

**AGENDA**

**REGULAR CITY COUNCIL MEETING**  
**SEPTEMBER 9, 2024 at 5:30 p.m.**

**CITY HALL COUNCIL CHAMBER**  
**313 COURT STREET**  
**& LIVE STREAMED**  
[https://www.thedalles.org/Live\\_Streaming](https://www.thedalles.org/Live_Streaming)

To speak online, register with the City Clerk no later than noon the day of the council meeting.  
When registering include: your full name, city of residence, and the topic you will address.

Upon request, the City will make a good faith effort to provide an interpreter for the deaf or hard of hearing at regular meetings if given 48 hours' notice. To make a request, please contact the City Clerk and provide your full name, sign language preference, and any other relevant information.

Contact the City Clerk at (541) 296-5481 ext. 1119 or [amell@ci.the-dalles.or.us](mailto:amell@ci.the-dalles.or.us)

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS

A. Jill Hoyenga Award

6. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Up to three minutes per person will be allowed. Citizens are encouraged to ask questions with the understanding that the City can either answer the question tonight or refer that question to the appropriate staff member who will get back to you within a reasonable amount of time. If a response by the City is requested, the speaker will be referred to the City Manager for further action. The issue may appear on a future meeting agenda for City Council consideration.

7. CITY MANAGER REPORT
8. CITY COUNCIL REPORTS
9. CONSENT AGENDA

Items of a routine and non-controversial nature are placed on the Consent Agenda to allow the City Council to spend its time and energy on the important items and issues. Any Councilor may request an item be "pulled" from the Consent Agenda and be considered separately. Items pulled from the Consent Agenda will be placed on the Agenda at the end of the "Action Items" section.

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**CITY OF THE DALLES**

"By working together, we will provide services that enhance the vitality of The Dalles."

- A. Approval of the July 22, 2024 Regular City Council Meeting Minutes
- B. Approval of the June 5, 2024 City Council Work Session Minutes
- C. Approval of the July 23, 2024 City Council Work Session Minutes
- D. Approval of Resolution No. 24-017A Denying Appeal Application 036-24, Affirming the Planning Commission Decision

#### 10. CONTRACT REVIEW BOARD ACTIONS

- A. Approval of Professional Services Contract with DocuDriven for City Records Digitization
- B. Authorization to Purchase New Biosolids Truck

#### 11. ACTION ITEMS

- A. Establishment of Federal Street Plaza Ad-Hoc Committee
- B. Adopting Resolution No. 24-021 Prescribing the Updated City Council Rules and Code of Conduct Policy

#### 12. DISCUSSION ITEMS

- A. League of Oregon Cities Legislative Priorities 2025-26
- B. Discussion on Proposed Amendments to TDMC Chapter 8.04 (Transient Room Tax)

#### 13. EXECUTIVE SESSION

In accordance with ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

- A. Recess Open Session
- B. Reconvene Open Session
- C. Decision, if Any

#### 14. ADJOURNMENT

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Prepared by / Amie Ell, City Clerk

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#### CITY OF THE DALLES

"By working together, we will provide services that enhance the vitality of The Dalles."



## AGENDA STAFF REPORT

### AGENDA LOCATION: Item #9 A - D

**MEETING DATE:** September 9, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Amie Ell, City Clerk

**ISSUE:** Approving items on the Consent Agenda and authorizing City staff to sign contract documents.

- A. **ITEM:** Approval of the July 22, 2024 Regular City Council meeting minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the July 22, 2024 Regular City Council meeting have been prepared and are submitted for review and approval.

**RECOMMENDATION:** City Council review and approve the minutes of the July 22, 2024 Regular City Council meeting minutes.

- B. **ITEM:** Approval of the June 5, 2024 City Council Work Session minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the June 5, 2024 City Council Work Session meetings have been prepared and are submitted for review and approval.

**RECOMMENDATION:** City Council review and approve the minutes of the June 5, 2024 City Council Work Session meeting minutes.

- C. **ITEM:** Approval of the July 23, 2024 City Council Work Session minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the July 23, 2024 City Council Work Session meetings have been prepared and are submitted for review and approval.

**RECOMMENDATION:** City Council review and approve the minutes of the July 23, 2024 City Council Work Session meeting minutes.

- D. **ITEM:** Approval of Resolution No. 24-017A, a Resolution Denying Appeal Application 036-24, Affirming the Planning Commission Decision to Approve Conditional Use Permit 212-24, a Land Use Application Requesting a Building Height Increase for a Mixed-Use, Multi-Family Development in the CBC Zone District with a Maximum Building Height of 60 Feet

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** On July 22, 2024, City Council denied Appeal No. 036-24, thus affirming the Planning Commission's approval of Conditional Use Permit No. 212-24. Resolution No 24-017A was not previously included on the July 22, 2024 City Council agenda; therefore, requires formal adoption and confirmation of this decision at a later date.

**RECOMMENDATION:** Approve Resolutions No. 24-017A a Resolution Denying Appeal Application 036-24, Affirming the Planning Commission Decision

MINUTES

CITY COUNCIL MEETING  
COUNCIL CHAMBER, CITY HALL  
JULY 22, 2024  
5:30 p.m.

VIA ZOOM/ IN PERSON

**PRESIDING:** Mayor Richard Mays

**COUNCIL PRESENT:** Darcy Long, Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson

**COUNCIL ABSENT:** None

**STAFF PRESENT:** City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Amie Ell, Public Works Director Dave Anderson, Police Chief Tom Worthy, Finance Director Angie Wilson, Community Development Director Joshua Chandler, Human Resources Director Daniel Hunter, IT Director David Collins

**CALL TO ORDER**

The meeting was called to order by Mayor Mays at 5:30 p.m.

**ROLL CALL OF COUNCIL**

Roll Call was conducted by City Clerk Ell. Long, McGlothlin, Randall, Richardson, Mays present. Runyon absent.

**PLEDGE OF ALLEGIANCE**

Mayor Mays asked Councilor Long to lead the Pledge of Allegiance.

Councilor Long invited the audience to join in the Pledge of Allegiance.

**APPROVAL OF AGENDA**

## MINUTES

Regular City Council Meeting

July 22, 2024

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Mayor Mays noted the Executive Session would be removed from the agenda.

Mayor Mays said the Executive Session would be removed from the agenda.

It was moved by Long and seconded by Randall to approve the agenda as amended. The motion carried 4 to 0, Long, Randall, McGlothlin, Richardson voting in favor; none opposed; Runyon absent.

## **PRESENTATIONS PROCLAMATIONS**

### Early Childhood Learning Center

Pat Sublette former superintendent of Columbia Gorge ESD, Dana Peterson new superintendent of Columbia Gorge ESD, and Eric Wilson project manager presented on the progress of the Early Childhood Learning Center. (see attached slides)

McGlothlin asked how the project would be funded, what the anticipated cost would be, and what the timeline would be.

Eric Wilson discussed funding opportunities and reported success in initial funding through a community college and an ARPA grant, which covered pre-planning efforts. He projected readiness to begin construction in December, contingent on securing additional funding. Applications for federal funding had been submitted, and preparations were underway for a significant state funding opportunity opening next month, along with other prospects. An application for an Oregon Department of Energy grant had been made to support solar and battery backup for the facility's resiliency. Anticipated cost would be \$18 million. Breaking ground in the third quarter of 2025 was contingent on funding and how long it would take to come through.

Richardson asked for clarification on the number of children that would be served, if they knew what the need was, and if it would be in addition to existing childcare slots in the community or would they be taking some of those away from current providers.

Sublette said numbers would depend on how much of the building could be opened with initial funding. The goal was to serve a minimum of 200 children and would include after school care. She did not know specific numbers for need analysis but said it was significant. She said it would be 200 new full-day slots for children, particularly for the zero to three-year-old age group, which is in high demand. The funding model would include a mix of preschool promise dollars allocated through the ESD, community pay, and subsidized funding. ESD would operate all preschools as it currently ran a full-day preschool program at no cost for 72 children in the community, including the dual language immersion program at Chenoweth Elementary.

Mayor Mays said the Wasco County Economic Development Commission ranked this project among their top ten most important capital projects, placing it at number six or seven. He requested further details about meetings with the Friends of the Gorge.

Wilson explained that during an informal meeting with three individuals, the project idea was presented and generally well-received as a great use for the facility. While there was no opposition, they had shared cautionary advice on potential challenges.

Mayor Mays invited an audience member to ask her question.

Deborah Gomez asked how they were addressing security.

Sublette noted the building had received negative attention but emphasized occupying it would improve security. Cameras installed two years ago helped identify vandals. Despite graffiti, murals by children remain untouched, showing community respect. She said repurposing the building would positively impact the community and preserve its original purpose.

### **AUDIENCE PARTICIPATION**

Howard Clark, a resident of The Dalles, said he had a peach orchard and a building downtown. He mentioned receiving notice about a new apartment building being placed across from True Value and asked how many parking spots there would be and if there would be adequate parking. He also expressed concern about whether the apartments would be used to house undocumented individuals, asking if this would be part of the plan. Clark said there was also a security issue.

Mayor Mays noted there was an agenda item related to the project. He recommended Clark contact City staff after the meeting to discuss the parking issue further.

### **CITY MANAGER REPORT**

City Manager Matthew Klebes reported;

- Commended Mid-Columbia Community Action Council for cooling services.
- Praised staff signage at town entrances, made by Columbia Gorge Community College.
- Voluntary withdrawal agreement with N Wasco PUD and Wasco County for QLife.
- Highlighted a \$100,000 grant for the library's HVAC system.
- Reported a funding gap in the airport hangar project and proposed a \$150,000 City contribution for design work.
- Addressed train stoppages and encouraged reporting them for better data.
- Reminded about a work session on the Strategic Investment Program Google revenues.

### **CITY COUNCIL REPORTS**

Councilor Richardson reported;

- Attended briefing session.
- Downtown walking meeting with City Manager.
- Urban Renewal (UR) Board meeting.
- Housing Production work session.

Councilor Randall reported;

- Attended briefing session with Mayor, City Manager, Public Works Director, and Councilor Long.
- Housing Production work session.

Councilor Long reported;

- Urban Renewal Agency Board meeting
  - Discussed the Tony's Building site and creating a request for expressions of interest.
  - Survey results from community input on what should go at the site were in the UR agenda packet.
  - A new interactive map showing all past UR projects will be on the City website.
- Joint work session with Planning Commission for Housing Production Strategy.

### ***Councilor Runyon arrived at 6:10pm***

Councilor McGlothlin reported;

- Homeless meeting at City Hall
- Was on KODL Coffee Break with Mayor Mays
- Work session attendance.
- Would be attending a joint work session with the County the following day.

Councilor Runyon reported;

- Ceremony at Oregon Veteran's Home featuring wall for military who died in Vietnam War and subsequent military involvements.

Mayor Mays reported;

- Attended Main Street town hall meeting
- Oregon Mayor's Association Conference in Klamath Falls.
- Encouraged reception attendance by the Oregon Arts Council at the Neon Sign Museum.
- Met with City Manager to discuss Federal Street Plaza committee to see the project



through.

Mayor Mays asked Council how they felt about a committee to work on Federal Street Plaza.

Richardson said he strongly supported the idea of an ad-hoc committee to finalize a design.

Long said it would be a good jumpstart and encouraged talking with the Urban Renewal Agency Board to ensure they were on the same page and had representation.

McGlothlin stated he was in support.

Mayor Mays said he will move forward with getting it on the agenda for the next council meeting.

### **CONSENT AGENDA**

Mayor Mays recognized Chuck Gomez who was in the audience and as part of the consent agenda would become a member of the Beautification and Tree Committee.

It was moved by Randall and seconded by Long to approve the Consent Agenda as presented. The motion carried 5 to 0, Randall, Long, McGlothlin, Richardson, Runyon voting in favor; none opposed; none absent.

Items approved on the consent agenda were: 1) The minutes of the July 8, 2024 Regular City Council Meeting. 2) A Resolution Concurring with the Mayor's Appointments to the Beautification & Tree Committee 3) Vehicle Surplus

### **PUBLIC HEARING**

APL 36-24, An Appeal of Planning Commission Resolution No. P.C. 622-24, Approving Conditional Use Permit No. 212-24 (Chris Hodney) For A Mixed-Use, Multi-Family Development in the CBC Zone District with A Maximum Building Height Of 60 Ft

Mayor Mays read the Quasi-Judicial Hearing rules for Appeal Application No. 36-24.

Mayor Mays asked if any members of the City Council had any ex parte contacts, conflicts of interest, or bias, which would prevent you from rendering an impartial decision on this matter.

McGlothlin said no.

Long said no.

Randall said no.

Richardson said no.

Runyon said no.

Mayor Mays said he also did not.

Mayor Mays asked if anyone in the audience wish to challenge the qualifications of any members of the City Council.

Dan Meader of 911 East 7<sup>th</sup> Street said Councilors McGlothlin and Long served on the Urban Renewal board and less than a year ago they had granted the application of \$1.73 million to the project. He said this demonstrated strong commitment to the project and he was entitled to a fair and impartial tribunal so would like them to reuse themselves.

Councilor Richardson said he had also been there and had voted for it.

Meader said in the minutes that he had read Richardson had not participated in the vote.

Mayor Mays asked the City Attorney to respond.

City Attorney Jonathan Kara said the City and the Agency were different legal entities and any allegation of bias under Oregon law must show definitively that a Counselor had pre-judged the application. He did not believe there was any such evidence. He introduced Chris Crean from Beery, Elsner and Hammond to the Council as the City's special land use counsel, who managed the City's land use appeals. He noted Crean had provided the city with Legal support on land use matters for at least five years. Kara said he deferred to Crean on all matters specifically regarding land use and requested any specific legal questions from the council be directed to him.

Crean said Cities and Rrban Renewal Districts were separate legal entities. In a land use proceeding, the courts consistently held that the question was whether a member of the decision-making body, in this case, the City Council, had prejudged the application. If a member stated they were not biased and could make an objective decision based on the evidence in the record and the code criteria, the Land Use Board of Appeals (LUBA) would accept that statement, absent compelling evidence to the contrary. Such evidence might include public statements indicating a prejudged decision. He understood that no such evidence existed in this case, and all City Councilors who participated in the Urban Renewal Board decision had declared their

objectivity and lack of bias. Therefore, there was no legal reason for anyone to recuse themselves.

Crean stated if the members of the Council believed they were not biased and could be objective, they should proceed to hear the rest of the presentation and decide. If someone wanted to appeal the decision, they could argue that one or more members should not have participated, but the evidence did not support such a challenge. Therefore, the city councilors who believed they were unbiased and objective should participate in the decision.

Mayor Mays asked Councilors McGlothlin and Long if they felt they were unbiased and could proceed.

McGlothlin confirmed he could proceed.

Long confirmed she could proceed.

Mayor Mays opened the public hearing at 6:28pm and asked for the staff report.

Joshua Chandler Community Development Director reviewed the staff report.

Mayor Mays asked Council if they would vote to allow more time for the staff report after it passed 10 minutes.

It was moved by Richardson and seconded by Randall to allow for five minutes of additional time for the staff report and five minutes of additional time for the appellant. The motion carried 5 to 0, Richardson, Randall, Long, McGlothlin, Runyon voting in favor; none opposed; none absent.

Richardson asked if assessing the applicant's needs was required.

Chandler stated that the conditional use permit review criteria did not require assessing the applicant's needs, although the applicant provided a reason for the height increase.

Mayor Mays asked if the height was the same all the way across the building design.

Chandler noted that the third street frontage is at a lower elevation, specifically the back portion that appears to be an outdoor patio space, likely at ground floor height.

Mayor Mays asked whether the Planning Commission had provided an opinion on whether the conditional use should be removed from the city code and if Mr. Meader had mentioned at the Planning Commission meeting that City Council or Urban Renewal Board members were biased.

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Chandler said the Planning Commission had not stated the conditional use should be removed from City code. He said Mr. Meader had not brought up any person on the Council or Commission being biased at the meeting. Biases of staff and Planning Commission were not mentioned until after the notice of appeal.

Mayor Mays asked if the Appellant wished to present information about its Appeal.

Dan Meader introduced himself and his wife, Janet, and said that they had lived at 911 7th Street in The Dalles for 30 years. He said they were both lifelong residents of The Dalles, having graduated from high school there. Meader described his background as a land use planning consultant with over 50 years of experience, currently working with 13 small cities and two counties in Central and Eastern Oregon. He noted his previous role as a partner in a local engineering firm for 40 years. Meader said he had contributed in 1993 in preparing an introductory guide to land use planning for small cities and counties, which remained in use and was referred to as "planning 101" by staff. He said in his expertise and understanding conditional use and variance should be used in tandem.

Meader asked to talk about what had happened at the Planning Commission meeting.

Mayor Mays said there would be no objection to that.

Meader said that during his presentation, the chairman had interrupted to lecture on land use planning for about three or four minutes and then allowed the applicants to lecture him from the back of the room. Meader said he did not like that and thought it should have been stopped. He said the details about the project were not being made public, which was witnessed in the number of appeals filed. He said he would address the council as a visitor to discuss these issues more appropriately at a later date. Meader referred to Title 10, Chapter 10.3 of the Municipal Code, he said it stated that a conditional use permit does not, by itself, alter zoning or development standards and that such changes must follow appropriate processes like obtaining a variance or adjustment.

Meader said that in 2011, when a Hilton Garden Suites was proposed for West Second Street with a planned height of 70 feet, the planning staff, led by his colleague Dan Durow, decided to use a conditional use permit to address height dimension standards. Meader said you could not use a variance to justify a self-created hardship. He said a variance would likely be denied. Meader shared that he got involved after the original conditional use permit was granted in 2022, discussing the issue with Mr. Chandler. He said he had told him you can't use a conditional use and Chandler had stated that was what was in the ordinance. Meader said there were a lot of things in people's ordinances that didn't work.

## MINUTES

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Meader said the conditional use permit was placed in the middle of the dimensional standards of the ordinance, where a variance would typically be used to address deviations from dimensional standards such as setbacks, right-of-way size, and lot size. He said he taught students that variances are used for numerical adjustments while conditional uses are for land uses.

Meader said when the conditional use permit was first proposed, the building was planned to be 62 feet high with a 10-foot high first floor and 10-foot ceilings for the other four floors. The latest design, however, showed the building at 60 feet with a three-foot parapet and a 15-foot ceiling on the ground floor. Meader suggested that reducing the ground floor ceiling back to 10 feet would bring the building height to 55 feet and resolve the issue. He recommended that the Planning Commission reconsider the matter as a variance, as the ordinance requires, rather than using a conditional use permit.

Mayor Mays called for testimony in favor of the Appeal.

Chris Koback, Land Use Lawyer, mailing address 937 NW Newport, Bend, Oregon 97703 said he was there on behalf of the applicant. He stated that he would not require his full speaking time as the legal advice provided by the two qualified lawyers on the bias issue and the conditional use permit was comprehensive and accurate. With 30 years of experience in land use, he agreed with the lawyers' assessments and praised the staff for their thorough evaluation of the code. He said that in 2011, the city had followed a formal process to consider various options, ultimately choosing an amendment over a variance. This amendment was properly adopted, allowing height exceptions as a conditional use. He said that the applicant adhered to the code, which permitted a conditional use for heights exceeding 55 feet. He supported the Planning Commission's decision and recommended denying the appeal, affirming the Planning Commission's ruling. Koback offered to address any legal questions and mentioned that the applicant, was available to discuss technical details.

Mayor Mays called for testimony in opposition to the Appeal.

Howard Clark, residing at 516 East Second Street, expressed his concerns about the proposed development at 523 East Third Street. He said his biggest concern was the lack of adequate parking, noting that The Dalles already has strained parking conditions. He said he also had a severe issue with the height of 75 feet, describing it as a "monstrosity" and was not in compliance with a small town.

Mayor Mays reminded Howard Clark that his testimony was intended to be in opposition to the appeal and asked him to focus specifically on the building's height. He noted that comments about parking and other issues, while noted, should be restricted to the height of the building.

Clark said he had a piece of property he did not want people parking on.

Ron Vergeer, from 4679 Mill Creek Road, stated that the proposed location is not in the historic district, but he noted that the building in question, constructed in the early 1930s, has evidence of its historical origins in the garage and old shop structure. He argued that his own buildings, including a carriage house and a livery stable, are indeed part of the historic district and questioned how the proposed location could be excluded from it.

Chandler said The Dalles Commercial Historic District stopped at Laughlin Street and this was across the street from that.

Vergeer said he had been defined as a part of the Historic District and was located on Jefferson Street.

Chandler responded that he was unsure who defined the location as not being in the historic district, but confirmed that his office had verified and double-checked that the location is indeed not within the historic district. He offered to search for a map to provide further clarification.

Richardson asked if the discussion was pertinent to the appeal.

Mayor Mays said he would defer to the attorney.

Kara asked the staff for clarification on the staff report's mention that the building is outside the historic district, noting that this information might not be decisive for the council's decision on the appeal.

Crean said that the Planning Commission held an open hearing, considered any issues raised, and complied with all criteria before reaching a decision. He stated that the city code requires that an appeal to the city council must specify the issues where the appellant believes the Planning Commission was incorrect. The staff report listed and discussed three issues, none of which related to the building's location inside or outside the historic district. He said it was outside the scope of the appeal.

Mayor Mays recommended Mr. Vergeer consult with planning staff during office hours to have his questions answered.

Mayor Mays called for testimony on the matter that was not in favor or opposition of the Appeal.

There was none.

Mayor Mays asked if Mr. Meader would like to respond to anything he had heard.

Meader said he wanted to reiterate that if there was going to be a change to the standard height a they must use a variance with the conditional use. He said he had done a considerable amount of work for The Dalles over the years and could not believe how complicated the code had become.

Crean reiterated the points from Josh's staff report and Mr. Kobach's comments. He said state law required the city to apply the criteria in effect on the date the application was received. He noted that the height bonus standard could be removed from the conditional use permit process in the future, but it was currently part of the city code. He said this contradicted the appellant's claims, as the height bonus was a code standard in the CU P zone and had to be applied. The standard allowed for either 50 feet or 70 feet with a CU P, both of which were city-approved criteria. He said no variance was required because the existing CU P code standards were being applied in accordance with state law.

Mayor Mays asked the Councilors if they had enough information to decide or if they had questions.

Runyon requested Chandler read the section of code Mr. Meader had referenced during his testimony.

Chandler read the last sentence from The Dalles Municipal Code 10.3.050.010 “A conditional use permit except as allowed in Section 10.5.100.040, does not by itself cause a change in any zoning or development standards; changes to development standards for a conditional use must go through the appropriate processes, such as a variance or adjustment, as outlined elsewhere in this document.”

Runyon asked if that had been done.

Chandler said it clearly stated 55 to 75 feet structures go through a conditional use permit process.

Kara said a variance was the appropriate process when an application proposed development standards that did not meet the code's criteria. He said there was no conflict between the provisions, as the application met the code's criteria. He said that the Planning Commission concluded the application complied because the development criteria depended on the process taken: 55 feet for Administrative Approval or 75 feet through the conditional use process. He said a variance would be required for an 80-foot development, but since the proposed development was 60 feet, within the 55 to 75-foot range, the conditional use permit process was appropriate.

Richardson asked when a variance would be required.

Kara said anything over 75 feet.

Mayor Mays clarified that Mr. Meter was not asking to stop the project or abandon it but wanted the City Council to consider a variance. This would require going through the variance process instead of the conditional use process.

Crean said that Mr. Meter was asking the City Council to send the application back to the Planning Commission to require a variance. He said a variance would be a separate application, appropriate only if the project sought to exceed the allowed height through a type two administrative decision. He said the CBC district allows heights up to 75 feet through the type three conditional use process, which the applicant chose. Therefore, he said no variance was required. Crean reiterated that the current application was for a type three conditional use permit for a 60-foot height limit, not a type two variance. He said that if a variance were required, the current application would have to be denied, and the applicant would need to start the process anew.

Mayor Mays closed the public testimony portion of the public hearing at 7:23pm.

Mayor Mays asked if there were any comments from Council.

Randall referred to the history mentioned by Mr. Chandler regarding zoning ordinance amendment 79-11. He said that Dan Durow had directed the City to consider two options: a variance or amending LUDO to allow developments in the CBC district with building heights over 55 feet through the CUP process. The city council at that time voted to amend LUDO. He said this matter had already been considered in 2011, indicating that the direction had been established by the previous City Council.

Richardson said he agreed it was cut and dry the code allowed for building to go through CUP and get up to 75 feet. He did not see why they should break that rule in this case and did not think it appropriate to second guess the rule-making and decision-making processes.

It was moved by Long and seconded by Richardson based on the City Council's review and interpretation of the applicable criteria, the evidence in the record and the findings, interpretations and conclusions set forth in the staff report, appeal application 036-24 is hereby denied, the decision of the planning commission is affirmed, and the application for conditional use permit 212-24 is approved. The motion carried 5 to 0, Long, Richardson, McGlothlin, Randall, Runyon voting in favor; none opposed; none absent.



Klebes suggested the resolution be included in the next City Council meeting on September 9<sup>th</sup>.

Runyon said the issue was resolved by determining that the CUP process was properly applied, which was why he voted in favor. He raised a question about the parking for the building, expressing concerns about its adequacy. He mentioned previously opposing the use of lots across the street to meet qualifications for another building. Runyon asked if the parking issue had been addressed, noting that a citizen had also raised this question. He said if this was not the appropriate forum, it should be discussed another time, but he believed it needed to be answered.

Chandler said that the site plan review, which includes the parking issue, was appealed and could potentially come before the City Council again. He suggested that it might be more appropriate to address the parking concerns at a later date, depending on Creans' input.

Crean said he agreed if that was going to come before City Council it should wait until then.

Runyon asked if it would be appropriate to take testimony on the parking issue before it had gone through the planning commission again, noting that it would potentially be reviewed by the commission before coming to the City Council.

Crean said it was not.

Long said the information was available publicly.

### **ACTION ITEMS**

Change Order #1 for FAA/AIP Grant 3-41-0059-020-2023

Change Order #2 is for FAA/BIL Grant 3-41-0059-021-2023

Jeff Renard Airport Manager reviewed the staff report.

It was moved by McGlothlin and seconded by Long to authorize the City Manager to execute the attached Change Order #1 associated with FAA/AIP grant 3-41-0059-020-2023 in the amount of \$180,305.45 and Change Order #2 associated with FAA/BIL grant 3-41-0059-021-2023 in the amount of \$93,267.88. The motion carried 5 to 0, McGlothlin, Long, Randall, Richardson, Runyon voting in favor; none opposed; none absent.

### **CGRA Hangars, LLC (Planecave LLC) Ground Lease**

Jeff Renard Airport Manager reviewed the staff report.

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Richardson asked if there were any staff concerns with a 20 year lease.

Kara said the lease term was 20 years with two 10-year extensions. FAA guidance for airport ground leases typically did not exceed 40 years, with 50 years being rare. He said the base rent was 20 cents per square foot and included a right of first refusal for purchasing the hangars during and after the lease term. He assured there were no legal concerns.

Klebes said private developers typically seek to purchase airport parcels to make substantial investments. However, the airport rarely sells property. To accommodate these investments and provide long-term confidence, leases were used to allow developers to recoup their investment. He said this approach aligned with past practices at the airport. Additionally, he noted the Airport Manager had discussed four parcels: two were set for development, and the remaining two were still under consideration.

Renard clarified there were four parcels designated for private development, one had been approved for KDLS at the last City Council meeting. He said KDLS was developing a 60 by 120 hangar and the current lease pertained to two available T-hangar spaces. FAA guidance deemed leases over 40 years as property disposal, which was why a reversionary clause was included. It ensured that after 40 years, the property reverts to airport ownership and would become rental property, as was the case with the Shear hangar.

It was moved by Richardson and seconded by McGlothlin to authorize the City Manager to enter into a ground lease with CGRA Hangars, LLC (managed by Planecave LLC) as presented and contingent upon approval from the Klickitat County Board of County Commissioners. The motion carried 5 to 0, Richardson, McGlothlin, Long, Randall, Runyon voting in favor; none opposed; none absent.

### A Resolution Authorizing Transfers of Budgeted Amounts Between Categories of The General Fund of The City of The Dalles Adopted Budget, Making Appropriations and Authorizing Expenditures for the Fiscal Year Ending June 30, 2025

Angie Wilson Finance Director reviewed the staff report.

It was moved by Long and seconded by Randall to adopt Resolution No. 24-018 Authorizing Transfers of Budgeted Amounts between Categories of Various Funds of the City of The Dalles Budget, Making Appropriations and Authorizing Expenditures for Fiscal Year Ending June 30, 2025. The motion carried 5 to 0, Long, Randall, McGlothlin, Richardson, Runyon voting in favor; none opposed; none absent.

## DISCUSSION ITEMS

Short Term Rentals – 2024 Code Amendment Discussion

Joshua Chandler Community Development Director reviewed the staff report.

McGlothlin asked if there was a public database listing the licensed short-term rentals for enforcement purposes. He noted the City could accommodate up to 70 short-term rentals and said some had been converted to long-term rentals due to high demand. He supported reducing the callback time from 24 hours to one hour for addressing nuisance issues, as a shorter period was needed for timely responses. He said improvements had been made in managing issues like parking and noise. He said Jan Oldenburg, a local spokesperson, attended a short-term rental training webinar and would provide a report. Oldenburg was also conducting a neighborhood survey to gather feedback and ensure community input.

Runyon asked for more details on the one-hour callback requirement, expressing concern about compliance if people are away from their phones. He requested information on how Hood River implements this policy and its effectiveness. He asked about the penalty or accountability if a callback is not made within the timeframe. He asked who would be responsible for tracking violations.

Chandler said he was not fully informed about Hood River's approach but noted their policy might be stricter due to past issues with short-term rentals. He said the one-hour callback was a guideline and could be adjusted as needed. The key was ensuring short-term rental operators were attentive and manage their properties responsibly, as they were operating a business in a residential zone.

Kara said the rationale for a strict callback time was to hold short-term rental operators accountable as they are running a business. Operators need to be available by phone to address neighborhood issues and meet the City's expectations, or they risk having their license.

Chandler said the planning department, in collaboration with the code enforcement office, monitors compliance closely. He indicated that adding the one-hour callback requirement would not be a significant burden for staff, as they already manage various operational aspects.

Klebes said that the contact person for the short-term rental does not have to be the owner or investor; it could be someone they have hired to handle these requirements.

Chandler confirmed that the contact person for a short-term rental does not have to be the owner; it can be a designated operator or property management company. He mentioned "Arrived" as an example of a property management company operating in Hood River.

Mayor Mays asked how many Short Term Rentals (STRs) were non owner occupied.

Chandler said he did not have that number at hand.

Mayor Mays requested that information for the next meeting.

Chandler said the specifics of penalties or enforcement for missing the one-hour notice would require further investigation. He said the main purpose of the one-hour callback requirement was to ensure operators actively managed their short-term rentals, preventing issues like disruptive parties and minimizing problems for city councilors, law enforcement, and the neighborhood.

Kara said the City Council for Hood River was having a meeting that night where a proposed amendment to their short-term rental ordinances was on the agenda. This amendment directly addressed the requirement for a host, rather than the owner, to be available to handle nuisance concerns.

Council voted to extend the meeting time by 15 minutes.

Mayor Mays asked what the logic behind exceptions being given for properties listed as historic was.

Chandler said the logic behind granting parking exceptions for historic properties was that many were built before the automobile age and may lack driveways.

Mayor Mays asked about the database that would allow neighbors to report concerns directly to each operator and if anyone else had implemented anything similar.

Chandler said he was unaware of similar systems elsewhere but noted that the database would allow neighbors to contact short-term rental operators directly. This could reduce the need for city mediation while still allowing formal complaints to be filed with the city.

Mayor Mays noted that the report on page 181 showed a minimal effect on housing prices from a 1% increase, adding only \$78 to a \$300,000 house. However, the report also mentioned short-term rentals contributed to about 1/5 of rent growth and 1/7 of house price growth. He calculated this could mean a \$6,000 increase and asked for clarification from the consultant.

Chandler said he would get that clarified from the consultants.

Mayor Mays asked if there had been any new STRs denied during the moratorium.

Chandler said they had not been tracking inquiries.

Mayor Mays said all existing STRs should be grandfathered in, and a cap on STRs with a first-come, first-served approach after the cap should be implemented rather than a lottery system. He said a distance requirement of 300 feet between STRs, especially for non-owner-occupied ones, would be reasonable. He liked the idea of making parking requirements contingent on the number of bedrooms and the special event provision and the Good Neighbor policy were reasonable. He suggested Council consider requiring non-owner-occupied STRs to have an accountable operator for the license.

Councilor Richardson said that non-owner-occupied STRs should have a host or operator, as they are businesses and should be treated as such. He asked if the 300-foot distance requirement was too far or not far enough.

Mayor Mays said his opinion was the 300-foot distance was reasonable.

Richardson suggested spelling out if that was a linear or radial distance.

Runyon said that before drafting, it would be better to get input from current short-term rental operators to avoid having to revise the draft later.

Chandler said they would share a draft with the community. He said they would gather feedback, make any necessary changes, and then bring the final draft back to the Council for approval.

Councilor Runyon said the process was clearer and to be sure they were being transparent about what was trying to be accomplished.

Chandler said the goal was to streamline the process by sharing the draft with the community first, to avoid multiple rounds of revisions and additional meetings with the Council. They would check whether additional requirements for non-owner-occupied properties might conflict with an ongoing lawsuit.

Randall said a lottery system might reduce disputes compared to a first-come, first-served approach, though it depends on how the system is managed and how well the sign-up process is documented.

Chandler said a past issue with two marijuana dispensaries being approved within 1,000 feet of each other highlighted problems with a first-come, first-served approach. Both dispensaries had been approved despite being out of compliance with the code.

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Long said she leaned more toward the lottery system.

Klebes suggested date-stamping applications as soon as they are received to establish a submission date for the waiting list, similar to how enterprise zone forms are handled.

Chandler said applications were already date-stamped upon receipt. He wanted to avoid past issues, such as those with the two dispensaries.

Klebes suggested applications be held in place until they are either rejected or approved by the planning department. He said staff could address specifics and details in the coming months.

Klebes reviewed the discussion outcomes:

- Current short-term rentals should be grandfathered in
- There should be a cap with a waiting list and/or lottery system
- A 300-foot distance requirement should be considered
- Parking requirements should be tied to the number of bedrooms
- Special events should be allowed
- The Good Neighbor concept should be supported
- Non-owner-occupied rentals need a host or operator

Mayor Mays said the 24-hour response time had not been mentioned.

Runyon said that seemed like a short amount of time.

Mayor Mays said Hood River was 15 minutes.

Kara clarified the Hood River City Attorney had recommended. There code was up for amendment and would be checked on the following day.

Councilor Runyon asked for clarification on the lottery system process.

Chandler said the lottery system involved a period during which applications are accepted, such as two weeks. After the submission period ended, the applications would be randomly selected from the pool.

Runyon asked if there were that many applications coming in.

Chandler said the lottery system would likely be considered years from now, as the growth of short-term rentals in The Dalles was slowing. He said with the current number of 47 short-term

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rentals, 23 more would be needed before considering the implementation of a lottery system.

Mayor Mays complimented staff for an excellent report and professional presentation. He also thanked MIG.

**ADJOURNMENT**

Being no further business, the meeting adjourned at 8:44 p.m.

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Submitted by/  
Amie Ell, City Clerk

SIGNED:

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Richard A. Mays, Mayor

ATTEST:

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Amie Ell, City Clerk

DRAFT



# Columbia Gorge Early Learning Center The Dalles / Wasco County



# Agenda

Project Definition Phase

Project  
Vision

Program  
Approach

Site  
Approach

# project **vision**

A young child, possibly a toddler, is shown from the chest up, wearing a grey knitted hat with a pom-pom and a grey jacket. The child is looking down and to the right. The background is dark and out of focus, suggesting an outdoor setting with foliage. The text is overlaid on the right side of the image.

Oregon's childcare system is in **crisis**, with acute shortages of supply across the state and over 72% of Oregon counties identified as **childcare deserts**.



Welcome to the future

# Columbia Gorge Early Learning Center

# Vision

*Where do we  
want to go?*

# Principles

*How do we stay  
on course?*

# Goals

*How do we  
achieve  
success?*

## Project Vision

Where do we want to go?

the Columbia Gorge Early Learning Center is a **community-centered initiative** that is paving the way for a **thriving childcare landscape** in the mid-Columbia Gorge and creating a **collaborative center** for the Educational Service District to **amplify their impact** at a **regional level**



# Steering Committee Guiding Principles

How do we stay on course? Define Values

## Child Focused

What is best for early learners drives our approach; they deserve a space designed just for them

## Amplify Impact

It may be a little project, but it has a big influence through design, construction, and operation

## Community-Centered, Equity Driven

Reflect the diverse perspectives of our community and focus on addressing their needs

## Synergistic Partnerships

Flexible and open to unexpected opportunities along the way

## Be Good Stewards

High-quality, functional, and fiscally sustainable

## Do No Harm

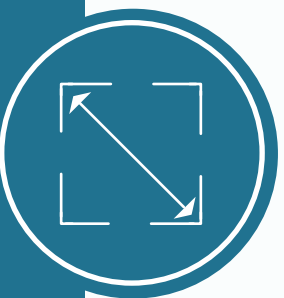
Minimize risk to people, community, and place

# Project Goals

What does success look like?



