

**AGENDA****REGULAR CITY COUNCIL MEETING****NOVEMBER 25, 2024****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. Chuck Gomez – Tourism for The Dalles

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

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**CITY OF THE DALLES**

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

“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.

- A. Approval of the October 28, 2024 Regular City Council Meeting Minutes
- B. Approval of the October 23, 2024 City Council Work Session Minutes
- C. Approval of the November 4, 2024 City Council Joint Work Session Minutes
- D. Adoption of Resolution No. 24-029 Authorizing Application for a Drinking Water Source Protection Grant to Fund the Purchase of Lands Within and Adjacent to The Dalles Municipal Watershed and Complying with Grant Obligations.

#### 10. CONTRACT REVIEW BOARD ACTIONS

- A. Award of East 12th Street Storm and Sidewalk Improvements Construction Contract

#### 11. ACTION ITEMS

- A. Adoption of General Ordinance No. 24-1408, a General Ordinance Amending Certain Provisions of The Dalles Municipal Code Chapter 8.04 (Transient Room Tax)
- B. FEMA Pre-Implementation Compliance Measures (PICM) Recommendations
- C. General Ordinance No. 24-1407 an Ordinance Amending The Dalles Municipal Code Chapter 8.02 (Short-Term Rental Licenses)
- D. Second Amended and Restated Intergovernmental Agreement for the Q-Life Intergovernmental Agency

#### 12. 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

#### 13. 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:** November 25, 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 October 28, 2024 Regular City Council meeting minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the October 28, 2024 Regular City Council meeting have been prepared and are submitted for review and approval.

**RECOMMENDATION:** That City Council review and approve the minutes of the October 28, 2024 Regular City Council meeting minutes.

- B. **ITEM:** Approval of the October 23, 2024 City Council Work Session meeting minutes.

**BUDGET IMPLICATIONS:** None.

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

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

C. **ITEM**: Approval of the November 4, 2024 City Council Joint Work Session Minutes meeting minutes.

**BUDGET IMPLICATIONS**: None.

**SYNOPSIS**: The minutes of the November 4, 2024 City Council Joint Work Session Minutes meeting have been prepared and are submitted for review and approval.

**RECOMMENDATION**: That City Council review and approve the minutes of the November 4, 2024 City Council Joint Work Session Minutes meeting minutes.

D. **ITEM**: Adoption of Resolution No. 24-029 authorizing application for a Drinking Water Source Protection grant to fund the purchase of lands within and adjacent to The Dalles Municipal Watershed and complying with grant obligations.

**BUDGET IMPLICATIONS**: If awarded, the Drinking Water Source Protection (DWSP) grant will provide 25% of the funding needed to purchase approximately 3400 acres of property located within and adjacent to The Dalles Municipal Watershed. Applications have been submitted by The Conservation Fund to the federal Forest Legacy program that can provide 75% funding for the purchase. The estimated amount of the DWSP grant, pending land appraisals, is \$675,000.

**SYNOPSIS**: The City obtains about 80% of its annual water supply from The Dalles Municipal Watershed. The City manages the Watershed for the protection of water quality. Historically, the City has sought to acquire private lands within the Watershed as they become available.

In May 2022, the City entered into a Letter of Understanding with The Conservation Fund, Columbia Land Trust, and Lupine Forest LLC to facilitate the acquisition of approximately 3400 acres of land located within and adjacent to The Dalles Municipal Watershed. Since that time, The Conservation Fund has been seeking 75% grant funding through the Forest Legacy Program for the purchase; that effort is looking promising.

The City can now apply for a Drinking Water Source Protection grant through the Oregon Watershed Enhance Board for the remaining 25% funding. In order to submit a grant application, which is due December 12, 2024, the City Council must adopt a resolution authorizing the application and committing the City to comply with the terms of the grant. Attached for the City Council's consideration is Resolution No. 24-029 which, if adopted, would provide the needed authorization.

**RECOMMENDATION**: Adopt Resolution No. 23-029.

MINUTES

CITY COUNCIL MEETING  
COUNCIL CHAMBER, CITY HALL  
OCTOBER 28, 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, 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 present, Runyon absent.

**PLEDGE OF ALLEGIANCE**

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

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

**APPROVAL OF AGENDA**

Long requested the agenda be amended to add an item 11E for consideration of a resolution in

support of the Columbia Gorge Community College bond measure 33-111.

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

### **PRESENTATIONS PROCLAMATIONS**

Elijah Preston, Wasco County Treasurer, reported on the recent Veterans Stand Down hosted by the Wasco County Veterans Service Office, which he supervises. He noted that this year, the event was unexpectedly organized by their office after another agency withdrew at the last minute. Chelsea Perritt took the lead in planning and executing the event, which focused on connecting veterans with various social services, including health, mental health, transportation, and housing. Approximately 35 veterans attended and received support at the event, which required significant planning and effort, with Perritt dedicating nearly six months to its preparation.

Mayor Mays thanks Perritt for her work and presented a certificate of recognition.

Perritt expressed gratitude to the Mayor and City Council for the opportunity to speak. She emphasized the importance of collaboration among social services to support the community, stating that "we are better together." She quoted Mr. Rogers' mother, encouraging everyone to "look for the helpers," recognizing the efforts of the Council and social services in aiding those in need. Perritt reported an increase in walk-ins this year, with 35 veterans attending compared to 31 last year. She acknowledged the contributions of sponsors, including Spooky's Pizza, Oregon Equipment, Crestline Construction, and the Hood River Elks Lodge. She highlighted that connecting veterans to social services benefits the local economy, noting that her office brought in \$138,000 last quarter, which strengthens the community and gives people a voice.

### **AUDIENCE PARTICIPATION**

Bob Kenyon, a resident of The Dalles, shared his experience attending the recent Witches Walk, highlighting the vibrant atmosphere downtown with crowds and people visiting local stores. He compared it to a similar festive event he attended in Sequim, Washington. Kenyon expressed his enthusiasm for creating a similar space in The Dalles, providing copies of photos taken by his son that showcase a park setting. He noted the ongoing review of proposals for the area and hoped to see a park included, referencing past community letters that suggested various ideas for development.

### **CITY MANAGER REPORT**

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City Manager Matthew Klebes reported;

- Announced a public city council goal-setting session on November 15, aimed at reviewing progress and managing workload.
- Attended the League of Oregon Cities conference, where Councilors McLaughlin and Runyon were also present.
- Reported replanting of downtown street trees and pouring of concrete pads for new trash cans, which would be decorated by local artists.
- The ad hoc Federal Street Committee hired Walker Macy for Federal Street Plaza design, with the kickoff meeting held last week.
- The Dog River pipeline project received an award from the Oregon Division of State Lands, with thanks to Dave Anderson for his contributions.
- Recapped the water master plan work session, highlighting its importance and potential adjustments to water rates.
- Showcased gifts from Sister City Miyoshi, which were to be displayed outside the city council chambers
- A joint meeting with Wasco County was scheduled for November 4 to finalize discussions on the Strategic Investment Program and Google funding. The meeting would take place at the County Commission meeting room, 401 East Third Street.
- November 5 marked Election Day, with a reminder for residents to vote.
- There would be no council meeting on November 11 in observance of Veterans Day.
- The new process for City Council funding requests was posted online, with the application form shared across the city's media platforms.

Tom Worthy Police Chief provided a staffing update for the City Police Department. He recognized Jamie Carrico as the department's most senior officer, having served nearly 30 years. Chief Worthy also acknowledged Sergeant Eric McNabb, who recently left to accept a promotion at the Gladstone Police Department, highlighting the healthy progression within the organization. He introduced three new hires: Dante Avila, a local resident transitioning from HVAC, and William Brian Askey, previously in information technology, both set to attend the police academy on November 4<sup>th</sup>. Gabriel Wilson joined from the Hood River Police Department and holds an Advanced Certificate in law enforcement. All new officers will undergo training to meet the department's standards and serve the community effectively.

Worthy said the police department had become fully staffed, a milestone not reached in some time. This staffing level would enable the department to reinvigorate specialty programs, including traffic enforcement, narcotics, and community outreach positions. He noted that 50% of the officers had less than five years of experience, indicating a youthful department, with six officers having less than a year of experience. He emphasized the importance of mentoring and training for the new officers, all of whom had demonstrated the aptitude to learn and develop

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their skills. The department planned to focus on training and exposure to ensure their success.

Mayor Mays said he had the honor of attending the swearing-in ceremonies for the new officers and welcomed them to the police department. He emphasized that they were joining an organization with strong support from both the City Council and the community. Mays noted the department's excellent culture and expressed confidence that this community support would contribute to their success.

### **CITY COUNCIL REPORTS**

Councilor Randall reported;

- Attended Water Master Plan work session
- Explained that he had been called to work at a call center of the Army Corp of Engineers district office to help respond to help sign up people for temporary roofing who had been impacted by Hurricane Milton in Florida.

Councilor Long reported;

- Attended the police swearing-in ceremony for two officers.
- Attended the Youth Empowerment Shelter's fundraiser, noting participation from local law enforcement, including new officer Bryant Askey.
- Special Urban Renewal Agency meeting that initiated a substantial plan update to be presented to the City Council.
- Declared surplus property, specifically signs from the old car lot, with plans to offer them to local residents first.
- Attended Community Outreach Team meeting.
- Water Master Plan work session.

Councilor Richardson reported;

- Attended the Urban Renewal meeting
- Federal Street Plaza Committee meeting, where it was noted that Walker Macy has been retained for the project.
- Water Master Plan work session.

Councilor McGlothlin reported;

- Attended the League of Oregon City conference with the City Manager and Councilman Runyon.
- Participated in the Urban Renewal meeting.
- Attended the City work session on the Water Master Plan.
- Recognized students visiting from Miyoshi, Japan, during the Sister City event held last Friday.



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- Announced that the Lions Halloween traffic control will take place this Thursday to ensure safety for children, thanking the Public Works and Police Departments for their support.

Mayor Mays reported;

- Conducted a radio interview with Al Wynn on KODL and a similar interview with Mark Bailey on KACI.
- Participated in the recent visit from approximately 20 high school students and four chaperones from Japan, which culminated in a Jamata party at the Civic Auditorium.

### **CONSENT AGENDA**

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

Items approved on the consent agenda were: 1) The minutes of the October 14, 2024 Regular City Council Meeting; 2) Resolution No. 24-026 A Resolution Assessing the Real Properties Located at 310 & 314 East 13th Place; 1414 East 13th Place; and 1290 West 8th Street the Costs of Nuisance Abatements

### **CONTRACT REVIEW BOARD ACTIONS**

#### **Authorization for Amendment to Contract Issued for Emergency Repairs to Digester 1 Cover**

Dave Anderson public Works Director reviewed the staff report.

Richardson asked what might happen if the repairs were not made.

Anderson said they would not be able to operate within the permit limits through the winter and could face DEQ regulation fines of up to \$10,000 per day.

McGlothlin asked if there had been any injuries.

Anderson said there had not.

It was moved by McGlothlin and seconded by Long to authorize an amendment to the construction contract with Record Steel and Construction Inc for emergency repairs to Digester 1 in an amount of \$484,509.00. The motion carried 4 to 0, McGlothlin, Long, Randall, Richardson voting in favor; none opposed; Runyon absent.

**ACTION ITEMS**

**Resolution No. 24-025 Assessing the City's Abatement of Real Property Located at 3221 West 10th Street**

City Attorney Jonathan Kara reviewed the staff report and introduced Code Enforcement Officer Nikki Lesich.

Lesich addressed the Mayor and Council, affirming Kara's detailed summary and supporting documentation. She added that three calls were received from two concerned property owners, especially worried around the Fourth of July about fire risks posed by three- to five-foot-high vegetation along the back side of properties. Lesich noted that the property owner in question never contacted the code enforcement office throughout the process, despite the office's standard practice of accommodating reasonable timelines. The owner only reached out after receiving the bill.

Richardson asked for confirmation from Lesich that she was not aware of what had happened to the steel bin referenced in the staff report.

Lesich confirmed that while the property owner claimed to have hired someone to address the property, she received no further communication. She added that Kara, present during her conversation with the contractor, verified that the contractor only removed vegetation and garbage, without disposing of any bins.

McGlothlin asked if there appeared to be anyone living on the property or if it was vacant.

Lesich said it was vacant.

Mayor Mays noted that the property owner claimed he wasn't properly notified, did not grant permission for entry, and that the five-day response time was insufficient. Mayor Mays confirmed that the initial contact made with the property owner was through a voluntary compliance letter dated June 27.

Lesich clarified that while the City had been in contact with the property since May 14, it was not specifically regarding vegetation issues. For this particular abatement case, the initial contact was indeed the voluntary compliance letter sent on June 27.

Long asked for clarification, confirming that Lesich had been in contact with the property owner regarding a different nuisance issue before addressing the current vegetation abatement.

Lesich confirmed it was indeed the same issue of non-response. She noted that the initial contact on May 14 concerned a tree obstructing the public right-of-way, which the school district had requested to clear due to buses hitting the limbs. There had been no response from the property owner regarding that issue either.

McGlothlin commented that representation is requested in cases where extenuating circumstances may impact the situation but questioned whether that applied here. He then asked if Mr. or Mrs. Valkov were present at the meeting.

Kara stated that the City had notified the property owners via certified mail that the council would be considering their objections. The notice confirmed that the meeting would be held at 5:30 p.m. this evening, although it appeared the property owners were not in attendance.

Mayor Mays asked for an estimate of how many staff hours had been spent on the case.

Kara estimated 5 hours of paralegal time and 2 hours of the City Attorney's time.

Lesich noted that a collective effort of approximately eight hours was spent on this property, which included tasks such as inspections, re-inspections, obtaining warrants and supporting affidavits, contacting the judge, consulting with the legal department, and coordinating with supervisors to ensure all parties were informed about the case.

Mayor Mays noted that the property owner did respond to the Notice of Assessment sent in September, which was directed to the same address as previous notices.

Richardson expressed his frustration with the situation, stating that it was not why he got involved in public service to impose penalties on individuals, but acknowledged that such measures can be necessary. He emphasized the importance of taking interactions with police and code enforcement seriously. He then proposed a motion to reduce the abatement cost by \$150, not because he believed the staff had acted incorrectly, but as a gesture of goodwill. He moved to adopt Resolution 20-4025, which assessed the city's abatement of the property located at 3221 West 10th Street, with the amended amount set at \$1,450.

There was no second.

It was moved by McGlothlin and seconded by Long to adopt Resolution No. 24-025, a resolution assessing the City's abatement of the real property located at 3221 West 10th Street, as presented. The motion carried 4 to 0, McGlothlin, Long, Richardson, Randall voting in favor; none opposed; Runyon absent.

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Randall acknowledged the distasteful nature of abatement cases. He commended the City for its thorough documentation and adherence to established processes in these matters. He reiterated confidence in the City's ability to follow codes and maintain proper procedures, concluding his remarks with gratitude.

### Resolution No 24-027 Approving a Rate Increase Resulting from Increased Operational and Disposal Fee Costs Incurred by Waste Connections of Oregon, Inc. (Dba The Dalles Disposal)

City Manager Matthew Klebes reviewed the staff report. He noted a correction that the increase was based on 85% CPI and not as it was written at 65%.

Jim Winterbottom of The Dalles Disposal provided specific examples of rate adjustments, stating that a customer with a 32-gallon weekly service would see an increase of 44 cents per month, bringing the total to \$21.78, or 10 cents per pickup. A similar increase for a 90-gallon roll cart would raise the cost by 15 cents per pickup. For businesses using a yard-and-a-half dumpster, the rate would increase from \$114.17 to \$116.55 for weekly service. He invited the Council to ask any questions regarding the proposed changes.

Klebes highlighted the importance of the annual rate adjustment process. He acknowledged that while the percentage increases might seem small, maintaining a consistent approach is crucial to align with the rising costs faced by the entity. He warned against delaying adjustments for several years, which could lead to significant increases needed to catch up. He highlighted that this consistency helps avoid sudden spikes in costs and allows for better management of rate changes over time.

Mayor Mays complimented Jim Winterbottom and his employees for their excellent service. He noted that he personally received many positive comments from the community regarding the truck drivers and their efforts, stating they consistently go above and beyond in their work.

Klebes also thanked Winterbottom for collaborating on providing service and liners for the new downtown trash cans that would be deployed downtown in the coming weeks or months. They worked together to choose a design that would complement the downtown area while ensuring convenient servicing.

McGlothlin expressed appreciation for the involvement with Lions Christmas tree pick-up. He inquired about the special rate for seniors.

Winterbottom confirmed the existence of a special rate for low-income, elderly, and disabled persons through MCCAC, noting a \$3 monthly credit that had not been increased since 2009. He explained they would also be raising the credit to \$6, which would also adjust with future rate

increases, ensuring the discount remains proportional.

Richardson inquired about a \$10.11 special charge related to difficulties encountered by waste collection staff, specifically asking for clarification on the term "roll off curb" and whether it refers to items that physically fall off the curb or another situation.

Winterbottom explained that he couldn't recall the last time a charge was applied under that category. He clarified that the charge would be relevant if a container had to be physically rolled off a curb without an adequate approach, emphasizing that safety is a primary concern in such situations.

It was moved by Richardson and seconded by McGlothlin to adopt Resolution No. 24-027 Approving a Rate Increase Resulting from Increased Operational and Disposal Fee Costs Incurred by Waste Connections of Oregon, Inc. (Dba The Dalles Disposal), Effective January 1, 2025. The motion carried 4 to 0, Richardson, McGlothlin, Long, Randall voting in favor; none opposed; Runyon absent.

#### Proposed IT Network Position

City Manager Matthew Klebes reviewed the staff report and invited IT Director David Collins to address Council and answer questions.

Mayor Mays asked how many would be in the IT department with this new position.

Klebes stated that the IT department will be expanding to include a fourth position. Previously, the department had an IT manager and a help desk technical support individual. A systems administrator was added when the IT department was created, and this new position will be the fourth addition to the team.

Richardson expressed appreciation for the thoughtful and cautious approach taken before adding positions to the IT department. He requested an explanation of why it is deemed necessary to have four personnel in the IT department.

Klebes detailed the need for an additional position in the IT department, emphasizing the proactive measures required to address system issues and vulnerabilities. He noted that the IT staff has been in a reaction mode due to the end of life for certain systems and the need to manage changes in internet service. He highlighted that without this additional role, the department may continue to struggle for 18 to 24 months without effectively addressing ongoing challenges.

Collins added that the lack of a dedicated person in the IT department has resulted in accumulating technical debt, which hinders the department's ability to proactively address issues. He emphasized that resolving these problems sooner rather than later would benefit the city as a whole, allowing for a more proactive approach to IT support and management. He clarified that technical debt refers to the challenges arising from inadequate management of technology, leading to obsolescence and increased difficulty in handling specific systems. As technology becomes outdated, fewer individuals possess the necessary skills to manage it effectively, necessitating the hiring of external experts with specialized knowledge. This approach, while sometimes more costly, ultimately requires less ongoing effort compared to merely managing aging systems on a day-to-day basis.

Long noted that by avoiding necessary spending now, the City ultimately incurs higher costs in the long run. This approach of deferring investment in technology can lead to increased expenses due to the challenges of managing outdated systems and the need for specialized external expertise.

McGlothlin emphasized the importance of staying current with technological advancements, particularly with the emergence of AI, which significantly impacts law enforcement and record-keeping. He highlighted that adequate equipment and operating systems are essential to meet these evolving demands and expressed his support for adding the proposed IT position.

Klebes added that maintaining legacy equipment and ensuring basic operational functionality are critical tasks for the IT department. He mentioned upcoming projects, such as the CAD RMS program and the increased interest in security cameras for City facilities, which could be adversely affected if the department is not adequately staffed. He stressed that insufficient resources could lead to delays and hinder the City's ability to execute these important initiatives effectively.

Mayor Mays inquired about the confidence level regarding attracting and hiring a sufficient number of qualified individuals for the IT position. He directed the question to either David or Matthew.

Collins expressed optimism about attracting qualified candidates for the IT position, referencing the previous hiring of a systems administrator, which yielded a strong pool of candidates. He anticipated that they would be able to find a suitable long-term fit for the position.

It was moved by Long and seconded by Randall to adopt the October 28, 2024 Wage Table, adding a Network Administrator Position. The motion carried 4 to 0, Long, Randall, Richardson, McGlothlin voting in favor; none opposed; Runyon absent.

Resolution No. 24-024 Authorizing Transfers of Budgeted Amounts Between Various Departments of The General Fund of the City Of The Dalles Adopted Budget, Making Appropriations and Authorizing Expenditures for Fiscal Year Ending June 30, 2025.

Finance Director Angie Wilson reviewed the staff report.

Long noted that although hiring a contractor for the Emergency Management Plan incurs immediate costs, it is essential for ensuring that projects are included in the plan to qualify for federal funding sources. She emphasized that this investment could yield significant benefits in the future.

Klebes provided an example related to seeking funding for Q Life, a collaborative entity involving the City, County, and PUD for fiber deployment in the region. He highlighted the importance of establishing a co-location facility on the east side of the Cascade Mountain Range as a key hub for fiber communications, particularly in light of potential Cascadia events. He noted that FEMA resiliency grants often require projects to be explicitly listed in emergency management plans to support funding applications.

Long clarified that the current IT services are primarily sourced from Portland and Seattle. She emphasized that, in the event of a Cascadia earthquake, the region could be better positioned to withstand the disaster compared to the west side of the state. She explained that the goal was to establish additional services locally to create a new hub for these resources. However, she pointed out that the lack of inclusion of this initiative in the Emergency Management Plan hindered their ability to effectively advocate for funding to support these efforts.

It was moved by McGlothlin and seconded by Richardson to adopt Resolution No. 24-024 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 4 to 0, McGlothlin, Richardson, Long, Randall voting in favor; none opposed; Runyon absent.

Resolution 24-028 A Resolution Approving City Council Support for Columbia Gorge Community College Bond Measure 33-111

Long indicated that all council members had a copy of the proposed resolution, titled The Dalles City Council's Resolution 24-028. She clarified that the staff was not required to be present for this discussion, as it was a council-only resolution and not related to City of The Dalles staff. She proceeded to read the resolution aloud, noting that it was not included in the packet.

Whereas The Dalles City Council recognizes the importance of Columbia Gorge Community

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College, the college as a vital institution for education and workforce development in Our community. And whereas the college seeks voter approval of bond measure 33-111 to issue \$13 million in general obligation bonds, which will maintain the current bond tax rate of 27 cents per 1000 of assessed property value. And whereas approval of the bond measure would secure 5.5 million in state matching funds critical for enhancing the college's ability to upgrade and improve its facilities. And whereas the college formed a Facilities Planning Committee in 2023 composed of community and college volunteers, which recommended improvements to the college's educational and workforce training facilities. And whereas the bond measure will fund essential projects including enhancing student and staff safety with modern security systems, updating aging building systems for better efficiency and accessibility, modernizing classrooms and labs and making significant improvements to the Dallas and Hood River campuses. And whereas the City Council believes that the successful passage of bond measure 33-111 will significantly benefit the North Wasco County School District and Hood River County School District students, staff and the broader community by ensuring that the college's facilities are safe, modern and equipped to support high quality education and job training. Now, therefore, let it be resolved. The Dallas City Council resolves as follows, one, the Dallas City Council hereby expresses its full support for Columbia Gorge bond measure 33-111 and the continued investment in local education and workforce development. Two, the Council encourages all eligible voters within the district to carefully consider the merits of bond measure 33-11, and the positive impact it will have on the future of education in our region.

Richardson expressed his support for the resolution, noting that he had previously endorsed the college bond in comments made to the council. He described the resolution as a wise investment that essentially maintained business as usual, stating that it would not raise the tax rate but would continue to upgrade and modernize the college. He also expressed gratitude to Long for bringing the resolution forward for their consideration.

McGlothlin confirmed his historical support for the resolution and expressed his continued support during the meeting.

It was moved by Richardson and seconded by Randall to approve Resolution 24-028 as read into the record by Councilor Long. The motion carried 4 to 0, Richardson, Randall, Long, McGlothlin voting in favor; none opposed; Runyon absent.

### **DISCUSSION ITEMS**

#### **The Dalles Downtown Parking Assessment**

Community Development Director Joshua Chandler introduced Rick Williams of Rick Williams Consulting and reviewed the staff report.



Williams presented the parking assessment study.

Richardson sought clarification regarding the assessment findings, specifically asking if it was accurate to state that approximately 43% to 45% of the on-street parking spaces were likely occupied by employees.

Williams confirmed that a significant portion of the on-street parking is likely occupied by employees, estimating that over 300 vehicles are parked throughout the day in the 1,200 available stalls. He indicated that this could represent around 43% to 45% of the on-street parking supply being utilized for long-term parking, primarily by employees.

Mayor Mays inquired whether there could be other reasons for vehicles being parked in downtown stalls for over five hours, aside from employee parking. He suggested that tenants or residents living downtown might contribute to this situation and asked if the majority of long-term parking was indeed attributed to employees.

Williams acknowledged that while a significant portion of the long-term parking in downtown stalls is likely attributed to employees, there are also residents who park on the street. He noted that residents typically attempt to park outside of exclusion zones but confirmed that the majority of long-term parkers are probably employees. He explained that the analysis utilized license plate data for analytical purposes, which does not identify the specific individuals, making it challenging to determine whether vehicles belong to employees or residents. However, based on field observations and conversations, it is inferred that employees constitute the larger group.

Richardson expressed appreciation for the detailed and readable nature of the parking report. He inquired about the proposed purpose of a parking website in relation to the parking assessment.

Williams explained that the proposed parking website would initially serve as a simple and accessible resource for customers and employees to address their parking questions. In the long term, as the city anticipates growth in visitors and development, the website could support various functions, such as employee permit programs and enforcement initiatives. He emphasized that the website would aim to reduce customer frustration by providing information on parking rules, handling parking tickets, and promoting the overall parking system, ultimately contributing to a cohesive brand for the City.

Klebes added that the parking website could include information about the overnight parking permit system available in the First Street parking lot. He also suggested that the site could serve as a resource for the proposed bike hub at Federal Street Plaza, catering to visitors looking to access local trails or share rides upon arrival.

Richardson inquired whether Williams had any thoughts on the necessity of marking handicap spots downtown, noting that he did not see any mention of this in the report.

Williams confirmed the importance of marking handicap spots downtown, stating that federal ADA law now requires that 4% of commercial on-street parking supply be designated as ADA parking. He explained that under the new standards adopted in 2024, if a city has 1,000 on-street stalls, it would need to mark at least 40 as ADA compliant. He emphasized that while marking is required for off-street parking, it is also necessary for on-street parking to ensure convenience and compliance with federal design standards.

Richardson suggested that, as the Council moves toward developing a management plan, it may be beneficial to refine the study area's boundaries. He proposed potentially excluding the eastern and western lobes of the area, specifically around Taylor and Liberty Streets, just east of St. Peter's and near the "Y" on the east side of downtown.

Williams agreed that refining the study area could be beneficial and suggested a hybrid approach similar to Springfield, Oregon. He explained that instead of entirely separating the downtown, they defined a central core as their parking management zone and established "wings" as a secondary management zone. This allowed for different management practices based on utilization levels while still maintaining oversight of parking in those areas. He noted that while some zones may currently be underutilized, they could become more significant in the future, and it would be wise to anticipate that and apply appropriate management strategies accordingly.

Mayor Mays inquired about the duration of the business, noting it had been in operation since 1995. He then asked for an estimate of the number of parking studies conducted during that 30-year period.

Williams responded that his business has conducted hundreds of parking studies across the country since its inception in 1995, specializing in the Pacific Northwest, California, Montana, and Idaho. He indicated that they have worked with cities of various sizes, from large cities like Dallas, Texas, to smaller ones like Canby, Oregon, with a preference for Main Street cities, having completed approximately 50 to 75 studies in such areas.

Mayor Mays asked for a definition of a site.

Williams clarified that a "defined site" refers to a specific parcel designated for parking, which may serve a larger property, such as a building. He noted that the areas indicated on the map represent parcels specifically allocated for parking, which could cater to the general public or be linked to a particular adjacent land use.

Mayor Mays asked for clarification of where the \$40 million estimate had come from.

Williams explained that the figure of \$53,500 was multiplied by 750 stalls based on data from a comprehensive study conducted in downtown Vancouver. He noted that while this number provided useful context from another community's experience, it could be further refined for The Dalles by using a similar data collection process. He acknowledged that the actual parking supply in The Dalles might be less than 750 stalls, especially in light of previous discussions about how downtown is defined.

