



## AGENDA

### CANBY CITY COUNCIL MEETING

August 16, 2017

7:30 PM

Council Chambers

222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor

*Mayor Brian Hodson*

*Council President Tim Dale*

*Councilor Tracie Heidt*

*Councilor Traci Hensley*

*Councilor Greg Parker*

*Councilor Tyler Smith*

*Councilor Sarah Spoon*

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### CITY COUNCIL MEETING – 7:30 PM

#### 1. CALL TO ORDER

A. Invocation

B. Pledge of Allegiance

#### 2. COMMUNICATIONS

#### 3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

*(This is an opportunity for audience members to address the City Council on items not on the agenda. Each person will be given 3 minutes to speak. You are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. For Agenda items, please fill out a testimony/comment card and give to the City Recorder noting which item you wish to speak on.)*

#### 4. MAYOR'S BUSINESS

#### 5. COUNCILOR COMMENTS & LIAISON REPORTS

#### 6. CONSENT AGENDA

*(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)*

A. Approval of Minutes of the August 2, 2017 City Council Regular Meeting

#### 7. PUBLIC HEARING

A. Park Maintenance Fee

Pg. 10

#### 8. RESOLUTIONS & ORDINANCES

A. Ord. 1464, Amending Canby Municipal Code (CMC) Chapter 5.04.190 Regarding Business License Exemptions Pg. 1

B. Ord. 1465, Amending Canby Municipal Code (CMC) Chapter 9.48.050(A) Regarding Noise Variance Exceptions Pg. 7

C. Ord. 1466, Amending the Canby Municipal Code (CMC) by Adding a New Chapter 3.35 "Park Maintenance Program", and Requiring Payment of a Park Maintenance Fee Pg. 16

**9. NEW BUSINESS**

- A. Request from Canby Area Parks and Recreation District for Non Opposition Letter to Reduce District Size

**10. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS**

**11. CITIZEN INPUT**

**12. ACTION REVIEW**

**13. EXECUTIVE SESSION: ORS 192.660(2)(h) Litigation**

**14. ADJOURN**

\*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.0733. A copy of this Agenda can be found on the City's web page at [www.canbyoregon.gov](http://www.canbyoregon.gov). City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV Channel 5. For a schedule of the playback times, please call 503.263.6287.



# City of Canby

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Canby, OR 97013 www.canbyoregon.gov

## *M E M O R A N D U M*

**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Rick Robinson, City Administrator*  
**DATE:** *July 24, 2017*

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### **Issue:**

Currently the City requires a Business License for any Taxi or other transportation service doing business in Canby. With the introduction of other types of transportation services such as Uber and Lyft, the distinction between private ownership of a transportation service and operating a transportation service through an agreement with a larger corporate entity has made the uniform application of Title 5 – “Business Licenses and Regulations”, more challenging.

We have heard from the local Taxi Company that the failure of the City to enforce the Business License requirement for Uber and Lyft drivers would create an unfair advantage for the latter category of transportation providers. We have also heard from the Uber/Lyft drivers that they don’t feel that they should have to pay the City’s Business License because their corporate offices are not located in Canby.

### **Background:**

Chapter 5.04 of the Canby Code of Ordinances defines the conditions under which a Business License is required. Chapter 5.04.040 states: “It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first paid the business license fee and issued a license as provided by this chapter”.

Sections §5.04.050 and §5.04.060 address the conditions under which a person would be deemed to be engaging in business in the City. You will note that §5.04.050(C.) addresses the use of a vehicle for business purposes with the following language: “For the purpose of this chapter, any persons shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject to the requirement of §5.04.040, when undertaking 1 of the following acts...Acquiring or using any vehicle or any premises in the city for business purposes”. The full text of §5.04.050 is below:

#### **§ 5.04.050 One act constitutes doing business.**

For the purpose of this chapter, any persons shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject to the requirement of §5.04.040, when undertaking 1 of the following acts:

- A. Selling any goods or service;

- B. Soliciting business or offering goods or services for sale or hire; and/or
  - C. Acquiring or using any vehicle or any premises in the city for business purposes.
- Section §5.04.060 affirms that if a person advertises or otherwise holds himself or herself out to the public as engaged in any business, profession, trade or calling, for which a license is required, they are presumed to be in business and are therefore required to pay a license fee.

**§ 5.04.060 Presumption of engaging in business.**

Any person who advertises or otherwise holds himself or herself out to the public as engaged in any business, profession, trade or calling, for which a license is required, shall be presumed to be so engaged and shall pay the license fee as is required by this chapter.

While certain exceptions are identified in Section 5.04.030, these exceptions do not appear to be inclusive of taxi or other transportation services. The text of Section 5.04.030 is below:

**§ 5.04.030 Intent of Council to impose fee exclusions and liabilities.**

A. In order that business, manufacturing, pursuits, professions and trade be carried on and conducted in the city in a profitable and peaceful manner, it is necessary that the same be regulated and safeguarded and that the city provide police protection, fire protection, street maintenance, street lighting and other services.