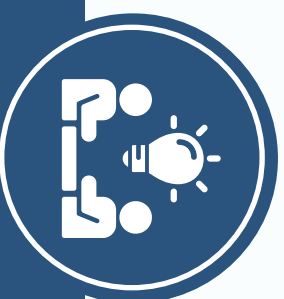
**inclusive and culturally relevant experiences** to welcome children, families, staff, and community



allow for evolution through **adaptable and flexible** spaces



reinvigorate Chenoweth MS to **connect community to the unique environment** of the Columbia Gorge



foster **collaborative interaction** and **individual reflection**



integrate **resilience** and demonstrate a **sustainable future**



retain and grow a **qualified regional workforce**



# program approach



welcoming  
community



thriving early  
learning



centralized  
workplace

# Area Overview

## Program Definition

### EARLY LEARNING CLASSROOMS, INTERVENTION SUPPORT, PRACTICUM AREAS, & ADMINISTRATION

- > over 200 Children
- > Administrative Staff
- > Community College Practicum



### SCHOOL DISTRICT & COMMUNITY



### BUILDING SUPPORT & UNASSIGNABLE

### EDUCATION SERVICE DISTRICT WORKPLACE

- > 75(ish) Staff
- > 12 Departments



Program Definition		Square Footage
Early Learning Center		21,140 SF
Education Service District Workplace		9,995 SF
School Use Gym and Support Spaces		9,420 SF
Building Services, Circulation, Grossing Factor(s)		13,409 SF
		<b>53,964 GSF*</b>

Program Note: GSF includes 800 SF addition at entry\*

# Project Definition Approach

Shared front door welcoming community to centralized gathering spaces



welcoming  
community



- Vertical Connection
- Existing Gym / Gross Motor Room
- Early Learning
- Specialist
- Family Support
- ESD / ELC
- Food Services
- Bldg. Services/Storage
- Elevator
- Stairs



# Project Definition Approach

Shared front door welcoming community to centralized gathering spaces  
 8 Preschool Classrooms / 4 Infant-Toddler Classrooms  
 Multiple Flexible Resource Spaces (Gross Motor/ Intervention)



thriving early learning

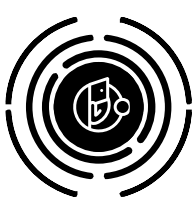


- Vertical Connection
- Existing Gym / Gross Motor Room
- Early Learning
- Specialist
- Family Support
- ESD / ELC
- Food Services
- Bldg. Services/Storage
- Elevator
- Stairs



# Project Definition Approach

- Shared front door welcoming community to centralized gathering spaces
- 8 Preschool Classrooms / 4 Infant-Toddler Classrooms
- Multiple Flexible Resource Spaces (Gross Motor/ Intervention)
- Resources distributed with open work/collaboration
- Centralized leadership and operations



centralized  
workplace

- Vertical Connection
- Existing Gym / Gross Motor Room
- Early Learning
- Specialist
- Family Support
- ESD / ELC
- Food Services
- Bldg. Services/Storage
- Elevator
- Stairs

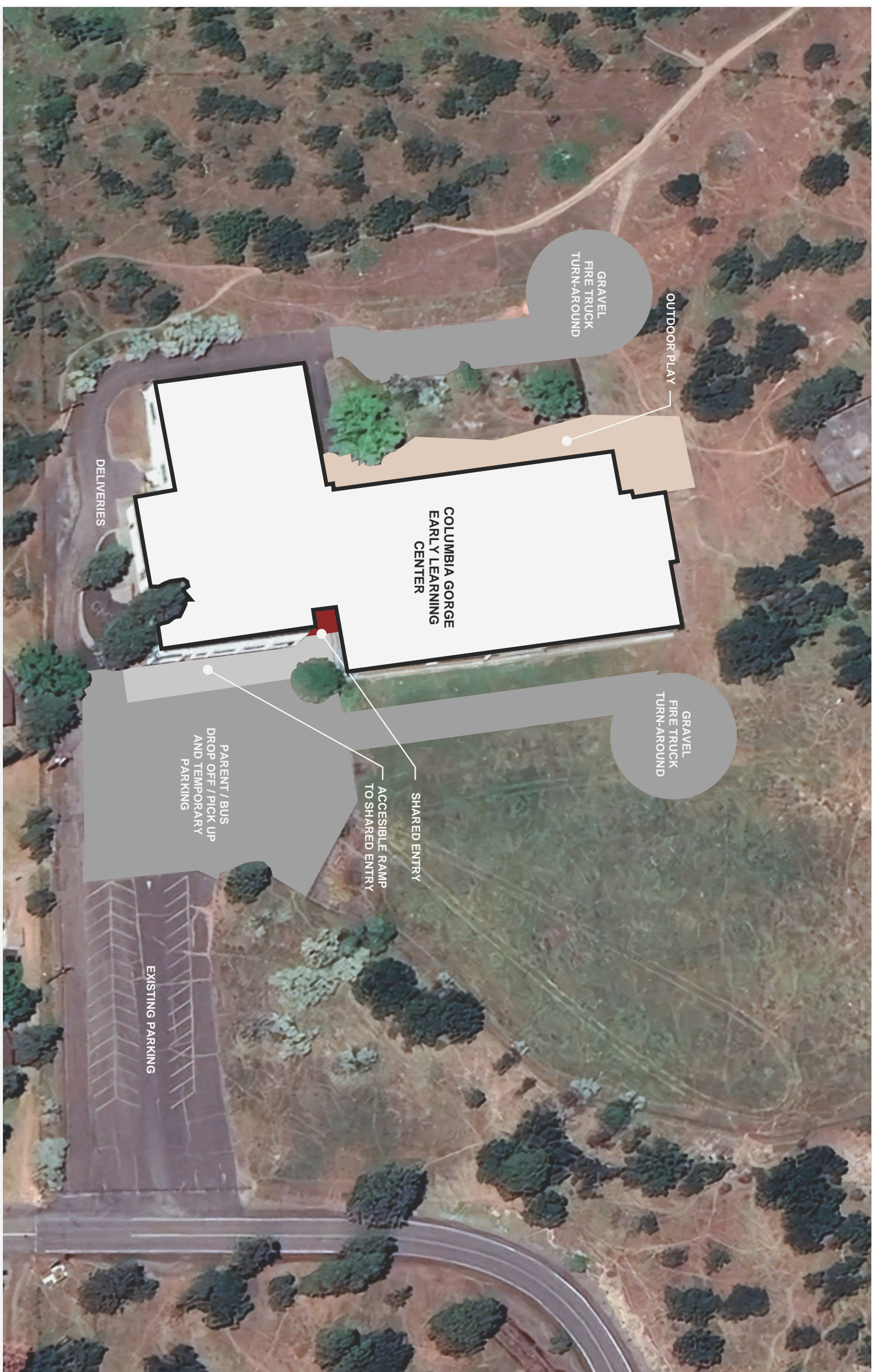


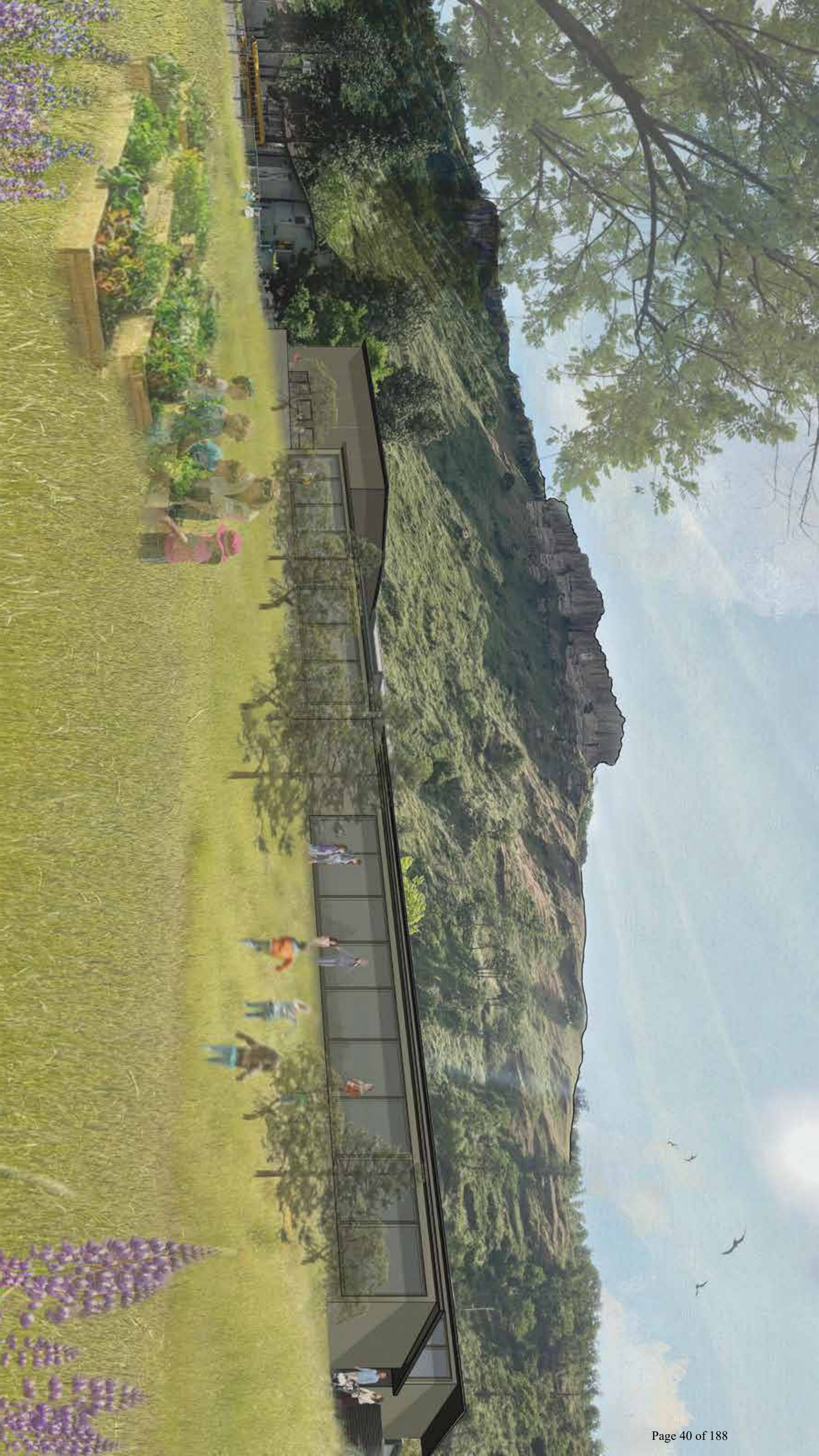


# site approach



# Project Definition Approach







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MINUTES  
CITY COUNCIL & WASCO COUNTY BOARD OF COMMISSIONERS  
JOINT WORK SESSION

WASCO COUNTY BUILDING, 401 EAST 3<sup>RD</sup> STREET

JUNE 5, 2024  
1:30 p.m.  
VIA ZOOM/ IN PERSON

**PRESIDING:** Chair Steve Kramer

**COUNTY COMMISSIONERS:** Scott Hege, Steve Kramer, Phil Brady

**CITY COUNCIL:** Darcy Long, Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson, Mayor Richard Mays

**STAFF PRESENT:** County Administrative Officer Tyler Stone, County Assessor Jill Amery, City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Amie Ell, Public Works Director Dave Anderson, Police Chief Tom Worthy, Finance Director Angie Wilson, Community Development Director Joshua Chandler, Economic Development Officer Dan Spatz

**CALL TO ORDER**

The meeting was called to order by Chair Kramer at 1:30 p.m.

**DISCUSSION ITEMS**

**Strategic Investment Program (SIP) Funds Policy Discussion**

Commissioner Kramer said the joint work session was for City Council and County Commissioners only. They would not be taking public comment during the meeting, but would accept questions or comments via email or in writing. A later meeting would have a portion open to public comment on the topic. The objective of the meeting was to allow for discussion for the potential use of SIP (Strategic Investment Program) funds. The focus would be on City and County policy level guidance not on the specific projects or initiatives.

City Manager Matthew Klebes presented the staff report provided in the agenda packet.

Commissioner Kramer opened the discussion for councilor and commissioner comments or

questions.

Mayor Mays noted the meeting was the first of multiple on the topic. Public input was encouraged. He cautioned the joint committee to remember the amount of the revenue coming in was yet unknown.

Wasco County Assessor Jill Amery confirmed the amount was yet unknown.

Councilor Runyon said there would be other entities from the other taxing districts also impacted and would like to hear from them at a future meeting to learn what they would like to see happen.

Commissioner Hege asked if the two separate centers were located on the same tax lot.

Amery confirmed it did not matter they were on the same tax lot; the data centers would still be tracked separately per the County's request. In the past, the first two agreements had been commingled. A lot of work had been done with Google to separate before the first one came off the tax roll. The newer datacenters had to be separate; valuation, calculations and revenue streams required they be tracked separately. The State and the County Assessor's office were responsible for tracking.

Commissioner Hege asked if it was likely the community service fees would be at or near the \$2.5 million cap.

Amery stated models had been created for several different scenarios. In the scenarios both occurred. It varied dependent on estimated valuations and depreciation.

Commissioner Hege asked if a model with a valuation of \$600 million would reach the cap of \$2.5.

Amery said it did not reach the cap often at that valuation in the models. The hypothetical estimate in the models reached the cap about 1/3 of the time.

Commissioner Hege asked what the difference was between the split tax code areas for each of the datacenters.

Amery said the second building had not yet been placed and she had not yet seen plans to be able to make that determination.

Commissioner Hege asked for future meetings be a time in the evening when it would be easier for the public to attend.

Mayor Mays asked for an update from staff on the status of the two data centers.

Community Development Director Joshua Chandler said the first data center was under construction the second had an approved permit to be issued after the SDC payment was made. Mayor Mays noted the first negotiations with Google had started in 2005 and that one was currently generating around \$5 million a year in taxes to the community. The taxing bodies not only benefited from that tax, but also a percentage of the community service fees and the portion of taxes that would be paid in the future on the newest agreements.

City Manager Matthew Klebes noted a distinction between a tax dollar and a fee dollar for understanding what would be going to the school district. Because of state-wide school funding formulas, increases in tax money did not necessarily all stay within local school district. However, community service fees collected would all stay local.

Commissioner Hege asked how confident they were that the taxable portion would be in the \$50 million or \$100 million range based on the valuation.

Klebes said a valuation of \$600 million was what had been used in prior scenarios. He noted there were three existing categories.

Wasco County Assessor Jill Amery said that was the best estimate and the valuation Google was using in a couple of recent articles.

Commissioner Hege said there had been a lot of inflation recently, but their number had not changed.

Councilor Richardson asked for a description of the timeline for Business Oregon to make the determination of the first data center's valuation.

Amery said it would be dependent on when the project was complete and when they received a certificate of occupancy. Once that occurs it was shown in past examples centers were not always totally built out with their equipment at that point. The County would be learning and working through the valuation process with Google, Business Oregon and the State.

Councilor Richardson asked if the community service fee cap of \$2.5 million was per data center.

Amery confirmed it was.

Councilor Richardson said the term "greater good" being used in discussion should be defined

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with guardrails and scenario examples. He said it would be useful to have numbers and scenarios for the endowment fund concept in addition to revenue bond options, samples, and scenarios. He said for example, the City had had discussions that included ideas for uses for the funding being used for infrastructure. He asked if the County had had any similar discussions.

Tyler Stone Wasco County Administrative Officer said they had been waiting for a conversation with the City before making any decisions. He said it was one thing to create a list of things the money could be spent on and it was another thing to choose to create an endowment for the community. The outcomes of the joint work session discussion would be the driving factor to start making decisions. He felt if an endowment was created, they would have to be all in on it. It had the possibility to give back \$1 million a year for the community forever. He wanted a higher level of consensus as to what should be done as a community. He said he was not ready to throw out a capital improvement plan. Even though there were capital needs, the conversation was at a higher level for the community than what those needs were.

Mayor Mays said the City was in a similar position with capital needs. He encouraged all of the taxing bodies, because of uncertainties that lie ahead, to look at putting any additional revenues into capital needs as opposed to putting it into operational expenses.

Stone said the first enterprise zone had come off the abatement and those were beings seen in general funds currently. After the next one came off abatement, there would be another bump. Then at the end of 15 years there would be another when the first of these two newest datacenters came off abatement. He noted this did not take into consideration other revenue sources coming out of the Google projects for example SDCs and franchise fees. He said when he looked at all of the points along the 15-year abatement timeline, he felt there was space to look at something like an endowment because there would be other money coming in to do projects as well. He said to consider weighing the opportunity costs for now versus in the future. For example, looking at using the funds to reduce tax rates which might reduce the tax by about \$100 per year for the average tax payer versus creating an endowment that would generate \$1 million a year forever for the community.

Commissioner Hege stated the two newest projects coming online would potentially be more significant bumps than the first two.

Amery said the tax revenue being seen now was from the first agreement that had expired, in 1 to 2 years the next would become taxable, then the next in 8 years and the final in 10 years.

County Commissioner Phil Brady said establishing an endowment would give a sense of stability that could keep tax rates stable as it would be protection when something unexpected came up. He said setting aside a common pool of money would allow for collaboration for the City and

## MINUTES

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County to work on projects together.

Councilor Randall said there were many in the community that would like to see immediate benefits from the revenues but there a great case for the long-term financial stability of an endowment had been made.

Councilor McGlothlin said it was a great responsibility to take the investments and spend wisely. He said the endowment philosophy seemed reasonable. The reduction of tax to citizens should also be included in discussions as the savings of even \$100 mattered greatly to some tax payers. He said rational saving of funds should be done for future emergencies.

Amery said calculations had been done looking at how paying off of current bonds would impact tax payers. They did this by calculating the savings if all current levies were removed. This included levies for Mid-Columbia Fire and Rescue, Columbia Gorge Community College and North Wasco County Parks and Recreation Department. That savings was \$10.86 per month for the average tax payer.

Councilor McGlothlin said the tax payer should still be included in the discussion and he would continue to bring it up in discussions.

Commissioner Hege said he would be interested in looking at ideas for taking a portion of the money to reduce tax rates.

Amery said the rate that had been used in the levy payoff calculations was \$0.60.

Councilor McGlothlin said there might be additional benefits to removing bonds from some of the entities. For example, when the County had taken over the bond payment for the Discovery Center, it had resulted in improvements at the Discovery Center.

Councilor Long said she liked the idea of the endowment. There were things that should be considered as needs versus wants. She said a new high school would create an additional tax burden if they did not use some of the funds. One of her concerns about the endowment was how the needs within the City versus outside it would be fairly balanced. Another concern was due to inflation projects were dramatically increasing in expense. The value of the current dollar and opportunity costs needed to be considered.

Stone said calculations had been done to determine tax payer savings if some of the money were to be used in placed of a school bond. He said for every \$10 million invested it would save tax payers about \$4.00.



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Councilor Long said as a financial advisor she understood money was emotional for people and they would make decisions based on that. They would not vote to increase their taxes for a new school knowing there was a pot of money available that could be used.

Commissioner Brady said his thought was to have a regional approach to assess what would benefit livability and economic vitality within the City. He requested additions and changes to the presented example of policy guidance given in the staff report. He wanted “schools” changed to “education” as that would include other things such as childcare and he also wanted “health facilities” added in the open space next to housing. In addition, he wanted a consideration to not limit to the noted “last dollar, not first dollar” in the staff report. He said the opposite side of that was to be able to use it as first dollar or seed money that was often difficult for entities to obtain and could be multiplied with other grants.

Councilor Runyon said a portion may go into an endowment, but asked for the consideration of two separate endowments, one within the County and one within the City, as well as a review of the pros and cons. He said Sherman County had used SIP funds for individual communities. Each community thinks for themselves had specific needs.

Stone said the way it was being looked involved a process to create a list similar MCEDD’s economic development list to be used in determining and vetting projects needed within communities. A City and County committee, under a binding agreement, would review, discuss, and come to a consensus on which projects would be funded. This opened it up for small entities to come to the table to utilize the endowment for projects.

Commissioner Brady said there were things in the county such as solar installations planned for the future and what was being created now could become a model for those projects. He said there were parts of the county that were not considered entities. The main point was a common fund for the City and County to collaboratively work together.

Mayor Mays said he had looked closely at the idea of lowering taxes since he had become mayor. He noted there were 11 different taxing bodies and the decision to raise or lower depends on them all. The City and the County combined make up about 49% of the tax rate, the other 59% was from the remaining bodies.

Councilor Richardson argued against looking at things that would further increase revenue as was mentioned in the staff report. He said things such as a new school that would keep taxes from raising should be considered.

Commissioner Kramer said he was in favor of the endowment concept. He encouraged the district’s citizens to send emails and written comment on the topic.

Mayor Mays said he was intrigued with the idea of an endowment if it would generate enough funds as well as the idea of a revenue bond. He asked if it was too early to determine if a revenue bond could be sold with the uncertainty of the revenue stream.

Stone said a revenue bond would have to be looked into further by staff.

Klebes asked if there were any other criteria or concepts that should be looked into, removed, or if there was anything missing that they would like staff to work on to prepare for the next work session.

Commissioner Brady said he objected to “last dollar, first dollar” and wanted seed money included.

Commissioner Hege asked staff if it was clear what they were asking them to bring forward to the next meeting.

Stone said the next work session would include a section for public comments, a discussion of the community input received, as well as additional requested information about the endowment concept.

Klebes confirmed more detail would be prepared for the items the group had expressed interest in as well as a snapshot of the ideas that would be heard from the community and other taxing districts.

Councilor Long said she would like to see the public comment sent in ahead of time. She said some people might give specific project ideas but they could be extrapolated to fit into a bigger picture.

Commissioner Kramer confirmed all public comment would be accepted.

A discussion of how to best collect public comments lead to a decision to have staff create a survey eliciting input on how the public believed funds should be spent. The survey was to be compiled and shared with the Council and Commission before the next joint work session.

The next joint work session was scheduled for Tuesday, July 23, 2024 at 5:30 pm to be held in the Wasco County Building at 401 E 3<sup>rd</sup> Street.

## **ADJOURNMENT**

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Being no further business, the meeting adjourned at 2:54 pm

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Submitted by/ Amie Ell, City Clerk

SIGNED: \_\_\_\_\_  
Richard A. Mays, Mayor

ATTEST: \_\_\_\_\_  
Amie Ell, City Clerk

DRAFT

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MINUTES  
CITY COUNCIL & WASCO COUNTY BOARD OF COMMISSIONERS  
JOINT WORK SESSION

WASCO COUNTY BUILDING, 401 EAST 3<sup>RD</sup> STREET

JULY 23, 2024  
5:30 p.m.  
VIA ZOOM/ IN PERSON

**PRESIDING:** Mayor Richard Mays

**COUNTY COMMISSIONERS:** Scott Hege, Steve Kramer, Phil Brady

**CITY COUNCIL:** Darcy Long, Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson

**STAFF PRESENT:** County Administrative Officer Tyler Stone, County Assessor Jill Amery, City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Amie Ell, Public Works Director Dave Anderson, Finance Director Angie Wilson, Community Development Economic Development Officer Dan Spatz

**CALL TO ORDER**

The meeting was called to order by Mayor Mays at 5:30 p.m.

**DISCUSSION ITEMS**

Mayor Mays stated the purpose of the joint work session was to have a Strategic Investment Program (SIP) funds policy discussion.

Mayor Mays invited City Manager Matthew Klebes to review the results of the community SIP survey. He said the survey had been advertised on both City & County websites, Facebook pages, and other social media platforms as well in an article in CCC News. There were 345 responses. Staff had compiled themes that emerged from the results.

City Manager Matthew Klebes referred Council and Commissioners to the staff report for descriptions of seven key themes that had emerged; schools, tax relief, infrastructure, public safety, economic development, housing, and homelessness. Additional themes included youth programs, supporting fire & EMS services, and establishing an endowment fund for the school district. Responses revealed a desire for transparency and community involvement in the

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decision-making process regarding funding allocation.

Mayor Mays asked if there was any idea of how many people brought up each of different themes.

Klebes said he did not have that level of information but it could be compiled if the City Council and County Commissioners would like to see the weight of each of the themes.

Councilor Richardson requested more information to show numbers or percentages.

County Assessor Jill Amery said many of the individual responses had several items. They would do their best to count and bring back the information.

Klebes said there had been discussion of creating a survey with radial radio dial buttons attached to very defined answers, which would have provided that kind of specific data. The choice had been made to have open ended questions to garner more direct feedback.

Commissioner Hege reviewed the questions from the survey;

- What do you see as the biggest opportunity or challenge that should be addressed in our community?
- How do you believe the upcoming fund should be allocated?
- If you would like to stay in touch, leave your email address below.

Klebes said the raw data had not been shared in the public agenda packet because it contained people's contact information.

Commissioner Brady said he recognized two categories. One was topics with Broad Community Benefit. He put schools, infrastructure, economic development and housing, into that category. He said housing would lead to more employers and benefits. Schools would attract new businesses. The other category was Responses to Needs, and included tax relief, public safety, infrastructure and homelessness. Broad Community Benefits items were forward looking while those in the Responses to Needs category looked at the past.

Mayor Mays said the City had important and serious infrastructure needs, especially in the water system.

Amery said more information in the agenda packet included answers to questions from the last work session. It included answers to questions about the split tax code, where taxes would go, and where community service fees would go. She clarified the split tax code was from when there

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were two separate school districts. Districts 12 and 9 had merged to become District 21, but the tax codes had not changed.

Mayor Mays asked if anyone in the audience wanted to address the County Commission and City Council regarding the subject.

Corliss Marsh, resident of The Dalles said she was speaking as a representative from the library board which governs the library service district of Wasco County. As one of the taxing districts, the board liked the idea of saving for a common community good to benefit everyone. She wanted to see the library considered for help with expanding the library facilities. She asked Council and Commissioners to think about possible matching funds for a capital campaign to expand the library. She said the library was a city building that served the whole county and asked the Council and Commissioners to think of the library in the future.

Mayor Mays asked if the library board had thought about the additional tax revenue they were currently receiving and utilizing that in any way for that particular goal.

Marsh said they had not discussed that.

Walter Denstedt, resident of The Dalles said there were drinking water issues in some rural towns and that ensuring decent water in homes was a priority. In The Dalles area, there were two major needs: the lack of water rescue services and inadequate training and equipment for hazardous materials response. He highlighted the necessity for public safety enhancements due to the proximity to the Columbia River and major transportation corridors. He said many EMTs in the southern part of the County are senior citizens, stepping up due to the lack of younger responders. In Maupin, Dufur, and Pine Hollow had increased call volumes, but local EMS services were struggling with insufficient personnel and resources, risking their ability to continue providing services.

Commissioner Hege said he appreciated the comments and clarified that in the past Wasco County had participated in the Oregon State Marine Board program, which had provided marine services. They had since broken away from that program and started their own water safety program. They purchased a boat and conducted their own training. Although they were still involved in water safety, they no longer were a part of the Marine Board. For details on why they now took this approach to water safety, Sheriff McGill was suggested as a contact. The need for such services was acknowledged, given the presence of significant bodies of water nearby.

Rodger Nichols resident of The Dalles said he was 75 years old and the school kids were going to be just 9 years older. He says it was considered an antique and he felt the high school should be a high priority.

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Mayor Mays noted the age of the Wick's water treatment plant also matched that.

Carolyn Bernal, superintendent of North Wasco County School District, stated that all schools, except the middle school, were past their shelf life. Colonel Wright School turned 100 this year. She urged consideration for the future of the schools and said they should be the center of the community. She hoped that for the next bond run, anticipated in November 2025, the County, City, and School District would work together. They were completing facility assessments, expected to be finished by August or September, followed by community forums. She acknowledged the community's sensitivity to taxation and emphasized the importance of collaboration for the upcoming bond election.

Commissioner Hege asked Bernal if her board had discussed how the City and County might be involved.

Bernal said they had not yet had those discussions. They first needed to complete the facilities assessment conditions again because those had expired. They would not be able to apply for the Awesome Grant matching funds without it. They would be having the conversations and would be happy to invite City and County to those.

Mayor Mays confirmed this was a grant for a \$6 million matching fund.

Commissioner Kramer asked if the school district had talked with the Governor as education was one of her top three priorities.

Bernal said superintendent groups across the state were working on funding advocacy and student supports advocacy. She was a part of the student support advocacy group and had met with the Governor last month. She said the Governor recognized the issues of school funding and aging facilities across Oregon were a top priority for her as well.

Councilor Long noted there was significant community interest and support regarding the use of funds. She said tax dollars for the School District had to be returned to the state and reallocated. For that reason, they had directed some of the money toward community service fees, which the school district would receive directly. She inquired if the group had thought about allocating some of the community service fee funds to facilities, given that it was a one-time allocation and could not be used for staff.

Bernal said they had an interim CFO assisting for this year and those things raised by Councilor Long would be a part of their discussions. She said the current dollars from the first round of the Google tax dollars went straight into upkeep of buildings and had already been designated for the next round for upkeep of buildings. She said they could only continue to put so many band aids

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on the buildings. An example was that to replace a roof on one school the cost could be anywhere from \$600,000 to \$1 million.

Councilor Long said she understood and hoped the school district would go through a similar process as to what the County and City were doing for the future funding.

Mayor Mays clarified the school district was currently receiving over \$200,000 and asked Bernal to introduce the other members of her team present.

Bernal introduced the School Board chair Dave Jones and director from the migrant school Dana Wynn-Elledge.

Councilor Richardson thanked Superintendent Bernal and the directors for attending. He agreed that schools are fundamental to the community and welcomed and encouraged discussions between the City, County, and schools for the next bond round. He advised bringing specific requests when ready, noting that the Google money was a steady stream of funding, not an overwhelming amount, and that there were many needs to address. He encouraged the Council and Commissioners to think about the Community Outreach Team that would soon be going to Washington DC to consider focusing on cultivating stronger relationships with state representatives. He said the feds would not be giving money to schools but the state might.

Sue Davis, from Columbia Gorge Community College (CGCC), expressed appreciation for past support, particularly for the skills center program, which had significant positive feedback and graduates entering family-wage jobs. She said the college would be seeking a bond renewal on the November ballot, maintaining the rate of 27 cents per \$1,000 of assessed property value for campus maintenance and development in The Dalles and Hood River. Davis highlighted the college's continued investment in programs responsive to the local economy and suggested that Google funds could be beneficial in supporting these efforts. She said an economic impact study had shown graduates with an associate's degree from CGCC receive an average annual pay bump of \$7,000 and the college contributes approximately \$645,000 to the local community through job creation and spending.

Commissioner Hege noted 345 survey responses had been received that he had read the actual responses. He encouraged the Commissioners and Councilors to review the detailed responses, as they were more elaborate than the summaries and provided valuable insights. He said the summarized data was useful but suggested reading all responses for a better understanding. He then discussed the community service fee, noting that the library district, as part of this tax code area, received about 3.9% of the fee. He estimated that this could bring the library district about \$60,000 annually once implemented. He emphasized while the numbers should be taken with caution, understanding the financial impact was important, particularly for the school district. He



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pointed out that the first project involving Google had already led to significant increases for all taxing districts and the community service fee would also have a notable impact in the near future. He also mentioned that the County Assessor would likely provide a more conservative perspective and emphasized the importance of being aware of these potential benefits.

Commissioner Hege also addressed Mr. Denstedt saying the Sheriff had messaged him and confirmed the marine program was up and running on weekends, with more trained marine deputies than ever before. He encouraged Denstedt to discuss the program further with the Sheriff, who could provide detailed reasons for the changes and their benefits to the county. He acknowledged the validity of the concerns, emphasizing that changes often occur without full understanding. He stressed the responsibility to ensure effective search and rescue operations on the river and other bodies of water, and highlighted the need for coordination with the fire district to achieve success.

Commissioner Brady said tax relief was always a difficult subject. He emphasized that, regardless of political stance, the expectation was to reduce taxes. He outlined three problems with using property taxes for relief:

- Inequity: If a simple means household received \$100 in relief, a luxury house would get much more, leading to an inequitable distribution of property values.
- Revenue Reduction: Reducing property taxes would also decrease revenue from large industrial sources, impacting the funds available.
- Renters: With 35% of households in Wasco County being renters, they would not benefit from property tax reductions as it was unlikely they would see the return from landlords.

He said fine-tuning an income tax could be a better solution and cited Alaska's oil revenue distribution as a different system that could be considered.

Councilor Long addressed the idea of reducing property taxes by investing in projects that could increase property values, which would help counterbalance the tax reductions. She noted the City was considering this approach with their water master plan, assessing the costs and impact on property taxes.

Mayor Mays shared that, in his early days as Mayor, he had focused on lowering taxes. As he gained more experience, he recognized the City's significant infrastructure needs. He suggested that, instead of lowering taxes, it might be more effective to use additional revenue to prevent tax increases. He proposed a similar approach for water rates, using revenues to keep rates manageable and avoid significant hikes.

Mayor Mays reminded of the idea of an endowment and invited comments on it. He said another idea was using revenues for a bond, with debt service over a 15-year period, applying the proceeds to one or more capital projects and paying it off over time. He said there was also a pay-

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as-you-go format, where money is spent as it comes in, or a hybrid of all three approaches.

Commissioner Kramer said he was hoping to hear more from the community first to add to the 345 responses received from the survey. He said it appeared the City Council had not seen the survey. He suggested City-County staff redact any personal information and distribute the survey to ensure everyone had the same information. He emphasized there was time to review the data, as the money would not be available immediately. He proposed that colleagues review the information, reach out with specific questions, and then move forward to provide a comprehensive report to the community, ensuring everyone was on the same page.

Councilor Long said that, as she discussed at the last meeting, money was emotional, and she knew the survey results were important because they reflected the perspective of the people who answered. She emphasized that understanding the specific data and wording of the survey responses was crucial to grasp the emotions behind them. However, she noted that their job was to bring in the data and information that the public might not know, such as the costs of the water treatment plant and how it might affect taxes. She had expected the meeting to focus more on City and County priorities and how these align with public feedback. She expressed a need for more information from both City and County leadership to effectively decide how to spend the money and whether to allocate it now or in the future.

Mayor Mays said the City's major infrastructure needs over the next generation was the water system.

Klebes said a work session for the City's water master plan was scheduled for August 19<sup>th</sup>. The focus would be on the financials for the water master plan projects over the next 20 years. He said this would be followed next year by the wastewater treatment plant master plan.

Councilor Long said there had been discussions about how to support the school district with its need for a new high school and the difficulties it faced in passing a bond. She noted that while the public wanted to see support from the City and County, there was a lack of clarity on what was needed from them. She suggested even a modest financial contribution could show commitment and potentially drive economic development, attracting businesses and improving local services like schools and hospitals. She expressed frustration that the positive efforts in The Dalles were not being recognized and emphasized the need to better communicate these efforts to the community. She believed investing in visible projects, like the school and water system, would have a significant impact both physically and emotionally for the town.

Mayor Mays said he did not disagree with investing in those projects but it was difficult to commit money without knowing the cost of the school or the water system. He said the process was going to be very important.

Commissioner Brady said part of the difficulty in the conversation was that the idea of an

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endowment was of a whole different nature and quite intangible. He explained an endowment could foster collaboration between County and City and this would add another layer of complexity. While immediate needs were obvious and shouting at them, the advantage of an endowment was less clear. He noted counties in other parts of Oregon were facing desperate situations and lacked agility, flexibility, and reserves to make opportunities happen. He said the State encouraged voters to pass measures by offering an extra match, and this approach could be applied locally. He likened the intangible benefit of an endowment to doing yoga: it would make them more flexible and feel better in the long term, but it would not address immediate needs like cleaning the house. He acknowledged the challenge of weighing immediate needs against the future benefits of an endowment, noting that immediate issues are always more psychologically impactful.

Councilor Long said that while an endowment was a great idea, it was intangible compared to the immediate issue of increasing water rates due to expenditures. She said there were future opportunities for an endowment but emphasized with the current funds, they must prioritize and address immediate needs. She noted leadership often involves making difficult decisions and balancing immediate concerns with future possibilities.

Councilor Runyon said there were two main points discussed: first, the school district had not communicated how tax money was being utilized. The school district mentioned current funds from the enterprise zone were used for building maintenance. He expressed the need to gather similar information from all taxing districts regarding their current use of funds and future plans. He suggested sending a direct letter to these districts to obtain this information and proposed including it in the survey.

Klebes said there had been three enterprise zone agreements: one with Design LLC and two with Google. The first agreement had expired, and the associated project was generating tax revenue for various districts. The remaining two agreements involved fixed annual payments, making it easier to predict their impact on the SIP dollars, which were based on the value of developments and various formulas. The majority of funds from these two remaining agreements went to the City and County, with a \$240,000 carve-out for District 21 from the second agreement. Other taxing districts did not receive ongoing payments from these agreements. Previous funding decisions had supported various projects, including fire and rescue, the skill center, and shovel-ready projects, but often involved debt repayment or one-time funding. Only District 21 had a specific ongoing allocation of \$240,000 every year.

Councilor Runyon said that he always based his questions not on what had been discussed in meetings, but on what he anticipated the public would ask if they were present. He still thought it was a good idea to send information to the leaders of all taxing districts and have them submit ideas directly from their boards, not just the few boards that had been heard from that night. He

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said the topics summarized in the report received were all excellent and had merit. He was not entirely convinced about the idea of an endowment at that point, mainly because the County's needs were not fully known yet. He anticipated the upcoming water master report would be significant and bring more clarity. Runyon said while an endowment might seem promising, it might be a smaller amount than previously discussed, and its management and distribution were still unclear. He emphasized the need for more information before moving forward. Additionally, he highlighted the pressing needs of the city, such as water and street repairs, as well as concerns for other communities in Wasco County. He expressed a desire to hear more from the City Council and the County on these matters.