Mayor Mays inquired whether the colors on the parking utilization map, which represent high and low demand areas, would change if the city were to eliminate long-term parking (over five hours a day). He acknowledged that such a scenario is not realistic but sought to understand the potential impact on the map's representation of parking demand.

Williams affirmed that if the city could determine the percentage of the 300 long-term parked vehicles located within the highlighted blue zone and successfully relocate them off-street, the parking demand numbers represented on the map would decrease. He emphasized that this strategy would not require aggressive measures but could focus on practical solutions to free up parking in that area. Williams suggested that further analysis could provide insights into how many vehicles could be moved, resulting in a lighter representation of demand on the map.

Mayor Mays inquired whether, in Williams' professional opinion, the low demand indicated by the green color on the parking pyramid could be attributed to the perception that there are insufficient parking spaces available.

Williams stated that in his experience with various cities, there is often a perception of parking constraints due to complaints from businesses and users who find it frustrating to park downtown. He noted that while he cannot provide a definitive answer, gathering more information could potentially alleviate these perceptions under existing conditions. Williams suggested that a significant portion of parking issues—approximately 60%—stem from perception, while about 40% can be identified through data analysis. He emphasized that complaints often arise even when parking is available just a short distance away, highlighting the importance of ongoing efforts to manage the parking system effectively.

Mayor Mays asked Williams what, if anything, makes The Dalles unique compared to other cities he has studied, given his extensive experience conducting hundreds of similar studies.

Williams highlighted that the unique aspects of The Dalles include its architecture and history, which can be leveraged for development. He emphasized the opportunity for growth in the downtown area, noting that even with low parking demand, the city should not become

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complacent. Instead, the focus should be on better management of existing parking resources. He remarked that The Dalles is in a favorable position with ample parking supply and the potential to create effective partnerships and systems to enhance downtown vitality, contrasting this with other cities that face more severe constraints.

Mayor Mays inquired about the attendance and feedback from the September 30 open house, expressing optimism for the upcoming developments and growth in The Dalles.

Chandler reported that approximately 15 people attended the September 30 open house, with half being staff members. He noted that attendees raised questions regarding whether the numbers presented included projections related to the Basalt Commons development, to which he clarified that such projections could not be made for developments not yet realized. Overall, the event primarily served to provide information, with Williams' team contributing valuable insights through their presentations.

Richardson suggested that the team could make reasonable estimates regarding the parking impact from the Basalt Commons development. He proposed developing a transparent formula that considers factors such as occupancy rates and the average number of cars per unit. Richardson emphasized that this approach would provide transparency and address public concerns about potential parking constraints in the downtown area. Additionally, he noted that it would be beneficial for the team to proactively assess whether more parking space or emphasis is needed in anticipation of these developments.

Chandler acknowledged that while Williams' team could assist in projecting parking numbers related to the Basalt Commons development, a fundamental issue for addressing parking in The Dalles is the need for effective management and enforcement of parking. He noted that this topic had been discussed with the advisory committee, particularly concerning the constrained area. Chandler emphasized the importance of establishing solid management practices before fully assessing the overall impacts of parking in relation to new developments.

Richardson said to anticipate questions from the public about Basalt Commons.

Chandler explained that the Basalt Commons project was a significant factor in initiating the downtown parking study, as concerns about parking are frequently raised in development discussions. He emphasized the need to demonstrate that The Dalles has the capacity for downtown growth and to encourage the effective use of existing land, particularly the first street parking lots, which have been perceived as uninviting. Chandler noted the importance of identifying underutilized parking spaces throughout the area, highlighting that there are approximately 2,800 parking spaces available. He acknowledged that the five-story multifamily development would have an impact, but reassured that the data indicates The Dalles can manage

this growth effectively.

Richardson reflected on the historical context of urban renewal in The Dalles, noting that the urban renewal agency had previously considered a project to build a downtown parking garage. He expressed relief that the community did not invest significantly in that project, implying that the current approach to managing and optimizing existing parking resources is more favorable.

Chandler discussed the historical context of parking considerations in The Dalles, referencing a preferred parking plan from 2005 by David Evans Associates, which included the idea of a parking garage. He expressed relief that the City did not proceed with that project, citing the high costs associated with building parking garages. He noted that The Dalles has the advantage of existing parking lots on First Street that can remain in use. He concluded by stating that should the need for a parking garage arise in the future, the city has the space available to accommodate it.

Long expressed her concerns about the parking discussions in The Dalles, highlighting a disconnect between public perception and the realities of parking availability. She noted that some individuals complain about parking problems while simultaneously opposing growth, indicating a reluctance to change. She emphasized that such attitudes often stem from nostalgia for the past rather than current data or needs. She criticized the influence of a vocal minority that seeks to halt progress, suggesting that their views may not reflect the broader community's desires for economic growth. She called for a focus on forward-thinking solutions and pledged to be more vocal against proposals that would hinder progress, urging everyone to consider viable options for moving into the future.

Councilor McGlothlin recalled his experience with parking meters during his time as a downtown business owner, describing it as a significant inconvenience. He expressed a desire to avoid returning to such a system.

Mayor Mays acknowledged the need for effective enforcement to address the issue of long-term parking downtown, emphasizing that relying on businesses alone would not suffice. He noted his experience in other cities and highlighted the importance of having a structured approach, such as parking meters or enforcement officers. He expressed enthusiasm for implementing the recommendations outlined in the report, particularly those related to improving parking management.

## **ADJOURNMENT**

Being no further business, the meeting adjourned at 8:02 p.m.

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Submitted by/  
Amie Ell, City Clerk

SIGNED:

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

ATTEST:

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

DRAFT

MINUTES

CITY COUNCIL WORK SESSION  
COUNCIL CHAMBER, CITY HALL  
OCTOBER 23, 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, Finance Director Angie Wilson, Community Development Director Joshua Chandler

**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, Runyon, Randall, Richardson present.

**PLEDGE OF ALLEGIANCE**

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

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

**APPROVAL OF AGENDA**

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

## **DISCUSSION ITEMS**

Dave Anderson, Public Works Director said the meeting was the third of three planned work sessions focusing on the financial aspects of the Water Master Plan. He noted the presence of Brian Ginter and Emily Flock from Consor as well as Deb Galardi Consor's financial sub-consultant. He said the meeting agenda would include a brief review to refresh Council's memory on prior discussions, followed by a presentation outlining various rate scenarios. The goal was to obtain specific direction from Council on a preferred rate scenario, which would be included in the Water Master Plan for public comment and eventually brought back to City Council for a public hearing and consideration for adoption.

Mayor Mays asked if approving or adopting the Water Master Plan would automatically include an adoption of water rate increases.

Anderson said with the adoption of the plan, a resolution would be brought to the Council to implement the rate changes.

Ginter reviewed the draft Capital Improvement Plan (CIP) within the Master Plan, emphasizing its importance in discussions around rate adjustments. He reminded Council of the draft CIP's high-priority items, noting a substantial investment of nearly \$165 million over the first ten years. He shared that recent discussions with the EPA about the WIFIA loan program had provided clearer structuring options, which were now reflected in the analysis. The CIP projects were phased in two groups: Phase One projects included the initial major projects such as treatment plant replacement, planning for the upper storage and recovery program, potential expansion of the Crow Creek Dam, and the ASR program. Phase Two projects would involve transmission main replacements between the Water Treatment Plant and the City, as well as improvements to distribution piping. These phased projects served as key components driving the early estimates in the CIP.

Ginter said the Master Plan's engineering analysis was conducted in current dollars. He noted Galardi's financial analysis incorporated inflation assumptions, baselining costs to today's dollars within the financial projections.

Galardi outlined the objectives as funding capital improvements and ongoing operation and maintenance in an equitable and defensible manner, ensuring both existing and future developments contribute fairly to project improvements, alongside ratepayer customers across various service types. Rate design, she explained, combines industry standards with local policy objectives, allowing flexibility in determining cost recovery. She reviewed updated figures, noting a slight decrease in cost estimates, particularly for the treatment plant, due to recent



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adjustments by Ginter's team. These reductions lowered anticipated WIFIA loan amounts for the treatment projects, though capital improvements still dominated the financial plan over the next 20 years. Inflation was fully integrated into the presented figures, which reduced the number of scenarios by focusing on current economic realities. She pointed out that current rates and system development charges (SDCs) had limited funding capacity, but anticipated growth in water sales would support capital improvements. Additionally, the City had opportunities to leverage federal funding through WIFIA and local revenue sources, including Strategic Investment Program (SIP) funds.

Mayor Mays asked if dividing the \$13 million per year in inflation by the total of \$203 million to get 6.4% was an appropriate way to interpret the assumed rate of inflation.

Galardi responded that the assumed rate of inflation was three to three and a half percent per year, based on the sequencing of the projects. She explained that some projects were front-loaded, while others were scheduled further out in the plan.

Galardi noted that the City had been drawing down reserves to cover annual expenses. The financial analysis aimed to estimate the revenue slope, which represented a series of anticipated rate increases to fund both the projects and ongoing operation and maintenance. She provided an overview of the capital improvement plan's order of magnitude. She mentioned that refinements had been made to the capital financing plan since the last meeting, though many unknowns remained regarding the ultimate financing package the City could secure, primarily through WIFIA and other funding sources. Additionally, uncertainties surrounding industrial growth were acknowledged. Therefore, the analysis aimed for a moderate level of risk, presenting a medium case scenario rather than the worst or best case. She expressed hope that the numbers reflected this balanced approach.

Richardson asked what the likelihood was for getting access to WIFIA.

Galardi said they had verified in a meeting with a WIFIA representative that the small system eligibility and the 80% funding level were realistic. She mentioned that the City of Sandy, Oregon, had also entered into a loan with WIFIA for wastewater system improvements, securing 80% funding and utilizing the State Revolving Fund (SRF) loan program for the remaining 20%. At this point, a revenue bond was assumed, and if combined with SRF funds, the City could achieve even lower interest costs while extending the payback period. The primary framework remained centered on the 80% assumption, with no red flags raised regarding project types eligible for WIFIA funding. The representative confirmed that current interest rates were relatively high at 4.15% compared to previous lows, and the analysis assumed a rate of three and a half percent. It was anticipated that the Federal Reserve would continue to lower interest rates, which would directly affect WIFIA rates, though the pace of changes was uncertain.

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Galardi said the WIFIA representative suggested assuming two separate loans and highlighted the significant flexibility in how the City could repay those funds. This process involved initial outreach, followed by a letter of interest from the City, with agreements entered into once approximately 30% of project design was completed and costs became more certain.

Anderson added that during the consultative call with WIFIA, they learned that the program was no longer competitive. He explained that entities could simply apply for funding, and money would be awarded as long as the programs were available. He emphasized that this was new information, as the program had initially been competitive. He said while the chances of securing funding were favorable, WIFIA required projects to be designed to about 30% completion for cost certainty. He emphasized that the City had work to do upfront and needed to accrue funds to cover the costs associated with that 30% design work, particularly concerning the water treatment plant replacement.

Klebes suggested the City monitor Federal Reserve actions and if there were to be anticipated interest rate cuts, the City might consider waiting for those adjustments to occur before moving forward.

Ginter said there was a balance to consider regarding the timing of the WIFIA package. He noted that the program offered a one-time opportunity to renegotiate to current interest rates, providing flexibility during the loan's life. He emphasized that moving forward once ready carried minimal risk, with the primary requirement being to establish cost certainty. This was important for building appropriate contingencies, as closing on the loan would set the dollar amount for the project.

Galardi said a key advantage of the WIFIA program, as well as other federal funding options, is the deferred payment structure, where repayment begins only once the project is completed. Although interest accrues during the project, repayment remains flexible. She presented a projected spend-down chart for construction funding, highlighting significant spikes related to treatment projects and the importance of Strategic Investment Program (SIP) funding. The analysis assumed a \$3 million SIP allocation, which was crucial for upfront funding to support project design. This funding was necessary to meet WIFIA's requirements for better cost estimates before finalizing agreements. Currently, there was limited capacity in the rates to cover costs beyond operations and maintenance, making SIP funding essential for financing project design, covering interest during construction, and addressing other capital improvement projects not included in the WIFIA package in the short term.

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Mays said according to the financial projections, no bond sales would be necessary from fiscal year 2025 through fiscal year 2030 to meet funding requirements. He noted that revenue bonds would be issued starting in 2031 to cover anticipated costs.

Galardi stated that the ability to defer issuing a revenue bond until 2031 was advantageous, as it eliminated the need for immediate repayment. She confirmed with the WIFIA representative that the 80% match was not an annual requirement, meaning the City did not need to cover 20% of construction costs each year; instead, it could be a cumulative contribution. This structure allowed for other matching mechanisms to fund the final 20% at the project's conclusion. She noted that this approach assumed deferring other funding sources until the end of the project while utilizing SIP funding for additional master plan projects outside the WIFIA package. As rates were gradually phased in, they would help fund debt service and cover other necessary costs.

Mayor Mays indicated that sufficient revenue was anticipated in fiscal year 2031 to address the significant gap expected in fiscal year 2032.

Galardi said the strategy involved issuing debt, utilizing WIFIA proceeds along with the combination of revenue bonds and anticipated rate increases to cover additional capital improvement project costs and debt service. The SIP was assumed to remain constant at \$3 million throughout the period, while the rate funding escalated over time.

Galardi indicated that the next slide presented the estimated revenue slope from the rate-funded improvements perspective under the \$3 million SIP low industrial growth assumption. At that point, no increase was assumed for fiscal year 2024-25. It was noted that implementing a rate increase before the end of the fiscal year would be beneficial to avoid peak water use periods and to address some costs early. The timing for any increase was still to be determined, and feedback was requested. The slide illustrated that under the low industrial scenario, rate increases would be 7.3% per year, significantly ramping up. The turquoise bar represented the assumed contribution from rates for pay-as-you-go capital, which would fund debt service and capital projects.

Mayor Mays inquired about the next page, which displayed high industrial use, asking for clarification on the differences and how those predictions were made.

Ginter explained that they collaborated with the City's major industrial customer to project future demands, making downward adjustments to maintain a conservative estimate. This approach acknowledged potential reductions in demand while recognizing that the required improvements were primarily driven by the need for replacement or renewal rather than increased capacity. He noted that the revised demand forecast was approximately half of what had initially been projected.

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Anderson indicated that nearly all the industrial use considered in the analysis stemmed from Google. He added context from previous experience, noting that discussions with Google often resulted in them providing an optimistic estimate for their operational ramp-up. However, in reality, the actual increase in water consumption sometimes occurred at a slower rate. The analysis aimed to account for this possibility in the low industrial use scenario, ensuring a rate scenario was in place to anticipate gradual increases in water consumption.

Richardson inquired about the implications of utilizing the low industrial use assumptions and the corresponding 7.3% rate increase over 13 years, especially in the event of experiencing high industrial use instead. He asked whether it would be possible to bank the difference in water rates, reduce rates accordingly, or potentially pay off obligations faster if high industrial use materialized.

Galardi suggested that until the capital financing package was finalized, there would be considerable uncertainty. She recommended that the City Council consider the projections for the initial rate increase and decide whether to pursue a five, six, or seven percent increase after determining how much of the SIP funding would be allocated to water infrastructure. Following the 30% design period for the WIFIA application, the City would need to submit updated financials reflecting final project costs, interest rates, and debt repayment structure. At that time, the Council would want to consider a multi-year rate increase, as they would have a clearer understanding of industrial demand.

Mayor Mays said according to the information presented, the City would require a 7.3% rate increase effective from fiscal year 2025 through fiscal year 2038, along with \$3 million in SIP revenue, to cover the operating costs of the water system under the assumption of low industrial use. He said the proposed rate increases included a 5.3% increase, along with \$3 million in SIP revenue, to cover the costs of operating the water system under the assumption of high industrial use. He asked why the rate increase decreased from 5.3% in fiscal year 2040 to 4.3% in fiscal year 2041.

Galardi explained the proposed rate increases reflected the need to ramp up initially due to the projected timeline for debt service repayment. The slope of the rate increase needed to be steeper at first, but thereafter, the increases would be based on inflation plus additional capital needs. The assumption was that the rates would generate sufficient revenue to cover ongoing debt service and capital costs, allowing for a reduction in the rate increase.

Runyon clarified that while the discussion frequently centered on industrial use, the suggested rate increases applied to all customer categories, including residential and industrial.

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Galardi indicated that the table presented assumptions regarding the \$3 million in SIP funding, which was critical for covering project design, initial costs, and other ongoing capital improvement projects not included in the WIFIA package. She noted that if the \$3 million did not come from SIP, it would result in a 46% rate increase, given that current revenue from rates was about \$6 million, as reflected in the table. Galardi highlighted that the second set of numbers, showing a zero annual SIP general fund contribution, would necessitate significantly higher rate increases if this funding mechanism were not included in the financial package.

Richardson highlighted that if the City did not dedicate \$3 million of SIP, they would have to raise rates 46%

Galardi explained without the use of SIP the rate increases would occur swiftly and be substantial. Without SIP there would have to be a projected 27.5% rate increase followed by a 10% increase and then 7.5% for several years under low industrial use assumptions. For high industrial use, the first-year rate increase would be 23%, followed by increases of 8%, 8.5%, and 5.5%.

Richardson inquired about a reasonable expectation or conservative estimate for the annual SIP funding.

Klebes reported that staff had been preparing for the upcoming SIP work session in November by examining certain assumptions related to the industrial user's data centers. It was noted that a data center's reported value is approximately \$600 million, but caution was advised regarding actual values upon completion. Using this valuation, staff estimated contributions from the guaranteed annual payment component—separate from property tax and community service fees—could align with SIP formulas, considering both data centers. A certificate of occupancy had been secured for the first data center, which serves as one of the triggers for the SIP. The second data center was projected to be approximately one year behind the first, although timelines may vary.

Klebes said the community service fee was calculated as 25% of the tax savings, capped at \$2.5 million. The potential Guaranteed Annual Payment (GAP) of \$3 million was derived from both data centers. The property tax payment depended on the value and structure provided or dictated by the state and Business Oregon. If the value was under a billion dollars, they would pay taxes on \$50 million. Using the assumption of a \$600 million valuation, this would result in approximately \$900,000 a year in taxes, distributed across all the different taxing districts, similar to the community service fee. He encouraged the Council to focus on the GAP, which was the basis for the \$3 million estimate.

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Richardson stated that the GAP was not the total amount the City or other entities would receive from Google. He clarified that the discussion was about allocating a significant portion of the SIP funds, rather than the entirety of the contributions.

Klebes said the two data centers would each contribute over 15 years, starting at different times. He said there were also initial payments, a one-time fee. He emphasized that there were several other funding mechanisms associated with the SIP agreement.

Runyon asked for clarification regarding the ongoing funding from the enterprise zone, noting the repeated reference to SIP. He inquired whether these funds were being considered in the totals discussed.

Klebes stated that the City received annual payments from the second enterprise zone agreement and the Taylor Lakes agreement. He noted that these funds were allocated in the special enterprise reserve fund and had been used for various special projects, including sidewalk and ramp programs. He mentioned that a significant portion of the Taylor Lake funds had been allocated to the Community College's Skill Center, which had been completed, but emphasized that this remained a potential revenue source for future considerations.

Runyon emphasized the importance of identifying the contributions of the funds to the community. He noted that the City was not depleting its resources through these initiatives, reinforcing the need to communicate this to the public effectively.

Klebes highlighted the ongoing efforts to develop a communication plan that would effectively convey the City's messaging to the community. He noted that one of the goals from the meeting was to gain additional guidance and consensus from the Council, which would enable staff to finalize and disseminate information promptly. He emphasized the need for the Council to provide direction on various SIP elements, including the guaranteed annual payment, community service fee, initial payment, and property tax, before the end of the year. He reiterated that the upcoming work session in November would focus on these components, stressing the importance of prioritizing core services and minimizing potential rate increases to benefit ratepayers and constituents.

Anderson reminded the Council that during the previous presentation, the focus had been on the different levels of SIP, specifically emphasizing the \$3 million level. He noted that the Council expressed interest in this amount, along with the understanding that while it was reasonable to expect to receive it, there were caveats involved. He mentioned that comparisons would be made between scenarios with and without SIP, clarifying that future numbers presented would reflect either the \$3 million SIP or no SIP at all.

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Galardi then showed comparisons for projected rate increases based on a medium-case capital funding strategy and the current rate structure. Under high industrial growth, the estimated monthly bill would decrease with SIP funding. In contrast, without SIP funding, the bills would increase significantly, resulting in a substantial increase over the following years.

Klebes emphasized that the needs and projects discussed were necessary regardless of Google's presence, as they involved aging infrastructure requiring attention. He pointed out that utilizing Google revenue or SIP revenue could help keep rates potentially 17% to 20% lower than they would be without this funding, highlighting the direct positive impact on ratepayers in the community.

Anderson clarified that the benefits derived from industrial customers extend beyond the \$3 million SIP funding. He noted that their water usage and associated sales significantly contribute to the city's revenue package, possibly doubling the revenue impact if large industrial customers were not present. While SIP funding plays a role in mitigating rate increases, the primary advantage lies in the revenue generated from water sales to these customers. He emphasized that necessary improvements, such as replacing aging water treatment plants and pipelines, would still need to be addressed, regardless of the presence of industrial customers.

Galardi summarized the discussion regarding significant rate increases, noting that while SIP funding addresses a substantial part of the need, the policy issues revolve around the timing and level of initial rate increases and the amount of revenue to commit to the water program from the SIP.

Galardi said to consider Systems Development Charges (SDCs) as another potential funding source for capital improvements, noting that existing SDCs haven't been updated since 2007 and currently generate limited revenue. She emphasized the methodology used to develop SDCs and highlighted that about 46% of total project costs are estimated to be related to growth. Recommendations included updating SDCs based on modern meter technology to better reflect actual water usage, particularly for larger meter sizes.

Anderson clarified that the current SDC charge of \$2,317 does not reflect the full amount permitted by the methodology. The City decided to keep its SDCs competitive with neighboring communities, resulting in all four SDCs (water, sewer, storm, and transportation) being set below their maximum levels. The new SDCs outlined represent the maximum potential charges, though the Council has the discretion to set lower rates based on various factors.

Richardson inquired about the level of SDCs assumed in the previous analysis that had just been discussed.

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Galardi noted an assumption that the Systems Development Charges (SDCs) would double but hesitated to project an immediate increase to the proposed amount of \$9,300. She emphasized that SDC revenue depended on development rates, which introduced variability into financial projections. While she recognized the potential for SDCs to serve as a significant revenue source when development occurred, she indicated a conservative approach due to uncertainties regarding both the City Council's stance on SDC levels and the pace of future development.

Klebes inquired about the average revenue from water Systems Development Charges (SDCs), which was approximately \$75,000 over the past three years. He asked if the modeling provided an estimate for how much that revenue would increase based on the assumptions presented. He emphasized the magnitude of the revenue source from water SDCs, noting that it is not in the billions. He expressed concern that if SDCs were set too high, they could act as a barrier to development.

Richardson asked if the updated SDCs presented reflected the proposed doubled amount compared to other communities.

Galardi confirmed that the chart used the maximum SDC amount. She noted that the City was currently the lowest among the compared communities, and while the proposed increase would move the City slightly up the scale, it would still remain below the median. She said while the meter size generally works well for typical commercial and institutional users, it does not adequately address the needs of large industrial users due to their significant impact on the water system. She recommended adopting an individualized calculation for large industrial users, similar to the practice for sewer, which would be based on a gallon-per-day estimate. This approach would involve charging large industrial users based on their projected water demand, aligning with standard practices in the industry.

Anderson provided historical context regarding the disconnect in SDC collections between large industrial customers for water and sewer. He noted that, based on the size of the meter, the City would have collected approximately \$500,000 in water SDCs for recent industrial developments, while \$3 million was collected on the wastewater side. He suggested adopting a volume-based approach for water SDCs, similar to the current practice for sewer, which would allow for adjustments if actual usage exceeds projections. He referenced the industrial rate for sewer of \$12.94 per million gallons per day and advocated for considering a similar methodology for water SDCs.

Galardi summarized the methodology for SDCs, indicating that it establishes a ceiling for potential revenue. She noted that an annual revenue of \$150,000 would equate to approximately a 2.5% rate increase. For the initial calculations, they did not assume reaching the ceiling, but they could rerun the numbers if desired. Galardi emphasized the need for Council feedback



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before doing so and highlighted the statutory requirements for notifying interested parties about any changes to the methodology, which must be made available 60 days prior to the public hearing. She proposed returning to this topic after discussing the rates.

Galardi summarized the current rate structure for water services, which included a fixed base charge and minimum usage allowances for residential and commercial customers. A volume charge applied for any usage exceeding these minimums. Shae said the rate adjustment conversation was divided into two main topics: the cost of service analysis and the rate structure. The cost of service analysis evaluated how each customer class could be charged based on the services provided and the principles of cost recovery. It highlighted the need to adjust rates due to expected changes from a capital improvement program. Significant projected increases in capital costs impacted how revenue was distributed among customer classes. The analysis combined industrial and commercial customers into a single non-residential category to reflect similar needs and simplify the rate structure. This approach aimed to average out peak demands among these customers while ensuring that residential customers were not impacted. The projected growth in industrial demand shifted some of the cost burden from residential to non-residential customers. The cost of service analysis indicated that non-residential customers should contribute a greater share of costs based on their usage patterns, while residential contributions might decrease in proportion. However, this shift did not guarantee a decrease in rates for residential customers, as their overall contributions remained substantial.

Anderson noted that the current analysis combined commercial and industrial customer classes, which aligned with the existing approach, as both groups already shared the same rate distinct from residential customers. He highlighted that the last cost of service analysis was conducted in 2006 and pointed out that the revenue allocation had drifted only about 3% from the ideal equity. He interpreted the data as indicating that non-residential customers contributed 51% of revenue under the existing structure, which would increase to 54% with adjusted cost allocations.

Anderson emphasized that this was an opportune moment to implement equitable adjustments to the rate schedule, considering anticipated changes in consumption and usage patterns. He suggested that, given these changes, the cost of service analysis should be conducted more frequently than the current practice of every 20 years. He reiterated the intent to maintain the combination of industrial and commercial classes into a single non-residential user class moving forward.

Galardi emphasized that adjustments to the rates would lead to an increase in the share paid by industrial and commercial users, moving from 51% to 54% due to increased water usage and allocation of costs related to fire protection and other service requirements. She directed attention to the last three columns of the presentation, which illustrated how a proposed overall revenue increase of 7.3% would impact different customer classes. Under the updated cost of service

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analysis, residential rates would rise by approximately 5.5%, while non-residential rates would increase by about 8.5% to 9.5%. This shift highlighted the necessity of aligning costs with services provided, revealing that residential customers would experience a slightly lower increase compared to non-residential customers.

Anderson reiterated that the percentages discussed were based on a low industrial growth scenario, corresponding to the previously mentioned 7.3% revenue increase.

Galardi noted that under the high industrial growth scenario, residential rates would still increase less than non-residential rates. The relative differences between the two would remain consistent, even when recalibrated to reflect the lower overall rate increase of 5.3%.

Runyon asked if low and high industrial growth was in reference to new industries coming into the area. He did not think this would be happening as there was no land available for this.

Anderson said this also referred to the growth from the two new data centers once they ramped up their use.

Galardi highlighted the importance of balancing revenue recovery between the base charge and the volume rate in the context of the cost of service and rate design. She noted that excessive reliance on volume charges could destabilize revenue streams, especially during periods with significant debt service payments. While SIP revenue provided a steady income, it remained essential to ensure that rate revenues were appropriately allocated, with an industry standard suggesting at least 40% of revenue should come from fixed charges. Currently, the structure derived about 52% from fixed charges and 48% from volume. The proposed rate design alternatives aimed to reduce the minimum quantity included in the base charge but were crafted to maintain revenue recovery at or above 40%. Galardi stated that once the Council's preferences on base assumptions were established,

Richardson sought clarification on the status quo regarding usage, specifically asking if it included a volume charge.

Galardi clarified that there is indeed a volume charge in the current structure, with 10,000 gallons included in the residential base charge and 5,000 gallons included for non-residential customers. She said a significant portion of accounts do not exceed the minimum consumption levels, with 70% using less than 10,000 gallons monthly and 52% using under 7,500 gallons on average. Additionally, 40% of customers utilize less than 5,000 gallons, meaning many do not incur a volume charge.

Galardi explained that the rates presented were aligned with the updated cost of service and

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based on the low industrial growth scenario of a 7.3% revenue increase. She noted that while she prepared models for various scenarios, the current presentation focused on this particular framework. Finally, she mentioned that the city had encountered challenges in securing funding, prompting the need for these considerations.