B. It is necessary that license fees be levied and fixed for the purpose of securing revenue to assist in the regulation and in defraying the cost of police and fire protection and costs of other municipal services.

C. No person whose income consists of salary or wage paid to the person by an employer or agent thereof covered and defined by this chapter and no person working as a domestic in a private home shall be deemed to be transacting or carrying on business in the city; provided, however, that if any person fails to pay the license fee provided in this chapter and the person has neither his or her residence nor place of business in the city but carries on business in the city, the agents or employees of that person engaged in business in the city shall be liable for the payment of the fee or for penalties imposed for failure to comply with this chapter.

Title 5, in Section §5.04.190 does provide, however, for exceptions to be made to the Business License requirement. This section does not appear to have an exception that would apply to Taxis or other transportation services. Section §5.04.190 is as follows:

**§ 5.04.190 Exemptions.**

The provisions of this chapter shall not apply to:

- A. Garage sales, as described in this chapter.
- B. Participants of all official city-sponsored or sanctioned events and the Canby Farmers Market.
- C. (Reserved).
- D. Any person engaged as a landlord in leasing or renting property to others, unless the person leases at any 1 time more than 2 separate rental units, spaces or parcels, whether it be land, buildings or both, or residential, commercial or both.
- E. Municipal, state, or federal agencies.
- F. All non-profit organizations are exempt from the business license fee, but are still required to complete an application.

- G. Businesses that are participating in an event sponsored by a non-profit organization.
- H. Any person who carries on or engages in a business that is illegal under applicable city, state, or federal laws is prohibited from being issued a business license.
- I. Any business which is exempt from a license by virtue of state or federal law.
- J. Any business who is in operation for 3 or fewer consecutive days at the same location and operates less than a total of 30 days per calendar year within C-1 Downtown Commercial Zone of the city. This exemption does not apply to contractors, landscapers, or any business engaged in a contract with the city or Canby Urban Renewal Agency.  
(Ord. 1396, passed 3-5-2014; Am. Ord. 1447, passed 9-7-2016)

Staff has completed a survey of surrounding communities to determine their current policies relating to the requirement that Transportation services obtain Business Licenses. Below are the results of that survey:

<u>City</u>	<u>License Required</u>	<u>Specifics</u>
Canby	Yes	\$50
Newberg	Yes	\$50 ( <b>Not enforcing at this time</b> )
Keizer	No	Just repealed taxi ordinance
Milwaukie	No	Not at this time
Portland	Yes	Portland Business License (no fee)
Medford	No	No Uber or Lyft in Medford at this time
Oregon City	Yes	\$248 if they live outside city limits/\$208 inside limits. Currently do not have anyone licensed. No Way of knowing who is operating as a driver
Salem	Yes	\$82.50
St. Helens	Yes	\$55 - \$100 Business License & \$35 Taxi Company Permit
Tualatin	No	
Woodburn	No	Only allowed to drop off people in Woodburn. Pickups not allowed at this time

### **Recommendation:**

Adopt a finding that:

1. The provision of a range of transportation services is a priority in the City of Canby
2. The availability of transportation modalities in addition to the Canby Area Transit System is desirable and beneficial to the people that live within the City of Canby
3. Locally operated Taxis and other transportation services such as Uber and Lyft provide residents of the City with another option to meet their transportation needs
4. The availability of on-call transportation services beyond that which can be provided by the Canby Area Transit System could benefit public safety in the community by providing a transportation option to persons who may be impaired for any reason.
5. Instruct staff to draft an ordinance that would add a new section K to Section §5.04.190 – Exemptions, to read as follows:  
*K. Taxi Companies and vehicle for hire transportation services.*

**Recommended Motion:**

*“I move that the Canby City Council finds as follows:*

- 1. The provision of a range of transportation services is a priority in the City of Canby.*
- 2. The availability of transportation modalities in addition to the Canby Area Transit System is desirable and beneficial to the people that live within the City of Canby.*
- 3. Locally operated Taxis and other transportation services such as Uber and Lyft provide residents of the City with another option to meet their transportation needs.*
- 4. The availability of on-call transportation services beyond that which can be provided by the Canby Area Transit System could benefit public safety in the community by providing a transportation option to persons who may be impaired for any reason.*
- 5. To approve Ordinance 1464, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 5.04.190 REGARDING BUSINESS LICENSE EXEMPTIONS to come up for second reading on September 6, 2017.*

**Attached:**

Ordinance 1464

## ORDINANCE NO. 1464

### AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 5.04.190 REGARDING BUSINESS LICENSE EXEMPTIONS

**WHEREAS**, the City of Canby currently has a business license ordinance; and

**WHEREAS**, the City of Canby desires to amend the ordinance to exempt taxi companies and vehicle for hire transportation services from the requirement of a business license; now therefore

#### THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

**Section 1.** The Canby Municipal Code (CMC) Chapter 5.04.190 is hereby amended to read as follows:

##### **§ 5.04.190 Exemptions.**

The provisions of this chapter shall not apply to:

- A. Garage sales, as described in this chapter.
- B. Participants of all official city-sponsored or sanctioned events and the Canby Farmers Market.
- C. (Reserved).
- D. Any person engaged as a landlord in leasing or renting property to others, unless the person leases at any 1 time more than 2 separate rental units, spaces or parcels, whether it be land, buildings or both, or residential, commercial or both.
- E. Municipal, state, or federal agencies.
- F. All non-profit organizations are exempt from the business license fee, but are still required to complete an application.
- G. Businesses that are participating in an event sponsored by a non-profit organization.
- H. Any person who carries on or engages in a business that is illegal under applicable city, state, or federal laws is prohibited from being issued a business license.
- I. Any business which is exempt from a license by virtue of state or federal law.
- J. Any business who is in operation for 3 or fewer consecutive days at the same location and operates less than a total of 30 days per calendar year within C-1 Downtown Commercial Zone of the city. This exemption does not apply to contractors, landscapers, or any business engaged in a contract with the city or Canby Urban Renewal Agency.  
(Ord. 1396, passed 3-5-2014; Am. Ord. 1447, passed 9-7-2016)
- k. Taxi Companies and vehicle for hire transportation services.**

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, August 16, 2017, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, September 6, 2017, commencing at the hour of 7:30 p.m. in the Council Meeting Chambers located at 222 NW 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

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Kimberly Scheafer, MMC  
City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on September 6, 2017 by the following vote:

YEAS\_\_\_\_\_ NAYS\_\_\_\_\_

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Brian Hodson  
Mayor

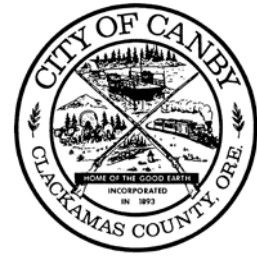
ATTEST:

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Kimberly Scheafer, MMC  
City Recorder



# MEMORANDUM



**TO:** Honorable Mayor Hodson and City Council  
**FROM:** Jamie Stickel, Main Street Manager  
**DATE:** July 25, 2017  
**THROUGH:** Richard Robinson, City Administrator

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## Issue:

The City of Canby hosts several downtown events throughout the year under the Canby Main Street program. These events include the Canby Independence Day Celebration, Canby's Big Night Out Street Dance, Halloween Spooktacular Village, and Light Up The Night. The Main Street program works closely with citizens, local businesses, community organizations, and businesses on these events.

The Big Night Out Street Dance is a relatively new event that was proposed by local business owner, Ken Arrigotti – Backstop Bar & Grill. In its 3<sup>rd</sup> year, the Big Night Out kicks off Canby's Big Weekend festivities, which includes the CruiseIn, Dahlia Festival, and more. The Big Night Out has occurred in the past from 5:00 – 10:00pm on Friday night of Canby's Big Weekend. In an effort to accommodate the attendees of the event, it had been proposed to move the event from 5:00 – 10:00pm to 6:00 – 11:00pm. Staff then discovered the City is not included in its ordinance regarding noise variance exceptions.

Until the last few years, the City of Canby did not host any events that featured music and activities later into the evening. Due to Main Street's focus on downtown development and promotion, all of the events held by the Main Street program will be held in the Downtown Commercial District. The Main Street Manager coordinates with surrounding businesses for the various events held downtown.

## Recommendation:

Staff recommends the Council approve Ordinance 1465, which would exempt the City from requiring a noise variance for sounds created from city sanctioned events in the Downtown Commercial Zone.

## Recommended Motion

***"I move to approve Ordinance No. 1465, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 9.48.050(A) REGARDING NOISE VARIANCE EXCEPTIONS to come up for second reading on September 6, 2017.***

## Attachments:

- Ordinance 1465

## **ORDINANCE NO. 1465**

### **AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 9.48.050(A) REGARDING NOISE VARIANCE EXCEPTIONS**

**WHEREAS**, the City of Canby currently has a noise variance ordinance; and

**WHEREAS**, the City of Canby desires to amend the ordinance to exempt city sanctioned events from the requirement of obtaining a noise variance; now therefore

### **THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:**

**Section 1.** The Canby Municipal Code (CMC) Chapter 9.48.050(A) is hereby amended to read as follows:

§ 9.48.050 Exceptions and variances.

- A. Exceptions. The following sounds are exempted from the provisions of this chapter:
1. Sounds caused by the performance of emergency work, vehicles and/or equipment;
  2. Aircraft operations in compliance with applicable federal laws or regulations;
  3. Railroad activities as defined in Subpart A, Part 201 of Title 40, CER of the Environmental Protection Agency's railroad emission standards, incorporated herein by reference;
  4. Sounds produced by sound-amplifying equipment at activities sponsored by Canby School District between 7:00 a.m. and 12:00 p.m. midnight, local time;
  5. Sounds created by refuse pickup operations during the period of 6:00 a.m. to 10:00 p.m., local time;
  6. Sounds created by domestic power tools during the period 7:00 a.m. to 10:00 p.m., local time, provided sound-dissipating devices on tools so equipped are maintained in good repair;
  7. Sounds made by warning devices operating continuously for 5 minutes or less;
  8. Idling motor vehicles, including compressors on refrigerated trailers, within a Gross Vehicle Weight Rating (CVWR) of 8,000 pounds or greater between the hours of 7:00 a.m. to 10:00 p.m., local time, provided they are equipped with an exhaust system which is in good working order and in constant operation;
  9. Sounds created at the Clackamas County Fairgrounds as a result of events sanctioned by the Clackamas County Fair Board;

