied to the extent that those criteria are appropriate. If a staff member who speaks the necessary language is not available, the City shall obtain translation and interpretation services from a certified translation/interpretation service.

### **III. Staff Training to Be Provided**

The City reviews its LEP Plan with staff. The frequency of staff encounters with LEP persons determines the level of review. All employees who are likely to have contact with LEP persons are informed of the City's LEP Plan, and on how to work effectively with in-person and telephone interpreters, and to understand the dynamics of interpretation among LEP providers and interpreters.

Staff having the greatest contact are the first to be trained to effectively implement the LEP Plan. Those staff having the least amount of contact with LEP persons, at a minimum, are trained to be fully aware of the Plan so that they may reinforce its importance and ensure implementation by other staff.

LEP training is part of the orientation for all new employees who work with LEP persons. On-going employees receive an orientation on the LEP Plan.

### **IV. Provision of Notice to LEP Persons**

The City provides appropriate notice to LEP persons and language groups of the availability of free language services that ensure meaningful access to programs and services provided by the City. Notices in those appropriate languages informing LEP persons and groups shall be posted in common areas, offices, and anywhere that applications are taken. These notices shall explain how to receive language services.

### **V. LEP Plan Monitoring and Updating**

The City monitors implementation of the LEP Plan on an ongoing basis, making revisions to policies and procedures as may be required periodically. The City also reviews (not less than annually) the overall effectiveness of its LEP Plan. This review considers information from the following sources and criteria as well as other factors as may be appropriate:

- 1) Changes in demographics including new language groups and changes in the proportion of existing language groups, types of services, and other needs.

- 2) Frequency of encounters with LEP persons. Whether existing language services are meeting needs of LEP persons.
- 3) Whether existing language services are meeting needs of LEP persons.
- 4) Availability of new resources including technology.
- 5) Whether identified sources for assistance are still available and viable.
- 6) How well staff understand and have implemented the LEP Plan.
- 7) Feedback from the community at large and from minority language groups and persons.

Based upon findings of the periodic review, the City shall revise the LEP Plan to ensure its effectiveness in meeting the access and participation needs of LEP groups and persons.

#### **VI. Complaint Procedures and EO Monitoring**

For regularly encountered LEP language groups, LEP persons are provided notice of their opportunity to file a discrimination complaint in accordance with federal regulations. For infrequently encountered LEP language groups, LEP persons shall be advised orally of the opportunity to file a discrimination complaint pursuant to the regulations.



<b>Sweet Home Oregon Limited English Proficiency Population</b>				
TOTAL POPULATION: 9,612 (2017 Population Estimate as of July 1, 2017)				
Population 5 years and over: 8,674 (+/-244)				
	<b>Estimate</b>	<b>Margin of Error</b>	<b>Percent</b>	<b>Percent Margin of Error</b>
<b>LANGUAGE SPOKEN AT HOME</b>				
Population 5 years and over	8,674	+/-244	(x)	(x)
English only	8,430	+/-312	97.2%	+/-2.0
Language other than English	244	+/-173	2.8%	+/-2.0
Speak English less than "very well"	111	+/-122	45.5%	+/-28.8
Spanish	100	+/-84	1.2%	+/-1.0
Speak English less than "very well"	36	+/-43	36.0%	+/-40.9
Other Indo-European languages	64	+/-56	0.07%	+/- .6
Speak English less than "very well"	29	+/-43	45.3%	+/-49.5
Asian and Pacific Islander languages	80	+/-124	0.9%	+/-1.4
Speak English less than "very well"	46	+/-48	57.5%	+/-55.8
Other languages	0	+/-17	0.0%	+/-0.4
Speak English less than "very well"	0	+/-17	-	**

US Census: American Fact Finder.

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates

Explanation of Symbols:

- An '\*\*\*' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
- An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
- An '(X)' means that the estimate is not applicable or not available.

## **Minority Representation Information**

### **Efforts to Encourage Minority Participation**

The City of Sweet Home understands diverse representation on committees, councils and boards results in sounds policy reflective of its entire population. As such, the City of Sweet Home encourages participation of all its citizens.

At this time, the City of Sweet Home does not currently have a nonelected governing board. As vacancies on boards, committee and councils become available, the City of Sweet Home will make efforts to encourage and promote diversity.

## **Public Participation Plan**

### **Strategies and Desired Outcomes**

Community Outreach is a requirement of Title VI. The City of Sweet Home engages the public in its planning and decision-making processes. To promote inclusive public participation, the city of Sweet Home will employ the following strategies, as appropriate:

- ✓ Provide for early, frequent and continuous engagement by the public
- ✓ Select assessable and varied meeting locations and times
- ✓ Employ different meeting sizes and formats
- ✓ Use social media in addition to other resources as a way to gain public input
- ✓ Use radio, television or newspaper ads on stations and in publications that serve LEP populations. Outreach to LEP populations may also include audio programming available on podcasts
- ✓ Expand traditional outreach methods by visiting ethnic stores/markets and restaurants, community centers, libraries, faith-based institutions, local festivals, etc.
- ✓ Follow public notification regulations as required by any federal funds received

## **Facility Locations Equity Analysis**

The City of Sweet Home has not completed a construction project requiring an environmental assessment (EA) or environmental impact statement (EIS) in the past five years.

## **Title VI Policy Review Procedure**

The City of Sweet Home will review its policy periodically to determine if modification is necessary. City employees will ensure that there are no barriers to service or accommodation that would prevent usage or access to city services.



# REQUEST FOR COUNCIL ACTION

<b>PREFERRED AGENDA:</b> September 24, 2019 <b>SUBMITTED BY:</b> J Graybill, Staff Engineer B Larsen, CEDD <b>REVIEWED BY:</b> R. Towry, City Manager	<b>TITLE:</b> Ownership of Art in ODOT Right-of-Way <b>ATTACHMENTS:</b> Location Map. Resolution xx for 2019. ODOT Directive HWY 01. Email for Permit Requirements.	<b>TYPE OF ACTION:</b> <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> MOTION <input type="checkbox"/> OTHER
<b>RELEVANT CODE/POLICY:</b>	<b>TOWARD COUNCIL GOAL:</b> Vision I: To make Sweet Home a community people find desirable to live in.	

## **PURPOSE OF THIS RCA:**

Council adoption of a Resolution authorizing City ownership of Art in the Right-of-Way at Main Street and Holley Road and an Intergovernmental Agreement with the Oregon Department of Transportation (ODOT).

## **BACKGROUND/CONTEXT:**

The art sculpture of two men standing on spring boards using a crosscut saw to cut a tree was originally made as a fund raiser for the 2018 Boy & Girls Club of the Greater Santiam. The sculpture is approximately 16ft high, standing on a tripod base of the original tree shape. It was placed in the Fall of 2018. The sculpture is very heavy and is anchored to the base concrete of an existing platform, with drilled anchors.

Because it sets within the old abandoned – though still preset – Right-of-Way of Holley Road, the structure is within ODOT jurisdiction. The entire corner there at the junction of Main St, Holley Rd, and Long St, is made up of an owned tax lot (in the middle, see map) and the original roadway rights-of-way. There are two other structures on that land, one being a large petrified rock with a roof structure, and the second being a concrete structure with a pictorial symbol only (no text) of the city logo. The sculpture location is within the frame work of a previous Rose Arbor, and at least 50ft from the nearest curb. The adjacent East Linn Museum has historically maintained the corner area. The sidewalk section between Long St and Main St is on the property of the East Linn Museum.

ODOT requires an Intergovernmental Agreement with the local jurisdiction for maintenance of the structure. ODOT also requires the local jurisdiction to own the structure, not a private group.

Attached to this RCA is a Location Map, the Resolution enabling ownership by the city and the Intergovernmental Agreement for processing the permit application. Also included are two files from ODOT, one being an email listing necessary submittals for permits, and the second being the Highway Division Directive outlining the Placement of Artwork on State Highway Right-of-Way program.

## **THE CHALLENGE/PROBLEM:**

How can the City add artwork to the community, specifically art relevant to the community's history?

**STAKEHOLDERS:**

- City of Sweet Home Citizens –Citizens and Visitors alike can enjoy the depiction of the effort it took for logging in the past.
- City of Sweet Home Staff – Those tasked with maintaining the art sculpture in the right-of-way.
- City of Sweet Home City Council – The Council will be promoting artwork depicting the historical logging methods of the community.

**ISSUES & FINANCIAL IMPACTS:**

While a volunteer group created and placed the sculpture, the future maintenance will be the city's responsibility. A cost accounting is not known at this time, however annual cleaning and weatherproofing may entail some expenditures.

**ELEMENTS OF A STABLE SOLUTION:**

To attain a permit from ODOT to have artwork depicting the historical activities of the community in a very visible location..

**OPTIONS:**

1. Do Nothing. ODOT will tell the City to remove the structure.
2. Motion to approve Resolution 28 for 2019 as presented.
3. Consider relocation of the sculpture to private property to avoid the required IGA and Ownership. Council could request that the sculpture be moved to a location not on the State Highway Network, avoiding the IGA, ownership of the sculpture and future maintenance. Staff can research private properties to consider alternate locations and revise the proposed resolution for review at a future Council meeting. This may reduce the visibility of the artwork.

**RECOMMENDATION:**


Staff recommends option 2, Motion to approve Resolution No. 28 for 2019 as presented. The proposed IGA with ODOT will continue the highly visible presence of the artwork.





## Highway Division DIRECTIVE



NUMBER HWY 01	SUPERSEDES New
EFFECTIVE DATE 10-1-2013	PAGE NUMBER 1 of 6
REFERENCE	
SUBJECT  <b>Placement of Artwork on State Highway Right of Way</b>	APPROVED SIGNATURE 

### PURPOSE:

To describe the process to allow artwork to be placed on state highway right of way either as part of ODOT's project development process or through the District Manager.

### GENERAL:

There has been an increasing interest by local communities to incorporate artwork within the state highway system. The overall design of the state highway system should blend with the natural and cultural environment keeping in mind the intended traffic volume and preservation of valuable adjacent scenic lands and natural and historic resources. ODOT recognizes the effects of the state highway system on local communities and how artwork can enhance and reflect the historic and cultural character of the community.

This Directive provides a process for ODOT to allow for the enhancement of the state highway system by including local community artwork on state highway right of way and will apply to artwork requested or approved after the effective date of the Directive. Safety is of primary concern for ODOT; therefore any Artwork allowed to be placed on state highway right of way must be found by ODOT to not diminish the safety of motorists or the state highway system.

It should be noted that this Directive is intended to provide a means to guide ODOT decision makers in determining the appropriateness of allowing artwork to be placed on state highway right of way. It is not to imply ODOT's review or approval of the artwork itself. The content of the artwork is determined by the Local Government as described in this Directive.

After ODOT's review and approval of the proposed placement of artwork, ODOT will initiate an Intergovernmental Agreement (IGA) with the requesting Local Government. Should the Local Government desire to change the design, content or format of the Artwork during the term of the IGA, a new proposal must be submitted following the process outlined in this Directive.

Artwork on the state highway differs from the City/County Entrance Program and the Highway Beautification Program described in Oregon Administrative Rule Chapter 734, Division 57.

### DEFINITIONS:

"Artwork" – Any drawing, painting, sculpture, statue, or other item of a creative or artistic nature intended or used to attract the interest or attention of motorists but does not include roadside memorials; political, advertising, or other unpermitted signs. For the purposes of this

Directive, "Artwork" also does not include standard architectural elements, whether structural or not, such as light poles, overpass screening, sound walls, or bridge components designed into the highway feature by ODOT during the project development process and are owned and maintained by ODOT.

"Local Government" – The City or County with jurisdiction in the area where the Artwork is proposed. When a state highway is on recognized tribal land, the Tribal Government with jurisdiction in the area will be considered the "Local Government" for purposes of this Directive.

### **MINIMUM CRITERIA:**

A Local Government's proposal for the placement of Artwork on state highway right of way must address the following criteria. Each proposal will be evaluated by ODOT on a case-by-case basis as described in this Directive.

#### **Safety**

Artwork must not interfere with the operation, maintenance or use of the highway. It must not block sight distance of an intersection, road approach, or traffic control device or cause a distraction for motorists, therefore, the proposed Artwork must:

1. Be located outside the highway clear zone as described in the AASHTO Roadside Design Guide;
2. Be placed as far from the travel way or edge of the pavement as practical;
3. Not be attached to or imitate a traffic control device;
4. Not have moving elements or simulate movement;
5. Not have bold or vibrant colors, reflective or glaring materials or surface finishes, or have illumination or other elements that would cause the proposed Artwork to be a distraction to motorists. Any illumination must be shielded to prevent light from being directed at the highway and of such low intensity or brilliance as to not cause glare or to impair the vision of motorists on the highway. Flashing or blinking lights, are not allowed; and
6. Be of a size and scale so to not demand the attention of motorists to the point the driver is distracted by the Artwork.

The safety of the highway system and motorists is of utmost concern for ODOT. The following will be considered by ODOT in determining if the proposals to place Artwork on highway right of way meet this Directive. The Artwork:

1. Does not attract pedestrians to an area not designed or intended for pedestrian traffic or placed at a location that would cause motorists to stop or to enter or exit the highway in areas not designed for such use;
2. Is not placed on trees, rocks or other natural features (ground mounted, free standing artwork may be allowed);
3. Is not attached to any bridge structure, sound wall or other highway feature other than artwork that may be incorporated as part of the project development process. A mural painted on a bridge structure, sound wall or other highway feature may be allowed when located on a low speed highway and is part of an overall graffiti prevention strategy;



4. Does not interfere with the horizontal or vertical clearance of the roadway so as not to impede freight mobility or movement of motor vehicles, bicycles, or pedestrians;
5. Is not placed within 500 feet of traffic control devices or other signs, gores, decision points, or other Artwork; and
6. Does not adversely affect highway structures, drainage patterns or storm water runoff quality, landscaping, natural vegetation or other plantings.

#### Content and Format

The content or format of the Artwork is to be determined by the Local Government through a public review process. The Artwork must depict the historic or cultural characteristic of the community and blend with the surrounding area.

The Artwork shall not contain text, interpretation of the Artwork, information on the artist, or advertising or other form of a commercial message (business, product, or brand name, logo, phone number, web page, etc.). It shall not resemble or imitate a traffic control device, represent or pay tribute to a specific individual, or contain elements that move, shimmer, shake or contain other methods to attract the attention of motorists.

#### Design

The design of all Artwork must be coordinated with the aesthetic design of the highway system and all its features taking into consideration the roadway design, the clear zone, motorists, and the environment. The Artwork shall not be suspended over the highway.

Artwork must be designed using long lasting materials and construction techniques which will require minimal care and resist vandalism and must be no larger than a size and scale that is compatible with the surrounding area and landscape.

#### Maintenance

Maintenance of the proposed Artwork and the surrounding area will be the responsibility of the requesting Local Government as set out in the IGA. The Artwork must be kept clean and in good repair. Artwork damaged by vehicular crashes, vandalism including graffiti, acts of nature, or regular wear or aging must be repaired or removed by the Local Government in a timely manner.

Offensive graffiti must be removed promptly. All maintenance must be conducted in a manner to minimize interference with highway traffic. No direct access (ingress or egress) to the Artwork is allowed from the main travel way of an access controlled highway,

If the Artwork is not maintained, repaired, or removed as required, the Artwork may be removed by ODOT at the Local Government's expense without commitment by ODOT for restoration, replacement, or compensation to the Local Government. Any Artwork removed by ODOT will be stored for 30 days for recovery by the Local Government.

#### Compliance with State and Federal Regulations

The proposed Artwork must comply with all state and federal regulations including regulations for Outdoor Advertising, and the marking and signing of state highways.

Location

Artwork will be considered on primary and secondary state highways as part of the project development process or by the District Manager after first considering if it is more appropriate to transfer the roadway, sidewalk or the property to the Local Government.

Artwork will not be allowed on the Interstate highway system (along the mainline or the entrance and exit ramps) or in the median of any expressway, freeway or divided highway.

Artwork located on property outside the state highway right of way but visible from the highway must comply with Outdoor Advertising Sign regulations.

Artwork must be located within the territorial or zoning jurisdiction of the requesting Local Government.

Financial Responsibilities

All costs, including labor, materials, supplies, and traffic control for the design, engineering, testing, construction, installation, maintenance, repair and removal of the artwork will be the responsibility of the requesting Local Government. When illumination is included as part of the artwork, the Local Government will be responsible for the cost of the electricity and any necessary utility lines and permits.

ODOT will assume the administrative costs associated with reviewing the proposal for Artwork and for executing the IGA with the requesting Local Government if the proposal is approved.

**APPLICATION PROCESS:**

A proposal for Artwork on state highway right of way must be submitted in writing by the Local Government that has jurisdiction in the area where the Artwork is proposed to be located. When there is an ongoing project development process, the proposal request will be submitted to the Project Leader. Other proposals are to be submitted to the local District Manager.

The Local Government must ensure that the proposal is developed through a public process. The method of gathering local support will be determined by the Local Government.

The Artwork proposal must:

- include a full description or drawing of the proposed Artwork including the proposed materials and how it expresses the community's historic or cultural character;
- include the proposed location (highway and milepoint) for the Artwork;
- show how the proposal meets the criteria outlined in this Directive;
- include the name, address, and telephone number of the Local Government contact person responsible for the proposal;
- include an adopted resolution that describes the following:
  - the Local Government's jurisdiction in the area of the project site;
  - the Local Government's approval of the Artwork content;
  - the Artwork's proposed life span;

- the Local Government's commitment to ensure maintenance of the Artwork including timely graffiti removal/repair and removal of the Artwork at the end of its life span; and
  - a schedule for commencing and completing the proposed Artwork installation.
- include design plans stamped by a licensed professional engineer registered in the State of Oregon demonstrating structural stability, the ability to withstand the necessary wind loads, the means or method of installation, and how the proposed Artwork meets the Safety criteria outlined above.

### **ODOT REVIEW:**

The proposed site for installation of Artwork by a Local Government must be reviewed and approved by ODOT prior to development of an IGA. ODOT will apply the criteria in this Directive when reviewing proposals for placement of Artwork on state highway right of way. Considerations will include the location, potential for motorist distraction, impact to highway maintenance or operations, impact to motorist safety, and access for Artwork maintenance. Additional site specific criteria and conditions may be applied to the Artwork proposal as determined by the ODOT Project Leader or District Manager. The approval for placement of Artwork will be granted at ODOT's sole discretion.

When Artwork is proposed as part of the project development process, the Project Leader will coordinate the review with the Region Technical Center, the local District Manager, and the Federal Highway Administration; ensure the conditions of this Directive are met; and incorporate the Artwork into the highway project, if approved. If the proposal is approved, the Project Leader will be responsible to initiate an IGA to document the Local Government's responsibility for the Artwork. If the proposal is denied, the Project Leader will notify the Local Government in writing.

When the Artwork is proposed outside of the project development process, the District Manager will coordinate the review with the Region Technical Center and the Federal Highway Administration and ensure the criteria of this Directive are met. If the proposal is approved, the District Manager will be responsible to initiate an IGA to document the Local Government's responsibility for the Artwork. If the proposal is denied, the District Manager will notify the Local Government in writing.