Anderson explained that the City's inclusion of 10,000 gallons in the residential base rate is unusually high, making funding discussions challenging. When securing funds for the Dog River pipeline project through SRF (State Revolving Fund) loans, the funding agency typically assumed a 7,500-gallon threshold. This discrepancy complicated negotiations, as SRF initially wanted to prorate the City's water rate based on a 7,500-gallon usage, affecting the loan terms. However, the City successfully argued that customers pay a flat rate for up to 10,000 gallons. He noted that lowering the base rate volume to 7,500 gallons or less would align with typical utility standards and streamline future funding negotiations. Lowering the base rate could also potentially allow the City to qualify as an economically disadvantaged community for more favorable loan terms. He added that other cities, like Sandy, have used SRF funds to meet match requirements for WIFIA loans, which could provide additional funding options.

Mayor Mays asked whether WIFIA funding had requirements similar to those of the State Revolving Loan Fund, specifically regarding rates or usage requirements. He noted uncertainty around this but suggested it was worth verifying.

Anderson clarified that WIFIA loans carried a single interest rate, without any distinctions based on rate structure or disadvantaged community status.

McGlothlin recalled a prior discussion about volume usage adjustments, initially aimed at promoting greener lawns during summer by setting a higher water allowance. He asked whether reducing this limit to 7,500 gallons or lower would increase revenue, as customers would then pay for usage exceeding the adjusted limit.

Anderson agreed that reducing the base rate allowance would indeed shift more cost onto consumption, making customers reach the consumptive rate sooner. He noted that similar discussions took place about 10-15 years ago, when the base rate included 15,000 gallons, which was subsequently reduced to 10,000. At the time, the City aimed to balance maintaining green lawns without disincentivizing watering. However, the 7,500-gallon threshold now used by funding agencies is a new factor that significantly impacts their considerations for future funding.

McGlothlin highlighted the potential advantage of adjusting the base rate to align with funding agency standards, suggesting it would make sense to address this while reviewing all rates. He recommended considering this alignment when developing the new rate components.

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Anderson pointed out that including such a high volume of water in the base rate is unusual and that the City is an outlier compared to standard utility practices.

McGlothlin expressed confidence that neighbors would appreciate the argument for lowering the base rate, as it is likely to result in significant long-term savings.

Anderson acknowledged that customers have expressed concerns over the years about paying for water they do not use, highlighting that this sentiment is a valid aspect of the discussion regarding rate adjustments.

Galardi presented a table illustrating the proposed reduction in the residential base quantity from 10,000 gallons to 7,500 gallons. She highlighted that the first set of columns reflected a revenue-neutral scenario, meaning the overall revenue from all customers would remain the same. The revised cost of service indicated a lower rate for residential customers compared to the current fiscal year. She explained that this adjustment offered an opportunity to realign the rate structure while softening the impacts on larger volume users, who would face less significant rate increases due to the change. For smaller users, the adjustment could initially result in bill decreases, providing some relief in the first couple of years before future rate increases would apply.

Galardi noted that the FY 2025-26 projections assumed only one year of rate increases, with residential average increases estimated at about 6.8% to 7%. This initial adjustment would allow for some decreases in user bills. She explained that reducing the quantity allowance to 5,000 gallons would effectively cut the base allowance in half, resulting in a slightly lower base rate but a higher volume rate. Under this option, the typical user's bill would see a modest increase, significantly less than the projected 7.5% increase due to the adjustments in the cost of service. However, larger quantity users—such as those using 20,000 gallons in the summer—would face a more pronounced bill increase of approximately 10.8%. Smaller users would benefit even more from this adjustment, as the base charge would decrease by including only five units of water, providing additional financial relief.

Richardson clarified that under both scenarios, the total dollar amount collected would remain approximately the same, while the method of collection would change slightly. He asked if The Public Works Director or City Manager preferred the base amount being 5,000 or 7,500 gallons. Anderson expressed that his primary focus was on facilitating better financing options for the city. He supported the transition from a 10,000-gallon allowance to 7,500 gallons, suggesting that this adjustment would gradually help the community acclimate to a lower baseline. He noted that 7,500 gallons is closer to the typical usage of 4,000 to 5,000 gallons per month, which captures around 70% of water customers. This change could lead to reductions in monthly bills for many residential customers. He said the rates could be reevaluated every three to six years, allowing for potential future adjustments from 7,500 to 5,000 gallons if necessary.

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Klebes concurred with Anderson, expressing difficulty in finding a compelling reason to reduce the allowance to 5,000 gallons.

Anderson noted that even with the proposed adjustment to 7,500 gallons, it would still be considered unusual for communities to include that much water in their base rate.

Galardi noted that Hood River's rate was set at 5,000 gallons, and in their rate comparison, only one other community, West Linn, included a base quantity of around 3,000 gallons. This trend indicated that larger allowances in base rates were becoming less common. However, she emphasized that transitioning to a lower base quantity did not need to happen all at once and could be phased in over time.

Klebes emphasized the importance of considering various decision points and adjustments based on future revenue source assumptions. He acknowledged that implementing any changes would require time to manage public perception and acceptance. Therefore, he suggested minimizing the impact of each change, advocating for a careful approach while reviewing the overall package of adjustments.

Anderson noted that assumptions had been made regarding water conservation as a result of the new consumptive rates. It was expected that as customers began to pay these rates, it might incentivize some to use less water, potentially impacting revenue. He mentioned that the analysis accounted for a 5% reduction in water usage, estimating a decrease of half a percent per year due to these adjustments.

Galardi noted the significance of understanding account distributions under varying rate scenarios, indicating that reducing the base quantity to 5,000 gallons would lead to a larger number of accounts facing increases, with greater peak increases compared to a base of 7,500 gallons. Both scenarios would result in a mix of increases and decreases. She explained the complexities of non-residential billing due to differing meter sizes and usage levels, providing examples for three representative meters. For the three-quarter inch meter, charges would rise from \$44.56 to \$47.16, with larger meters seeing even greater increases due to recalibrated rates. The smallest non-residential bills would experience approximately a 6.8% increase, while medium and large accounts would face higher percentage increases. She emphasized that it is uncommon for non-residential customers to have any volume included in their base rate, as they typically pay only for usage. Initial increases for small customers would be more significant, but future increases would be more consistent across all customers, with expectations of 7% to 8% overall.

Anderson said that for commercial billing, he preferred maintaining the base quantity at 5,000

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gallons. He believed that the smallest businesses, particularly those without irrigation use, would benefit most, as their monthly usage would likely fall within the 2,000 to 3,000-gallon range. He indicated that these businesses could maintain lower monthly bills, potentially as low as \$47 if their usage remained under 5,000 gallons, even after the proposed realignment.

Galardi presented a comparison of residential water bills under the proposed rate adjustments for the first year for a 10,000-gallon-per-month user. She noted that the transition towards a higher volume-based charge will increase bills for high-usage customers, moving them up in the comparative ranking. The presentation highlighted the impact of a projected 7% rate increase, assuming a \$3 million SIP with low industrial usage, and compared this revised bill to current rates in other communities. She highlighted that under the proposed structure, a 10,000-gallon user would see a relative rank increase due to the reduced base charge, whereas a 5,000-gallon user would see a decrease in their bill for the same reason. This structure, she noted, clearly benefits lower-usage customers by lowering their overall costs.

Mayor Mays clarified that, under the 10,000-gallon-per-month scenario, 84% of residential revenue would derive from the fixed charge, while 16% would come from the variable charge. He confirmed that this breakdown includes rate increases needed to fund all planned infrastructure improvements.

Galardi explained that while rates are set to increase, other communities' rates will likely rise as well, though the extent is uncertain. She noted that a 10,000-gallon-per-month user would see a rank increase due to the reduction in the base charge, while a 5,000-gallon user would experience a bill decrease, positioning them below the average. These changes illustrate that the proposed rate structure adjustments would primarily benefit lower-usage customers.

Mayor Mays reviewed the 84% fixed, 16% variable rate scenario, noting that with a 7.3% initial increase, the City would rank 11th out of 25 communities in terms of average water bill size. For a 5,000-gallon-per-month user, where 100% of the charge would be fixed and no variable charge applied, the City would rank 13th out of 25 communities.

Galardi noted that The Dalles' base charge includes a 5,000-gallon allowance, which is uncommon among peer communities, except for Hood River and West Linn. She explained that this structure benefits smaller users by better aligning their costs with those of larger users, as currently, larger users pay comparatively less relative to smaller users and rates in other communities. The proposed adjustments would significantly improve this alignment.

Richardson pointed out that rates have been subsidized by drawing on reserves rather than fully covering costs, noting that this approach has not kept up with expenses.

Galardi presented a comparison of non-residential rates, noting several complexities due to

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variations in meter sizes, volumes, and customer classifications across cities. She highlighted that while current base meter charges for small meters are similar to other cities, larger meters are notably underpriced. Both proposed rate structures recalibrate these charges to align with current standards. Galardi noted that other agencies typically don't include a quantity allowance in their base charge, and while practices differ, The Dalles' rates remain generally lower than those in comparable cities. The proposed "zero base" option would result in larger bill increases for high-volume users. A cost-of-service rate structure would reduce projected rate increases for residential users and yield modest bill reductions for small-volume customers. Initial bill increases would be limited, particularly under options with quantity allowances of 7,500 or 5,000 gallons. Non-residential users would bear a greater share of costs under cost-of-service rates, particularly large users, while the reduction in the quantity allowance would support lower rates for small-volume customers.

Mayor Mays reviewed the preferred scenario with a 7.5% increase, correcting his earlier statement to indicate that 92% of revenue would come from the fixed charge, while 8% would derive from the variable charge. Under this scenario, the City would rank 13<sup>th</sup> out of 24 communities based on bill size.

McGlothlin asked how many large meters were in the City. He expressed the need to better understand the definition of non-residential customers, which he recognized encompassed various businesses and factors.

Anderson mentioned that a definition of industrial customers had been developed to differentiate between industrial and commercial classifications within the non-residential customer base. However, further analysis indicated that it was more beneficial to consolidate these categories again, especially for considerations involving parks.

McGlothlin explained that his inquiry aimed to address fairness in assigning rights to recover operational costs and future capital projects. He emphasized the importance of avoiding the overburdening of any particular class of ratepayers while shifting rate increases. He noted the challenge of effectively communicating any increases or changes to the public, stating that it would require significant effort from the communication department.

Anderson stated that while it was not mentioned in the presentation, the Council might recall that the City had not adjusted water rates for ten years. The last adjustment in 2014 was a 5% reduction. He pointed out that inflation had caught up with the City over the past two years, leading to less money available for reserve funds.

Mayor Mays inquired about the small, medium, and large quantity bills, specifically asking about the assumption that a large bill would exceed 2 million gallons per month. He requested

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information on how many customers used more than 2 million gallons.

Anderson noted that there was one customer approaching 2 million gallons per month, with multiple facilities contributing to this total across various accounts.

Anderson expressed that he was interested in the Council's policy direction regarding assumptions for industrial use. He asked whether the Council preferred a conservative approach with low industrial use, a middle-ground approach, or a more optimistic assumption with high industrial use. He emphasized that this decision would reflect the Council's comfort level concerning the anticipated revenues needed to fund the capital improvement plan and operational costs.

Galardi said there was also the need to determine the timing and specifics of the first rate increase, suggesting it could occur in the first quarter of 2025. She highlighted the importance of choosing rate structure options for both residential and non-residential customers for the Master Plan report. Galardi raised questions about using the \$3 million SIP and whether to adopt low, medium, or high industrial usage assumptions. She advised maintaining fixed charge revenue recovery above 40%, ideally around 50%, and noted that while achieving a 52% recovery rate may be challenging as large industrial users increase their consumption, it could lead to a stable revenue stream once those users are fully operational.

Richardson asked for clarification regarding a previous statement about maintaining a 52% revenue recovery rate. He acknowledged some confusion and sought further explanation on the challenges associated with achieving this rate, particularly in the context of Google's ramp-up in usage.

Galardi explained that in evaluating the rate structure, it is important to consider various objectives such as revenue stability, adequacy, and equity. She noted that as a large user like Google increases its consumption, it significantly impacts the volume side of the financial ledger, which could shift the overall balance of the revenue structure. She clarified that it would be challenging to reduce the portion of revenue coming from base charges due to Google's significant impact on the system and revenue recovery. She emphasized that this impact is not necessarily negative, as it is expected that revenue from Google will remain a relatively stable source, despite being categorized as variable charge revenue.

Runyon stated that he did not care whether the rate was a base of 5,000 or 7,500 gallons and would support whichever the City Manager did. He reiterated that the necessary upgrades to the Wicks Reservoir and Crow Creek Dam were independent of Google's influence and mentioned that he had addressed this issue in the Columbia Connection news. He then inquired about the status of the well that Google had offered from their property.



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Anderson stated that Google was drilling two new wells for the City on property that they would give to the City. He clarified that this was not merely a transfer but a direct provision of resources. Additionally, he mentioned that Google had transferred some of the water rights associated with the original aluminum plant to the City.

Runyon remarked that with the transfer of the wells to the City, it effectively allowed for the possibility of selling the water from those wells back to Google. He said in addition to the transfer of the wells, Google would be contributing SIP and enterprise funds to the community, which warranted effective communication to the public. He inquired whether there had been any estimates regarding how much of Google's water needs would be met by the additional wells from Google's property.

Anderson said that the capacity of the two new wells exceeded the amount of water requested for the two new data centers.

Runyon emphasized the importance of highlighting Google's contributions to water infrastructure improvements that would benefit their facility. He suggested that this point should be consistently included in all communications.

Anderson said Google was covering all the costs associated with infrastructure improvements, including two new wells, two new reservoirs, a booster pump station, and necessary water main enhancements to support the two new data centers. He clarified this funding did not require repayment and was part of an infrastructure agreement valued at an estimated \$28.5 million at the time it was established, which also included a new sewer pump station.

Runyon expressed the necessity of informing the public about key factors related to water infrastructure improvements. He highlighted the importance of developing a clear bullet point list that demonstrates the complexity of the situation and clarifies that it is not solely anyone's fault. Runyon noted that, despite discussions over the years, issues like the Dog River pipeline had only recently gained attention. He raised concerns about why these matters were not addressed earlier, anticipating that this question would arise in public discussions and media coverage.

Anderson explained that the last update of the water master plan occurred in 2006. Although several projects were identified and completed from that plan, including improvements to the water treatment plant and the construction of Vista reservoir and its supporting pump station, the current assessment reflects changing community needs over the next 20 years. He emphasized the importance of updating master plans every 10 years to prevent significant projects from arising unexpectedly. The focus had previously been on the water treatment plant, but a recent thorough condition assessment revealed that existing facilities are nearing the end of their life, making replacement more cost-effective than rehabilitation. He acknowledged that the need for \$200 million in new projects might seem sudden but is based on comprehensive evaluations of

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the infrastructure.

Runyon emphasized the importance of effectively communicating the key points regarding water infrastructure improvements to the public. He noted that as a former radio broadcaster, he understood the significance of presenting clear information and numbers to citizens. Runyon acknowledged the city's past reservoir improvements but expressed that the current situation would likely be perceived as new and possibly lead to misplaced blame. He reiterated that Google's contributions, including infrastructure support and additional water capacity from new wells, should be highlighted, especially since the city has not raised water rates in ten years and has seen reductions in service sizes. He expressed appreciation for having these details available for public discussions.

The Council discussed and reached a consensus on recommendations to present to help the Council make decisions and approve the Water Master Plan. The proposed direction for staff included assuming \$3 million in SIP funding, utilizing a low growth industrial use model, and reallocating rates based on the cost of service. This involved lowering the residential base rate to 7,500 gallons per month while keeping the non-residential base rate at 5,000 gallons. Additionally, implementing a rate increase in the first quarter of 2025. It was noted that the overall revenue increase of 7.3% would not uniformly affect all users, as some may see a reduction in their rates.

Randall raised concerns about the industrial use aspect. He noted that while the initial demand from data centers would likely be significant, there might be long-term reductions in water usage as these facilities implement conservation measures. He inquired whether such efforts to minimize water consumption could impact the projections for long-term industrial water usage.

Anderson confirmed that as data centers become operational, they indeed tend to look for ways to optimize their water usage. He indicated that many of these facilities are increasingly focused on sustainability and efficiency, which can lead to reduced water demands over time. Anderson explained that while the initial consumption may be high, the potential for long-term conservation practices could positively influence the overall projections for industrial water usage. He emphasized the importance of continually monitoring these trends to ensure that the water master plan remains adaptable to changing circumstances.

Long expressed that while rates going up is undesirable, high water usage is also a concern. She noted that it may not be negative if industrial users reduce their water consumption over time, especially during a drought. This reduction could provide an opportunity to gradually adjust technology and rates.

Anderson noted the need for direction on System Development Charges (SDCs). He mentioned

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that the current SDC was \$2,317, while the method could allow for charges exceeding \$9,000. He inquired if there was interest in potentially doubling the current rate, emphasizing that the City's SDCs were low compared to other communities, even when accounting for parks, which had a larger SDC than the city's combined charges.

Mayor Mays stated that, assuming the increase could stifle development, there might be a perception of that consequence. He noted that raising SDCs would likely generate minimal revenue, if any, or potentially zero impact on the discussions that had been held.

Klebes added that the city was completing a housing production strategies effort and noted that there had been comments regarding different tiers for SDCs that might be worth considering for inclusion in the discussion at some point.

Anderson agreed with the previous point and suggested that further discussion might be warranted. He said there was an option to leave SDCs unchanged for now. He highlighted that the plan identified all lands within the urban growth area, not just the City limits, indicating more opportunities than might be assumed. He referred to the housing production strategy and state legislation allowing two houses on a single lot, which could facilitate infill and increase SDC collection for the city.

Mayor Mays asked Council how they felt about SDCs.

Councilors agreed they would like to leave it alone and wait to decide based on the housing production strategy.

Anderson suggested bringing back a rate structure that adjusted the factors used to calculate SDCs. He sought confirmation on whether there was consensus to proceed with this adjustment. He noted that the residential size was already quite close to where it should be and would have actually decreased for larger residential developments.

Council confirmed they agreed with the suggestion.

Anderson noted that the heavy lifting for the last three presentations had been completed. He indicated that, based on the direction received that night, staff would incorporate the feedback into a financial plan as part of the larger master plan. He anticipated having a draft available for public review in November and planned to present the plan to the City Council during a public hearing on December 9. Anderson stated that the Council would have the option to adopt the plan that night if they chose to do so; otherwise, they could reschedule the adoption for January, depending on their direction.

Mayor Mays inquired about the public relations aspect of the plan, asking how it would fit into

the overall strategy regarding timing and substance.

Klebes noted that a cross-functional team, including staff from Public Works, was working on incorporating feedback from the meeting into their communications strategy. They planned to focus on three main areas: the enterprise zone and SIP, educational content regarding the existing water system and its needs, and the integration of revenue usage in relation to rate discussions. He emphasized that the educational components of the water master plan would be rolled out in conjunction with details about SIP and enterprise zone agreements, ensuring a comprehensive approach as they finalized the rate information.

Anderson stated that the talking points mentioned by Councilor Runyon were precisely what the team was working on and crafting as part of their communication strategy.

**ADJOURNMENT**

Being no further business, the meeting adjourned at 8:31 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

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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

NOVEMBER 4, 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

**CALL TO ORDER**

The meeting was called to order by Commissioner Kramer at 5:30 p.m.

**DISCUSSION ITEMS**

Commissioner Kramer opened the joint work session between the Wasco County Commission and The Dalles City Council to discuss recommendations for the Strategic Investment Program (SIP) fund. He said following direction from the last meeting, the work committee had prepared a recommendation using insights from recent City Council and County discussions. He noted that Mayor Mays joined via Zoom, and committee members included Matthew Klebes, Jill Amery, Tyler Stone, and himself. He stated that the City Council had approved both sets of previous work session minutes in the packet, while the County Commissioners still needed to approve the July 23, 2024, joint work session minutes. A motion was requested to complete this approval for the County.

It was moved by Commissioner Brady and seconded by Commissioner Hege to approve the July 23, 2024 Joint Work Session minutes. The motion carried 3 to 0, Brady, Hege, Kramer voting in favor; none opposed; none absent.

City Manager Matthew Klebes provided a summary on the Strategic Investment Program (SIP)

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agreement and its impact on revenue from two data centers. Responding to a request from the last work session, Klebes emphasized that the model presented was a projection based on certain assumptions within the SIP agreement under the Business Oregon State program. He outlined the four revenue streams:

- **Initial Payment:** A \$3 million one-time payment per data center, shared between the City and County.
- **Property Tax Component:** A tax on a portion of the development's value, determined by investment levels (\$25M, \$50M, or \$100M).
- **Community Service Fee:** Set by the State of Oregon, calculated as 25% of the tax savings with a cap at \$2.5 million.
- **Guaranteed Annual Payment (GAP):** A final revenue stream ensuring each data center meets 50% and 60% of their full tax obligations respectively, after accounting for the initial payment, property taxes, and community service fee.

Commissioner Hege asked for clarification on the investment threshold required to reach either the \$50 million or \$100 million levels in the tax rolls under the SIP agreement.

City Manager Matthew Klebes provided an estimated revenue model for the SIP agreement, emphasizing throughout that the figures were based on several assumptions and intended as illustrative only, not for exact projections or budgeting purposes. He explained that each abatement period for the two data centers begins upon receiving a certificate of occupancy, with January 1 as the key date for tax evaluation by the County Assessor and Department of Revenue.

Klebes first presented the following assumptions for the model:

- **Property Tax:** The data centers would pay property taxes based on a portion of their development value, with taxable portions tied to their investment amount (either \$50 million or \$100 million).
- **Community Service Fee:** Assumed to be at the maximum calculation of 25% of tax savings, capped at \$2.5 million per year.
- **GAP Payment:** The calculation of the GAP payment would account for the property tax and community service fee amounts.
- **Investment Value:** The model used a hypothetical investment value of \$600 million per data center for tax calculations.
- **Tax Rate:** Applied a tax rate of \$18.1802 per \$1,000 of assessed value.
- **Depreciation and Reinvestment:** The model did not account for depreciation or reinvestment in subsequent years.
- **Annual Increase:** No assumption was made regarding a 3% annual increase on the property tax portion.

Using these assumptions, Klebes provided this estimate:

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- **Data Center 1** would pay 50% of its full tax obligation, totaling \$5.45 million, derived from \$900,000 in property tax, a \$2.5 million community service fee, and a GAP payment of \$2 million, which is shared between the City and County.
- **Data Center 2** would pay 60% of full tax, equating to \$6.54 million, based on \$900,000 in property tax, a \$2.5 million community service fee, and a GAP payment of \$3.1 million, also shared between the City and County.

Klebes reiterated that these figures reflect hypothetical conditions, with various factors potentially altering the final GAP payment.

Mayor Mays posed two questions regarding the \$600 million data center. He asked whether this amount refers to the assessed property value or if it is strictly the estimated construction cost.

Jill Amery, the Assessor and Tax Collector for Wasco County, stated that for property valuation, three approaches would be utilized: cost, market, and income. She emphasized that all three methods would be reconciled to determine the final assessed value.

Mayor Mays raised concerns regarding the challenges of projecting depreciation and reinvestment over the 15-year period. He questioned whether "reinvestment" referred specifically to Google's investment in servers or if it could also encompass investments in buildings.

Amery noted that in the valuation process, there is collaboration with Google, the Department of Revenue, and her office. She explained that they work together based on reported investments and annual assessments, which include specific details regarding depreciation.

Mayor Mays cautioned participants against making long-term revenue projections for a 15-year period, highlighting the uncertainties involved in such forecasts.

Amery affirmed the City Manager's earlier caution about the assumptions underlying the revenue projections. She expressed her reluctance in providing these numbers, emphasizing that they are only illustrative and should not be relied upon for budgeting or financial planning at this stage, as the actual outcomes remain uncertain.

Councilor Richardson inquired whether the presented estimates could be considered conservative or if they fell within a middle-of-the-road range.

Klebes clarified that the estimate was neither conservative nor middle-of-the-road. He emphasized that the estimate was based on publicly available figures provided by Google regarding their investment in the data center, highlighting the distinction between investment and assessed value.

Councilor Richardson asked for clarification regarding any indications or communications with responsible parties about when evaluation projects might commence.

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Amery noted that the county values all properties every January 1, regardless of their construction status, certificate of occupancy, or operational state.

Matthew Klebes explained that while properties are under construction, they are valued as part of the process. When data centers claim construction in progress, they submit the appropriate forms to both the city and the county. He noted that this was the first Strategic Investment Program (SIP) agreement, and that the first data center had received its certificate of occupancy, triggering the next steps in the valuation process.

Commissioner Hege followed up on the valuation process, asking whether the company constructing the facility provides investment information to the Department of Revenue and Wasco County. He questioned the reliability of that information, using an example of a potentially less reputable company that might claim an investment of \$300 million while actually spending \$1 billion. He inquired whether there was sufficient technical expertise to accurately evaluate such claims and determine the true value of the investment.

Amery confirmed that the Department of Revenue had developed expertise in industrial and central assessment valuation since data centers were first established in Oregon. She explained that companies self-reported their investments, and the Department conducted site visits and audits to verify these claims. She expressed confidence in the Department's capabilities and noted that they had access to inspect the facilities, machinery, and personal property to validate reported numbers.

Commissioner Hege inquired whether there was confidence in the accuracy of the derived numbers regarding data center valuations. He also asked about the latest construction progress, noting that properties were valued annually on January 1, and wondered what the last valuation figure was, assuming it was well over \$100 million at that time.

Amery confirmed confidence in the accuracy and stated there was a building and structure amount in the books that were available on the County system for public review, but that she did not know the exact number.

Commissioner Kramer stated that the purpose of the assembly was to discuss the approach to handling incoming resources, whether they were allocated to specific City or County projects or directed toward shared community goals. Reflecting on discussions in recent work group meetings, he noted that the City and County have differing needs. Consequently, the work group recommended a 50/50 split of SIP funds between the City and County, aligning with past practice. This distribution would enable each entity to prioritize individual needs or savings objectives while collaborating on joint projects as necessary. He said based on discussions with



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the County management team, the County was inclined toward establishing an endowment fund, while the City aimed to move forward with immediate projects. He then invited further discussion on the work committee's recommendation.

Klebes said the team's recommendation had specifically pertained to the allocation of the Initial Payment and the Guaranteed Annual Payment (GAP). He clarified property taxes would continue to be treated according to standard property tax procedures. The Community Service Fee would be allocated per the existing Community Service Fee agreement, which had been established in consultation with various taxing districts, including educational districts.

Councilor Richardson asked if the County management team had developed any conceptual framework for an endowment that they would be willing to share at this point.

Commissioner Kramer said that the priority was to work through the current process and determine the direction before addressing the endowment framework.

Commissioner Hege clarified that the management team Commissioner Kramer referenced was not the County Commission itself. He noted that the Commission had not discussed the endowment concept outside of the current meeting. As a member of the management team, he explained that the team included directors from all County departments.

Councilor Long expressed her support for the recommendation, noting that it aligned with the City's need to address significant infrastructure priorities. She shared her hope that, whether through SIP funds, the Community Service Fee, or another appropriate source, both the City and County would consider providing matching funds to support the school district in building new facilities. She suggested that a timeline could be set to avoid having funds indefinitely tied up, emphasizing that community members needed to see a shared commitment, especially given the repeated bond failures.

Commissioner Hege shared an idea he had heard. He said the only confirmed funding source at that time consisted of the two initial SIP payments, with one already received and the second expected shortly. The proposal suggested using the two initial payments—amounting to \$6 million—as a pledge toward a high school project. This pledge would require the school district to actively pursue the project, with a requirement to achieve success within a specific timeframe, rather than an indefinite commitment. He referenced the community SIP survey, in which over 345 respondents, the highest number, had prioritized school improvements. The survey indicated strong public support for using funds to upgrade facilities, construct new ones, and address seismic safety in schools. By pledging \$6 million to a high school project, the school district could potentially reduce the amount needed from taxpayers, thus aligning with previous discussions around tax relief. He suggested this commitment would be an effective and

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straightforward approach to encourage the school district to move forward on pressing community needs. While not his own idea, Commissioner Hege expressed his support for the proposal.

Mayor Mays expressed his support for District 21, noting that he had been a strong advocate for the district, including during its last bond issue. He shared his general support for directing a portion of Google funds to the school district but emphasized that the district needed to take the initiative by presenting a concrete plan. This plan, he suggested, should outline their intended projects, the required funding, and a clear approach for obtaining the necessary resources.

Commissioner Kramer expressed disappointment with the lack of attendance and then opened the floor to others, asking if anyone had further comments or input.