10. Sounds caused by business operations in the commercial and industrial zones, provided the sounds result from lawful commercial business activity or manufacturing operations;
11. Construction activities during the period of 7:00 a.m. to 10:00 p.m., local time, provided equipment is maintained in good repair and equipped with sound dissipating devices in good working order; and
12. Sounds caused by city maintenance equipment between the hours of 7:00 a.m. and 10:00 p.m.; **and**
- 13. Sounds created from city sanctioned events in the Downtown Commercial zone.**

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, August 16, 2017, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, September 6, 2017, commencing at the hour of 7:30 p.m. in the Council Meeting Chambers located at 222 NW 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

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Kimberly Scheafer, MMC  
City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on September 6, 2017 by the following vote:

YEAS\_\_\_\_\_ NAYS\_\_\_\_\_

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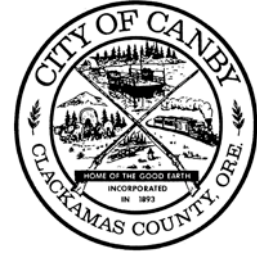
Brian Hodson  
Mayor

ATTEST:

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Kimberly Scheafer, MMC  
City Recorder

# MEMORANDUM



**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Rick Robinson, City Administrator*  
**DATE:** *August 8, 2017*

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## Issue/Objective:

The City's Parks Maintenance Division maintains City parks and other landscaped City properties. For purposes of this report, references to City Parks includes the other landscaped City properties as well.

The City lacks the funding to fully maintain its City parks and other landscaped City properties. As a consequence, the City has deferred maintenance activities in existing parks and delayed the opening of new parks. The City Council Values and Goals statement adopted by the Council on April 5, 2017 has a defined goal to "Identify funding and strategic alliances for acquisition, improvement, and maintenance of park lands."

The information provided with this staff report summarizes the current status of existing City parks and the opportunities for improvements to our park system that funding enhancements would create, and includes a funding recommendation from the City's Parks and Recreation Advisory Board.

## Summary:

The Canby City Council identified the necessity to resolve the unmet funding needs for park maintenance in both the 2013 Canby Community Visioning Plan and the 2017 Council Values and Goals Statement. To support this priority, the Canby Parks and Recreation Advisory Board has worked to gather the information needed to provide an informed recommendation to the City Council. Their efforts have been productive, and the Parks Advisory Board has unanimously voted to submit their recommendations to the City Council for consideration.

The recommendation of the Canby Parks and Recreation Advisory Board is divided into near term and long term objectives. The near term recommendation is to continue the current percentage of General Fund allocation to parks and additionally establish a \$5 per month Park Maintenance Fee that would be subject to an annual CPI adjustment. The long term objective is to establish a special park district, subject to voter approval, specifically addressing the needs of the Canby community.

The Parks and Recreation Advisory Board's official letter with detailed recommendations is included in the attachments.

## Discussion & Background:

When staffing was reduced due to budget constraints, some of the maintenance activities that

would typically be done in our Parks on a recurring basis had to be deferred or eliminated. Our Parks maintenance crew has worked during the past year to quantify these tasks and the hours required to perform them. An estimated 2,869 hours of work is deferred in City parks each year due to staffing reductions. If currently planned but as yet undeveloped parks are included, the shortfall increases to approximately 3600 hours.

The Canby Parks and Recreation Advisory Board has worked closely with City Staff to develop an objective understanding of both the challenges associated with maintaining our current parks, and the obstacles inherent in considering the expansion of our park system. To assist in gathering information, the Advisory Board developed two resident surveys. The goal was to better understand the desires of our Canby community residents, particularly relating to the maintenance and expansion of the Park system.

Using this information as a basis for their analysis, the Canby Parks and Recreation Advisory Board worked with Staff to identify feasible strategies to fund park maintenance in Canby. The results of these efforts are included as attachments in this report and summarized in the points below.

- The majority of survey respondents believe well maintained parks are important.
- While a majority of respondents indicated that they support additional funding for park maintenance, they also indicated that they are generally satisfied with the current level of park maintenance.
- The research conducted indicates that Park and Recreation Districts generally provide the most stable funding and successful park and recreation services. There are at least 14 established park and recreation districts in Oregon, distributed across the state.
- Currently eight Oregon communities that are not included in one of the 14 districts have implemented monthly park maintenance fees. Two additional communities have plans to do so.
- The City currently has approximately 4,750 active sewer connections in the City. If the City were to implement a Park Maintenance Fee of \$5 a month, calculated based on the number of sewer connections in the City (4,750), the fee would generate approximately \$285,000 annually. This equates to approximately three positions and 5,300 labor hours.