Amery said it was important to remember that during the community service fee negotiations, there was an attempt by the fire district to exclude the school district from receiving the community service fee. She noted both the City and County fought hard and publicly to ensure the school district and the college continued to receive their share of the community service fee. She said the school district would receive 30.1% of the community service fee, which is a direct allocation and not a tax. Amery said the City and County had demonstrated strong support for the School District despite the potential for more money to be redistributed to the city and county.

Klebes emphasized there were two data centers, each with its own community service fee, taxable component, and guaranteed annual payment. He noted this distinction had been confused in conversations with other individuals, although not by the current body. He stressed the importance of recognizing there were two separate community service fee events. Councilor Richardson asked for an approximate number for the community service fee.

Klebes said the community service fee was 25% of their tax savings capped at 2.5 million in a given year. He said each community service fees would occur at different times and likely fluctuate over the project's lifespan. He emphasized the need for caution in setting expectations too high due to the uncertainty of the numbers.

Amery said when attempting to model the situation without knowing the valuation factor, it was important to be conservative and assume that the amount would not max out every year.

Hege said that, at the high end, the school district could receive a little over \$750,000 per data center, totaling almost \$1.5 million per year if the maximum of \$2.5 million is reached. He believed this maximum was achievable, though he noted Amery advised caution against such assumptions.

Pat Sublette expressed her gratitude for the opportunity to speak after the public comment period. She introduced herself as the recently retired superintendent from Columbia Gorge ESD and noted that Dana Peterson was also present. Sublette highlighted the ESD's mission to support

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school districts and mentioned their advocacy efforts for funding school building repairs. She said a project involving the renovation of Chenoweth Middle School into an early learning center, aimed to provide early learning services for 200 children aged zero through eight. The project would assist parents by offering childcare and enabling them to work, and had been in development for several years. Sublette requested consideration of the needs of young children on the west side of The Dalles.

Councilor McGlothlin expressed interest in reviewing the survey data he was previously unaware of. He found the endowment concept intriguing but stated he needed more information before proceeding. He emphasized the importance of spending money strategically to ensure a return on investment and to channel funds wisely to improve the community.

Councilor Randall said seeing the survey results was essential. He noted that he also was wanted to know the taxing districts' and County's desires.

Councilor McGlothlin remarked on the positive aspect of being in a position where they needed to consider ways to spend money, as opposed to the opposite situation. He said that finding a parking spot had been difficult, which he saw as a sign of positive improvement in the community. He highlighted traffic congestion as another sign of progress, emphasizing they should focus on these positive changes.

Mayor Mays said he had attended the Oregon Mayor's Association conference the previous week and affirmed much of what Mr. Brady had heard was accurate. He said they had a lot to be thankful for.

Commissioner Hege stated he wanted to clarify his previous points and emphasize the importance of seeing all the survey data, as it could provide new perspectives. Staff had summarized the data well but he believed viewing the raw data might prompt different thoughts. He noted an endowment involved setting aside money for 15 years, with the interest earned being spent while preserving the capital. He acknowledged the endowment's conservative approach and the challenge of its long-term nature, which contrasted with a society that typically sought immediate results. He also suggested exploring collective decision-making between the City and County regarding the funds, rather than each handling their portion separately. He saw potential benefits in collaborative discussions despite the inherent challenges. He expressed concern about the high school project, suggesting the community needed to address it decisively. He proposed potentially providing financial support as a challenge to the School District to advance a bond or project, aiming to resolve this issue so the focus could shift to other community needs.

Commissioner Brady expressed his desire for a new high school had not diminished, even after he had left his position at the high school. He said while teachers had been adept at making do

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with substandard facilities, this approach remained inadequate. He thanked Councilor Randall for highlighting the needs of South County, noting similar issues in Maupin and Dufur, where new sewer and water systems had been crucial for expansion. Brady said he had observed many South County communities actively seeking bonds and grants for projects, often combining multiple funding sources. He cited Pine Grove as an example, which had successfully secured grants from Business Oregon and USDA for a new water system and had managed a loan to be repaid through increased water rates. Brady proposed one way to support these efforts could have been by providing seed money for grants and suggested that pre-development funding could assist the School District in preparing their project plans before seeking bond approval.

Mayor Mays said he also had a personal belief in the importance of working together. He reminded of past successful projects, such as the CGCC skill center and housing complex, which had benefited from joint efforts between the City and County. He saw potential for further collaboration on future projects, such as squares, water systems, and athletic complexes. He said there was a need to make assumptions about revenue projections, particularly regarding gap payments and the remaining Taylor Lake funds. While there were uncertainties, effective planning would require a level of assumption about future revenue streams.

Councilor Richardson spoke about the importance of collaboration on major projects, emphasizing his strong interest in such initiatives. He noted the significant impact supporting a high school project could have, both for the community and the education system, and noted the need for more specific details. He said the scale of water and infrastructure needs would be significant and generational. Richardson asked what percentage of the GAP and community service funds (CSF) the City might allocate to a common fund. He asked what percentage of funds the County might contribute to a common fund and whether the distribution should be equal between the City and the County. He noted the infrastructure needs of each were likely uneven and suggested this would require further discussion as a group. He doubted the original proposed 50/50 split between infrastructure and common projects would be feasible, anticipating a greater emphasis on addressing large infrastructure needs. He acknowledged that this was still an ongoing conversation.

Commissioner Kramer said that, while he appreciated the conversation, there was a need for a formal procedure and everyone needed to review and question the survey data. He said a team had been working on this for the past two and a half years and they required input to develop a report and establish procedures for addressing the projects. Kramer mentioned many projects had not been discussed, and stressed the importance of considering input from the entire community, not just informal conversations. He noted 345 people had taken the time to provide feedback and expressed a desire for action-oriented steps to follow.

Mayor Mays said moving forward the first step would be to have staff distribute the complete

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survey results to all Councilors and Commissioners. He said the next step should involve holding a public meeting to release the survey data and discuss various alternatives for using the funds. He proposed that the City Council use the data provided by the staff to prioritize specific projects. Mays recommended reconvening after the Water Master Plan meeting on August. He recommended the County align with the City's approach or develop its own.

Councilor Runyon said he had not seen the survey and hoped it addressed current issues with the ambulance service, which he believed might require community support. He expressed a desire for increased public participation, suggesting efforts should be made to boost survey responses from 345 to at least 1,000. Runyon recommended enhanced publicity, such as including surveys in water bills—a practice used effectively in Maupin—as well as increased outreach through local radio and other channels. He also suggested leveraging the library to assist those who may need help with accessing the survey.

Councilor Randall suggested including the results from the Vision Action Plan community survey completed two years ago rather than reopening the most recent survey.

Commissioner Hege said there was a lot of information in the survey results to process and noted that if they had received 1,000 responses, it could be overwhelming, as 345 responses were already quite substantial. He said the responses included long paragraphs, which could be daunting. He said he was impressed by the number of responses, as he had expected a much lower turnout. He also noted disappointment at the low number of people who attended the meeting in person, suggesting people today were more inclined to provide feedback through written responses rather than attending meetings. He found the feedback valuable and believed receiving an even larger number of responses might not be necessary.

Councilor Richardson acknowledged the need for continued and energetic outreach to gather more views and ideas from residents. He said they already had a substantial amount of feedback and understood their needs. He concurred with Commissioner Kramer that it was time to begin working through the process and concepts based on the current information. He said a significant portion of the funds would likely be allocated to major infrastructure needs, while a smaller portion might go into a common projects fund. He noted that the exact timing of expenditures, whether immediate or in the future, remained to be determined. He suggested the main focus should be on determining the percentages of allocation and developing a procedure for managing a common fund.

Klebes stated staff could work with the team to reopen the survey to collect more responses, if the City Council and County Commission wanted that. He noted that including the survey in the paper water bill would not reach about 70% of customers who were on electronic auto pay. He clarified he was not dismissing the idea, just raising awareness. He said the Vision Action Plan,

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which involved consultants had resulted in 138 in person attendees at a town hall and 601 survey responses. Compared to this, 345 responses without a consultant was quite good, though more could be done.

Commissioner Hege asked about scheduling the next meeting. He inquired about the best day for a follow-up discussion to ensure they had the most accurate information. He noted another meeting City Council had scheduled in September that might provide additional information. Klebes said the City Council had met last November and developed a work plan for the year, including various priorities and initiatives. They had been holding monthly work sessions in addition to regular council meetings. Originally, they had tentatively scheduled another SIP work session for September 16<sup>th</sup>. City Council did not meet in August but had a water master plan work session on August 19<sup>th</sup>. They had managed this work plan considering the housing production strategy, water master plan, and SIP work sessions.

Mayor Mays asked what the discussion would be at the next SIP work session.

Klebes said it would be based on the output and direction given from Council and Commissioners at this meeting.

Councilor Long said she had just received a text asking for the community survey to be re-opened.

Councilor Richardson said he felt there was enough survey information and they should begin work to formulate a concept and plan the people could engage with them on.

Commissioner Kramer said the public should email their Councilors and Commissioners with additional comments on the subject. He would share any comments he received.

Mayor Mays asked Klebes if there would be value in combining the results of the SIP funds survey with the past Vision Action Plan survey.

Klebes said the Vision Action Plan document could be shared. He said it highlighted the two watershed themes of schools and housing plus five other sub areas.

Councilor McGlothlin said there had been frequent mention of "working together" and provided an example of the County and City collaborating through public works, where road crews shared equipment and personnel to maximize road coverage. He said we stand to make the greater positive difference when we all work together. He expressed his preference for having a list of recommendations from staff, as seen at City Council meetings, to start with, debate, and prioritize. He recommended a list be provided at the next meeting.



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Councilor Richardson agreed he would like staff recommendations. He said recommendations at the water master plan meeting would also be helpful.

Mayor Mays suggested the following steps: First, submit the survey results to the elected officials with the numbers. If staff believed the results from the Vision Action Plan would be valuable to the city council or the commission, they should have been included with the survey results. If not, they should have been excluded. He proposed holding off on further discussions until the City Council and Commission met, mentioning a special meeting in August and asking if they met or took vacation in August. The goal was to absorb the survey data and have a discussion.

Klebes asked if the survey would be reopened.

Mayor Mays said he did not hear a lot of support for reopening the survey. Klebes said the existing responses could be redacted and shared along with the Vision Action Plan results.

Mayor Mays asked if the Councilors and Commissioners were ok with that.

Commissioner Kramer encouraged people to send information directly to Councilors or Commissioners if they wanted to submit more information.

County Administrator Tyler Stone emphasized the need for clarity on what to do with the information provided. He asked if the next steps involved deciding on specific projects or splitting the money. He stated such decisions were crucial for staff to digest the information and bring back recommendations. Stone pointed out that, in the last meeting, a recommendation was given, and he questioned if there would be a reaction to it. He also noted that if the City had capital projects, it needed to specify whether it would use all the money for those projects or a percentage of it, as this would change the scope significantly. He mentioned they were essentially "spinning their wheels" until they understood the lay of the land.

Councilor Long said they could not determine how much money would be used because no specific number had been provided. She said that without knowing the costs of items, it was difficult to determine what percentage of the funds would be used.

Commissioner Kramer emphasized the need to know project costs, stating this information was essential. He said they needed a list of projects and to create a clear procedure to follow based on the decisions made from that list.

Councilor Richardson expressed agreement on the need for a process but noted a list of projects

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might not be necessary. He acknowledged the importance of the water master plan in the discussion and suggested that City staff provide recommendations on how to allocate funds. Richardson proposed considering two or three scenarios, such as allocating 100%, 75%, or 50% of the funds towards water projects, and evaluating the effects of each option.

Commissioner Brady said having different scenarios would help in understanding potential outcomes. He said they would make assumptions about costs but expected they would adjust proportionally as actual costs became known.

Mayor Mays said during the step two process they could discuss the issues raised and whether to split the funds or pursue joint projects. He noted the concept of the City and County working on joint projects as part of the discussion.

Klebes said the water master plan work session in August would provide opportunity to work with consultants and understand the scale and scope of the challenges and opportunities ahead. He suggested it would be beneficial for the County Commission to attend, participate via Zoom, or review the minutes to gain a deeper understanding. There was uncertainty about the agenda for the next work session in September and he asked for specific guidance on what should be included in the agenda.

Mayor Mays suggested combining two subjects for the meeting on August 19: the water master plan and the results of the survey.

Public Works Director Dave Anderson said three hours had been scheduled for the water master plan work session to discuss various concepts, including rate structures and different scenarios with varying levels of outside funding. He anticipated using the full three hours to address these topics with the council.

Stone added that was just one project and suggested adding the Resolution Center and 135 miles of road.

Councilor Richardson said the issue was not about a single project but a suite of projects. He said the key concern was determining how much money should be allocated to avoid drastically raising water rates. He said when they could get an answer to that question, they could then decide on a percentage to contribute to a common fund or endowment.

Stone stated his previous comments aimed to address the wide range of potential projects the money could be allocated to. He said understanding the direction—whether to spend the money on one large project or allocate it in specific percentages for things like grant matches for water projects, sewer projects, or the Resolution Center—would help in refining recommendations or

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considering alternative directions. He asked if the money would be spent today or in future. He asked if it was to be spent on a school what the process would be for that. He asked how those things would be worked out.

Mayor Mays raised concerns about establishing assumptions for making informed decisions. He questioned when they would finalize the assumptions needed to proceed, noting intelligent decisions couldn't be made without knowing the numbers. He said while they would have figures for the water projects on August 19 and had estimates for the Resolution Center and other projects, they still needed to make assumptions about revenue. He suggested being conservative with assumptions, as budgeting often involves uncertainties. He asked about the possibility of selling a project bond, such as for the water system or Resolution Center, and asked if finance experts could assess whether a revenue bond or general obligation bond could be sold despite uncertainties in property assessments.

Commissioner Hege addressed Stone, noting that, based on offline discussions and the meeting, it seemed the city was facing a significant challenge with their water system, with more information expected by August. He suggested that once the City had a clearer understanding of their situation, they would be better positioned to discuss how much money could be allocated and how it would be used. He asked for confirmation that the City was waiting for this information to determine how to collectively move forward and what their next steps would be.

Mayor Mays asked City staff if they would know this information at the August 19<sup>th</sup> water master plan meeting.

Klebes said there would be four master plans and the water master plan was likely the most significant. He confirmed the scenarios and potential decision points regarding the water master plan projects and their funding would be covered in the August 19<sup>th</sup> meeting.

Richardson said at least three or four, and possibly up to five, councilors had expressed interested in working with the County. He said the City was facing a significant, potentially generational level of expenses. While some of the funding would come from sources like Google or the SIP, the exact amount was still to be determined. He said the key issue was not whether they would work together, but rather how much they would allocate. He said a project list should be created along with a concept for how to spend the money.

Commissioner Hege said there was no timeline rush for decisions on money that they would be getting in a couple of years.

Klebes said staff could put together a summary of the water master plan meeting to include in the SIP work session packet to be shared with the County Commissioners.

## MINUTES

City Council Work Session

July 23, 2024

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Mayor Mays said the team could meet after September 16<sup>th</sup> to discuss the results. He said he assumed the County Commission would hold a similar meeting and suggested scheduling a follow-up meeting for the team to return with a recommendation. He asked if it was too early to set up another joint work session meeting.

Commissioner Kramer said he was fine with either individual comments from Counselors to the team or holding a full City Council meeting. He suggested Councilors review the survey, provide questions and comments, then have the team compile this feedback. The team would then come back with a recommendation for the group.

Mayor Mays suggested meeting as a group to discuss the survey instead of collecting individual comments. He asked for the group's feelings on this approach.

Klebes said he wanted to clarify the process and agenda for upcoming meetings. He said he anticipated discussing the survey results and possibly reviewing the agenda for the September meeting during the August work session. He noted the September meeting might focus on survey results and discussion, potentially omitting the listening session, and asked for any specific changes or additions that might be helpful.

Commissioner Hege asked to have recommendations included for the next meeting.

Klebes said if the team needed to make recommendations or run scenarios, they needed clear directional guidance without precise details.

Mayor Mays reiterated his suggestion to make some assumptions on the numbers and return with information about bonds, including general obligation bonds and revenue bonds.

Stone suggested considering how to prioritize projects if the money were not available. He recommended evaluating the suite of projects, including water projects, schools, a library, and drinking water systems, to determine priorities based on need rather than available funds.

Councilor Long said the availability of the money offered more options, such as partial funding, taking out a bond, or partial rate hikes, which allowed for prioritization that might not otherwise be considered. She said the City's annual plan had been disrupted to accommodate SIP, and with several members leaving at the end of the year, the accelerated timeline might need to be revisited. She proposed considering whether to slow down and allow the City to complete its process before deciding how to allocate funds that were not yet available. She acknowledged that she would not be a participant if the process extended beyond the end of the year.

Mayor Mays said they had slowed down somewhat, noting the team might not meet again until 2025. He said potential changes in City Council leadership and other factors might affect the process.

Commissioner Hege said while main funds wouldn't arrive for two more years, there was currently money available from the Taylor Lakes project not yet allocated. He suggested considering how to use those funds now, whether through a pilot project or another initiative. He said currently, the money was being split between the County and City and was going into their general funds. He emphasized the potential to undertake new projects or place the funds in an endowment or general fund.

Klebes said they could aim to hold the work session in September without making a final decision then. He suggested the conversation could continue with additional work sessions, potentially in 2024 or 2025, and encouraged not shying away from the September session.

Mayor Mays said Stone's idea about prioritizing might make September 16<sup>th</sup> too early for such decisions. He emphasized the need to make assumptions about revenue and determine what percentage would go toward each project. He said these decisions would be collective and based on priorities set by the City Council.

Klebes said he had provided a summary snapshot of the different funding streams and could include this information in future packets if it would be helpful as a reminder.

Mayor Mays said there was a plan to move forward through September. After receiving the results, the team would meet, and another meeting of this group would be anticipated in December or January.

**ADJOURNMENT**

Being no further business, the meeting adjourned at 7:37 pm

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Submitted by/ Amie Ell, City Clerk

SIGNED: \_\_\_\_\_  
Richard A. Mays, Mayor

ATTEST: \_\_\_\_\_  
Amie Ell, City Clerk

**RESOLUTION NO. 24-017A**

**A RESOLUTION DENYING APPEAL APPLICATION 036-24, AFFIRMING THE PLANNING COMMISSION DECISION TO APPROVE CONDITIONAL USE PERMIT 212-24, A LAND USE APPLICATION REQUESTING A BUILDING HEIGHT INCREASE FOR A MIXED-USE, MULTI-FAMILY DEVELOPMENT IN THE CBC ZONE DISTRICT WITH A MAXIMUM BUILDING HEIGHT OF 60 FEET**

**WHEREAS**, on June 6, 2024, the Planning Commission conducted a public hearing to consider Conditional Use Permit No. 212-24 (**CUP 212-24**), a land use application request to increase the building height for a mixed-use, multi-family development in the Central Business Commercial zone district with a maximum building height of 60 feet, located at 523 East 3<sup>rd</sup> Street, in The Dalles, Oregon, depicted in Assessor's Map No. 1N 13E 3 BD as Tax Lots 6700, 6800, and 6900;

**WHEREAS**, during that hearing, the Planning Commission deliberated on CUP 212-24, and voted 3-1-1 to approve Resolution No. PC 622-24, a resolution formalizing approval of CUP 212-24;

**WHEREAS**, on June 17, 2024, Appellant submitted and the City received a Notice of Appeal for Resolution No. PC 622-24 (**APL 036-24**);

**WHEREAS**, at its July 22, 2024, regular meeting, the City Council conducted a public hearing to consider APL 036-24, where testimony and other evidence was submitted and entered into the hearing record, including a Staff Report stating findings of fact, conclusions of law, and Staff's Recommendation; and

**WHEREAS**, the City Council deliberated on the matter and, based on the Staff Report and its attachments, the evidence presented at the public hearing, and all other components of the hearing record, all of which are incorporated herein by reference, the City Council voted on the matter of APL 036-24, formalized as follows.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES RESOLVES AS FOLLOWS:**

1. Decision. Based on the City Council's review and interpretation of the applicable criteria, the evidence in the record, and the findings, interpretations, and conclusions set forth in the Staff Report, Appeal Application 036-24 is hereby DENIED, the decision of the Planning Commission is AFFIRMED, and the application for Conditional Use Permit 212-24 is APPROVED.
2. Adoption from Staff Report. The City Council hereby adopts as its own the findings, interpretations, and conclusions set forth in the Staff Report.
3. Effective Date. This Resolution shall be effective upon adoption.

**PASSED AND ADOPTED THIS 9<sup>TH</sup> DAY OF SEPTEMBER, 2024,**

<b>Voting Yes</b>	Councilors:	_____
<b>Voting No</b>	Councilors:	_____
<b>Abstaining</b>	Councilors:	_____
<b>Absent</b>	Councilors:	_____

**AND APPROVED BY THE MAYOR THIS 9<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

\_\_\_\_\_  
Richard A. Mays, Mayor

*ATTEST:*

\_\_\_\_\_  
Amie Ell, City Clerk



## AGENDA STAFF REPORT

### AGENDA LOCATION: Item #10A

**MEETING DATE:** September 9, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Amie Ell, City Clerk

**ISSUE:** Authorizing the City Manager to execute a Personal Services Agreement with Pacific Ally LLC (dba *DocuDriven*) for scanning services to support a City-wide digitization project

**BACKGROUND:** The City has a significant collection of municipal records, including Council meeting minutes, ordinances, resolutions, legal instruments, planning and zoning materials and land use records, public works records, various types of agreements, contracts, finance records, as well as other recorded documents. These records provide a detailed account of the City's governance and development. Staff is seeking approval to enter a contract with Pacific Ally LLC (dba *DocuDriven*) to scan both historical and current records, enhancing access and preserving essential documents, in support of a City-wide digitization project.

Digitizing records enhances operational efficiency by reducing the time and resources needed for document retrieval, which directly supports the City's ability to serve the public more effectively. It safeguards critical documents against potential loss or damage and ensures essential information remains accessible even in emergencies.

The City's digitization project is currently in progress. We are currently at the end of our first phase, which includes project planning and vendor selection. For personal services contracts, the City's Local Contract Review Board Rules authorize direct negotiations with contractors if the contract price does not exceed \$200,000 and the work is within a budgetary appropriation or approved by Council.

Earlier this year, staff sent 3 boxes of documents as samples to potential vendors to evaluate their processing, work-product, and communication; after reviewing proposals, quality of scans, turnaround time, and effectiveness of communication, staff recommends



DocuDriven as the preferred vendor here. DocuDriven’s team provided valuable advice on process improvements, cost savings, and demonstrated quick responsiveness to staff’s questions.

DocuDriven has presented case studies and testimonials from various entities, including other local governments in Oregon (e.g., Hood River, Grants Pass) on similar projects. A team comprising the City Clerk’s Office, City Attorney’s Office, and IT Department met to coordinate the testing/sampling and proposal review processes and unanimously support the City entering an agreement with DocuDriven here.

A comparison of the proposals from the 3 vendors who provided services on sample boxes is shown in this table:

	Scan Quality	Cost per box	Large format per page	Additional fees	Location
<b>DocuDriven</b>	300 DPI	\$190	\$1.60	Transport: \$2,500	Vancouver, WA
<b>ARC Riot</b>	200 DPI	\$219	\$0.95	OCR Scan: \$5/box CJIS Secure: \$30/box	Portland, OR
<b>Liberty Scanning</b>	240 DPI	\$180	\$0.95	Ext. Drive: \$99 each	Lynwood, WA

Council appropriated funds for this project in the approved budget for the 2024-2025 fiscal year using American Rescue Plan Act (ARPA) funds. Many local governments have successfully used ARPA funds for digitizing records, aligning with goals of enhancing public access, modernizing services, and preserving vital records. ARPA funds must be obligated by December 31, 2024.

Staff recommends Council authorize the City Manager to enter the attached Personal Services Agreement with DocuDriven to proceed with the second phase of the City-wide digitization project (i.e., the document preparation and scanning phase).

**BUDGET IMPLICATIONS:** The adopted budget for fiscal year 2024-25 includes \$193,027 in line 018-2600-000.39-10 for digitization of records. With an estimated cost not to exceed \$162,150.30 for this project, there are adequate funds available for this contract.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to authorize the City Manager to enter a Personal Services Agreement with Pacific Ally LLC (dba DocuDriven) for scanning services in an amount not to exceed \$162,150.30, as presented.*
2. Make modifications to then move to authorize the City Manager to enter a

modified Personal Services Agreement with Pacific Ally LLC (dba *DocuDriven*) for scanning services.

3. Decline formal action and provide direction to staff.

# Scanning Proposal

## City of The Dalles

### The Objective

The City of the Dalles has approximately 670 Standard sized bankers boxes (15"x12"x10") of various records they would like digitized. The boxes are broken out by departments as follows: 70 Boxes of Finance, 120 boxes of Legal, 65 boxes of City Clerk, 63 boxes of binders (also belonging to the City Clerk department), 97 boxes & 13,000 large format (LF) pages of Public Works, 200 boxes of Planning, and 55 boxes of th Klickitat Airport. The City of The Dalles has expressed the following characteristics of this project and any associated requirements to be met based on the communication to date:

### Digitization Project Characteristics and Requirements:

<b>Client:</b> City of The Dalles	<b>Target Completion Date:</b> 2/28/2025
<b>Contact Name:</b> Amie Ell	<b>Target Pickup Date:</b> 8/15/2025
<b>Client Email:</b> amell@ci.the-dalles.or.us	<b>Est. Completion Date:</b> 12/31/2024
<b>Client Number:</b> 541-296-5481	<b>Conversion Format:</b> PDF - 300DPI
<b>Client Address:</b> 313 Court St.	<b>Scanning Color:</b> Auto Detect
<b>Client City:</b> The Dalles	<b>Sticky Notes:</b> Keep & Move
<b>Client State:</b> OR	<b>Est. File Requests/Week:</b> 0
<b>Client Zip Code:</b> 97058	<b>Total Boxes:</b> 672
<b>Document Type:</b> Building Departments	<b>Est. Pages per Box:</b> 2,250
<b>File Transfer:</b> Web delivery (Included)	<b>% of Double Sided Pages:</b> 10%
<b>Paper Type:</b> 99.5%+ 8.5x11	<b>Est. # of Images per Box:</b> 2,475
<b>Index Names:</b> Department, Box ID, Year	<b>Total Est. Images:</b> 1,678,850
<b>PDF Naming Style:</b> Department_Year_Box ID.PDF	<b>Est. Folders per Box:</b> 35
<b>Why Digitizing:</b> they would like to digitize all the historical records	<b>Est. PDFs per Box:</b> 1
	<b>Est. # of Indexes per File:</b> 3
	<b>Final State of Boxes:</b> Return
	<b>Est. Amount of Staples:</b> Medium
	<b>Complexity:</b> Medium
	<b>Box Size:</b>
	Standard-sized box (15"x12"x10")

### Additional Notes (if any):

The current pricing assumes a total of up to 3 fixed indexes (e.g. Department, Year, & Box ID), with **1 PDF per box**. As per our on-site visit discussion with Amie, **DocuDriven will insert a blue colored marker page in front of each stapled packet prior to scanning, showing a clear distinction in both the electronic/physical files which documents were grouped together**. This will cut down on costs, make word searches easier, and give clear file breaks for future extraction. If a file is requested while DocuDriven has custody of the files, we will provide you the digital copy within 48 hours from the request.



## Pricing Influencers

### Complexity Level

Besides the estimated number of images, the complexity of the project affects pricing. The following are the main areas that determine the complexity of a project, and thus, the estimated price. The “Project Complexity Level” is derived mainly from the “Digitization Project Characteristics and Requirements” defined above. There are four main complexity levels listed below

### Complexity Level Summary

Less Complexity = Less Cost	More Complexity = More Cost
Less Document Breaks (often the # of PDF's per box)	More Document Breaks
Less Indexes per box (number of values to associate per PDF)	More Indexes per box
Less Document Preparation (staples, binding, etc.)	More Document Prep
Less paper Uniqueness (color, carbon, brittle, mildew, odd sizes, etc.)	More Paper Uniqueness
More Documents to scan	Less Documents to scan

Complexity Levels			
Light	Medium	High	Complex

<b>Project Complexity Level</b>	<b>Medium</b>
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### Estimated Number of Records

Container Type	Department	Est. # of Containers	Est. # of Pages per Container	Est. % pages two-sided	Est. # of Images per Container	Total Est. Images
Standard Box	Finance	70	2,250	10%	2,475	173,250
Standard Box	Legal	120	2,250	10%	2,475	297,000
Standard Box	City Clerk	65	2,250	10%	2,475	160,875
Standard Box - Binders	City Clerk	63	2,250	10%	2,475	155,925
Standard Box	Planning	200	2,250	10%	2,475	495,000
Large Format Pages	Planning	1	7,600	0%	7,600	7,600
Standard Box	Public Works	97	2,250	10%	2,475	240,075
Large Format Pages	Public Works	1	13,000	0%	13,000	13,000
Klickitat Airport	City Misc.	55	2,250	10%	2,475	136,125
<b>Totals</b>		<b>672</b>				<b>1,678,850</b>

**Note:** The above are estimates but actual amounts will be billed as part of the final invoice. In the event that your project includes large format documents exceeding 11X17 inches (except for the already identified Large Format pages identified above) or books that cannot be scanned using a production scanner, DocuDriven may apply an additional fee for these specialized services. We recommend reaching out to DocuDriven to inquire about the current pricing for digitizing these two media types, as needed. **Optional add-on for Public Works in yellow.**



### Estimated Total Price

Departments	Est. # of Containers	Est. # of PDF's per Container	Pricing Method	Rate	Total Est. Images	Est. Total Price
Finance	70	1	Per Image	\$ 0.0764	173,250	\$ 13,236.30
Legal	120	1	Per Image	\$ 0.0764	297,000	\$ 22,690.80
City Clerk	65	1	Per Image	\$ 0.0764	160,875	\$ 12,290.85
City Clerk - Binders	63	1	Per Image	\$ 0.0764	155,925	\$ 11,912.67
Planning	200	1	Per Image	\$ 0.0764	495,000	\$ 37,818.00
Planning - LF	1	1	Per Image	\$ 1.6000	7,600	\$ 12,160.00
Public Works	97	1	Per Image	\$ 0.0764	240,075	\$ 18,341.73
Public Works - LF	1	1	Per Image	\$ 1.60	13,000	\$ 20,800.00
Klickitat Airport	55	1	Per Image	\$ 0.0764	136,125	\$ 10,399.95
Transport Charge	672	N/A	Per Project	\$ 2,500.00	N/A	\$ 2,500.00
<b>Totals</b>	<b>672</b>				<b>1,678,850</b>	<b>\$ 162,150.30</b>

NOTE 1: The price quoted assumes that your project aligns with the specified project characteristics and requirements detailed above and in the Project Characteristics and Requirements section of this proposal. Books that cannot have bindings cut will be scanned at DocuDriven's hourly rate of \$50/Hr. Optional(yellow): Public Works boxes & Large Format  
 NOTE 2: The Test box service amount charged for \$250 will be applied to the total due for this contract.

### Purchase

In order to purchase the proposed scanning services from DocuDriven please sign below. If This proposal looks acceptable, DocuDriven will send you an electronic signature version of this proposal for authorized signature. Alternatively, you can sign and send a scanned copy to, mrandall@docudriven.com. DocuDriven will send an invoice once the proposal is signed. Payments can be made via ACH, credit card, or by check. DocuDriven prefers ACH payments on larger or semi-monthly billing projects.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Payment Terms

For all projects, there is a down payment of approximately 20% of the "Estimated Total Price" due upon signing. The remaining amount will be billed upon completion. An invoice is included on page 4. For larger projects, the remaining will be billed semi-monthly or monthly based on the number of delivered images beyond the initial down payment as applicable. DocuDriven requires payment 15 days from the invoice date for those digitizing projects requiring a down payment.

<b>Down Payment Amount</b>	<b>\$ 32,431.00</b>
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### Additional Terms and Conditions

City of The Dalles agrees to the standard "DocuDriven Services Terms and Conditions" agreement found below. DocuDriven will keep you physical records and electronic records for a short period of time after the final digital electronic delivery. Please ask DocuDriven about Additional Services such as: Document shredding, physical document storage, electronic document backup/storage, portable hard drive options, and more.

[Services Terms & Conditions](#)



### **Additional Proposal Information**

The following link is provided to download DocuDriven's current W-9 for your accounting department.

[DocuDriven's W-9 for Accounting Department](#)

The following are some additional details regarding this project:

### **Image Post-Processing**

In order to provide the best possible product to its customers, **all images scanned** by DocuDriven undergo the following post-processing, free of charge:

- Optical character recognition (OCR)
- Page deskew
- Automatic page rotation (text-orientation)
- Hole punch removal
- Border removal
- Image despeckle
- Automatic image brightness and contrast adjustment

### **Quality Control**

All images scanned by DocuDriven undergo a thorough review, where all images are reviewed by trained and qualified QC Specialists to ensure that you are receiving the best image quality possible. As part of the included price per image, our staff review and correct the following as necessary:

- Overall image quality: ensure that pages aren't folded, cut-off, covered, etc.
- Page rotation: Ensure each page is oriented correctly
- Blank page deletion: Verify that all blank pages are removed from the final product
- Index verification: Double check all indexes for accuracy and any potential spelling errors

If there are any images in question, we would be happy to re-scan anything that did not meet your expectations. However, if the state of the original copy was already in poor condition (ripped, torn, poorly copied, splotchy, cutoff, etc.) prior to DocuDriven receiving it - we can only do so much to try and improve the quality, but we cannot reproduce missing or damaged information.



## Invoice

DocuDriven  
PO Box 823102  
Vancouver, WA 98682  
360-760-4266  
[billing@docudriven.com](mailto:billing@docudriven.com)  
DocuDriven.com

<b>BILL TO</b>
Amie Ell
City of The Dalles
313 Court St.
The Dalles, OR 97058 USA

<b>INVOICE #</b>	<b>DATE</b>	<b>TOTAL DUE</b>	<b>DUE DATE</b>	<b>TERMS</b>
TI-081624-CIT	8/16/2024	\$32,431.00	8/16/2024	Due Upon Receipt

<b>DATE</b>	<b>ACTIVITY</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>RATE</b>	<b>AMOUNT</b>
8/16/2024	Scanning Services	Down Payment	1	\$32,431.00	\$32,431.00

SUBTOTAL	\$32,431.00
TAX	\$0.00
TOTAL	\$32,431.00
<b>BALANCE DUE</b>	<b>\$32,431.00</b>



## PERSONAL SERVICES AGREEMENT

<b>Contractor</b>	<b>Pacific Ally LLC (dba <i>DocuDriven</i>)</b>
<b>Consideration</b>	<b>\$162,150.30</b>
<b>Effective Date</b>	September 10, 2024
<b>Completion Date</b>	June 30, 2025
<b>Project/Services</b>	<i>City-Wide Digitization Project – Scanning Services</i>

This PERSONAL SERVICES AGREEMENT (**Agreement**) is entered by the City of The Dalles, an Oregon municipal corporation (**City**) and Pacific Ally LLC, a Washington limited liability company (dba *DocuDriven*) (**Contractor**), for Contractor's provision of scanning services to the City for its City-wide digitization project.

**WHEREAS**, Rule VII(C) of the City's Local Contract Review Board Rules authorizes the procurement of personal services through direct negotiation if the contract price does not exceed \$200,000 and the work is within a budgetary appropriation or approved by the City Council;

**WHEREAS**, the City requires performance of certain personal services; and

**WHEREAS**, Contractor desires to perform those certain personal services pursuant to the compensation and conditions set forth herein.

**NOW, THEREFORE**, in consideration of both the provisions set forth herein and other good and valuable consideration, the receipt and sufficiency of which is here acknowledged, the Parties agree:

### **A. Contractor's Duties**

1. Scope of Services. Contractor agrees, at its expense, to furnish all labor, equipment, materials, expertise, tools, supplies, insurance, licenses, reference and background data and information, including subconsultants approved under this Agreement, and provide any equipment necessary to perform all tasks described in Contractor's August 16, 2024, *Scanning Proposal*, attached to and made part of this Agreement as **Exhibit A (Work)**. The Parties agree the Work shall be interpreted broadly to the City's benefit: Contractor agrees to perform all subordinate tasks not explicitly referenced in **Exhibit A** but necessary to fully and effectively perform those specifically listed tasks.
2. Insurance and Indemnity.
  - a. Coverages. Contractor agrees, at its expense, to carry and maintain in effect throughout the Contract Term, at least, statutory **Workers' Compensation** coverage, **Comprehensive General Liability** insurance in the amount of \$1,000,000 (per occurrence) and \$2,000,000 (in aggregate), and **Commercial Automobile Liability** insurance (including coverage for all owned, hired, and non-owned vehicles) with a combined single limit per occurrence of \$1,000,000.
  - b. Certificates. Contractor agrees to provide the City with certificates of insurance naming the *City of The Dalles* as an additional insured prior to commencement of





the Work performed under this Agreement and to further provide the City 30 days' notice before cancelling any insurance policy contemplated by this Agreement.