Commissioner Brady expressed his support for the idea, likening it to a challenge similar to those sometimes issued by the state—offering additional funding if the school district meets certain criteria. He acknowledged the significant budgetary challenges the school district had been facing and suggested that moving forward with this initiative would be appropriate at the right time. He also clarified that the \$6 million pledge would be a shared contribution from both the City and the County.

Commissioner Hege explained that the reason the proposal was compelling was that the initial payments were distinct and certain, while other potential funds were based on estimates and assumptions. The initial payments were the only confirmed funding at this point. He believed acting on this issue would demonstrate to the community that their concerns had been heard and that the City and County were willing to allocate resources to address them.

Mayor Mays clarified Commissioner Kramer's earlier remark about the lack of attendance, asking whether he meant that no one from District 21 was present or that there was no one in the audience at all.

Commissioner Kramer clarified that while the City Council and staff, County staff, and County Commissioners were present, along with Chief Worthy, there were no community members in attendance. He also noted the presence of media representatives Mark Bailey and Rodger Nichols.

Councilor Long acknowledged that the only guaranteed funds were the initial payments. She agreed that the school district needed to present a plan and request for support. She noted by the time the school district finalized their bond plans and before any construction could begin, there would be concrete numbers available, which could guide future commitments. She emphasized that the City had immediate projects requiring attention that would need to be funded with the

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initial payment.

Councilor Richardson proposed that the staff and work group be directed to approach the school district and discuss the possibility of securing a pledge and agreement, potentially in the form of a memorandum of understanding or another suitable instrument, so that the City and County could act.

County Administrative Officer Tyler Stone suggested the City and County have separate discussions within their respective bodies, as there were three school districts in the county, and each may have differing views on the matter.

Commissioner Brady expressed consideration for the County's responsibility to the entire region, noting that there were large renewable energy projects on the horizon that would bring in similar funding. He suggested that, in fairness, some of this funding could be dedicated to South County, where the projects were located.

Klebes commented that the entities involved had already stepped up to support the school district, particularly through the community service fee distribution. He clarified the state SIP process does not require agreement or consultation with education districts for the distribution of the community service fee. He explained that the school district benefits from these funds through the statewide funding formula, with D21 receiving approximately 30% of the community service fee. They had consistently supported the school district from the beginning of the SIP discussions, and that these funds could be used in partnership with the County or City for future efforts, such as a pledge or challenge.

Councilor Long clarified that her earlier comments were not intended to derail the current discussion. She acknowledged that the matters were almost separate and noted that this would be her last meeting with the group to discuss it. She expressed support for the work group's recommendation and emphasized that, even though the group was going in separate directions for now, they could individually contribute funds later.

Councilor Runyon expressed support for the idea of supporting schools but raised concerns about putting a dollar amount on it at this stage. He said the discussion should be revisited later, as there were other pressing issues, such as the need for water infrastructure improvements, that required attention. While he was open to future discussions, he advocated for prudent money management and felt it was premature to commit funds without a clearer understanding of the financial landscape.

Councilor Randall suggested delaying further discussion on funding for the school district until after the upcoming election cycle. The school district had indicated they would begin developing

a plan after the first of the year, and he recommended waiting until they return with a concrete proposal.

Councilor McGlothlin expressed support for proceeding with the current split of funds while keeping the option open to revisit the issue in the future. He acknowledged the complexity and unpredictability of the situation and emphasized the importance of balancing the needs of schools and infrastructure, particularly water systems and streets.

Commissioner Kramer confirmed all Commissioners, Councilors, and Mayor Mays agreed with the 50/50 split of SIP funds. He expressed gratitude for the time and effort put into the discussions, highlighting the positive conversations and good questions that emerged. He acknowledged the work ahead but expressed confidence that with the dedication of the boards, the community would make progress.

**ADJOURNMENT**

Being no further business, the meeting adjourned at 6:12 pm

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Submitted by/ Amie Ell, City Clerk

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

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

**RESOLUTION NO. 24-029**

**A RESOLUTION AUTHORIZING APPLICATION FOR A DRINKING WATER SOURCE PROTECTION GRANT TO FUND THE PURCHASE OF LANDS WITHIN AND ADJACENT TO THE DALLES MUNICIPAL WATERSHED AND COMPLYING WITH GRANT OBLIGATIONS**

**WHEREAS**, the City of The Dalles (**City**) obtains about 80% of its annual water supply from The Dalles Municipal Watershed (**Watershed**);

**WHEREAS**, the City manages lands that it owns within the Watershed primarily for the protection of water quality as a municipal supply for its public water system;

**WHEREAS**, the City has historically sought to acquire privately-owned lands within the Watershed so that they can be managed primarily to protect the quality of its municipal water supply;

**WHEREAS**, the City has entered into a Letter of Understanding with The Conservation Fund, Columbia Land Trust, and Lupine Forest LLC in May 2023, to purchase approximately 3,400 acres of real property owned by Lupine Forest LLC and located within and adjacent to The Dalles Municipal Watershed (**Property**), contingent upon the acquisition of funding for the purchase;

**WHEREAS**, The Conservation Fund has applied to the federal Forest Legacy program for funding to cover 75% of the anticipated purchase price of the Property;

**WHEREAS**, the Drinking Water Source Protection (**DWSP**) Program, administered through the Oregon Watershed Enhancement Board, can provide grant funding to help local jurisdictions fund the acquisition of real property within their watersheds;

**WHEREAS**, the City is eligible to apply for a DWSP grant that could provide the 25% match funding to the Forest Legacy grant and fully fund the purchase of the Property; and

**WHEREAS**, part of the DWSP application process requires the City to include this Resolution authorizing it to fulfill the obligations proposed in its grant application.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**Section 1.** The City Council hereby authorizes the City to fulfill the obligations proposed in its grant application to the Drinking Water Source Protection Program consistent with the provisions of Oregon law, OAR Chapter 695, Division 48, and all other applicable requirements.

**Section 2.** This Resolution is effective upon adoption.

**PASSED AND ADOPTED THIS 25<sup>TH</sup> DAY OF NOVEMBER, 2024,**

Voting **Yes**, Councilors: \_\_\_\_\_  
Voting **No**, Councilors: \_\_\_\_\_  
Absent, **Councilors**: \_\_\_\_\_  
Abstaining, **Councilors**: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 25<sup>TH</sup> DAY OF NOVEMBER, 2024.**

SIGNED:

ATTEST:

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Richard Mays, Mayor

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Amie Ell, CMC, City Clerk



## AGENDA STAFF REPORT

### AGENDA LOCATION: Item #10A

**MEETING DATE:** November 25, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Dale McCabe, PE, City Engineer

**ISSUE:** Recommendation for award of the East 12<sup>th</sup> Street Storm and Sidewalk Improvements, Contract No. 2024-008

**BACKGROUND:** The City of The Dalles Public Works Department advertised for bids for the East 12<sup>th</sup> Street Storm and Sidewalk Improvements, Contract No. 2024-008 project. The scope of work for the project was stated as follows: “The work to be performed shall consist of furnishing all materials, labor and equipment necessary to construct storm drainage and sidewalk improvements along East 12<sup>th</sup> Street. All work will be conducted in accordance with the contract documents.”

The City’s adopted Transportation System Plan and Storm Water Master Plan both identify projects to install infrastructure improvements on East 12<sup>th</sup> Street between Thompson Street and Richmond Street. This project will construct the needed improvements from Thompson Street east, past Morton Street, to a point about 700 feet west of Richmond Street. Any future development of the vacant parcel, near the intersection of East 12<sup>th</sup>, and Richmond Streets, known as Map and Tax Lot# 1N 13E 1C, 201, will be required to extend and install the remaining improvements from the termination point of the improvements related to this project, to Richmond Street.

The Transportation System Plan identifies this segment of E 12<sup>th</sup> Street as a Minor Collector Street. The transportation related improvements to be installed with this project will consist of installing an ADA accessible pedestrian sidewalk along the northern Right-of-Way (ROW) line of this segment of East 12<sup>th</sup> Street. Also, where grades will allow, an 8 feet wide on-street parking lane will be installed adjacent to the newly installed curb and sidewalk section to accommodate for on-street parking.

The Storm Water Master Plan identifies the need to install a storm water collection system that will consist of a 12” main line and associated catch basins. The current typical section of East 12<sup>th</sup> Street consists of a ditch line on the south side of the roadway section, with the paved roadway surface sheet flowing to the north side, to a sub-standard

ditch section, or in some cases, non-existent. Currently when there is a large rain or snow melt event, multiple properties along the north side of East 12<sup>th</sup> Street experience storm water runoff flowing in their driveways. This project will eliminate those experiences from occurring with the installation of the curb/gutter/sidewalk section and the installation of the strategically placed catch basins.

The bid opening for this contract was held on November 14, 2024 at 3:00 pm for which we received seven responsive bids. The bids received were as follows:

1. Crestline Construction, in the amount of \$1,933,455.00
2. James Dean Construction, in the amount of \$1,965,825.00
3. Tapani, Inc., in the amount of \$1,977,865.00
4. Ajax Northwest, in the amount of \$2,065,885.00
5. Swofford Excavating, LLC., in the amount of \$2,200,246.80
6. Corpac Construction Co., in the amount of \$2,202,142.00
7. D & D Concrete and Utilities, in the amount of \$2,485,720.00

The bids were reviewed by City staff to make sure that the proper material was submitted and the bids were deemed complete.

**BUDGET IMPLICATIONS:** This project is to be mostly funded with monies allocated to the City from the American Rescue Plan Act (ARPA). One of the conditions of this funding is that they must be committed for a construction contract by December 31, 2024. Fund 13, the Transportation System Reserve Fund, allocates \$1,612,482 for this project. Also, the installation of the new pedestrian sidewalk is eligible to utilize Transportation SDC funds for which there are \$510,761 available also within Fund 13, which brings the total available funds to \$2,123,243.00. There are adequate funds available for the project.

**COUNCIL ALTERNATIVES:**

1. **Staff Recommendation:** *Authorize the City Manager to enter into contract with Crestline Construction for the East 12<sup>th</sup> Street Storm and Sidewalk Improvements, Contract No. 2024-008, in an amount not to exceed \$1,933,455.00.*
2. Request that staff provide additional information in response to questions raised by City Council.
3. Deny authorization to proceed with the contract.





## AGENDA STAFF REPORT

### AGENDA LOCATION: Item #11A

**MEETING DATE:** November 25, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Matthew Klebes, City Manager  
Jonathan Kara, City Attorney

**ISSUE:** Adoption of General Ordinance No. 24-1408, A General Ordinance Amending Certain Provisions of The Dalles Municipal Code Chapter 8.04 (*Transient Room Tax*)

### **BACKGROUND:**

On February 7, 1977, Council adopted General Ordinance 950 as the City's original transient room tax (TRT) ordinance. Over the last 47 years, that ordinance has been amended at least 9 times but significant portions remain unchanged from their original language.

At Council's September 9, 2024, regular meeting, the City Manager reviewed proposed amendments to the City's TRT ordinance, codified as TDMC Chapter 8.04 (*Transient Room Tax*), as a discussion item. That night, Staff indicated it based its recommended amendments on Council's expressed visioning statement on tourism in our community, some practical operational considerations, legal sufficiency, and current best practices consistent with guidance from the League of Oregon Cities. Tonight, Staff is bringing this matter back for Council's consideration as an Action Item.

Due to Council's expression of generalized support for the proposed revisions at its September 2024 meeting, Staff has not made any changes to the redline Council considered during that Discussion Item (and has attached the very same redline to the proposed Ordinance here as its **Exhibit 1**). The vast majority of the recommended amendments are administrative in nature; to be clear—Staff is not recommending, and the attached proposed Ordinance does not, increasing the tax rate.

As a reminder, some of Staff's key recommended amendments to TDMC Chapter 8.04 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.

Of those 8 major points, Council’s deliberations and input from meeting attendees seemed to focus on #4, which involves amending TDMC 8.04.030 (*Tax Imposed*) by removing outdated project-specific and entity-specific provisions: namely, Council’s discussion seemed focused on the proposed removal of that provision’s mandatory allocation to the Northern Wasco County Parks and Recreation District (**District**) for 25% of all monies the City collects under the TRT ordinance. During the Discussion Item, Council also heard from Wasco County (**County**) representatives who expressed their view of the proposed amendments as being an opportunity to solicit City funding to support the County-owned Kramer Field.

During the September meeting, Staff mentioned its intent was to coordinate funding opportunities with some specific entities (e.g., District, County) based on specific proposals

and to bring those to Council when the key details of such proposals were more defined—that coordination should result in Intergovernmental Funding Agreements reviewed and approved by Council through the City’s budget process. Some feedback received included ensuring such agreements be considered long-term in nature.

Staff understands the 2002 amendment to the TRT ordinance that added the project-specific and entity-specific provision was adopted partially in response to the District’s water consumption needs. Staff intends to structure such funding agreements with the District and County based on covering all costs of water service provided by the City to the District’s parks and County’s Kramer Fields based on the amount each entity budgeted in their respective FY24/25 adopted budget and to include a provision automatically adjusting the City’s contributions commensurate with the City’s future adjustments to its water service rates.

Furthermore, Staff updated the City’s annual **Funding Request for Local Nonprofits and Agencies Program** application to include the following question:

*If applicable, explain how the project is or supports tourism, tourism-related facilities, and/or tourism-promotion (all as defined by ORS 320.300).*

Applications under the Program are due January 31<sup>st</sup> each year and that additional question should provide relevant information for Staff, the City’s Budget Committee, and Council to use in determining if a proposed use may best or most appropriately be supported with TRT/TLT or General Fund resources.

**BUDGET IMPLICATIONS:** None.

**COUNCIL ALTERNATIVES:**

1. **Staff Recommendation:** *Move to adopt General Ordinance No. 24-1408, as presented, by title only.*
2. Make minor modifications to then move to adopt General Ordinance No. 24-1408, as amended, by title only.
3. Make substantive modifications to then move to adopt General Ordinance No. 24-1408, as amended, by title only, contingent on a second approval at a future meeting.
4. Decline formal action and direct Staff accordingly.

**GENERAL ORDINANCE NO. 24-1408**

**AN ORDINANCE AMENDING  
THE DALLES MUNICIPAL CODE  
CHAPTER 8.04 (TRANSIENT ROOM TAX)**

**WHEREAS**, on February 7, 1977, Council adopted General Ordinance 950 as the City’s original transient room tax ordinance, which has been amended at least 9 times since and is currently codified as The Dalles Municipal Code (TDMC) Chapter 8.04 (*Transient Room Tax*);

**WHEREAS**, at its June 10, 2024, regular meeting, Council discussed tourism and its benefits, and further expressed it resonated most with a visioning statement indicating tourism plays an important supportive role for local businesses and supports a balance between hotels, short-term rentals, and other needs of the community;

**WHEREAS**, at its September 9, 2024, regular meeting, Council held a discussion with City staff, representatives from community partners, and members of the hospitality industry concerning proposed amendments to TDMC Chapter 8.04 relating to that visioning statement, practical considerations, legal sufficiency, and current best practices consistent with guidance from the League of Oregon Cities; and

**WHEREAS**, at its November 25, 2024, regular meeting, Council considered those proposed amendments a second time and finds adopting the proposed amendments to TDMC Chapter 8.04 through this Ordinance to support the City’s interests and preserve and protect the public health, safety and welfare.

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

**Section 1** A redline comparison copy of the amendments implemented by this Ordinance’s **Section 2** are attached to and made part of this Ordinance as its **Exhibit 1**.

**Section 2** The Dalles Municipal Code – **Title 8 (Business)**, **Chapter 8.04 (Transient Room Tax)** shall be renamed *Transient Lodging Tax*.

**Section 3** The Dalles Municipal Code – **Title 8 (Business)**, **Chapter 8.04 (Transient Lodging Tax)**, shall be revised to read:

**Sections:**

- 8.04.010 Title.**
- 8.04.020 Definitions.**
- 8.04.030 Tax Imposed.**
- 8.04.040 Tax Collection.**
- 8.04.050 Liability for Tax.**
- 8.04.060 Exemptions.**
- 8.04.070 Registration and Certificates.**

<b>8.04.080</b>	<b>Returns.</b>
<b>8.04.090</b>	<b>Penalties and Interest.</b>
<b>8.04.100</b>	<b>Deficiency Determinations.</b>
<b>8.04.110</b>	<b>Redeterminations.</b>
<b>8.04.120</b>	<b>Security for Tax Collection.</b>
<b>8.04.130</b>	<b>Lien on Property.</b>
<b>8.04.140</b>	<b>Refunds.</b>
<b>8.04.150</b>	<b>Collection Fee.</b>
<b>8.04.160</b>	<b>Administration.</b>
<b>8.04.170</b>	<b>Appeals to City Council.</b>
<b>8.04.180</b>	<b>Severability.</b>
<b>8.04.190</b>	<b>Violations.</b>
<b>8.04.200</b>	<b>Penalties.</b>
<b>8.04.210</b>	<b>Intermediary Fees.</b>

**Chapter 8.04**  
**TRANSIENT LODGING TAX**

**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.

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**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 55.4% 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.

**Section 4** This Ordinance shall be effective 30 days after adoption.

**PASSED AND ADOPTED THIS 25<sup>TH</sup> DAY OF NOVEMBER, 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 25<sup>TH</sup> DAY OF NOVEMBER, 2024.**

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

*ATTEST:*

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

**EXHIBIT 1 to  
GENERAL ORDINANCE NO. 24-1408**

**The Dalles Municipal Code Chapter 8.04  
*Transient ~~Room-Lodging~~ Tax***

**8.04.010 Title.**

This ~~chapter~~ Chapter shall be known as the ~~transient~~ Transient ~~room-Lodging tax~~ Tax ~~ordinance~~ Ordinance of the City of The Dalles.

**8.04.020 Definitions.**

Except where the context otherwise requires, the definitions given in this ~~section~~ Section govern the construction of this ~~chapter~~ Chapter.

~~“Accrual accounting” 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.~~

~~“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 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.~~

A. “Collector” means a provider or intermediary.

A.B. “Hosting platform” means a person or entity that participates in the short-term rental business by collecting or receiving a fee for booking services through which a host may offer a transient lodging facility. Hosting platforms usually, though not necessarily, provide booking services through an online platform that allows a host to advertise the transient lodging through a website provided by the hosting platform and provides a

~~means for the hosting platform to conduct a transaction by which the prospective occupants arrange transient lodging and payment, whether the occupant pays rent directly to the host or to the hosting platform~~ 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.

~~B.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.~~

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.

~~C.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.~~

~~D. “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.~~

~~E.I. “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~~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:~~

- ~~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 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~~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 with the rent to the ~~operator~~collector of the transient lodging facility at the time the rent is paid. Tax amounts shall be rounded down to the nearest cent. 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.~~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.

~~A.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). ~~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.~~

#### **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. For purposes of this Section, 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,~~ payment is made at the time credit card information is provided to the ~~transient lodging tax~~ collector, regardless of ~~not~~ 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 as described in Section 8.04.150 (Administrative Fee)~~authorized to be retained.~~ 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. In all cases of credit or deferred 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 collector is liable for any tax that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant.~~

~~C.B.~~ Under the supervision of the City Manager, the tax administrator shall ~~enforce~~ administer the provisions of this ~~chapter~~ Chapter and shall have the power to adopt rules and regulations not inconsistent with this ~~chapter~~ 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 ~~each the such location~~ facility's collection of the tax.

#### 8.04.050 ~~0~~ Liability for Tax.

~~Operators~~ 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.~~and hosting platforms that provide booking services 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~~ 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 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 An employee of the federal government, while on federal business, whose room is procured and paid for directly 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.~~
- ~~E.—Non-profit, governmental, or charitable organization and connected with their temporary housing assistance programs, s which provide a voucher for temporary housing assistance.~~
- D.
- ~~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~~all dwelling units are occupied within the same facility; and
  2. ~~The~~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 and 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~~ Chapter. ~~Transient lodging p~~ 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 the provider for their collection of the ~~transient room~~ 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~~ 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~~ the name of the ~~transient lodging~~ provider;
2. ~~The~~ the address of the transient lodging facility;
3. ~~The~~ 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-Transient room-Lodging tax-Tax ordinance-Ordinance~~ of the City of The Dalles (The Dalles Municipal Code Chapter 8.04) by ~~registration-registering~~ with the tax administrator for the purpose of collecting from occupants the transient lodging room 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~~ Returns.**

A. Tax Paid. The tax imposed by this ~~chapter~~ 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-all amounts of such taxes collected by any ~~operator-collector~~ are held in trust and 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 ~~three~~ one 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~~ Chapter.
- F. Other Returns. The tax administrator, if ~~he or she~~ they deems 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~~ 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~~ 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~~ Chapter is ~~due~~ connected with ~~to~~ fraudulent activity or ~~the~~ -intent to evade ~~its~~ the provisions ~~thereof~~, a penalty of 25% of the tax will be added in addition to the penalties stated in ~~subsections~~ subsections A and B of this ~~section~~ Section ~~and~~ and the interest as stated in ~~subsection~~ subsection D of this ~~section~~ 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~~ 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~~ 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~~ 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~~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~~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 and Evasion—Refusal to Collect—Evasion.~~ If any ~~operator~~collector shall fail or refuse to collect ~~said~~the tax or to make, within the time provided in this ~~chapter~~Chapter, any report and/or remittance of tax or any portion thereof required by this ~~chapter~~Chapter, or makes a fraudulent return or otherwise ~~will~~fully attempts to evade this ~~chapter~~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 the~~If the tax administrator ~~has~~determines~~d~~ 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~~Chapter. ~~In case~~f 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~~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 8.04.100 hereof~~10 days or such determination becomes final after that time. ~~If a petition for redetermination and refund is not filed within the time required in Section 8.04.100, the determination becomes final at the expiration of the allowable 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 ~~them~~him or her 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 i.~~ 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~~they deems it necessary to ~~insure~~ensure compliance with this ~~chapter~~Chapter, may require any ~~operator~~collector ~~subject thereto~~ 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 upon a showing of good cause by the collector; ~~subject to the limitations herein provided.~~
- 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-the~~ tax imposed by this ~~chapter~~ Chapter (together with the interest and penalties herein provided and the filing, recording, and advertising costs ~~fees paid the Clerk of Wasco County, and the advertising costs which may be~~ incurred by the City when the same becomes delinquent) ~~it 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 Wasco County Clerk- or on the City's electronic lien docket ~~of Wasco County, Oregon. The lien shall be superior to all subsequently recorded liens 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.~~

~~A.~~ 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.

~~B.~~ 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~~ personal property subject to the lien may be foreclosed in the ~~same~~ manner specified in ORS Chapter 87 as a for nonpossessory chattel liens; real property subject to the lien may be foreclosed in the manner specified in ORS 223.505 through 223.595, for labor or material expended on chattel in ORS Chapter 87 or as otherwise consistent with the practices used for foreclosing other liens on the City's electronic lien docket. ~~When the tax administrator files a notice of claim of lien with the Wasco County Clerk, the tax administrator shall send a copy of the notice to the operator of the transient lodging facility and the owner of the chattel (if different from the operator of the transient lodging facility) by certified mail at their last known address.~~

~~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. Refunds by City to Collector. ~~Operators' Refunds.~~ 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. ~~Whenever the amount of any 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 claim in writing therefore, stating the specific reason upon which 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. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balance may be refunded him or her or his/her personal representative or assigns.~~

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.

~~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~~ 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~~55.4% 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 each transaction involving rent and/or collection of the tax. room or space rentals, and accounting books and records of the room or space rentals. All ~~these~~ such records shall be retained by the ~~operator-provider~~ for at least period of 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 administrator designee may examine, during normal business hours, ~~the books, papers and all~~ records relating to receipt of rent, tax, and remittance of tax. The tax administrator or designee ~~room or space rentals of any operator after notification to the operator liable for the tax, and~~ 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~~ Chapter, conduct audits on an annual basis, and to adopt rules, regulations, and forms consistent with this ~~chapter~~ 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 if requested by of a transient lodging tax collector. As with respect to such a collector to whom such an interpretation is issued, the transient lodging tax collector to whom the 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—Disclosure Unlawful. Neither the tax administrator nor any person having an administrative or clerical duty under the provisions of this ~~chapter~~ Chapter shall disclose in any manner any information concerning the business affairs and operations of a collector n-operator obtained through an investigation of any person subject to the provisions of this ~~chapter~~ 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, that~~ nothing in this ~~subsection~~ shall be construed to prevent:

1. ~~The~~ 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 of this ~~chapter~~ Chapter (or collecting taxes imposed hereunder) or other Chapters of The Dalles Municipal Code; ~~or collecting taxes imposed hereunder.~~
2. ~~The~~ 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.~~
3. ~~The disclosure of the names and addresses of any persons to whom a transient lodging occupancy registration certificate has been issued.~~
2. ~~The disclosure of general statistics regarding taxes collected or business done in the City.~~ 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
- 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 than ~~10~~ 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~~Section, ~~subsection~~subsection, paragraph, sentence, clause, or phrase of this ~~chapter~~Chapter, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not ~~affect~~impact the validity of the remaining portions of this ~~chapter~~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~~Chapter.

#### **8.04.200 Penalties.**

A. Willful Violations. Any person willfully violating any of the provisions of this ~~chapter~~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.

~~A.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~~Intermediary-Platform Fees.**

A ~~hosting platform~~n intermediary for short-term rentals may collect a fee ~~for booking services~~ in connection with ~~short-term rentals~~a transient lodging facility only when ~~those short-term rentals~~that transient lodging facility ~~are~~is lawfully registered ~~as operators~~ with ~~the City~~ and 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.



## AGENDA STAFF REPORT

**AGENDA LOCATION:** Item #11B

**MEETING DATE:** November 25, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Joshua Chandler, Community Development Director  
Sandy Freund, Senior Planner

**ISSUE:** FEMA: Pre-Implementation Compliance Measures (PICM)

**BACKGROUND:** Federal Emergency Management Agency (FEMA) Region 10 issued a mandate for National Flood Insurance Program (NFIP) participating jurisdictions to implement 1 of 3 Pre-Implementation Compliance Measures (PICM) by July 31, 2025, a mandate impacting 239 Oregon communities within 31 counties. The purpose of the PICM is to support ongoing survival of threatened or endangered species in accordance with the Endangered Species Act (ESA).

For background: in 2009, environmental groups sued FEMA for failing to consult with the National Marine Fisheries Service (NMFS) about the NFIP's impact on endangered species. FEMA settled those cases by consulting NMFS, which issued a 2016 Biological Opinion (BiOp) finding the NFIP threatens several ESA-listed species and included mitigation recommendations. In 2023, environmental groups again filed a lawsuit over FEMA's slow progress in implementing the BiOp. In response, FEMA announced PICM in 2024 to bridge the gap until it can fully implement its plan (slated for 2027).

Accordingly, FEMA is requiring all impacted jurisdictions, including the City, to select 1 of the 3 PICM options no later than December 1, 2024:

1. *Model Ordinance.* Adopting a model ordinance incorporating the ESA requirements into the City's Land Use and Development Ordinance (LUDO).
2. *Permit-by-permit.* Requiring permit applicants intending on developing in the floodplain to complete a *Floodplain Habitat Assessment and Mitigation Plan* documenting how their proposed development in the Special Flood Hazard Area (SFHA) will achieve "no-net-loss".

3. *Prohibit all new development in the floodplain.* A complete ban on development in certain areas of the City.

Several Oregon communities have informed FEMA that fully implementing those measures will require extensive community engagement, notifications, and a comprehensive public hearing process consistent with Oregon land use law.

In addition to the PICM requirements, FEMA has been working on updating the original 1984 flood maps for our region. That process began in 2014 and is expected to be complete by late 2025 or early 2026. Until the new flood maps are finalized, federal law requires the City to continue using the 1984 flood maps for assessing floodplain-related activities. Based on our 1984 flood maps, **155 properties** within The Dalles Urban Growth Boundary are identified as within the SFHA. Once the updated map is adopted, **122 additional properties** will be added to the SFHA and while **22 properties** will be removed. Overall, the updated flood maps will impact **approximately 300 properties**.

In July 2024, FEMA sent notification letters of the PICM requirements to NFIP-participating communities within its Region 10—which includes all properties within the SFHA—directing compliance with FEMA’s “no-net-loss to floodplain functions standard”, which itself requires each of those communities to select 1 of 3 PICMs by December 1, 2024 (see **Attachment 1**).