**Recommendation:**

*Staff recommends the Council approve Ordinance 1466.*

**Recommended Motion:**

***“I move to approve Ordinance 1466, An Ordinance Amending the Canby Municipal Code (CMC) by Adding a New Chapter 3.35 “Park Maintenance Program”, and Requiring Payment of a Park Maintenance Fee to come up for second reading on September 6, 2017.***

**Attachments:**

July 24, 2017 Parks and Recreation Advisory Board recommendation memo  
Deferred Maintenance Memo from Parks Maintenance Lead  
Ordinance 1466

DATE: July 18, 2017

MEMO TO: Honorable Mayor Hodson and City Councilors

FROM: Canby Parks and Recreation Advisory Board

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RE: Recommendations from Canby Parks and Recreation Advisory Board

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Issue:

Insufficient sources of funds to maintain existing and planned Canby parks at our current level of maintenance.

Recommendations:

Near term:

- Continue current percentage of General Fund allocation to parks
- Establish a \$5 a month park maintenance fee to be included in the monthly utility billing
- Annually adjust as per CPI (Consumer Price Index for Portland MSA)
- This option would address our current and near term unmet park maintenance needs.

Long term:

- Establish a special park district specifically for Canby. This option depends on voter approval and will require sustained focus and extensive marketing to achieve. Not feasible for the near term, but if successfully implemented it could provide a source of stable funding to meet our future park maintenance needs.

Background:

In the spring of 2016 the Canby Parks and Recreation Advisory Board worked with staff to identify additional viable funding sources for park maintenance. The Board researched and reviewed funding options, and developed and distributed two park surveys to the Canby Community via US Mail and social media. Survey results helped the Board identify which additional funding sources could be supported by the Canby community. The Board reviewed the results and shared those results with the City Council. The Council requested the Board make an official recommendation to the Council regarding feasible funding sources for current and future park maintenance. After much deliberation, the Board voted unanimously to present the above recommendations to the City Council.

Related Council Policies:

Council Goal: Parks and Recreation

*Identify funding and strategic alliances for acquisition, improvement, and maintenance of park lands.*

Council Vision: General Parks Aspiration

PRIORITY GAP: *Expand Funding and Resources*

ACTION STEPS: *Explore feasibility of implementing a Park Maintenance Fee (Paid monthly by residents) and user fees.*

# Deferred Maintenance

16-17 Budget cycle, estimated on 03-17-2017

The City of Canby has 3 Full time Employee's dedicated to parks. Each employee represents approximately 1760 hours of actual annual maintenance hours (2080 hours less time off, meetings and training). This number is further reduced by half for the Lead Worker to account for time, report writing, project review and coordination. 3 FTE's = 4400 hours available for actual park maintenance.

The Parks Department has been grant 1.5 Full Time Equivalent of seasonal maintenance workers. To date we have utilized 1550 hours of Part Time Labor or 65% of the available hours. While the hours utilized and provided by the PT employees and volunteers (500 hours) are basic in nature, they provide a dramatic aesthetic improvement and help enhance our service level.

Here is an estimate of the maintenance being deferred at each location. The deferred annual hours are needed to maintain the said assets. Note: additional hours will be required to bring assets back to a maintained state.

Adult Center - Service Level adequate, unless otherwise directed.

Arneson Gardens- pressure washing (16 hrs.), path maintenance (60 hrs.), mulching (70 hrs.), shrub trimming/fertilizing (90 hrs.), tree trimming (16 hrs.) and asset repairs (24 hrs.). **276 hrs.**

Baker Prairie Cem. - Service Level adequate, unless otherwise directed.

City Hall-old - N/A next budget cycle.

Community Park – pressure washing (45 hrs.), painting (60 hrs.), tree trimming (120 hrs.), cleaning (104 hrs.), asset repair (60 hrs.), signage (20 hrs.), trail maintenance (140 hrs.), string trimming (30 hrs.) and fence maintenance (40 hrs.) **619 hrs.**

CPIP Sign property – sign cleaning, mulching/fertilizing and one more shrub trimming. **16 hrs.**

Disc Golf Course - Service Level adequate, unless otherwise directed.

Eco Park – trail maintenance/inspection (40 hrs.), tree trim/remove (24 hrs.), parking lot maintenance (30 hrs.), **94 hrs.**

Faist 5 lot - Service Level adequate, unless otherwise directed.

Finance Landscape-old - N/A next budget cycle.

Holly and Territorial sign - Service Level adequate, unless otherwise directed.

Klohe Fountain - Service Level adequate, unless otherwise directed.

Deferred Maintenance Continued, page 2.

Library-old - N/A next budget cycle.