- c. Workers' Compensation. Contractor agrees it is solely responsible for maintaining proper and adequate Workers' Compensation coverage. If Contractor's insurance does not cover each and every subconsultant, certificates of insurance issued on policies covering each and every subconsultant shall be filed with the City prior to commencement of the Work, including any subcontract operations. Contractor shall provide the City with evidence it is either a *self-insured employer* or a *carrier-insured employer* for Workers' Compensation pursuant to ORS Chapter 656 prior to commencing any Work.
  - d. Indemnity. Contractor agrees to indemnify, defend, and hold harmless the City, its officers, agents, and employees against all liability, loss, and costs arising from actions, suits, claims, or demands for Contractor's (including Contractor's officers, agents, employees, and subconsultants) acts or omissions in the performance of this Agreement.
3. Payments.
- a. Prompt Payments. Contractor agrees to promptly pay as due all persons supplying labor or materials for the prosecution of services or Work arising from this Agreement: if Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Contractor (including subconsultants), the City may pay such a claim and charge the amount of its payment against funds actually or expectedly due from Contractor. The Parties agree payment of any claim in this manner shall not relieve Contractor or its surety from any obligations with respect to any unpaid claims.
  - b. Hours. Contractor agrees to pay all employees at least time and half pay for all overtime worked in excess of 40 hours in any one work week, except for excluded individuals pursuant to ORS 653.010 to 653.261 or 29 U.S.C. 201 to 209.
  - c. Medical. Contractor agrees to promptly pay as due all persons, co-partnerships, associations, or corporations furnishing medical, surgical, hospital care, or other needed care and attention incident to sickness or injury to Contractor's employees, or all sums which Contractor agrees to pay for such services, and all moneys and sums which Contractor collected or deducted from the wages of its employees pursuant to any law or contract for the purpose of providing or paying for such service.
  - d. No Liens. Contractor shall not permit any lien or claim to be filed or prosecuted against the City on account of any Work (including labor or materials) furnished under this Agreement.
  - e. Withholdings. Contractor agrees to pay to the Oregon Department of Revenue all sums withheld from its employees pursuant to ORS 316.167.



**B. City's Duties**

1. Compensation.

- a. Total. The City agrees to compensate Contractor for the Work in an amount not to exceed **\$162,150.30**, to be paid by check or by ACH transaction; provided, however, Contractor's provision to the City of a completed Form W9 is a condition precedent to the City's obligation to so compensate.
- b. Timing. The City agrees to make payment upon Contractor's completion of the Work and within 15 days of Contractor's delivery of an invoice detailing the Work, subject to the City's approval and no more frequently than monthly. Payment shall be made only for Work actually completed as of the invoice date; provided, however, if Contractor requires an up-front partial payment to commence performance under this Agreement, the City may elect to provide Contractor up to 20% of this Agreement's authorized funding before Contractor's performance obligations are triggered. The City agrees to pay a service charge of 1.5% per month commencing on the 31<sup>st</sup> day after Contractor's delivery of an invoice if left unpaid absent a good faith dispute of the invoice amount.
- c. Release. Contractor agrees the City's payment of an invoice releases the City from any further obligation to compensate Contractor for the Work (including expenses) incurred as of the invoice date. The Parties agree payment shall not be considered acceptance or approval of the Work or waiver of any defects therein.
- d. Changes in Work. The Parties agree they may change the scope of Work upon mutual written agreement and commensurate change in compensation.
- e. Budget Process. The City certifies sufficient funds are available and authorized for expenditure to finance the costs of this Agreement during the current fiscal year. The Parties agree appropriations for future fiscal years are subject to budget approval by the City Council.

**C. Special Conditions**

- 1. Timeline. Unless otherwise agreed by the Parties, Contractor agrees to perform the Work consistent with the following timeline and schedule:

<u>Department</u>	<u>Length of time to scan documents</u>	<u>Month/Year</u>
City Clerk	One month	October 2024
Legal	One month	November 2024
Finance	One month	December 2024
Planning	Two months	January and February 2025
Airport	One month	March 2025
Public Works	One month	April 2025

- 2. Control. The Parties agree Contractor's *Payment Terms* on page 3 of **Exhibit A** and *Services Terms & Conditions* referenced and linked in **Exhibit A** are not applicable



to this Agreement or its performance by the Parties. In the event of any conflict between the provisions of the express text of this Agreement and its **Exhibit A**, the Parties agree to attempt to harmonize those conflicting provisions; if the Parties are unable to so harmonize, the Parties agree the provisions of the express text of this Agreement control.

3. Criminal Justice Information. Contractor agrees to secure and maintain throughout this Agreement's term all required security clearances necessary for the receipt, holding, transport, and transmission of criminal justice information, including (without limitation) valid and unexpired *Level 2 Security Awareness Training* certificates issued by Criminal Justice Information Services for each and every one of Contractor's employees, independent contractors, subconsultants, or agents assigned to perform the Work or otherwise with access to any documents provided by the City to the Contractor pursuant to the provisions of this Agreement. Contractor further agrees to provide the City Attorney with copies of all such certificates within 30 days from this Agreement's Effective Date.
4. Limits of Liability. The Parties agree Contractor shall not have any liability for loss, damage, or destruction of documents or data received from the City except to the extent caused by Contractor's gross negligence, intentional misconduct, or breach of this Agreement. The Parties further agree neither Party shall be liable to the other for any loss of use, loss of profits, business interruption, cost of cover or indirect, incidental, special, consequential, or punitive damages arising under this Agreement. The Parties agree each Party's liability hereunder shall be limited to its direct damages up to the amount of the fees pay by the City to Contractor pursuant to this Agreement.
5. Nondisclosure. Each Party (**Recipient**) acknowledges it has or may be exposed to confidential and proprietary information of the other party (**Disclosing Party**). For purposes of this Agreement, **Confidential Information** shall mean any confidential or proprietary information of a Disclosing Party marked or otherwise designated in writing as confidential or would appear to a reasonably prudent person to be non-public, confidential, or proprietary in nature, and includes (without limitation) trade secrets, technical information, business and product information, and information regarding third-party suppliers and customers. The Parties agree Confidential Information does not include: **(a)** information already known or independently developed by the Recipient without reference to the Disclosing Party's Confidential Information; **(b)** information in the public domain through no wrongful act of the Recipient; **(c)** information received by the Recipient from a third party who was free to disclose it without obligation to the Disclosing Party or any third party; or **(d)** information disclosed by the Recipient as required by law, provided the Recipient provides the Disclosing Party with prior notice in sufficient time before disclosure, so that a reasonable protective order may be sought. Except as expressly authorized by the Disclosing Party, the Recipient agrees not disclose the Disclosing Party's Confidential Information to any person or entity (except to the Recipient's employees or agents having a need to know) and not to use the Disclosing Party's Confidential Information for purposes other than performing under this Agreement. The Recipient and its personnel agree to use at least the same degree of care in safeguarding the Disclosing Party's Confidential Information as the Recipient uses in safeguarding its own confidential information, but in no event less than a reasonable degree of care.



The Parties expressly agree this Section C(3) survives the expiration or sooner termination of this Agreement.

6. Warranty. Contractor warrants to the City it will perform all Work in a competent, timely, and workmanlike manner consistent with generally accepted industry standards. Contractor further warrants its employees, independent contractors, subconsultants, or agents assigned to perform the Work will have the training, background, and skills reasonably commensurate with the level of performance required under this Agreement.

#### **D. General Conditions**

1. Time. The Parties agree time is of the essence to this Agreement's performance: Contractor's prosecution of the Work shall begin without undue delay on or after the Effective Date and shall be completed before or on the Completion Date.
2. Termination. This Agreement's term expires naturally upon the Parties' full performance or on the Completion Date (whichever first) unless sooner modified pursuant to this Agreement. The Parties agree the City may terminate this Agreement with seven (7) days' notice and Contractor may terminate this Agreement with thirty (30) days' notice, both without penalty. The City agrees to compensate Contractor for all approved services rendered prorated to the date the City notices its intent to terminate.
3. Tax Currency. Contractor agrees (and by executing this Agreement, certifies under penalty of perjury) it is, to the best of its knowledge, not in violation of any tax laws described in ORS 305.380.
4. Full Integration/Modification. This Agreement contains the Parties' entire understanding and intent and supersedes all prior negotiations, representations, or other written or oral agreements on this matter. The Parties agree this Agreement may only be modified by a written instrument duly executed by the Parties.
5. Survival. The Parties agree the provisions of this Agreement that (by their sense or purpose) should survive this Agreement's expiration or sooner termination shall so survive.
6. Independent Contractor. The Parties agree Contractor is an *independent contractor* as defined by ORS 670.600(2) and as interpreted by regulations promulgated by the Oregon Bureau of Labor and Industries. Neither the terms of this Agreement nor the course of its performance by the Parties shall be construed as implicating an employer-employee relationship. Contractor expressly warrants its exclusive agency free from City direction and control over the means and manner of completing the Work.
7. Assignment/Delegation. The Parties agree no Party shall assign or transfer an interest or duty under this Agreement without the other Party's written consent and any attempted assignment or delegation without written consent shall be invalid.



8. Subconsultants. Contractor agrees to provide the City with a list of proposed subconsultants before awarding any subcontract connected with the Work or this Agreement and shall not retain any subconsultant the City reasonably objects to as incompetent or unfit. Contractor agrees it is as fully responsible to the City for its subconsultants' and employees' (whether directly or indirectly employed) negligent acts and omissions as it is for its employees' negligent acts and omissions. The Parties agree nothing in this Agreement is intended to or shall create any contractual privity between the City and any subconsultant.
9. Enforceability. The Parties agree all disputes connected with this Agreement or its performance shall be heard in the Circuit Court of the State of Oregon for the County of Wasco and any resolutions shall be construed under the laws of the State of Oregon without regard to its conflict of laws principles. The Parties agree the prevailing party in any action arising between them connected with this Agreement is entitled to an award of reasonable attorney's fees and costs in addition to any other relief granted. If any provision of this Agreement is held invalid and unenforceable, the Parties agree the remaining provisions shall be valid and binding upon them.
10. Waiver. The Parties agree a Party's failure to insist upon strict adherence to a provision of this Agreement on any occasion shall not be considered a waiver of the Party's rights or deprive the Party of the right to thereafter insist upon strict adherence to the provision or any other provision of this Agreement.

***Continues on next.***



11. Notices. All notices required or permitted to be given under this Agreement shall be deemed given and received two (2) days after deposit in the United States Mail, certified or registered form, postage prepaid, return receipt requested, and addressed:

*To the City:* City Manager  
City of The Dalles  
313 Court Street  
The Dalles, OR 97058

*To Contractor:* President  
Pacific Ally LLC (dba *DocuDriven*)  
P.O. Box 823102  
Vancouver, WA 98682

**IN WITNESS WHEREOF**, the Parties duly execute this **PERSONAL SERVICES AGREEMENT** this \_\_\_\_ day of \_\_\_\_\_, 2024.

**CITY OF THE DALLES**

**CONTRACTOR**

\_\_\_\_\_  
Matthew B. Klebes, City Manager

\_\_\_\_\_  
Neil Butler, President

**ATTEST:**

\_\_\_\_\_  
Amie Ell, City Clerk

**Approved as to form:**

\_\_\_\_\_  
Jonathan M. Kara, City Attorney





## AGENDA STAFF REPORT

**AGENDA LOCATION:** Item # 10B

**MEETING DATE:** September 9, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Dave Anderson, Public Works Director

**ISSUE:** Authorization to Purchase a New Biosolids Truck for the Wastewater Treatment Plant

**BACKGROUND:** The City's wastewater treatment plant (WWTP) produces biosolids as a product of its treatment processes. These biosolids are applied to agricultural fields as fertilizer and must be hauled to the fields by the WWTP staff. Some of the fields are over 30 miles away. Staff from both Jacobs, the City's contract operator for the WWTP, and the City evaluated options to contract with other companies to perform the hauling and application of the City's biosolids, but none of those options proved to be viable.

The City owns two biosolids tanker trucks that it uses to haul biosolids. The primary truck is a 2014 Freightliner with a 3500-gallon tank that was purchased new. The secondary truck is a 2005 Freightliner that was purchased used on an emergency basis in 2019. The 2005 truck was the only used truck that could be found in the western US at the time that could meet the City's needs, and is somewhat undersized and under-powered for its use. The treatment plant now produces larger volumes of biosolids daily than it used to due to the growth that has occurred in the community, and two trucks are now regularly used to meet the hauling demands. At the time of its emergency purchase, it was anticipated that the used 2005 truck could meet the City's needs for 5-6 years until a new truck could be purchased; it has met that need.

City staff has worked with Jacobs operators to develop the specifications for a new biosolids truck. Since the biosolids trucks are subjected to a fair amount of off-highway use, specifications were developed for a heavier-duty truck to better withstand this rough use. Ultimately, a Peterbilt Model 567 truck was selected. The truck is available from Jackson Group Peterbilt (JGP) located in Portland. JGP can sell trucks through both the Sourcewell purchasing program and the Oregon State Bid, both of which the City can utilize to obtain reduced pricing. Both of these purchasing programs fulfill the competitive bidding requirements for the City, and the City has successfully used both programs in the past. Once it is received, the truck will be sent to Erickson Tank and

Pump in Quincy, Washington to have the tank and pumping systems installed.

The list price for the 2025 Peterbilt truck as specified is \$279,825. The discounted price of the truck will be \$183,759, a reduction of \$96,066. The tank and pumping systems will cost \$108,890. The total cost of the new biosolids truck will be \$292,649.

There is some urgency associated with the placement of this order as new regulations that are scheduled to take effect in January 2025 are expected to add about \$10,000 to the cost of new trucks.

**BUDGET ALLOCATION:** The adopted FY2024/25 budget includes \$183,000 in the Reserve Fund, Fund 9, that was allocated for the future purchase of a new biosolids truck and \$300,000 that was to be spent this year to purchase a new 10-yard dump truck for the Wastewater Collection Division. Staff has determined, in consultation with Jacobs, that replacement of the biosolids truck is a higher priority than the dump truck. The purchase price for a new biosolids truck and its tank and equipment will be \$292,649. By delaying the purchase of the new dump truck, there are adequate funds available for this purchase.

**ALTERNATIVES:**

- A. **Staff Recommendation:** *Move to authorize the purchase of a new 2025 Peterbilt Model 567 truck from Jackson Group Peterbilt in an amount not to exceed \$183,759 and the purchase and installation of tank and pumping systems from Erickson Tank and Pump in an amount not to exceed \$108,890.*
- B. Deny authorization to purchase a new 2025 Peterbilt tanker truck and provide additional direction to staff.





## AGENDA STAFF REPORT

### AGENDA LOCATION: Item #11A

**MEETING DATE:** September 9, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Matthew Klebes, City Manager

**ISSUE:** Resolution 24-020 Establishing an Ad-Hoc Committee for a Proposed Plaza or Park on Federal Street

**BACKGROUND:** The City is progressing with efforts to develop a downtown plaza on Federal Street, specifically on the block between 1st and 2nd Streets. This project builds on design concepts initiated several years ago and is part of a broader strategy to enhance downtown revitalization and recent developments. The proposed plaza will serve as a central gathering space, complementing the 1st Street streetscaping and the redevelopment of Tony's building.

Community involvement has been key to this initiative. A recent survey gathered public input on potential uses for the space that became available after the Tony's building demolition. The feedback confirmed strong community support for a public plaza in this area.

This project aligns with the City's Vision Action Plan, particularly in the following focus areas:

- **Creating Economic Vitality:** The plaza will contribute to the economic vibrancy of downtown by enhancing public spaces and supporting the revitalization of adjacent historic properties.
- **Strengthening and Sustaining Community Life:** The plaza is envisioned as a hub for community events, cultural activities, and social gatherings, fostering a stronger sense of community and celebrating local heritage.

To advance the development of the plaza, it is recommended that an ad-hoc committee be formed. The committee will be tasked with making recommendations to the City Council on the project's design, construction, and costs. Additionally, the committee will identify and collaborate with City staff on related grant opportunities to support the project's funding and implementation.

**BUDGET IMPLICATIONS:** Budget implications are to be determined. Further financial analysis will be conducted once the committee submits its recommendations.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to adopt Resolution No. 24-020 A Resolution Establishing an Ad-Hoc Committee for a Proposed Plaza or Park on Federal Street*
2. Direct staff to make changes to the proposed resolution and bring the resolutions back for consideration at a future Council meeting.
3. Decline to take action.



## AGENDA STAFF REPORT

### AGENDA LOCATION: Item #11B

**MEETING DATE:** September 9, 2024

**TO:** Honorable Mayor and City Council

**FROM:** City Attorney Jonathan Kara  
City Clerk Amie Ell

**ISSUE:** Adopting Resolution No. 24-021, a resolution prescribing the updated City Council Rules and Code of Conduct Policy

**BACKGROUND:** At its June 12, 2023, regular meeting, Council directed Staff to commence the process of revising the *City Council Rules and Code of Conduct Policy (Rules)* by reviewing the current Rules (last updated January 2020) for legal sufficiency and updating them consistent with governance best practices. The City Attorney and City Clerk collaborated to perform a comprehensive review of the current Rules with an eye towards spotting opportunities for comprehensive improvement of both the City's governmental efficiency and transparency.

At its May 28, 2024, regular meeting, Council discussed our original draft proposed Rules and provided key feedback on matters involving Council's substantive amendments to proposed ordinances, agenda noticing requirements, public comment procedures, and Council-appointee evaluation processes. Those items were described in the Agenda Staff Report and incorporated into the draft proposed Rules presented at the July 8, 2024 regular meeting.

At its July 8, 2024, regular meeting, Council provided additional feedback on the draft proposed Rules and offered some direction, including:

1. Rule II(A)(5): Council directed removal of the word "may" from last sentence to confirm the Council President's right to vote on questions before Council when the Council President functions as the Mayor when the Mayor is absent from the meeting.

2. Rule III(G)(6): Council directed changing the proposed requirement of public sign-ups to make public comment before the Presiding Officer calls the meeting to order to instead requiring public commenters to sign the attendance sheet before speaking, with the intent not to prevent members of the public who may be late to a meeting from speaking.
3. Rule V(E): Council directed the removal of the first sentence of this paragraph, which is a remnant of the 2020 Rules relating to the process Councilor’s follow when presented with a complaint or question from the public.
4. Rule VII(C)(1): The second sentence was revised to make clearer the time limit a citizen has to submit a letter of response after receiving notification from the Mayor that they have been removed from a Subcommittee.

The final proposed Rules (for your consideration tonight) inclusive of the above changes are attached to and made part of the proposed Resolution No. 24-021, a resolution prescribing updated *City Council Rules and Code of Conduct Policy*. **Note:** the attached Rules are in redline form to highlight all changes made to the proposed Rules since the July 8, 2024, regular meeting, but the adopted Resolution will only include a final “clean” draft without any redlines.

**BUDGET IMPLICATIONS:** None.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to adopt Resolution No. 24-021, as presented.*
2. Make modifications to then move to adopt Resolution No. 24-021, as amended.
3. Decline formal action and provide Staff additional direction.

**Attachments**

Attachment A – *City Council Rules and Code of Conduct Policy (Effective September 10, 2024)*

**RESOLUTION NO. 24-021**

**A RESOLUTION PRESCRIBING UPDATED  
CITY COUNCIL RULES AND CODE OF CONDUCT POLICY**

**WHEREAS**, Section 11 of the 2020 City of The Dalles Charter (**Charter**) requires Council to, by resolution, prescribe rules to govern its meetings and proceedings;

**WHEREAS**, at its January 13, 2020, regular meeting, Council approved that certain *City Council Rules and Code of Conduct Policy* to govern its meetings and proceedings from that date;

**WHEREAS**, best practices and changes in Oregon and federal law since January 2020 connected with public meetings, government ethics, land use, constitutional rights, and other legal areas require Council update the Rules for legal sufficiency; and

**WHEREAS**, Council intends this Resolution to satisfy the obligation imposed on it through the Charter to prescribe rules governing its meetings and proceedings.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES  
RESOLVES AS FOLLOWS:**

1. Updated Rules Adopted. The *City Council Rules and Code of Conduct Policy (Effective September 10, 2024)* (**Rules**) attached to and made part of this Resolution as its **Exhibit A** are hereby approved and adopted as the rules governing the City Council’s meetings and proceedings.
2. Previous Rules Repealed. All previously adopted documents providing rules governing the City Council’s meetings and proceedings, including the January 13, 2020, City Council Rules and Code of Conduct Policy, are hereby repealed.
3. Future Effective Date. This Resolution shall be effective September 10, 2024, and the Rules shall govern all City Council meetings and proceedings from that date until the Rules are amended or repealed and replaced by Resolution.

**PASSED AND ADOPTED THIS 9<sup>TH</sup> DAY OF SEPTEMBER, 2024,**

<b>Voting Yes</b>	Councilors:	_____
<b>Voting No</b>	Councilors:	_____
<b>Abstaining</b>	Councilors:	_____
<b>Absent</b>	Councilors:	_____

**AND APPROVED BY THE MAYOR THIS 9<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

*ATTEST:*

\_\_\_\_\_  
Richard A. Mays, Mayor

\_\_\_\_\_  
Amie Ell, City Clerk



# **CITY OF THE DALLES**

## **CITY COUNCIL RULES AND CODE OF CONDUCT POLICY**

*Effective ~~July 9~~ September 10, 2024*

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**CITY COUNCIL RULES  
CODE OF CONDUCT POLICY**  
*Effective ~~July 9~~September 10, 2024*

**I. AUTHORITY**

- A. Council.** Except as specifically prescribed by the [2020 City of The Dalles Charter \(Charter\)](#) and the Oregon constitution (as amended), all powers of the City are vested in the City Council (**Council**). Council comprises 5 Councilors; provided, however, in cases of unfilled Council vacancies, Council comprises only those Councilors whose offices are not vacant. Regardless of any vacancies, and notwithstanding any other provision of this Policy, the term **Council-majority** means 3 Councilors.
- B. Rules Authorized.** [Section 11 of the Charter](#) requires Council to prescribe rules governing its meetings and proceedings by resolution—accordingly, the provisions of this Policy binds the Mayor, Councilors, and Staff and their respective successors and assigns until it is duly replaced or amended. This Policy is adopted pursuant to Resolution No. 24-~~021046~~ (which Council intends to satisfy that Charter requirement) and may be referred to as the **Council Rules**.
- C. Control.** Nothing in this Policy is intended to supersede or contravene the [Charter](#) or other applicable and controlling law (collectively, **Applicable Law**), including the provisions of the [Oregon Public Meetings Law \(ORS 192.610 et seq.\)](#). The City Attorney shall decide all questions of interpretations of this Policy or Applicable Law. If the provisions of this Policy appear inconsistent with Applicable Law, the City Attorney shall attempt to reconcile those apparently inconsistent provisions so as to harmonize them; if the City Attorney determines they are unable to be harmonized, then the provisions of Applicable Law control.
- D. Effective Date.** This Policy is effective and shall govern all Council conduct and meetings held commencing ~~July 9, 2024~~September 10, 2024, until Council duly adopts a new Policy by resolution.
- E. Robert's Rules.** Unless otherwise provided by this Policy or Applicable Law, the procedure for Council meetings shall be guided (i.e., not governed) by the most recent edition of *Robert's Rules of Order*; provided, however, Councilors are encouraged to avoid invoking the finer points of parliamentary procedure found with *Robert's Rules of Order* when such points obscure the issues before Council or have a reasonable likelihood of confusing members of the public. The City Attorney shall be Council's parliamentarian.
- F. Waiver.** At any time during an open meeting, any Councilor may move to waive any provision of this Policy for a specific situation; if seconded and affirmatively approved by a Council-majority, that provision shall be waived for purposes of that situation; provided, however, Council may not so waive any provision of Applicable Law, [Rule I \(Authority\)](#), or [Rule II \(Charter Requirements\)](#).



## II. CHARTER REQUIREMENTS

A. Council Meetings. The following provisions applicable to Council meetings are governed by the Charter and may not be waived by Council:

1. **Oath**. Before assuming City office, a Councilor-elect shall take an oath affirming they will faithfully perform the duties of the office and support the constitution and laws of the United States, the State of Oregon, and City ordinances. See [Rule III\(B\) \(Oath of Office\)](#).
2. **Term Commencement**. The term of office of a Councilor elected at a general election begins at the first Council meeting of the next calendar year immediately after the election and continues until the successor to the office assumes their office.
3. **Regular Meetings**. Unless otherwise noticed, Council shall meet regularly at a time and place designated by this Policy and may meet at other times in accordance with this Policy. See [Rule III\(C\)\(1\) \(Regular Meetings\)](#).
4. **Mayoral Powers and Duties**. When present at Council meetings, the Mayor shall be the Presiding Officer and preside over Council's deliberations, preserve order, enforce this Policy, and determine the order of business. The Mayor has no veto power and shall sign all ordinances and resolutions passed by Council within 3 days after passage; provided, however, the Mayor may vote on any question before Council to resolve tie votes from the Councilors present at a meeting.
5. **Council President Powers and Duties**. The Council shall appoint a Council President at its first meeting of each odd-numbered year. When the Mayor is absent from a Council meeting or is otherwise unable to function as the Mayor, the Council President shall function as the Mayor (e.g., as Presiding Officer, signing resolutions or ordinances approved at such meetings, etc.); provided, however, the Council President ~~may~~ still votes on questions before Council in such cases.
6. **Minutes**. The City Clerk's Office is responsible for recording the minutes of all Council meetings consistent with the provisions of the Oregon Public Meetings Law and Council is responsible for authenticating such minutes at a regular meeting.

B. Formal Action. The following provisions applicable to Council actions are governed by the Charter and may not be waived by Council:

1. **Quorum and Vote Required**. 3 Councilors constitutes a quorum for its business and the *express concurrence of a majority of the Councilors present and constituting a quorum* is necessary to decide affirmatively a question before Council; provided, however, if Council has 2 vacancies, a quorum requires 2 Councilors, but—in all cases—no resolution, ordinance, or motion shall be passed except upon a favorable vote of at least 3 Councilors.
2. **Ordinances**.
  - a. Single Meeting. Council may adopt an ordinance by title only and at a single meeting by unanimous vote if the proposed ordinance is available to the public at



least 1 week before that meeting, a copy of the ordinance is provided for each Councilor, and notice of ordinance availability is given by written notice posted at City Hall, 2 other public places in the City, and (in the City Clerk's discretion) via social media.

- b. Two Meetings. Unless the requirements of a single-meeting adoption are met, adoption of an ordinance requires approval by a Council-majority at two meetings.
  - c. Substantive Amendments. Any substantive amendment to the proposed ordinance must be read aloud or made available in writing to the public before Council adopts an amended proposed ordinance at that meeting. See [Rule III\(G\)\(12\)\(c\) \(Ordinances\)](#).
  - d. Immediate Effect. Emergency ordinances (i.e., ordinances necessary to have immediate effect for the preservation of the peace, health, or safety of the City) may take effect upon adoption if it states the reasons for the emergency in a separate section and if approved by an affirmative vote of at least a Council-majority. Non-emergency ordinances are effective 30 days after adoption unless Council prescribes a later day in the ordinance.
- C. Vacancy and Appointment. The following provisions applicable to vacancies and appointments are governed by the Charter and may not be waived by Council:
1. **Vacancies**.
    - a. Occurrence. A Councilor vacates their office upon that Councilor's death, adjudicated incompetence, recall from the office, or resignation. The Council may also declare a vacancy of a Councilor's office if an elected or appointed Councilor fails to qualify for the office within 10 days after the time their term commences, if a Councilor is absent from the City for 30 days without Council's consent or from all Council meetings within a 60-day period, if a Councilor ceases to reside in the City, if a Councilor ceases to be a qualified elector under Oregon law, or if a Councilor is convicted of a public offense punishable by loss of liberty.
    - b. Filling. Vacancies in the office of the Mayor or a Council position shall be filled by a Council-majority appointment; such appointees must meet the Charter's qualification requirements and their terms of office shall run from the time of their qualifying for the office after appointment until expiration of the term of their predecessor.
    - c. Temporary Vacancy. A Council-majority may appoint a person meeting the Charter's qualification requirements as Councilor pro tem to fill a vacancy resulting from a Councilor's disability to serve on Council or during a Councilor's absence from the City.
  2. **Mayoral Appointments**. The Mayor shall appoint (subject to Council confirmation) members of committees and commissions established by City ordinance or created or otherwise required by Council (collectively, **Subcommittees**).



3. ***Appointive Offices.*** A Council-majority shall appoint and may remove the City Manager, City Attorney, and Municipal Court Judge. A Council-majority may also create, abolish, and combine additional appointive offices and (except as a Council-majority prescribes otherwise) fill such offices by appointment and vacate them by removal.

a. *City Manager.*

(i) *Appointment.* Council's appointment of the City Manager shall be without regard to political considerations and be based solely on the basis of administrative qualifications. The City Manager shall be appointed for an indefinite term and may be removed by Council at its pleasure. If the City Manager's Office remains vacant for 6 consecutive months, Council shall appoint a person meeting the Charter's qualification requirements to fill the vacancy. When the City Manager is absent from the City or disabled from acting as manager, or when the City Manager's Office becomes vacant, Council shall appoint a City Manager pro tem having all the powers and duties of the City Manager except their appointment and removal of Staff requires Council approval; provided, however, no person is authorized to serve as City Manager pro tem more than 6 consecutive months.

(ii) *Influence.* Except during a Council meeting, no Councilor may directly or indirectly, by suggestion or otherwise, influence the City Manager or a candidate for the City Manager's Office with respect to Staff appointment, discipline, or removal or in decisions regarding City property or contracts. Any Councilor who violates that prohibition may be removed from office by a court of competent jurisdiction. During a Council meeting, Councilors may discuss with or suggest to the City Manager anything pertinent to City affairs.

b. *City Attorney.* The duties of the City Attorney's Office may be assigned by contract.

c. *Municipal Judge.* Council may authorize the Municipal Judge to appoint Municipal Judges pro tem for terms of office set by the Municipal Judge or Council. Council may transfer some or all of the functions of the Municipal court to an appropriate State court.



### III. COUNCIL MEETINGS

- A. General. All Council meetings shall be held in accordance with the provisions of this Policy and Applicable Law. Council should strive to keep meetings focused with the intent of adjourning within 3 hours from commencement and no Council action shall be deemed invalid solely on the basis that it occurred after 3 hours into a meeting.
- B. Oath of Office. The City Clerk (if they are a notary public or otherwise meet the requirements of [ORS 44.320](#), otherwise such person designated by the City Manager and qualified pursuant to that law) shall administer oaths of office for Councilors- and Mayors-elect. If Council's first regular meeting in a given calendar year after an election is cancelled, the City will privately organize an oath ceremony with and for Councilors- and Mayor-elects to ensure they have taken their oaths prior to (or at) such first meeting.
- C. Meeting Types. A Council **meeting** is the convening of Council for which a quorum is required to make a decision or deliberate toward a decision on any matter, but does not include Council's on-site inspection of any project or program or Councilor attendance at any national, regional, or state association to which the City or Councilors belong. All meetings are public meetings generally classified either by their purpose or notice requirements:
1. **Regular Meetings**. Regular meetings are consistently held meetings required by the Charter and intended for Council's consideration of the City's regular business. Unless otherwise noticed, regular meetings shall be held on the second and fourth Mondays of each month at 5:30 p.m. Pacific Prevailing Time in Council Chambers on the Second Floor of [City Hall](#). For a regular meeting, the City Clerk's Office should strive to notice the agenda 7 days before a given meeting and shall notice the agenda at least 24 hours before that meeting.
  2. **Special Meetings**. Special meetings are all meetings other than regular meetings and are intended for Council's consideration of specific issues. The Mayor, a Council-majority, the City Manager, City Attorney, or City Clerk may timely notice special meetings. For special meetings, the City Clerk's Office should strive to notice the agenda as soon as reasonably practicable before a given meeting and shall notice the agenda at least 24 hours before that meeting.
  3. **Emergency Meetings**. Emergency meetings are a type of special meeting called on less than 24 hours' notice and are only authorized in cases of actual emergencies—specifically, an emergency meeting's minutes must describe the emergency justifying less than 24 hours' notice. Any claimed actual emergency must relate to the matter discussed at the emergency meeting (i.e., Councilor unavailability or inconvenience is not sufficient grounds for an emergency meeting). A Council-majority may call for an emergency meeting after City Attorney approval, unless the expected time for such legal sufficiency approval reasonably frustrates the purpose of the emergency meeting. For emergency meetings, the City Clerk's Office shall notice emergency meetings as is appropriate to the circumstances, including contacting the media and other interested persons to inform them of the meeting using any practicable means (including by telephone or email).



4. **Work Sessions.** Work sessions are a type of special meeting and are intended to provide Council background information as a preliminary discussion on future Council items. Work sessions typically answer Council's questions and provide information to facilitate Council's informed direction to Staff on a particular issue. While Council typically does not take public comment at work sessions, community member groups and committees may make presentations. By their nature, work sessions do not usually include Council's formal action. For work sessions, the City Clerk's Office should strive to notice the agenda as soon as reasonably practicable before a given meeting and shall notice the agenda at least 24 hours before that meeting.
  5. **Executive Sessions.** Executive sessions are a type of meeting (or part of a meeting) closed to certain persons for Council's deliberations on certain matters. The permissible purposes of an executive session are limited to those codified as [ORS 192.660\(2\)](#). The City Clerk's Office shall notice executive sessions with the notice for the meeting at which the executive session will be held, except Council may always add an executive session to an otherwise noticed meeting's agenda so long as Council's deliberations are limited to the topics authorized in the specific authorizing statute. The authorized person calling or convening the meeting shall ensure the City Attorney authorizes the specific authorizing statute serving as the basis for all executive sessions.
- D. **Virtual/Electronic Meetings.** For all meetings except executive sessions, Council (through the City Manager) shall provide to the public an opportunity to access and attend the meeting by telephone, video, or other virtual/electronic means to the extent reasonably possible. In such cases, the City Manager shall make available to the public at least one place where (or at least one electronic means by which) the public can listen to the communication at the time it occurs, and such place may be a place where no Councilor is present. In the alternative, the City Manager shall provide the public with an access code or other means to attend the meeting using virtual/electronic means. If public comment or testimony would have been allowed but for a person's virtual/electronic attendance, the City shall provide an opportunity for such virtual/electronic attendees to offer public comment or testimony by virtual/electronic means consistent with [Rule IV \(Public Participation\)](#).
- E. **Recess and Holidays.** Council is in recess during the month of August unless the City determines a special meeting is in the City's best interests. If a regular meeting coincides with a holiday recognized by the City, that meeting will either be cancelled or rescheduled.
- F. **Notice.** The City Clerk's Office is responsible for timely noticing the time and place of all Council meetings to each Councilor, appropriate Staff, interested persons (including news media) who have requested notice, and the public, and shall do so in a manner reasonably calculated to give actual notice and providing a list of the principal subjects anticipated to be considered by Council at each meeting (**Agenda**). Other items may be placed on the Agenda after it is noticed if the Mayor, a Councilor, City Manager, City Attorney, or City Clerk explain the [need for Council's consideration of such items at the meeting necessity and/or if](#) the City Clerk timely notices the supplemental item as soon as practicable [prior to the meeting](#).



- G. Regular Agendas.** The Agenda for regular meetings shall be substantively as follows; provided, however, the Presiding Officer or a Council-majority may modify the order of any Agenda Items as convenient:
1. **CALL TO ORDER.** The Presiding Officer shall call the meeting to order.
  2. **ROLL CALL OF COUNCIL.** The City Clerk or designee shall take Council's and the Mayor's attendance by roll call and shall note any Councilor's absence (and the times of any Councilor's or the Mayor's subsequent presence and absence during the meeting) in the meeting's minutes. If the Presiding Officer or City Attorney determines no quorum is present for a meeting, the Councilors present shall not take any final action at that meeting unless and until a sufficient number of Councilors are present at the meeting to constitute a quorum.
  3. **PLEDGE OF ALLEGIANCE.** The Presiding Officer shall lead Council in reciting the Pledge of Allegiance. The City is prohibited from compelling any person to salute the flag, remove their hats during, or stand for or recite the Pledge of Allegiance.
  4. **APPROVAL OF AGENDA.** The Presiding Officer shall call for Council's approval of the Agenda. Any corrections or additions to the Agenda should be addressed prior to Agenda approval. **Note:** Any Councilor intending to remove items noticed on the Consent Agenda for placement elsewhere on the Agenda for a given meeting should vocalize that intent prior to Agenda approval.
  5. **PROCLAMATIONS/PRESENTATIONS.** For *Proclamations*, the Presiding Officer shall provide the City's formal recognition of a particular matter and all such matters must be sponsored by the Mayor or at least one Councilor. For *Presentations*, the Presiding Officer shall recognize a prearranged speaker to present information to Council.
  6. **PUBLIC COMMENT.** The Presiding Officer shall open the floor to public comment on any topic not appearing on that meeting's Agenda. To conserve meeting time and ensure all have an opportunity to speak, the Presiding Officer shall uniformly allow each commenter at a given meeting no more than 3 minutes of comment. If a response from the City is requested, the Presiding Officer shall refer the matter to the City Manager for further action. All commenters intending to appear before Council personally must sign the attendance sheet provided ~~before speaking, at the entrance to Council Chambers before the Presiding Officer calls the meeting to order.~~ All commenters intending to appear before Council virtually/electronically must contact the City Clerk's Office **by noon on the meeting day** to be provided the opportunity to offer virtual comment. All commenters intending to submit written comment to Council must either email or provide at least 9 printed copies of their written comment to the City Clerk **before** the Presiding Officer calls the meeting to order.
  7. **CITY MANAGER'S REPORT.** The City Manager shall provide Council general information on their and the City's notable or current activities. The City Manager may solicit and Council may offer direction (as appropriate) during this Agenda Item.
  8. **COUNCILOR REPORTS.** The Presiding Officer shall offer each Councilor the opportunity to report on their City-related activities. Councilors should report on both



the substance of and their attendance at any recent City Subcommittee meeting or on any other of their activities relevant to the City's affairs during this Agenda Item.