**Timeline expectations from FEMA:**

<b>DATE</b>	<b>ACTION</b>
December 1, 2024	Communities must select a PICM pathway.*
January 31, 2025	Communities collect data on PICM Implementation and prepare report for FEMA.
July 31, 2025	Communities implement the Model Ordinance if that was their chosen PICM pathway and were unable to implement by December 1, 2024.
January 31, 2026	Communities send first report to FEMA.**

*\* If the Model Ordinance approach is selected but not fully implemented by December 1, 2024, the community must either implement the Permit-by-Permit approach or prohibit all new development in the SHFA until full implementation of the Model Ordinance by July 31, 2025.*

*\*\* FEMA will provide a reporting tool or a community visit to satisfy this requirement.*

**Comparison of Options**

- *Model Ordinance.* The draft model ordinance (attached to and made part of this Staff Report as its **Attachment 2**) was prepared by FEMA to align with its Draft Implementation Plan. The model ordinance is based on the 2020 *Oregon Model Flood Hazard Management Ordinance* and the 2018 *Oregon Model Ordinance for ESA Integration*. The model ordinance focuses on mitigating development impacts within the SFHA to ensure “no net loss of floodplain functions,” with measurable requirements for mitigation. While the model ordinance provides those standards, each community must adapt it to local needs and meet Oregon

land use law by including only clear and objective housing standards. ***Staff is recommending this Option.***

- *Permit-by-permit.* This Option requires a habitat assessment report for development projects in the SFHA to evaluate their impact on existing habitats and ensure compliance with the ESA and the NFIP. That report would identify on-site floodplain functions and outline mitigation measures to minimize impacts and maintain ESA compliance. While typically prepared by a qualified professional, FEMA believes it can be completed with minimal assistance by someone familiar with a given property as an additional step in the site development process. Staff has provided a sample habitat assessment report for reference and a step-by-step analysis of a sample habitat assessment analysis in **Attachments 3 and 4.**
- *Prohibit all new development in the floodplain.* This Option prohibits all new development in the SFHA. ***Staff does not recommend this option.***

### **No-Net-Loss**

Adopting either the model ordinance or permit-by-permit Options requires the City to meet the “no-net-loss” standard for floodplain functions. For the permit-by-permit process, applicants must prepare a habitat assessment report analyzing a project’s impact on the floodplain and identifying necessary mitigation measures to protect floodplain storage, water quality, and vegetation. Additionally, Sections 6.0 and 6.1 of the model ordinance outline the standards for protecting SFHA floodplain functions and ensuring no-net-loss: at a minimum, all of Section 6 must be incorporated into the LUDO in the event the model ordinance option is implemented.

### **Failure to Comply:**

FEMA has stated the following could occur if the City does not timely comply with the directive:

- FEMA compliance visit (i.e., an audit of floodplain development)
- Suspension from the NFIP
- Loss of availability of NFIP insurance policies
- No consideration for disaster relief funding

### **Next Steps:**

Staff recommends Council select and implement the model ordinance Option as soon as possible while recognizing the permit-by-permit Option will remain the default pathway until the City’s ordinance amending the LUDO becomes effective. All Options require notification to all impacted properties consistent with Ballot Measure 56 (which requires notice when the City’s restricts certain uses in its zoning districts). Given the ongoing flood map update, Staff intends to notify all property owners within the SFHA—including those currently in the floodplain (per the 1984 map), those newly included, and those that will be removed once the updated maps are finalized by FEMA in 2025-26.

Staff is prepared to begin implementation of the selected Option expeditiously and is targeting late winter 2025 or spring 2026 for full implementation.

**RECOMMENDATION:**

1. ***Staff recommendation: Move to direct staff to notify FEMA Region 10 of the City's intent to begin the implementation process of the Model Ordinance Option no later than December 1, 2024.***
2. Move to direct Staff to notify FEMA Region 10 of the City's intent to begin implementing the permit-by-permit Option no later than December 1, 2024.
3. Move to direct Staff to notify FEMA Region 10 of the City's intent to prohibit all development in the SFHA no later than December 1, 2024.

**ATTACHMENTS:**

- **Attachment 1:** FEMA notification letter to the City of The Dalles
- **Attachment 2:** NFIP Oregon Implementation Program Guidance Model Floodplain Management Ordinance
- **Attachment 3:** Example of PICM Habitat Assessment as provided by FEMA
- **Attachment 4:** Example of Analysis of Sample Habitat Assessment as provided by FEMA
- **Attachment 5:** Oregon Delegation letter to the Administrator of United States Federal Emergency Management Agency



FEMA

July 15, 2024

Richard Mays  
City Hall  
313 Court Street  
The Dalles, Oregon 97058

Dear Richard Mays:

The purpose of this letter is to announce the start of the United States Department of Homeland Security's Federal Emergency Management Agency's (FEMA) Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program (NFIP) participating communities in Oregon. The intent of PICM is to ensure the continued existence of threatened or endangered species in compliance with the Endangered Species Act (ESA). These measures include coordination with communities to provide appropriate technical assistance, help identify available resources, deliver trainings, and facilitate workshops to ensure on-going community participation in the NFIP. These pre-implementation compliance measures will assist communities in preparing for the Final NFIP-ESA Implementation Plan by helping them develop short and long-term solutions to ensure their on-going participation in the NFIP.

FEMA is currently conducting a National Environmental Policy Act (NEPA) evaluation of impacts associated with the Oregon NFIP-ESA Implementation Plan. FEMA developed this plan, in part, due to a Biological Opinion in 2016 from National Marine Fisheries Services. The Biological Opinion recommended specific measures for FEMA to take to avoid jeopardizing endangered species, including interim compliance measures. The release of the Final Implementation Plan (Plan) is anticipated by 2026, following the Record of Decision in the Environmental Impact Statement (EIS) process, then FEMA will fully implement the Plan in 2027.

FEMA has heard concerns from several communities regarding challenges they are facing to meet the expectations of this Plan. To provide communities with the support needed to incorporate ESA considerations to their permitting of development in the floodplain, FEMA will inform, educate, and support our Oregon NFIP participating communities through the PICM before the Final Implementation Plan is released.

NFIP participating communities in Oregon must select one of the PICM pathways which include the following: (1) adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard; (2) choose to require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or (3) putting in place a prohibition on floodplain development in the Special Flood Hazard Area (SFHA). Communities must pick a PICM pathway by December 1, 2024. If a community fails to inform FEMA of its selection, they will default to the permit-by-permit PICM pathway. Communities will be required to report their floodplain development activities to FEMA beginning in January of 2025. Failure to report may result in a

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 July 15 2024  
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compliance visit.

As a part of the PICM, FEMA will implement a delay in the processing of two types of Letters of Map Changes in the Oregon NFIP-ESA Implementation Plan area, specifically Letters of Map Changes associated with the placement of fill in the floodplain: Conditional Letter of Map Revision Based on Fill (CLOMR-F) and Letter of Map Revision Based on Fill (LOMR-F) requests. This action was specifically requested by NMFS in their 2016 Biological Opinion and serves to remove any perceived programmatic incentive of using fill in the floodplain. This delay in processing will begin on August 1, 2024, and will be in place until the Final Implementation Plan is released.

Your community's ongoing participation in the NFIP is critical, as it provides access to flood insurance for property owners, renters, and businesses. In City Of The Dalles there are currently 12 of NFIP policies in force representing \$3924000 in coverage for your community.

FEMA will be conducting informational virtual webinars this summer to provide an overview and status update for the Oregon NFIP-ESA integration, introduce the Pre-Implementation Compliance Measures, and provide an opportunity for Oregon NFIP floodplain managers to ask questions of FEMA staff. In the fall, FEMA will hold workshops to provide in-depth opportunities for local technical staff to work with FEMA technical staff, to understand and discuss issues relating to the PICM.

The webinars will be held virtually over Zoom. The information at each webinar is the same so your jurisdiction only needs to attend one. You can register for a webinar using the links below.

- Wednesday, July 31 at 3-5pm PT: <https://kearnswest.zoom.us/meeting/register/tZEkc-murjstGdPJiFioethjRk-id8N-k0hj>
- Tuesday, August 13 at 9:30-11:30am PT: <https://kearnswest.zoom.us/meeting/register/tZAod-isrTsqGN0KqckRLPPeaZuu4rv96lcR>
- Thursday, August 15 at 2-4pm PT: [https://kearnswest.zoom.us/meeting/register/tZlqcOGpqDojHtTXaa946aI9dMpCTcJIH\\_zt](https://kearnswest.zoom.us/meeting/register/tZlqcOGpqDojHtTXaa946aI9dMpCTcJIH_zt)
- Wednesday, August 21 at 12:30-2:30pm PT: <https://kearnswest.zoom.us/meeting/register/tZYqcuGsrD8rH9DZO22vG0v9KrNzVeUZA9gY>

FEMA will also develop a questionnaire to allow communities to identify how they currently incorporate or plan to incorporate ESA considerations, both in the short-term and long-term. To assist communities in making this determination, FEMA will be offering guidance on the potential pathways that help ensure current compliance. Communities will also be asked to help identify what technical assistance and training would be most beneficial. Feedback from this questionnaire will drive FEMA's engagement and outreach.

Upon completion of the Environmental Impact Statement review and determination, the Final Implementation Plan will be distributed along with several guidance documents and a series of Frequently Asked Questions. FEMA will also be starting NFIP Compliance Audits, in which we will be reviewing permits issued by communities for development in the floodplain and will expect the community to be able to demonstrate what actions are being taken to address ESA considerations.

If you have any questions, please contact us through our project email address [fema-r10-mit-](mailto:fema-r10-mit-)

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[PICM@fema.dhs.gov](mailto:PICM@fema.dhs.gov). Thank you for your community's on-going efforts to reduce flood risk in your community and for your support as we worked toward these milestones.

Sincerely,



Willie G. Nunn  
Regional Administrator  
FEMA Region 10

cc: JoshuaChandler, City Of The Dalles  
John Graves, Floodplain Management and Insurance Branch Chief  
Deanna Wright, Oregon State National Flood Insurance Program Coordinator

Enclosure: Pre-Implementation Compliance Measures Fact Sheet



## Oregon National Flood Insurance Program Endangered Species Act Integration

# Pre-Implementation Compliance Measures Overview

Beginning this summer, FEMA will assist communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon.

### Why are the changes needed?

As the result of a Biological Opinion issued by the National Marine Fisheries Service, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in Special Flood Hazard Areas. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA). FEMA outlined these changes in the [draft Oregon NFIP-ESA Implementation Plan](#).



The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.

### Current status

FEMA is evaluating proposed changes to the NFIP outlined in the Implementation Plan through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).

**What is “no net loss”?**  
Any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities need to begin taking action to protect habitat and achieve “no net loss.” FEMA is offering several resources for communities to learn more and implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

### Timeline for Updating the Oregon NFIP



## What can communities do to comply with these changes?

Oregon communities participating in the NFIP can take short-term measures to comply with ESA requirements, known as PICMs. FEMA developed these measures in response to concerns from communities about the time and resources needed to meet requirements and ensure their future good standing in the NFIP. By implementing these measures now, communities will be better prepared for compliance audits, which will begin when the Final Implementation Plan is in place.

Communities can select one of the following three PICMs:

- Prohibit all new development in the floodplain.
- Incorporate the ESA into local floodplain ordinances.
- Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve “no net loss.”

Communities must report to FEMA on their implementation of interim measures.

In addition to the above measures, as of August 1, 2024, FEMA is temporarily suspending processing applications for Letters of Map Revision based on Fill (LOMR-Fs) and Conditional Letters of Map Revision based on Fill (CLOMR-Fs) in NFIP communities to avoid potentially negative effects on ESA-listed species.

## FEMA is here to support your community.

FEMA is offering several resources to assist communities in preparing for the Oregon NFIP-ESA Implementation Plan.

- **Informational Webinars (Summer 2024):** Learn about what FEMA is doing to revise the Implementation Plan and receive an introduction to the PICMs.
- **Questionnaire (Summer 2024):** Share what floodplain management measures your community is currently implementing to comply with the ESA, which PICMs you’re most interested in, and what support you need. Your feedback will help us plan the fall workshops and identify needs for technical assistance.
- **Workshops (Fall 2024):** Get an in-depth look at PICMs and talk through questions and concerns with FEMA staff.
- **Technical Assistance (Begins in Fall 2024):** Get support from FEMA to begin implementing PICMs.

### Learn more and participate

Visit [www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration](https://www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration) to read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at [FEMA-R10-MIT-PICM@fema.dhs.gov](mailto:FEMA-R10-MIT-PICM@fema.dhs.gov)





NFIP Oregon Implementation Program Guidance

# Model Floodplain Management Ordinance

For Participating Communities in the  
Implementation Plan Area



**FEMA**

Federal Emergency Management Agency  
Region 10  
Department of Homeland Security  
130 - 228<sup>th</sup> Street SW  
Bothell, WA 98021

Note to Communities: This document presents the draft model ordinance that for the Pre-Implementation Compliance Measures and is intended to closely represent most of the language that will be presented as Pathway A of the Draft Implementation Plan. It is built off the 2020 State of Oregon Model Flood Hazard Management Ordinance and the 2018 iteration of the Oregon Model ordinance for ESA Integration. It reflects the NMFS 2016 Biological Opinion (BiOp) (except where noted) and is informed by the 2023 NEPA Scoping effort.

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## Acronyms and Abbreviations

BiOp	Biological Opinion
CFR	Code of Federal Regulations
CLOMR	Conditional Letter of Map Revision
CRS	Community Rating System
dbh	diameter breast height
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
LID	Low-Impact Development
LOMR	Letter of Map Revision
MHHW	Marine Higher-High Water line
NFIP	National Flood Insurance Program
NMFS	National Marine Fisheries Service
OHWL	Ordinary High Water Mark
ORS	Oregon Revised Statutes
ORSC	Oregon Residential Specialty Code
OSSC	Oregon Structural Specialty Code
RBZ	Riparian buffer zone
SFHA	Special Flood Hazard Area
TB	Technical Bulletin

# SECTION 1. Introduction

FEMA has developed this model flood hazard management ordinance (“2024 model ordinance”) to address the requirements outlined in the Draft Implementation Plan for National Flood Insurance Program (NFIP)-Endangered Species Act (ESA) Integration in Oregon (“Oregon Implementation Plan”). The Federal Emergency Management Agency (FEMA) consulted with the National Marine Fisheries Service (NMFS) on potential effects of the implementation of the NFIP in Oregon on listed species under NMFS authority. In 2016, NMFS issued a Biological Opinion (BiOp), which recommended changes to the implementation of the NFIP in Oregon within the plan area (see the 2024 Draft Oregon Implementation Plan for NFIP-ESA Integration [2024 Draft Implementation Plan] for a description of the plan area).

As a result of the BiOp issued by NMFS, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in the SFHA while the 2024 Draft Implementation Plan undergoes an Environmental Impact Statement (EIS). The 2024 model ordinance provides the tools a community would need to implement “Path A” of the 2024 Draft Implementation Plan and serves as one of three actions a community can take under Pre-Implementation Compliance Measures (PICM).

The regulatory language contained within the 2024 model ordinance can be adopted verbatim and incorporated into local floodplain and land use regulations, or a community may select those sections that are missing from its current floodplain ordinance and adopt those sections. The State of Oregon’s Model Flood Hazard Management Ordinance (2020) was used as a starting point, with additions to provide compliance with the Oregon Implementation Plan. The additional sections are clearly noted with yellow highlighting to simplify implementation for Oregon communities in the plan area that have already adopted the Oregon Model Flood Hazard Management Ordinance (2020).

This 2024 model ordinance provides a set of provisions to protect the built environment from flood damage and to minimize potential impacts of construction and reconstruction on public health and safety, property, water quality, and aquatic and riparian habitats. The requirements pertain to new development in Special Flood Hazard Area (see definitions), which includes the maintenance, repair, or remodel of existing structures and utilities when the existing footprint is expanded and/or the floodplain is further encroached upon.

The Oregon Implementation Plan and this model ordinance do not change the definition of development in 44 Code of Federal Regulations [CFR] 59.1.

“Development” is defined as “any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.” (44 C.F.R. 59.1)

The 2024 model ordinance provides compliance with federal and state statutes and with the Oregon Implementation Plan. The 2024 model ordinance conforms to the following:

- 37 1. The requirements of the NFIP, as specified in 44 CFR 59 and 60.
- 38 2. Oregon State codes to protect structures from flood damage that are specified in Oregon  
39 Structural Specialty Code (OSSC), Section 1612 and Oregon Residential Specialty Code  
40 (ORSC), Section R322.
- 41 3. Oregon Statewide Land Use Planning Goals
- 42 4. Provisions needed to meet the requirements of the Oregon Implementation Plan for NFIP-ESA  
43 Integration. These sections are highlighted in yellow in the model ordinance.

44 This 2024 model ordinance provides communities with ordinance language that complies with the  
45 NFIP-ESA Integration Implementation Plan. Adoption of the ordinance language will ensure  
46 compliance with the minimum standards for participation in the NFIP in the plan area in Oregon.  
47 Prior to adoption of the ordinance language, communities must have their locally proposed draft  
48 language reviewed by FEMA and/or the Oregon Department of Land Conservation and Development.

49 The model flood hazard ordinance includes standards and provisions that encourage sound  
50 floodplain management. The language is based on the minimum requirements of the NFIP found in  
51 44 CFR 59 and 60, Oregon's statewide land use planning Goal 7, and Oregon specialty codes. The  
52 new language added to the state model floodplain ordinance, highlighted in yellow, provides  
53 compliance with the ESA for floodplain development in the plan area.

54 Adherent to the NMFS 2016 Biological Opinion, mitigation is necessary to ensure a no net loss in  
55 floodplain functions. FEMA's 2024 Draft Oregon Implementation Plan identifies proxies that provide  
56 measurable actions that can prevent the no net loss of the parent floodplain functions. These  
57 proxies include undeveloped space, pervious surfaces, and trees to account for a no net loss in  
58 respective floodplain functions of floodplain storage, water quality, and vegetation. Mitigation of  
59 these proxies must be completed to ensure compliance with no net loss standards. No net loss  
60 applies to the net change in floodplain functions as compared to existing conditions at the time of  
61 proposed development and mitigation must be addressed to the floodplain function that is receiving  
62 the detrimental impact.

### 63 **1.1. How to Use this Document**

64 This 2024 model ordinance includes a Table of Contents and a Regulatory Crosswalk that identifies  
65 the federal and state standards that align to and are reflected in each section. Communities will  
66 need to review their ordinances and ensure that all the required components are included.

67 Please refer to [FEMA's website](#) for information on how to determine whether or not your community  
68 is within the plan area.



69 **1.1.1. ORDINANCE LANGUAGE LEGEND:**

70 The colors are used in the text in the model ordinance to denote specific actions or sections with  
71 specific applicability.

- 72 • Black: Represents the existing NFIP and current state minimum requirements that are found  
73 in the 2020 Oregon Model Flood Hazard Management Ordinance.
- 74 • Red: Represents language that must be replaced with community specific information. Only  
75 include the appropriate language for your community.
- 76 • Purple: Represents language required for communities with Coastal High Hazard Areas  
77 mapped by FEMA (V Zones or Coastal A Zones). (*DELETE ALL PURPLE LANGUAGE IF NOT A*  
78 *COASTAL COMMUNITY*).
- 79 • Blue: Represents hyperlinks to other sections of the document or external websites.
- 80 • Yellow highlighting: Represents new ordinance language not in the 2020 Oregon Model Flood  
81 Hazard Management Ordinance. Communities that have previously adopted the state model  
82 ordinance may focus on the yellow highlighted sections.

83 **1.2. Changes from the 2020 Oregon Model Flood Hazard Management**  
84 **Ordinance**

85 This 2024 version of the Oregon Model Flood Hazard Ordinance (to be referred to herein as the  
86 “2024 Model Ordinance”), varies from the 2020 Oregon Model Flood Hazard Management  
87 Ordinance. with the addition of new content to be included for ESA compliance for NFIP-participating  
88 communities in the plan area. If no part of the Special Flood Hazard Area (SFHA) in your NFIP-  
89 participating community is in the Oregon NFIP-ESA Integration plan area, your community may  
90 continue to use the 2020 Oregon Model Flood Hazard Management Ordinance.

91 In general, the ordinance was revised to ensure that the implementation of the NFIP-ESA integration  
92 no net loss standards avoids or offsets adverse impacts on threatened and endangered species and  
93 their critical habitat. A summary of the primary changes found in the 2024 model ordinance is  
94 provided below:

- 95 1. New language has been added to incorporate the following no net loss standards:
  - 96 a. No net loss of undeveloped space (see Section 6.1.1).
  - 97 b. No net loss of pervious surface. (see Section 6.1.2).
  - 98 c. No net loss of trees equal to or greater than 6 inches dbh (i.e., tree diameter  
99 measured at 4.5 feet from the ground surface). (see Section 6.1.3).

- 100 2. Some definitions (see 2.0) have been added to provide context for the new no net loss  
101 standards from the Oregon Implementation Plan.
- 102 3. Language has been added:
- 103 a. (see 6.3) to address activities that may require a floodplain development permit but  
104 are exempt from the no net loss requirement per the BiOp.
- 105 b. (see 6.4) to address the specific requirements of the Riparian Buffer Zone (RBZ).
- 106 4. In general, the language in the 2024 model ordinance mirrors the language from the 2020  
107 Oregon Model Flood Hazard Management Ordinance. Minor edits to the 2020 language have  
108 been made for clarity, punctuation, and grammar.

### 109 **1.3. Community Rating System**

110 Implementation of the new no net loss standards related to NFIP-ESA integration may be eligible for  
111 credit under the Community Rating System (CRS). The CRS is explained further in CRS Credit for  
112 Habitat Protection, available online at: [https://crsresources.org/files/guides/crs-credit-for-habitat-  
113 protection.pdf](https://crsresources.org/files/guides/crs-credit-for-habitat-protection.pdf), and the 2017 CRS Coordinators' Manual, available online at:  
114 [https://www.fema.gov/sites/default/files/documents/fema\\_community-rating-system\\_coordinators-  
115 manual\\_2017.pdf](https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf), and the 2021 Addendum to the 2017 CRS Coordinator's Manual, available  
116 online at: [https://www.fema.gov/sites/default/files/documents/fema\\_community-rating-  
117 system\\_coordinator-manual\\_addendum-2021.pdf](https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinator-manual_addendum-2021.pdf). The Association of State Floodplain Managers'  
118 Green Guide, also provides useful information on development techniques that avoid impacts on  
119 natural functions and values of floodplains. This document is available at:  
120 [www.floodsciencecenter.org/products/crs-community-resilience/green-guide/](http://www.floodsciencecenter.org/products/crs-community-resilience/green-guide/). Communities  
121 interested in CRS credits should contact their CRS specialist for additional information and review.

122 Implementation of the no net loss standards would most likely contribute to credits under the  
123 following CRS activities:

- 124 • Activity 430 Higher Regulatory Standards
- 125 ○ Development Limitations
- 126 ■ Prohibition of all fill (DL1a): This credit is for prohibiting all filling in the regulatory  
127 floodplain. To meet this standard, communities may NOT approve Conditional  
128 Letters or Letters of Map Revision based on Fill (CLOMR-F or LOMR-F). If a  
129 CLOMR-F or LOMR-F is issued for a property in a community, then DL1 credit will  
130 be denied. This applies to CLOMRs and LOMRs that include filling as part of the  
131 reason for requesting a map change. Minor filling may be allowed where needed  
132 to protect or restore natural floodplain functions, such as part of a channel  
133 restoration project.

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- The CRS manual describes a number of regulatory approaches that do not warrant credit under DL1; however, because the Oregon NFIP-ESA integration no net loss standards exceed the approaches described in the manual, a community meeting the Oregon no net loss standards should qualify for credit under DL1.
  
  - Compensatory storage (DL1b): This credit is for regulations that require new development to provide compensatory storage at hydraulically equivalent sites up to a ratio of 1.5:1. Credit is not provided for:
    - Compensatory storage requirements in floodways only or in V Zones only, or
  
    - Stormwater management regulations that require a developer to compensate for any increase in runoff created by the development. This is credited under Activity 450.
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- Activity 450 Stormwater Management
    - Stormwater management regulations (SMR – 452a): This credit is the sum of four sub-elements: Size of development (Section 452.a(1), SZ); design storm used (Section 452.a(2), DS); low-impact development (LID) regulations (Section 452.a(3), LID); and public agency authority to inspect and maintain, at the owner’s expense, private facilities constructed to comply with the ordinance (Section 452.a.(4), PUB).
  
    - LID credits the community’s regulatory language that requires the implementation of LID techniques to the maximum extent feasible to control peak runoff when new development occurs. LID techniques can significantly reduce or eliminate the increase in stormwater runoff created by traditional development, encourage aquifer recharge, and promote better water quality.
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## SECTION 2. Regulatory Crosswalk

The following table presents a crosswalk of the model ordinance sections against the relevant federal and state laws, regulations, and policies. The new sections related to the Oregon NFIP-ESA integration implementation (yellow highlighted sections of the model ordinance) are not listed in this table and are related to compliance with the ESA.

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
1.1 Statutory Authorization	59.22(a)(2)	Goal 7; ORS 203.035 (Counties), ORS 197.175 (Cities)
1.2 Findings of Fact	59.22(a)(1)	Goal 7
1.3 Statement of Purpose	59.2; 59.22(a)(1) and (8); 60.22	Goal 7
1.4 Methods of Reducing Flood Losses	60.22	Goal 7
2.0 Definitions	59.1; 33 CFR 328.3(c)(7)	Goal 7
3.1 Lands to Which this Ordinance Applies	59.22(a)	Goal 7
3.2 Basis for Establishing the Special Flood Hazard Areas	59.22(a)(6); 60.2(h)	Goal 7
3.3 Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division		ORS 455
3.4.1 Compliance	60.1(b) – (d)	Goal 7
3.4.2 Penalties for Noncompliance	60.1(b) – (d)	Goal 7
3.5.1 Abrogation	60.1(b) – (d)	Goal 7
3.5.2 Severability		
3.6 Interpretation	60.1(b) – (d)	Goal 7
3.7.1 Warning		
3.7.2 Disclaimer of Liability		
4.1 Designation of the Floodplain Administrator	59.22(b)(1)	Goal 7
4.2.1 Permit Review	60.3(a)(1) – (3); 60.3(c)(10)	Goal 7
4.2.2 Information to be Obtained and Maintained	59.22(a)(9)(iii); 60.3(b)(5)(i) and (iii); 60.3(c)(4); 60.3(b)(3); 60.6(a)(6)	Goal 7; 105.9; 110.33; R106.1.4; R109.1.3; R109.1.6.1; R322.1.10; R322.3.6

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
4.2.3.1 Community Boundary Alterations	59.22(a)(9)(v)	Goal 7
4.2.3.2 Watercourse Alterations	60.3(b)(6) – (7), 65.6(12-13)	Goal 7
4.2.3.3 Requirement to Submit New Technical Data	65.3, 65.6, 65.7, 65.12	Goal 7
4.2.4 Substantial Improvement and Substantial Damage Assessments and Determinations	59.1; 60.3(a)(3); 60.3(b)(2); 60.3(b)(5)(i); 60.3(c)(1), (2), (3), (5) – (8), (10), (12); 60.3(d)(3); 60.3(e)(4), (5), (8)	Goal 7
4.3.1 Floodplain Development Permit Required	60.3(a)(1)	Goal 7
4.3.2 Application for Development Permit	60.3(a)(1); 60.3(b)(3); 60.3(c)(4)	Goal 7; Oregon Residential Specialty Code (R) 106.1.4; R322.3.6
4.4 Variance Procedure	60.6(a)	Goal 7
4.4.1 Conditions for Variances	60.6(a)	Goal 7
4.4.2 Variance Notification	60.6(a)(5)	Goal 7
5.1.1 Alteration of Watercourses	60.3(b)(6) and (7)	Goal 7
5.1.2 Anchoring	60.3(a)(3); 60.3(b)(1), (2), and (8)	Goal 7; R322.1.2
5.1.3 Construction Materials and Methods	60.3(a)(3), TB 2; TB 11	Goal 7; R322.1.3; R322.1.3
5.1.4.1 Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems	60.3(a)(5) and (6)	Goal 7; R322.1.7
5.1.4.2 Electrical, Mechanical, Plumbing, and Other Equipment	60.3(a)(3)	Goal 7; R322.1.6;
5.1.5 Tanks		R322.2.4; R322.3.7
5.1.6 Subdivision Proposals	60.3(a)(4)(i) – (iii); 60.3(b)(3)	Goal 7
5.1.7 Use of Other Base Flood Data	60.3(a)(3); 60.3(b)(4); 60.3(b)(3); TB 10-01	Goal 7; R322.3.2
5.1.8 Structures Located in Multiple or Partial Flood Zones		R322.1
5.2.1 Flood Openings	60.3(c)(5); TB 1; TB 11	Goal 7; R322.2.2;

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
		R322.2.2.1
5.2.2 Garages	TB 7-93	R309
5.2.3.1 Before Regulatory Floodway	60.3(c)(10)	Goal 7
5.2.3.2 Residential Construction	60.3(c)(2)	Goal 7
5.2.3.3 Non-residential Construction	60.3(c)(3) – (5); TB 3	Goal 7; R322.2.2; R322.2.2.1
5.2.3.4 Manufactured Dwellings	60.3(b)(8); 60.3(c)(6)(iv); 60.3(c)(12)(ii)	Goal 7; State of OR Manufactured Dwelling Installation Specialty Code (MDISC) and associated statewide Code Interpretation dated 1/1/2011
5.2.3.5 Recreational Vehicles	60.3(c)(14)(i) – (iii)	Goal 7
5.2.3.6 Appurtenant (Accessory) Structures	60.3(c)(5); TB 1; TB 7-93	Oregon Structural Specialty Code (S) 105.2; R105.2
5.2.4 Floodways	60.3(d); FEMA Region X Fish Enhancement Memo (Mark Riebau)	Goal 7
5.2.5 Standards for Shallow Flooding Areas	60.3(c)(7), (8), (11), and (14)	Goal 7
5.3 Specific Standards for Coastal High Hazard Flood Zones, and 5.3.1 Development Standards	60.3(e); TB 5; TB 8; TB 9	Goal 7; R322.3.1; R322.3.2; R322.3.3; R322.3.4; R322.3.5
5.3.1.1 Manufactured Dwelling Standards for Coastal High Hazard Zones	60.3(e)(8)(i) – (iii)	Goal 7; RR322.3.2; State of OR Manufactured Dwelling Installation Specialty Code (MDISC) and associated statewide Code Interpretation dated 1/1/2011

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
5.3.1.2 Recreational Vehicle Standards for Coastal High Hazard Zones	60.3(e)(9)(i)- (iii)	Goal 7
5.3.1.3 Tank Standards for Coastal High Hazard Zones		R322.2.4; R322.3.7

\*[Link to Oregon Specialty Codes \(https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx\)](https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx)

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# SECTION 3. Model Ordinance Language

## 1.0 STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

### 1.1 STATUTORY AUTHORIZATION

The State of Oregon has in **ORS 203.035 (COUNTIES) OR ORS 197.175 (CITIES)** delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the **COMMUNITY NAME** does ordain as follows:

### 1.2 FINDINGS OF FACT

- A. The flood hazard areas of **COMMUNITY NAME** **preserve the natural and beneficial values served by floodplains but** are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

### 1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Preserve natural and beneficial floodplain functions;**
- D. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- E. Minimize prolonged business interruptions;



- 31 F. Minimize damage to public facilities and utilities such as water and gas mains;  
32 electric, telephone and sewer lines; and streets and bridges located in special flood  
33 hazard areas;
- 34 G. Help maintain a stable tax base by providing for the sound use and development of  
35 flood hazard areas so as to minimize blight areas caused by flooding;
- 36 H. Notify potential buyers that the property is in a special flood hazard area;
- 37 I. Notify those who occupy special flood hazard areas that they assume responsibility  
38 for their actions;
- 39 J. Participate in and maintain eligibility for flood insurance and disaster relief.