### **DOCUMENTATION:**

Upon approval by ODOT of the proposal for placement of Artwork on state highway right of way, ODOT will initiate an Intergovernmental Agreement (IGA) with the Local Government. The IGA must include:

- the location (highway and milepoint) and description of the Artwork;
- the duration the Artwork is allowed on the state highway right of way;
- a requirement that the Local Government, at no cost to ODOT, must move or remove the Artwork when:
  1. requested by ODOT;
  2. the Artwork interferes with construction, maintenance or operation of the state highway;

3. federal or state laws are interpreted in such a way that would prohibit Artwork on state highway right of way; or
  4. the IGA terminates.
- indemnification of ODOT by the Local Government from third party claims;
  - compliance with environmental regulations when conducting work on state highway right of way;
  - payment by the Local Government of any costs resulting from legal action involving ODOT regarding the Artwork;
  - the Local Government's responsibility to maintain the Artwork and any area surrounding the Artwork. Artwork damaged by crashes, vandalism, or acts of nature must be repaired or removed by the Local Government within 14 days of discovery. Offensive graffiti must be repaired or removed within 48 hours of discovery.
  - if the Artwork is not maintained, repaired, or removed as required, the Artwork may be removed by ODOT at the Local Government's expense without commitment for restoration, replacement, or compensation to the Local Government;
  - a requirement for a utility permit as necessary to address electric lines serving the Artwork;
  - notification of the District Manager at least 48 hours prior to any onsite work; and
  - traffic control according to Oregon Temporary Traffic Control Handbook (OTTCH) and the Manual on Uniform Traffic Control Devices (MUTCD).

06/14/13

## Julie Fisher

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**From:** DETERING Lynn <lynn.DETERING@odot.state.or.us>  
**Sent:** Monday, June 24, 2019 3:55 PM  
**To:** Joe Graybill  
**Cc:** Raymond Towry; Greg Springman; Brandon Neish  
**Subject:** Artwork in the Highway R/W  
**Attachments:** 20171009081034329.pdf

Hello,

Thank you for contacting ODOT regarding requests for Artwork in the highway right of way.

**Requests can be submitted by email by sending to ALL District Management (copy & paste):**  
[Brian.T.MOREY@odot.state.or.us](mailto:Brian.T.MOREY@odot.state.or.us); [Kendal.J.WEEKS@odot.state.or.us](mailto:Kendal.J.WEEKS@odot.state.or.us)

**Or APPLICATIONS can be submitted by dropping of or mailing documents to:**

ODOT, District 4  
Attn: District Management  
3700 SW Philomath Blvd  
Corvallis, OR 97333-1147

“Artwork” is considered to be any drawing, painting, sculpture, statue, or other item of a creative or artistic nature intended or used to attract the interest or attention of motorists but does not include roadside memorials, political, advertising, or other unpermitted signs. Artwork does not include standard architectural elements, whether structural or not, such as light poles, overpass screening, sound walls, or bridge components designed into the highway feature by ODOT.

For more detailed information regarding Artwork, see the attached Directive “Placement of Artwork on State Highway Right of Way”.

Artwork is not a permitted use of the highway right of way, but can be allowed through an Intergovernmental Agreement. Here are items to consider when making the request for the Artwork:

- ODOT has the final decision authority over allowing the Artwork in the highway right of way.
- Artwork cannot diminish the safety of motorists or the state highway system.
- The Artwork will have to be owned and maintained by a local jurisdiction.
- The Artwork cannot have any words, text, information on the artist or advertising.
- An Intergovernmental Agreement between the local jurisdiction and ODOT will have to be

Requests need to include:

- A written request from the local government agency that will be responsible for the Artwork and Area;
- The name, address, and telephone number of the Local Jurisdiction responsible for the proposal;
- A full description, photo or drawing of the proposed Artwork, including the proposed materials and how it expresses the community's historic or cultural character;
- The proposed location (Highway, Mile point, Side of the Highway, distance/location from the highway edge of pavement);
- An adopted resolution that describes the Local Governments Jurisdiction in the area of the project site;

- The Local Government's approval of the Artwork content;
- The Artwork's proposed life span;
- The Local Government's commitment to ensure maintenance of the Artwork. This is to include timely graffiti removal/repair
- The Removal of the Artwork at the Artwork's lifespan;
- A schedule for commencing and completing the proposed Artwork installation.
- Designed plans stamped by a licensed professional engineer registered in the State of Oregon demonstrating structural stability, the ability to withstand the necessary wind loads, the means or method of installation, and how the proposed Artwork meets the Safety criteria outlined in the attached Directive.

If you have any questions or concerns, please contact our office at 541-757-4211.

Thank you,

Lynn Detering

*Access, Utility & Misc. Permits*

*ODOT, District 4*

*3700 SW Philomath Blvd.*

*Corvallis, OR 97333-1147*

⑤ ④ ① - ⑦ ⑤ ⑦ - ④ ① ⑨ ②

RESOLUTION NO. 28 FOR 2019

A RESOLUTION AUTHORIZING CITY OWNERSHIP OF ART IN THE RIGHT-OF-WAY AT MAIN STREET AND HOLLEY ROAD AND AN ODOT INTERGOVERNMENTAL AGREEMENT.

WHEREAS, an art sculpture was created, donated and placed on an existing concrete pad, formerly a Rose Arbor maintained by the adjacent East Linn Museum, on the corner of Main Street and Holley Road; and

WHEREAS, the art sculpture is placed in the right-of-way at the intersection of Main Street and Holley Road, on the abandoned portion of the original alignment of Holley Road; and

WHEREAS, the Oregon Department of Transportation (ODOT) owns the rights-of-way and requires the processing of an Art in the Right-of-Way Permit; and

WHEREAS, ODOT requires the processing of an Intergovernmental Agreement committing the City of Sweet Home to ownership and maintenance of the art; and

WHEREAS, ODOT has the decision authority to allow or disallow the placement of structures on their right-of-way; and

WHEREAS, the City Council of the City of Sweet Home has considered and does recommend the ownership of the Art Sculpture and the ODOT Intergovernmental Agreement,

THE CITY OF SWEET HOME DOES RESOLVE AS FOLLOWS:

That the City of Sweet Home accept as ownership with maintenance responsibilities, an art sculpture placed at the intersection of Main Street and Holley Road, along with providing an Oregon Department of Transportation Art in the Right-of-Way Permit Application for an Intergovernmental Agreement for said ownership.

THIS resolution shall be effective immediately upon its passage.

PASSED by the City Council and approved by the Mayor this 24<sup>th</sup> day of September 2019.

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Mayor

ATTEST:

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City Manager - Ex Officio City Recorder





# REQUEST FOR COUNCIL ACTION

<b>PREFERRED AGENDA:</b> September 24, 2019	<b>TITLE:</b> Council of Governments Technology Services IGA	<b>TYPE OF ACTION:</b> <input type="checkbox"/> RESOLUTION
<b>SUBMITTED BY:</b> R. Towry, City Manager	<b>ATTACHMENTS:</b> Technology Services IGA between City of Sweet Home & OCWCOG – Amendment #1	<input checked="" type="checkbox"/> MOTION
<b>REVIEWED BY:</b> R. Towry, City Manager		<input type="checkbox"/> ROLL CALL
		<input type="checkbox"/> OTHER
<b>RELEVANT CODE/POLICY:</b> City of Sweet Home Financial Policy	<b>TOWARD COUNCIL GOAL:</b> 2.1: Update & streamline process 2.5: Continue to implement best financial practices	

## **PURPOSE OF THIS MEMO:**

To review a proposed amendment to the technology Services IGA between the City of Sweet Home and OCWCOG.

## **BACKGROUND/CONTEXT:**

For the past 5 years, the City of Sweet Home has entered into an Intergovernmental Agreement with the Oregon Cascades West Council of Governments for Technology Services. The proposed amendment would update rates for technology services as of October 1, 2019 as follows:

- Technology Services Manager \$115.22
- Network Support Specialist \$117.95
- Information Support Specialist \$ 99.14
- Workstation Support Specialist \$ 85.57
- Technology Support Specialist \$ 77.39

## **THE CHALLENGE/PROBLEM:**

Should the City of Sweet Home renew an IGA with Oregon Cascades West Council of Governments for Technology Services?

## **STAKEHOLDERS:**

City of Sweet Home – Gives the City a tool in the toolbox if our contracted IT can't meet our needs.

Oregon Cascades West Council of Governments- provides clarity on charges and fees.

## **ISSUES & FINANCIAL IMPACTS:**

There would be minimal impact as the City has only utilized the OCWCOG Technical Services during a ransom-ware attack.

## **ELEMENTS OF A STABLE SOLUTION:**

Approval or disapproval of the contract.

**OPTIONS:**

1. Do Nothing.
2. Make a Motion to authorize staff to inter into an Intergovernmental Agreement with Oregon Cascades West Council of Governments for Technology Services.

**RECOMMENDATION: Option #2 Make a Motion: Authorize staff to inter into an Intergovernmental Agreement with Oregon Cascades West Council of Governments for Technology Services.**

**REVISION TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN:**

**City of Sweet Home, Oregon (CITY)**

**AND**

**OREGON CASCADES WEST COUNCIL OF GOVERNMENTS (OCWCOG)**

**AMENDMENT #1**

WHEREAS, the parties agree to amend the agreement as follows:

1. **SECTION 4. PROVISIONS** subsection **B. Consideration**: has been amended as follows:
  - a. To incorporate **new hourly rates (Attachment A)** based on current FY 19-20 budget numbers, as approved by the OCWCOG Board.
2. The effective Date of this Amendment shall be October 1, 2019.

All other provisions of the *Agreement dated November 15, 2018* shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the date(s) indicated below.

CITY OF SWEET HOME

OREGON CASCADES WEST  
COUNCIL OF GOVERNMENTS

\_\_\_\_\_  
Ray Towry  
City Manager  
1140 12<sup>th</sup> Ave.  
Sweet Home, OR 97386

Date

\_\_\_\_\_  
Fred Abousleman  
Executive Director  
1400 Queen Ave SE Ste. 201  
Albany, OR 97322

Date

## Attachment A

### Hourly Rates

OCWCOG's hourly rates as of October 1, 2019:

➤ Technology Services Manager	\$115.22
➤ Network Support Specialist	\$117.95
➤ Information Support Specialist	\$ 99.14
➤ Workstation Support Specialist	\$ 85.57
➤ Technology Support Specialist	\$ 77.39

CITY understands that these rates may be changed by the OCWCOG Board during the terms of the agreement. OCWCOG and the CITY may agree to amend this agreement to incorporate new rates. The CITY reserves the right to terminate the agreement if a satisfactory rate adjustment cannot be agreed upon.



# REQUEST FOR COUNCIL ACTION

<b>PREFERRED AGENDA:</b> September 24, 2019	<b>TITLE:</b> City of Sweet Home—SBDC Agreement	<b>TYPE OF ACTION:</b> <input type="checkbox"/> RESOLUTION
<b>SUBMITTED BY:</b> B. Larsen, Community and Economic Development Director	<b>ATTACHMENTS:</b> Sweet Home SBDC Agreement 2019-20	<input checked="" type="checkbox"/> MOTION
<b>REVIEWED BY:</b> R. Towry, City Manager		<input type="checkbox"/> OTHER
<b>RELEVANT CODE/POLICY:</b> N/A	<b>TOWARD COUNCIL GOAL:</b> Aspiration V, Economically Strong Environment, Goal 4.3, Develop economic and business education opportunities with regional partners.	

## **PURPOSE OF THIS RCA:**

The City is seeking to enter into an agreement with the Linn-Benton Community College (LBCC) Small Business Development Center (SBDC) in order for the SBDC to conduct training and business advising programs for entrepreneurs and small businesses in Sweet Home in exchange for financial assistance from the City.

## **BACKGROUND/CONTEXT:**

In order to develop economic and educational opportunities with regional partners, the City has been negotiating with the Linn-Benton Community College SBDC, an existing regional partner.

## **THE CHALLENGE/PROBLEM:**

How do we provide local business education opportunities for small businesses and entrepreneurs in Sweet Home?

## **STAKEHOLDERS:**

- City of Sweet Home Residents. Residents pay property taxes to the City, and deserve local businesses that can provide them with products and services. Some residents also seek to become entrepreneurs and create new businesses.
- Sweet Home City Council Members. Council members are the voice of the citizens they serve and represent. Each member of this group is interested in developing business opportunities that will improve the quality of life in Sweet Home.
- Linn-Benton Community College. An educational institution of the State of Oregon that provides educational opportunities to Sweet Home residents.

## **ISSUES & FINANCIAL IMPACTS:**

The City of Sweet Home has already negotiated and budgeted \$2,500 for this arrangement with LBCC. This agreement puts the commitment in writing, and outlines the deliverable services that the SBDC will provide.

**ELEMENTS OF A STABLE SOLUTION:**

An ideal outcome would be to enter into an agreement with a regional partner for the and business training and advising services that the City want available to its residents at a cost that is acceptable to the City.

**OPTIONS:**

1. *Do Nothing.* Make no agreement with the Linn-Benton Community College Small Business Development Center.
2. *Make a motion to accept and finalize the draft agreement with Linn-Benton Community College Small Business Development Center and authorize the City Manager to sign that agreement.*
3. *Make a motion to reject the draft agreement with Linn-Benton Community College Small Business Development Center and instruct City staff to negotiate an amended agreement with specified changes.*

**RECOMMENDATION:**

Staff recommends option 2, Motion to accept and finalize the draft agreement with Linn-Benton Community College Small Business Development Center and authorize the City Manager to sign that agreement.

**CITY OF SWEET HOME and LINN-BENTON COMMUNITY COLLEGE SBDC**  
**Intergovernmental Agreement**  
**For Business Advising and Training Services**

The City of Sweet Home, a municipal corporation of the State of Oregon, hereinafter referred to as CITY and Linn-Benton Community College an Educational Institution of the State of Oregon, hereinafter referred to as LBCC, and jointly referred to as PARTIES, or individually as a PARTY, mutually agree as follows:

All notifications necessary under this AGREEMENT shall be addressed to:

City of Sweet Home  
Ray Towry, City Manager  
3225 Main Street  
Sweet Home, OR 97355  
541-367-8969

Linn Benton Community College  
Charlie Mitchell, SBDC Director  
6500 Pacific Boulevard SW  
Albany, OR 97321  
541-917-4930

**RECITALS**

- A. The CITY desires to provide financial assistance to LBCC as it is in the public interest to conduct trainings and business advising programs for entrepreneurs and small businesses in Sweet Home. LBCC will also provide extended programs in the Sweet Home area such as supporting the work of the Foundry Collective and having business advisers available in the community; and
- B. The CITY is very satisfied with the services provided by LBCC and the strong partnership and collaborative relationship between the organizations to foster business and economic development in the area.

**1. TERM:**

1.1 CITY and LBCC agree that this intergovernmental AGREEMENT is entered into pursuant to ORS 190.010. It is the intent of the PARTIES that this AGREEMENT is effective as of the date it is fully executed through June 30, 2020 and that it may be renewed annually upon mutual agreement up to June 30, 2022.

1.2 This AGREEMENT may cross fiscal years, so funding for future years is contingent upon the City Council adopting appropriations.

**2. SCOPE:**

2.1 LBCC will provide CITY with business advising and training services and quarterly reports per the attached SCOPE OF WORK, dated \_\_\_\_\_, 2019.

**3. COMPENSATION:**

3.1 CITY will pay LBCC \$2,500 annually in one annual payment between July 1 and November 30.

**4. PARTIES agree as follows:**

4.1 The PARTIES intend that in performing this AGREEMENT, each shall act as an independent contractor and shall have the control of the work and the manner in which it is performed. Neither CITY nor LBCC is to be considered an agent or employee of the other.



4.2 Subject to the limitations and conditions of the Oregon Tort Claims Act ORS 30.260-30.300, each party agrees to hold the other harmless, to indemnify and to defend the other, its officers, agents, volunteers and employees from any and all liability, actions, claims, losses, damages or other costs including attorneys' fees and witness costs that may be asserted by any person or entity arising from, during or in connection with the performance of the work described in this AGREEMENT, when such liability, action, claim, loss, damage or other cost results from the actions of that party in the course of this AGREEMENT. Nothing in this AGREEMENT shall be deemed to create a liability for any party in excess of the Oregon Tort claims limits for either party.

5. This AGREEMENT shall not be assigned, nor shall duties under this AGREEMENT be delegated, and no assignment or delegation shall be of any force or effect without the written approval of the contracting officers of LBCC and CITY.
6. Either PARTY may terminate this AGREEMENT effective June 30 of any year, provided that the terminating PARTY provides the non-terminating PARTY with a thirty (30) day written notice of the date and year in which the termination will be effective. PARTIES may, by mutual written consent only agree to terminate this AGREEMENT effective on another date.
7. PARTIES shall comply with all applicable federal, state and local laws, rules and regulations on nondiscrimination in employment. The parties agree not to discriminate on the basis of race, religion, religious observance, gender identity or expression, color, sex, marital status, familial status, citizenship status, national origin, age, mental or physical disability, sexual orientation, or source or level of income in the performance of this contract.
8. PARTIES shall comply with the Americans with Disabilities Act of 1990 (Pub. Law No. 101-336), ORS 659A.403, ORS 659A.406, ORS 559A.142, ORS 659A.145, and all regulations and administrative rules established pursuant to those laws.
9. PERSONAL IDENTIFYING INFORMATION: PARTIES agree to safeguard personal identifying information in compliance with Oregon Revised Statute ORS 646A.600, the Oregon Consumer Identity Theft Protection Act and the Fair and Accurate Credit Transaction Act provisions of the Federal Fair Credit Reporting Act.
10. This writing is intended both as the final expression of the agreement between the PARTIES with respect to the included terms and as a complete and exclusive statement of the terms of the AGREEMENT. No modification of this AGREEMENT shall be effective unless and until it is made in writing and signed by both PARTIES.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed on the dates hereinafter respectively set forth.

**CITY OF SWEET HOME**

By \_\_\_\_\_

Raymond Towry, City Manager

Date of Execution: \_\_\_\_\_

**LINN-BENTON COMMUNITY COLLEGE**

By \_\_\_\_\_

Dave Henderson, Vice President of Finance

Date of Execution: \_\_\_\_\_

**Scope of Work**  
**For the Intergovernmental Agreement Between**  
**City of Sweet Home**  
**And**  
**The Small Business Development Center (SBDC) at Linn-Benton Community College**  
**\_\_\_\_\_, 2019**

**Partnership Objectives**

The objectives of the proposed partnership are to foster economic development in the City of Sweet Home. We will apply our menu of services, based on our proven techniques and skills, to assist the City of Sweet Home in achieving their stated outcomes for:

- Launching new companies
- Growing existing companies
- Retaining companies in the Sweet Home area
- Helping local companies grow revenues and increase profits
- Helping local companies create new jobs and/or retain jobs that are at risk

**Targeted Impacts**

At a minimum, the SBDC will deliver the following impacts:

- New Sweet Home advising clients      12/year
- Long-term clients (5+ hours)              5/year
- New business starts                          3/year
- Jobs created/retained                        5/year
- Training events held                          2/quarter

**Reporting**

The SBDC tracks all client engagements through an internal database. Each quarter we will provide a quantitative summary of results generated under this partnership. All reported impacts will be subject to our internal client impact validation process. Reports will include:

- Number of Sweet Home clients assisted
- Number of Sweet Home long-term client engagements (5+ hours of counseling)
- Total number of counseling hours provided to Sweet Home clients
- Number and type of training events conducted in Sweet Home
- Number of new business starts in Sweet Home
- Jobs created in Sweet Home
- Jobs retained in Sweet Home (where jobs were at risk)

### **Funding**

The City of Sweet Home will pay **\$2,500 paid once annually** to the SBDC. This will help to fund the cost of providing business advisers as part of this partnership. The funding will help the SBDC dedicate additional resources in Sweet Home. The SBDC continues to commit, as Ford Family Foundations funding is available, to provide a Small Business Management course in Sweet Home every other year, currently in even-numbered years.