9. **CONSENT AGENDA.** Items are placed on the Consent Agenda when they are of a routine and non-controversial nature. Before Council approves the Agenda, any Councilor may remove a noticed Consent Agenda item for separate consideration; however, after the Agenda is approved, such removal from the Consent Agenda requires Council-majority approval. **Note:** Councilors who were absent from a previous meeting should abstain from voting on approval of the Consent Agenda—which typically includes an Item approving the previous meetings' minutes—unless they watched a recording of that meeting prior to voting. **Examples:** *meeting minutes approval, property surplusage, abatement assessments, cost-of-living adjustments.*
  
10. **PUBLIC HEARINGS.** Public hearings are governed by Oregon law and follow unique rules depending on the nature of the hearing—most hearing types involve offering the public an opportunity to testify in favor of, in opposition to, or in any way relating to the subject matter of the particular hearing; provided, however, the Presiding Officer may restrict any irrelevant or repetitious testimony offered by the public. The City Attorney shall provide (and the Presiding Officer shall follow) a legally sufficient hearing script with detailed rules and any applicable criteria for all public hearings. Public hearings required by Applicable Law shall have higher priority than other scheduled Agenda Items.
  - a. Quasi-Judicial Hearings. Council is the City's final decision-maker on particular questions between particular parties—specifically, Council must apply preexisting criteria to concrete facts and must then make an impartial decision after giving involved parties an opportunity to be heard and present and rebut evidence. Oregon law requires Councilor disqualification from voting on certain quasi-judicial hearings due to impartiality, bias, or ex parte communications, and disqualification requires a two-thirds Council vote. Oregon law also restricts a Councilor's ability to participate in any deliberations or decision regarding certain quasi-judicial matters if that Councilor was absent for the evidentiary portion of the hearing unless the Councilor reviewed all presented evidence and submitted testimony. The City Clerk's Office shall develop and maintain a record and written findings adequate to permit judicial review of Council's quasi-judicial hearing and decision. **Examples:** *land use appeals, economic improvement or reimbursement district appeals, liquor license appeals.*
  
  - b. Legislative Hearings. Council is the City's policy-maker when it adopts ordinances of broad applicability throughout the City. The Presiding Officer shall allow public testimony on certain proposed ordinances that are subject to legislative hearing requirements by Applicable Law. The City Attorney is responsible for determining whether proposed ordinances require Council to hold a legislative hearing prior to adoption. **Examples:** *annexations, supplemental budget changes over 10%, establishing new or revising existing truck routes, land use and development ordinance adoption.*
  
11. **CONTRACT REVIEW BOARD ACTIONS.** Council is the City's Local Contract Review Board (**LCRB**) when it authorizes procurements consistent with the provisions of the City's LCRB Rules. **Examples:** *awarding procurements having*





*contract prices exceeding the City Manager's spending authority, sole-source determinations.*

12. **ACTION ITEMS.** Council's final decision-making after considering Staff's recommended approvals and authorizations relating to the City's business and not otherwise falling under a more specific Agenda Item. Action Items include:
- a. Other Authorizations. Council approves Staff-proposed action or authorizes the appropriate Staff to enter an agreement exempt from the City's LCRB Rules. **Examples:** *leases, intergovernmental agreements, pay table adjustments.*
  - b. Resolutions. Resolution adoption is the primary manner Council implements its executive power and Resolutions typically address matters of a special or temporary nature to reflect the City's formal and written expression of its position, opinion, or policy. Functionally, Resolutions carry the same municipal force as a Council-majority vote. **Examples:** *mayoral appointments, forming reimbursement or local improvement districts, annual fee schedule adoption, special assessments for economic development districts.*
  - c. Ordinances. Ordinance adoption is the primary manner Council implements its legislative power and is an exclusive function of the Charter and Applicable Law. The City Attorney shall prepare all Ordinances for Council's consideration. If Council makes substantive amendments to a proposed ordinance to such a degree that the publicly noticed version would not reasonably describe the City's ultimately adopted version, Council shall not adopt that proposed ordinance without further consideration of such amendments at a future Council meeting. Council may adopt 3 types of Ordinances:
    - (1) *General Ordinances.* General Ordinances are local laws of general applicability equally throughout the City's corporate limits and become effective at least 30 days after adoption. General Ordinances either create new or amend existing provisions of The Dalles Municipal Code.
    - (2) *Special Ordinances.* Special Ordinances are local laws of specific applicability to distinct parties, areas of the City, or parcels of land located within the City's corporate limits and become effective at least 30 days after adoption. **Examples:** *annexations, dedications, vacations, franchises, creating and continuing special reserve funds, authorizing revenue bonds, accepting real property for dedication.*
    - (3) *Emergency Ordinances.* Emergency Ordinances are local laws necessary to have immediate effect for the preservation of the peace, health, or safety of the City and are effective upon adoption. Council shall ensure the City Attorney confirms all legal requirements are satisfied prior to Council's adoption of an Emergency Ordinance.
13. **DISCUSSION ITEMS.** Staff presents Agenda Items not requiring or requesting Council's immediate final action (i.e., not an Action Item) but generally requesting Council direction before Staff commits additional resources to a particular matter. While Discussion Items are intended to provide the City an opportunity to explore



and evaluate different approaches to resolving a matter at a future meeting, Council is not strictly prohibited from making a final action during this Agenda Item (as appropriate).

14. **EXECUTIVE SESSION.** Council recesses the open session portion of the meeting to enter executive session, which is a portion of the meeting closed to certain persons other than the Mayor, Councilors, City Manager, City Attorney, City Clerk or designee, designated Staff or consultants, and news media representatives authorized by applicable law. News media representatives intending on attending an executive session must attend in-person and the City will not provide virtual/electronic access to executive sessions for news media representatives unless compelled by Applicable Law as determined by the City Attorney. Council is prohibited from taking any final action in executive session; provided, however, Council may provide Staff direction and even take informal votes-polls in executive session with the understanding official or required Council final decisions and actions are only made when it returns to an open session available for public attendance.

15. **ADJOURNMENT.** The Presiding Officer shall adjourn the meeting; provided, however, a Council-majority may overrule the Presiding Officer's call for adjournment to continue discussing City-related business.

- H. Special Agendas. Agendas for special meetings are typically focused on a single or limited number of Items and do not necessarily follow an established ordering of Items; provided, however, the Presiding Officer or a Council-majority may modify the order of any Agenda Items as convenient.
- I. Staffing. The City Manager shall attend all meetings unless excused and shall have the right to take part in all Council discussions and may make recommendations to Council, but shall have no vote. The City Attorney shall attend all regular meetings unless excused and shall provide a legal opinion upon Council's request on any matter relating to the City's business. The City Clerk or designee shall attend all meetings to keep minutes and perform such other duties as assigned or needed for the orderly conduct of meetings. Department Managers shall attend all meetings upon the City Manager's direction.



#### IV. PUBLIC PARTICIPATION

##### A. Communications to Council.

1. **Written Communications.** Any person may address the Mayor and/or Councilors in writing by submitting 9 printed copies of the writing to the City Clerk's Office or by email addressed to the Mayor and/or Councilors. Unsolicited written communications to the Mayor and/or Councilors concerning matters not on an Agenda shall be forwarded to the Mayor and/or Council but shall not be included in the Agenda packet; provided, however, the City Manager or a Council-majority may bring any matter raised by an unsolicited communication before Council for its consideration.
2. **Oral Communications.** Any person may speak on any matter not appearing on the Agenda during a meeting's scheduled public comment section, consistent with [Rule III\(G\)\(6\) \(Public Comment\)](#).
3. **Private Communications.** The Mayor and Councilors receiving information relevant to the affairs of the City at any time shall timely act to ensure the entire Council is made aware of such information, (typically accomplished by contacting and apprising the City Manager or City Attorney, as appropriate).
4. **Forms.** Any person intending on addressing Council during a meeting shall provide the City Clerk or designee with their name and contact information.
5. **Remarks to Council as a Whole.** Generally, the public should address Council as a body rather than directing comments towards a particular Councilor; provided, however, the public may ask questions of a Councilor with the Presiding Officer's permission, subject to [Rule III\(G\)\(6\) \(Public Comment\)](#).

- B. Public Hearing Testimony. Any person may testify in favor of, in opposition to, or in any other way relating to the subject matter of a noticed public hearing, consistent with [Rule III\(G\)\(10\) \(Public Hearings\)](#); provided, however, the Presiding Officer may take immediate action to stop any member of the public's testimony if it is or becomes disruptive, irrelevant, or repetitious—in such cases, the Presiding Officer shall first warn the testifier of the pending action and offer the testifier the right to explain why their testimony is not so disruptive, irrelevant, or repetitious; if the Presiding Officer or City Attorney then determines the restriction on such testimony is reasonable in light of the purpose served by the hearing, the Presiding Officer may restrict the testifier from further input during that hearing. Any person who testifies must provide their full name, whether they are testifying on their own or on someone else's behalf, and their mailing address, and the record of the meeting must reflect that information for all persons testifying before Council.

- C. Public Attendance. Any person intending to appear personally at a meeting must wear at least a shirt, pants, and shoes. The Presiding Officer or City Manager may determine the public health requires attendees at a given meeting to wear protective face-coverings consistent with Applicable Law.



**D. Disruptive Conduct.**

1. ***Disruption.*** Disruptive conduct is conduct actually disturbing or impeding a meeting, and typically includes: speaking without being formally recognized by the Presiding Officer, violations of law, damaging or defacing property, making personal attacks or threats (including the use of threatening language or gestures), subjecting participants to reasonable annoyance or alarm (including creating unreasonable noise), using obscene, vulgar, or discriminatory language, or in any way discouraging anyone else from participating in the meeting. The City shall not consider a person's expressed viewpoint on a matter as the basis for determining whether their conduct is disruptive.
2. ***Removal.*** At any time during any meeting, the Presiding Officer may interrupt anyone engaging in disruptive conduct to warn them their conduct qualifies as disruptive pursuant to this Policy. Councilors believing a person's conduct qualifies as disruptive may interrupt any portion of the meeting to ask the Presiding Officer to warn the suspected disrupter. After any such warning, any person who the Presiding Officer or a Council-majority determines is disrupting the meeting may be excluded from the meeting (or muted in a virtual meeting) by order of the Presiding Officer or any City law enforcement officer present if removal is necessary to maintain order, conduct City business efficiently, reasonably allow others to participate, upon that person's commission of a crime subjecting them to arrest or lawful detainment, or otherwise as authorized by Applicable Law.
3. ***Immediate Action.*** While the Presiding Officer is strongly encouraged to first warn any disrupter their continued disruptive conduct may result in their removal from a meeting, the City may stop disruptive conduct immediately (i.e., without warning), especially in cases of health and safety concerns or the use of discriminatory language. Council's intent is to minimize all disruptions by addressing them as efficiently and uniformly as possible.
4. ***Formal Recognition.*** In all cases, any person (including Councilors) intending to speak during a meeting must be recognized by the Presiding Officer. Once recognized, no person shall be interrupted unless the Presiding Officer, City Attorney, or a Council-majority determines a violation of this Policy or Applicable Law is or would occur but for the interruption.



## V. COUNCIL PARTICIPATION

- A. Discussions. The Presiding Officer retains the right to manage meeting time but should invite participation by all Councilors and each Councilor is encouraged to participate in all Council discussions. Councilors should review Agenda materials in advance and come to each meeting prepared to make decisions supporting the City's best interests.
- B. Councilor Attendance. Councilors are required to attend all meetings in person unless excused by the Presiding Officer or Council-majority. If a Councilor is unable to personally attend a meeting, Councilors may attend the meeting electronically or virtually (upon reasonable notice to the Mayor, City Manager, and City Clerk) if that Councilor determines their physical absence is in the interest of their health or safety or is due to unforeseen or excused circumstances. Any Councilor unable to attend a meeting will inform the Mayor, City Manager, and/or City Clerk at the earliest practicable opportunity. If the Mayor is unable to attend a meeting, they will inform the Presiding Officer, City Manager, and City Clerk at the earliest practicable opportunity.
- C. Meeting Decorum.
1. **Civility**. Councilors are expected to practice decorum and civility in discussions and debate. The Mayor and Councilors are all subject to this Policy's provisions on disruptive conduct listed in [Rule IV\(D\) \(Disruptive Conduct\)](#); provided, however, the Mayor and Councilors are only subject to removal from a meeting for their commission of a crime subjecting them to arrest or lawful detention or otherwise as authorized by Applicable Law. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a democracy in action—those do not allow, however, Councilors to make belligerent, personal, slanderous, threatening, abusive, harmful, or disparaging comments.
  2. **Order**. Councilors may not delay or interrupt Council's orderly proceedings, disturb any Councilor while speaking, or refuse to obey the Presiding Officer's or Council-majority's orders at and connected with a meeting.
  3. **Interruptions**. Councilors should not be interrupted when speaking except on a question of order. If a point of order is raised by another Councilor, the Presiding Officer, City Manager, City Attorney, or City Clerk, the then-speaking Councilor should cease speaking until the question of order is determined. A point of order may legitimately be raised if the provisions of this Policy or Applicable Law appear likely to have been or are imminently about to be broken and if the point must be resolved before the meeting's business can continue. The Presiding Officer or City Attorney will rule on the point.
- D. Outside Statements. The Mayor and Councilors shall refrain from disclosing confidential information, publicly expressing an opinion contrary to an official vote or formal position of Council without stating as such, and conducting themselves in a manner so as to bring discredit on the City. When speaking in an official capacity as a City representative before another public body, Subcommittee, community organization, or the news media, the Mayor and Councilors shall only express their personal opinions on a matter if they clarify those statements do not represent the position of Council.



- E. Complaints or Questions. ~~Councilors shall not ask people to appear before Council at a meeting to notice a complaint or raise a question—instead, as a first step, Councilors shall refer such matters to the City Manager or designee or ask that the matter be placed on an Agenda with the appropriate background information.~~ When contacted by citizens about a complaint or question relating to the City’s affairs, Councilors shall encourage such citizens to contact the City Manager’s Office and to put their complaint or question in writing addressed to the Councilor.



## VI. COUNCIL RELATIONSHIP WITH STAFF

- A. Mutual Respect. Both Council and Staff are expected to base their relationship on mutual respect of their roles and responsibilities during all meetings. Staff shall acknowledge Council as the City's policymaker and Council shall acknowledge Staff as the administrator of such policies.
- B. Influence. Unless in a meeting, neither the Mayor nor Council (including any Councilor) shall attempt to coerce or influence Staff in appointments, contract awards, consultant selection, development application processing, granting or denying of City licenses and permits, or any other such administrative functions; provided, however, Council may discuss with, or suggest to, the City Manager anything pertinent to City affairs during a meeting.
- C. Interference. Neither the Mayor nor Council (including any Councilor) shall attempt to change or interfere with any City Department's operating rules and practices. Council acknowledges the City Manager as the appropriate authority to designate Staff to conduct the City's (including Council's) business, including handling correspondence, arranging appointments, and making travel arrangements.
- D. Mail. Staff shall open any mail addressed to the Mayor or Council as a whole and shall circulate such mail as soon as practicable after receipt; provided, however, Staff shall not open any such mail labeled "personal", "confidential", or any mail addressed to an individual Councilor.
- E. Staff Direction. The only Staff the Mayor or Council have the authority to direct are the City Manager, City Attorney, and Municipal Judge. Neither the Mayor nor any Councilor shall direct Staff to initiate any action or prepare any report or project requiring reasonably significant City resources or effort without Council-majority approval.
- F. Staff Requests. The Mayor and Council (including any Councilor) may request information from Department Managers directly so long as they also timely inform the City Manager of their request; provided, however, if the request would create or change a work assignment for Staff (excepting the City Attorney), the Mayor or Council (including any Councilor) shall make such request through the City Manager. Staff shall submit to the City Manager all written informational material requested by the Mayor or individual Councilors with a notation indicating which Councilor requested the information (as the case may be), and the City Manager or designee shall forward such information to Council.



## VII. COUNCIL SUBCOMMITTEES

- A. Subcommittees. The City encourages regular rotation of Councilors assigned to Subcommittees consistent with Applicable Law. Depending on the specific Subcommittee, Councilors may be assigned as voting members or as ex officio non-voting liaison members. The Mayor may request assistance from Councilors when making a recommendation for Council's appointment to any Subcommittee. City Subcommittees include (without limitation):
1. City Budget Committee;
  2. Columbia Gateway Urban Renewal Agency Board (and Budget Committee);
  3. Columbia Gorge Regional Airport Board;
  4. [The Dalles Historical Landmarks Commission](#);
  5. Planning Commission;
  6. Traffic Safety Commission; and
  7. Beautification and Tree Committee.
- B. Limited Service. To encourage broad participation, service on any City Subcommittee is limited to specific terms and citizens are prohibited from concurrently serving the City or representing the City's interests on more than one Subcommittee; provided, however, citizens may serve on budget committees without violating that limitation so long as that citizen is not the chairperson for both Subcommittees.
- C. Citizen Removal. The Mayor may remove a citizen from any Subcommittee prior to the expiration of the term of office. Reasons for removal include (without limitation): missing 2 consecutive regular meetings; disruptive behavior prior to, during, or after a meeting prohibiting the Subcommittee from completing its business in a timely manner; and not acting in the City's or its citizens' best interests. When the Mayor is satisfied the City's and Subcommittee's best interests would be served with the removal, a citizen may be removed by the following process:
1. The Mayor shall request the citizen to submit a letter of resignation within 10 days from the Mayor's notification to the citizen and containing the reasons for requesting the resignation. The citizen may submit a letter of response [within 10 days from the Mayor's notification to the citizen](#) as to why they should remain on the Subcommittee and that letter will be reviewed by Council prior to action on the Mayor's removal request.
  2. The Mayor shall request the item be placed on a regular meeting Agenda for Council's consideration of removal of the citizen from the Subcommittee. The City Clerk's Office shall notify the citizen of the Council meeting date when the issue will be discussed.
  3. If the Council approves the Mayor's request for removal, the Mayor shall send a letter to the citizen informing them they have been removed from the Subcommittee.





- D. Liaison. The City Manager may assign Staff as City administrative liaisons to any Subcommittee to provide support coordination and guidance consistent with [applicable Applicable law](#)Law. The Mayor shall make appointments of Councilors to ex officio non-voting liaison positions on certain Subcommittees. Councilors appointed to liaison positions are not members of those Subcommittees but attend their meetings and participate in their discussions to both provide Subcommittees with the Councilor's or Council's perspective on and to keep Council apprised of Subcommittee business. Subcommittees with Council liaisons include ~~the~~[The Dalles](#) Historic Landmarks Commission, Traffic Safety Commission, and other Subcommittees pursuant to Applicable Law; provided, however, since land use appeals from the Planning Commission are subject to Council review and Oregon law requires impartial decisionmakers for land use decisions, the Mayor and Councilors shall not serve the Planning Commission in any capacity.
- E. Influence. Councilors have the right to attend all Subcommittee meetings but should refrain from any discussion at such meetings unless they are a liaison member to that Subcommittee, especially to avoid the risk of violating the Oregon Public Meetings Law's prohibitions on serial communications; provided, however, Councilors are discouraged from viewing recordings of or attending certain Planning Commission meetings where quasi-judicial or legislative public hearings occur to remain impartial if/when such hearings could be brought before Council. No Councilor shall attempt to lobby or influence Subcommittees (including Subcommittee members) on any item under or potentially under their consideration to avoid prejudicing or hindering the Councilor's role in reviewing their recommendation as a Councilor.
- F. Oregon Laws Applicable. Subcommittees and Subcommittee members (as the case may be) are subject to and encouraged to review this Policy's [Rule X \(Oregon Public Records, Meetings, and Ethics Laws\)](#).



## VIII. EVALUATIONS

- A. Appointed Evaluations. Council shall regularly evaluate the performance of the City Manager, City Attorney, and Municipal Judge. The Mayor, Councilors, and the City Manager, City Attorney, or Municipal Judge shall determine the evaluation form used for the evaluation.
- B. Process. Council shall adopt the standards, criteria, and policy directives used for evaluating the performance of Council-appointees in accordance with Applicable Law. Council may create a Subcommittee for the purpose of providing Council its recommendation on a given evaluation process. Council shall determine when completed evaluations are due and who will collect the relevant documents from evaluators and evaluated Council-appointees. Upon Council's request, the Human Resources Director shall provide Council with copies of each employment agreement and all original employment agreements shall be maintained in the City's official records. Any changes to the employment agreement for any appointed Staff shall be prepared by the City Attorney and be slated for Council's consideration and approval at a regular meeting on the Consent Agenda; provided, however, Council is encouraged to retain contracted conflict counsel for reviewing changes to the City Attorney's employment agreement.
- C. Executive Session Default. Council shall hold evaluations for appointed Staff in timely noticed executive sessions if the person whose performance is being reviewed and evaluated does not request an open hearing in accordance with Applicable Law, in which case Council shall conduct the evaluation in open session. During the evaluation, the employee is entitled to a summary of review comments and individual comments by Councilors. The employee retains the option to respond after receiving all comments from Council.



## IX. EXPENSES

- A. Reimbursements. The Mayor and Council shall follow the same rules and procedures for reimbursement as those which apply to City employees. The Mayor and Councilors are reminded to review the provisions of [Rule X\(C\) \(Government Ethics Law\)](#) whenever discussing adoption of new rules and procedures with the potential to implicate the Mayor's or Councilor finances.
- B. Stipends. Council may authorize reasonable stipends for the Mayor and Councilors to defray the costs associated with their time commitments and other costs of service; ~~provided, however, Council's approval of such stipend increases only become effective for and when their successors assume office after an intervening election consistent with~~ [Applicable Law](#).
- C. Conferences and Trainings. The Mayor and Councilors are urged to educate themselves about local government and the City has an interest in an informed governance—to that end, and as funding allows, Councilors are encouraged to attend League of Oregon Cities functions at the City's expense. Requests for the City to pay for the Mayor's or a Councilor's attendance at and expenses from other local government-related conferences, trainings, and meetings shall be approved through the City's budget process or otherwise presented for Council approval.
- D. Other Expenditures. Mayoral and Councilor expenditures for expenses other than reimbursements or budgeted items will follow the same rules and procedures which apply to City employees, including Oregon Local Budget Law and LCRB Rules. The Mayor and Councilors are reminded to review the provisions of [Rule X\(C\) \(Government Ethics Law\)](#) whenever discussing adoption of new rules and procedures with the potential to implicate the Mayor's or Councilor finances.



## X. OREGON PUBLIC RECORDS, PUBLIC MEETINGS, AND ETHICS LAWS

- A. Public Records Law. Under the [Oregon Public Records Law \(ORS 192.311 et seq.\)](#), a “public record” is broadly defined to include *any writing containing information relating to the conduct of the public’s business and prepared, owned, used, or retained by the City (including the Mayor and Councilors) and including (without limitation whatsoever) handwritings, typed materials, emails, text messages, photographs, and recordings*—Oregon courts have determined city councilor notes on or about agendas or any other city business and taken and before, during, or after city council meetings are public records subject to disclosure. Council shall follow the same rules and procedures connected with public records which apply to the City, including the City’s Public Records Policy, Oregon Secretary of State administrative rules applicable to records retention, and Oregon Public Records Law. The Mayor and Councilors are responsible for maintaining their own records (including notes taken before, during, or after meetings) and assisting the City Attorney’s Office and City Clerk’s Office in gathering records in response to a public records request. The Mayor or any Councilors with specific questions related to the City’s responsibilities under those authorities are encouraged to contact the City Attorney’s Office.
- B. Public Meetings Law. Communication between Councilors (regardless of format, such as in-person communication, telephone, text message, email, social media, etc.) may constitute a “meeting” under the [Oregon Public Meetings Law](#) if it involves discussion of public business and depending on whether the communication involves a Council-majority or if the communication qualifies as a serial communication. Councilors are accordingly discouraged from discussing public business with each other outside of noticed Council meetings (including Subcommittee meetings), except for briefing sessions duly organized by the Mayor, City Manager, or City Attorney.
- C. Government Ethics Law.
1. **General**. The Mayor and Councilors shall review and abide the requirements of the [Oregon Government Ethics Law \(ORS 244.010 et seq.\)](#). Most critically: the liabilities imposed by that law are personal to each public office—put another way, the City does not face liability for a public official’s violations of the [Oregon Government Ethics Law](#) but the individual themselves faces such liability, which is often (but not always) a financial punishment. The Mayor or any Councilors with general questions relating to government ethics or specific questions related to the City’s role in its public officials’ ethics are encouraged to contact the City Attorney’s Office.
  2. **Financial Gain**. The [Oregon Government Ethics Law](#) specifically prohibits the use of public office for private financial gain. Councilors shall give public notice of any actual or potential conflicts of interest and the City Clerk shall record all such disclosures in



meeting minutes. Councilors shall timely file Statements of Economic Interest with the Oregon Government Ethics Commission.

3. **Conflicts of Interest.** Councilors shall not participate in any matter where they have or could reasonably have a financial conflict of interest. Under Oregon law, an *actual conflict of interest* is defined as one that would result in the private financial benefit of the Councilor, a relative, client, or business with which the Councilor, a relative, or client is associated. A *potential conflict of interest* is one that could result in private financial benefit to those named entities. In cases of actual conflicts of interest, and in addition to publicly disclosing that conflict, Councilors must also refrain from participating in deliberations and voting on the issue unless required by Oregon or Applicable Law. Councilors not participating in deliberations and voting because of a conflict of interest shall leave dais after publicly declaring the conflict.
4. **Beyond Government Ethics Law.** In addition to matters of financial interest, the Mayor and Councilors shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims, and transactions coming before the Council—that general obligation includes the duty to refrain from:
  - a. disclosing confidential information or making use of special knowledge or information before it is made available to the general public;
  - b. making decisions involving business associates, customers, clients, and competitors;
  - c. violations of this Policy;
  - d. promoting relatives, clients, or employees for Subcommittees;
  - e. requesting preferential treatment for themselves, relatives, associates, clients, coworkers, or friends;
  - f. seeking employment of relatives with the City;
  - g. actions benefiting special interest groups at the expense of the City as a whole;
  - h. expressing an opinion contrary to Council’s official position without so stating; and
  - i. whether at a meeting or elsewhere during the course of official duties, harassing or discriminating against any Staff, Council or other Councilors, the Mayor, a Subcommittee or Subcommittee members, or the public or members of the public.



## XI. VIOLATIONS

- A. Enforcement. Council shall enforce this Policy and ensure compliance with Applicable Law. Sanctions for violations of these Rules should be generally geared towards changing problem behaviors rather than punishment and be measured against the severity and frequency of the violations and their impact on the City and/or Council's operations and effectiveness. The Mayor or any Councilors concerned with violations or potential violations of these Rules are encouraged to contact the City Attorney's Office.
- B. Discipline. If a Council-majority determines a Councilor violates these Rules or Applicable Law, Council may take action to protect its integrity and discipline the Councilor with a public reprimand and removal from assigned Subcommittees. Council may meet in executive session noticed pursuant to [ORS 192.660\(2\)\(b\)](#) to consider disciplining a Councilor or to hear complaints or charges brought against a Councilor, unless the Councilor requests an open hearing—in that case, Council shall meet in a duly noticed open session to so deliberate and the Councilor need not be present, has no right to postpone the hearing to permit an attorney to attend, and has no right to a formal hearing unless Applicable Law provides those rights.



## XII. MISCELLANEOUS

- A. Gifts. Council may authorize (on occasion and as funding allows) City funds be spent to purchase a gift or memento for another government, entity, or person. When gifts are presented to the Mayor or Council, the main gift shall be the City's property and individual gifts to the Mayor or Councilors are for their personal use. While the [Oregon Government Ethics Law](#) imposes personal liability on any public official for their violations, the Mayor and Councilors are reminded Oregon law defines "gift" as *something of value given to a public official from any single source who could reasonably be known to have a financial interest in the official actions of that public official for which the official does not pay an equal value*, and Oregon law prohibits any public official to receive any gift or gifts with a total value of more than \$50. The Mayor or any Councilors with general questions relating to government ethics (including receiving gifts) are encouraged to contact the City Attorney's Office.
- B. Seating. During regular meetings, the Mayor shall be seated in the center of the dais. The City Manager and City Attorney shall be seated on each side of the Mayor. No other seats are designated and there is no specified seating arrangement for special meetings.
- C. Severability. Any provision of this Policy deemed illegal or unenforceable is severed from this Policy and the other provisions remain in full force and legal effect.
- D. Successors. Within 1 month from the day a successor to the office of the Mayor or any Council position takes office, Council shall require such successor to timely review and agree to the provisions of this Policy. This Policy may be signed in 1 or more counterparts, each of which is an original, and all of which constitute 1 active Policy. All successors must review and sign a copy of this Policy's [Rule XIII \(Signatures\)](#), which will be maintained with and affixed to the original copy of this Policy in the City Clerk's Office.



**XIII. SIGNATURES**

**ADOPTED** BY THE COUNCIL OF THE CITY OF THE DALLES AT ITS ~~SEPTEMBER 9~~JULY 8, 2024, REGULAR MEETING PURSUANT TO THE PROVISIONS OF **RESOLUTION NO. 24-~~016~~021**.

By my signature below, I indicate I have read and agree to abide this ***City Council Rules and Code of Conduct Policy*** and understand the consequences of violating this Policy.

\_\_\_\_\_ **Mayor**

\_\_\_\_\_ Name

\_\_\_\_\_ Date

\_\_\_\_\_ **Councilor Position #1**

\_\_\_\_\_ Name

\_\_\_\_\_ Date

\_\_\_\_\_ **Councilor Position #2**

\_\_\_\_\_ Name

\_\_\_\_\_ Date

\_\_\_\_\_ **Councilor Position #3**

\_\_\_\_\_ Name

\_\_\_\_\_ Date

\_\_\_\_\_ **Councilor Position #4**

\_\_\_\_\_ Name

\_\_\_\_\_ Date





**Councilor Position #5**

**Name**

**Date**





## AGENDA STAFF REPORT

**AGENDA LOCATION:** Item #12A

**MEETING DATE:** September 9, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Matthew Klebes, City Manager

**ISSUE:** League of Oregon Cities (LOC) Legislative Priorities 2025-2026

**BACKGROUND:** The LOC Legislative Priorities Ballot allows cities to determine and rank their top five legislative priorities from a list of recommendations. This process enables cities to influence the LOC's legislative agenda for 2025-2026. Each city will have the opportunity to shape the LOC's focus by selecting their top five priorities.

As in previous years, the Leadership Team has reviewed this year's 23 recommendations and recommended five priorities to guide the City Council's discussion. The City Council will make the final decision on which priorities to submit on behalf of the city. The LOC Legislative Priorities Ballot also allows for written comments, either supportive or critical, on any of the listed options.

This list shows the top 5 priorities identified by the Leadership team in rank order;

1. Infrastructure Funding
2. Cybersecurity & Privacy
3. Community Safety & Neighborhood Livability
4. Behavioral Health Enhancements
5. 2025 Transportation Package

Staff is requesting the City Council review and discuss the list provided by League of Oregon Cities and choose five (5) items of highest priority.

**BUDGET IMPLICATIONS:** None at this time.

### **COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to direct staff to submit the Leadership Team's recommended legislative priorities.*
2. Direct staff to submit an alternative set of 5 legislative priorities



# League of Oregon Cities

## **2024 LOC Member Voter Guide**

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## 2024 Member Voter Guide

**Background:** Each even-numbered year, the LOC appoints members to serve on seven policy committees, which are the foundation of the League's policy development process. Composed of city officials, these committees analyze policy and technical issues and recommend positions and strategies for the upcoming two-year legislative cycle. This year, seven committees identified 23 legislative policy priorities to advance to the full membership and LOC Board of Directors. It's important to understand that the issues that ultimately do not rise to the top based on member ranking are not diminished with respect to their value to the policy committee or the LOC's advocacy. These issues will still be key component of the LOC's overall legislative portfolio for the next two years.

**Ballot/Voting Process:** Each city is asked to review the recommendations from the seven policy committees and provide input to the LOC Board of Directors, which will formally adopt the LOC's 2025-26 legislative agenda. While each city may have a different process when evaluating the issues, it's important for cities to engage with your mayor and entire council to ensure the issues are evaluated and become a shared set of priorities from your city. During its October meeting, the LOC Board will formally adopt a set of priorities based on the ranking process and their evaluation.

Each city is permitted one ballot submission. **Once your city has reviewed the proposed legislative priorities, please complete the electronic ballot to indicate the top 5 issues that your city would like the LOC to focus on during the 2025-26 legislative cycle.** The lead administrative staff member (city manager, city recorder, etc.) will be provided with a link to the electronic ballot. If your city did not receive a ballot or needs a paper option, please reach out to Meghyn Fahndrich at [mfahndrich@orcities.org](mailto:mfahndrich@orcities.org) or Jim McCauley at [jmccauley@orcities.org](mailto:jmccauley@orcities.org).

**Important Deadline:** The deadline for submitting your city's vote is **5 p.m. on September 27, 2024.**

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## Community and Economic Development Committee

Contact: Jim McCauley, [jmccauley@orcities.org](mailto:jmccauley@orcities.org)

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### INFRASTRUCTURE FUNDING (CO-SPONSORED BY WATER AND WASTEWATER COMMITTEE)

**RECOMMENDATION:** *The LOC will advocate for a comprehensive infrastructure package to support increased investments in water, sewer, stormwater and roads. This includes: funding for system upgrades to meet increasingly complex regulatory compliance requirements; capacity to serve needed housing and economic development; deferred maintenance costs; seismic and wildfire resiliency improvements; and clarity and funding to address moratoriums. The LOC will also champion both direct and programmatic infrastructure investments to support a range of needed housing development types and affordability.*

**Background:** Cities continue to face the challenge of how to fund infrastructure improvements – to maintain current, build new, and improve resiliency. Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia, and the funds are depleting and unsustainable without significant program modifications and reinvestments. This priority will focus on maximizing both the amount of funding and the flexibility of the funds to meet the needs of more cities across the state to ensure long-term infrastructure investment. The 2024 LOC Infrastructure Survey revealed the increasing need for water and road infrastructure funding. The results show \$11.9 billion of infrastructure funds needed (\$6.4 billion for water and \$5.5 billion for roads).

Combined with the federal-cost share decline on water infrastructure projects – despite the recent bi-partisan infrastructure law investment – cities face enormous pressure to upgrade and maintain water infrastructure. At the same time, cities across the state are working urgently to address Oregon’s housing crisis. To unlock needed housing development and increase affordability, the most powerful tool the Legislature can deploy is targeted investments in infrastructure to support needed housing development.

## SHELTER AND HOMELESS RESPONSE

**RECOMMENDATION:** *The LOC will support a comprehensive homeless response package to fund the needs of homeless shelter and homeless response efforts statewide. Funding should include baseline operational support to continue and strengthen coordinated regional homeless response and include a range of shelter types and services, including alternative shelter models, safe parking programs, rapid rehousing, outreach, case management, staffing and administrative support, and other related services. The LOC will also support capital funding for additional shelter infrastructure and site preparation. Oregon's homeless response system must recognize the critical role of cities in homeless response and meaningfully include cities in regional funding and decision-making, in partnership with counties, community action agencies, continuums of care, housing authorities, and other service provider partners.*

**Background:** The LOC recognizes that to end homelessness, a cross-sector coordinated approach to delivering services, housing, and programs is needed. Despite historic legislative investments in recent years, Oregon still lacks a coordinated, statewide shelter and homeless response system with stable funding. Communities across the state have developed regional homeless response collaboratives, beginning with the HB 4123 pilot communities funded by the Legislature in 2022 and the more recently established Multi-Agency Collaboratives and Local Planning Groups created by Governor Kotek's [Executive Order on Affordable Housing and Homelessness](#). As Oregon continues to face increasing rates of unsheltered homelessness, the LOC is committed to strengthening a regionally based, intersectional state homeless response system to ensure all Oregonians can equitably access stable housing and maintain secure, thriving communities.

## EMPLOYMENT LANDS READINESS AND AVAILABILITY

**Legislative Recommendation:** *The LOC will support incentives, programs and increased investment to help cities with the costs of making employment lands market-ready, including continued investment in the state brownfields programs. The LOC also recognizes the deficit of industrial land capacity in strategic locations and will support efforts to build a more comprehensive industrial lands program by strengthening the connection between the DLCDC Goal 9 Program and Business Oregon IL programs and resources.*

**Background:** Infrastructure cost is a significant barrier for cities that are looking to increase the supply of market-ready industrial land. Cities require a supply of industrial land that is ready for development to recruit and retain business operations. For sites to be attractive to site selectors, the basic infrastructure must be built out first. For example, the Regionally Significant Industrial Site (RSIS) program within Business Oregon is designed to help cities with the cost of readiness activities

through a reimbursement program, but many cities are not able to take advantage of this program due to a lack of staff capacity and up-front capital for investments.

## FULL FUNDING AND ALIGNMENT FOR HOUSING PRODUCTION

**RECOMMENDATION:** *The LOC will advocate to maintain and increase state investments to support the development and preservation of a range of needed housing types and affordability, including: publicly supported affordable housing and related services; affordable homeownership; permanent supportive housing; affordable modular and manufactured housing; middle housing types; and moderate-income workforce housing development. In addition, the LOC will seek opportunities to address structural barriers to production of different housing options at the regional and state level. This includes: streamlining state agency programs, directives, funding metrics, and grant timelines that impact development; aligning state programs with local capital improvement and budget timelines; and increasing connections between affordable housing resources at Oregon Housing and Community Services (OHCS) with the land use directives in the Oregon Housing Needs Analysis (OHNA) and Climate Friendly and Equitable Communities (CFEC) programs at the Department of Land Conservation and Development (DLCD).*

**Background:** Recent legislation and executive orders have made significant changes to the state’s land use planning process, including new housing production directives for cities and counties. These updates have resulted in extensive, continuous, and sometimes conflicting efforts that are not supported by adequate state funding. Cities do not have the staff capacity or resources needed to implement existing requirements. Additional state support is needed to assist local implementation, including technical assistance and education for local staff and decision makers, and workforce development. The state should prioritize implementation and coordination of existing programs in the 2025-2026 legislative sessions before considering any new policies.