#### 40 **1.4 METHODS OF REDUCING FLOOD LOSSES**

41 In order to accomplish its purposes, this ordinance includes methods and provisions for:

- 42 A. Restricting or prohibiting development which is dangerous to health, safety, and  
43 property due to water or erosion hazards, or which result in damaging increases in  
44 erosion or in flood heights or velocities;
- 45 B. Requiring that development vulnerable to floods, including facilities which serve such  
46 uses, be protected against flood damage at the time of initial construction;
- 47 C. Controlling the alteration of natural floodplains, stream channels, and natural  
48 protective barriers, which help accommodate or channel flood waters;
- 49 D. Controlling filling, grading, dredging, and other development which may increase  
50 flood damage;
- 51 E. Preventing or regulating the construction of flood barriers which will unnaturally divert  
52 flood waters or may increase flood hazards in other areas.
- 53 F. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

#### 54 **2.0 DEFINITIONS**

55 Unless specifically defined below, words or phrases used in this ordinance shall be  
56 interpreted so as to give them the meaning they have in common usage.

57 **Appeal:** A request for a review of the interpretation of any provision of this ordinance or a  
58 request for a variance.

59 **Area of shallow flooding:** A designated Zone AO, AH, AR/AO or AR/AH on a community’s  
60 Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of  
61 flooding to an average depth of one to three feet where a clearly defined channel

62 does not exist, where the path of flooding is unpredictable, and where velocity  
63 flow may be evident. Such flooding is characterized by ponding or sheet flow.

64 **Area of special flood hazard:** The land in the floodplain within a community subject to a 1  
65 percent or greater chance of flooding in any given year. It is shown on the Flood  
66 Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR (V, V1-30, VE).  
67 “Special flood hazard area” is synonymous in meaning and definition with the  
68 phrase “area of special flood hazard.”

69 **Base flood:** The flood having a one percent chance of being equaled or exceeded in any  
70 given year.

71 **Base flood elevation (BFE):** The elevation to which floodwater is anticipated to rise during  
72 the base flood.

73 **Basement:** Any area of the building having its floor subgrade (below ground level) on all  
74 sides.

75 **Breakaway wall:** A wall that is not part of the structural support of the building and is  
76 intended through its design and construction to collapse under specific lateral  
77 loading forces, without causing damage to the elevated portion of the building or  
78 supporting foundation system.

79 **Coastal high hazard area:** An area of special flood hazard extending from offshore to the  
80 inland limit of a primary frontal dune along an open coast and any other area  
81 subject to high velocity wave action from storms or seismic sources.

82 **Development:** Any man-made change to improved or unimproved real estate, including  
83 but not limited to buildings or other structures, mining, dredging, filling, grading,  
84 paving, excavation or drilling operations or storage of equipment or materials.

85 **Fill:** Placement of any materials such as soil, gravel, crushed stone, or other materials  
86 that change the elevation of the floodplain. The placement of fill is considered  
87 “development.”

88 **Fish Accessible Space:** The volumetric space available to fish to access.

89 **Fish Egress-able Space:** The volumetric space available to fish to exit or leave from.

90 **Flood or Flooding:**

91 (a) A general and temporary condition of partial or complete inundation of normally  
92 dry land areas from:

93 (1) The overflow of inland or tidal waters.

94 (2) The unusual and rapid accumulation or runoff of surface waters from any  
95 source.

96 (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as  
97 defined in paragraph (a)(2) of this definition and are akin to a river of liquid  
98 and flowing mud on the surfaces of normally dry land areas, as when earth is  
99 carried by a current of water and deposited along the path of the current.

100 (b) The collapse or subsidence of land along the shore of a lake or other body of  
101 water as a result of erosion or undermining caused by waves or currents of water  
102 exceeding anticipated cyclical levels or suddenly caused by an unusually high  
103 water level in a natural body of water, accompanied by a severe storm, or by an  
104 unanticipated force of nature, such as flash flood or an abnormal tidal surge, or  
105 by some similarly unusual and unforeseeable event which results in flooding as  
106 defined in paragraph (a)(1) of this definition.

107 **Flood elevation study:** an examination, evaluation and determination of flood hazards  
108 and, if appropriate, corresponding water surface elevations, or an examination,  
109 evaluation and determination of mudslide (i.e., mudflow) and/or flood-related  
110 erosion hazards.

111 **Flood Insurance Rate Map (FIRM):** The official map of a community, on which the Federal  
112 Insurance Administrator has delineated both the special hazard areas and the  
113 risk premium zones applicable to the community. A FIRM that has been made  
114 available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

115 **Flood Insurance Study (FIS):** See "Flood elevation study."

116 **Floodway:** The channel of a river or other watercourse and the adjacent land areas that  
117 must be reserved in order to discharge the base flood without cumulatively  
118 increasing the water surface elevation more than a designated height. Also  
119 referred to as "Regulatory Floodway."

120 **Functionally Dependent Use:** A use which cannot perform its intended purpose unless it  
121 is located or carried out in proximity to water. The term includes only docking  
122 facilities, port facilities that are necessary for the loading and unloading of cargo  
123 or passengers, and ship building and ship repair facilities, but does not include  
124 long-term storage or related manufacturing facilities.

125 **Green Infrastructure:** Use of natural or human-made hydrologic features to manage  
126 water and provide environmental and community benefits. Green infrastructure  
127 uses management approaches and technologies that use, enhance, and/or  
128 mimic the natural hydrologic cycle processes of infiltration, evapotranspiration,  
129 and reuse. At a large scale, it is an interconnected network of green space that  
130 conserves natural systems and provides assorted benefits to human populations.  
131 At a local scale, it manages stormwater by infiltrating it into the ground where it is  
132 generated using vegetation or porous surfaces, or by capturing it for later reuse.  
133 Green infrastructure practices can be used to achieve no net loss of pervious  
134 surface by creating infiltration of stormwater in an amount equal to or greater  
135 than the infiltration lost by the placement of new impervious surface.

136 **Habitat Restoration Activities:** Activities with the sole purpose of restoring habitats that  
137 have only temporary impacts and long-term benefits to habitat. Such projects  
138 cannot include ancillary structures such as a storage shed for maintenance  
139 equipment, must demonstrate that no rise in the BFE would occur as a result of  
140 the project and obtain a CLOMR and LOMR, and have obtained any other  
141 required permits (e.g., CWA Section 404 permit).

142 **Hazard Trees:** Standing dead, dying, or diseased trees or ones with a structural defect  
143 that makes it likely to fail in whole or in part and that present a potential hazard  
144 to a structure or as defined by the community.

145 **Highest adjacent grade:** The highest natural elevation of the ground surface prior to  
146 construction next to the proposed walls of a structure.

147 **Historic structure:** Any structure that is:

148 (a) Listed individually in the National Register of Historic Places (a listing maintained  
149 by the Department of Interior) or preliminarily determined by the Secretary of the  
150 Interior as meeting the requirements for individual listing on the National  
151 Register;

152 (b) Certified or preliminarily determined by the Secretary of the Interior as  
153 contributing to the historical significance of a registered historic district or a  
154 district preliminarily determined by the Secretary to qualify as a registered  
155 historic district;

156 (c) Individually listed on a state inventory of historic places in states with historic  
157 preservation programs which have been approved by the Secretary of Interior; or

158 (d) Individually listed on a local inventory of historic places in communities with  
159 historic preservation programs that have been certified either:

160 (1) By an approved state program as determined by the Secretary of the Interior  
161 or

162 (2) Directly by the Secretary of the Interior in states without approved programs.

163 **Hydraulically Equivalent Elevation:** A location (e.g., a site where no net loss standards are  
164 implemented) that is approximately equivalent to another (e.g., the impacted  
165 site) relative to the same 100-year water surface elevation contour or base flood  
166 elevation. This may be estimated based on a point that is along the same  
167 approximate line perpendicular to the direction of flow.

168 **Hydrologically Connected:** The interconnection of groundwater and surface water such  
169 that they constitute one water supply and use of either results in an impact to  
170 both.

171 **Impervious Surface:** A surface that cannot be penetrated by water and thereby prevents  
172 infiltration and increases the amount and rate of surface water runoff, leading to  
173 erosion of stream banks, degradation of habitat, and increased sediment loads  
174 in streams. Such surfaces can accumulate large amounts of pollutants that are  
175 then “flushed” into local water bodies during storms and can also interfere with  
176 recharge of groundwater and the base flows to water bodies.

177 **Low Impact Development:** An approach to land development (or redevelopment) that  
178 works with nature to manage stormwater as close to its source as possible. It  
179 employs principles such as preserving and recreating natural landscape features  
180 and minimizing effective imperviousness to create functional and appealing site  
181 drainage that treats stormwater as a resource rather than a waste product. Low  
182 Impact Development refers to designing and implementing practices that can be  
183 employed at the site level to control stormwater and help replicate the  
184 predevelopment hydrology of the site. Low impact development helps achieve no  
185 net loss of pervious surface by infiltrating stormwater in an amount equal to or  
186 greater than the infiltration lost by the placement of new impervious surface. LID  
187 is a subset of green infrastructure.

188 **Lowest floor:** The lowest floor of the lowest enclosed area (including basement). An  
189 unfinished or flood resistant enclosure, usable solely for parking of vehicles,  
190 building access or storage in an area other than a basement area is not  
191 considered a building’s lowest floor, provided that such enclosure is not built so  
192 as to render the structure in violation of the applicable non-elevation design  
193 requirements of this ordinance.

194 **Manufactured dwelling:** A structure, transportable in one or more sections, which is built  
195 on a permanent chassis and is designed for use with or without a permanent  
196 foundation when attached to the required utilities. The term "manufactured  
197 dwelling" does not include a "recreational vehicle" and is synonymous with  
198 “manufactured home.”

199 **Manufactured dwelling park or subdivision:** A parcel (or contiguous parcels) of land  
200 divided into two or more manufactured dwelling lots for rent or sale.

201 **Mean Higher-High Water:** The average of the higher-high water height of each tidal day  
202 observed over the National Tidal Datum Epoch.

203 **Mean sea level:** For purposes of the National Flood Insurance Program, the National  
204 Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood  
205 Elevations shown on a community's Flood Insurance Rate Map are referenced.

206 **New construction:** For floodplain management purposes, “new construction” means  
207 structures for which the “start of construction” commenced on or after the effective  
208 date of a floodplain management regulation adopted by **COMMUNITY NAME** and  
209 includes any subsequent improvements to such structures.

210 **No Net Loss:** A standard where adverse impacts must be avoided or offset through  
211 adherence to certain requirements so that there is no net change in the function

212 from the existing condition when a development application is submitted to the state,  
213 tribal, or local jurisdiction. The floodplain functions of floodplain storage, water  
214 quality, and vegetation must be maintained.

215 **Offsite:** Mitigation occurring outside of the project area.

216 **Onsite:** Mitigation occurring within the project area.

217 **Ordinary High Water Mark:** The line on the shore established by the fluctuations of water  
218 and indicated by physical characteristics such as a clear, natural line impressed  
219 on the bank; shelving; changes in the character of soil; destruction of terrestrial  
220 vegetation; the presence of litter and debris; or other appropriate means that  
221 consider the characteristics of the surrounding areas.

222 **Qualified Professional:** Appropriate subject matter expert that is defined by the  
223 community.

224 **Reach:** A section of a stream or river along which similar hydrologic conditions exist, such  
225 as discharge, depth, area, and slope. It can also be the length of a stream or river  
226 (with varying conditions) between major tributaries or two stream gages, or a  
227 length of river for which the characteristics are well described by readings at a  
228 single stream gage.

229 **Recreational vehicle:** A vehicle which is:

- 230 (a) Built on a single chassis;
- 231 (b) 400 square feet or less when measured at the largest horizontal projection;
- 232 (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- 233 (d) Designed primarily not for use as a permanent dwelling but as temporary living  
234 quarters for recreational, camping, travel, or seasonal use.

235 **Riparian:** Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

236 **Riparian Buffer Zone (RBZ):** The outer boundary of the riparian buffer zone is measured  
237 from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral,  
238 intermittent, or perennial stream) or mean higher-high water line of a marine  
239 shoreline or tidally influenced river reach to 170 feet horizontally on each side of  
240 the stream or 170 feet inland from the MHHW. The riparian buffer zone includes  
241 the area between these outer boundaries on each side of the stream, including  
242 the stream channel. Where the RBZ is larger than the special flood hazard area,  
243 the no net loss standards shall only apply to the area within the special flood  
244 hazard area.

245 **Riparian Buffer Zone Fringe:** The area outside of the RBZ and floodway but still within the  
246 SFHA.

247 **Silviculture:** The art and science of controlling the establishment, growth, composition,  
248 health, and quality of forests and woodlands.

249 **Special flood hazard area:** See “Area of special flood hazard” for this definition.

250 **Start of construction:** Includes substantial improvement and means the date the building  
251 permit was issued, provided the actual start of construction, repair,  
252 reconstruction, rehabilitation, addition, placement, or other improvement was  
253 within 180 days from the date of the permit. The actual start means either the  
254 first placement of permanent construction of a structure on a site, such as the  
255 pouring of slab or footings, the installation of piles, the construction of columns,  
256 or any work beyond the stage of excavation; or the placement of a manufactured  
257 dwelling on a foundation. Permanent construction does not include land  
258 preparation, such as clearing, grading, and filling; nor does it include the  
259 installation of streets and/or walkways; nor does it include excavation for a  
260 basement, footings, piers, or foundations or the erection of temporary forms; nor  
261 does it include the installation on the property of accessory buildings, such as  
262 garages or sheds not occupied as dwelling units or not part of the main structure.  
263 For a substantial improvement, the actual start of construction means the first  
264 alteration of any wall, ceiling, floor, or other structural part of a building, whether  
265 or not that alteration affects the external dimensions of the building.

266 **Structure:** For floodplain management purposes, a walled and roofed building, including  
267 a gas or liquid storage tank, that is principally above ground, as well as a  
268 manufactured dwelling.

269 **Substantial damage:** Damage of any origin sustained by a structure whereby the cost of  
270 restoring the structure to its before damaged condition would equal or exceed 50  
271 percent of the market value of the structure before the damage occurred.

272 **Substantial improvement:** Any reconstruction, rehabilitation, addition, or other  
273 improvement of a structure, the cost of which equals or exceeds 50 percent of  
274 the market value of the structure before the "start of construction" of the  
275 improvement. This term includes structures which have incurred "substantial  
276 damage," regardless of the actual repair work performed. The term does not,  
277 however, include either:

278 (a) Any project for improvement of a structure to correct existing violations of state or  
279 local health, sanitary, or safety code specifications which have been identified by  
280 the local code enforcement official and which are the minimum necessary to  
281 assure safe living conditions; or

282 (b) Any alteration of a "historic structure," provided that the alteration will not  
283 preclude the structure's continued designation as a "historic structure."

284 **Undeveloped Space:** The volume of flood capacity and fish-accessible/egress-able  
285 habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any  
286 form of development including, but not limited to, the addition of fill, structures, concrete



287 structures (vaults or tanks), pilings, levees and dikes, or any other development that  
288 reduces flood storage volume and fish accessible/egress-able habitat must achieve no  
289 net loss.

290 **Variance:** A grant of relief by **COMMUNITY NAME** from the terms of a floodplain  
291 management regulation.

292 **Violation:** The failure of a structure or other development to be fully compliant with the  
293 community's floodplain management regulations. A structure or other  
294 development without the elevation certificate, other certifications, or other  
295 evidence of compliance required in this ordinance is presumed to be in violation  
296 until such time as that documentation is provided.

### 297 **3.0 GENERAL PROVISIONS**

#### 298 **3.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

299 This ordinance shall apply to all special flood hazard areas within the jurisdiction of  
300 **COMMUNITY NAME**.

#### 301 **3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS**

302 The special flood hazard areas identified by the Federal Insurance Administrator in a  
303 scientific and engineering report entitled "The Flood Insurance Study (FIS) for "**EXACT**  
304 **TITLE OF FLOOD INSURANCE STUDY FOR COMMUNITY**", dated **DATE (MONTH DAY, FOUR**  
305 **DIGIT YEAR)**, with accompanying Flood Insurance Rate Maps (FIRMs) **LIST ALL EFFECTIVE**  
306 **FIRM PANELS HERE (UNLESS ALL PANELS ARE BEING REPLACED THROUGH A NEW**  
307 **COUNTY\_WIDE MAP THAT INCORPORATES ALL PREVIOUS PANELS/VERSIONS, IN THAT**  
308 **SITUATION PANELS DO NOT NEED TO BE INDIVIDUALLY LISTED)** are hereby adopted by  
309 reference and declared to be a part of this ordinance. The FIS and FIRM panels are on  
310 file at **INSERT THE LOCATION (I.E. COMMUNITY PLANNING DEPARTMENT LOCATED IN**  
311 **THE COMMUNITY ADMINISTRATIVE BUILDING)**.

#### 312 **3.3 COORDINATION WITH STATE OF OREGON SPECIALTY CODES**

313 Pursuant to the requirement established in ORS 455 that the **COMMUNITY NAME**  
314 administers and enforces the State of Oregon Specialty Codes, the **COMMUNITY NAME**  
315 does hereby acknowledge that the Oregon Specialty Codes contain certain provisions  
316 that apply to the design and construction of buildings and structures located in special  
317 flood hazard areas. Therefore, this ordinance is intended to be administered and  
318 enforced in conjunction with the Oregon Specialty Codes.

#### 319 **3.4 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE**

##### 320 **3.4.1 COMPLIANCE**

321 All development within special flood hazard areas is subject to the terms of this  
322 ordinance and required to comply with its provisions and all other applicable  
323 regulations.



324                   **3.4.2 PENALTIES FOR NONCOMPLIANCE**

325                   No structure or land shall hereafter be constructed, located, extended,  
326                   converted, or altered without full compliance with the terms of this ordinance and  
327                   other applicable regulations. Violations of the provisions of this ordinance by  
328                   failure to comply with any of its requirements (including violations of conditions  
329                   and safeguards established in connection with conditions) shall constitute a  
330                   (INFRACTION TYPE (I.E. MISDEMEANOR) AND PENALTIES PER STATE/LOCAL LAW  
331                   ASSOCIATED WITH SPECIFIED INFRACTION TYPE (I.E. ANY PERSON WHO  
332                   VIOLATES THE REQUIREMENTS OF THIS ORDINANCE SHALL UPON CONVICTION  
333                   THEREOF BE FINED NOT MORE THAN A SPECIFIED AMOUNT OF MONEY...)  
334                   Nothing contained herein shall prevent the COMMUNITY NAME from taking such  
335                   other lawful action as is necessary to prevent or remedy any violation.

336                   **3.5 ABROGATION AND SEVERABILITY**

337                   **3.5.1 ABROGATION**

338                   This ordinance is not intended to repeal, abrogate, or impair any existing  
339                   easements, covenants, or deed restrictions. However, where this ordinance and  
340                   another ordinance, easement, covenant, or deed restriction conflict or overlap,  
341                   whichever imposes the more stringent restrictions shall prevail.

342                   **3.5.2 SEVERABILITY**

343                   This ordinance and the various parts thereof are hereby declared to be  
344                   severable. If any section clause, sentence, or phrase of the Ordinance is held to  
345                   be invalid or unconstitutional by any court of competent jurisdiction, then said  
346                   holding shall in no way effect the validity of the remaining portions of this  
347                   Ordinance.

348                   **3.6 INTERPRETATION**

349                   In the interpretation and application of this ordinance, all provisions shall be:

- 350                   A. Considered as minimum requirements;
- 351                   B. Liberally construed in favor of the governing body; and
- 352                   C. Deemed neither to limit nor repeal any other powers granted under state statutes.

353                   **3.7 WARNING AND DISCLAIMER OF LIABILITY**

354                   **3.7.1 WARNING**

355                   The degree of flood protection required by this ordinance is considered  
356                   reasonable for regulatory purposes and is based on scientific and engineering  
357                   considerations. Larger floods can and will occur on rare occasions. Flood heights  
358                   may be increased by man-made or natural causes. This ordinance does not imply

359 that land outside the areas of special flood hazards or uses permitted within  
360 such areas will be free from flooding or flood damages.

361 **3.7.2 DISCLAIMER OF LIABILITY**

362 This ordinance shall not create liability on the part of the **COMMUNITY NAME**, any  
363 officer or employee thereof, or the Federal Insurance Administrator for any flood  
364 damages that result from reliance on this ordinance or any administrative  
365 decision lawfully made hereunder.

366 **4.0 ADMINISTRATION**

367 **4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

368 The **INDIVIDUAL JOB TITLE** is hereby appointed to administer, implement, and enforce  
369 this ordinance by granting or denying development permits in accordance with its  
370 provisions. The Floodplain Administrator may delegate authority to implement these  
371 provisions.

372 [Additional Recommended Language Provided in Appendix B](#)

373 **4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

374 Duties of the floodplain administrator, or their designee, shall include, but not be limited  
375 to:

376 **4.2.1 PERMIT REVIEW**

377 Review all development permits to:

- 378 A. Determine that the permit requirements of this ordinance have been  
379 satisfied;
- 380 B. Determine that all other required local, state, and federal permits have been  
381 obtained and approved;
- 382 C. Determine if the proposed development is located in a floodway.
- 383 i. If located in the floodway assure that the floodway provisions of this  
384 ordinance in section **5.2.4** are met; and
- 385 ii. Determine if the proposed development is located in an area where  
386 Base Flood Elevation (BFE) data is available either through the Flood  
387 Insurance Study (FIS) or from another authoritative source. If BFE data  
388 is not available then ensure compliance with the provisions of sections  
389 **5.1.7**; and

- 390                                   iii.    Provide to building officials the Base Flood Elevation (BFE) (ADD  
391                                   FREEBOARD IF COMMUNITY HAS HIGHER ELEVATION STANDARDS)  
392                                   applicable to any building requiring a development permit.
- 393                                   D.    Determine if the proposed development qualifies as a substantial  
394                                   improvement as defined in section 2.0.
- 395                                   E.    Determine if the proposed development activity is a watercourse alteration.  
396                                   If a watercourse alteration is proposed, ensure compliance with the  
397                                   provisions in section 5.1.1.
- 398                                   F.    Determine if the proposed development activity includes the placement of  
399                                   fill or excavation.
- 400                                   G.    Determine whether the proposed development activity complies with the no  
401                                   net loss standards in Section 6.0.

#### 402                                   4.2.2 INFORMATION TO BE OBTAINED AND MAINTAINED

- 403                                   The following information shall be obtained and maintained and shall be made  
404                                   available for public inspection as needed:
- 405                                   A.    The actual elevation (in relation to mean sea level) of the lowest floor  
406                                   (including basements) and all attendant utilities of all new or substantially  
407                                   improved structures where Base Flood Elevation (BFE) data is provided  
408                                   through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM),  
409                                   or obtained in accordance with section 5.1.7.
- 410                                   B.    The elevation (in relation to mean sea level) of the natural grade of the  
411                                   building site for a structure prior to the start of construction and the  
412                                   placement of any fill and ensure that the requirements of sections 4.2.1(B),  
413                                   5.2.4, and 5.3.1(F), are adhered to.
- 414                                   C.    Upon placement of the lowest floor of a structure (including basement) but  
415                                   prior to further vertical construction, documentation, prepared and sealed  
416                                   by a professional licensed surveyor or engineer, certifying the elevation (in  
417                                   relation to mean sea level) of the lowest floor (including basement).
- 418                                   D.    Where base flood elevation data are utilized, As-built certification of the  
419                                   elevation (in relation to mean sea level) of the lowest floor (including  
420                                   basement) prepared and sealed by a professional licensed surveyor or  
421                                   engineer, prior to the final inspection.
- 422                                   E.    Maintain all Elevation Certificates (EC) submitted to the community.
- 423                                   F.    The elevation (in relation to mean sea level) to which the structure and all  
424                                   attendant utilities were floodproofed for all new or substantially improved  
425                                   floodproofed structures where allowed under this ordinance and where

- 426 Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or  
427 obtained in accordance with section 5.1.7.
- 428 G. All floodproofing certificates required under this ordinance.
- 429 H. All variance actions, including justification for their issuance.
- 430 I. All hydrologic and hydraulic analyses performed as required under section  
431 5.2.4.
- 432 J. All Substantial Improvement and Substantial Damage calculations and  
433 determinations as required under section 4.2.4.
- 434 K. Documentation of how no net loss standards have been met (see Section  
435 6.0)
- 436 L. All records pertaining to the provisions of this ordinance.

#### 4.2.3 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

##### 4.2.3.1 COMMUNITY BOUNDARY ALTERATIONS

440 The Floodplain Administrator shall notify the Federal Insurance Administrator in  
441 writing whenever the boundaries of the community have been modified by  
442 annexation or the community has otherwise assumed authority or no longer has  
443 authority to adopt and enforce floodplain management regulations for a  
444 particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and  
445 Flood Insurance Rate Maps (FIRM) accurately represent the community's  
446 boundaries. Include within such notification a copy of a map of the community  
447 suitable for reproduction, clearly delineating the new corporate limits or new  
448 area for which the community has assumed or relinquished floodplain  
449 management regulatory authority.

##### 4.2.3.2 WATERCOURSE ALTERATIONS

- 451 A. Notify adjacent communities, the Department of Land Conservation and  
452 Development, and other appropriate state and federal agencies, prior to  
453 any alteration or relocation of a watercourse, and submit evidence of  
454 such notification to the Federal Insurance Administration. This  
455 notification shall be provided by the applicant to the Federal Insurance  
456 Administration as a Letter of Map Revision (LOMR) along with either:
- 457 i. A proposed maintenance plan to assure the flood carrying  
458 capacity within the altered or relocated portion of the  
459 watercourse is maintained; or

460                                   ii.    Certification by a registered professional engineer that the  
461    project has been designed to retain its flood carrying capacity  
462    without periodic maintenance.