Key to insuring that this partnership achieves its objectives is the active participation of the City of Sweet Home Economic Development Office, principally in the retention, expansion, and recruitment of local companies and start-up entrepreneurs to work with the SBDC. Specific tasks include:

- Identify individuals and companies for SBDC to engage with
- Market and promote SBDC services to Sweet Home area companies
- Help to integrate SBDC advising services with Oregon RAIN/ROI activities
- Make referrals to SBDC long-term training programs where appropriate

### **The SBDC Menu of Services - How the SBDC will Generate Results**

Each business has unique circumstances and needs. All client engagements begin with an informal assessment where the business owner and the SBDC adviser determine the current state of the business and the priorities for focusing attention for improvement.

It is the experience of the SBDC that the results this partnership seeks – including business starts, business growth, and job creation – typically come through two methodologies: one-on-one business advising, and business participation in SBDC structured programs. Accordingly, this scope of work outlines how each of these two elements is typically applied for the benefit of the business.

### **One-On-One Business Advising**

SBDC business advisers will meet with people who are referred to us by the Corvallis Benton County Economic Development Office. Those people will either be considering starting a small business or who already have a business in operation. The SBDC will also recruit Corvallis and Benton County businesses through our other marketing efforts. Clients never pay a fee for this advising service no matter how much time they spend with SBDC advisers.

An initial conversation (usually by phone) is held with each referral to gauge where in the business development life cycle they are and what kinds of advising support will be most helpful for them.

After this conversation, the SBDC will assign the adviser best suited to meet those initial needs and a face-to-face meeting is held between the two. This initial meeting typically take takes place at the business, if is already established. During this meeting the business adviser and client review the client's business and needs, and specific follow-ups are defined.

Follow-up meetings between clients and advisers are scheduled based on the client's follow through and subsequent needs.

It is the goal of one-on-one advising to identify opportunities and challenges to growth, to work with the client to define how to pursue growth opportunities, and to stay with the business owner over a long enough period of time to help them bring these improvements to fruition. Ideally, SBDC advisers become their business advising partners for the life of their business.

### **The SBDC Team**

A key component of the SBDC's ability to generate positive economic results with the SBDC menu of services is the broad skill sets and professional experiences of SBDC business advisers. Each SBDC adviser has significant experience in starting, stabilizing, growing and exiting small businesses.

### **Collaborations**

SBDC will continue to maintain a relationship with the Foundry Collective, will provide classes at one or more downtown Sweet Home locations (as these come online), and provide access to an SBDC Small Business Adviser at these locations. SBDC will maintain a presence at Oregon RAIN events held in Sweet Home.



# REQUEST FOR COUNCIL ACTION

<b>PREFERRED AGENDA:</b> September 24, 2019 <b>SUBMITTED BY:</b> Angela Clegg, Assoc. Planner <b>REVIEWED BY:</b> R. Towry, City Manager	<b>TITLE:</b> Text Amendments to Title 16 and Title 17 <b>ATTACHMENTS:</b> Ordinance Bill No. 4 2019 - Ordinance No. ____ Text Amendments for Title 16 and Title 17	<b>TYPE OF ACTION:</b> <input checked="" type="checkbox"/> BILL ORDINANCE <input checked="" type="checkbox"/> MOTION <input type="checkbox"/> OTHER
<b>RELEVANT CODE/POLICY:</b> SHMC 16.08.020 Amendment SHMC 17.12.020 Public Hearings on Amendments	<b>TOWARD COUNCIL GOAL:</b> Goal #2 – Be an effective and efficient government. Vision Statement #3 – WE ASPIRE to have an effective and efficient local government.	

## **PURPOSE OF THIS RCA:**

The purpose of this RCA is to present Ordinance Bill No. 4 for 2019 -Ordinance No. \_\_\_\_ for the first reading. This ordinance would adopt text amendments to the Zoning Ordinance (LA19-01); which is Title 16 and Title 17 of the Sweet Home Municipal Code (SHMC). This includes amendments to the following chapters of the SHMC: 16.08.010, Appeal; 16.08.060, Violations; 16.16.030, Procedures; 17.04.030 Definitions; 17.08.050 Considerations; 17.08.100, Access and Driveways; 17.12.020, Public Hearings on Amendments; 17.12.080, Notice of Land Use Decisions; 17.12.090, Appeals; 17.12.150, Enforcement; 17.88.040, Criteria; and Addition of 17.12.085, call by the City Manager.

## **BACKGROUND/CONTEXT:**

The City of Sweet Home has been in various stages of updating the development code for a few years. While this process continues to move forward and evolve, there are a few issues in the current code that have been a persistent nuisance to the Planning Commission's ability to make consistent decisions to reflect community values, while still upholding the meaning behind the code language. Recently, these issues have included variances, partitions, appeal deadlines, notices of decision, conditional use permits, joint driveway access, and the City Manager's right to appeal.

The following is a timeline of meetings associated with this project:

- November 27, 2018: Jerry Sorte Memorandum to the Planning Commission: Updates to Title 16 and Tile 17 of the SHMC.
- December 3, 2018: Public Hearting to Request to initiate amendments to Title 16 and Title 17 of the SHMC.
- May 24, 2019: Dana Nichols, OCWCOG, Memorandum to the Planning Commission: Addendum to Memorandum; November 27, 2018.
- June 3, 2019: Planning Commission Work Session.
- August 5, 2019: The Planning Commission held a public hearing on the proposed text amendments. The Planning Commission voted to continue the public hearing until the September 2, 2019 meeting.

- September 2, 2019: The Planning Commission held a public hearing on the proposed text amendments. The Planning Commission provided an opportunity for the public to submit testimony and unanimously voted to recommend that the City Council adopt the proposed amendments.

### **THE CHALLENGE/PROBLEM:**

The question before City Council is whether the attached ordinance adequately implements the text amendments to the SHMC that were approved by the Planning Commission at the August 15, 2019 Public Hearing.

### **STAKEHOLDERS:**

- City of Sweet Home Residents – The proposed text amendments benefit residents with a more clear and efficient code. The Conditional Use process will be more flexible and by adopting a “catch all” into the conditional uses permitted in the zone that are not currently covered.
- Property Owners: benefit from a more efficient code.
- Developers: benefit from a more efficient code.
- Staff: Will be able to implement the SHMC with more efficiency and less interpretation.

### **ISSUES & FINANCIAL IMPACTS:**

1. Financial Impacts: increased efficiency should decrease staff time on some applications freeing them to do other tasks, should decrease commission work, and may decrease costs.

### **ELEMENTS OF A STABLE SOLUTION:**

Adoption of the attached ordinance is a key element of a stable solution. The text amendments to the SHMC would create local standards that are consistent with the vision for the community as reflected in the review by both the Planning Commission and City Council.

### **OPTIONS:**

1. Conduct a first reading of Ordinance Bill No. 4 for 2019 - Ordinance No. \_\_\_\_\_ and conduct a roll call vote;
2. Remand Ordinance Bill No. 4 for 2019 - Ordinance No. \_\_\_\_\_ to staff and Planning Commission for revisions (specify).
3. Take no action; leave code as its.
4. Other

### **RECOMMENDATION:**

Staff recommends option 1, Conduct a first reading of Ordinance Bill No. 4 for 2019 - Ordinance No. \_\_\_\_\_ and conduct a roll call vote.

ORDINANCE BILL NO. 4 FOR 2019

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING TITLE 16 AND TITLE 17 OF THE SWEET HOME MUNICIPAL CODE AND DECLARING A NEED FOR AN EXPEDIENCY CLAUSE.

WHEREAS, the Legislative Amendment, LA 19-01, consists of text amendments to Title 16, Land Divisions and Line Adjustments, and Title 17, Zoning, of the Sweet Home Municipal Code (SHMC), including amendments to the following chapters of the SHMC: 16.08.010, Appeal; 16.08.060, Violations; 16.16.030, Procedures; 17.04.030 Definitions; 17.08.050 Considerations; 17.08.100, Access and Driveways; 17.12.020, Public Hearings on Amendments; 17.12.080, Notice of Land Use Decisions; 17.12.090, Appeals; 17.12.150, Enforcement; 17.88.040, Criteria; and Addition of 17.12.085, call by the City Manager; and

WHEREAS, the Planning Commission of the City of Sweet Home held a work session on June 3, 2019 to discuss the code amendment recommendations provided by Staff and considered the text amendments at a public hearing held on August 5, 2019, and unanimously voted to directed staff to prepare a Request for Council Action (RCA) and an Ordinance Bill to go in front of the City Council to consider the code amendment recommendations approved by the Planning Commission.

Now, Therefore,

THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

Section 1. The SHMC is hereby amended as follows;

**16.08.010 APPEAL.**

- A. *An appeal of an administrative decision concerning this title will be made to the Planning Commission. Appeals of a Planning Commission decision will be made to the City Council.*
- B. *An appeal must be filed within ~~24~~ 12 days of the date of the mailing of the decision notice.*
- C. *The established fee will be paid upon filing of an appeal.*
- D. *At an appeals hearing, the ordinances and criteria must be stated, and the applicant or appellant must address these criteria with sufficient specificity to allow decision makers an opportunity to respond to the issue.*
- E. *Upon appeal, the appellate authority must consider the record of the action or ruling which resulted in appeal.*
- F. *An aggrieved party in a proceeding may appeal the City Council decision to the Land Use Board of Appeals (LUBA).*

**17.12.90 APPEALS.**

- A. *An appeal of an administrative decision concerning this title will be made to the Planning Commission. Appeals of a Planning Commission decision will be made to the City Council.*
- B. *An appeal must be filed within 12 days of the date of the mailing of the decision notice.*



- ~~B.~~ C. A fee set by resolution of Council will be paid upon filing of an appeal.
- ~~C.~~ D. At an appeals hearing, the ordinances and criteria must be stated and the applicant or appellant must address these criteria with sufficient specificity to allow decision makers an opportunity to respond to the issue.
- ~~D.~~ E. Upon appeal, the appellate authority must consider the record of the action of which resulted in appeal.
- ~~E.~~ F. An aggrieved party in a proceeding for a zone change or discretionary permit may appeal the decision to LUBA.

**SHMC 16.16.030 PROCEDURES. Subsection (A)(4). Subdivision and Subdivision Rep/at Decisions:**

- 4. The notice of decision shall be mailed no more than ~~five~~ seven days after the decision has been finalized. Notice of the decision shall be mailed to the applicant, property owner. Those who provided written comments on the proposal, and those who requested a copy of the decision.

**SHMC 16.16.030 PROCEDURES. Subsection (B)(2). Partition and Partition Replat Decisions:**

- 2. Decision. The City Manager, or designee, shall take action on the tentative partition plan as submitted, or as it may be modified, if all decision criteria can be met. The notice of decision shall be mailed no more than ~~five~~ seven days after the decision has been finalized. Notice of the decision shall be mailed to the applicant, property owner, those who provided written comments on the proposal, and those who requested a copy of the decision.

**SHMC 17.12.020 PUBLIC HEARINGS ON AMENDMENTS. Subsection (E):**

- E. Within ~~five~~ seven days after a decision has been rendered with reference to an amendment, the City Manager shall provide the applicant with written notice of the decision. Notice of the decision shall be mailed to the applicant, property owner, those who provided written comments on the proposal, and those who requested a copy of the decision. Written notice of a decision shall apply to recommendations made by the Planning Commission and to final action made by the City Council.

**SHMC 17.12.085 NOTICE OF LAND USE DECISIONS**

Within seven days after a land use decision has been rendered, the City Manager shall provide written notice of the decision. Notice of the decision shall be mailed to the applicant, property owner. Those who provided written comments on the proposal, and those who requested a copy of the decision.

**Add the following to the list of Conditionally Permitted Uses in all zones:**

**SHMC 17.24.030 CONDITIONAL USES PERMITTED.**

P. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical

of the other conditionally permitted uses listed in this Section.

**SHMC 17.28.030 CONDITIONAL USES PERMITTED**

E. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**SHMC 17.30.030 CONDITIONAL USES PERMITTED**

D. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**SHMC 17.31.030 CONDITIONAL USES PERMITTED**

M. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**SHMC 17.32.030 CONDITIONAL USES PERMITTED**

J. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**SHMC 17.36.030 CONDITIONAL USES PERMITTED**

K. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**SHMC 17.40.030 CONDITIONAL USES PERMITTED**

E. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**SHMC 17.44.030 CONDITIONAL USES PERMITTED**

L. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**SHMC 17.60.030 CONDITIONAL USES PERMITTED**

I. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this Section.

**Add definition of "Joint Use Driveway" to Section 16.04.030 DEFINITIONS and Section 17.04.030 DEFINITIONS:**

Driveway. Joint Use. When land uses on two or more lots or parcels share one driveway.

**Amend standards permitting Access easements in Section 16.12.030:**

- P. Access easements. Where no other practical access to lots or parcels exists, the ~~Planning Commission~~ City may allow an access easement for actual access to lots or parcels. Approval of an easement that is a joint use driveway may be approved pursuant to the standards listed in Section 17.08.100(C)(6).*

**Add standards for permitting Joint Use Driveways. Add the following as Section 17.08.100(C) (6):**

*C. Driveway ~~width and placement~~ standards.*

*6. Joint Use Driveways.*

*A. Joint use driveways are permitted.*

*B. A joint use driveway shall comply with International Fire Code.*

*C. A joint use driveway that serves four or more lots or parcels shall be developed to the standards of a local street.*

*D. Where the City approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the City for its records, but the City is not responsible for maintaining the driveway or resolving any dispute between property owners.*

**Remove existing SHMC 17.88.040 and 17.88.050:**

**~~§ 17.88.040 CRITERIA.~~**

~~The criteria that shall be used in approving, approving with conditions, or denying a requested variance will be based on findings with respect to compliance with each of the following criteria, if applicable.~~

- ~~A. The development resulting from approving a variance shall not be detrimental to public health or safety;~~
- ~~B. The request is not in conflict with the Comprehensive Plan.~~
- ~~C. The request is the minimum necessary to make reasonable use of the property;~~
- ~~D. The requested variance is consistent with the purposes of the zone;~~
- ~~E. If more than one variance is requested or needed, the cumulative effect of the variances will result in a project that remains consistent with the purposes of the zone.~~
- ~~F. Identified regulatory impacts resulting from the variance can be mitigated to the extent practical;~~

- ~~G. The location, size, design characteristics and other features of the proposal shall apply.~~
- ~~H. Minimal adverse impacts to property values, livability of the permitted development in the surrounding area, and the natural environment;~~
- ~~I. The property has a physical circumstance or condition that makes it difficult to develop.~~

~~§ 17.88.050 CONSIDERATIONS. A determination that the criteria have been met will include the balancing of competing and conflicting interests. The following considerations may be used as guidelines in the granting authority's deliberations.~~

- ~~A. Whether the situation that created a need for a variance was created by the person requesting the variance.~~
- ~~B. The economic impact upon the person requesting the variance if the request is denied;~~
- ~~C. An analysis of the physical impacts the development could have, such as Visual, noise, traffic, and increased potential for drainage, erosion or landslide hazards;~~
- ~~D. Preservation of native tree species such as Oregon White Oak and Pacific Madrone over eight inches in caliper, or Douglas Fir, Willamette Valley Ponderosa Pine, Big Leaf Maple, Incense and western Red Cedar over 12 inches in caliper, measured at four and one-half feet above grade OR the uphill side;~~
- ~~E. Whether the proposal impacts the aesthetics of the property.~~

**Add new language for SHMC 17.88.040:**

**17.88.040 Approval Criteria.** The Planning Commission may approve a variance upon finding that it meets all of the following criteria:

- A. The variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance;
- B. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
- C. The need for the variance is not self-imposed by the applicant or property owner. (For example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant);
- D. The variance does not conflict with other applicable City policies or other applicable regulations;
- E. The variance will result in no foreseeable harm to adjacent property owners or the public; and
- F. All applicable building code requirements and engineering design standards shall be met.

**Add SHMC 17.12.085:**

**17.12.085 Call by the City Manager.**

- A. After consultation with the City Attorney, the City Manager may call up a decision by the Planning Commission on a quasi-judicial land use application for review by the City Council.
- B. On receiving a call by the City Manager, the Community and Economic Development Department shall provide to the City Council the application and all other documents constituting the entire record for the quasi-judicial land use request.
- C. The City Manager shall set a date and time for a public hearing before the City Council to consider the call under the notice of public hearing process listed in Section 17.12.120. The decision resulting from this public hearing by the City Council shall constitute the final City decision.
- D. A call by the City Manager stays all proceedings by all parties in connection with the matter until the City Council has made a decision on the application.

**Add to SHMC 17.12.150:**

**17.12.050 Enforcement**

A. Penalty. Violation of this title constitutes a violation and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36 as now enacted or hereafter amended. Each day's violation is a separate offense.

B. Alternative remedy. In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this title, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. For abatement the city may follow the procedure set out in Sweet Home Municipal Code Article II of Chapter 8.04 as now enacted or hereafter amended, except no hearing need be held before abatement occurs if a hearing before the Planning Commission or City Council has already been held on the issue in dispute and the body has made a final decision thereon. The city can recover its expenses as set forth in the abatement procedure.

C. Permits or approval, including renewals and extensions, shall not be issued for development on property in which uncorrected code violations exist except to the extent the permits or approvals are needed to correct the violation.

Passed by the City Council and approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_ 2019

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager – Ex Officio City Recorder



# REQUEST FOR COUNCIL ACTION

<b>PREFERRED AGENDA:</b> September 24, 2019	<b>TITLE:</b> An Ordinance Amending the Unnecessary Noise Section of the Sweet Home Municipal Code	<b>TYPE OF ACTION:</b> <input type="checkbox"/> RESOLUTION <input checked="" type="checkbox"/> MOTION <input type="checkbox"/> ROLL CALL <input type="checkbox"/> OTHER
<b>SUBMITTED BY:</b> R. Snyder, City Attorney	<b>ATTACHMENTS:</b> SHMC 9.20.020	
<b>REVIEWED BY:</b> R. Towry, City Manager		
<b>RELEVANT CODE/POLICY:</b> SHMC 9.20.020	<b>TOWARD COUNCIL GOAL:</b> 3.2: Look for methods to improve the community safety Vision Statement: Make Sweet Home a community people find desirable to live in.	