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### General Government Committee

Contact: Scott Winkels, [swinkels@orcities.org](mailto:swinkels@orcities.org)

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## RESTORATION OF RECREATIONAL IMMUNITY

**RECOMMENDATION:** *The LOC will introduce legislation to protect cities and other landowners who open their property for recreational purposes from tort liability claims.*

**Background:** An adverse court ruling stemming from a recreational injury sustained on a city owned trail opened cities and other public and private landowners to tort claims for injuries sustained by people who are recreating. The Legislature enacted a temporary restoration of the immunity in 2024 that will expire



on July 1, 2025. Legislation to make the immunity permanent will be needed for cities to offer recreational amenities without fear of tort liability lawsuits or excessive risk premiums.

## **BEHAVIORAL HEALTH ENHANCEMENTS**

**RECOMMENDATION:** *The LOC will introduce and support legislation to expand access to behavioral health treatment beds and allow courts greater ability to direct persons unable to care for themselves into treatment through the civil commitment process.*

**Background:** While Oregon has historically ranked at or near the bottom nationally for access to behavioral healthcare, the state has made significant investments over the past four years. It will take time for investments in workforce development and substance abuse treatment to be realized, and areas for improvement remain. The standard for civilly committing a person into treatment remains very high in Oregon, and as a result, individuals who present a danger to themselves or others remain untreated, often producing tragic results. Additionally, the number of treatment beds for residential care does not meet demand, with services unavailable in multiple areas of the state.

## **CONTINUED ADDICTION POLICY REFORM**

**RECOMMENDATION:** *The LOC will Introduce and support legislation to allow drug related misdemeanors to be cited into municipal court; provide stable funding for services created in HB 4002 in 2024; allow more service providers to transport impaired persons to treatment; establish the flow of resources to cities to support addiction response; and monitor and adjust the implementation of HB 4002.*

**Background:** The Legislature passed significant changes to Oregon’s approach to the current addiction crisis with the creation of a new misdemeanor charge designed to vector defendants away from the criminal justice system and into treatment. Changes also included: sentencing enhancements for drug dealers; investments in treatment capacity; and expanded access to medical assisted addiction treatment. HB 4002 did not include stable funding for the services created or provide cities with direct access to resources, or the ability to cite the new offense into municipal courts. Additionally, the new law will likely require adjustments as the more complicated elements get implemented.

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## Energy and Environment Committee

Contact: Nolan Pleše, nplese@orcities.org

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### BUILDING DECARBONIZATION, EFFICIENCY, AND MODERNIZATION

**RECOMMENDATION:** *The LOC will support legislation to protect against any rollback and preemptions to allow local governments to reduce greenhouse gas emissions from new and existing buildings while ensuring reliability and affordability. In addition, the LOC will lead and back efforts that support local governments, including statewide capacity, expertise, and resources to allow local governments to pursue state and federal funding and continue to support off-ramps for local governments unable to meet the state's new building performance standards.*

**Background:** Homes and commercial buildings consume nearly one-half of all the energy used in Oregon, according to the Oregon Department of Energy. Existing buildings can be retrofitted and modernized to become more resilient and efficient, while new buildings can be built with energy efficiency and energy capacity in mind.

Oregon cities, especially small to mid-sized and rural communities, require technical assistance and financial support to meet the state's goals. Without additional support, some communities will be unable to meet the state's building performance standards. Off-ramps are necessary to protect cities unable to meet the state's goals to ensure they are not burdened by mandates they can't meet.

Some initiatives may include local exceptions for building energy codes and performance standards, statewide home energy scoring, or financial incentives from the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), state incentives, and other financial incentives like CPACE (Commercial property-assessed clean energy).

For cities to meet their climate resilience and carbon reduction goals while maintaining home rule authority, their flexibility must be preserved to allow for a successful transition from fossil fuels. State pre-emptions should not prohibit cities from exceeding state goals and achieving standards that align with their values.

### INVESTMENT IN COMMUNITY RESILIENCY AND CLIMATE PLANNING RESOURCES

**RECOMMENDATION:** *The LOC will support investments that bring resiliency and climate services (for mitigation and adaptation) together in coordination with public and private entities, and work to fill the existing gaps to help communities get high-quality assistance. These resources are needed for local governments to effectively capture the myriad of available state and federal funding opportunities that cannot be accessed due to capacity and resource challenges. The LOC will work with partners to identify barriers and potential*

*solutions towards resiliency opportunities, such as local energy generation and battery storage, and to support actions that recognize local control.*

**Background:** Oregon communities have unique resources and challenges, and increasingly need help to plan for climate and human-caused impacts and implement programs to reduce greenhouse gases. Oregon should focus on maintaining the reliability of the grid while supporting safe, healthy, cost-effective energy production that includes external costs.

Although many opportunities for building resiliency exist, not all will not be built or managed by cities. Cities support efforts to build resiliency hubs in coordination with public, private, and non-profit interests and will seek more investments in programs that support resiliency hubs.

Cities also have a broad range of perspectives on how to address the impacts of the climate crisis. Concerns about costs and reliability during this energy transition have surfaced in many cities. At the same time, others who share those concerns also aim to have stronger requirements that meet their cities' climate goals. To meet these challenges, cities oppose additional mandates but support exceptions and additional support that recognize each city's unique perspectives, resources, and experience while preserving local authority.

Oregon's small to mid-sized communities and rural communities are particularly in need of technical assistance, matching funds, and additional capacity to address climate impacts. Without assistance, these communities face unfunded mandates due to low resources and capacity challenges to go after many available opportunities.

## **ADDRESS ENERGY AFFORDABILITY CHALLENGES FROM RISING UTILITY COSTS**

**RECOMMENDATION:** *The LOC will: support actions to maintain affordable and reliable energy resources; invest in programs and new technology that support energy efficiency, renewable energy, and battery storage to help reduce overall energy costs and demands; and address grid challenges during peak energy demand and the associated rising costs, while balancing the pace of energy production and power supply that impact rates.*

**Background:** In recent years, rising utility costs have increased the energy burden on Oregonians, particularly low-income Oregonians, those with fixed incomes, and those who are unable to work. Costs contributing to these increases include, infrastructure upgrades, maintenance, and modernization, climate impacts from increased extreme weather events (wildfires, ice storms, snowstorms, flooding, etc.) and mitigation costs associated with them, fuel costs, inflation, legislative and gubernatorial actions, and investments in new energy-producing technology, and battery storage, are some of many reasons that are impacting utility rates.

While many investment opportunities exist, more cooperation and collaboration

needed to find a path forward that reduces the need for large rate increases that impact Oregonians. Rate increases should balance and prioritize vital labor, infrastructure, and mitigations necessary to sustain present and future energy demands with compensation.

In addition, the LOC would advocate for new tools and utilizing existing tools to modernize rate structures to provide flexibility and account for the time of year of rate increases (phasing in of rate increases) and recognize the higher burden for low and moderate-income and fixed-income Oregonians.

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### **Finance and Taxation Committee**

Contact: Lindsay Tenes, ltenes@orcities.org

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#### **LODGING TAX FLEXIBILITY**

**RECOMMENDATION:** *The LOC will advocate for legislation to increase flexibility to use locally administered and collected lodging tax revenue to support tourism-impacted services.*

**Background:** In 2003, the Legislature passed the state lodging tax and restricted local transient lodging tax (TLT) by requiring that revenue from any new or increased local lodging tax be spent according to a 70/30 split: 70% of local TLT must be spent on “tourism promotion” or “tourism related facilities” and up to 30% is discretionary funds.

Tourism has created an increased demand on municipal service provision. Some of the clearest impacts are on roads, infrastructure, public safety, parks, and public restrooms. Short term rentals and vacation homes also reduce the housing supply and exacerbate housing affordability issues.

Cities often play an active role in tourism promotion and economic development efforts, but requiring that 70% of lodging tax revenue be used to further promote tourism is a one-size fits all approach that does not meet the needs of every tourism community. Cities must be allowed to strike the balance between tourism promotion and meeting the needs for increased service delivery for tourists and residents.

#### **MARIJUANA TAX**

**Legislative Recommendation:** *The LOC will advocate for legislation that increases revenue from marijuana sales in cities. This may include proposals to restore state marijuana tax losses related to Measure 110 (2020), and to increase the 3% cap on local marijuana taxes.*

**Background:** The state imposes a 17% tax on recreational marijuana products. Until

the end of 2020, cities received 10% of the state's total tax revenues (minus expenses) on recreational marijuana products. Measure 110 largely shifted the allocation of state marijuana revenue by capping the amount that is distributed to the recipients that previously shared the total amount (the State School Fund, the Oregon Health Authority, the Oregon State Police, cities and counties) and diverted the rest to drug treatment and recovery services. Starting in March of 2021, quarterly revenue to cities from state marijuana taxes saw a decrease of roughly 74%. Marijuana revenue has also been on a downward trend because the market is oversaturated, which has continually reduced sale prices (high supply, steady demand). Marijuana is taxed on the price of the sale and not on volume.

## ALCOHOL TAX

**RECOMMENDATION:** *The LOC will advocate for increased revenue from alcohol taxes. This includes support for any recommendation by the HB 3610 Task Force on Alcohol Pricing to increase the beer and wine tax that maintains 34% shared distribution to cities. This may also include legislation to lift the pre-emption on local alcohol taxes.*

**Background:** Cities have significant public safety costs related to alcohol consumption and must receive revenue commensurate to the cost of providing services related to alcohol.

Oregon is a control state and the Oregon Liquor and Cannabis Commission (OLCC, formerly known as the Oregon Liquor Control Commission) acts as the sole importer and distributor of liquor. Cities and other local governments are preempted from imposing alcohol taxes. In exchange, cities receive approximately 34% share of net state alcohol revenues. The OLCC has also imposed a 50-cent surcharge per bottle of liquor since the 2009-2011 biennium, which is directed towards the state's general fund. Oregon's beer tax has not been increased since 1978 and is \$2.60 per barrel, which equates to about 8.4 cents per gallon, or less than 5 cents on a six-pack. Oregon's wine tax is 67 cents per gallon and 77 cents per gallon on dessert wines. Oregon has the lowest beer tax in the country and the second lowest wine tax.

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### **Broadband, Cybersecurity, Artificial Intelligence (AI), and Telecommunications Committee**

Contact: Nolan Plese, [nplese@orcities.org](mailto:nplese@orcities.org)

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## DIGITAL EQUITY AND INCLUSION

**RECOMMENDATION:** *The LOC will support legislation and policies that help all individuals and communities have the information technology capacity needed for full participation in our society, democracy, and economy through programs such as digital*

*navigators, devices, digital skills, and affordability programs like the Affordable Connectivity Program (ACP) and the Oregon Telephone Assistance Program (OTAP – also known as Lifeline) that meet and support community members where they are.*

**Background:** Connectivity is increasingly relied on for conducting business, learning, and receiving important services like healthcare. As technology has evolved, the digital divide has become more complex and nuanced. Now, the discussion of the digital divide is framed in terms of whether a population has access to hardware, to the Internet, to viable connection speeds, and to the skills they need to effectively use it. Recognizing individual knowledge and capacity, abilities, and lived experience is now vital, and programs that offer devices, digital literacy skills, cybersecurity, and support for internet affordability, are critical to closing the digital divide.

## **CYBERSECURITY & PRIVACY**

**RECOMMENDATION:** *The LOC will support legislation that addresses privacy, data protection, information security, and cybersecurity resources for all that use existing and emerging technology like artificial intelligence (AI) and synthetic intelligence (SI), including, but not limited to: funding for local and state government cyber and information security initiatives; interagency and government coordination and cooperative arrangements for communities that lack capacity; statewide resources for cyber and AI professionals and workforce development; vendor and third-party vendor accountability; regulations of data privacy; or standards for software/hardware developers to meet that will make their products more secure while ensuring continued economic growth. The LOC will oppose any unfunded cybersecurity and/or AI mandates and support funding opportunities to meet any unfunded insurance requirements.*

**Background:** Society's continued reliance on technology will only increase with the emergence of artificial intelligence (AI) and synthetic intelligence (SI). This will mean an increased risk for cybercrimes. Cybersecurity encompasses everything that pertains to protecting our sensitive and privileged data, protected health information, personal information, intellectual property, data, and governmental and industry information systems from theft and damage attempted by criminals and adversaries.

Cybersecurity risk is increasing, not only because of global connectivity but also because of the reliance on cloud services to store sensitive data and personal information. As AI and SI technology and adoption accelerate, the ability to guard against cyber threats and threats created through AI will increase. Strengthening coordination between the public and private sectors at all levels is essential for decreasing risks and quickly responding to emerging threats. This ensures resilience is considered to reduce the damage caused by cyber threats.

## RESILIENT, FUTUREPROOF BROADBAND INFRASTRUCTURE AND PLANNING INVESTMENT

**RECOMMENDATION:** *The LOC will support legislation to ensure broadband systems are built resiliently and futureproofed, while also advocating for resources to help cities with broadband planning and technical assistance through direct grants and staff resources at the state level. The LOC will oppose any preemptions that impede local government's ability to maintain infrastructure standards in the local rights-of-way. Municipalities' have a right to own and manage access to poles and conduit and to become broadband service providers.*

### **Background:**

#### Broadband Planning and Technical Assistance

Most state and federal broadband infrastructure funding requires communities to have a broadband strategic plan in place in order to qualify. Many cities do not have the resources or staff capacity to meet this requirement. Cities will need to rely on outside sources or work with the state for assistance and support the state setting up an office to aid local governments.

#### Resilient and Long-Term Systems

As broadband continues to be prioritized, building resilient long-term networks will help Oregonians avoid a new digital divide as greater speeds are needed with emerging technologies like artificial intelligence (AI). Important actions that will ensure resilient broadband include: dig once policies; investing in robust middle-mile connections; ensuring redundancy and multiple providers in all areas' sharing current and future infrastructure to manage overcrowding in the right-of-way (ROW); and undergrounding fiber instead of hanging it on poles. Additionally, infrastructure should be built for increased future capacity to avoid a new digital divide by allowing Oregon to determine speeds that reflect current and future technology.

#### Optional Local Incentives to Increase Broadband Deployment

Cities need flexibility to adequately manage public rights-of-ways (ROW). Instead of mandates, the state should allow cities the option to adopt incentives that could help streamline broadband deployment. Flexibility for cities to fund conduit as an eligible expense for other state infrastructure (most likely water or transportation projects) would reduce ROW activity. Additionally, local governments can work with state and federal partners to streamline federal and state permitting to reduce delays in broadband deployment.

#### Regulatory Consistency Amidst Convergence

With rapid changes in communication, standards and policy should keep pace. When a converged technology utilizes differing communications technologies, it may be

required to adhere to multiple standards and regulations, or providers may argue that some parts of their service is not subject to regulations. The LOC will support legislation that addresses the inconsistency of regulations applied to traditional and nontraditional telecommunications services as more entities move to a network-based approach.

## ARTIFICIAL INTELLIGENCE (AI)

**RECOMMENDATION:** *The LOC will support legislation that promotes secure, responsible and purposeful use of artificial intelligence (AI) and synthetic intelligence (SI) in the public and private sectors while ensuring local control and opposing any unfunded mandates. Cities support using AI for social good, ensuring secure, ethical, non-discriminatory, and responsible AI governance through transparent and accountable measures that promotes vendor and third-party vendor accountability, improving government services while protecting sensitive data from use for AI model learning, and fostering cross-agency, business, academic, and community collaboration and knowledge sharing.*

**Background:** While artificial intelligence (AI) and synthetic intelligence (SI) are not new, the recent advancements in machine learning and the exponential growth of artificial and synthetic intelligence require governments and providers to be responsible and purposeful in the use of this technology. The opportunities and risks that AI and SI present demand responsible values and governance regarding how AI systems are purchased, configured, developed, operated, or maintained in addition to ethical policies that are transparent and accountable. Policies should also consider the implication of AI on public records and retention of information on how AI is being used. Additionally, governments need to consider how procurements are using AI, how they are securing their systems, and any additional parties being used in the process.

AI systems and policies should:

- Be Human-Centered Design - AI systems are developed and deployed with a human-centered approach that evaluates AI-powered services for their impact on the public.
- Be Secure & Safe - AI systems should maintain safety and reliability, confidentiality, integrity, and availability through safeguards that prevent unauthorized access and use to minimize risk.
- Protect Privacy - Privacy is preserved in all AI systems by safeguarding personally identifiable information (PII) and sensitive data from unauthorized access, disclosure, and manipulation.
- Be Transparent - The purpose and use of AI systems should be proactively communicated and disclosed to the public. An AI system, its data sources,



operational model, and policies that govern its use should be understandable, documented, and properly disclosed publicly.

- Be Equitable - AI systems support equitable outcomes for everyone; urban, rural, suburban, frontier, and historically underrepresented communities. Bias in AI systems should be effectively managed to reduce harm to anyone impacted by its use.
- Provide Accountability - Roles and responsibilities govern the deployment and maintenance of AI systems. Human oversight ensures adherence to relevant laws and regulations and ensures the product's creator is ultimately responsible for reviewing the product prior to release and held accountable.
- Be Effective - AI systems should be reliable, meet their objectives, and deliver precise and dependable outcomes for the utility and contexts in which they are deployed.
- Provide Workforce Empowerment - Staff are empowered to use AI in their roles through education, training, and collaborations that promote participation and opportunity.

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### **Transportation Committee**

Contact: Jim McCauley, [jmccauley@orcities.org](mailto:jmccauley@orcities.org)

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## **2025 TRANSPORTATION PACKAGE**

**RECOMMENDATION:** *The LOC supports a robust, long-term, multimodal transportation package focused on: stabilizing funding for operations and maintenance for local governments and ODOT; continued investment in transit and bike/ped programs, safety, congestion management, and completion of projects from HB 2017. As part of a 2025 package, the funding level must maintain the current State Highway Fund (SHF) distribution formula and increase investments in local programs such as Great Streets, Safe Routes to Schools, and the Small City Allotment Program. In addition, the package should find a long-term solution for the weight-mile tax that stabilizes the program with fees that match heavier vehicles' impact on the transportation system. The funding sources for this package should be diverse and innovative. Additionally, the package should maintain existing choices and reduce barriers for local governments to use available funding tools for transportation investments.*

**Background:** Oregon has one of the country's most transportation-dependent economies, with 400,000 jobs (1 in 5) related directly to transportation via rail, road, and ports. The State Highway Fund (SHF) is the primary revenue source for the state's transportation infrastructure, and comes from various sources, including gas

and diesel tax, weight mile tax, vehicle registration fees, vehicle title fees, and driver's license fees. These funds are distributed using a 50-30-20 formula, with 50% to the state, 30% to counties, and 20% to cities. Continued investment in transportation infrastructure is critical for public safety objectives such as "[Safe Routes to Schools](#)" and the "[Great Streets](#)" program. The Legislature must develop a plan to match inflationary costs and a plan to transition from a gas tax to an impact fee based on miles traveled to stabilize transportation investment.

## FUNDING AND EXPANDING PUBLIC AND INTER-COMMUNITY TRANSIT

**RECOMMENDATION:** *The LOC supports expanding funding for public transit operations statewide, focusing on inter-community service, service expansion, and a change in policy to allow for the use of funds for local operations and maintenance.*

**Background:** During the 2017 session, HB 2017 established Oregon's first statewide comprehensive transit funding by implementing a "transit tax," a state payroll tax equal to one-tenth of 1%. This revenue source has provided stable funding of more than \$100 million annually.

These funds are distributed utilizing a formula. Investments made since the 2017 session helped many communities expand and start transit and shuttle services to connect communities and provide transportation options. Many communities, however, still lack a viable public transit or shuttle program and would benefit greatly from expanded services.

## SHIFT FROM A GAS TAX TO A ROAD USER FEE

**RECOMMENDATION:** *The LOC supports replacing Oregon's gas tax with a Road User Fee (RUF) while protecting local government's authority to collect local gas tax fees. An RUF will better measure a vehicle's impact on roads and provide a more stable revenue stream.*

**Background:** Oregon's current gas tax is 40 cents per gallon. Depending on the pump price, the gas tax represents a small portion of the overall cost of gas. Due to the improved mileage of new vehicles and the emergence and expected growth of electric vehicles, Oregon will continue to face a declining revenue source without a change in the fee structure. Capturing the true impact of vehicles on the transportation system requires a fee structure that aligns with use of roads. The federal tax has remained at 18 cents per gallon since 1993, effectively losing buying power or the ability to keep up with inflation.

## COMMUNITY SAFETY AND NEIGHBORHOOD LIVABILITY

**RECOMMENDATION:** *The LOC supports a strong focus on funding safety improvements on large roads, such as highways and arterials, that run through all communities. This includes directing federal and state dollars toward safety improvements on streets that meet the Great Streets criteria but are not owned by ODOT, and increasing funding for the*

*Great Streets program. For those cities that don't qualify for existing programs, ODOT should explore funding opportunities for cities with similar safety needs. Additionally, more funding should be directed to the Highway Safety Improvement Program (HSIP) and All Roads Transportation Safety (ARTS) programs.*

**Background:** Community safety investment remains a critical challenge for local governments, reducing their ability to maintain a transportation system that supports the safe and efficient movement of people and goods. Traffic fatalities and serious injuries continue to grow to record levels in many communities. The lack of stable funding for these basic operations and maintenance functions prevents local governments from meeting core community expectations. Without increases in funding for transportation, this problem is expected to get even worse, as costs for labor and materials continue to increase.

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### **Water and Wastewater Committee**

Contact: Michael Martin, mmartin@orcities.org

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### **INFRASTRUCTURE FUNDING (CO-SPONSORED BY COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE)**

**RECOMMENDATION:** *The LOC will advocate for a comprehensive infrastructure package to support increased investments in water, sewer, stormwater and roads. This includes: funding for system upgrades to meet increasingly complex regulatory compliance requirements; capacity to serve needed housing and economic development; deferred maintenance costs; seismic and wildfire resiliency improvements; and clarity and funding to address moratoriums. The LOC will also champion both direct and programmatic infrastructure investments to support a range of needed housing development types and affordability.*

**Background:** Cities continue to face the challenge of how to fund infrastructure improvements – to maintain current, build new, and improve resiliency. Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia, and the funds are depleting and unsustainable without significant program modifications and reinvestments. This priority will focus on maximizing both the amount of funding and the flexibility of the funds to meet the needs of more cities across the state to ensure long-term infrastructure investment. The 2024 LOC Infrastructure Survey revealed the increasing need for water and road infrastructure funding. The results show \$11.9 Billion of infrastructure funds needed (\$6.4 billion for water and \$5.5

billion for roads).

Combined with federal-cost share decline on water infrastructure projects – despite the recent bi-partisan infrastructure law investment – cities face enormous pressure to upgrade and maintain water infrastructure. At the same time, cities across the state are working urgently to address Oregon’s housing crisis. To unlock needed housing development and increase affordability, the most powerful tool the Legislature can deploy is targeted investments in infrastructure to support needed housing development.

## PLACE-BASED PLANNING

**RECOMMENDATION:** *The LOC will advocate for funding needed to complete existing place-based planning efforts across the state and identify funding to continue the program for communities that face unique water supply challenges.*

**Background:** Oregon’s water supply management issues are complex. In 2015, the Legislature created a place-based planning pilot program in Oregon administered through the Oregon Water Resources Department that provides a framework and funding for local stakeholders to collaborate and develop solutions to address water needs within a watershed, basin, surface water, or groundwater. In 2023, the Legislature passed a significant bipartisan Drought Resilience and Water Security package (BiDRAWS), which included \$2 million into a place-based planning water fund to continue efforts to address a basin-by-basin approach.

## OPERATOR-IN-TRAINING APPRENTICESHIPS

**RECOMMENDATION:** *The LOC will advocate for funding for apprenticeship training programs and the expansion of bilingual training opportunities to promote workforce development of qualified wastewater and drinking water operators due to the significant lack of qualified operators.*

**Background:** Water utilities must resolve a human-infrastructure issue in order to keep our water and wastewater systems running. Currently, water utilities face challenges in recruiting, training, and retaining certified operations employees. In addition, retirements of qualified staff over the next decade will exacerbate the problem.

In 2023, the Legislature approved one-time funding for the development of a training facility for certified operators and technical assistance staff in partnership with the Oregon Association of Water Utilities. Sustained funding for regional training facilities and direct funding for utilities hosting training programs is needed to train the next generation of water and wastewater operators.



2024 Legislative  
Session

# Summary of Bills

APRIL 2024

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## Significant Progress Made on Legislative Priorities in the 2024 Short Session

The 2024 legislative session ended three days prior to the statutory deadline of March 10. The session shifted from recent experience, with no walkouts and bipartisan support for several major issues facing Oregonians.

The LOC's priorities included Measure 110 reforms, several layers of housing policy, gap funding for shelters, and infrastructure funding for new housing development. This detailed end of session report includes the range of issues that were the main focus of the LOC's Intergovernmental Relations team's advocacy efforts. For the short session, the Legislature brought 291 bills, resolutions, and memorials. More than 500 amendments were introduced to modify the original language of the introduced measures, and Governor Kotek has 115 bills to evaluate for signature. At this stage, we are not expecting any vetoes.

### Team LOC is Making a Difference!

It's evident that a combination of member-led grassroots advocacy and the excellent work of the LOC's lobby team and partners resulted in substantial progress in 2024.

For example:

- Significant Measure 110 reforms are now confirmed, largely because of a coalition of public safety interests, including the LOC.
- For the first time, the Legislature allocated nearly \$100 million in general fund dollars to local infrastructure needs for new housing starts and \$65 million to keep existing shelters open, thanks to a pre-session member survey that generated 234 projects from 93 cities.
- Finally, recreational immunity was restored after an adverse court decision, which resulted in multiple trail closures.

The LOC lobby team helped stop several poorly constructed property tax measures that would have contributed to an already unfair and outdated property tax system in need of serious reform. We also stopped a pre-session legislative concept that would have preempted the local government franchise fee structure. Other wins included a fix for the use of photo radar and an improved broadband grant program.

### What's Next?

In the interim, there is considerable work to do as we prepare for the 2025 session and ensure commitments are met. We must remain focused on what lies ahead because we are not done. The LOC's policy committees started meetings in March and will complete their process in June. State agencies are evaluating how housing infrastructure and shelter funding will be pushed out, and there will be a significant conversation about the transportation package in 2025.

This session's most important take-home message is that the LOC's grassroots advocacy **WORKS!** Persistent engagement and advocacy from cities combined with the efforts of your LOC lobbyists creates leverage and is a recipe for success. During the interim, cities must reinforce their legislative partners, build on local government education, and let their state legislators know how much they appreciate their support.

## How to Use this Summary

This summary provides a snapshot of the LOC's work during the 2024 session. There are many other legislative concepts that your lobby team worked on during the session, but are not part of this summary. If there are bills that are not on this list that you have questions about, or if you want a deeper dive into the details of any legislation profiled in this summary, please reach out to the LOC, and we'll connect you with the appropriate lobbyist.

# COMMUNITY DEVELOPMENT

## Economic Development

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### PASSED BILLS

#### **SB 1526: Industrial Site Readiness Program Extension**

*Effective Date: June 6, 2024*



SB 1526 extended the sunset of the Oregon Industrial Site Readiness (RSIS) program from July 1, 2023 to December 31, 2029. It also made several technical changes to the program to improve ease of administration, including the exchange of accurate employment and wage data to calculate the reimbursement. The sunset extension was a key priority for the LOC.

SB 1526 is the revenue omnibus bill, a catch-all for revenue-related technical and administrative changes with some new policies. The LOC took no position on any other provisions of the bill besides the sunset extension of the RSIS program. Also included in SB 1526:

- Adding semiconductor-related development to properties eligible to receive property tax abatement under the e-commerce designation of the state's Enterprise Zone program.

A full summary of the changes in the bill can be found [here](#).

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### FAILED BILLS

#### **HB 4042: Industrial Site Loan Funding**



HB 4042 would have capitalized the Industrial Site Loan Fund with \$40 million. It was a redraft of HB 2258 (2023) and a priority of the state's Semiconductor Task Force. The Legislature created the Regionally Significant Industrial Site (RSIS) program, including the loan fund, in 2013 to assist local governments with the cost of making industrial lands ready for development, but has never funded the loan program. HB 4042 also held the sunset extension of the RSIS program, which passed in SB 1526 (2024). The LOC expects to bring forward similar legislation in 2025.



## Housing & Land Use

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### PASSED BILLS

#### **SB 1529: Emergency Weather Resources Update**

*Effective Date: Upon signing by the governor*



This bill makes technical updates to housing stabilization programs. Of note to cities, SB 1529 adds flexibility to an existing program at the Oregon Health Authority (OHA) that directs the agency to contract with cities and other eligible entities, such as non-profits, to distribute air conditioners and air filters in anticipation of an emergency (not just during or after) and clarifies that technical assistance and community outreach are eligible uses of the funds.

#### **SB 1530: Housing Stabilization and Production Funding**

*Effective Date: Upon signing by the governor*



SB 1530 appropriates \$279.6 million in general fund resources across eight agencies to support investments in housing stability, infrastructure development, housing production, climate impacts, and recovery housing, including:

- \$65 million to keep existing shelters open this biennium;
- \$94.9 million in direct grants to cities for site-specific infrastructure investments to support needed housing;
- \$15 million for the Healthy Homes Repair Fund;
- \$3.5 million to provide air conditioners and air filters to eligible recipients; and
- \$18 million for grants at the OHA directed to specified community-based organizations for recovery housing projects.

#### **SB 1537: Governor's Housing Production Bill**

*Effective Date: June 6, 2024 (see other effective dates below)*



SB 1537 is the Governor's Housing Production Package. The bill creates several new programs and new land use requirements, including:

- Establishing a new [Housing Accountability and Production Office \(HAPO\)](#) with \$5 million for local technical assistance grants (*effective June 6, 2024; operative July 1, 2025*);
- Clarifying when a developer may opt in to new housing laws that take effect mid-development application; this language is also included in HB 4063 (*effective June 6, 2024*);
- Expanding prevailing party attorney's fees provisions for affordable housing to include local governments, allowing cities to receive compensation for legal expenses when supporting and responding to land use litigation (*effective January 1, 2025*);
- Allocating \$3 million to Business Oregon to help small and rural local governments access infrastructure programs (*effective June 6, 2024*);
- Establishing and funding a new state revolving loan fund with \$75 million for local governments to administer loans for moderate-income housing development (*effective June 6, 2024; must be operative by June 30, 2025*);

- Requiring cities to grant up to 10 administrative adjustments to local siting and design standards for housing development (*effective January 1, 2025*);
- Directing cities to process housing development applications requesting partitions and other property boundary changes; site plan review; nonconforming use cases; or adjustments to land use regulations, as limited land use decisions (*effective January 1, 2025*); and
- Providing a one-time urban growth boundary (UGB) expansion tool, and streamlined process for UGB land swaps (*effective June 6, 2024; sunsets January 2, 2033*).

**SB 1564: Optional Housing Model Ordinances**

*Effective Date: Upon signing by the governor*



SB 1564 requires the Oregon Land Conservation and Development Commission to adopt model ordinances for cities of different sizes to implement housing and urbanization requirements. The bill directs the Department of Land Conservation and Development (DLCD) to develop models by January 1, 2026 for optional local adoption. The model ordinances will be focused according to city population (cities below 2,500, 2,500 to 25,000, and above 25,000) and must consider geographical and other regional factors. The model ordinances are presumed to be clear and objective. Local governments may choose to adopt model ordinances prescribed for their population size, or a larger population bracket, into their local code, or adopt them by reference. The ordinances can be adopted in whole or in part, meaning cities can choose to utilize the state model ordinance for certain housing types while retaining their local ordinances for another type.

**HB 4015: Battery Facility Siting** – See [Energy and Environment section](#)

**HB 4026: UGB Expansion Referrals**

*Effective Date: March 20, 2024*



HB 4026 clarifies that local urban growth boundary (UGB) expansion decisions are not eligible to be referred to the ballot by petition and are reviewable exclusively by the Oregon Land Conservation and Development Commission through the established state land use system. The bill received strong bipartisan support and was among the first bills signed by Governor Kotek.

**HB 4063: House Housing Omnibus Bill**

*Effective Date: June 6, 2024*



HB 4063 is a largely technical housing policy package that contains several provisions applicable to cities, including:

- Clarifying city and county responsibilities within urban unincorporated lands in the metro region for housing planning and implementation of the Oregon Housing Needs Analysis (OHNA) passed in HB 2001 (2023);
- Clarifying when a developer may opt-in to new housing laws that take effect mid-development application; this language is also included in SB 1537;
- Clarifying that a local jurisdiction may allow the resulting parcel of a partition to be divided into three more parcels for middle housing development;

- Updating the Single-Unit Housing Property Tax Exemption to make local administration more efficient; and
- Updating HB 2001 (2024) to clarify that cities in the metro region will receive a housing needs allocation from the Oregon Department of Administrative Services in the same manner as non-metro cities.

**[HB 4134](#): Housing Oregon’s Workforce (HOW)**

*Effective Date: Upon signing by the governor*



HB 4134, known as the Housing Oregon’s Workforce (HOW) bill, provides \$7.1 million in direct grants to four cities for specified infrastructure projects to benefit housing developments that will make at least 30% of the dwelling units affordable to households earning 130% or less of county median income. The original bill proposed \$21.3 million in grants to 11 cities.

**FAILED BILLS**

**[HB 4023B](#): Residential Treatment Facility Supersiting**



HB 4023 was introduced as a placeholder bill and amended late in the legislative session. The House Rules Committee amended the bill to include a “supersiting” tool that would prohibit local governments from requiring developers of residential treatment facilities to first obtain a zone change or a conditional use permit, but only in land zoned for commercial use, light industrial use, and publicly owned lands. The LOC submitted [testimony](#) sharing concerns the bill would expose cities to legal confusion and costly litigation for potential violations of the federal Fair Housing Act.

After passing the House, the Senate Rules Committee amended the bill to extend the “supersiting” tool to residential zones. The LOC joined behavioral health providers, counties, chiefs of police, sheriffs, and district attorneys in supporting the amended bill, which passed the Senate on the final day of the session with bipartisan support. The House declined to hear the bill for the concurrence vote required for final passage, and HB 4023B died in the final hour of the session.

**[HB 4090](#): Energy Facility Siting** – See [Energy and Environment section](#)

**[HB 4099A](#): Municipal Development Protection Fund**



HB 4099 would have established and appropriated \$10 million for the Municipal Development Protection Fund at Oregon Housing and Community Services (OHCS). The bill directed OHCS to act as a guarantor for any city that agreed to defer system development charge (SDC) collections for housing development for up to 180 days after issuance of certificate of occupancy, or 12 months for publicly supported affordable housing. Should a developer fail to pay their deferred SDC, the program would have reimbursed cities that had agreed to defer SDC collection. The bill also authorized OHCS to assess a 20% fee plus additional interest on a developer who failed to pay the SDC charge. HB 4099A passed the House Housing and Homelessness Committee with unanimous support but did not receive a hearing or funding in the Ways and Means Committee.

### **HB 4128A: Housing Infrastructure Grants**



HB 4128 would have directed nearly \$93 million to Business Oregon for direct allocations to cities for water-related infrastructure projects to support housing development. The bill would have also funded a local infrastructure needs inventory at Business Oregon. While HB 4128A did not pass, the proposed local infrastructure grants informed the allocations that passed in [SB 1530](#).

### **HB 4155A: Infrastructure Financing Study**



This bill would have funded a study of the costs of infrastructure financing in Oregon by considering and evaluating tools the state may use to improve infrastructure and housing costs. HB 4155A passed the House Housing and Homelessness Committee with a unanimous vote but failed to receive a hearing in the Ways and Means Committee.

## **ENERGY & ENVIRONMENT**

### **PASSED BILLS**

### **SB 1596: Right to Repair**

*Effective Date: January 1, 2025*



SB 1596 requires the “original equipment manufacturers” (OEMs) of electronic equipment to make the necessary documentation, tools, parts, and other resources available to both authorized service providers and independent repair providers on fair and reasonable terms to diagnose, maintain, repair, or update consumer electronic equipment. The bill promotes competition, and equitable access to resources, and ensures that consumers have access to a wide range of repair options, ultimately driving down repair costs that benefit our community members and playing a pivotal role in reducing electronic waste. Additionally, the attorney general will have the authority to investigate and penalize manufacturers that violate the terms of this act and send a clear message that unfair and anti-competitive practices will not be tolerated. Furthermore, the bill helps to promote local independent businesses and drive new economic development opportunities.

Unfortunately, for many communities, especially rural and frontier communities, authorized providers are few and far between. The bill now provides consumers with additional repair options for electronic devices and will reduce improper disposal of electronic waste.

### **SB 1525: ODOE Technical Fix Bill**

*Effective Date: March 27, 2024*



SB 1525 makes some key technical fixes that modify certain reporting timelines for the Oregon Department of Energy (ODOE), including:

- A natural and working lands net biological carbon sequestration and storage inventory report;
- A study on workforce and training needs to support natural climate solutions on natural and working lands;

- A nonbinding biological carbon sequestration and storage goal for Oregon’s natural and working lands; and
- Submission of Oregon’s energy security plan by September 30, 2024, rather than June 1, 2024.