Legacy Park - pressure washing (60 hrs.), painting (60 hrs.), asset repair (40 hrs.), turf maintenance/irrigation (80 hrs.), and cleaning (104 hrs.) **344 hrs.**

S. Locust Park - pressure washing (30 hrs.), painting (60 hrs.), asset repair (24 hrs.), turf maintenance/irrigation (44 hrs.), and cleaning (104 hrs.) **262 hrs.**

Logging Rd. Path – tree trimming (24 hrs.), sweeping (24 hrs.), asset repair/replace, painting and cleaning/pressure wash (112 hrs.) **160 hrs.**

Fish Eddy- Log Boom - Service Level adequate, unless otherwise directed.

Maple St. Park - pressure washing (40 hrs.), painting (50 hrs.), asset repair (72 hrs.), turf maintenance/irrigation (56 hrs.), tree trim/ remove (40 hrs.) and cleaning (104 hrs.) **362hrs.**

19<sup>th</sup> Loop – pressure washing (16 hrs.), asset repairs/brush control (80 hrs.) and water level control “Beaver issues” (40 hrs.) **136 hrs.**

Northwood Park – pressure washing (8 hrs.), turf maintenance/ irrigation (16 hrs.) **24 hrs.**

Police Department – landscape maintenance (120 hrs.), leaf removal and hardscape cleaning (80 hrs.) **200 hrs.** **Note!!** Even if the 200 hrs. are granted for this site, there is still a 160 hour maintenance deficit from what the Landscape Contractor recommends as a best practice.

Simnitt Property - undeveloped at this time, N/A

Skate Park – pressure washing (16 hrs.), turf maintenance (16 hrs.) asset maintenance (30 hrs.) **62 hrs.**

Shop Complex - Service Level adequate, unless otherwise directed.

Swim Center - Service Level adequate, unless otherwise directed.

Territorial-CLC Property - Property thus far has been maintained by the CLC Art Park organization. With the addition of the bicycle repair kiosk and any other future development slated, maintenance cannot be determined until the level of involvement is known. Service Level adequate, unless otherwise directed.

Transit Bus Stop – pressure washing (24 hrs.), painting (16 hrs.), sweeping (12 hrs.) and Landscape repair/replace (12 hrs.) **64 hrs.**

Triangle Park – pressure wash (8 hrs.) and landscaping (8 hrs.) **16 hrs.**

Wait Park – pressure wash (40 hrs.), paint (60 hrs.), asset repairs (40 hrs.), cleaning (104 hrs.), turf maintenance (80 hrs.), mulching (40 hrs.) and tree trimming (126 hrs.) **490 hrs.**



Deferred Maintenance Continued, page 3.

Veterans Memorial - Hardscapes thus far has been maintained by the Arora VFW organization. The Parks department is responsible for the irrigation system and the landscaping. Fertilization and weed control (40 hrs.) **40 hrs.**

Knights Bridge Property - Service Level adequate, unless otherwise directed.

WWTP - Service Level adequate, unless otherwise directed.

**New: Timber Park Subdivision** – Restroom cleaning/garbage pickup (312 hrs.), mowing (108 hrs.), string trimming/edging (60 hrs.), turf maintenance (24 hrs.), spraying/weed control (16 hrs.), irrigation, on/off, adjust/repair (40 hrs.), asset repairs (40 hrs.), graffiti/vandalism (16 hrs.) and tree trimming/leaf and debris removal (80 hrs.) **696 hrs.**

**Deferred Maintenance** – **Total = 3,861 hours**

The majority of park assets are heavily used March through October. Currently we are not able to take advantage of the off season (November through February) to perform maintenance tasks due to the current staffing level granted.

It has been my experience that every fully developed park we acquire will take approximately 700 hrs. of maintenance per acre to achieve a low to moderate service level.

Hours are based on the time it takes a competent employee to finish assigned tasks. Hours are inclusive of fueling, loading of equipment, travel time, unloading of equipment, cleaning of equipment and offloading of debris.

Parks can be built to be maintenance friendly... Wooden structures require more maintenance than cement or steel building. Shrub beds drive up maintenance costs. The hours needed to maintain shrub beds compared to mowing the same amount of turf area is astronomical.

The Parks Department has been tasked with tracking actual hours being spent at each park. We now have eight months' worth of actual data (July 16 through February 17) complete. An example of a low maintenance park would be Northwood Park. We are currently only deferring 24 hours of maintenance at this location. To date we have only spent 119.5 hrs. maintaining this site in the last eight months. No shrub beds, no restrooms, no fences, no mature trees, just fertilize, water, edge, spray, mow and go...

Respectfully Submitted,

Jeff G. Snyder, Park Maintenance Lead

**ORDINANCE NO. 1466**

**AN ORDINANCE AMENDING THE CANBY MUNICIPAL CODE (CMC) BY ADDING  
A NEW CHAPTER 3.35, "PARK MAINTENANCE PROGRAM", AND REQUIRING  
PAYMENT OF A PARK MAINTENANCE FEE.**

**WHEREAS**, the revenues from existing sources are not adequate to maintain the City of Canby's park system; and

**WHEREAS**, the City has deferred maintenance activities in existing parks and delayed the opening of new parks; and

**WHEREAS**, additional funding is required in order to fund increased maintenance of the City of Canby's park system.

**NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1: The City of Canby's Municipal Code is amended by adding a new Chapter 3.35. "Park Maintenance Program" attached hereto as Exhibit "A".