463                                   B.    The applicant shall be required to submit a Conditional Letter of Map  
464    Revision (CLOMR) when required under section **4.2.3.3**. Ensure  
465    compliance with all applicable requirements in sections **4.2.3.3** and  
466    **5.1.1**.

#### 467                                   **4.2.3.3    REQUIREMENT TO SUBMIT NEW TECHNICAL DATA**

468                                   A.    A community's base flood elevations may increase or decrease resulting  
469    from physical changes affecting flooding conditions. As soon as  
470    practicable, but not later than six months after the date such  
471    information becomes available, a community shall notify the Federal  
472    Insurance Administrator of the changes by submitting technical or  
473    scientific data in accordance with Title 44 of the Code of Federal  
474    Regulations (CFR), Section 65.3. The community may require the  
475    applicant to submit such data and review fees required for compliance  
476    with this section through the applicable FEMA Letter of Map Change  
477    (LOMC) process.

478                                   B.    The Floodplain Administrator shall require a Conditional Letter of Map  
479    Revision prior to the issuance of a floodplain development permit for:

480    i.    Proposed floodway encroachments that increase the base flood  
481    elevation; and

482    ii.   Proposed development which increases the base flood elevation  
483    by more than one foot in areas where FEMA has provided base  
484    flood elevations but no floodway.

485                                   C.    An applicant shall notify FEMA within six (6) months of project  
486    completion when an applicant has obtained a Conditional Letter of Map  
487    Revision (CLOMR) from FEMA. This notification to FEMA shall be  
488    provided as a Letter of Map Revision (LOMR).

489                                   [Additional Recommended Language Provided in Appendix B](#)

#### 490                                   **4.2.4    SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS** 491    **AND DETERMINATIONS**

492                                   Conduct Substantial Improvement (SI) (as defined in section 2.0) reviews for all  
493    structural development proposal applications and maintain a record of SI  
494    calculations within permit files in accordance with section **4.2.2**. Conduct  
495    Substantial Damage (SD) (as defined in section 2.0) assessments when  
496    structures are damaged due to a natural hazard event or other causes. Make SD  
497    determinations whenever structures within the special flood hazard area (as  
498    established in section **3.2**) are damaged to the extent that the cost of restoring

499 the structure to its before damaged condition would equal or exceed 50 percent  
500 of the market value of the structure before the damage occurred.

501 **4.3 ESTABLISHMENT OF DEVELOPMENT PERMIT**

502 **4.3.1 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED**

503 A development permit shall be obtained before construction or development  
504 begins within any area horizontally within the special flood hazard area  
505 established in section 3.2. The development permit shall be required for all  
506 structures, including manufactured dwellings, and for all other development, as  
507 defined in section 2.0, including fill and other development activities.

508 **4.3.2 APPLICATION FOR DEVELOPMENT PERMIT**

509 Application for a development permit may be made on forms furnished by the  
510 Floodplain Administrator and may include, but not be limited to, plans in  
511 duplicate drawn to scale showing the nature, location, dimensions, and  
512 elevations of the area in question; existing or proposed structures, fill, storage of  
513 materials, drainage facilities, and the location of the foregoing. Specifically, the  
514 following information is required:

- 515 A. In riverine flood zones, the proposed elevation (in relation to mean sea  
516 level), of the lowest floor (including basement) and all attendant utilities of  
517 all new and substantially improved structures; in accordance with the  
518 requirements of section 4.2.2.
- 519 B. In coastal flood zones (V zones and coastal A zones), the proposed elevation  
520 in relation to mean sea level of the bottom of the lowest structural member  
521 of the lowest floor (excluding pilings and columns) of all structures, and  
522 whether such structures contain a basement.
- 523 C. Proposed elevation in relation to mean sea level to which any non-  
524 residential structure will be floodproofed.
- 525 D. Certification by a registered professional engineer or architect licensed in  
526 the State of Oregon that the floodproofing methods proposed for any non-  
527 residential structure meet the floodproofing criteria for non-residential  
528 structures in section 5.2.3.3.
- 529 E. Description of the extent to which any watercourse will be altered or  
530 relocated.
- 531 F. Base Flood Elevation data for subdivision proposals or other development  
532 when required per sections 4.2.1 and 5.1.6.
- 533 G. Substantial improvement calculation for any improvement, addition,  
534 reconstruction, renovation, or rehabilitation of an existing structure.

535 H. The amount and location of any fill or excavation activities proposed.

536 **4.4 VARIANCE PROCEDURE**

537 The issuance of a variance is for floodplain management purposes only. Flood insurance  
538 premium rates are determined by federal statute according to actuarial risk and will not  
539 be modified by the granting of a variance.

540 **4.4.1 CONDITIONS FOR VARIANCES**

541 A. Generally, variances may be issued for new construction and substantial  
542 improvements to be erected on a lot of one-half acre or less in size  
543 contiguous to and surrounded by lots with existing structures constructed  
544 below the base flood level, in conformance with the provisions of sections  
545 **4.4.1 (C) and (E), and 4.4.2**. As the lot size increases beyond one-half acre,  
546 the technical justification required for issuing a variance increases.

547 B. Variances shall only be issued upon a determination that the variance is the  
548 minimum necessary, considering the flood hazard, to afford relief.

549 C. Variances shall not be issued within any floodway if any increase in flood  
550 levels during the base flood discharge would result.

551 D. Variances shall only be issued upon:

552 i. A showing of good and sufficient cause;

553 ii. A determination that failure to grant the variance would result in  
554 exceptional hardship to the applicant; and,

555 iii. A determination that the granting of a variance will not result in  
556 increased flood heights, additional threats to public safety,  
557 extraordinary public expense, create nuisances, cause fraud on or  
558 victimization of the public, or conflict with existing laws or  
559 ordinances.

560 E. Variances may be issued by a community for new construction and  
561 substantial improvements and for other development necessary for the  
562 conduct of a functionally dependent use provided that the criteria of section  
563 **4.4.1 (B) – (D)** are met, and the structure or other development is protected  
564 by methods that minimize flood damages during the base flood and create  
565 no additional threats to public safety.

566 F. **Variances shall not be issued unless it is demonstrated that the**  
567 **development will not result in net loss of the following proxies for the three**  
568 **floodplain functions in the SFHA: undeveloped space; pervious surface; or**  
569 **trees 6 inches dbh or greater (see Section 6.0 and associated options in**  
570 **Table 1).**



571 [Additional Optional Language Provided in Appendix B.](#)

572 **4.4.2 VARIANCE NOTIFICATION**

573 Any applicant to whom a variance is granted shall be given written notice that the  
574 issuance of a variance to construct a structure below the Base Flood Elevation  
575 will result in increased premium rates for flood insurance and that such  
576 construction below the base flood elevation increases risks to life and property.  
577 Such notification and a record of all variance actions, including justification for  
578 their issuance shall be maintained in accordance with section **4.2.2**.

579 **5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION**

580 **5.1 GENERAL STANDARDS**

581 In all special flood hazard areas, the **no net loss standards (see Section 6.0) and the**  
582 following standards shall be adhered to:

583 **5.1.1 ALTERATION OF WATERCOURSES**

584 Require that the flood carrying capacity within the altered or relocated portion of  
585 said watercourse is maintained. Require that maintenance is provided within the  
586 altered or relocated portion of said watercourse to ensure that the flood carrying  
587 capacity is not diminished. Require compliance with sections **4.2.3.2 and**  
588 **4.2.3.3**.

589 **5.1.2 ANCHORING**

590 A. All new construction and substantial improvements shall be anchored to  
591 prevent flotation, collapse, or lateral movement of the structure resulting  
592 from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

593 B. All manufactured dwellings shall be anchored per section **5.2.3.4**.

594 **5.1.3 CONSTRUCTION MATERIALS AND METHODS**

595 A. All new construction and substantial improvements shall be constructed  
596 with materials and utility equipment resistant to flood damage.

597 B. All new construction and substantial improvements shall be constructed  
598 using methods and practices that minimize flood damage.

599 **5.1.4 UTILITIES AND EQUIPMENT**

600 **5.1.4.1 WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE**  
601 **DISPOSAL SYSTEMS**

602 A. All new and replacement water supply systems shall be designed to  
603 minimize or eliminate infiltration of flood waters into the system.



604 B. New and replacement sanitary sewage systems shall be designed to  
 605 minimize or eliminate infiltration of flood waters into the systems and  
 606 discharge from the systems into flood waters.

607 C. On-site waste disposal systems shall be located to avoid impairment to  
 608 them or contamination from them during flooding consistent with the  
 609 Oregon Department of Environmental Quality.

#### 610 **5.1.4.2 ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER** 611 **EQUIPMENT**

612 Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and  
 613 other equipment and service facilities shall be elevated at or above the base  
 614 flood level (**ANY COMMUNITY FREEBOARD REQUIREMENT**) or shall be designed  
 615 and installed to prevent water from entering or accumulating within the  
 616 components and to resist hydrostatic and hydrodynamic loads and stresses,  
 617 including the effects of buoyancy, during conditions of flooding. In addition,  
 618 electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and  
 619 other equipment and service facilities shall:

620 A. If replaced as part of a substantial improvement shall meet all the  
 621 requirements of this section.

622 B. Not be mounted on or penetrate through breakaway walls.

#### 623 **5.1.5 TANKS**

624 A. Underground tanks shall be anchored to prevent flotation, collapse and  
 625 lateral movement under conditions of the base flood.

626 B. Above-ground tanks shall be installed at or above the base flood level  
 627 (**COMMUNITY FREEBOARD REQUIREMENT**) or shall be anchored to prevent  
 628 flotation, collapse, and lateral movement under conditions of the base flood.

629 C. In coastal flood zones (V Zones or coastal A Zones) when elevated on  
 630 platforms, the platforms shall be cantilevered from or knee braced to the  
 631 building or shall be supported on foundations that conform to the  
 632 requirements of the State of Oregon Specialty Code.

#### 633 **5.1.6 SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENTS**

634 A. All new subdivision proposals and other proposed new developments  
 635 (including proposals for manufactured dwelling parks and subdivisions)  
 636 greater than 50 lots or 5 acres, whichever is the lesser, shall include within  
 637 such proposals Base Flood Elevation data.

638 B. All new subdivision proposals and other proposed new developments  
 639 (including proposals for manufactured dwelling parks and subdivisions)  
 640 shall:

641 i. Be consistent with the need to minimize flood damage.

642 ii. Have public utilities and facilities such as sewer, gas, electrical, and  
 643 water systems located and constructed to minimize or eliminate  
 644 flood damage.

645 iii. Have adequate drainage provided to reduce exposure to flood  
 646 hazards.

647 iv. Comply with no net loss standards in section 6.0.

#### 648 **5.1.7 USE OF OTHER BASE FLOOD ELEVATION DATA**

649 A. When Base Flood Elevation data has not been provided in accordance with  
 650 section 3.2 the local floodplain administrator shall obtain, review, and  
 651 reasonably utilize any Base Flood Elevation data available from a federal,  
 652 state, or other source, in order to administer section 5.0. All new subdivision  
 653 proposals and other proposed new developments (including proposals for  
 654 manufactured dwelling parks and subdivisions) must meet the requirements  
 655 of section 5.1.6.

656 B. Base Flood Elevations shall be determined for development proposals that  
 657 are 5 acres or more in size or are 50 lots or more, whichever is lesser in any  
 658 A zone that does not have an established base flood elevation.  
 659 Development proposals located within a riverine unnumbered A Zone shall  
 660 be reasonably safe from flooding; the test of reasonableness includes use of  
 661 historical data, high water marks, FEMA provided Base Level Engineering  
 662 data, and photographs of past flooding, etc... where available. **(REFERENCE**  
 663 **TO ANY OF THIS TYPE OF INFORMATION TO BE USED FOR REGULATORY**  
 664 **PURPOSES BY YOUR COMMUNITY, I.E. BASE LEVEL ENGINEERING DATA,**  
 665 **HIGH WATER MARKS, HISTORICAL OR OTHER DATA THAT WILL BE**  
 666 **REGULATED TO. THIS MAY BE NECESSARY TO ENSURE THAT THE**  
 667 **STANDARDS APPLIED TO RESIDENTIAL STRUCTURES ARE CLEAR AND**  
 668 **OBJECTIVE. IF UNCERTAIN SEEK LEGAL ADVICE, AT A MINIMUM REQUIRE**  
 669 **THE ELEVATION OF RESIDENTIAL STRUCTURES AND NON-RESIDENTIAL**  
 670 **STRUCTURES THAT ARE NOT DRY FLOODPROOFED TO BE 2 FEET ABOVE**  
 671 **HIGHEST ADJACENT GRADE). Failure to elevate at least two feet above**  
 672 **grade in these zones may result in higher insurance rates.**

#### 673 **5.1.8 STRUCTURES LOCATED IN MULTIPLE OR PARTIAL FLOOD ZONES**

674 In coordination with the State of Oregon Specialty Codes:

675 A. When a structure is located in multiple flood zones on the community's  
 676 Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive  
 677 flood zone shall apply.

678 B. When a structure is partially located in a special flood hazard area, the  
 679 entire structure shall meet the requirements for new construction and  
 680 substantial improvements.

681 [Additional Recommended Language Provided in Appendix B.](#)

## 682 **5.2 SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD** 683 **ZONES**

684 These specific standards shall apply to all new construction and substantial  
 685 improvements in addition to the General Standards contained in section 5.1 of this  
 686 ordinance **and the no net loss standards (see Section 6.0).**

### 687 **5.2.1 FLOOD OPENINGS**

688 All new construction and substantial improvements with fully enclosed areas  
 689 below the lowest floor (excluding basements) are subject to the following  
 690 requirements. Enclosed areas below the Base Flood Elevation, including crawl  
 691 spaces shall:

- 692 A. Be designed to automatically equalize hydrostatic flood forces on walls by  
 693 allowing for the entry and exit of floodwaters;
- 694 B. Be used solely for parking, storage, or building access;
- 695 C. Be certified by a registered professional engineer or architect or meet or  
 696 exceed all of the following minimum criteria:
- 697 i. A minimum of two openings;
  - 698 ii. The total net area of non-engineered openings shall be not less than  
 699 one square inch for each square foot of enclosed area, where the  
 700 enclosed area is measured on the exterior of the enclosure walls;
  - 701 iii. The bottom of all openings shall be no higher than one foot above  
 702 grade;
  - 703 iv. Openings may be equipped with screens, louvers, valves, or other  
 704 coverings or devices provided that they shall allow the automatic  
 705 flow of floodwater into and out of the enclosed areas and shall be  
 706 accounted for in the determination of the net open area; and,
  - 707 v. All additional higher standards for flood openings in the State of  
 708 Oregon Residential Specialty Codes Section R322.2.2 shall be  
 709 complied with when applicable.

710                   **5.2.2 GARAGES**

- 711                   A. Attached garages may be constructed with the garage floor slab below the  
712                   Base Flood Elevation (BFE) in riverine flood zones, if the following  
713                   requirements are met:
- 714                   i. If located within a floodway the proposed garage must comply with  
715                   the requirements of section 5.2.4;
  - 716                   ii. The floors are at or above grade on not less than one side;
  - 717                   iii. The garage is used solely for parking, building access, and/or  
718                   storage;
  - 719                   iv. The garage is constructed with flood openings in compliance with  
720                   section 5.2.1 to equalize hydrostatic flood forces on exterior walls by  
721                   allowing for the automatic entry and exit of floodwater;
  - 722                   v. The portions of the garage constructed below the BFE are  
723                   constructed with materials resistant to flood damage;
  - 724                   vi. The garage is constructed in compliance with the standards in  
725                   section 5.1; and,
  - 726                   vii. The garage is constructed with electrical, and other service facilities  
727                   located and installed so as to prevent water from entering or  
728                   accumulating within the components during conditions of the base  
729                   flood.
- 730                   B. Detached garages must be constructed in compliance with the standards  
731                   for appurtenant structures in section 5.2.3.6 or non-residential structures in  
732                   section 5.2.3.3 depending on the square footage of the garage.

733                   **5.2.3 FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH**  
734                   **BASE FLOOD ELEVATIONS**

735                   In addition to the general standards listed in section 5.1 the following specific  
736                   standards shall apply in Riverine (non-coastal) special flood hazard areas with  
737                   Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

738                   **5.2.3.1 BEFORE REGULATORY FLOODWAY**

739                   In areas where a regulatory floodway has not been designated, no new  
740                   construction, substantial improvement, or other development (including fill)  
741                   shall be permitted within Zones A1-30 and AE on the community's Flood  
742                   Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect  
743                   of the proposed development, when combined with all other existing and  
744                   anticipated development, will not increase the water surface elevation of the  
745                   base flood more than one foot at any point within the community and will not

746 result in the net loss of flood storage volume. **When determined that structural**  
747 **elevation is not possible and where the placement of fill cannot meet the above**  
748 **standard, impacts to undeveloped space must adhere to the no net loss**  
749 **standards in section 6.1.C.**

750 **5.2.3.2 RESIDENTIAL CONSTRUCTION**

- 751 A. New construction, conversion to, and substantial improvement of any  
752 residential structure shall have the lowest floor, including basement,  
753 elevated at or above the Base Flood Elevation (BFE) (ADDITIONAL  
754 FREEBOARD FOR YOUR COMMUNITY – RECOMMEND MINIMUM OF 1FT  
755 ABOVE BFE).
- 756 B. Enclosed areas below the lowest floor shall comply with the flood  
757 opening requirements in section 5.2.1.

758 **5.2.3.3 NON-RESIDENTIAL CONSTRUCTION**

- 759 A. New construction, conversion to, and substantial improvement of any  
760 commercial, industrial, or other non-residential structure shall:
- 761 i. Have the lowest floor, including basement elevated at or above  
762 the Base Flood Elevation (BFE) (ANY ADDITIONAL FREEBOARD  
763 REQUIREMENTS FOR YOUR COMMUNITY); or
- 764 ii. Together with attendant utility and sanitary facilities:
- 765 a. Be floodproofed so that below the base flood level the  
766 structure is watertight with walls substantially  
767 impermeable to the passage of water;
- 768 b. Have structural components capable of resisting  
769 hydrostatic and hydrodynamic loads and effects of  
770 buoyancy; and,
- 771 c. Be certified by a registered professional engineer or  
772 architect that the design and methods of construction  
773 are in accordance with accepted standards of practice  
774 for meeting provisions of this section based on their  
775 development and/or review of the structural design,  
776 specifications and plans. Such certifications shall be  
777 provided to the Floodplain Administrator as set forth  
778 section 4.2.2.
- 779 B. Non-residential structures that are elevated, not floodproofed, shall  
780 comply with the standards for enclosed areas below the lowest floor in  
781 section 5.2.1.

- 782 C. Applicants floodproofing non-residential buildings shall be notified that  
783 flood insurance premiums will be based on rates that are one (1) foot  
784 below the floodproofed level (e.g. a building floodproofed to the base  
785 flood level will be rated as one (1) foot below.

786 **5.2.3.4 MANUFACTURED DWELLINGS**

- 787 A. Manufactured dwellings to be placed (new or replacement) or  
788 substantially improved that are supported on solid foundation walls  
789 shall be constructed with flood openings that comply with section **5.2.1**;
- 790 B. The bottom of the longitudinal chassis frame beam shall be at or above  
791 Base Flood Elevation;
- 792 C. Manufactured dwellings to be placed (new or replacement) or  
793 substantially improved shall be anchored to prevent flotation, collapse,  
794 and lateral movement during the base flood. Anchoring methods may  
795 include, but are not limited to, use of over-the-top or frame ties to  
796 ground anchors (Reference FEMA's "Manufactured Home Installation in  
797 Flood Hazard Areas" guidebook for additional techniques), and;
- 798 D. Electrical crossover connections shall be a minimum of twelve (12)  
799 inches above Base Flood Elevation (BFE).

800 **5.2.3.5 RECREATIONAL VEHICLES**

801 Recreational vehicles placed on sites are required to:

- 802 A. Be on the site for fewer than 180 consecutive days, and
- 803 B. Be fully licensed and ready for highway use, on its wheels or jacking  
804 system, is attached to the site only by quick disconnect type utilities and  
805 security devices, and has no permanently attached additions; or
- 806 C. Meet the requirements of section **5.2.3.4**, including the anchoring and  
807 elevation requirements for manufactured dwellings.

808 **5.2.3.6 APPURTENANT (ACCESSORY) STRUCTURES**

809 Relief from elevation or floodproofing requirements for residential and non-  
810 residential structures in Riverine (Non-Coastal) flood zones may be granted for  
811 appurtenant structures that meet the following requirements:

- 812 A. Appurtenant structures located partially or entirely within the floodway  
813 must comply with requirements for development within a floodway  
814 found in section **5.2.4**;
- 815 B. Appurtenant structures must only be used for parking, access, and/or  
816 storage and shall not be used for human habitation;

- 817 C. In compliance with State of Oregon Specialty Codes, appurtenant  
818 structures on properties that are zoned residential are limited to one-  
819 story structures less than 200 square feet, or 400 square feet if the  
820 property is greater than two (2) acres in area and the proposed  
821 appurtenant structure will be located a minimum of 20 feet from all  
822 property lines. Appurtenant structures on properties that are zoned as  
823 non-residential are limited in size to 120 square feet;
- 824 D. The portions of the appurtenant structure located below the Base Flood  
825 Elevation must be built using flood resistant materials;
- 826 E. The appurtenant structure must be adequately anchored to prevent  
827 flotation, collapse, and lateral movement of the structure resulting from  
828 hydrodynamic and hydrostatic loads, including the effects of buoyancy,  
829 during conditions of the base flood;
- 830 F. The appurtenant structure must be designed and constructed to  
831 equalize hydrostatic flood forces on exterior walls and comply with the  
832 requirements for flood openings in section **5.2.1**;
- 833 G. Appurtenant structures shall be located and constructed to have low  
834 damage potential;
- 835 H. Appurtenant structures shall not be used to store toxic material, oil, or  
836 gasoline, or any priority persistent pollutant identified by the Oregon  
837 Department of Environmental Quality unless confined in a tank installed  
838 in compliance with section **5.1.5**; and,
- 839 I. Appurtenant structures shall be constructed with electrical, mechanical,  
840 and other service facilities located and installed so as to prevent water  
841 from entering or accumulating within the components during conditions  
842 of the base flood.

#### 843 **5.2.4 FLOODWAYS**

844 Located within the special flood hazard areas established in section **3.2** are  
845 areas designated as floodways. Since the floodway is an extremely hazardous  
846 area due to the velocity of the floodwaters which carry debris, potential  
847 projectiles, and erosion potential, the following provisions apply:

- 848 A. Prohibit encroachments, including fill, new construction, substantial  
849 improvements, and other development within the adopted regulatory  
850 floodway unless:
- 851 i. Certification by a registered professional civil engineer is provided  
852 demonstrating through hydrologic and hydraulic analyses performed  
853 in accordance with standard engineering practice that the proposed  
854 encroachment shall not result in any increase in flood levels within  
855 the community during the occurrence of the base flood discharge; or

856                   ii. A community may permit encroachments within the adopted  
 857                   regulatory floodway that would result in an increase in base flood  
 858                   elevations, provided that conditional approval has been obtained by  
 859                   the Federal Insurance Administrator through the Conditional Letter  
 860                   of Map Revision (CLOMR) application process, all requirements  
 861                   established under 44 CFR 65.12 are fulfilled, and the  
 862                   encroachment(s) comply with the no net loss standards in section  
 863                   6.0.

864                   B. If the requirements of section 5.2.4 (A) are satisfied, all new construction,  
 865                   substantial improvements, and other development shall comply with all  
 866                   other applicable flood hazard reduction provisions of section 5.0 and 6.0.

## 867                   5.2.5 STANDARDS FOR SHALLOW FLOODING AREAS

868                   Shallow flooding areas appear on FIRMs as AO zones with depth designations or  
 869                   as AH zones with Base Flood Elevations. For AO zones the base flood depths  
 870                   range from one (1) to three (3) feet above ground where a clearly defined  
 871                   channel does not exist, or where the path of flooding is unpredictable and where  
 872                   velocity flow may be evident. Such flooding is usually characterized as sheet flow.  
 873                   For both AO and AH zones, adequate drainage paths are required around  
 874                   structures on slopes to guide floodwaters around and away from proposed  
 875                   structures.

### 876                   5.2.5.1 STANDARDS FOR AH ZONES

877                   Development within AH Zones must comply with the standards in sections 5.1,  
 878                   5.2, and 5.2.5.

### 879                   5.2.5.2 STANDARDS FOR AO ZONES

880                   In AO zones, the following provisions apply in addition to the requirements in  
 881                   sections 5.1 and 5.2.5:

882                   A. New construction, conversion to, and substantial improvement of  
 883                   residential structures and manufactured dwellings within AO zones shall  
 884                   have the lowest floor, including basement, elevated above the highest  
 885                   grade adjacent to the building, at minimum to or above the depth  
 886                   number specified on the Flood Insurance Rate Maps (FIRM)  
 887                   (COMMUNITY FREEBOARD REQUIREMENT) (at least two (2) feet if no  
 888                   depth number is specified). For manufactured dwellings the lowest floor  
 889                   is considered to be the bottom of the longitudinal chassis frame beam.

890                   B. New construction, conversion to, and substantial improvements of non-  
 891                   residential structures within AO zones shall either:

892                   i. Have the lowest floor (including basement) elevated above the  
 893                   highest adjacent grade of the building site, at minimum to or  
 894                   above the depth number specified on the Flood Insurance Rate



- 895 Maps (FIRMS) (**COMMUNITY FREE BOARD REQUIREMENT**) (at  
896 least two (2) feet if no depth number is specified); or
- 897 ii. Together with attendant utility and sanitary facilities, be  
898 completely floodproofed to or above the depth number specified  
899 on the FIRM (**COMMUNITY FREEBOARD REQUIREMENT**) or a  
900 minimum of two (2) feet above the highest adjacent grade if no  
901 depth number is specified, so that any space below that level is  
902 watertight with walls substantially impermeable to the passage  
903 of water and with structural components having the capability of  
904 resisting hydrostatic and hydrodynamic loads and the effects of  
905 buoyancy. If this method is used, compliance shall be certified  
906 by a registered professional engineer or architect as stated in  
907 section **5.2.3.3(A)(4)**.
- 908 C. Recreational vehicles placed on sites within AO Zones on the  
909 community's Flood Insurance Rate Maps (FIRM) shall either:
- 910 i. Be on the site for fewer than 180 consecutive days, and
- 911 ii. Be fully licensed and ready for highway use, on its wheels or  
912 jacking system, is attached to the site only by quick disconnect  
913 type utilities and security devices, and has no permanently  
914 attached additions; or
- 915 iii. Meet the elevation requirements of section **5.2.5.2(A)**, and the  
916 anchoring and other requirements for manufactured dwellings of  
917 section **5.2.3.4**.
- 918 D. In AO zones, new and substantially improved appurtenant structures  
919 must comply with the standards in section **5.2.3.6**.
- 920 E. In AO zones, enclosed areas beneath elevated structures shall comply  
921 with the requirements in section **5.2.1**.

### 922 **5.3 SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD FLOOD ZONES**

923 Located within special flood hazard areas established in section **3.2** are Coastal High  
924 Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the  
925 FIRMs as the area between the Limit of Moderate Wave Action (LiMWA) and the Zone V  
926 boundary. These areas have special flood hazards associated with high velocity waters  
927 from surges and, therefore, in addition to meeting all provisions of this ordinance and the  
928 State of Oregon Specialty Codes, the following provisions shall apply in addition to the  
929 general standards provisions in section **5.1**.

930                    **5.3.1 DEVELOPMENT STANDARDS**

931                    A. All new construction and substantial improvements in Zones V1-V30 and VE,  
932 V, and coastal A zones (where base flood elevation data is available) shall  
933 be elevated on pilings and columns such that:

934                    i. The bottom of the lowest horizontal structural member of the lowest  
935 floor (excluding the pilings or columns) is elevated a minimum of  
936 one foot above the base flood level; and

937                    ii. The pile or column foundation and structure attached thereto is  
938 anchored to resist flotation, collapse and lateral movement due to  
939 the effects of wind and water loads acting simultaneously on all  
940 building components. Water loading values used shall be those  
941 associated with the base flood. Wind loading values used shall be  
942 those specified by the State of Oregon Specialty Codes;

943                    B. A registered professional engineer or architect shall develop or review the  
944 structural design, specifications and plans for the construction, and shall  
945 certify that the design and methods of construction to be used are in  
946 accordance with accepted standards of practice for meeting the provisions  
947 of this section.