For Oregon to carry out the requirements for those reports that ensures a robust engagement process, the department needs more time. The original dates were set arbitrarily.

SB 1525 also expands the definitions of “planning costs” and “project cost” in the Community Renewable Energy Grant Program (CREP) to include costs paid or incurred by an applicant’s partner, rather than exclusively by an applicant. The Community Renewable Investment Fund ([HB 2021](#), 2021 session) received \$50 million to provide grants for planning and developing community renewable energy and energy resilience projects (known as the CREP). In addition, instead of distributing funds at completion, 30% of the grant money is released upon entering into a performance agreement, freeing up capacity for smaller communities who cannot start a project without seed money.

Finally, SB 1525 modified the Heat Pump Grants and Rebates Program and expanded an exemption for stand-by generation facilities from obtaining a site certificate from the Energy Facility Siting Council (EFSC) for a standby generation facility.

**[SB 1581](#): Reporting Efforts Towards Participating in a Regional Energy Market**

*Effective Date: January 1, 2024*



SB 1581 requires an investor-owned utility that sells more than two million megawatt hours of electricity in a calendar year to submit a report to the Legislature on plans or preparations the utility has taken or is taking toward participating in a regional energy market.

A regional transmission organization (RTO) is an “independent, nonprofit organization that operates and ensures reliability of the bulk power system and optimizes supply and demand for wholesale electricity.” Utilities in Oregon individually perform these functions for their territories and base their rates on a regulated rate of return on investments. Oregon is not part of an RTO or Independent System Operator (ISO).

**[HB 4015](#): Defining Battery Energy Storage Systems**

*Effective Date: January 1, 2025*



HB 4015 defines a battery energy storage system (BESS), improves the site certificate process for a BESS, and permits a BESS developer to use the Energy Facility Siting Council (EFSC) to site the BESS. These systems are composed of individual battery cells that are housed together in a module and enclosed in a structure such as a shipping container or a building. Utility- or large-scale BESSs store energy from sources such as wind and solar and provide backup power when those intermittent sources are not available or the cost to generate is high.

Current statute requires a separate site certificate for a BESS, even when paired with a renewable energy project. This extra certificate process increases the cost and would delay project implementation. HB 4015 creates a clear definition of a BESS and allows a separate site certificate to not be required for a BESS when sited in conjunction with another energy facility.

## **HB 4080: Offshore Wind Development Engagement Policy & Labor Standards**

*Effective Date: Immediately upon passage*



HB 4080 establishes a state policy for the implementation of an Offshore Wind Roadmap. The policy provides for engagement between offshore wind developers and impacted organizations, including local governments, Tribes, ports, and others impacted by the development of offshore wind. Additionally, the legislation aims to promote economic diversification and resilience in offshore wind energy development by ensuring labor and supply chain standards are in line with practices already accepted for renewable energy development projects on land. The bill also requires the Oregon Department of Land Conservation and Development (DLCD) to provide a report on the roadmap to the legislative committees related to marine renewable energy by September 1, 2025.

Having a clear roadmap provides an avenue for the state, local governments, and other impacted groups to engage with all parties, including the federal government. States that have established roadmaps have had more success moving forward with offshore wind projects with less consternation due to the engagement process outlined in their Offshore Wind Roadmaps.

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### **FAILED BILLS**

## **HB 4090: Remove the EFSC Process from Some Energy Siting Review**



HB 4090 as amended would have removed the Energy Facility Siting Council (EFSC) certificate process for renewable energy, excluding nuclear, or high-powered transmission line projects exclusively on federal lands. The National Environmental Protection Act (NEPA) process would continue. The LOC secured an amendment that ensured local governments within or adjoining the project area were consulted prior to the NEPA review process. The bill passed the House but died in the Senate.

## **SB 1559: Modifies State Greenhouse Gas Emission Reduction Goals**



SB 1559 would have updated Oregon's greenhouse gas emission reduction goals and changed the term "global warming" to "climate change" in some statutes. The legislation would have updated Oregon's emission reduction practices to be consistent with efforts to limit warming to 1.5 degrees Celsius. Additionally, the state's greenhouse gas emission reduction goals would have been modified to achieve reduction levels of:

- At least 45% below 1990 levels by 2030;
- At least 70% below 1990 levels by 2040; and
- At least 95% below 1990 levels by 2050.

SB 1559 received one public hearing on February 13. Because some groups felt the bill was too controversial for a short session, it was heard only as a courtesy.

# FINANCE & TAXATION

## Property Taxes

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### PASSED BILLS

#### **[HB 4031](#): Extends DOR Requirement for Taxpayer Confidentiality to Local Governments**

*Effective Date: March 27, 2024*



HB 4031 extends to local governments the requirements currently placed on the Oregon Department of Revenue to maintain confidentiality of taxpayer information. The requirement covers local government agencies that collect, administer, or manage a local tax imposed upon or measured by gross receipts, gross or net income, wages or net earnings from self-employment, local general sales and use taxes or marijuana taxes. This bill arose out of a situation in which the city of Portland received a public records request for taxpayer information.

#### **[HB 4056](#): Property Foreclosure Surplus**

*Effective Date: June 6, 2024*



HB 4056 temporarily stops counties from taking the deed to a property and requires them to set up a process to determine the surplus from a foreclosure sale. It was brought forth to address the impacts of the recent U.S. Supreme Court Decision, [Tyler v. Hennepin County](#).

Cities with municipal liens on a property are notified and have funds distributed from the sale per [ORS 275.275](#); however there can be debts to the city that are not recorded as liens on the property. Other debtors have requested a process to have their liens satisfied before the surplus is returned if a process is determined, and the LOC has requested that cities have the same opportunity. A workgroup is being formed to work out 2025 legislation.

#### **[HB 4111](#): Farm Equipment Property Tax Exemption**

*Effective Date: June 6, 2024*



HB 4111 exempts real farm equipment and machinery from property taxation. Prior to HB 4111, only farm equipment defined as tangible personal property was exempted. Proponents of the bill have stated there is confusion over whether a piece of farm equipment is “tangible” and depends on arbitrary factors such as if the equipment is fixed or mobile. The LOC stayed neutral on the bill because most of the equipment that is being exempted is outside of cities and the revenue impact is low.

#### **[SB 1545](#): Special Assessment for Wildfire Destroyed Homes**

*Effective Date: June 6, 2024*



SB 1545 allows a county to adopt a special assessment for homes destroyed by the September 2020 wildfires and rebuilt on the same lot. The special assessment is limited to the home value of the 2020-21 real market value of the home, up to the square footage of the destroyed home. The LOC did not take a position because of the limited scope of the special assessment.

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## FAILED BILLS

### [HJR 201/HB 4075: Statewide Property Tax for Wildfire](#)



HJR 201 would have referred a constitutional amendment to the voters to create a new statewide property tax to fund public safety. While the bill used the term broadly, it was expected to provide additional funding to rural fire protection districts and the state for wildfire fighting and resilience. The tax would not have impacted compression.

HB 4075 would have only gone into effect if HJR 201 was passed by the voters. It required that 80% of the revenue be distributed to local providers and 20% to the state. It would also have set up a statewide authority to decide how the revenue is spent.

The LOC opposes using the property tax system on state programming as well as the creation of a new statewide authority that would make spending decisions on an already constrained local revenue source. While the tax would have been outside Measure 5 and 50 compression limits, a new statewide tax would have caused voter confusion and limited the ability to pass local bonds and levies.

### [HB 4141: Lower Delinquent Property Tax Interest Rate](#)



HB 4141 would have decreased the interest rate charged on late property taxes from 1.33% per month to 1.33% per year. When cities receive property tax revenue, the revenue is typically invested in the Local Government Investment Pool until the city needs it to pay for services. When cities receive property tax revenue on time, it serves the long-term health of their budgets because they can invest it and earn interest on the investments.

### [SB 1544: Special Assessment for Seniors](#)



SB 1544 would have created a special assessment for property owners aged 65 and older. The special assessment would not have had any limitations based on income or value of the home. The state already has an effective program to help seniors with the cost of property taxes, the Oregon Property Tax Deferral for Disabled and Senior Homeowners Program. A broad special assessment for seniors would be redundant and be a massive reduction to the largest and most important source of revenue for local governments.

### [SJR 202: Senior Property Tax Freeze](#)



SJR 202 would have referred a constitutional amendment to the voters to create a program in which seniors can enroll to have the assessed value of their home frozen. If a homeowner aged 65 and older enrolled, the assessed value of their home would not be able to increase during their time in the program. The bill did not have eligibility requirements based on income or value of the home and no exceptions to increase assessed value with new construction.



### [HB 4072](#): State Payment in Lieu of Tax for Public Safety



HB 4072 would have created a payment in lieu of tax program in which the state would pay a public safety fee to cities with state-owned, property tax-exempt land. The program would have created a mechanism for the state to reimburse cities for the cost of providing local public safety services, including police and fire. The bill would have set up a pilot program for the city of Salem to receive the public safety fee and allow other cities with qualifying land to opt-in to the program.

### [HB 4133](#): Statewide Fee for Wildfire Funding



HB 4133 was one of several bills designed to provide new funding for the state's wildfire programs. Prior to bill submission, the legislative concept included a new \$10 fee on every property account in the state to fund the Oregon Department of Forestry. The property fee would have impacted compression. The LOC is opposed to this concept, and it did not make it into the introduced bill.

## GENERAL GOVERNMENT

### Public Safety

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#### PASSED BILLS

### [HB 4002](#): Measure 110 Reform

*Effective Date: April 1, 2024*



HB 4002 recriminalizes the possession and use of small amounts of hard drugs; allows treatment facilities to hold intoxicated persons for 72 instead of 48 hours; addresses an adverse court ruling that made it difficult to prosecute drug dealing; and creates enhanced sentencing for dealing drugs to vulnerable populations. Under the bill, those in possession of small amounts of drugs may be charged with an Unclassified Misdemeanor punishable by up to 180 days in jail. However, the individual may be offered deflection services intended to vector a defendant into treatment and away from the criminal justice system. The 180-day sanction may be imposed by a judge in 30-day increments if the person is revoked by community corrections. HB 4002 also appropriates money to a grant program in the Criminal Justice Commission for counties to create deflection programs. This bill was passed with the strong support of the LOC, the Oregon Association of Chiefs of Police, the Oregon State Sheriffs Association, and the Oregon District Attorneys Association.

### [HB 4115](#): Police and Dispatch Collective Bargaining

*Effective Date: Upon signing by the governor*



HB 4115 allows police and corrections sergeants who do not have the authority to impose economic discipline to form their own collective bargaining units within police agencies. It further allows emergency telecommunications supervisors without economic discipline authority to join existing bargaining units. The bill doesn't allow a police sergeant to be in the same bargaining

unit as the employees they supervise, nor does it impact the “confidential employee” status of sergeants who may be involved in collective bargaining issues and internal affairs investigations in the interest of management. Finally, HB 4115 does not extend past the front-line supervisor employee into command ranks such as lieutenants and commanders. The bill has an emergency clause and applies to contracts entered into after the effective date.

**SB 1576: Recreational Immunity**

*Effective Date: March 27, 2024*



SB 1576 is an omnibus bill addressing several areas of civil law. Of interest to cities, the bill temporarily restores recreational immunity after adverse court rulings left property owners vulnerable to claims. The legislation adds “running, walking and cycling” to the definition of recreational purposes until July 1, 2025. SB 1576 is a temporary measure designed to restore recreational immunity until the matter may receive greater deliberation during a long session. The LOC will be a participant in interim conversations with the intention of developing a more durable solution.

## Public Contracting

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### PASSED BILLS

**SB 1575: Duty to Defend**

*Effective Date: January 1, 2025*



SB 1575 prohibits contracts with architects, engineers and surveyors that require vendors to indemnify the public body for their work until liability has been established during adjudication. However, the bill does not apply to contracts issued using the “design-build” method of procurement. SB 1575 applies to contracts entered into after January 1, 2025 and the bill sunsets in 2035.

**HB 4006: Bond in Lieu of Retainage**

*Effective Date: March 7, 2024*



HB 4006 gives a contractor the option of providing a surety bond instead of having a portion of the payment retained to ensure completion of a project to specifications. The contracting agency is required to accept the bond unless they have found good cause to use retainage and provided that finding in writing to the contractor.

## PERS

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### PASSED BILLS

**HB 4045: PERS Benefit Increases**

*Effective Date: Multiple Dates*



HB 4045 increases the Public Employee Retirement System and Oregon Public Service Retirement Program (OPSRP, also known as Tier III) for public safety-related employees. First, the bill allows OPSRP police and fire employees to retire at 55 years of age instead of 60.

Secondly, HB 4045 creates a new “Hazardous Conditions” benefit category for employees of the Oregon State Hospital and emergency telecommunicators. Employees in the new category will be able to retire earlier with benefits similar to police officers and firefighters. The bill is projected to increase system liabilities by \$110 million and increase employer contribution rates for local government employers with emergency telecommunicators by approximately 4.5% of payroll when it takes full effect in 2030.

## TELECOMMUNICATIONS, BROADBAND, CYBERSECURITY & ARTIFICIAL INTELLIGENCE

### PASSED BILLS

#### **HB 4040: Enhancing the Broadband Grant Process**

*Effective Date: March 27, 2024*



HB 4040 was a placeholder bill that the LOC and other broadband advocates amended to improve the state’s broadband grant process. Prior to the session, the LOC learned that the broadband Grant Application Review Committee (GARC), which was established in 2023 through [HB 3201](#), was struggling to find people to serve.

HB 4040 updates the broadband grant process by replacing the GARC with the Oregon Broadband Advisory Council (OBAC). As an established public body, this will streamline the grant award process, allowing broadband projects to move forward more quickly for communities while continuing to ensure ample oversight and transparency throughout the process.

In addition to the broadband fix, language was inserted to ensure funding previously passed by the Legislature for county fairs would also make the Oregon State Fair and the Portland Expo Center eligible for grants under the program for operations, maintenance and repairs.

#### **HB 4153: Legislative Artificial Intelligence Task Force**

*Effective Date: March 27, 2024*



HB 4153 creates a task force on artificial intelligence (AI) to establish a common understanding of AI terms and definitions, which will serve as a foundation for effective AI regulation and policy. The task force will aim to standardize vocabulary utilized by policymakers and industry professionals, creating shared language through a collaborative process that includes local governments, industry professionals, academics, and others. The LOC worked with sponsors of the bill to ensure that local government expertise and voices would have a seat on the task force.

#### **SB 1571: Standards for Use of Artificial Intelligence in Campaigns**

*Effective Date: March 27, 2024*



SB 1571 aims to protect election integrity and the public’s trust by setting clear standards for the use of artificial intelligence (AI) in the election process. The proliferation of user-friendly AI tools released to the public has created many new opportunities that allow for more efficiency and

creativity across all sectors. AI generated content presents many opportunities for ingenuity as well as potential harms,

SB 1571 will require disclosures on political communications that are the product of AI or synthetic media as defined by the bill. The secretary of state (SOS) will be tasked with investigating complaints and alleged violations of the law using a similar enforcement process established by [ORS 260.537](#). Furthermore, the SOS will have the authority to adopt additional rules necessary for the implementation of this act.

## TRANSPORTATION

### PASSED BILLS

#### **[HB 4109](#): Transportation Omnibus – Photo Radar Fix**

*Effective Date: June 11, 2024*



In 2023, the LOC sponsored and passed [HB 2095](#), giving all cities the authority to add mobile and fixed photo radar. During the summer of 2023, it was determined that additional clarity was needed to allow the use of fixed photo radar without also requiring an officer present at a location. HB 4109 is an omnibus bill that includes the necessary clarity for the use of fixed photo radar in Section 2. This legislation also cleaned up a portion of photo radar statutes because they are present in three different sections and created confusion.

#### **[HB 4103](#): Trenton’s Law – E-Bicycle Definition**

*Effective Date: June 11, 2024*



HB 4103 updates Oregon statutes to reflect the current technology surrounding electric-assisted bicycles. Oregon joins 48 other states that have modified their statutes to reflect current technology and adopted a three-tier system that reflects different levels of power and speed of e-bikes for purposes of regulation. Class 1 e-bikes only provide assistance when a rider is actively pedaling and stops its motor when the bike reaches 20 miles per hour (mph). Class 2 e-bikes can be propelled without pedaling and top out at 20 mph. Class 3 e-bikes require pedaling, come with a speedometer, and top out at 28 mph. HB 4103 limits access to throttle-assisted e-bikes to riders aged 16 and older while making it illegal for riders younger than 16 without a permit or driver’s license to operate e-bikes, which have capped speeds of 20 mph. The inspiration for HB 4103 resulted from the tragic loss of Trenton Burger, who lost his life while traveling on an e-bike when he was 15.

#### **[SB 1566](#): County Right of Way Fees**

*Effective Date: March 27, 2024*



SB 1566 authorizes counties to require a permit and charge fees when construction activity related to utility operations occurs in a county’s right of way (ROW). The fee structure is limited to a maximum of \$500 for each permit and specifies that the fee may not exceed the county’s cost of issuing the permit. There are several exemptions related to maintenance activity of utilities including water facilities. The LOC, along with the Special Districts Association of Oregon (SDAO), worked to amend the legislation to make it clear that exemptions and fees would not be allowed for core maintenance activity related to stormwater and wastewater facilities. The counties, however, rejected the LOC’s language and there was insufficient

support in the Joint Committee on Transportation to amend the bill. Going forward, cities will need to review all proposed county ordinances to ensure fees or permits do not include maintenance activity related to water, stormwater, or wastewater facility facilities.

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## FAILED BILLS

### [HB 4067](#): Micromobility Study



HB 4067 would have created a task force on electric micromobility and enabled Oregon to convene subject matter experts and communities to evaluate current regulations and safety standards and recommend possible legislation for the 2025 session. The bill did not advance due to the estimated cost of \$200,000 and died in the Joint Ways and Means Committee. The LOC expects this study bill to return in the 2025 session. Given the technological advancements in electric micromobility devices, Oregon needs to update existing regulations to address these devices, including e-driven mono-boards and unicycles with speeds that reach 30 miles per hour.

### Weight Mile Legislation



This was a series of legislative concepts addressing Oregon's weight-mile structure and over-collection of road tax from truckers who operate trucks weighing more than 10,000 pounds. It's clear that truckers have been over-charged for their use of roads since 2018. Highway Cost Allocation Studies (HCAS) conducted every two years have shown an overcollection of at least \$193 million for the 2023-2025 cycle. It's likely a solution for weight-mile tax will be part of a transportation package in 2025.

### [HB 4165](#): Requires Report on Weight-Mile Tax by ODOT

HB 4165 would have required the Oregon Department of Transportation (ODOT) to evaluate Oregon's cost responsibility system, which determines the rate structure for weight-mile.

### [SB 1519](#) & [SB 1543](#): Decreases Weight-Mile Tax

This series of legislative concepts would have established a new rate structure for vehicles exceeding 10,000 pounds. The net effect of these measures would have reduced the revenues available for distribution from the state's highway fund. As a result, the state, counties, and cities would have seen reduced revenues unless there was an increase in gas taxes, license fees, or fees associated with vehicle registration.

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## WATER AND WASTEWATER

### PASSED BILLS

### [SB 1567](#): Bistate Water Management

*Effective, January 1, 2025*



SB 1567 directs the Oregon Water Resources Department (OWRD), in collaboration with the Confederated Tribes of the Umatilla Indian Reservation and the state of Washington, to implement and guide bistate water management in the Walla Walla River Basin following the

Walla Walla Water 2050 Strategic Plan. An advisory committee will include local governments among other key stakeholders.

**SB 1561: Monsanto Settlement Agreement**

*Effective, March 13, 2024*



SB 1561 establishes the Environmental Restoration Council and several funds to invest and distribute money from the Monsanto settlement agreement. The funds are available to make distributions to state agencies, non-profit organizations, and Tribal governments for environmental remediation.

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**FAILED BILLS**

**HB 4049A: PFAS Study Bill**



HB 4049A was the per- and polyfluoroalkyl substances – commonly known as PFAS – study bill. This measure would have appropriated \$740,000 from the state’s general fund for distribution to Oregon State University to study the occurrence and distribution of perfluoroalkyl and polyfluoroalkyl found in biosolids applied to agricultural fields that do not produce crops intended for human consumption. Biosolids are a resource recovered from the wastewater treatment process.

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**WILDFIRE**

**FAILED BILLS**

**SB 1511: Funding Community Wildfire Resilience**



SB 1511 would appropriate \$29 million for wildfire resilience programs. The distribution would have been: \$18 million toward community wildfire protection administered by the Oregon State Fire Marshall (OSFM); \$6 million for public health and smoke management to the Oregon Department of Environmental Quality (DEQ); and \$5 million administered by the Oregon Department of Forestry for landscape resilience projects. This legislation was strongly supported by the LOC and the state’s [Wildfire Program’s Advisory Council](#) (WPAC).

# Top 5 Legislative Wins for Cities in 2024



## MEASURE 110

**LOC's leadership contributed to restored accountability of Measure 110 and funding for addiction treatment.**



## RECREATIONAL IMMUNITY

**Trails can re-open and cities' ability to provide recreational opportunities without fear of liability restored.**



## HOUSING INFRASTRUCTURE

**LOC secured \$65 million for shelter gap funding, and \$100 million for local government housing infrastructure.**



## URBAN GROWTH BOUNDARIES

**LOC protected local decision-making authority against frivolous land use appeals.**



## PHOTO RADAR

**All cities have access to a proven community safety technology – photo speed radar.**



## AGENDA STAFF REPORT

### AGENDA LOCATION: Item #12B

**MEETING DATE:** September 9, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Matthew Klebes, City Manager  
Jonathan Kara, City Attorney

**ISSUE:** Discussion on proposed amendments to TDMC Chapter 8.04  
(*Transient Room Tax*)

### **BACKGROUND:**

At Council's June 10, 2024, regular meeting, the City Manager presented the first of a 3-part discussion to (1) solicit Council's input and guidance on its vision of tourism in our community, (2) update the City's transient room tax (**TRT**) ordinance based on that visioning and for legal sufficiency, and (3) address goals and metrics connected with the procurement process for tourism services and the required use of TRT for tourism advertising, promotion, and facilities. The City's TRT ordinance is codified as TDMC Chapter 8.04 (*Transient Room Tax*).

At that meeting, Staff understood the tourism visioning statement resonating most with Council was: *Tourism plays an important supportive role for our local businesses and attractions and there is a balance between hotels, short-term rentals, and other needs (such as housing and industry). Short-term rentals are limited. A minimum of required TRT is used to maintain current TRT revenues.*

Tonight's meeting will focus on Part 2 of this process: review and revision of the City's TRT ordinance. On February 7, 1977, Council adopted General Ordinance 950 as the City's original TRT ordinance. Over the last 47 years, that ordinance has been amended at least 9 times but significant portions remain unchanged. Tonight, we are hoping for Council's input on proposed revisions to TDMC Chapter 8.04 (*Transient Room Tax*), a redline copy of which is attached to and made part of this Staff Report.

Staff based its recommended revisions on the above visioning statement, practical



considerations, legal sufficiency, and current best practices consistent with guidance from the League of Oregon Cities. The vast majority of the recommended revisions are administrative in nature; to be clear—Staff is not recommending, and the attached proposed revisions do not recommend, increasing the tax rate.

Some of Staff’s key recommended changes include:

1. Renaming TDMC Chapter 8.04 consistent with how this type of tax is referenced by most other jurisdictions and the State of Oregon—*Transient Lodging Tax (TLT)*.
2. Deleting the following antiquated or unnecessary defined terms to clarify the ordinance’s applicability and simplify readability for public transparency: *accrual accounting, booking service, cash accounting, host, operator, rent package plan, short-term rental, transient lodging intermediary, transient lodging provider, and transient lodging tax collector*.
3. Updating or adding the following defined terms consistent with how these concepts are referenced in Oregon law: *collector, hosting platform, intermediary, and provider*.
4. Removing outdated project-specific (i.e., *partial retirement of a loan for the construction of the Union Street Underpass Project*) and entity-specific (i.e., *Northern Wasco County Parks and Recreation District*) mandatory allocations of TLT funds and to enhance the City’s TLT fund-spending flexibility to the maximum degree and better align with City budget allocation practices. Best practices do not readily support including such specific funding obligations in the City’s general ordinances—if Council would like to continue fiscally supporting specific projects or entities, Funding Agreements reviewed and approved by Council through the City’s budget process is an appropriate approach the City already implements annually and fairly addresses that need while maintaining optimal fungibility and oversight.
5. Expressly authorizing the use of the City’s electronic lien docket for delinquent TLT collections to streamline enforcement and save the City the costs associated with physical recording in the Wasco County Clerk’s Office where feasible.
6. Expanding refund opportunities to address overpayment situations involving City refunding collectors, City refunding occupants, and collectors refunding occupants.
7. Increasing the interest owed from 1% to 3% in situations where the City grants a tax refund payment extension or when such payments are late.
8. Modifying the required percentage of TLT funds allocated for deposit into the Tourist Promotion Fund. The current ordinance requires a minimum of 21% of all money collected under the ordinance be deposited to that fund, but the City’s existing practice is to earmark 55% of all money collected each fiscal year for promoting tourism. Staff’s recommended revision is to increase that minimum

amount to 55% of all money collected under the ordinance consistent with our current practice and Oregon law.

Staff is hoping for Council's input on and direction to proceed with bringing the proposed revisions back as an Action Item for Council's adoption. Staff's intent is to coordinate TLT funding opportunities with some specific entities (e.g., Wasco County, Northern Wasco County Parks and Recreation District) for some specific proposals and to bring those to Council when key details of such proposals are more defined.

**BUDGET IMPLICATIONS:** None.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *None.*

**Attachments**

Attachment "A" – *Proposed Amendments to TDMC Chapter 8.04 (Transient Room Tax)*

#### 8.04.010 Title.

This Chapter shall be known as the Transient ~~room~~Lodging Tax Ordinance of the City of The Dalles.

#### 8.04.020 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

~~“Accrual accounting~~Collector” means a ~~system of accounting in which the operator enters the rent due from an occupant on his or her records when the rent is earned, whether or not it is paid.~~

- A. ~~“Booking service” means any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between a host and a prospective occupant, and for which the person or entity collects or receives, directly or indirectly through an agent~~provider ~~or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction. Booking services include directly or indirectly accepting, receiving or facilitating payment, whether or not the person or entity is the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third-party providers receive information about a transaction and collect funds for the transient lodging occupancy from an occupant.~~

~~“Cash accounting” means a system of accounting in which the operator does not enter the rent due from an occupant on his or her records until the rent is paid.~~

~~“Council” means the City Council of the City of The Dalles, Oregon.~~

~~“Host” means the owner or person who resides at the short-term rental or has been designated by the owner or resident of the short-term rental and who rents out the short-term rental for transient lodging occupancy either directly or through the use of a hosting platform.~~

- B. ~~“Hosting platform” means a person or entity that participates in~~facilitates ~~the short-term rental business~~retail sale of transient lodging ~~by collecting~~connecting ~~occupants with providers, either online or receiving~~in any other manner.

- C. ~~“Intermediary” means a fee~~hosting platform or any person (other than a provider) that facilitates the retail sale of transient lodging and:

1. charges ~~for booking services through which a host may offer a~~occupancy of the transient lodging facility. Hosting platforms usually, though not necessarily, provide booking services through an online platform that allows a host to advertise the;

~~2. collects the consideration charged for occupancy of the transient lodging ~~through a website provided by the hosting platform and provides a means for the hosting platform; or~~~~

~~1.3. receives a fee or commission and requires the provider to use a specified third-party entity to ~~conduct a transaction by which the prospective occupants arrange collect the consideration charged for occupancy of the~~ transient lodging ~~and payment, whether the occupant pays rent directly to the host or to the hosting platform.~~~~

~~B.D.~~ “Occupancy” means the right to the use or possession of any space in transient lodging for dwelling, lodging, or sleeping purposes for less than 30 days.

~~C.E.~~ “Occupant” means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

~~“Operator”~~ means:

~~1. Any person who provides transient lodging for occupancy to the general public for compensation. Furnishing accommodations can be done via employees, contractors, agents or any other person allowed to process reservations and accept payment for the transient lodging on behalf of the transient lodging provider; or~~

~~2. Any person who facilitates the reservations of an accommodation and collects the payment for the transient lodging reservation from the occupant; or~~

~~3. Any transient lodging provider or transient lodging tax collector as defined in ORS 320.300, or transient lodging intermediary as defined in this chapter.~~

~~D.F.~~ “Person” means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

G. “Provider” means a person that furnishes transient lodging.

~~E.H.~~ “Rent” means ~~the~~ all non-optional consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods, or commodities and the fee is optional, that fee is not included in rent.

~~“Rent package plan” means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this chapter shall be the same charge made for rent when not a part of a package plan.~~

~~“Short term rental” means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling unit where a person rents guest bedrooms or the entire residential dwelling unit for transient lodging occupancy. Generally, a short term rental is zoned residential or has a building occupancy that allows for residential use.~~

~~“Tax” means either the tax payable by the occupant or the aggregate amount of taxes due from an operator during the period for which the operator is required to report its collections.~~

~~I. “Tax” means the transient lodging tax.~~

~~F.J.~~ “Tax administrator” means the Finance Director of the City of The Dalles.

~~G.K.~~ “Transient lodging” or “transient lodging facilities” means:

1. Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;
2. Spaces used for overnight parking of recreational vehicles or placement of tents during periods of human occupancy; or
3. ~~Houses~~ Dwelling units (including houses, duplexes, multi-plexes, houseboats, trailers, cabins, condominiums, apartment units, or other residential dwelling units, or portions of or rooms in any of these those dwelling units) that are used for temporary human occupancy.

~~“Transient lodging intermediary” means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:~~

- ~~2.—Charges for occupancy of the transient lodging;~~
- ~~3.—Collects the consideration charged for occupancy of the transient lodging; or~~
- ~~4.—Receives a fee or commission and requires the transient lodging provider to use a specified third party entity to collect the consideration charged for occupancy of the transient lodging.~~

~~“Transient lodging provider” means a person that furnishes transient lodging.~~

~~“Transient lodging tax collector” means a transient lodging provider or transient lodging intermediary.~~

#### **8.04.030 Tax Imposed.**

- A. 8% Transient Lodging Tax. For the privilege of occupancy in any transient lodging facility, on and after the effective date of the ordinance codified in this Chapter, each occupant shall pay a tax in the amount of eight percent of the rent ~~charged by the operator. Two percent of the transient room tax collected shall be allocated for the~~

following purposes: 75%, which is equivalent to 1.5 percent of the two percent collected, shall be allotted to the Northern Wasco County Parks and Recreation District for the District's operating purposes, and 25% of the two percent, which is equivalent to 0.5 percent of the two percent collected, shall be allotted for partial retirement of the \$690,000.00 loan for construction of the Union Street Underpass Project. Upon retirement of the debt for the Union Street Underpass Project, the 25% portion of the two percent of the transient room tax collected shall be allotted to the Northern Wasco County Parks and Recreation District to be used for the District's operating purposes. The tax constitutes a debt owed by the occupant to the City which is extinguished only by payment to the operator or to the City. The occupant shall pay the tax to the operator of the transient lodging facility at the time the rent is paid. The operator shall enter the tax on his or her records when rent is collected, if the operator keeps his or her records on the cash accounting basis, and when earned, if the operator keeps his or her records on the accrual accounting basis. The occupant shall pay the tax with the rent to the collector. Tax amounts shall be rounded down to the nearest cent. The collector shall maintain records of all rent charged and tax payments received. If rent is paid in installments, a proportionate share of the tax shall be paid by the occupant to the ~~operator~~collector with each installment; unless the occupant pays the entire amount with the first payment. If for any reason the tax due is not paid to the ~~operator of the transient lodging facility~~collector, the tax administrator may require that such tax shall be paid directly to the City. ~~In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks.~~

B. Invoices. Bills, receipts, or invoices provided to occupants shall list the tax separately and must accurately state the amount of tax. All amounts listed as tax on invoices, bills, or receipts must be reported as tax and (after collection) are held in trust and must be turned over to the City, less the administrative fee described in Section 8.04.150 (Administrative Fee).

#### **8.04.040 Tax Collection of Tax by Transient Lodging Tax Collector—Rules for Collection.**

A.—General. Every ~~transient lodging tax~~ collector shall collect the tax at the time rent is paid, unless an exemption applies. ~~The tax collected or accrued by the transient lodging tax collector constitutes a debt owed by the transient lodging tax collector to the City. If payment is by credit card,~~ For purposes of this Section, if payment is by credit card, payment is made at the time credit card information is provided to the ~~transient lodging tax~~ collector, ~~not regardless of~~ when the ~~transient lodging tax~~ collector ultimately receives credit for the transaction. While holding payment in trust for the City, a ~~transient lodging tax~~ collector may commingle the tax proceeds with the ~~transient lodging tax~~ collector's funds, but the ~~transient lodging tax~~ collector is not the owner of tax proceeds, except that, ~~(when a return is filed,)~~ the ~~transient lodging tax~~ collector becomes the owner of the administrative fee authorized to be retained.

B.A. In all cases of credit or deferred as described in Section 8.04.150 (Administrative Fee). Collectors may choose to file returns and remit payment of rent, the payment of tax to

~~the transient lodging tax collector may be deferred until the rent is paid, and the transient lodging tax collector shall not be liable for the tax until credits are paid or deferred payments are made. The transient lodging tax~~ based on amounts accrued but not yet collected. The collector is liable for any tax that should have been collected from the occupant, pursuant to this Chapter except in cases of nonpayment of rent by ~~the occupant~~ such occupants.

~~C.~~ B. Administration. Under the supervision of the City Manager, the tax administrator shall ~~enforce~~ administer the provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be necessary to aid in ~~the~~ its enforcement.

~~D.~~ C. Facility Information. Upon request of the City, ~~transient lodging tax~~ collectors ~~must~~ shall provide all physical addresses of their transient lodging facilities within the City limits and the ~~related contact information, including the~~ name and mailing address, of the general manager, agent, owner, host, or other responsible person for ~~the location~~ each such facility's collection of the tax.

#### 8.04.050 Liability for Tax.

~~Operators~~ Providers who receive any portion of the rent for transient lodging and ~~hosting platforms that provide booking services~~ intermediaries are both collectors and are jointly and severally liable for the tax. ~~The amount of tax shall be separately stated upon the records of the operator or the hosting platform and any receipt rendered by the operator or the hosting platform. No operator shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.~~

#### 8.04.060 Exemptions.

No tax imposed under this Chapter shall be imposed upon:

- A. Health Care Facilities. A dwelling unit in a hospital, health care facility, long-term care facility or any other facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;
- B. Treatment Facilities. A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- ~~C.~~ Shelters. A dwelling unit ~~that is~~ used by members of the general public for temporary human occupancy for fewer than 30 days per year;
- ~~D.~~ C. ~~An employee of the federal government, while on federal business, whose room is procured and paid for directly~~ shelter, except for dwelling units rented out as transient lodging using a platform of any kind provided in any manner by ~~the federal government, through a purchase order or other form of procurement and with a~~

~~government check. If the federal employee pays for a room personally, the employee is not exempt and the tax must be paid, even if the employee is in the City on federal business.~~an intermediary;

~~E.D. Non-profit~~Charitable Occupancies. A dwelling unit occupied through a voucher provided by a nonprofit, governmental, or charitable ~~organizations which provide a voucher for~~organization and connected with their temporary housing assistance programs.

~~F.E. Nonprofit Facilities.~~ A dwelling unit occupied incidental to attendance at a nonprofit youth or church camp, nonprofit conference center, or other nonprofit facility; or

~~G.F. Long-Term Stays.~~ A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period if:

1. all dwelling units are occupied within the same facility; and
2. the person paying consideration for the transient lodging is the same person throughout the consecutive period.

G. Other Exemptions. A dwelling unit in all other cases where the collection of the tax is preempted by state or federal law.

#### **8.04.070 Registration of Transient Lodging Provider—Form and Contents—Execution—~~Certification of Authority~~Certificates.**

A. Registration Required. Every person engaging or about to engage in business as a ~~transient lodging~~ provider shall ~~provide~~submit a completed registration form to the tax administrator within 15 calendar days after commencing business. The registration form shall require the ~~transient lodging~~ provider to ~~provide~~indicate the name of the business, any separate business addresses, and other information as the tax administrator may require to implement this Chapter. ~~Transient lodging~~ Providers who own or operate transient lodging facilities in the City ~~of The Dalles~~ shall provide the address of the lodging facility. The registration form shall be signed by the transient lodging provider. The tax administrator shall, within 15 days after registration, issue without charge a certificate of authority to ~~collect~~ the ~~transient room~~ provider for their collection of the tax from the occupant. The ~~transient lodging~~ provider's obligation to collect the ~~transient room~~ tax is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate has not been issued. If the rent transaction is facilitated online, the certificate of authority must be ~~able to be viewed~~viewable by the occupant by clicking on a link to the certificate of authority at a reasonable place during the payment transaction.

B. Certificates. Certificates shall be non-assignable and non-transferable and shall be surrendered to the tax administrator when the property or business is sold or transferred



or when a transient lodging facility ceases to operate at the location specified in the registration form. Each certificate issued to a ~~transient lodging~~ provider for a specific lodging facility shall be prominently displayed at the lodging facility and include:

1. the name of the ~~transient lodging~~ provider;
2. the address of the transient lodging facility;
3. the date the certificate was issued; and
4. the following statement, verbatim: “This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient ~~room~~Lodging Tax Ordinance of the City of The Dalles ~~by registration~~(The Dalles Municipal Code Chapter 8.04) ~~by registering~~ with the tax administrator for the purpose of collecting from occupants the ~~room~~transient lodging tax imposed by the City and remitting said tax to the tax administrator. The certificate does not authorize any person to conduct an unlawful business or to conduct any lawful business in an unlawful manner, or to operate a transient lodging facility without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office the City of The Dalles. This certificate does not constitute a permit.”