## **PURPOSE OF THIS RCA:**

The purpose for this RCA is an ordinance change to provide the Police with the option of citing a person as a city violation for making unnecessary noise by human voice which disturbs another person or otherwise violates the provisions of SHMC 9.20.020 A.

## **BACKGROUND/CONTEXT:**

The current city code does not provide for a person by human voice making a noise in violation of its terms to be cited under the city code. A person who makes unreasonable noise by yelling is currently arrested under the state Disorderly Conduct statute ORS 166.025. The amendment would give the officer the option of citing or arresting the person violating the law depending on the circumstances before the officer.

## **THE CHALLENGE/PROBLEM:**

Should the city pass its own ordinance to address the problem of unnecessary noise by yelling or screaming (the usual case) thereby disturbing another person?

## **STAKEHOLDERS:**

- City of Sweet Home Police Officers – City of Sweet Home Police can use this ordinance change as a way of addressing a case where a person is making unnecessary noise by yelling or screaming to cite the person into municipal court for a city violation (\$500 max fine) without arresting the person .

## **ISSUES & FINANCIAL IMPACTS:**

There should be no financial related issues in the implementation of this ordinance change.

## **ELEMENTS OF A STABLE SOLUTION:**

The enforcement of this ordinance change will give the police another option to use in enforcing the law and maintaining a livable community.

## **OPTIONS:**

1. Do Nothing. Use ORS 166.025 Disorderly Conduct II (making unreasonable noise) to address the problem.
2. Make a Motion to move the proposed unnecessary noise ordinance amendment to first reading.

3. Revise the proposed ordinance. Make additional changes or additions to the proposed ordinance.

**RECOMMENDATION:**

4. Staff recommends option 2, *Make a Motion to move the proposed unnecessary noise ordinance amendment to first reading.*



## **§ 9.20.020 UNNECESSARY NOISE.**

A. No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of another person. ~~However, this section does not include noises that are made by a human voice, except as specifically listed hereafter.~~

B. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but the enumeration shall not be construed to be exclusive:

1. The keeping of any bird or animal, except a dog, which, by causing frequent or long-continued noise, shall disturb the comfort and repose of any person in the vicinity;
2. The use of engine brakes also known as "Jake brakes" inside the city limits of the city;
3. The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity;
4. The use of any vehicle or engine, either stationary or moving, so operated as to create any loud or unnecessary grating, grinding, rattling or other noise;
5. The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger;
6. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger or upon request of proper city authorities;
7. The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled;
8. The erection, including excavation, demolition, alteration or repair of any building in residential districts, other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of the public welfare and safety, and then only with a permit granted by the building officials;
9. The use of and gong or siren upon any vehicle, other than police, fire or other emergency vehicle;
10. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use or adjacent to any hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of the institution or which disturbs or unduly annoys patients;
11. The discharge, in the open air, of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;
12. The use or operation of any automatic or electric piano, phonograph, radio, television, loudspeaker or any instrument for sound producing or any sound-amplifying device so loudly as to disturb person(s) in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that, upon application to the Chief of Police (or, if a sound-amplifying device is in a city park, to the Park Director), permits may be granted for the broadcast or amplification of entertainment programs or to any organization for the broadcast of programs of music, speeches or general entertainment as a part of a national, state or city event, public festivals or outstanding events of a non-commercial nature; provided that, the broadcast or

amplification shall not be audible for a distance of more than 1,000 feet from the instrument, speaker or amplifier and, in no event, shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result. This subsection does not apply to church chimes or bells that are in proper working order and approved by the City Council. The City Council, upon application to it, may grant under stated conditions a sound-amplifying permit to suspend the 1,000-foot limitation and provide for the proper regulation of traffic;

13. The making of any noise by crying, calling or shouting or by any means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever; provided that, newsboys may sell newspapers and magazines by public outcry;

14. The conducting, operating or maintaining of any garage within 100 feet of any private residence, apartment, rooming house or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.; and/or

15. The running of the refrigeration unit, compressor and/or motor in or about a refrigerated trailer within 300 feet of any residence for longer than 15 minutes within any 24-hour period.

C. Further, this section does not apply, where the City Council has upon application to it approved a permit for events or programs referred to in this section for sound-producing or sound-amplifying devices that are audible for more than 1,000 feet from the device or under 1,000 feet if traffic is involved, upon conditions set by the City Council for either occurrence.

(Ord. 1203, §§ 31, 32, 2008; Ord. 1072, § 1, 1994; Ord. 1048, § 1, 1992; Ord. 1043, § 1, 1992; Ord. 955, § 13, 1986)

ORDINANCE BILL NO. \_\_\_\_\_ FOR 2019

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE UNNECESSARY NOISE SECTION OF THE  
SWEET HOME MUNICIPAL CODE

The City of Sweet Home does ordain as follows:

Section 1. SHMC 9.20.020 A. is amended to read as follows:

A. No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of another person.

PASSED by the Council and approved by the Mayor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager - Ex Officio City Recorder



# REQUEST FOR COUNCIL ACTION

<b>PREFERRED AGENDA:</b> September 24, 2019 <b>SUBMITTED BY:</b> R. Snyder, City Attorney <b>REVIEWED BY:</b> R. Towry, City Manager	<b>TITLE:</b> An Ordinance Relating to Urinating or Defecating in Public Places <b>ATTACHMENTS:</b> New SHMC Section	<b>TYPE OF ACTION:</b> <input type="checkbox"/> RESOLUTION <input checked="" type="checkbox"/> MOTION <input type="checkbox"/> ROLL CALL <input type="checkbox"/> OTHER
<b>RELEVANT CODE/POLICY:</b> SHMC 9.24	<b>TOWARD COUNCIL GOAL:</b> Goal 3.2 Look for methods to improve community safety. Vision: 1. Make Sweet Home a community people find desirable to live in. 2. Economically strong environment in which businesses prosper.	

## **PURPOSE OF THIS RCA:**

The purpose for this RCA is to create a code section that provides the Police with the option of citing a person as a city violation for urinating or defecating in a public place except in a restroom or toilet facility maintained for such purposes.

## **BACKGROUND/CONTEXT:**

This ordinance addresses the health issue of urinating or defecating in public places except restrooms. The ordinance is based on health issues of spreading germs and diseases to the public. When confronted with this issue the Police are currently using ORS 164.785 titled Placing Offensive Substances in Waters, on Highways or Other Property that makes it unlawful to place an offensive substance on any street etc. This proposed ordinance specifies urinating and defecating by persons to be in violation of the law as a city code violation. The Chief thought it would help his department the best by having urinating or defecating in a public place as set out in the proposed ordinance treated as a city violation (Max fine \$500) thereby giving the Officer the option of citing the person for city code violation or arresting the person under state statute ORS 164.785.

## **THE CHALLENGE/PROBLEM:**

Should the city pass its own ordinance to address the problem of public urination and defecation in inappropriate public places?

## **STAKEHOLDERS:**

- City of Sweet Home Citizens – Have to contend with the health problems associated with improper public urination and defecation.
- City of Sweet Home Police Officers – Can use this ordinance to help promote better behavior and choices by the people they come in contact within their duties.

## **ISSUES & FINANCIAL IMPACTS:**

There should be no financial related issues in the implementation of this ordinance.

**ELEMENTS OF A STABLE SOLUTION:**

The enforcement of this ordinance will help promote good health for the public, and tools to ensure the Police Officers can fulfill the community's vision of Sweet Home being desirable to live in.

**OPTIONS:**

1. Do Nothing. Use ORS 164.785 to address the problem.
2. Motion to move the proposed ordinance titled An Ordinance Relating to Urinating or Defecating in Public Places to a first reading.
3. Revise the proposed ordinance. Make additional changes or additions to the proposed ordinance.

**RECOMMENDATION:**

Staff recommends option 2, Make a motion to move the ordinance titled An Ordinance Relating to Urinating or Defecating In Public Places to a first reading.

ORDINANCE BILL NO. \_\_\_\_\_ FOR 2019

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO URINATING OR DEFECATING IN PUBLIC PLACES

WHEREAS, the City of Sweet Home wishes to promote clean and sanitary public areas and provide for the general good health of the public;

Now therefore,

The City of Sweet Home does ordain as follows:

Section 1. SHMC 9.24.050 titled URINATING OR DEFECATING IN PUBLIC PLACES is created to read as follows:

It shall be unlawful for any person to intentionally or recklessly urinate or defecate in any public place except a restroom or toilet facility maintained for such purposes.

Section 2. Violation of this section constitutes a violation and may be prosecuted under the provisions of SHMC Chapter 9.36.

PASSED by the Council and approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager - Ex Officio City Recorder

**ORDINANCE BILL NO. 2 FOR  
2019 ORDINANCE NO.**

**SWEET HOME ORDINANCE PERTAINING TO AUTHORIZING THE OPERATION OF CLASS IV ALL-TERRAIN VEHICLES ON STREETS LOCATED WITHIN THE CITY OF SWEET HOME, OREGON, BUT SUBJECT TO THE PROVISION OF [ORS 821.200\(1\)](#), AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF.**

WHEREAS, the Sweet Home City Council desires to adopt an ordinance authorizing the operation of all-terrain vehicles on City streets as located within the city limits of the City of Sweet Home; and

WHEREAS, the Sweet Home City Council has determined that it is necessary to impose certain restrictions on the operation of all-terrain vehicles on such streets for the purpose of protecting the interest and safety of the general public;

NOW THEREFORE,

The City of Sweet Home does ordain as follows:

**Section 1. – Purpose:**

The purpose of this Ordinance is to authorize the operation of All-terrain vehicles on City streets within the City of Sweet Home subject to the terms, provisions, rights and responsibilities as set forth in this Ordinance.

**Section 2. – Definitions:**

For the purpose of this Ordinance, the following definitions are hereby established:

- (a) All-Terrain Vehicle(s) (ATV(s)), means Class I All-Terrain Vehicles, Class II All-Terrain Vehicles, Class III All-Terrain Vehicles, and/or Class IV All -Terrain Vehicles
- (b) ATV Operator Permit, means the ATV Safety Education Card issued upon completion of an Oregon Parks and Recreation Departments approved ATV Safety Education course and passage of the minimum standards test of ATV Safety Education competency as established by the Oregon Parks and Recreation Department as set forth in [OAR 736-004-0015\(10\)](#).
- (c) Class I All-Terrain Vehicles, as defined by [ORS 801.190](#). is a motorized, off-highway recreational vehicle that (a) is 50 inches or less in width, (b) has a dry weight of 1,200 pounds or less, (c) travels on three or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less, (d) uses handlebars for steering, (e) has a seat designed to be straddled for the operator, and (f) is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other

natural terrain. Class I All-Terrain Vehicles may also be known as quads, three-wheelers, or four wheelers.

- (d) Class II All-Terrain Vehicles, as defined by [ORS 801.193](#) is any motor vehicle that (a) weighs more than or is wider than a Class I All-Terrain Vehicle, (b) is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, (c) is not a Class IV All-Terrain Vehicle, and (d) is street-legal, is registered under [ORS 803.420](#), and has a roof or roll bar. Class II All – Terrain Vehicles may also be known as four-by-fours, pickups, jeeps, sand rails, dune buggies, and SUV's.
- (e) Class III All-Terrain Vehicle and Class IV All-Terrain Vehicle(s), as defined by [ORS 801.194](#). Class III All-Terrain Vehicle means a motorcycle that travels on two tires and that is actually being operated off highway.
- (f) Class IV is any motorized vehicle that (a) travels on four or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less, (b) is designed for or capable of cross-country travel on or immediately over, land, water, snow, ice, marsh, swampland or other natural terrain, (c) Has nonstraddle seating (d) Has a steering wheel for steering control, (e) Has a dry weight of 1,800 pounds or less; and (f) Is 65 inches wide or less at its widest point, or current manufacturing standards of width and weight from the factory. Class IV All-Terrain Vehicles may also be known as side-by-sides.
- (g) Driver License, has the meaning given that term under [ORS 801.245](#).
- (h) Motorcycle Helmet, has the meaning given that term under [ORS 801.366](#). ORS [801.366](#) defines a Motorcycle Helmet as a protective covering for the head consisting of a hard, outer shell, padding adjacent to and inside the outer shell and a chin-strap type retention system with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation.
- (i) Traffic Law(s), means any and all Oregon statutes and regulations relating in any way to the operation or use of motorized vehicles, including, without limitation, the Oregon Vehicle Code ([ORS Chapters 801 to 826](#)) and any regulations or administrative rules promulgated thereunder.
- (j) Street(s) means all roads, streets, and alleys, other than Highway 20 and Highway 228 as located within the boundaries of the City of Sweet Home that are open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.
- (k) Hours of Operations, "daylight hours" means one hour before sunrise to one hour after sunset.

### **Section 3. – Operation of All-Terrain Vehicles on Streets Authorized.**

Subject to the provisions of this Ordinance, Class IV ATV's may be operated on Streets subject to the conditions and restriction set forth under [ORS 821.200](#). All-Terrain Vehicles are prohibited from operating under this Ordinance on Highway 20 and



Highway 228 as located within the City, except that a person may, while operating a Class IV ATV, cross the above highways to the extent permitted under applicable Oregon law, including, without limitation, [ORS 821.200\(1\)](#).

#### **Section 4. Regulations for Operation of All-Terrain Vehicles.**

All-Terrain Vehicles operating under this Ordinance must be operated in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including, without limitation, all applicable Traffic Law requirements (including, without limitation, [ORS 811.255](#)) and all posted speed limits.

#### **Section 5. Licensed Driver 16 Years or Older Required.**

A person operating a Class IV ATV under this Ordinance must be 16 years of age or older and hold a valid Driver License.

#### **Section 6. – All Terrain Vehicle Operator Permit Required.**

A person operating a Class IV All-Terrain Vehicle under this Ordinance must hold a valid Class IV ATV Operator Permit issued under [ORS 390.577](#).

#### **Section 7. – Safety Equipment Requirements.**

All-Terrain Vehicles operated under this Ordinance must be equipped with the safety equipment required under all applicable Traffic Laws, including, without limitation, [ORS 821.030](#), [ORS 821.040](#), [ORS 821.220](#), [ORS 821.230](#), and [OAR 735-116-000](#).

#### **Section 8. – Helmet Requirements.**

A person who is under 18 years of age must wear a Motorcycle Helmet with a fastened chin strap while riding as a passenger on an ATV operated under this Ordinance.

#### **Section 9. – Safety Belt Requirements.**

A person must be properly secured with a safety belt or safety harness while operating or riding as a passenger on an ATV operated under this Ordinance if such ATV as required to be equipped with safety belts or safety harnesses at the time the ATV was manufactured, or safety belts or safety harness have been installed on the ATV.

#### **Section 10. – Speed Limits.**

All-Terrain Vehicles operated under this Ordinance must be operated in compliance with all posted speed limits and may not be operated (a) at a rate of speed greater than reasonable and proper under the existing conditions, or (b) in a negligent manner so as to endanger or cause injury, death, and/or damage to the operator or person or property of another.

### **Section 11. – Prohibition on Operating All-Terrain While Driving Privileges Suspended.**

A person may not operate an ATV under this Ordinance while the person's driving privileges (i.e., Driver License) are suspended or revoked.

### **Section 12. – Financial Requirements.**

All-Terrain Vehicles operated under this Ordinance must meet the financial responsibility requirements under ORS 806. For purposes of this Section 12, "financial responsibility requirements" means the ability to respond in damages for liability, on account of accidents arising out of the ownership, operation, maintenance, and/or use of an ATV, in a manner provided under [ORS 806](#). The exemption in [806.020](#) does not apply to this ordinance.

### **Section 13. –Hours of Operation Rules.**

All-Terrain Vehicles may be operated during daylight hours with headlights and taillights. All-Terrain Vehicles may be operated during hours of darkness and when limited visibility conditions exist if it is equipped with lighting equipment required for a motor vehicle under [ORS 816.320](#) (For example; high and low beam headlights, taillights, turn signals, and brake lights).

### **Section 14. – Posting.**

The City of Sweet Home will post signs giving notice that the operation of ATVs is permitted upon Streets under the provisions of this Ordinance. The City of Sweet Home will post such signs at locations necessary to inform the public that ATVs are permitted upon Streets, which sign locations will be determined by the City of Sweet Home in its sole discretion.

### **Section 15. – Liability.**

The operation of an ATV will be undertaken at the sole risk and responsibility of the owner and/or operator. The City of Sweet Home, by passing this Ordinance, assumes no responsibility of the operation of such ATVs and will be held harmless in any action arising from the operation of such ATVs on or off any public way within the City limits, including, without limitation, Streets.

### **Section 16. – Penalties.**

Any violation of this Ordinance that constitutes a violation of a Traffic Law, the penalty shall be the same as provided for by Oregon statute. Any other violation of this ordinance shall be commenced by the issuance of a citation and shall be prosecuted in

the Sweet Home Municipal Court as a City Violation as now in effect or as may be amended from time to time.

**Section 17. – Reference Statutes and Rules.**

All reference to particular laws, statutes, or rules include that law, statute, or rule as now in effect or as may be amended from time to time.

**Section 18. – Invalidity.**

If any section, subsection or part of this Ordinance is for any reason held invalid, unenforceable or unconstitutional, such holding will not affect the validity, enforceability or constitutionality of the remaining portions of this Ordinance.

**Section 19. – Snowmobiles.**

Nothing contained in this Ordinance applies to the operation of snowmobiles as that term is defined by [ORS 801.490](#).

**Section 20. – Modifications.**

The Chief of Police of the City of Sweet Home has the authority to modify the provisions of this Ordinance as a result of the occurrence of special events. Such modifications shall be temporary in nature and shall not violate Traffic Laws.

PASSED BY THE COUNCIL of the City of Sweet Home this \_\_\_\_ day of \_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager – Ex Officio City Recorder

## MEMO

DATE: SEPT. 24, 2019  
TO: SWEET HOME CITY COUNCIL  
FROM: ROBERT SNYDER, CITY ATTORNEY  
TOPIC: SECOND READING OF ORDINANCE RELATING TO UNLAWFUL  
TRANSFER ON VEHICULAR PORTION OF THE RIGHT-OF-WAY

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SUBJECT:

The Police Chief and I discussed what section of the code best fit placing the proposed new section in and decided that it would be best to put it in the Chapter of the Code titled Chapter 10.04: Traffic Regulations and Enforcement and that is the reason for the change in the SHMC reference from Chapter 9.24 to Chapter 10.04 in the proposed ordinance. Also the wording in Section 2. changed so that it reads the same as the current text in Chapter 10.04. but the meaning is the same.