Section 2. This ordinance shall take effect 30 days after passage. The fee imposed by Section 1 shall commence on January 1, 2018.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, August 16, 2017, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, September 6, 2017, commencing at the hour of 7:30 p.m. in the Council Meeting Chambers located at 222 NW 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

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Kimberly Scheafer, MMC  
City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on September 6, 2017 by the following vote:

YEAS\_\_\_\_\_ NAYS\_\_\_\_\_

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Brian Hodson  
Mayor

ATTEST:

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Kimberly Scheafer, MMC  
City Recorder

## Exhibit “A”

### CHAPTER 3.35: PARK MAINTENANCE PROGRAM

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Section	
3.35.010	Creation of Park Maintenance Fee, Purpose.
3.35.020	Definitions.
3.35.030	Administrative Officers.
3.35.040	Dedication of Revenues.
3.35.050	City Maintenance and Effort Contribution.
3.35.060	Annual Park Maintenance Program Report.
3.35.070	Park Maintenance Fee.
3.35.080	Low Income Assistance.
3.35.090	Determination of Park Maintenance Fee.
3.35.100	Administration of Park Maintenance Fee.
3.35.110	Waiver of Park Maintenance Fee in Case of Vacancy.
3.35.120	Park Maintenance Fee Appeal Procedure.
3.35.130	Exceptions to Park Maintenance Fee.
3.35.140	Severability.

#### **3.35.010      Creation of Park Maintenance Fee, Purpose.**

There is hereby created a Park Maintenance Fee for the purpose of providing for the operation and maintenance of parks and facilities within the City of Canby. Fees collected shall be deposited into the City of Canby’s General Fund Park Maintenance Fee Account to be used only for purposes identified within this chapter.

The City Council hereby finds, determines and declares the necessity of providing operation and maintenance of the City’s parks and facilities as a comprehensive Park Maintenance Fee, with such operation and maintenance to include such activities as are necessary in order that the parks and facilities may be properly operated and maintained and that the health, safety and welfare of the City and its inhabitants may be safeguarded.

#### **§ 3.30.020      Definitions.**

As used in this chapter, unless the context requires otherwise:

Public Works Director. The City of Canby Public Works Director or the Director's designee.

Developed Property. A parcel or portion of real property on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage.

Dwelling Unit. One or more rooms designed for occupancy by 1 family and not having more than 1 cooking facility.

Multi-unit Residential Property. Residential property consisting of 2 or more dwelling units. For the purposes of this chapter, condominiums, attached single-family residences, and individual mobile home units are also classified as multi-unit residential properties.

Non-Residential Property. Any property that is not residential property.

Residential Property. A property that is primarily for personal, domestic accommodation, including single single-family, multi-unit residential property and group homes, but not including hotels and motels.

Responsible Party. The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the City, the person(s) paying the sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a sewer bill, "responsible party" shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the City. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the City.

Single Family Residential. Residential property that has only detached dwelling units.

Park Lands. A public Park that is under the jurisdiction or control of the City. For purposes of this chapter, landscaped City property maintained by the Parks Department during the 2016-17 fiscal year shall be considered Park Lands.

Park Maintenance Program. Program established by this chapter to maintain, repair and reconstruct City Parks. Activities include the administration and collection of the Park Maintenance Fee; preventive maintenance, rehabilitation and reconstruction projects; design and inspection of such projects; Park condition monitoring and assessment, including inspection of Park repairs; and staff training and consultant services in support of the above activities.

Maintenance of Effort (MOE). The share of cost of the Park Maintenance Program borne by the general fund of the City of Canby.

Consumer Price Index (CPI). Consumer Price Index for Portland Metropolitan Statistical Area.

#### **§ 3.35.030 Administrative Officers.**

A. Except as provided below, the Public Works Director shall be responsible for the administration of this chapter.

B. The Public Works Director shall annually develop a Park Maintenance Program schedule.

C. The Public Works Director shall provide an annual report on the Park Maintenance Program to the City Council and Budget Committee.

D. The Finance Director shall be responsible for the administration and collection of fees under this chapter.

#### **§ 3.35.040 Dedication of Revenues.**

All funds and all proceeds from funds collected pursuant to this chapter shall be used for the Park Maintenance Program.

**§ 3.35.050 City Maintenance of Effort Contribution.**

A. The General Fund of the City of Canby shall contribute funds towards the operation of City parks in an amount equal to the actual operating expenditures for the City's Park budget for the fiscal year 2016-17, excluding Capital Outlay.

B. The City contribution shall be adjusted annually in an amount equal to the percentage change in the consumer price index for the Portland Metropolitan Statistical Area.

**§ 3.35.060 Annual Park Maintenance Program Report.**

A. Each year the Public Works Director shall prepare and present to the Budget Committee and City Council the "Annual Park Maintenance Program Report." This document is a public record.