#### **8.04.080 ~~Due Date—Returns and Payments.~~**

- A. Tax Paid. The tax imposed by this Chapter shall be paid by the occupant to the ~~operator~~collector at the time that rent is paid. Subject only to Section 8.04.150 (Collection Fee), all amounts of such taxes collected by any ~~operator~~collector are held in trust and due and payable to the tax administrator on a monthly basis on or before the 15th day of the following month; and are delinquent after that date; provided, however, nothing in this Chapter is intended to control or controls over the provisions of ORS 320.300 et seq., as may be amended or superseded, including ORS 320.347.
- B. Returns Required. On or before the 15th day of the month following each month of collection ~~by an operator,~~ the ~~operator~~collector shall file a return for the preceding month’s tax collections with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe.
- C. Return Content. Returns shall show the amount of tax collected or otherwise due for the period for which the return is filed, the total rentals upon which tax was collected or otherwise due, gross receipts of ~~operator~~provider amounts, and the amount of rents exempt, if any.
- D. Delivery. The person required to file the return shall deliver the return, together with payment of the tax due, to the tax administrator at ~~his or her office~~the City’s Finance

Department, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery.

- E. Extension. For good cause, the tax administrator may extend the time for filing any return or making payment of any tax; for a period not to exceed one month. No further extension shall be granted; except by the City Council. Any ~~operator~~collector to whom an extension is granted shall pay interest at the rate of ~~one~~three percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension of time granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this Chapter.
- F. Other Returns. The tax administrator, if ~~he or she deems~~they deem it necessary in order to ~~insure~~ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require the filing of returns and the payment of the taxes owed on a periodic basis other than the monthly basis provided for in this Chapter.

#### **8.04.090 Penalties and Interest.**

- A. Original Delinquency. Any ~~operator~~collector who has not been granted an extension of time for delivery of return and payment of tax due, and who fails to remit any tax imposed by this Chapter prior to delinquency, shall pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax. There is no grace period between the due date and the assessment of a penalty and interest; the day following the due date is considered to be the delinquent date.
- B. Continued Delinquency. Any ~~operator~~collector who has not been granted an extension of time for delivery of return and payment of the tax due, and who has failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 15% of the amount of the tax due, plus the amount of the tax and the 10% penalty first imposed.
- C. Fraud. If the tax administrator determines that the nonpayment of any amount due under this Chapter is ~~due to fraud~~connected with fraudulent activity or ~~the~~intent to evade ~~the~~its provisions ~~thereof~~, a penalty of 25% of the tax will be added in addition to the penalties stated in subsections A and B of this Section and ~~the~~interest as stated in subsection D of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculations.
- D. Interest. In addition to the penalties imposed, any ~~operator~~collector who fails to pay any tax imposed by this Chapter will pay interest at the rate of ~~one~~three percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due from the first day following the original due date. Interest will be compounded monthly until the amount due is paid in full.

- E. Penalties and Interest Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with, and become part of, the tax required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.

#### 8.04.100 Deficiency Determinations—~~Fraud—Evasion—Operator Delay~~.

- A. Deficiency Determination. If the tax administrator determines that a tax return required by this Chapter is incorrect, ~~he or she~~they may compute and determine the amount required to be paid upon the basis of the facts contained in the return, or upon the basis of any relevant information within ~~his or her~~their possession or that may come into ~~his or her~~their possession. One or more deficiency determinations may be made of the amount due for one or more periods, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 8.04.090- (Penalties and Interest).
1. In making a deficiency determination, the tax administrator may offset overpayment, if any, which may have been previously made, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayment. The interest on underpayments shall be computed in the manner set forth in Section 8.04.090- (Penalties and Interest).
  2. The tax administrator shall give to the ~~operator or occupant~~collector a written notice of ~~his or her~~their determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the ~~operator~~provider at ~~his or her~~their address as it appears in the records of the tax administrator. In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office.
  3. Except in the case of fraud, the intent to evade this Chapter or ~~authorized~~ rules and regulations promulgated therefrom, every deficiency determination shall be made and notice thereof mailed by the latter of within three years after the last day of the month following the close of the monthly period for which the deficiency is proposed to be determined, or within three years after the return is filed, ~~whichever period expires the later~~.
  4. Any deficiency determination shall become due and payable immediately upon service of notice and shall become final within 10 days after the tax administrator has given notice thereof; provided, however, the ~~operator~~collector may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

- B. ~~Fraud—Refusal to Collect—~~ and Evasion. If any ~~operator~~collector shall fail or refuse to collect ~~said~~the tax or to make, within the time provided in this Chapter, any report and/or remittance of tax or any portion thereof required by this Chapter, or makes a fraudulent return or otherwise ~~wilfully~~willfully attempts to evade this Chapter, the tax administrator shall proceed in such manner as ~~he or she~~they may deem best to obtain facts and information on which to base an estimate of the tax due. ~~As soon as~~If the tax administrator ~~has determined~~determines the tax due ~~that is imposed by this chapter~~ from any ~~operator~~collector who has failed or refused to collect the same and to report and remit said tax, ~~he or she~~they shall proceed to determine and assess against such ~~operator~~collector the tax, interest, and penalties provided for by this Chapter. ~~In case~~If such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade, or failure or refusal to collect said tax, or failure to file a required return. Any determination shall become due and payable immediately upon delivery of notice and shall become final within 10 days after the tax administrator has given notice thereof; provided, however, the ~~operator~~collector may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.
- C. ~~Operator~~Collector Delay. If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, ~~he or she~~they shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the ~~operator~~collector shall immediately pay the determined amount to the tax administrator after service of notice thereof. The ~~operator~~collector may, however, petition, after payment is made, for redemption and refund of the determination, if the petition is filed within 10 days from the date of service of notice by the tax administrator.

#### 8.04.110 Redeterminations.

- A. Timely Petitions. Any person against whom a determination is made under Section 8.04.100 (Deficiency Determinations) or any person directly interested in the determination may petition the tax administrator for a redetermination and redemption and refund within ~~the time required in Section hereof. If a petition for redetermination and refund is not filed within the time required in Section 8.04.100, the~~ 10 days or such determination becomes final ~~at the expiration of the allowable~~after that time.
- B. Hearing. If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and (if the person has so requested in his or her that petition,) shall grant the person an oral hearing and shall give ~~him or her~~them 10 days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

- C. Adjustments. The tax administrator may decrease or increase the amount of the determinations as a result of the hearing; ~~and.~~ If an increase is determined, such increase shall be payable immediately after the hearing.
- D. Appeal. The order or decision of the tax administrator upon a petition for determination and redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the City Council within the 10 days after service of such notice.
- E. Void. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the ~~operator~~collector has first complied with the payment provisions hereof.

**8.04.120 Security for Tax Collection-of Tax.**

- A. Security. The tax administrator, whenever ~~he or she deems~~they deem it necessary to ~~insure~~ensure compliance with this Chapter, may require any ~~operator~~subject thereto~~collector~~ to deposit with ~~him or her~~the City's Finance Department such security in the form of cash, bond, or other security as the tax administrator determines. The amount of the security shall be fixed by the tax administrator but shall not be greater than ~~twice the operator's estimated average monthly liability for the period for which he or she files returns, determined in such manner as the tax administrator deems proper, or \$5,000.00, whichever amount is the lesser.~~ The amount of the security may be ~~increased or~~ decreased by the tax administrator, ~~subject to the limitations herein provided~~ upon a showing of good cause by the collector.
- B. Action Authorized. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final, the tax administrator, or the tax administrator's designee, may bring an action in the courts of this state, or any other state, or of the United States, in the name of the City, to collect the amount delinquent, together with penalties and interest.

**8.04.130 Lien on Property.**

- A. Lien Authorized. Any delinquency for the tax imposed by this Chapter (together with the interest and penalties herein provided and the filing ~~fees paid the Clerk of Wasco County, recording,~~ and ~~the~~ advertising costs ~~which may be~~ incurred by the City when the same becomes delinquent ~~as set forth in this chapter,~~) shall be ~~and, until paid, remain~~ a lien in favor of the City of The Dalles upon all property and rights to property, whether real or personal, used in or occupied by the transient lodging facility within the City. The lien shall arise at the time of the tax administrator's recording and shall continue until the liability for the tax, together with interest, penalties, and costs, is satisfied. The lien shall have priority over all liens and encumbrances of any character except as provided by The Dalles Municipal Code or state or federal law. from the date of its recording with the ~~Clerk of Wasco County, Oregon. The lien shall be superior to~~

~~all subsequently recorded liens Clerk or on all tangible personal property used in the operator's transient lodging facility with the City of The Dalles, and may be foreclosed on and the necessary property sold to discharge the lien, if the lien has been recorded~~the City's electronic lien docket.

B. ~~Personal property subject to the lien may be foreclosed in the same manner as a nonpossessory chattel lien for labor or material expended on chattel in ORS Chapter 87. When~~Notice and Recording. The tax administrator ~~files a~~shall record and notice ~~of claim of a~~ lien on tangible personal property with the Wasco County Clerk. The tax administrator shall ~~send~~record and notice a lien on real property on the City's electronic lien docket. A copy of the notice of claim of lien set forth herein shall be sent to the ~~operator~~provider of the transient lodging facility and the owner of the chattel (if different from the ~~operator~~provider of the transient lodging facility) by certified mail at ~~their~~the last known address.

C. Foreclosure. The property subject to the lien, if the lien has been recorded, may be foreclosed on and the property sold as necessary to discharge the lien and in the following manner: personal property subject to the lien may be foreclosed in the manner specified in ORS Chapter 87 for nonpossessory chattel liens; real property subject to the lien may be foreclosed in the manner specified in ORS 223.505 through 223.595, or as otherwise consistent with the practices used for foreclosing other liens on the City's electronic lien docket.

~~C.~~D. Other Moneys and Attorney Fees. In a proceeding to foreclose the lien, the court shall, upon entering judgment, allow as part of the lien the moneys paid for the filing or recording of the lien. The court shall also allow reasonable attorney fees at trial and on appeal to the prevailing party.

~~D.~~E. Release and Satisfaction. Any lien for taxes as shown on the records of the Wasco County Clerk or the City's electronic lien docket shall, upon the payment of all taxes, penalties, and interest thereon, be released by the tax administrator when the full amount determined to be due has been paid to the City and the operator or person making the payment shall receive a receipt therefor stating ~~that~~ the full amount of taxes, penalties, and interest thereon have been paid and ~~that~~ the lien is thereby released and the record of the lien is satisfied.

#### 8.04.140 Refunds.

A. Operators' Refunds. ~~Whenever the amount of any~~ by City to Collector. If the collector ~~remits more~~ tax, penalty, or interest ~~imposed under this chapter has been paid more than once, or has been erroneously or illegally collected or received by the tax administrator, it may be refunded, provided a verified is due, the collector may file a~~ claim in writing ~~therefore, stating the specific reason upon which~~ facts relating to the claim ~~is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator.~~ remittance. If the claim is approved by the tax administrator, the excess amount ~~collected or paid may~~ shall be

either refunded or ~~may be~~ credited on any ~~amounts then~~amount due ~~and payable~~ from the ~~operator from whom it~~collector.

- B. Refunds by City to Occupant. A collector may file a claim for refund by filing a claim in writing within three years of payment providing the facts relating to the claim for refund. If the tax administrator determines the tax was collected ~~or by whom paid, and~~ remitted to the City and the ~~balance may be refunded him or her or his/her personal representative or assigns~~ occupant was not required to pay the tax or overpaid, the City shall issue a refund to the occupant.
- C. Refunds by Collector to Occupant. If an occupant has paid tax to a collector but stays a total of 30 or more consecutive days in the same transient lodging facility, the collector shall refund to the occupant any tax collected for any portion of the continuous stay. The collector shall account for the collection and refund to the tax administrator. If the collector has remitted the tax prior to the refund or credit to the occupant, the collector shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.
- ~~A.~~D. Burden of Proof. The person claiming the refund shall have the burden of proving the facts establishing the basis for the refund.

#### 8.04.150 Collection Fee.

Every ~~operator~~collector liable for the collection and remittance of the tax imposed by this Chapter may withhold five percent of the net tax due to cover ~~his or her~~their expense in the collection and remittance of the tax. If a transient lodging facility has multiple operators, they are not entitled to retain additional fees.

#### 8.04.160 Administration.

- A. Tourist Promotion Fund. A special fund called “the tourist promotion fund” shall be established and maintained for the purpose of promoting tourism within the City of The Dalles. There shall be deposited in said fund a portion of the money received from the ~~transient room~~ tax. At least annually, the tax administrator shall deposit into the tourist promotion fund an amount not less than ~~21~~55% of all money collected under the provisions of this chapter.
- B. Records Required from ~~Operators, etc.—Form~~ Providers. Every ~~operator~~provider shall keep guest records of ~~room or space rentals,~~each transaction involving rent and accounting books and records/or collection of the ~~room or space rentals tax.~~ All ~~these~~such records shall be retained by the ~~operator~~provider for ~~a period of~~at least three years and six months ~~after they come into being.~~
- C. Examination of Records—~~Investigations.~~ The tax administrator or ~~any person~~ authorized in writing by the tax administratordesignee may examine, during normal business hours, ~~the books, papers and~~all records relating to ~~room or space rentals of any~~

~~operator after notification to the operator liable for the~~ receipt of rent, tax, and remittance of tax. The tax administrator or designee may investigate the business of the ~~operator~~ collector in order to verify the accuracy of any return made, or (if no return is made ~~by the operator,~~) to ascertain and determine the amount required to be paid.

- D. Authority of Tax Administrator. The tax administrator shall have the power to enforce this Chapter, conduct audits on an annual basis, and to adopt rules, regulations, and forms consistent with this Chapter. Rules and regulations of general application shall be mailed to all registered ~~transient lodging~~ providers. The tax administrator may also issue written interpretations ~~on request of~~ if requested by a ~~transient lodging tax~~ collector. ~~As~~ with respect to ~~the transient lodging tax~~ such a collector to whom ~~the~~ such an interpretation is issued, the City will act consistently with ~~the~~ that interpretation until it is withdrawn, and the City shall provide 30 days' written notice of withdrawal of an interpretation to that collector.
- E. Confidential Character of Information Obtained—Disclosure Unlawful. Neither the tax administrator nor any person having an administrative or clerical duty under the provisions of this Chapter shall disclose in any manner any information concerning the business affairs and operations of ~~an operator~~ a collector obtained through an investigation of any person subject to the provisions of this Chapter, or disclose the amount or source of income, profits, losses, expenditures or any particulars thereof, set forth in any statement or application, or permit any statement or application or financial record to be examined by any person. ~~Provided that~~; provided, however, nothing in this subsection shall be construed to prevent:
1. the disclosure to or the examination of records and equipment by another City of The Dalles official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any ~~provisions~~ provision of this Chapter (or collecting taxes imposed hereunder;) or other Chapters of The Dalles Municipal Code;
  - ~~2. — The disclosure, after the filing of a written request to that effect, to the taxpayer him or herself, receivers, trustees, executors, administrators, assigns and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that such disclosure be consistent with legislation concerning inspection of public records.~~
  2. the disclosure of information to the collector and their agents;
  3. the disclosure of the names and addresses of any persons to whom ~~a transient lodging occupancy registration certificate has~~ certificates of authority have been issued;
  4. the disclosure of general statistics regarding taxes collected or business done in the City;



5. disclosures required by the Oregon Public Records Law (ORS 192.311 et seq.), as may be amended or superseded; or

4.6. disclosures required by ORS Chapter 297 (Audits of Public Funds and Financial Records), as may be amended or superseded.

#### **8.04.170 Appeals to City Council.**

Any person aggrieved by any decision of the tax administrator may appeal to the City Council of the City of The Dalles by filing a notice of appeal with the tax administrator within 10 days of the delivery of the tax administrator's decision. The tax administrator's decision can be served personally or by mail. Personal service shall be considered complete on the date of delivery. Service by mail shall be considered complete at the time of deposit in the United States Post Office. The tax administrator shall transmit the notice of appeal, together with the file of said appealed matter, to the City Council, which shall fix a time and place for hearing such appeal. The City Council shall give the appellant not less ~~that~~than 10 days' written notice of the time and place of hearing of said appealed matter. The City Council's decision shall be final when reduced to writing and mailed to the appellant and all amounts due must be paid within 10 days of such mailing.

#### **8.04.180 Severability.**

If any Section, subsection, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not ~~affected~~impact the validity of the remaining portions of this Chapter or any part thereof.

~~The council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or paragraphs be declared unconstitutional (or otherwise invalid).~~

#### **8.04.190 Violations.**

It is unlawful for any ~~operator or other~~ person so required to fail or refuse to register as required ~~herein~~by this Chapter, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter.

#### **8.04.200 Penalties.**

- A. Willful Violations. Any person ~~wilfully~~willfully violating any of the provisions of this Chapter shall be guilty of a misdemeanor ~~and shall be~~ punishable therefor by a fine of not more than \$500.00 per violation, or by imprisonment for not more than six months, or by both such fine and imprisonment.

B. Other Violations. Any violation of this Chapter is a Class A civil violation.

C. Continuing Violations. Each day a violation remains uncured after the City provides notice of such violation is a separate violation.

**8.04.210 ~~Short-Term-Rental-Platform~~Intermediary Fees.**

~~A hosting platform for short term rentals~~An intermediary may collect a fee ~~for booking services~~ in connection with ~~short term rentals~~a transient lodging facility only when ~~those short term rentals are~~that transient lodging facility is lawfully registered ~~as operators~~ with ~~the City~~ and ~~possess~~possesses a certificate of authority from the City pursuant to Section 8.04.070 (Registration and Certificates) at the time the ~~short-term rental~~transient lodging facility is occupied.

#### **8.04.010 Title.**

This Chapter shall be known as the Transient Lodging Tax Ordinance of the City of The Dalles.

#### **8.04.020 Definitions.**

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. “Collector” means a provider or intermediary.
- B. “Hosting platform” means a person or entity that facilitates the retail sale of transient lodging by connecting occupants with providers, either online or in any other manner.
- C. “Intermediary” means a hosting platform or any person (other than a provider) that facilitates the retail sale of transient lodging and:
  - 1. charges for occupancy of the transient lodging;
  - 2. collects the consideration charged for occupancy of the transient lodging; or
  - 3. receives a fee or commission and requires the provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.
- D. “Occupancy” means the right to the use or possession of any space in transient lodging for dwelling, lodging, or sleeping purposes for less than 30 days.
- E. “Occupant” means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.
- F. “Person” means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- G. “Provider” means a person that furnishes transient lodging.
- H. “Rent” means all non-optional consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods, or commodities and the fee is optional, that fee is not included in rent.
- I. “Tax” means the transient lodging tax.

- J. “Tax administrator” means the Finance Director of the City of The Dalles.
- K. “Transient lodging” or “transient lodging facilities” means:
1. Hotel, motel, and inn dwelling units that are used for temporary overnight human occupancy;
  2. Spaces used for overnight parking of recreational vehicles or placement of tents during periods of human occupancy; or
  3. Dwelling units (including houses, duplexes, multi-plexes, houseboats, trailers, cabins, condominiums, apartment units, or other residential dwelling units, or portions of or rooms in any of those dwelling units) that are used for temporary human occupancy.

#### **8.04.030 Tax Imposed.**

- A. 8% Transient Lodging Tax. For the privilege of occupancy in any transient lodging facility, on and after the effective date of the ordinance codified in this Chapter, each occupant shall pay a tax in the amount of eight percent of the rent. The occupant shall pay the tax with the rent to the collector. Tax amounts shall be rounded down to the nearest cent. The collector shall maintain records of all rent charged and tax payments received. If rent is paid in installments, a proportionate share of the tax shall be paid by the occupant to the collector with each installment unless the occupant pays the entire amount with the first payment. If for any reason the tax due is not paid to the collector, the tax administrator may require that such tax shall be paid directly to the City.
- B. Invoices. Bills, receipts, or invoices provided to occupants shall list the tax separately and must accurately state the amount of tax. All amounts listed as tax on invoices, bills, or receipts must be reported as tax and (after collection) are held in trust and must be turned over to the City, less the administrative fee described in Section 8.04.150 (*Administrative Fee*).

#### **8.04.040 Tax Collection.**

- A. General. Every collector shall collect the tax at the time rent is paid, unless an exemption applies. For purposes of this Section, if payment is by credit card, payment is made at the time credit card information is provided to the collector, regardless of when the collector ultimately receives credit for the transaction. While holding payment in trust for the City, a collector may commingle the tax proceeds with the collector’s funds, but the collector is not the owner of tax proceeds, except that (when a return is filed) the collector becomes the owner of the administrative fee authorized to be retained as described in Section 8.04.150 (*Administrative Fee*). Collectors may choose to file returns and remit payment based on amounts accrued but not yet collected. The collector is liable for any tax that should have been collected from the occupant pursuant to this Chapter except in cases of nonpayment of rent by such occupants.

- B. Administration. Under the supervision of the City Manager, the tax administrator shall administer the provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be necessary to aid in its enforcement.
- C. Facility Information. Upon request of the City, collectors shall provide all physical addresses of their transient lodging facilities within the City limits and the name and mailing address of the general manager, agent, owner, host, or other responsible person for each such facility's collection of the tax.

#### **8.04.050 Liability for Tax.**

Providers who receive any portion of the rent for transient lodging and intermediaries are both collectors and are jointly and severally liable for the tax.

#### **8.04.060 Exemptions.**

No tax imposed under this Chapter shall be imposed upon:

- A. Health Care Facilities. A dwelling unit in a hospital, health care facility, long-term care facility or any other facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;
- B. Treatment Facilities. A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- C. Shelters. A dwelling unit used by members of the general public for temporary human occupancy for fewer than 30 days per year for shelter, except for dwelling units rented out as transient lodging using a platform of any kind provided in any manner by an intermediary;
- D. Charitable Occupancies. A dwelling unit occupied through a voucher provided by a nonprofit, governmental, or charitable organization and connected with their temporary housing assistance programs.
- E. Nonprofit Facilities. A dwelling unit occupied incidental to attendance at a nonprofit youth or church camp, nonprofit conference center, or other nonprofit facility; or
- F. Long-Term Stays. A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period if:
  - 1. all dwelling units are occupied within the same facility; and

2. the person paying consideration for the transient lodging is the same person throughout the consecutive period.

G. Other Exemptions. A dwelling unit in all other cases where the collection of the tax is preempted by state or federal law.

#### **8.04.070 Registration and Certificates.**

A. Registration Required. Every person engaging or about to engage in business as a provider shall submit a completed registration form to the tax administrator within 15 calendar days after commencing business. The registration form shall require the provider to indicate the name of the business, any separate business addresses, and other information as the tax administrator may require to implement this Chapter. Providers who own or operate transient lodging facilities in the City shall provide the address of the lodging facility. The registration form shall be signed by the transient lodging provider. The tax administrator shall, within 15 days after registration, issue without charge a certificate of authority to the provider for their collection of the tax from the occupant. The provider's obligation to collect the tax is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate has not been issued. If the rent transaction is facilitated online, the certificate of authority must be viewable by the occupant by clicking on a link to the certificate of authority at a reasonable place during the payment transaction.

B. Certificates. Certificates shall be non-assignable and non-transferable and shall be surrendered to the tax administrator when the property or business is sold or transferred or when a transient lodging facility ceases to operate at the location specified in the registration form. Each certificate issued to a provider for a specific lodging facility shall be prominently displayed at the lodging facility and include:

1. the name of the provider;
2. the address of the transient lodging facility;
3. the date the certificate was issued; and
4. the following statement, verbatim: "This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Ordinance of the City of The Dalles (The Dalles Municipal Code Chapter 8.04) by registering with the tax administrator for the purpose of collecting from occupants the transient lodging tax imposed by the City and remitting said tax to the tax administrator. The certificate does not authorize any person to conduct an unlawful business or to conduct any lawful business in an unlawful manner, or to operate a transient lodging facility without strictly complying with all local applicable laws, including, but not limited to those requiring a permit from any board, commission, department, or office the City of The Dalles. This certificate does not constitute a permit."

#### **8.04.080 Returns.**

- A. Tax Paid. The tax imposed by this Chapter shall be paid by the occupant to the collector at the time that rent is paid. Subject only to Section 8.04.150 (*Collection Fee*), all amounts of such taxes collected by any collector are held in trust and due and payable to the tax administrator on a monthly basis on or before the 15th day of the following month and are delinquent after that date; provided, however, nothing in this Chapter is intended to control or controls over the provisions of ORS 320.300 *et seq.*, as may be amended or superseded, including ORS 320.347.
- B. Returns Required. On or before the 15th day of the month following each month of collection, the collector shall file a return for the preceding month's tax collections with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe.
- C. Return Content. Returns shall show the amount of tax collected or otherwise due for the period for which the return is filed, the total rentals upon which tax was collected or otherwise due, gross receipts of provider amounts, and the amount of rents exempt, if any.
- D. Delivery. The person required to file the return shall deliver the return, together with payment of the tax due, to the tax administrator at the City's Finance Department, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery.
- E. Extension. For good cause, the tax administrator may extend the time for filing any return or making payment of any tax for a period not to exceed one month. No further extension shall be granted except by the City Council. Any collector to whom an extension is granted shall pay interest at the rate of three percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension of time granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this Chapter.
- F. Other Returns. The tax administrator, if they deem it necessary in order to ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require the filing of returns and the payment of the taxes owed on a periodic basis other than the monthly basis provided for in this Chapter.

#### **8.04.090 Penalties and Interest.**

- A. Original Delinquency. Any collector who has not been granted an extension of time for delivery of return and payment of tax due, and who fails to remit any tax imposed by this Chapter prior to delinquency, shall pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax. There is no grace period between the due date

and the assessment of a penalty and interest: the day following the due date is considered to be the delinquent date.

- B. Continued Delinquency. Any collector who has not been granted an extension of time for delivery of return and payment of the tax due, and who has failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 15% of the amount of the tax due, plus the amount of the tax and the 10% penalty first imposed.
- C. Fraud. If the tax administrator determines that the nonpayment of any amount due under this Chapter is connected with fraudulent activity or the intent to evade its provisions, a penalty of 25% of the tax will be added in addition to the penalties stated in subsections A and B of this Section and the interest as stated in subsection D of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculations.
- D. Interest. In addition to the penalties imposed, any collector who fails to pay any tax imposed by this Chapter will pay interest at the rate of three percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due from the first day following the original due date. Interest will be compounded monthly until the amount due is paid in full.
- E. Penalties and Interest Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with, and become part of, the tax required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.

#### **8.04.100 Deficiency Determinations.**

- A. Deficiency Determination. If the tax administrator determines that a tax return required by this Chapter is incorrect, they may compute and determine the amount required to be paid upon the basis of the facts contained in the return, or upon the basis of any relevant information within their possession or that may come into their possession. One or more deficiency determinations may be made of the amount due for one or more periods, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 8.04.090 (*Penalties and Interest*).
  - 1. In making a deficiency determination, the tax administrator may offset overpayment, if any, which may have been previously made, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayment. The interest on underpayments shall be computed in the manner set forth in Section 8.04.090 (*Penalties and Interest*).



2. The tax administrator shall give to the collector a written notice of their determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the provider at their address as it appears in the records of the tax administrator. In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office.
  3. Except in the case of fraud, the intent to evade this Chapter or rules and regulations promulgated therefrom, every deficiency determination shall be made and notice thereof mailed by the latter of within three years after the last day of the month following the close of the monthly period for which the deficiency is proposed to be determined or within three years after the return is filed.
  4. Any deficiency determination shall become due and payable immediately upon service of notice and shall become final within 10 days after the tax administrator has given notice thereof; provided, however, the collector may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.
- B. Fraud and Evasion. If any collector shall fail or refuse to collect the tax or to make, within the time provided in this Chapter, any report and/or remittance of tax or any portion thereof required by this Chapter, or makes a fraudulent return or otherwise willfully attempts to evade this Chapter, the tax administrator shall proceed in such manner as they may deem best to obtain facts and information on which to base an estimate of the tax due. If the tax administrator determines the tax due from any collector who has failed or refused to collect the same and to report and remit said tax, they shall proceed to determine and assess against such collector the tax, interest, and penalties provided for by this Chapter. If such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade, or failure or refusal to collect said tax, or failure to file a required return. Any determination shall become due and payable immediately upon delivery of notice and shall become final within 10 days after the tax administrator has given notice thereof; provided, however, the collector may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.
- C. Collector Delay. If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, they shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the collector shall immediately pay the determined amount to the tax administrator after service of notice thereof. The collector may, however, petition, after payment is made, for redemption and refund of the determination, if the petition is filed within 10 days from the date of service of notice by the tax administrator.

#### **8.04.110 Redeterminations.**

- A. Timely Petitions. Any person against whom a determination is made under Section 8.04.100 (*Deficiency Determinations*) or any person directly interested in the determination may petition the tax administrator for a redetermination and redemption and refund within 10 days or such determination becomes final after that time.
- B. Hearing. If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and (if the person has so requested in that petition) shall grant the person an oral hearing and shall give them 10 days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.
- C. Adjustments. The tax administrator may decrease or increase the amount of the determinations as a result of the hearing. If an increase is determined, such increase shall be payable immediately after the hearing.
- D. Appeal. The order or decision of the tax administrator upon a petition for determination and redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the City Council within the 10 days after service of such notice.
- E. Void. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the collector has first complied with the payment provisions hereof.

#### **8.04.120 Security for Tax Collection.**

- A. Security. The tax administrator, whenever they deem it necessary to ensure compliance with this Chapter, may require any collector to deposit with the City's Finance Department such security in the form of cash, bond, or other security as the tax administrator determines. The amount of the security shall be fixed by the tax administrator but shall not be greater than \$5,000.00. The amount of the security may be decreased by the tax administrator upon a showing of good cause by the collector.
- B. Action Authorized. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final, the tax administrator, or the tax administrator's designee, may bring an action in the courts of this state, or any other state, or of the United States, in the name of the City, to collect the amount delinquent, together with penalties and interest.

#### **8.04.130 Lien on Property.**

- A. Lien Authorized. Any delinquency for the tax imposed by this Chapter (together with the interest and penalties herein provided and the filing, recording, and advertising costs incurred by the City when the same becomes delinquent) shall be a lien in favor of the City of The Dalles upon all property and rights to property, whether real or personal, used in or occupied by the transient lodging facility within the City. The lien shall arise at the time of the tax administrator's recording and shall continue until the liability for the tax, together with interest, penalties, and costs, is satisfied. The lien shall have priority over all liens and encumbrances of any character except as provided by The Dalles Municipal Code or state or federal law. from the date of its recording with the Wasco County Clerk or on the City's electronic lien docket.
- B. Notice and Recording. The tax administrator shall record and notice a lien on tangible personal property with the Wasco County Clerk. The tax administrator shall record and notice a lien on real property on the City's electronic lien docket. A copy of the notice of claim of lien set forth herein shall be sent to the provider of the transient lodging facility and the owner of the chattel (if different from the provider of the transient lodging facility) by certified mail at the last known address.
- C. Foreclosure. The property subject to the lien, if the lien has been recorded, may be foreclosed on and the property sold as necessary to discharge the lien and in the following manner: personal property subject to the lien may be foreclosed in the manner specified in ORS Chapter 87 for nonpossessory chattel liens; real property subject to the lien may be foreclosed in the manner specified in ORS 223.505 through 223.595, or as otherwise consistent with the practices used for foreclosing other liens on the City's electronic lien docket.
- D. Other Moneys and Attorney Fees. In a proceeding to foreclose the lien, the court shall, upon entering judgment, allow as part of the lien the moneys paid for the filing or recording of the lien. The court shall also allow reasonable attorney fees at trial and on appeal to the prevailing party.
- E. Release and Satisfaction. Any lien for taxes as shown on the records of the Wasco County Clerk or the City's electronic lien docket shall, upon the payment of all taxes, penalties, and interest thereon, be released by the tax administrator when the full amount determined to be due has been paid to the City and the operator or person making the payment shall receive a receipt therefor stating the full amount of taxes, penalties, and interest thereon have been paid and the lien is thereby released and the record of the lien is satisfied.

#### **8.04.140 Refunds.**

- A. Refunds by City to Collector. If the collector remits more tax, penalty, or interest than is due, the collector may file a claim in writing stating the facts relating to the claim within three years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall be either refunded or credited on any amount due from the collector.

- B. Refunds by City to Occupant. A collector may file a claim for refund by filing a claim in writing within three years of payment providing the facts relating to the claim for refund. If the tax administrator determines the tax was collected and remitted to the City and the occupant was not required to pay the tax or overpaid, the City shall issue a refund to the occupant.
- C. Refunds by Collector to Occupant. If an occupant has paid tax to a collector but stays a total of 30 or more consecutive days in the same transient lodging facility, the collector shall refund to the occupant any tax collected for any portion of the continuous stay. The collector shall account for the collection and refund to the tax administrator. If the collector has remitted the tax prior to the refund or credit to the occupant, the collector shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.
- D. Burden of Proof. The person claiming the refund shall have the burden of proving the facts establishing the basis for the refund.

#### **8.04.150 Collection Fee.**

Every collector liable for the collection and remittance of the tax imposed by this Chapter may withhold five percent of the net tax due to cover their expense in the collection and remittance of the tax. If a transient lodging facility has multiple operators, they are not entitled to retain additional fees.

#### **8.04.160 Administration.**

- A. Tourist Promotion Fund. A special fund called “the tourist promotion fund” shall be established and maintained for the purpose of promoting tourism within the City of The Dalles. There shall be deposited in said fund a portion of the money received from the tax. At least annually, the tax administrator shall deposit into the tourist promotion fund an amount not less than 55% of all money collected under the provisions of this chapter.
- B. Records Required from Providers. Every provider shall keep records of each transaction involving rent and/or collection of the tax. All such records shall be retained by the provider for at least three years and six months.
- C. Examination of Records. The tax administrator or designee may examine, during normal business hours, all records relating to receipt of rent, tax, and remittance of tax. The tax administrator or designee may investigate the business of the collector in order to verify the accuracy of any return made, or (if no return is made) to ascertain and determine the amount required to be paid.
- D. Authority of Tax Administrator. The tax administrator shall have the power to enforce this Chapter, conduct audits on an annual basis, and to adopt rules, regulations, and forms consistent with this Chapter. Rules and regulations of general application shall be

mailed to all registered providers. The tax administrator may also issue written interpretations if requested by a collector; with respect to such a collector to whom such an interpretation is issued, the City will act consistently with that interpretation until it is withdrawn and the City shall provide 30 days' written notice of withdrawal of an interpretation to that collector.

- E. Confidential Character of Information Obtained. Neither the tax administrator nor any person having an administrative or clerical duty under the provisions of this Chapter shall disclose in any manner any information concerning the business affairs and operations of a collector obtained through an investigation of any person subject to the provisions of this Chapter, or disclose the amount or source of income, profits, losses, expenditures or any particulars thereof, set forth in any statement or application, or permit any statement or application or financial record to be examined by any person; provided, however, nothing in this subsection shall be construed to prevent:
1. the disclosure to or the examination of records and equipment by another City of The Dalles official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provision of this Chapter (or collecting taxes imposed hereunder) or other Chapters of The Dalles Municipal Code;
  2. the disclosure of information to the collector and their agents;
  3. the disclosure of the names and addresses of any persons to whom certificates of authority have been issued;
  4. the disclosure of general statistics regarding taxes collected or business done in the City;
  5. disclosures required by the Oregon Public Records Law (ORS 192.311 *et seq.*), as may be amended or superseded; or
  6. disclosures required by ORS Chapter 297 (*Audits of Public Funds and Financial Records*), as may be amended or superseded.

#### **8.04.170 Appeals to City Council.**

Any person aggrieved by any decision of the tax administrator may appeal to the City Council of the City of The Dalles by filing a notice of appeal with the tax administrator within 10 days of the delivery of the tax administrator's decision. The tax administrator's decision can be served personally or by mail. Personal service shall be considered complete on the date of delivery. Service by mail shall be considered complete at the time of deposit in the United States Post Office. The tax administrator shall transmit the notice of appeal, together with the file of said appealed matter, to the City Council, which shall fix a time and place for hearing such appeal. The City Council shall give the appellant not less than 10 days' written notice of the time and place of hearing of said appealed matter. The City Council's decision shall be final when reduced

to writing and mailed to the appellant and all amounts due must be paid within 10 days of such mailing.

#### **8.04.180 Severability.**

If any Section, subsection, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not impact the validity of the remaining portions of this Chapter or any part thereof.

#### **8.04.190 Violations.**

It is unlawful for any person so required to fail or refuse to register as required by this Chapter, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter.

#### **8.04.200 Penalties.**

- A. Willful Violations. Any person willfully violating any of the provisions of this Chapter shall be guilty of a misdemeanor punishable therefor by a fine of not more than \$500.00 per violation, or by imprisonment for not more than six months, or by both such fine and imprisonment.
- B. Other Violations. Any violation of this Chapter is a Class A civil violation.
- C. Continuing Violations. Each day a violation remains uncured after the City provides notice of such violation is a separate violation.

#### **8.04.210 Intermediary Fees.**

An intermediary may collect a fee in connection with a transient lodging facility only when that transient lodging facility is lawfully registered with and possesses a certificate of authority from the City pursuant to Section 8.04.070 (*Registration and Certificates*) at the time the transient lodging facility is occupied.