ORDINANCE BILL NO. \_\_\_\_\_ FOR 2019  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO UNLAWFUL TRANSFER ON VEHICULAR PORTION OF  
THE RIGHT-OF-WAY

WHEREAS, this ordinance is established by the City of Sweet Home to  
promotethe safe operation of vehicles upon roadways within the City and provide for the  
safety of the pedestrian public on and near its roadways;

Now therefore,

The City of Sweet Home does ordain as follows:

Section 1. SHMC ~~10.04.1459.24.040~~ titled UNLAWFUL TRANSFER ON  
VEHICULAR PORTION OF THE RIGHT-OF-WAY is created to read as follows:

A. A person commits the violation of unlawful transfer on a vehicular portion of the  
right-of-way if the person, while a driver or passenger in a vehicle on a public highway,  
street or road within the boundaries of the City of Sweet Home, gives or relinquishes  
possession or control of, or allows another person in the vehicle to give or relinquish  
possession or control of any item of property to a pedestrian.

B. This section does not apply if the vehicle is legally parked.

Section 2. Violation of this section constitutes a violation and may be prosecuted  
under the provisions of ~~SHMC~~ Chapter ~~9.36 9.36 as now enacted or hereafter amended~~.

PASSED by the Council and approved by the Mayor this \_\_\_\_\_ day  
of \_\_\_\_\_ 2019 .

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager - Ex Officio City Recorder

ORDINANCE BILL NO. 3 FOR 2019  
ORDINANCE NO.

AN ORDINANCE RELATING TO UNLAWFUL TRANSFER ON VEHICULAR PORTION OF  
THE RIGHT-OF-WAY

WHEREAS, this ordinance is established by the City of Sweet Home to promote the safe operation of vehicles upon roadways within the City and provide for the safety of the pedestrian public on and near its roadways;

Now therefore,

The City of Sweet Home does ordain as follows:

Section 1. SHMC 10.04.145 titled UNLAWFUL TRANSFER ON VEHICULAR PORTION OF THE RIGHT-OF-WAY is created to read as follows:

A. A person commits the violation of unlawful transfer on a vehicular portion of the right-of-way if the person, while a driver or passenger in a vehicle on a public highway, street or road within the boundaries of the City of Sweet Home, gives or relinquishes possession or control of, or allows another person in the vehicle to give or relinquish possession or control of any item of property to a pedestrian.

B. This section does not apply if the vehicle is legally parked.

Section 2. Violation of this section constitutes a violation and may be prosecuted under the provisions of Chapter 9.36.

PASSED by the Council and approved by the Mayor this \_\_\_\_ day of October, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager - Ex Officio City Recorder

SWEET HOME CITY COUNCIL  
COMMUNITY HEALTH COMMITTEE  
MEETING MINUTES

June 17, 2019

The meeting was called to order at 6:00 p.m. in the Sweet Home Police Department.

Present: Dick Knowles, Councilor Gourley, Jim Gourley, Bob Dalton, Mayor Mahler, Rhonda Greene, Ray Towry, Derek Ader, Ray Hughey and Councilor Trask

**Approval of Minutes May 20, 2019: (Gourley/Knowles)**

**Committee Reports:**

Health Fair Committee: Bob Dalton reported the Community Health Fair is August 17<sup>th</sup> from 9am until 2pm. Steelhead Fitness will be hosting a run. Other events may include free haircuts for kids. Lisa Gourley is looking into a "Student Debt" clinic. The committee is seeking donations and receiving applications for vendors. The Chamber website is online and looking at linking to the City website as well. The Committee is reaching a wider scope of healthcare providers.

Western University Project: Bob Dalton reported the Western University Cooking Program is full.

Hero Banner Project: Jim Gourley reported 60 banners are up and another 20 are committed. The goal was 80 by the end of the year.

Community Resources Committee: No Report

**New Business:**

Goals:

Additional contacts that should be invited for discussion were identified and included Ken Bronson, Derek Ader, Ray Hughey, Shirley Bird.

A final draft of the Western University survey is needed for information on why people use Urgent Care and will be used for Committee goal discussion.

Affordable Housing facilities are needed.

It was discussed to bring the school district into the Goal of Health-Related Education to develop a workforce ready population.

Health Services discussion.

The question was asked of the Committee, "Is there something that needs to be added and what is the potential of this committee". Bob Dalton felt the committee is helping serve needs to increase the availability of health services. Mayor Mahler stated the committee addresses all aspects of services within the community. City Manager Towry stated the purpose is to bring in other health care needs. There was general discussion as to the Committee's achievements. A list of accomplishments will be sought from each subgroup of the committee and an outline for

moving forward can be reviewed. Also, identification of facilities and staff and continuation of nurturing relationships with Western University and Samaritan Health to address addiction, resources and community needs.

**Good of the Order:**

**Meeting adjourned.**

With no further business the meeting adjourned. Next meeting July 15, 2019.

The foregoing is a true copy of the proceedings of the City Council Community Health Committee Meeting on June 17, 2019.

  
Chair – Councilor Gourley

  
Date:





# CITY OF SWEET HOME PLANNING COMMISSION MEETING MINUTES

July 1, 2019, 6:30 p.m.  
City Hall Annex, 1140 12th Avenue  
Sweet Home, OR 97386

## Call to Order and Pledge of Allegiance

### Roll Call of Commissioners:

**Present:** Commission Wolthuis; Commissioner Journey; Commissioner Stephens; Commissioner Herb; Commissioner Parker

**Absent (Excused):** Chairperson Gatchell; Commissioner Korn

**Staff:** Blair Larsen, CEDD Director; Angela Clegg, Assoc. Planner; Dana Nichols, COG Planner; Sophie McGinley, COG Planner

**Visitors:** None

**Public Comment.** None

### Review and Approval of Meeting Minutes:

- March 18, 2019

Comments Included: Corrections on page 4 made by Commissioner Journey. Commissioner Wolthuis asked to verify the motions for reopening the hearing on page 4. Angela will listen to the recording and verify.

**Commissioner Stephens** moved to approve the March 18, 2019 Planning Commission Meeting Minutes with stated corrections.

**Commissioner Journey** seconded the motion to approve the March 18, 2019 Meeting Minutes with corrections.

#### Question was called

**Aye** 5

**Nay** 0

**Absent** 2

**Motion Approved (5) Ayes to (0) Nays**

- April 15, 2019

Comments Included: Corrections on Page 3 and 4 stated by Commissioner Journey.

**Commissioner Journey** moved to approve the April 15, 2019 Planning Commission Meeting Minutes with stated corrections.

**Commissioner Stephens** seconded the motion to approve the April 15, 2019 Meeting Minutes with stated corrections.

#### Question was called

**Aye** 5

**Nay** 0

**Absent** 2

**Motion Approved (5) Ayes to (0) Nays**

**Public Hearing. File VR19-05:** The applicant had requested to withdraw the application.

**Staff Update on Planning Projects:**

- McGinley spoke briefly about the new House Bill 2001. States that cities with a population over 10,000 must allow duplexes on residential lots. No more exclusive single-family zoning. Code language must be in place by June 30, 2021.
- August 5, 2019 Planning Commission Meeting will be held at the Police Station Conference Room at 1950 Main Street, Sweet Home, OR 97386 at 6:30 PM.
- September 2, 2019 Planning Commission Meeting will be at the New City Hall Conference Room located at 3225 Main Street, Sweet Home, OR 97386 at 6:30 PM.

Commissioner Journey reminded the commissioners that September 2<sup>nd</sup> is Labor Day. It was put before the Commission to either hold the meeting September 3<sup>rd</sup>, 9<sup>th</sup> or 16<sup>th</sup>. Make a decision by the August 5, 2019 meeting.

**Training:** led by Sophie McGinley, COG Planner

- McGinley presented a PowerPoint and provided a 1-page summary on Land Use 101 (Attachment A).

Commissioners had discussions with McGinley and Nichols throughout the presentation.

**Adjourned at 8:00 PM**

The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the Community and Economic Development Office at (541) 367-8113.

Persons interested in commenting on these issues should submit testimony in writing to the Community and Economic Development Department Office located in City Hall prior to the hearing or attend the meeting and give testimony verbally. Persons who wish to testify will be given the opportunity to do so by the Chair of the Commission at the Planning Commission meeting. Such testimony should address the zoning ordinance criteria which are applicable to the request. The Sweet Home Planning Commission welcomes your interest in these agenda items. Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered at the meeting; however, the Commission may consider additional subjects as well. This meeting is open to the public and interested citizens are invited to attend.

The failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost. Please contact the Community and Economic Development Department at 1140 12th Ave, Sweet Home, Oregon 97386; Phone: (541) 367-8113.

**To the best of the recollection of the members of the Planning Commission, the foregoing is a true copy of the proceedings of the Public Meeting of July 1, 2019.**

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Henry Wolthuis Vice Chairperson  
Sweet Home Planning Commission

Respectfully submitted by: Angela Clegg, Associate Planner

## Planning Commission Process and Procedure for Public Hearings

- Open each Hearing individually
- Review Hearing Procedure (SHMC 17.12.130)
- Hearing Disclosure Statement (ORS 197.763)
  - At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:  
READ: “The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.”
- Declarations by the Commission:
  - Personal Bias - Prejudice or prejudgment of the facts to such a degree that an official is incapable of making an objective decision based on the merits of the case.
  - Conflict of Interest - Does any member of the Commission or their immediate family have any financial or other interests in the application that has to be disclosed.
  - Ex Parte Information - The Planning Commission is bound to base their decision on information received in the Public Hearing and what is presented in testimony. If a member of the Planning Commission has talked with an applicant or has information from outside the Public Hearing it needs to be shared at that time so that everyone in the audience has an opportunity to be aware of it and the rest of the Planning Commission is aware of it. In that way it can be rebutted and can be discussed openly.
- Staff Report
  - Review of application
  - Discussion of relative Criteria that must be used
  - During this presentation the members of the Planning Commission may ask questions of the staff to clarify the application or any part of the Zoning Ordinance or the applicable information.
- Testimony
  - Applicant’s Testimony
  - Proponents’ Testimony
    - Testimony from those wishing to speak in favor of the application
  - Opponents’ Testimony
    - Testimony from those wishing to speak in opposition of the application
  - Neutral Testimony
    - Testimony from those that are neither in favor nor in opposition of the application.
  - Rebuttal
- Close Public Hearing
- Discussion and Decision among Planning Commissioners
  - Motion
    - Approval
    - Denial
    - Approval with Conditions
    - Continue
- If there is an objection to a decision it can be appealed to the City Council. The Planning Commission shall set the number of days for the appeal period. At the time the City Council goes through the Public Hearing Process all over again.
  - Recommendation made by Planning Commission—City Council makes final decision.
  - If you have a question, please wait until appropriate time and then direct your questions to the Planning Commission. Please speak one at a time so the recorder knows who is speaking.

## History

Governor Tom McCall's *Senate Bill 100* Passes in 1973 and creates:

- Department of Land Conservation and Development (DLCD)
- Land Conservation and Development Commission (LCDC)
- Urban Growth Boundaries (UGB)
- Statewide Planning Goals

## Goals\*

1. Citizen Involvement
2. Land Use Planning
3. Agricultural Lands
4. Forest Lands
5. Open spaces, scenic and historic areas and natural resources
6. Air, water and land resource quality
7. Areas subject to natural disasters and hazards
8. Recreation needs
9. Economy of the state
10. Housing
11. Public facilities and services
12. Transportation
13. Energy
14. Urbanization

\* Applicable to Sweet Home

## Sweet Home Plans

- 1994 Sweet Home Downtown Redevelopment Assessment Report
- 2000 Local Wetland Inventory
- 2003 Oregon Downtown Development Association Report
- 2003/2010 Comprehensive Plan
- 2005 Transportation System Plan
- 2010 Sweet Home Downtown Retail Market Analysis
- 2014 Park System Master Plan
- 2014 Sweet Home Livability Assessment

## Land Use Actions in Sweet Home

- Property Line Adjustment
- Annexation
- Partition
- Subdivision
- Conditional Use Permit
- Variance
- Map Amendment

## Types of Hearings

Legislative - create and adopt as law general policies and regulations for future land use within a jurisdiction. Examples include the adoption or revision of a comprehensive plan, zoning regulations, or a subdivision ordinance. LCDC goals must be considered for legislative land-use decisions.

Quasi-Judicial - apply the law to specific land development or use proposals. Examples of quasi-judicial decisions include small-tract zoning designations, conditional use permits, and major land divisions. They typically involve the exercise of discretion by the decision-making official or body in applying general criteria of the plan or ordinance to the facts of a land development application. Quasi-judicial decisions always involve the property rights of specific persons.

Ministerial or Administrative - apply "clear and objective standards" for which the local government provides no right to a hearing. These decisions that are delegated to staff with the appropriate safeguards for the rights and interests of the affected parties. Examples include property line adjustments.

## Application Review

Final action on most applications within 120 days of the application being deemed complete. Applicants must be advised of any missing information within 30 days of submittal and have 180 days to respond.

<b><u>Type of Decision</u></b>	<b><u>Notification</u></b>	<b><u>Hearings</u></b>	<b><u>Findings</u></b>	<b><u>Appeal</u></b>
<b>Legislative</b>	Notice must be provided consistent with local policies--but also to specific groups, agencies and LCDC if application of goals is involved	All local legislative land -use actions are required to be taken after a public hearing.	Goal 2 requires land-use decisions have an "adequate factual base". These decisions must be supported by written findings.	Land use decisions are subject to appeal only to LUBA. The scope of review only includes a determination of consistency with LCDC goals and the local comprehensive plan
<b>Quasi-Judicial</b>	Must identify the type of land use decision to be made and the time and place of the hearings	Parties are entitled to present and rebut evidence presented by others. The proponent has the burden of proof. Evidence that is not included in testimony or as part of the record may not be cited as a basis for the decision	Decisions are not final until written findings have been adopted by the decision-making body. Failure to prepare and adopt "adequate" findings can result in reversal or remand of a decision.	The law requires that a notice of a quasi-judicial decision be sent to all parties of the preceding. Decisions can be appealed directly to LUBA, but jurisdictions can provide more than one level of appeal.
<b>Ministerial or Administrative</b>	No required, but generally provided	Not required*.	Not required.	

\* May be required if there is a partition involving an access easement or if there is an appeal of a ministerial or administrative decision.

#### **Resources:**

DLCD Representative: Patrick Wingard [patrick.wingard@state.or.us](mailto:patrick.wingard@state.or.us)

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

[www.sweethomeor.gov/ced/page/planning-division](http://www.sweethomeor.gov/ced/page/planning-division)

<http://www.co.linn.or.us/index.php?content=planning>



# CITY OF SWEET HOME PLANNING COMMISSION MEETING MINUTES

August 5, 2019, 6:30 p.m.

Police Department Conference Room, 1950 Main Street  
Sweet Home, OR 97386

## Call to Order and Pledge of Allegiance

### Roll Call of Commissioners:

**Present:** Commissioner Wolthuis, Commissioner Jurney, Commissioner Stephens, Commissioner Parker

**Absent (Excused):** Chairperson Gatchell, Commissioner Herb, Commissioner Korn

**Staff:** Blair Larsen, CEDD Director; Angela Clegg, Assoc. Planner; Joe Graybill, Staff Engineer

### Visitors:

Scott Rice, 28853 Liberty Rd, Sweet Home, OR 97386

Cole Rinehart, ATS, 2475 Harding Street, Sweet Home, OR 97386

James Metzger, ATS, 2463 Harding Street, Sweet Home, OR 97386

David R Staup, 1088 W 35<sup>th</sup> Avenue, Sweet Home, OR 97386

**Public Comment.** None

### Review and Approval of Meeting Minutes:

- May 6, 2019

Comments Included: No comments

**Commissioner Jurney** moved to approve the May 6, 2019 Planning Commission Meeting Minutes.

**Commissioner Parker** seconded the motion to approve the May 6, 2019 Meeting Minutes.

### Question was called

**Aye** 4

**Nay** 0

**Absent** 3

**Motion Approved (4) Ayes to (0) Nays**

**Public Hearing Continuation for File P19-04 & VR19-04:** The applicant is requesting to partition a 42,235 square foot property into three parcels. Proposed Parcel 1 would contain 10,890 square feet. Proposed Parcel 2 would contain 10,890 square feet. Proposed Parcel 3 would contain 16,331 square feet (not including the flag pole). The applicant is also seeking a variance to reduce the minimum lot width at front building line from 80 feet to 72.50 feet on proposed Parcel 1 and 72.61 feet on proposed Parcel 2 to have the minimum 25-foot frontage width for proposed Parcel 3. The subject property is in the Residential Low-Density (R-1) Zone.

**PUBLIC HEARING OPENED AT 6:40 PM**

Vice Chair Wolthuis read the description of the application and the Planning Commission proceeding process rules and regulations.

**The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.**

**Personal Bias:** No

**Conflict of Interest:** No

**Exparte Information:** Commissioner Journey has a friend that lives in the neighborhood. Journey drives past the property occasionally.

**Staff:** Assoc. Planner Clegg read the recommendations and conditions of approval. Commissioners had no questions for staff.

**Applicant:** James Metzger, 1133 Karrisdale Drive SE, Albany, OR 97322 testified on behalf of his application. The applicant presented a new site plan via his cell phone. It was shown to staff.

Assoc. Planner Clegg drew a rough sketch on the whiteboard for Commissioners to see. The applicant, Commissioners and staff discussed the sketch finding it did not meet the variance criteria either because the middle lot does not front a public street. CEDD director Larsen directed the Commissioners to decide based on what is proposed at the meeting.

Commissioner Journey stated that the decision should be made based on the application as presented in the packet. Commissioner Stephens asked if the driveway will be paved all the way to the third lot. A discussion proceeded between Staff Engineer Graybill and the applicant regarding the driveway and access.

**Testimony in Favor:** None

**Testimony in Opposition:** None

**Neutral Testimony:** None

**Rebuttal:** None

## **PUBLIC HEARING CLOSED AT 7:06 PM**

### **Planning Commission discussed the application.**

Commissioner Journey: stated that the application does not meet the variance criteria and recommends denial.

Commissioner Wolthuis: Disagreed with Commissioner Journey and wanted to find a way to pass the application.

Chair Gatchell: Absent

Commissioner Stephens: agrees that the application does not meet criteria, but wants to figure out a way to pass it so the property can be developed.

Commissioner Herb: Absent

Commissioner Korn: Absent

Commissioner Parker: agreed with Commissioner Journey that the application does not meet the variance criteria.

Staff and Commissioners discussed the two options that the applicant presented.

## **PUBLIC HEARING REOPENED AT 7:26 PM**

The Commissioners asked the Mr. Metzger if he would be willing to make additional changes to present to the Commissioners. Mr. Metzger agreed. The Commissioners discussed the option of continuing the hearing. The decision was made to not continue the hearing and to vote at the meeting. The applicant can submit new site plans based on the discussions during the meeting.

## **PUBLIC HEARING CLOSED AT 7:10 PM**

**Commissioner Journey** moved to deny the Application P19-04 & VR19-04 and moved to deny the continuation of the Public Hearing to the September 3, 2019 Planning Commission Meeting and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision. A 12-day appeal period is set from the date of the mailing of the decision.

**Commissioner Parker** seconded the motion to deny the Application P19-04 & VR19-04 and moved to deny the continuation of the Public Hearing to the September 3, 2019 Planning Commission Meeting.

### **Question was called**

**Aye** 2

**Nay** 2

**Absent** 3

**Motion Failed (2) Ayes to (2) Nays**

Staff Recommended to the Commissioners to rehear the application at the September Planning Commission meeting with the new site plan presented by the applicant.