B. The report shall include a narrative description of the overall condition of the Parks, the findings of any new condition assessments, a detailed project schedule for the upcoming year, and a report on the previous year projects, workload impacts, and overall program progress. The report shall include revenues received relative to revenue projections, and any other new developments that impact the adequacy of the program funds to meet program goals.

**§ 3.35.070 Park Maintenance Fee.**

A. A Park Maintenance Fee is imposed and levied upon the responsible party for all developed property within the City. The fee shall be based on the direct and indirect use of or benefit derived from the use of public Parks generated by the developed property, to be calculated as described in § 3.35.090.

B. The Park Maintenance Fee is also imposed and levied on the property owner of the developed property in the event of non-payment by the responsible party.

**§ 3.35.080 Low Income Assistance**

A. Monthly Park Maintenance Fees for parks maintenance to the principal residence of low income citizens, as defined under the City's low income assistance program for sewer bills, shall be charged at one-half the regular rate. Any citizen currently receiving the reduced sewer service charge for low-income citizens shall automatically receive the reduced parks maintenance fee.

**§ 3.35.090 Determination of Park Maintenance Fee.**

A. Residential Unit. There is hereby imposed upon developed residential units in the City an initial Park Maintenance Fee of \$5.00 (five dollars) for each dwelling unit existing on that parcel.

B. Multiple-Family Unit. There is hereby imposed upon the responsible party for a multiple-family unit an initial Park Maintenance Fee equal to \$5.00 (five dollars) for each separate dwelling unit within the multiple-family unit existing on that parcel. By way of

example, an apartment complex containing thirty units would be subject to a monthly Park Maintenance Fee of \$150.00 (one hundred fifty dollars).

C. Nonresidential Unit. There is hereby imposed upon the responsible party for a nonresidential unit an initial Park Maintenance Fee of \$5.00 (five dollars) for each common meter to serve the nonresidential unit existing on that parcel.

D. This fee is deemed reasonable and is necessary to pay for the operation and maintenance of parks and facilities within the City. The effective starting date of this fee will be January 1, 2018, and will appear on sewer bills delivered in December, 2017.

E. Annual Adjustment. An annual rate adjustment shall be made based on the Consumer Price Index (CPI-U) for the Portland, Oregon MSA and index period 1982-1984 = 100. The adjustment shall be the percent change in the CPI for the calendar year ending December 31st of each year. The first adjustment shall be made in May 2019 upon resolution duly adopted and approved by the City Council. All adjustment to the Park Maintenance Fee shall be set by resolution.

#### **§ 3.35.100 Administration of Park Maintenance Fee.**

A. The Park Maintenance Fee shall be billed and collected with and as part of the monthly sewer bill for those lots or parcels utilizing City sewer and billed and collected separately for those developed properties not utilizing City sewer. In the event of non-payment, the City may bill the property owner or take other action as authorized by law to collect from the responsible party.

B. In the event funds received from City utility billings are inadequate to satisfy in full all of the sanitary sewer and Park Maintenance Fees, credit shall be given first to the Park Maintenance Fee and second to the sanitary sewer service charges.

C. Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

#### **§ 3.35.110 Waiver of Park Maintenance Fee in Case of Vacancy.**

A. When any property within the City becomes vacant and utility services are discontinued (if applicable), a waiver of the Park Maintenance Fee may be granted by the Finance Director upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding sanitary sewer and Park maintenance charges.

B. For purposes of this section, "vacant" shall mean that an entire building or utility billing unit has become vacant or continuously unoccupied for at least 30 days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

C. Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the City within 5 days of the premises being occupied, partially occupied or used, regardless of whether utility service is restored.

**§ 3.35.120 Park Maintenance Fee Appeal Procedure.**

A. Any owner who disputes any fee assessment may request a review and appeal such fee, but only in accordance with this section. The dispute must first be presented to the Public Works Director for review and thereafter may be appealed to the City Council in accordance with this section. Failure to appeal within the time and in the manner provided shall be sufficient cause to deny the relief requested. Except in cases of hardship as determined by the Council, disputes which result in changes in the Park Maintenance Fee charged under this chapter shall become effective with the next billing cycle.

B. A customer who wishes to dispute an interpretation made by the Public Works Director shall submit a written appeal to the City Administrator within 10 days from the date of notice of the Public Works Director's determination under division B., together with a filing fee in the amount of \$300. Appeals shall be limited to the issue of whether the property in question has been occupied during the period in dispute.

C. The City Administrator shall schedule the matter for City Council review and notify the appellant not less than 10 days prior to the date of such Council review. The City Council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the Public Works Director. The Council may continue the hearing for purposes of gathering additional information bearing on the issue. The Council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the Council shall be final.

**§ 3.35.130 Exceptions to Park Maintenance Fee.**

City Parks shall not be subject to the Park Maintenance Fee.

**§ 3.35.140 Severability.**

In the event any section, subsection, paragraph, sentence or phrase of this chapter is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the Park Maintenance Fee shall be created and the remainder of the ordinance and the fees imposed thereunder shall continue to apply to the remaining properties without interruption. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.