**Public Hearing. File P19-06 & CU19-08:** The applicant is requesting to partition a 78,750 square foot lot (Tax Lot 3700 of Map E29) in the Recreation Commercial (RC) Zone into two parcels: 46,349 square feet in proposed Parcel 1 and 32,401 square feet in proposed Parcel 2. The applicant is also requesting a Conditional Use Permit to build a home on Parcel 2, a requirement for residential uses not related to or in conjunction with a recreational development in the RC Zone. Parcel 2 has an existing pole building that will remain on the property. Parcel 1 has an existing home and the use of Parcel 1 will not change. The Conditional Use application is dependent on approval of the partition.

## **PUBLIC HEARING OPENED AT 7:29 PM**

Vice Chair Wolthuis read the description of the application and the Planning Commission proceeding process rules and regulations.

**The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.**

**Personal Bias:** No

**Conflict of Interest:** No

**Exparte Information:** No

**Staff:** Assoc. Planner Clegg read the recommendations and conditions of approval. Commissioners had no questions for staff.

Commissioner Journey directed a question to Staff Engineer Graybill regarding the addressing of the properties. Graybill explained the address assignment criteria.

**Applicant:** Scott Rice, 28853 Liberty Road, Sweet Home, OR 97386 testified on behalf of his application and gave a brief family history of the property. Planning Commissioners had no questions for the applicant.

**Testimony in Favor:** None

**Testimony in Opposition:** None

**Neutral Testimony:** None

**Rebuttal:** None

## **PUBLIC HEARING CLOSED AT 7:38 PM**



## **Planning Commission discussed the application.**

Commissioner Journey: had no issues with the application.

Commissioner Wolthuis: had no issues with the application.

Chair Gatchell: Absent

Commissioner Stephens: had no issues with the application.

Commissioner Herb: Absent

Commissioner Korn: Absent

Commissioner Parker: had no issues with the application.

## **Question was called**

**Aye 4**

**Nay 0**

**Absent 3**

## **Motion Approved (4) Ayes to (0) Nays**

**Commissioner Journey** moved to approve applications P19-06 & CU19-08 and thereby permit the partition and conditional use proposed at 1410 Clark Mill Road, Sweet Home, Oregon 97386; adopting the findings of fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision.

**Commissioner Stephens** seconded the motion to approve Applications P19-06 & CU19-08.

**Public Hearing. File P19-08 & VR19-06:** The applicant is requesting to partition a 20,812 square foot property into two parcels in the Low Density Residential (R-1) Zone. Proposed Parcel 1 is a 9,212 square foot flag lot (not including the flag pole). Proposed Parcel 2 is a 8,625 square foot lot. The applicant is also seeking a variance to reduce the required lot width for proposed Parcel 2, listed in SHMC 17.24.040(B), from 80 feet to 75 feet for Parcel 2.

## **PUBLIC HEARING OPENED AT 7:42 PM**

Vice Chair Wolthuis read the description of the application and the Planning Commission proceeding process rules and regulations.

**The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.**

**Personal Bias:** No

**Conflict of Interest:** No

**Exparte Information:** No

**Staff:** Assoc. Planner Clegg read the recommendations and conditions of approval. Commissioners had no questions for staff.

**Applicant:** David Staup, 3167 Blueberry Hill Road, Lebanon, OR testified on behalf of his application. Mr. Staup gave a history of the property and demolition of the building that were previously on the subject property.

Commissioner Journey asked the Applicant if he considered not partitioning and just building one house. Mr. Staup replied that he did not. There were originally two homes and he wanted to place two new homes on the property and improve the neighborhood.

Commissioner Parker asked if the applicant had a report on the well water. One well was closed off and cemented in. The second has been cleaned out and a new pump added. Water was tested and passed for drinking water purposes. The homes will share the single well.

Testimony in Favor: None  
Testimony in Opposition: None  
Neutral Testimony: None  
Rebuttal: None

## **PUBLIC HEARING CLOSED AT 7:50 PM**

### **Planning Commission discussed the application.**

Commissioner Journey: not in favor of the application. Does not meet criteria.  
Commissioner Wolthius: feels the variance should be allowed in order to develop the property.  
Chair Gatchell: Absent  
Commissioner Stephens: agrees with Commissioner Journey.  
Commissioner Herb: Absent  
Commissioner Korn: Absent  
Commissioner Parker: not in favor of the application. It's closer to the criteria but does not meet criteria.

**Commissioner Journey** moved to deny applications P19-08 & VR19-06 and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision. A 21-day appeal period is set from the date of the mailing of the decision.

**Commissioner Parker** seconded the motion to deny Applications P19-08 & VR19-06.

### **Question was called**

**Aye 3**

**Nay 1**

**Absent 3**

**Motion Denied (3) Ayes to (1) Nays**

**Public Hearing. File LA19-01:** This legislative amendment consists of text amendments to Title 17 and Title 17 of the Sweet Home Municipal Code (SHMC); Zoning Ordinance. Staff is in the process of preparing a new draft development code; however, there are several code updates that are needed now to facilitate administration of the planning program. Staff is requesting that the Planning Commission and City Council review the code amendments and direct staff to move these updates through the public text amendment review process prior to completion of our comprehensive code update.

This proposal includes amendments to following chapters of the SHMC: 16.08.010, Appeal; 17.12.090, Appeals; 16.16.030, Procedures; 17.12.20, Public Hearings on Amendments; 17.12.080, Notice of Land Use Decisions; 17.04.030, Definitions; 17.08.100, Access and Driveways; 17.88.040, Criteria; 17.08.050 Considerations; Addition of 17.12.085, Call by the City Manager.

## **PUBLIC HEARING OPENED AT 8:02 PM**

Vice Chair Wolthuis read the description of the application and the Planning Commission proceeding process rules and regulations.

**The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.**

**Personal Bias:** No

**Conflict of Interest:** No

**Exparte Information:** No

**Staff:** Assoc. Planner Clegg read the recommendations and conditions of approval.

A discussion between staff and the commissioners ensued about past conversations and actions by the City Manager. CEDD Director Larsen stated that he would meet with the City Manager and get his comments regarding the text amendments for SHMC 17.12.085.

Assoc. Planner Clegg read page 5 of the LA19-01 staff report, prepared by COG Planner Dana Nichols, regarding the removal of SHMC 17.88.050 and 17.88.040 and replace with new criteria 17.88.040 from the Model Code.

### **Planning Commission discussed the application.**

Commissioners discussed their wish to continue the public hearing for LA19-01. There were 3 Commissioners absent and the present Commissioners want to have all Commissioners present before they vote.

Commissioner Journey: requested that staff get a comment from the City Manager regarding Code Amendment 17.12.085 (A).

Commissioner Wolthius: discussed the letter he submitted to the Commissioners regarding the code amendments. Agreed with Commissioner Journey to continue the public hearing.

Chair Gatchell: Absent

Commissioner Stephens: Agreed with Commissioner Journey to continue the public hearing.

Commissioner Herb: Absent

Commissioner Korn: Absent

Commissioner Parker: Agreed with Commissioner Journey to continue the public hearing.

### **PUBLIC HEARING CLOSED AT 8:13 PM**

#### **Question was called**

**Aye 4**

**Nay 0**

**Absent 3**

**Motion Approved to continue hearing until the September 3, 2019 meeting (4) Ayes to (0) Nays**

### **Staff Update on Planning Projects**

- a. September Planning Commission Meeting is on Labor Day. Need to choose another date for the meeting.

The Commissioners voted to hold the September meeting on Tuesday, September 3, 2019.

### **Training/Workshop: HB 2001; led by Dana Nichols, COG Planner**

Dana Nichols, COG Planner, was unable to attend the August 5, 2019 meeting; therefore, the training was postponed until the September 3, 2019 meeting.

### **Adjournment 8:16 PM**

The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the Community and Economic Development Office at (541) 367-8113.

Persons interested in commenting on these issues should submit testimony in writing to the Community and Economic Development Department Office located in City Hall prior to the hearing or attend the meeting and give testimony verbally. Persons who wish to testify will be given the opportunity to do so by the Chair of the Commission at the Planning Commission meeting. Such testimony should address the zoning ordinance criteria which are applicable to the request. The Sweet Home Planning Commission welcomes your interest in these agenda items. Pursuant to ORS 192.640, this agenda includes a list of the principal

subjects anticipated to be considered at the meeting; however, the Commission may consider additional subjects as well. This meeting is open to the public and interested citizens are invited to attend.

The failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost. Please contact the Community and Economic Development Department at 1140 12th Ave, Sweet Home, Oregon 97386; Phone: (541) 367-8113.

**To the best of the recollection of the members of the Planning Commission, the foregoing is a true copy of the proceedings of the Public Meeting of August 5, 2019.**

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Henry Wolthuis Vice Chairperson  
Sweet Home Planning Commission

Respectfully submitted by: Angela Clegg, Associate Planner

## Planning Commission Process and Procedure for Public Hearings

- Open each Hearing individually
- Review Hearing Procedure (SHMC 17.12.130)
- Hearing Disclosure Statement (ORS 197.763)
  - At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:  
READ: “The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.”
- Declarations by the Commission:
  - Personal Bias - Prejudice or prejudgment of the facts to such a degree that an official is incapable of making an objective decision based on the merits of the case.
  - Conflict of Interest - Does any member of the Commission or their immediate family have any financial or other interests in the application that has to be disclosed.
  - Ex Parte Information - The Planning Commission is bound to base their decision on information received in the Public Hearing and what is presented in testimony. If a member of the Planning Commission has talked with an applicant or has information from outside the Public Hearing it needs to be shared at that time so that everyone in the audience has an opportunity to be aware of it and the rest of the Planning Commission is aware of it. In that way it can be rebutted and can be discussed openly.
- Staff Report
  - Review of application
  - Discussion of relative Criteria that must be used
  - During this presentation the members of the Planning Commission may ask questions of the staff to clarify the application or any part of the Zoning Ordinance or the applicable information.
- Testimony
  - Applicant’s Testimony
  - Proponents’ Testimony
    - Testimony from those wishing to speak in favor of the application
  - Opponents’ Testimony
    - Testimony from those wishing to speak in opposition of the application
  - Neutral Testimony
    - Testimony from those that are neither in favor nor in opposition of the application.
  - Rebuttal
- Close Public Hearing
- Discussion and Decision among Planning Commissioners
  - Motion
    - Approval
    - Denial
    - Approval with Conditions
    - Continue
- If there is an objection to a decision it can be appealed to the City Council. The Planning Commission shall set the number of days for the appeal period. At the time the City Council goes through the Public Hearing Process all over again.
  - Recommendation made by Planning Commission—City Council makes final decision.
  - If you have a question, please wait until appropriate time and then direct your questions to the Planning Commission. Please speak one at a time so the recorder knows who is speaking.



# CITY OF SWEET HOME PLANNING COMMISSION MEETING AGENDA

September 3, 2019, 6:30 p.m.  
City Hall Council Chambers, 3225 Main Street  
Sweet Home, OR 97386

## **Call to Order and Pledge of Allegiance**

### **Roll Call of Commissioners:**

**Present:** Chairperson Gatchell; Vice-Chair Wolthuis; Commissioner Jurney; Commissioner Stephens; Commissioner Herb, Commissioner Korn, Commissioner Parker

**Staff:** Blair Larsen, DECC Director; Ray Towry, City Manager; Angela Clegg, Assoc. Planner; Joe Graybill, Staff Engineer; Dana Nichols, COG Planner; Justin Peterson, COG Planner.

**Visitors:** James Metzger, 1133 Kerrisdale Drive SE, Albany, OR 97322

**Public Comment.** None

### **Training/Workshop: HB 2001;** led by Dana Nichols, COG Planner

Assoc. Planner Clegg was unable to get the training PowerPoint up on the screen for the Commissioners to view. Clegg will email a copy of the PowerPoint to the Commissioners for review and comment.

COG Planner Nichols gave a brief summary of HB 2001. CEDD Director Larsen added comments to Nichols presentation. Changes don't need to be in place until June 2022.

There was a brief discussion on the presentation between staff and the commissioners.

**Public Hearing Continuation for File P19-04 & VR19-04:** The applicant is requesting to partition a 42,235 square foot property into three parcels. Proposed Parcel 1 would contain 10,890 square feet. Proposed Parcel 2 would contain 10,890 square feet. Proposed Parcel 3 would contain 16,256 square feet (not including the flag pole). The applicant is seeking a variance to use the flag pole of Parcel 3 as an access easement for Parcels 1 and 2. The subject property is in the Residential Low-Density (R-1) Zone.

## **PUBLIC HEARING OPENED AT 6:45 PM**

Chair Gatchell read the description of the application and the Planning Commission proceeding process rules and regulations.

**The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.**

**Personal Bias:** No

**Conflict of Interest:** No

**Exparte Information:** No. Commissioner Herb drove by the property.

**Staff:** Assoc. Planner Clegg read the recommendations and conditions of approval using the new site plan submitted by the applicant during the August 5, 2019 Planning Commission meeting.

COG Planner Nichols stated that all three lots meet the minimum requirements for lot size in the zone, but do not meet the requirements for a variance. Nichols stated that the reasons for the recommendation of denial, the variance and the joint driveway, are the topics that are coming up time and again. This is the reason for the Code Amendment update discussions.

There was a brief discussion about which way the houses will face. COG Planner Nichols pointed out that the development does not apply to this application.

Commissioner Gatchell asked COG Planner Nichols to elaborate on the variance criteria and how the application does not meet criteria. Nichols read through each criterion and explained each. Nichols explained that the applicant must meet all the criteria, not just one or two in order to comply.

**Applicant:** James Metzger, 1133 Kerrisdale Drive SE, Albany, OR 97322 testified on behalf of his application. Gave a brief history of the process he has gone through for over two years in order to develop the property. Mr. Metzger mentioned that he was working on a third site plan that would add an additional flag pole for lot 2, so not lots would share a driveway and they would all have access to Harding street. Due to the holiday weekend Mr. Metzger was unable to get the third option ready for the September 3, 2019 meeting.

Commissioner Stephens asked the applicant about the position of the houses to be built on the lots. Mr. Metzger explained his proposed building site plan.

**Testimony in Favor:** None

**Testimony in Opposition:** None

**Neutral Testimony:** None

**Rebuttal:** None

## **PUBLIC HEARING CLOSED AT 7:10 PM**

### **Planning Commission discussed the application.**

Commissioner Jurney: Criteria is not met. Does not want to allow a variance for one property but not another. Wants to stick with criteria.

Commissioner Wolthius: Wants to pass something so that the applicant can develop the lot.

Chair Gatchell: Not in favor of some applicants being able to break code and others not. Criteria is not met, so not in favor of the application.

Commissioner Stephens: feels that the applicant should be able to build something on his lot and the planning commission should help him figure out how.

Commissioner Herb: Agrees with Commissioner Wolthuis. Feels there is plenty of room to develop and wanted to figure out a solution for the applicant.

Commissioner Korn: Lot sizes are large enough but does not like the shared driveway with Lot 2. Its close and wants to try to do something so the applicant can develop.

Commissioner Parker: Lot sizes are great, but criteria are not met. Harding Street will benefit from development

CEDD Director Larsen made a comment about the code not meeting the needs of the community. Larsen mentioned other options that could work without a variance including a second flag pole for Lot 2. Assoc. Planner Clegg commented that with a second flag lot going to Parcel 2 that Parcel 1 would still have over 9,000 square feet and therefore meets the lot size criteria of the zone.

There was a brief discussion about the location of the second flag pole.

The applicant would have to submit a new application with the double flag pole scenario. If the applicant chooses to do that, it would not have to go to the planning commission since there will be no variances or shared driveways proposed.

CEDD Director Larsen stated that this application is an example of why the City needs code text amendments.

Commissioner Wolthuis asked to reopen the hearing to discuss the options with the applicant.

#### **PUBLIC HEARING REOPENED AT 7:27 PM**

Chair Gatchell asked the applicant if the design with the 2<sup>nd</sup> flag pole is acceptable. The applicant said he was. The applicant asked how long the code updates may take. Chair Gatchell stated that it could take 6 months or more. The applicant said he is willing to design the double flag lot so that he can move forward with the development of his property.

#### **PUBLIC HEARING CLOSED AT 7:30 PM**

**Commisioner Journey** moved to deny the Application P19-04 & VR19-04 and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision. A 12-day appeal period is set from the date of the mailing of the decision.

**Commissioner Parker** seconded the motion to deny the Application P19-04 & VR19-04

#### **Question was called**

**Aye 4**

**Nay 3**

**Absent 0**

**Motion Denied (4) Ayes to (3) Nays**

**Chair Gatchell** moved to take a 5-minute break.

**Public Hearing Continuation for File LA19-01:** This legislative amendment consists of text amendments to Title 16 and Title 17 of the Sweet Home Municipal Code (SHMC); Zoning Ordinance. Staff is in the process of preparing a new draft development code; however, there are several code updates that are needed now to facilitate administration of the planning program. Staff is requesting that the Planning Commission and City Council review the code amendments and direct staff to move these updates through the public text amendment review process prior to completion of our comprehensive code update.

This proposal includes amendments to following chapters of the SHMC: 16.08.010, Appeal; 17.12.090, Appeals; 16.16.030, Procedures; 17.12.20, Public Hearings on Amendments; 17.12.080, Notice of Land Use Decisions; 17.04.030, Definitions; 17.08.100, Access and Driveways; 17.88.040, Criteria; 17.08.050 Considerations; Addition of 17.12.085, Call by the City Manager.

#### **PUBLIC HEARING OPENED AT 7:40 PM**

Chair Gatchell read the description of the application and the Planning Commission proceeding process rules and regulations.

**The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.**

**Staff:** COG Planner Nichols stated that 17.12.150 Enforcement is missing from the agenda but is in the staff report.



Commissioner Gatchell asked why there was a continuation for the hearing. Assoc. Planner Clegg explained that at the August 5, 2019 Planning Commission meeting, the commissioners felt that they wanted all the commissioners present to vote on the code amendments.

Commissioner Stephens state that another reason the commissioners chose to continue the hearing was to get a statement from the City Manager. Commissioner Gatchell stated his understanding of the code. COG Planner Nichols reminded the commissioners of the memo from the City Manager included in their packets.

City Manager Ray Towry explained the code and the City Charter that regulates the rolls and responsibilities of the City Manager. Getting the codes revised will help alleviate some of the applications that come before the Planning Commission and are denied.

Chairman Gatchell recommended to the Commissioners to move the code amendments to City Council.

Commissioner Gatchell asked to have the code amendments corrected and moved to

### **PUBLIC HEARING CLOSED AT 7:52 PM**

**Commissioner Journey** moved to approve application LA19-01 and hereby direct staff to prepare a Request for Council Action and Ordinance Bill and recommend the code amendments to the City Council.

**Commissioner Herb** seconded the motion to approve application LA19-01 and recommend the code amendments to the City Council.

### **Roll Call Vote:**

Commissioner Journey: Aye  
Commissioner Walthius: Aye  
Chair Gatchell: Aye  
Commissioner Stephens: Aye  
Commissioner Herb: Aye  
Commissioner Korn: Aye  
Commissioner Parker: Aye

**Motion Approved (7) Ayes to (0) Nays**

### **Staff Update on Planning Projects**

Planning Commission Retreat: date and time discussion. CEDD Director discussed the purpose of the retreat. Assoc. Planner Clegg will send out a Doodle Pole to narrow down retreat dates.

Assoc. Planner Clegg mentioned the Harvest Festival and invited the Commissions to the Festival and to the Ground Breaking for the Phase II Project.

### **Adjournment 7:58 PM**

The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the Community and Economic Development Office at (541) 367-8113.

Persons interested in commenting on these issues should submit testimony in writing to the Community and Economic Development Department Office located in City Hall prior to the hearing or attend the meeting and give testimony verbally. Persons who wish to testify will be given the opportunity to do so by the Chair of the Commission at the Planning Commission meeting. Such testimony should address the zoning ordinance criteria which are applicable to the request. The Sweet Home Planning Commission welcomes your interest in these agenda items. Pursuant to ORS 192.640, this agenda includes a list of the principal

subjects anticipated to be considered at the meeting; however, the Commission may consider additional subjects as well. This meeting is open to the public and interested citizens are invited to attend.

The failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost. Please contact the Community and Economic Development Department at 3225 Main Street, Sweet Home, Oregon 97386; Phone: (541) 367-8113.

**To the best of the recollection of the members of the Planning Commission, the foregoing is a true copy of the proceedings of the Public Meeting of September 3, 2019.**

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Lance Gatchell, Chairperson  
Sweet Home Planning Commission

Respectfully submitted by: Angela Clegg, Associate Planner

## Planning Commission Process and Procedure for Public Hearings

- Open each Hearing individually
- Review Hearing Procedure (SHMC 17.12.130)
- Hearing Disclosure Statement (ORS 197.763)
  - At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:  
READ: “The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.”
- Declarations by the Commission:
  - Personal Bias - Prejudice or prejudgment of the facts to such a degree that an official is incapable of making an objective decision based on the merits of the case.
  - Conflict of Interest - Does any member of the Commission or their immediate family have any financial or other interests in the application that has to be disclosed.
  - Ex Parte Information - The Planning Commission is bound to base their decision on information received in the Public Hearing and what is presented in testimony. If a member of the Planning Commission has talked with an applicant or has information from outside the Public Hearing it needs to be shared at that time so that everyone in the audience has an opportunity to be aware of it and the rest of the Planning Commission is aware of it. In that way it can be rebutted and can be discussed openly.
- Staff Report
  - Review of application
  - Discussion of relative Criteria that must be used
  - During this presentation the members of the Planning Commission may ask questions of the staff to clarify the application or any part of the Zoning Ordinance or the applicable information.
- Testimony
  - Applicant's Testimony
  - Proponents' Testimony
    - Testimony from those wishing to speak in favor of the application
  - Opponents' Testimony
    - Testimony from those wishing to speak in opposition of the application
  - Neutral Testimony
    - Testimony from those that are neither in favor nor in opposition of the application.
  - Rebuttal
- Close Public Hearing
- Discussion and Decision among Planning Commissioners
  - Motion
    - Approval
    - Denial
    - Approval with Conditions
    - Continue
- If there is an objection to a decision it can be appealed to the City Council. The Planning Commission shall set the number of days for the appeal period. At the time the City Council goes through the Public Hearing Process all over again.
  - Recommendation made by Planning Commission—City Council makes final decision.
  - If you have a question, please wait until appropriate time and then direct your questions to the Planning Commission. Please speak one at a time so the recorder knows who is speaking.

# MEMORANDUM



TO: Planning Commission  
FROM: Ray Towry, City Manager  
DATE: August 30, 2019  
SUBJECT: Proposed SHMC 17.12.085 Call by the City Manager

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At the last Planning Commission meeting, one of you asked for my understanding of the proposed amendment to the development code, the proposed SHMC 17.12.085, Call by the City Manager.

The City Charter states that it is the duty of the City Manager "to see that all ordinances are enforced." (Sweet Home Charter, Chapter VI, Section 20, Paragraph (c)(1)) Additionally, anyone in the State of Oregon has standing to appeal a land use decision. The proposed amendment is an effort to clarify the City Manager's existing authority and outline the procedure for the use of that authority. A call by the City Manager is essentially an appeal filed by the City Manager.

Land Use decisions have the potential to open the City up to significant liability, especially if they do not comply with our code. This amendment simply spells out the mechanism through which the City Manager can protect the City and enforce our ordinances.

Please let me know if there are further questions. Thank you all for your service to the City.

Regards,

Ray Towry

August 11, 2019

Blair Larsen - Economic Development and Planning Director  
Angela Clegg - Asst.  
Members of the Sweet Home Planning Commission

Re: Planning Commission Decisions on Small and Large Lots in Sweet Home

Dear Blair, Angela and the Planning Commission:

I would like to express some thoughts and observations, and then receive some counsel from you. I believe this is a very delicate situation, and as a member of the Planning Commission, I know I need to be careful of what I say – particularly the when and where.

Ideally, somewhere in the times of our pioneers, someone would have annexed thousands of acres at a time to the city, and thoughtfully designed lots in a better way. This did not happen, and we have inherited a MESS, whether it pertains to the small lots on lower 18<sup>th</sup>, or the overly large lots that were formerly in the county (Foster Midway Area). None of these areas fit our “ideal model”, and most of them need individual attention from the planning commission.

These huge lots, that are really the size of three, are often a liability to the owner. One case in point is an elderly lady that has to hire it mowed. I suppose it is a property owners choice, if they want to keep it that way, and have a huge garden or crop, but if someone else wants to divide (infill), they should have that opportunity with flag lots. Finances are another issue. Taking a broad range, I assume that building lots are worth \$50,000 - \$100,000 or more, making it a huge loss to say they cannot divide and build another one or two homes on these lots. Considering the number of these lots, it could amount to millions.

I have a feeling that these large lots were made that way because of well water and septic health issues in the Foster Midway Area years ago. Water and Sewer problems are no longer an issue with city water and sewer available though out the city or potentially so with some extensions.

We discussed the standard 80 foot frontage, and Blair suggested we may want to take a look at that or even omit that requirement. That would resolve some of the issues when people are asking for perhaps a 72' frontage on some of these large lots so they can get a flagpole driveway. You can go to other parts of our country where you will see whole subdivisions with perhaps 60' frontages with beautiful neighborhoods. Of course, you won't have a sprawling ranch type house, but other designs work very well, including two story homes.

The other issue that came up in our last meeting was the function of the planning commission. I think it is to add a human element of judgment that can sometimes take precedence over the “letter of the law”. We do not always deal with standard perfect situations, but if we are going by the letter of the law, then we really aren't needed. The staff can do that.

We also now deal with some history. I think we are in a precarious situation , because we have already granted lot divisions (flag lots) and variances on dozens of these identical situations, but more importantly is the fact that we still have many in front of us (perhaps hundreds).

Infill is another consideration. We are encouraged by the state to INFILL where we can, including the recent changes to add a Mother-In -Law house in our back yards.

Now, I know that none of these issues are new to you, but I do want to communicate them to staff and my fellow planning commission members. I wanted to say more in our last meeting, but felt like it was premature to say things that would have made it into the newspaper, potentially complicating the existing situation with current applicants, so I refrained. If we need more public discussion on these issues though, I am willing to do so.

You will recall that at our last meeting, we dealt with two applications. One was denied, and the applicant was informed that they could appeal to the city council. The other resulted in a tie vote with only four members of the Planning Commission present, resulting in the recommendation that we continue that hearing to our next meeting, when more Commissioners would be present. If there was some way to readdress both of these applications, it would be a good thing. Here is my request.

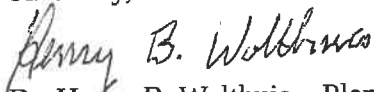
Step One - I know that I can legally discuss these issues with a staff member, and that is the reason I am approaching you first. I would appreciate your counsel and advice, of how to share this with the rest of the planning commission in advance of our next meeting.

Step Two -If it is permissible and with your advice, this letter could be included in our packet prior to the next meeting, fulfilling the intent to communicate with the other commission members. If appropriate, it wouldn't hurt to share with the City Council at a later date.

I commend those members who felt like two of the recent applications just didn't comply with the code and admittedly they don't. I can appreciate that some of the city council members have complained about our granting of variances. However, these are huge issues (financially and otherwise), and I feel that they need a human planning element if they are to be developed in the best way possible under less than perfect circumstances. In one case, by allowing slightly smaller frontages, two homes could be built facing the street, and a flag lot could still be developed. This also shortens the distance between the street and the flag lot significantly benefiting the access of fire apparatus. Lets not overlook also, that the flag lots, also reduce the number of drive way entrances into the street, which is a plus, and hopefully not sounding like a politician, the infill will generate additional property taxes to the benefit of our city.

I express my appreciation for the opportunity of working with each of you.

Sincerely,



Dr. Henry B. Wolthuis, Planning Commission Vice Chair.  
300 5<sup>th</sup> Ave.  
Sweet Home, Oregon 97386



## Finance Department

To: City Council  
Ray Towry, City Manager

From: Brandon Neish, Finance Director

Subject: Finance Department Monthly Report – August 2019

The Finance Department is responsible for the for the fiscal management of the City of Sweet Home. This includes accounts payable, payroll, general accounting, preparing the annual budget and the city's annual audit. This department also administers the city's assessment docket, coordinates employee's benefits and maintains financial records relating to grants and contracts. The following information represents the department's activities during the month of **August 2019**.

### Accounts Payable:

The Finance Department maintains a weekly schedule for AP disbursements when possible. City departments submit documentation through Springbrook to request payment to vendors. Once the Finance Department has a completed purchase order and invoice/receipt, a check is printed and mailed within seven (7) business days.

For the month of August 2019, 202 checks were printed totaling \$553,913.37. A list of the checks is provided for your review. Below is a list of the checks that were equal to or exceeded \$5,000 and their purpose (if not clear on list).

<u>Check No.</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
89486	FFA Architecture and Interiors, Inc.	Contractors conducting Library Needs Assessment	\$7,139.12
89510	Wilson Family Group, Inc.	Bobcat for Public Works (budgeted)	\$87,104.00
89516	Benton County Public Works	Street striping	\$7,130.00
89525	Correct Equipment, Inc.	Ultrasonic water meters	\$5,514.60
89530	Dude Solutions, Inc.	Transition to new software	\$9,420.20
89584	Valley Electric Company, LLC	New light fixtures at Water Treatment Plant	\$9,010.00
89594	American Bank & Trust	Loan payments for Police vehicles	\$27,935.00

#### Passports:

Since 2001, the city has been accepting passport applications for the United States Department of State. Travelers can call, stop by city hall or visit the city's website for information on application requirements.

For the month of August 2019, the city processed 18 passports and took 12 passport pictures.

#### Lien Searches:

The city has various liens that can be applied to properties in Sweet Home. The city can apply a lien for past due utility balances or a property owner can place a lien on their property for improvement assessments per ORS. An internet database maintains a list of these liens and is searchable by title companies for paying off outstanding balances during a sale. Each lien search generates \$25.00 for the city.

For the month of August 2019, 48 lien searches were completed.

#### Utility Billing:

Utility billing is responsible for the timely reading of water meters in the city and distribution of bills to residents and businesses. The revenue generated from the utility bills covers the costs associated with operating and maintaining the Water Treatment Plant and the Wastewater Treatment Plant as well as the maintenance of the city's distribution and collection systems.

For the month of August 2019, the city processed 241 service requests and saw 19 new customers open accounts in Sweet Home. In total, 53 accounts were opened and 46 were closed. The city processed 3,290 utility billing statements and 1,130 past due notices. **47 accounts were turned off for non-payment on August 14, 2019.**



# Bank Reconciliation

## Checks by Date

User: bneish  
 Printed: 09/12/2019 - 11:59PM  
 Cleared and Not Cleared Checks



Check No	Check Date	Name	Comment	Module	Clear Date	Amount
89477	8/5/2019	Amazon Capital Services, Inc.		AP		353.10
89478	8/5/2019	AMERICAN FAMILY VIDEO		AP		54.65
89479	8/5/2019	AT&T Mobility/First Net		AP		179.98
89480	8/5/2019	BLACKSTONE PUBLISHING		AP		69.89
89481	8/5/2019	BOOST CAPITAL, LLC		AP		145.60
89482	8/5/2019	COMCAST BUSINESS		AP		1,740.79
89483	8/5/2019	DAVID M. COREY Ph.D		AP		420.00
89485	8/5/2019	FASTENAL COMPANY		AP		309.63
89486	8/5/2019	FFA Architecture and Interiors, Inc.		AP		7,139.12
89487	8/5/2019	ARPAD GERZSENYI		AP		79.26
89488	8/5/2019	ICMA		AP		666.91
89489	8/5/2019	JUNIOR LIBRARY GUILD		AP		142.50
89490	8/5/2019	LANE FOREST PRODUCTS		AP		2,670.00
89491	8/5/2019	Blair Larsen		AP		9.50
89492	8/5/2019	CHARITY LESLIE		AP		102.49
89493	8/5/2019	LGPI		AP		1,444.00
89494	8/5/2019	Library Ideas, LLC		AP		689.10
89495	8/5/2019	LINN BENTON TRACTOR CO.		AP		1,727.87
89496	8/5/2019	LINN COUNTY CLERK		AP		2,591.59
89497	8/5/2019	LLOYD R. RICE TOWING SERVICE		AP		136.00
89498	8/5/2019	JULIE MASON		AP		82.73
89499	8/5/2019	MOONLIGHT BPO, INC.		AP		835.01
89500	8/5/2019	OFFICE DEPOT		AP		37.47
89501	8/5/2019	O'REILLY AUTOMOTIVE, INC.		AP		821.72
89502	8/5/2019	CRYSTAL PEARSON		AP		157.61
89503	8/5/2019	PRIMASING MOTORS, INC.		AP		1,719.34
89504	8/5/2019	PROFESSIONAL SECURITY ALARM		AP		650.00
89505	8/5/2019	GINA RILEY		AP		97.04
89506	8/5/2019	SWEET HOME ROTARY		AP		121.64
89507	8/5/2019	THYSSENKRUPP ELEVATOR CORP.		AP		528.03
89508	8/5/2019	JASON VAN ECK		AP		10.79
89509	8/5/2019	WELLS FARGO FINANCIAL LEASIN		AP		734.00
89510	8/5/2019	Wilson Family Group, Inc.		AP		87,104.00
89511	8/14/2019	ACCELA, INC. #774375		AP		1,536.00
89512	8/14/2019	All Star Tents and Party Rentals		AP		1,550.00
89513	8/14/2019	ALSCO		AP		385.98
89514	8/14/2019	Amazon Capital Services, Inc.		AP		124.84
89515	8/14/2019	ARAMARK UNIFORM SERVICES		AP		63.16
89516	8/14/2019	BENTON COUNTY PUBLIC WORKS		AP		7,130.00
89517	8/14/2019	Best Pots, Inc.		AP		960.00
89518	8/14/2019	Pamela Bielenberg		AP		100.00
89519	8/14/2019	BLACKSTONE PUBLISHING		AP		204.06
89520	8/14/2019	ELIJAH R. L. BROWN		AP		1,725.00
89521	8/14/2019	BUCK'S SANITARY SERVICE, INC.		AP		740.00
89522	8/14/2019	CENTER POINT LARGE PRINT		AP		175.56
89523	8/14/2019	COMCAST		AP		253.76

Check No	Check Date	Name	Comment	Module	Clear Date	Amount
89524	8/14/2019	COMCAST BUSINESS		AP		173.19
89525	8/14/2019	Correct Equipment, Inc.		AP		5,514.60
89526	8/14/2019	DAN DEE SALES		AP		100.00
89527	8/14/2019	DELUXE FOR BUSINESS		AP		971.73
89528	8/14/2019	DEMCO		AP		117.25
89529	8/14/2019	DLT SOLUTIONS, INC.		AP		1,107.56
89530	8/14/2019	DUDE SOLUTIONS, INC.		AP		9,420.20
89531	8/14/2019	Ennis-Flint, Inc.		AP		118.70
89532	8/14/2019	FASTENAL COMPANY		AP		113.53
89533	8/14/2019	FERGUSON WATERWORKS #3011 A		AP		8,885.22
89534	8/14/2019	JULIE FISHER		AP		64.38
89535	8/14/2019	Full Source, LLC		AP		145.05
89536	8/14/2019	GATEWAY IMPRINTS, INC.		AP		67.00
89537	8/14/2019	Grainger, Inc.		AP		497.06
89538	8/14/2019	Michael Hall		AP		600.00
89539	8/14/2019	HOY'S TRUE VALUE		AP		429.58
89540	8/14/2019	Danley P. Hutchins		AP		3.00
89541	8/14/2019	INGRAM LIBRARY SERVICES		AP		338.91
89542	8/14/2019	Ivers Law Office LLC		AP		100.00
89543	8/14/2019	KIP AMERICA, INC.		AP		240.00
89544	8/14/2019	Les and Bobs Sports and Apparel, Inc.		AP		1,173.60
89545	8/14/2019	Les Schwab Tire Centers of Portland, In		AP		75.81
89546	8/14/2019	CHARITY LESLIE		AP		165.49
89547	8/14/2019	LESTER SALES		AP		9.99
89548	8/14/2019	LIBDATA		AP		400.00
89549	8/14/2019	LINN BENTON TRACTOR CO.		AP		196.61
89550	8/14/2019	Linn County Road Department		AP		35.00
89551	8/14/2019	KATHRYN LYON		AP		44.00
89552	8/14/2019	KEVIN MAKINSON		AP		98.49
89553	8/14/2019	HEATHER MANN		AP		39.88
89554	8/14/2019	CHAYHOWA MCELHINNY		AP		35.00
89555	8/14/2019	MADELYN MCQUILLIAM		AP		90.69
89556	8/14/2019	MOONLIGHT BPO, INC.		AP		2,280.39
89557	8/14/2019	MOOSE CREEK MACHINE & REPAI		AP		40.00
89558	8/14/2019	NATIONAL PEN		AP		383.95
89559	8/14/2019	NATIONAL PHOTOCOPY CORPORA		AP		684.27
89560	8/14/2019	NEW ERA		AP		1,798.56
89561	8/14/2019	NORM'S ELECTRIC, INC.		AP		98.37
89562	8/14/2019	NORTHWEST NATURAL		AP		224.27
89563	8/14/2019	OCLC, INC.		AP		1,499.19
89564	8/14/2019	OFFICE DEPOT		AP		233.14
89565	8/14/2019	ONE CALL CONCEPTS		AP		76.80
89566	8/14/2019	O'REILLY AUTOMOTIVE, INC.		AP		109.96
89567	8/14/2019	PACIFIC POWER		AP		20,332.91
89568	8/14/2019	Ferguson Enterprises, Inc. #3325 Pollan		AP		675.00
89569	8/14/2019	KEITH ROHRBOUGH		AP		150.00
89570	8/14/2019	SAIF CORPORATION		AP		75.00
89571	8/14/2019	SAMARITAN HEALTH SERVICES, II		AP		110.00
89572	8/14/2019	SOUTH FORK TRADING CO., INC.		AP		7.90
89574	8/14/2019	STATE OF OREGON LOTTERY		AP		30.00
89575	8/14/2019	Stepper Consulting, Inc.		AP		21,501.00
89576	8/14/2019	SUNSHINE INDUSTRIES UNLIMITE		AP		1,300.00
89577	8/14/2019	SWEET HOME ROTARY		AP		121.64
89578	8/14/2019	Sweet Home Veterinary Hospital		AP		489.32
89579	8/14/2019	SYNCB/AMAZON		AP		1,875.14
89580	8/14/2019	THYSSENKRUPP ELEVATOR CORP.		AP		528.03

Check No	Check Date	Name	Comment	Module	Clear Date	Amount
89581	8/14/2019	TRAFFIC SAFETY SUPPLY CO., INC		AP		1,695.15
89582	8/14/2019	TWGW, INC. NAPA AUTO PARTS		AP		103.21
89583	8/14/2019	Uline Shipping Supplies		AP		742.53
89584	8/14/2019	Valley Electric Co., LLC		AP		9,010.00
89585	8/14/2019	VERIZON WIRELESS		AP		1,681.00
89586	8/14/2019	WELLS FARGO VENDOR FIN SERV		AP		157.93
0	8/15/2019	Vantagepoint Trf. Agents 300619		AP		2,840.00
0	8/15/2019	Vantagepoint Trf. Agents 705507		AP		658.33
0	8/15/2019	ASI-PAYROLL DEDUCTIONS		AP		156.27
0	8/15/2019	EBS TRUST		AP		80,173.74
0	8/15/2019	FEDERAL PAYROLL TAXES		AP		25,912.41
0	8/15/2019	HSA - PAYROLL DEDUCTIONS		AP		14,775.00
0	8/15/2019	FICA PAYROLL TAXES		AP		36,002.68
0	8/15/2019	PERS		AP		14,265.60
0	8/15/2019	AFLAC		AP		894.14
0	8/15/2019	NATIONWIDE-PAYROLL DEDUCTIO		AP		850.00
0	8/15/2019	SWEET HOME COMMUNITY FOUN		AP		224.13
0	8/15/2019	SWEET HOME POLICE EMPLOYEE		AP		1,360.00
0	8/15/2019	CHILD SUPPORT ACCOUNTING UN		AP		918.00
0	8/15/2019	OREGON PAYROLL TAXES		AP		21,316.08
0	8/15/2019	FIRST INVESTORS - PAYROLL DED		AP		350.00
0	8/15/2019	STANDARD INS. CO.		AP		4,513.50
0	8/15/2019	Vantagepoint Trf. Agents 108524/10904		AP		26,809.23
0	8/15/2019	MEDICARE		AP		8,582.14
89587	8/15/2019	OREGON AFSCME COUNCIL 75		AP		885.51
89588	8/15/2019	STEELHEAD STRENGTH & FITNES		AP		652.80
89589	8/15/2019	UNITED WAY		AP		50.00
89590	8/23/2019	A-1 COUPLING & HOSE		AP		116.67
89591	8/23/2019	ALBERTSONS / SAFEWAY		AP		20.00
89592	8/23/2019	ALL STAR AUTO SALES, INC.		AP		455.00
89593	8/23/2019	Amazon Capital Services, Inc.		AP		1,979.71
89594	8/23/2019	American Bank & Trust		AP		27,935.00
89595	8/23/2019	ARAMARK UNIFORM SERVICES		AP		63.16
89596	8/23/2019	BLACKSTONE PUBLISHING		AP		34.94
89597	8/23/2019	Canon Financial Services, Inc.		AP		417.01
89598	8/23/2019	Curtis Carlyle		AP		425.00
89599	8/23/2019	CENTER POINT LARGE PRINT		AP		175.56
89600	8/23/2019	CENTURYLINK		AP		1,446.26
89601	8/23/2019	COMCAST		AP		752.10
89602	8/23/2019	COMCAST BUSINESS		AP		867.79
89603	8/23/2019	SUZANNE COMRIE		AP		74.04
89604	8/23/2019	TERESA CULLEY		AP		54.47
89605	8/23/2019	DAN DEE SALES		AP		25.00
89606	8/23/2019	David Ramirez Galvan		AP		192.26
89607	8/23/2019	DAY MANAGEMENT CORPORATIO		AP		1,891.75
89608	8/23/2019	DEMCO		AP		481.36
89609	8/23/2019	DUDE SOLUTIONS, INC.		AP		3,371.26
89610	8/23/2019	Edge Analytical, Inc.		AP		385.00
89611	8/23/2019	FASTENAL COMPANY		AP		154.70
89612	8/23/2019	FEENAUGHTY MACHINERY CO.		AP		14.71
89613	8/23/2019	FERGUSON WATERWORKS #3011 A		AP		4,136.94
89614	8/23/2019	Gatehouse Eugene The Register Guard		AP		301.60
89615	8/23/2019	GATEWAY IMPRINTS, INC.		AP		525.10
89616	8/23/2019	CAROL GONZALES		AP		3.00
89617	8/23/2019	Grainger, Inc.		AP		166.40
89618	8/23/2019	LAMAR HANSEN		AP		13.22

Check No	Check Date	Name	Comment	Module	Clear Date	Amount
89619	8/23/2019	David Hickcox		AP		150.00
89620	8/23/2019	HOME DEPOT CREDIT SERVICES		AP		1,433.80
89621	8/23/2019	INDUSTRIAL WELDING SUPPLY, IN		AP		21.62
89622	8/23/2019	KIP AMERICA, INC.		AP		240.00
89623	8/23/2019	LANE FOREST PRODUCTS		AP		1,867.00
89624	8/23/2019	LESTER SALES		AP		5.40
89625	8/23/2019	LEXIPOL, LLC		AP		3,687.00
89626	8/23/2019	LIBERTY ROCK PRODUCTS, INC.		AP		744.94
89627	8/23/2019	Linn County District Attorney		AP		7.50
89628	8/23/2019	Yuki S. Martin		AP		415.00
89629	8/23/2019	JASON MCCORKLE		AP		44.33
89630	8/23/2019	METEREADERS, LLC		AP		1,991.43
89631	8/23/2019	MOONLIGHT BPO, INC.		AP		743.29
89632	8/23/2019	DEANA MORETTI		AP		19.11
89633	8/23/2019	NATIONAL PEN		AP		343.95
89634	8/23/2019	NET ASSETS		AP		399.00
89635	8/23/2019	O & M POINT S TIRE & AUTO SERV		AP		15.00
89636	8/23/2019	OREGON ECONOMIC DEVELOPME		AP		250.00
89637	8/23/2019	PETROCARD		AP		5,710.08
89638	8/23/2019	PITNEY BOWES		AP		144.12
89639	8/23/2019	REGIONAL AUTOMATED INFORM#		AP		2,341.57
89640	8/23/2019	JEREMY REHNBERG		AP		246.39
89641	8/23/2019	STEVEN RENFROW		AP		46.39
89642	8/23/2019	JUSTIN RICE		AP		46.39
89643	8/23/2019	KEITH ROHRBOUGH		AP		525.00
89644	8/23/2019	SAMARITAN HEALTH SERVICES, IT		AP		315.00
89645	8/23/2019	AMY SEIBER		AP		54.69
89646	8/23/2019	Sign Wizards, Inc.		AP		818.00
89647	8/23/2019	SOUTH FORK TRADING CO., INC.		AP		36.63
89648	8/23/2019	Stability Engineering, In.c		AP		1,300.00
89649	8/23/2019	SURE-CLEAN NORTHWEST, INC.		AP		50.00
89650	8/23/2019	Survey Monkey, Inc.		AP		900.00
89651	8/23/2019	SWANK MOTION PICTURES		AP		353.00
89652	8/23/2019	SWEET HOME ROTARY		AP		121.64
89653	8/23/2019	THE BUILDING DEPARTMENT, LLC		AP		5,556.20
89654	8/23/2019	Susan Thompson		AP		308.54
89655	8/23/2019	TRAFFIC SAFETY SUPPLY CO., INC		AP		1,046.42
89656	8/23/2019	VAN DYKE'S SIGNMAKER, INC.		AP		1,075.00
89657	8/23/2019	W. H. Cress Company, Inc.		AP		276.00
89658	8/23/2019	WALKER HEATING & AC, INC.		AP		625.00
89659	8/23/2019	WELLS FARGO FINANCIAL LEASIN		AP		49.00
89660	8/23/2019	WILBUR-ELLIS COMPANY LLC		AP		1,153.47
89661	8/23/2019	WIRE WORKS LLC		AP		1,750.00
89662	8/23/2019	DMV - Driver and Motor Vehicle Serv		AP		112.00

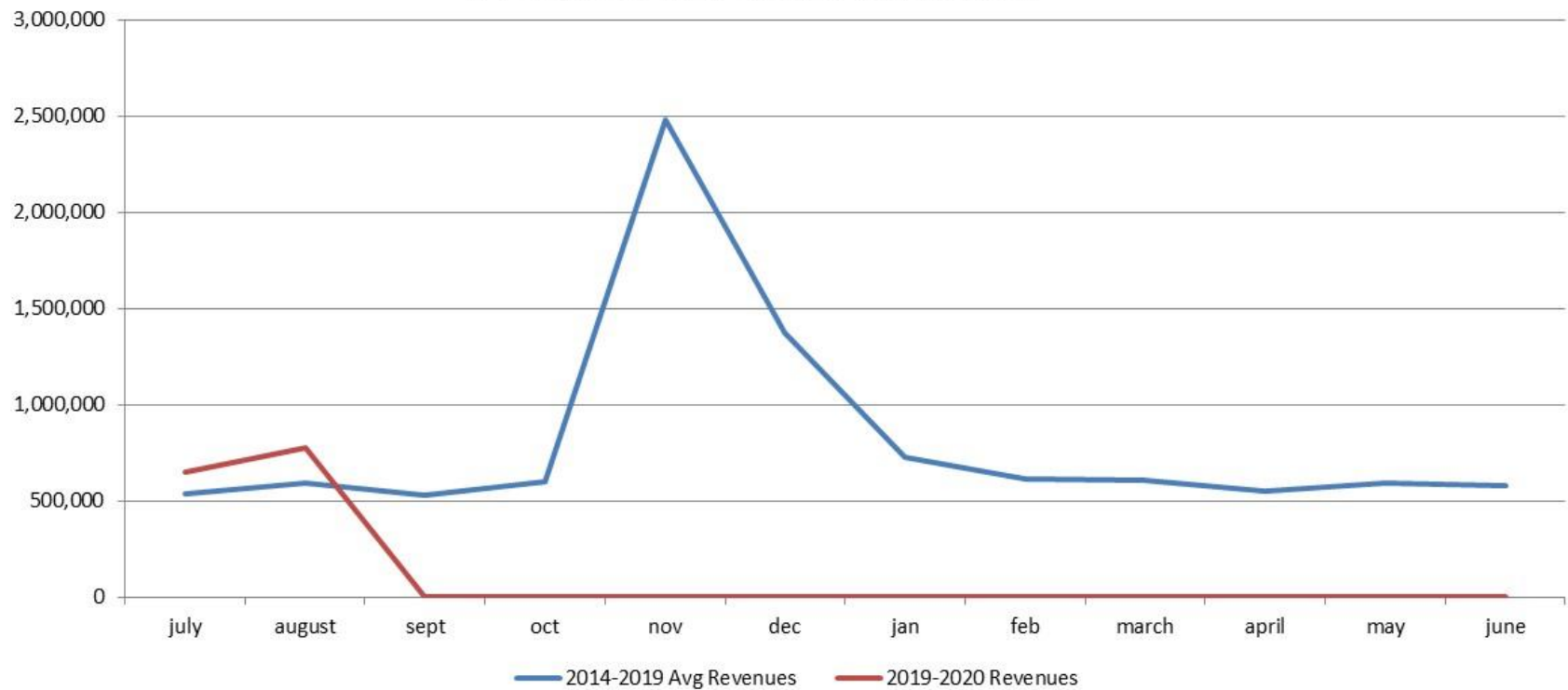
Total Check Count:

202

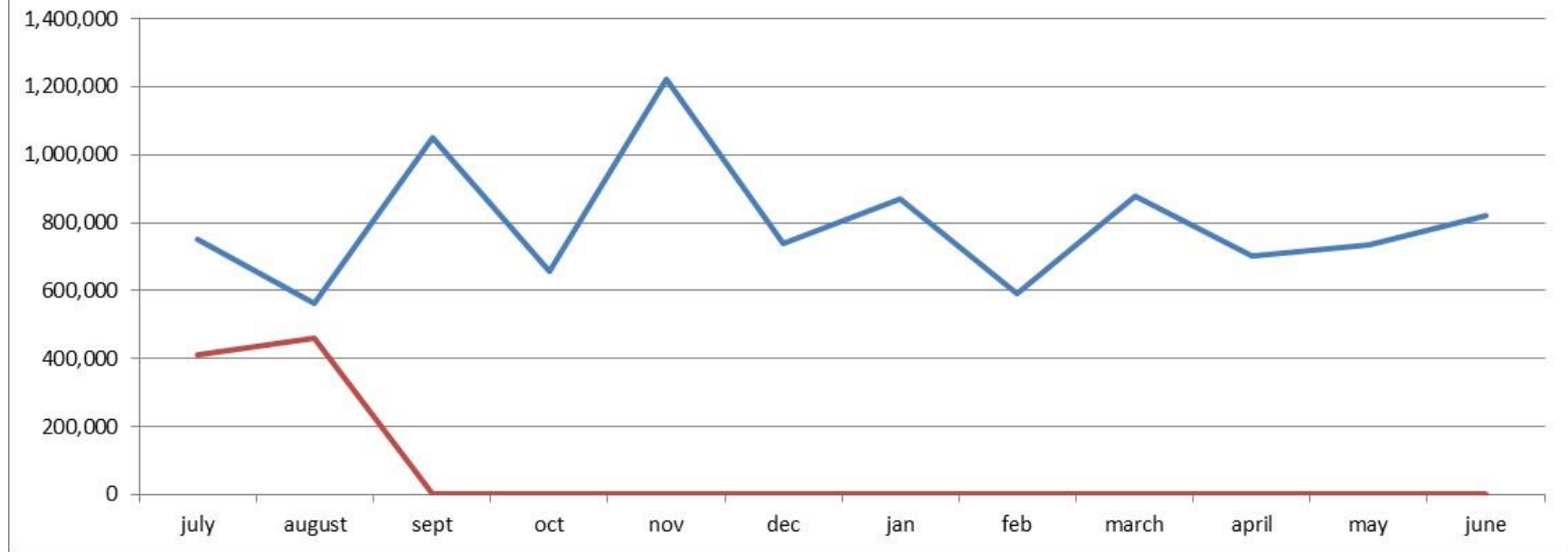
Total Check Amount:

553,913.37

## 6 YEARS OF REVENUES BY MONTH



## 6 YEARS OF EXPENSES BY MONTH





	08/31/2019	08/31/2018	% Change
<b>Call Volume:</b>	<b>2019-05845</b>	<b>2018-06598</b>	<b>-11.41%</b>
<b>CAD Calls:</b>	<b>12120</b>	<b>12488</b>	
<b>ONIBR Person Crimes</b>	<b>122</b>	<b>117</b>	
<b>ONIBR Person Crimes Cleared:</b>	<b>79</b>	<b>78</b>	<b>64.75%</b>
<b>ONIBR Property Crimes:</b>	<b>281</b>	<b>485</b>	<b>-42.06%</b>
<b>ONIBR Property Crimes Cleared:</b>	<b>85</b>	<b>167</b>	<b>30.25%</b>

#### **Trends:**

On September 13<sup>th</sup>, 2019 members of the Sweet Home Police Department conducted a Pedestrian Safety Enforcement operation at the crosswalk on Main Street at 22<sup>nd</sup> Avenue. The enforcement was aimed at promoting crosswalk safety and compliance as it relates to both vehicles and pedestrians. As most know, the crosswalk at this location has been an area of concern regarding the safety of pedestrians crossing Main Street. A number of collisions involving pedestrians and vehicles have occurred there.

The enforcement operation was conducted from 1:00 PM until 4:30 PM which included the time associated with the School Crossing where vehicle speeds are reduced to 20 mph. Seven officers from our Department participated in the enforcement effort at some time during the event. Five of those seven were committed full time to it. A total of 30 traffic stops were conducted by the officers which resulted in a total of 21 citations being issued. Two of those citations were issued to a pedestrian for the Improper Positioning of a Pedestrian on a Roadway.

Officer made several observations during the enforcement effort. First, the volume of vehicle traffic in that area is heavy. Many have noticed this throughout town and this crosswalk area is know exception. Second, the speeds of several vehicles on this portion of Main Street, especially during the times of the School Zone, appeared to be excessive.

This Pedestrian Safety Enforcement operation was sponsored through an ODOT grant and was part of our Department's overall downtown traffic management plan that Sergeant Van Eck has been working on. Additional enforcement efforts will be conducted soon. One will be to target speeding vehicles at Main Street and 22<sup>nd</sup> Avenue during the times of the School Zone.

On October 2<sup>nd</sup>, 2019 the Sweet Home Police Department will be participating in National Coffee with a Cop day. Our Coffee with a Cop event will be held at Sugar Vibes from 9:00 AM until 10:00 AM. Coffee with a Cop has proven to be an easy, simple method of bringing law enforcement and the community together which fosters stronger connection between all. We hope to see you all there.

**Person Crimes are defined as:**

	August 2019	August 2018
<b>Assault</b>	<b>3</b>	<b>1</b>
<b>Child Neglect</b>	<b>0</b>	<b>0</b>
<b>Criminal Homicide</b>	<b>0</b>	<b>0</b>
<b>Custodial Interference</b>	<b>0</b>	<b>1</b>
<b>Elder Abuse</b>	<b>0</b>	<b>0</b>
<b>Forcible Rape</b>	<b>0</b>	<b>0</b>
<b>Harassment</b>	<b>3</b>	<b>8</b>
<b>Kidnapping</b>	<b>0</b>	<b>0</b>
<b>Menacing</b>	<b>1</b>	<b>0</b>
<b>Other Sex Offense</b>	<b>4</b>	<b>1</b>
<b>Violation Restraining Order</b>	<b>4</b>	<b>2</b>

**Property Crimes are defined as:**

	August 2019	August 2018
<b>Arson</b>	<b>0</b>	<b>0</b>
<b>Burglary</b>	<b>2</b>	<b>11</b>
<b>Criminal Mischief</b>	<b>9</b>	<b>25</b>
<b>Forgery</b>	<b>1</b>	<b>0</b>
<b>Fraud</b>	<b>0</b>	<b>2</b>
<b>Motor Vehicle Theft</b>	<b>0</b>	<b>4</b>
<b>Recovered Stolen</b>	<b>0</b>	<b>0</b>
<b>Robbery</b>	<b>0</b>	<b>0</b>
<b>Theft</b>	<b>34</b>	<b>51</b>