948                    C. Obtain the elevation (in relation to mean sea level) of the bottom of the  
949 lowest horizontal structural member of the lowest floor (excluding pilings  
950 and columns) of all new and substantially improved structures and whether  
951 or not such structures contain a basement. The floodplain administrator  
952 shall maintain a record of all such information in accordance with section  
953 **4.2.2.**

954                    D. Provide that all new construction and substantial improvements have the  
955 space below the lowest floor either free of obstruction or constructed with  
956 non- supporting breakaway walls, open wood lattice-work, or insect  
957 screening intended to collapse under wind and water loads without causing  
958 collapse, displacement, or other structural damage to the elevated portion  
959 of the building or supporting foundation system.

960                    For the purpose of this section, a breakaway wall shall have a design safe  
961 loading resistance of not less than 10 and no more than 20 pounds per  
962 square foot. Use of breakaway walls which exceed a design safe loading  
963 resistance of 20 pounds per square foot (either by design or when so  
964 required by local or state codes) may be permitted only if a registered  
965 professional engineer or architect certifies that the designs proposed meet  
966 the following conditions:

967                    i. Breakaway wall collapse shall result from water load less than that  
968 which would occur during the base flood; and

- 969                   ii. Such enclosed space created by breakaway walls shall be useable  
970                   solely for parking of vehicles, building access, or storage. Such  
971                   space shall not be used for human habitation.
- 972                   iii. Walls intended to break away under flood loads shall have flood  
973                   openings that meet or exceed the criteria for flood openings in  
974                   section **5.2.1**.
- 975                   E. The elevated portion of the building and supporting foundation system shall  
976                   not be subject to collapse, displacement, or other structural damage due to  
977                   the effects of wind and water loads acting simultaneously on all building  
978                   components (structural and nonstructural). Maximum water loading values  
979                   to be used in this determination shall be those associated with the base  
980                   flood. Maximum wind loading values used shall be those specified by the  
981                   State of Oregon Specialty Codes.
- 982                   F. Prohibit the use of fill for structural support of buildings.
- 983                   G. All new construction shall be located landward of the reach of mean high  
984                   tide.
- 985                   H. Prohibit man-made alteration of sand dunes which would increase potential  
986                   flood damage.
- 987                   I. All structures, including but not limited to residential structures, non-  
988                   residential structures, appurtenant structures, and attached garages shall  
989                   comply with all the requirements of section **5.3.1** Floodproofing of non-  
990                   residential structures is prohibited.

991                   **5.3.1.1 MANUFACTURED DWELLING STANDARDS FOR COASTAL HIGH**  
992                   **HAZARD ZONES**

993                   All manufactured dwellings to be placed (new or replacement) or substantially  
994                   improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A)  
995                   shall meet the following requirements:

- 996                   A. Comply with all of the standards within section **5.3**
- 997                   B. The bottom of the longitudinal chassis frame beam shall be elevated to  
998                   a minimum of one foot above the Base Flood Elevation (BFE); and
- 999                   C. Electrical crossover connections shall be a minimum of 12 inches above  
1000                   the BFE.

1001                   **5.3.1.2 RECREATIONAL VEHICLE STANDARDS FOR COASTAL HIGH**  
1002                   **HAZARD ZONES**

1003                   Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or  
1004                   Coastal A) shall either:

- 1005                           A. Be on the site for fewer than 180 consecutive days, and
- 1006                           B. Be fully licensed and ready for highway use, on wheels or jacking
- 1007                           system, is attached to the site only by quick disconnect type utilities and
- 1008                           security devices, and has no permanently attached additions.

1009                           **5.3.1.3 TANK STANDARDS FOR COASTAL HIGH HAZARD ZONES**

1010                           Tanks shall meet the requirements of section 5.1.5 and 6.0.

1011                           **6.0 STANDARDS FOR PROTECTION OF SFHA FLOODPLAIN FUNCTIONS**

1012                           The standards described below apply to all special flood hazard areas as defined in Section

1013                           2.0.

1014                           **6.1 NO NET LOSS STANDARDS**

1015                           A. No net loss of the three proxies for the floodplain functions mentioned in Section 1 is

1016                           required for development in the special flood hazard area that would reduce

1017                           undeveloped space, increase impervious surface, or result in a loss of trees that are

1018                           6-inches dbh or greater. No net loss can be achieved by first avoiding negative

1019                           effects to floodplain functions to the degree possible, then minimizing remaining

1020                           effects, then replacing and/or otherwise compensating for, offsetting, or rectifying

1021                           the residual adverse effects to the three floodplain functions. Prior to the issuance

1022                           of any development authorization, the applicant shall:

1023                           i. Demonstrate a legal right by the project proponent to implement the

1024                           proposed activities to achieve no net loss (e.g., property owner agreement);

1025                           ii. Demonstrate that financial assurances are in place for the long-term

1026                           maintenance and monitoring of all projects to achieve no net loss;

1027                           iii. Include a management plan that identifies the responsible site manager,

1028                           stipulates what activities are allowed on site, and requires the posting of

1029                           signage identifying the site as a mitigation area.

1030                           B. Compliance with no net loss for undeveloped space or impervious surface is

1031                           preferred to occur prior to the loss of habitat function but, at a minimum, shall occur

1032                           concurrent with the loss. To offset the impacts of delay in implementing no net loss,

1033                           a 25 percent increase in the required minimum area is added for each year no net

1034                           loss implementation is delayed.

1035                           C. No net loss must be provided within, in order of preference: 1) the lot or parcel that

1036                           floodplain functions were removed from, 2) the same reach of the waterbody where

1037                           the development is proposed, or 3) the special flood hazard area within the same

1038                           hydrologically connected area as the proposed development. Table 1 presents the no

1039                           net loss ratios, which increase based on the preferences listed above.

1040 **6.1.1 UNDEVELOPED SPACE**

1041 A. Development proposals shall not reduce the fish-accessible and egress-able  
1042 undeveloped space within the special flood hazard area.

1043 B. A development proposal with an activity that would impact undeveloped  
1044 space shall achieve no net loss of fish-accessible and egress-able space.

1045 C. Lost undeveloped space must be replaced with fish-accessible and egress-  
1046 able compensatory volume based on the ratio in Table 1 and at the same  
1047 flood level at which the development causes an impact (i.e., plus or minus 1  
1048 foot of the hydraulically equivalent elevation).

1049 i. Hydraulically equivalent sites must be found within either the  
1050 equivalent 1-foot elevations or the same flood elevation bands of  
1051 the development proposal. The flood elevation bands are identified  
1052 as follows:

1053 (1) Ordinary High Water Mark to 10-year,

1054 (2) 10-year to 25-year,

1055 (3) 25-year to 50-year,

1056 (4) And 50-year to 100-year

1057 ii. Hydrologically connected to the waterbody that is the flooding source;

1058 iii. Designed so that there is no increase in velocity; and

1059 iv. Designed to fill and drain in a manner that minimizes anadromous  
1060 fish stranding to the greatest extent possible.

1061 **6.1.2 IMPERVIOUS SURFACES**

1062 Impervious surface mitigation shall be mitigated through any of the following  
1063 options:

1064 A. Development proposals shall not result in a net increase in impervious  
1065 surface area within the SFHA, or

1066 B. use low impact development or green infrastructure to infiltrate and treat  
1067 stormwater produced by the new impervious surface, as documented by a  
1068 qualified professional, or

1069 C. If prior methods are not feasible and documented by a qualified  
1070 professional stormwater retention is required to ensure no increase in peak  
1071 volume or flow and to maximize infiltration, and treatment is required to

1072 minimize pollutant loading. See section 6.2.C for stormwater retention  
1073 specifications.

1074 **6.1.3 TREES**

1075 A. Development proposals shall result in no net loss of trees 6-inches dbh or  
1076 greater within the special flood hazard area. This requirement does not  
1077 apply to silviculture where there is no development.

1078 i. Trees of or exceeding 6-inches dbh that are removed from the RBZ,  
1079 Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.

1080 ii. Replacement trees must be native species that would occur naturally  
1081 in the Level III ecoregion of the impact area.

1082 **6.2 STORMWATER MANAGEMENT**

1083 Any development proposal that cannot mitigate as specified in 6.1.2(A)-(B) must include  
1084 the following:

1085 A. Water quality (pollution reduction) treatment for post-construction  
1086 stormwater runoff from any net increase in impervious area; and

1087 B. Water quantity treatment (retention facilities) unless the outfall discharges  
1088 into the ocean.

1089 C. Retention facilities must:

1090 i. Limit discharge to match the pre-development peak discharge rate  
1091 (i.e., the discharge rate of the site based on its natural groundcover  
1092 and grade before any development occurred) for the 10-year peak  
1093 flow using a continuous simulation for flows between 50 percent of  
1094 the 2-year event and the 10-year flow event (annual series).

1095 ii. Treat stormwater to remove sediment and pollutants from impervious  
1096 surfaces such that at least 80 percent of the suspended solids are  
1097 removed from the stormwater prior to discharging to the receiving  
1098 water body.

1099 iii. Be designed to not entrap fish and drain to the source of flooding.

1100 iv. Be certified by a qualified professional.

1101 D. Stormwater treatment practices for multi-parcel facilities, including  
1102 subdivisions, shall have an enforceable operation and maintenance  
1103 agreement to ensure the system functions as designed. This agreement will  
1104 include:

- 1105 i. Access to stormwater treatment facilities at the site by the  
1106 COMMUNITY TYPE (e.g., city, county) for the purpose of inspection  
1107 and repair.
- 1108 ii. A legally binding document specifying the parties responsible for the  
1109 proper maintenance of the stormwater treatment facilities. The  
1110 agreement will be recorded and bind subsequent purchasers and  
1111 sellers even if they were not party to the original agreement.
- 1112 iii. For stormwater controls that include vegetation and/or soil  
1113 permeability, the operation and maintenance manual must include  
1114 maintenance of these elements to maintain the functionality of the  
1115 feature.
- 1116 iv. The responsible party for the operation and maintenance of the  
1117 stormwater facility shall have the operation and maintenance  
1118 manual on site and available at all times. Records of the  
1119 maintenance and repairs shall be retained and made available for  
1120 inspection by the COMMUNITY TYPE (e.g., city, county) for five years

### 1121 6.3 ACTIVITIES EXEMPT FROM NO NET LOSS STANDARDS

1122 The following activities are not subject to the no net loss standards in Section 6.1;  
1123 however, they may not be exempt from floodplain development permit requirements.

1124 A. Normal maintenance of structures, such as re-roofing and replacing siding,  
1125 provided there is no change in the footprint or expansion of the roof of the  
1126 structure;

1127 B. Normal street, sidewalk, and road maintenance, including filling potholes,  
1128 repaving, and installing signs and traffic signals, that does not alter  
1129 contours, use, or alter culverts. Activities exempt do not include expansion  
1130 of paved areas;

1131 C. Routine maintenance of landscaping that does not involve grading,  
1132 excavation, or filling;

1133 D. Routine agricultural practices such as tilling, plowing, harvesting, soil  
1134 amendments, and ditch cleaning that does not alter the ditch configuration  
1135 provided the spoils are removed from special flood hazard area or tilled into  
1136 fields as a soil amendment;

1137 E. Routine silviculture practices that do not meet the definition of  
1138 development, including harvesting of trees as long as root balls are left in  
1139 place and forest road construction or maintenance that does not alter  
1140 contours, use, or alter culverts;

1141 F. Removal of noxious weeds and hazard trees, and replacement of non-native  
1142 vegetation with native vegetation;

- 1143 G. Normal maintenance of above ground utilities and facilities, such as  
 1144 replacing downed power lines and utility poles provided there is no net  
 1145 change in footprint;
- 1146 H. Normal maintenance of a levee or other flood control facility prescribed in  
 1147 the operations and maintenance plan for the levee or flood control facility.  
 1148 Normal maintenance does not include repair from flood damage, expansion  
 1149 of the prism, expansion of the face or toe or addition of protection on the  
 1150 face or toe with rock armor.
- 1151 I. Habitat restoration activities.

**6.4 RIPARIAN BUFFER ZONE (RBZ)**

- 1153 A. The Riparian Buffer Zone is measured from the ordinary high-water line of a  
 1154 fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream)  
 1155 or mean higher-high water of a marine shoreline or tidally influenced river  
 1156 reach to 170 feet horizontally on each side of the stream or inland of the  
 1157 MHHW. The riparian buffer zone includes the area between these outer  
 1158 boundaries on each side of the stream, including the stream channel.
- 1159 B. Habitat restoration activities in the RBZ are considered self-mitigating and  
 1160 are not subject to the no net loss standards described above.
- 1161 C. Functionally dependent uses are only subject to the no net loss standards for  
 1162 development in the RBZ. Ancillary features that are associated with but do  
 1163 not directly impact the functionally dependent use in the RBZ (including  
 1164 manufacturing support facilities and restrooms) are subject to the beneficial  
 1165 gain standard in addition to no net loss standards.
- 1166 D. Any other use of the RBZ requires a greater offset to achieve no net loss of  
 1167 floodplain functions, on top of the no net loss standards described above,  
 1168 through the beneficial gain standard.
- 1169 E. Under FEMA's beneficial gain standard, an area within the same reach of  
 1170 the project and equivalent to 5% of the total project area within the RBZ  
 1171 shall be planted with native herbaceous and shrub vegetation and  
 1172 designated as open space.  
 1173

1174 **Table 1 No Net Loss Standards**

<b>Basic Mitigate Ratios</b>	<b>Undeveloped Impervious Space (ft<sup>3</sup>)</b>	<b>Impervious Surface (ft<sup>2</sup>)</b>	<b>Trees (6" &lt; dbh ≤ 20")</b>	<b>Trees (20" &lt; dbh ≤ 39")</b>	<b>Trees (39" &lt; dbh)</b>
<b>RBZ and Floodway</b>	2:1*	1:1	3:1*	5:1	6:1
<b>RBZ-Fringe</b>	1.5:1*	1:1	2:1*	4:1	5:1



**Model Ordinance Language**

<u>Mitigation multipliers</u>					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5 <sup>th</sup> field)	200% *	200%*	200%*	200%	200%

1175 **Notes:**

- 1176 1. Ratios with asterisks are indicated in the BiOp
- 1177 2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value
- 1178 described by the ratios above, while multipliers of 200% result in the required mitigation
- 1179 being doubled.
- 1180 a. For example, if only 500 ft<sup>2</sup> of the total 1000 ft<sup>2</sup> of required pervious surface
- 1181 mitigation can be conducted onsite and in the same reach, the remaining 500 ft<sup>2</sup> of
- 1182 required pervious surface mitigation occurring offsite at a different reach would
- 1183 double because of the 200% multiplier.
- 1184 3. RBZ impacts must be offset in the RBZ, on-site or off-site.
- 1185 4. Additional standards may apply in the RBZ (See 6.4 Riparian Buffer Zone)

# PICM Habitat Assessment Example

## Project Area and Habitat Description

The intent of this habitat assessment is to analyze impacts to the of the Applicant's proposed development and identify the mitigation measures needed to ensure no net loss of the floodplain functions of floodplain storage, water quality, and vegetation are achieved. The proposed development action involves replacing an existing single-family home within the Special Flood Hazard Area (SFHA) with a larger, more modern dwelling.

The project area in question is located at 123 Residence Ave. in Floodtown, OR. The project area occurs on a .5 acre lot that sits completely within the Special Flood Hazard Area (SFHA). The lot is 500 feet away from Salmon Creek which flows into the Euchalon River and is part of the Columbia River drainage basin. As the lot is farther than 170 feet away from the waterbody, the project area is outside of the Riparian Buffer Zone (RBZ) and identified as outside of designated floodways. The project is entirely within the RBZ-fringe, the area outside of the RBZ but in the remainder of the SFHA. The lot is entirely owned by the applicant.

The entire .5 acre lot sits at 1.5 feet below the existing Base Flood Elevation (BFE) with exception of 300 ft<sup>2</sup> that rises to BFE in the northeast corner of the lot. On the lot is an existing home built in 1952. The existing home is 25' x 40' and has a footprint of 1,000 ft<sup>2</sup>. Additionally, a 40' x 10' asphalt driveway is located adjacent to the house and occupies an area of 400 ft<sup>2</sup>. The lot has 12 trees on site and are identified via the table below:

Tree Species	Size	Quantity	In Project Area?
Western Red Cedar (Thuja Plicata)	Dbh > 39"	2	No
Douglas Fir (Pseudotsuga menziesii)	6" < dbh ≤ 20"	2	Yes
Douglas Fir (Pseudotsuga menziesii)	6" < dbh ≤ 20"	6	No
Western hemlock (Tsuga heterophylla)	20" < dbh ≤ 39"	2	No

10 of the 12 trees run parallel to the property line on the far end of the lot and are not identified to be in the proposed project area. Two Douglas fir trees, measured at 15" dbh each are identified within the proposed project area. The remaining vegetation in the lot and within the proposed project area consists primarily of lawn grass and a few scattered ornamental and non-native shrubs intermixed with native vegetation.

The existing house, with a 1,000 ft<sup>2</sup> footprint and sitting 1.5 feet below BFE occupies 1,500 ft<sup>3</sup> of developed space. Since the driveway is sitting flat at ground level, it contributes 0 ft<sup>3</sup> of developed space. As the house and driveway have a combined footprint of 1,400 ft<sup>2</sup>, the total amount of impervious surface within the project area is identified as 1,400 ft<sup>2</sup>.

Based on the 2016 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp), this project has identified the 16-listed fish species and the Southern Resident killer whale identified in the BiOp as subject to direct, indirect, and cumulative impacts from development caused by this project.

## Proposed Project Description

The applicant proposes to demolish the existing house and construct a new one with a footprint of 2,000 ft<sup>2</sup>. The new home will be elevated to four feet above BFE to reduce encroachment into the floodplain using twenty pilings that each have a 1 ft<sup>2</sup> surface area, but fill material is still necessary to stabilize the pilings. To support the foundation of the new home and provide proper grading, 1,000 cubic feet of fill material will be placed around the pilings. The fill will cover the entire 2,000 ft<sup>2</sup> footprint of the proposed home and will be filled to a depth of .5 feet, leaving 1 foot remaining between the ground level and BFE. The applicant proposes to use fill from any floodplain storage mitigation requirements needed to achieve No Net Loss and will bring in the remainder fill volume in from off-site sources. Additionally, the applicant proposes to construct a 4' x 4' stoop to reach the elevated house. The amount of developed space added to the SFHA and RBZ-fringe from this proposed project is estimated to be 1,000 ft<sup>3</sup> from the placement of fill, 20 ft<sup>3</sup> from the installation of 20 pilings, and 24 ft<sup>3</sup> from the construction of a 4' x 4' stoop for a total amount of 1,044 ft<sup>3</sup> of undeveloped space.

The applicant intends to replace the current asphalt driveway with a permeable brick material kept within the same footprint and distance from ground level as the existing driveway. The proposed new house has a footprint of 2,000 ft<sup>2</sup> and therefore the proposed project anticipates a total amount of 2,000 ft<sup>2</sup> of impervious surface being added to the SFHA and RBZ-fringe.

As part of development, the applicant intends to remove two Douglas fir trees existing within the project area to accommodate the increase in footprint for the new construction. The two Douglas fir trees are measured at 15" dbh. Additional vegetation removal will consist of ornamental and non-native shrubs and vegetation surrounding the existing house.

The proposed project and assessment operate under the assumption that all ESA species mentioned above will likely be adversely affected by the proposed development through either direct, indirect, or cumulative effects and that achieving no net loss of the floodplain functions of Floodplain Storage, Water Quality, and Vegetation is necessary.

## Mitigation Plan

The project adds 1,044 ft<sup>3</sup> of developed space but removes 1,500 ft<sup>3</sup>. As the project does not provide a net increase of developed space and instead provides an extra 456 ft<sup>3</sup> of undeveloped space, no mitigation is required to achieve no net loss as it has already been achieved.

With 2,000 ft<sup>2</sup> of impervious surface being added, the project requires a total of 2,000 ft<sup>2</sup> of pervious surface to achieve no net loss as identified by PICM mitigation requirements. As the applicant is removing the 1,000 ft<sup>2</sup> of impervious surface from the removal of the old house, 1,000 ft<sup>2</sup> of impervious surface mitigation is still required to meet No Net Loss standards. As the applicant is replacing the existing impervious surface asphalt driveway with a driveway built with pervious materials, an additional 400 ft<sup>2</sup> of pervious surface is added to the proposed project area, lowering the requirement to 600 ft<sup>2</sup> of impervious surface that needs to be mitigated. As there are no other options to achieve the impervious surface mitigation requirement in the project area without reducing the size of the new house, Low

Impact Development and Green Infrastructure practices will be incorporated into the proposed development. Using the Oregon Department of Environmental Quality (DEQ) template for Low Impact Development in Western Oregon as guidance, and with the help of a roofing company named “G-Roofing”, a vegetated roof will be installed on the south aspect of the development. The vegetated roof will cover half of the 2,000 ft<sup>2</sup> roof and would reduce the requirement for impervious surface mitigation by 1,000 ft<sup>2</sup>.

The proposed project intends to remove two of the twelve trees on the lot to accommodate the new development. The two trees, measured at 15” dbh, require a replacement ratio of 2:1 as specified by no net loss mitigation requirements. Mitigation will include the planting of four sapling trees in the project area that are native to the local ecoregion. The applicant has agreed to the maintenance and monitoring of these trees for five years and to replace the trees if death of a sapling occurs in this period.

Color Key:

Step 1 – Project Area Description

Step 2 – Existing Habitat Description

Step 3 – Project Description

Step 4 – Environmental Effects Assessment

Step 5 – Mitigation Alternatives Review

Step 6 – Mitigation Plan

## ANALYSIS OF SAMPLE HABITAT ASSESSMENT

### Step 1 – Project Area Description

The sample habitat assessment meets Step 1: Project Area Description by providing detailed information about the project's location and existing site conditions as they relate to floodplain functions.

Location Information: The assessment clearly states the project's address (123 Residence Ave., Floodtown, OR).

Water Resources Information: The property is 500 feet from Salmon Creek, which flows into the Euchalon River, part of the Columbia River drainage basin.

Regulatory Areas: The assessment specifies the project's location within the Special Flood Hazard Area (SFHA). It notes that the project area is outside the Riparian Buffer Zone (RBZ) and designated floodways because it's farther than 170 feet from the Ordinary High Water Mark (OHWM) or the Mean Higher High Water (MHHW). Therefore, it falls entirely within the RBZ-fringe.

Existing Site Conditions: The assessment describes the existing conditions of the 0.5-acre lot, including:

- The entire lot sits 1.5 feet below the Base Flood Elevation (BFE), except for a 300 square foot area in the northeast corner.
- The lot contains an existing 1,000 (25' x 40' footprint) square foot single family home built in 1952. Additionally, a 40' x 10' asphalt driveway is located adjacent to the house and occupies an area of 400 square feet.
- The assessment provides a detailed inventory of trees on the lot, including species, size, and quantity. It also mentions the presence of lawn grass, ornamental and non-native shrubs, and native vegetation.
- The assessment calculates the volume of developed space occupied by the existing house and driveway as 1,500 cubic feet.
- The assessment identifies the total existing impervious surface area as 1,400 square feet.

## Step 2 – Existing Habitat Description

The sample habitat assessment effectively addresses Step 2: Existing Habitat Description by providing a comprehensive overview of the project area's habitat features and their connection to floodplain functions.

Projected Species Identification: The assessment acknowledges the potential impact of the project on the 16-listed fish species and the Southern Resident killer whale identified in the 2016 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp).

Site Investigation: The assessment clearly describes the existing features of the 0.5-acre lot, laying the groundwork for understanding its ecological context. This aligns with the requirement for a site investigation within the Existing Habitat Description.

Habitat Narrative (Floodplain Functions): The assessment details the current status of floodplain functions on the site.

- Floodplain Storage – The assessment identifies the area below the BFE and calculates the volume of developed space occupied by the existing house and driveway (1,500 cubic feet). This information is crucial for assessing the site's capacity to store floodwaters. Additionally, the project's location outside of the RBZ and floodways is highlighted, indicating a lower risk of direct impact on crucial floodwater conveyance zones.
- Water Quality – While the assessment doesn't directly mention water quality, its focus on impervious surface provides valuable insights. It quantifies the existing impervious surface area, setting a baseline for evaluating potential impacts on water quality due to runoff. The replacement of the asphalt driveway with a permeable material further demonstrates an understanding of water quality considerations.
- Vegetation – The assessment offers a detailed inventory of trees on the site, noting species, size, and location. It highlights the presence of two Douglas fir trees within the proposed project area. This information is essential for evaluating the project's potential impact on vegetation and the associated habitat value. The mention of lawn grass, ornamental and non-native shrubs, and native vegetation provides further context for the site's vegetation composition.

### Step 3 – Project Description

The sample habitat assessment effectively addresses Step 3: Project Description by providing a thorough explanation of the proposed development's features and how those features will impact the existing site conditions detailed in the previous steps.

Summary of Project Features: The assessment clearly outlines the key components of the proposed development, including:

- Demolition of the existing house (1,000 square foot footprint).
- Construction of a new, larger house (2,000 square foot footprint) elevated four feet above the BFE using twenty pilings with a one square foot surface area each.
- Use of 1,000 cubic feet of fill material to stabilize the pilings and achieve proper grading.
- Construction of a 4' x 4' stoop to access the elevated house.
- Replacement of the existing asphalt driveway with a permeable brick material.
- Removal of two Douglas fir trees (15" dbh) to accommodate the new construction.
- Removal of ornamental and non-native vegetation surrounding the existing house.

Construction Process: The assessment provides insights into the construction process and its potential impacts:

- Fill Material – The assessment mentions that fill material will be sourced from floodplain storage mitigation requirements and off-site sources. This highlights the potential for disturbance and alteration of existing site conditions during construction.
- Elevated Structure – The use of pilings and fill material to elevate the new house is described, indicating a strategy to minimize direct encroachment into the floodplain.

Location of Development: The assessment addresses the location of development by consistently referencing the project's location within the SFHA and RBZ-fringe, established in Step 1. This reinforces the understanding of the project's context within the floodplain.

Mitigation Hierarchy: While not explicitly labeled as the "mitigation hierarchy," the assessment demonstrates an understanding of this concept through its description of project features and the mitigation plan discussed later.

- Avoidance – The decision to elevate the house using pilings showcases an attempt to avoid direct impacts on floodplain storage by minimizing the structure's footprint within the floodplain.
- Minimization – The assessment mentions the removal of only the necessary trees (two Douglas firs) and the replacement of the asphalt driveway with a permeable material, demonstrating efforts to minimize impacts on vegetation and water quality.

Impacts to Floodplain Functions, Floodplain Connectivity, and Area Cleared and Graded: The assessment partially addresses these aspects:

- Floodplain Functions – The assessment calculates the added development space (1,044 cubic feet) and impervious surface (2,000 square feet). It acknowledges the potential for impacts on floodplain storage due to the use of fill material.
- Floodplain Connectivity: The assessment doesn't explicitly discuss impacts on floodplain connectivity, which would involve analyzing how the development might alter the natural flow of water and movement of species within the floodplain.
- Area Cleared and Graded – The assessment quantifies the removal of two Douglas fir trees and mentions the removal of other vegetation. However, it doesn't specify the total area to be cleared and graded.

By providing a detailed account of the proposed project's features and construction process, the habitat assessment meets most of the requirements of Step 3. However, it could benefit from a more explicit discussion of impacts on floodplain connectivity and a precise quantification of the area to be cleared and graded.

#### **Step 4 – Environmental Effects Assessment**

The information provided throughout the assessment can be interpreted to address the core aspects of Step 4.

Here's how the sample assessment aligns with the requirements:

Assumption of Adverse Effects: Both the sample Habitat Assessment and Step 4 operate under the assumption that development in the SFHA will likely adversely affect the 16 ESA-listed fish species and the Southern Resident killer whale. This shared assumption underscores the need for a detailed assessment of potential impacts and the development of effective mitigation measures.

Mitigation Ratios for No Net Loss: The sample Habitat Assessment explicitly references “no net loss standards as identified by the PICM mitigation ratios”. This indicates that the assessment considered specific mitigation ratios established for different impact types and locations, as outlined in Step 4. The calculation of required mitigation for developed space, impervious surface, and tree removal in the sample assessment demonstrates the application of these ratios to achieve no net loss.

Consideration of Impact Location: The sample Habitat Assessment specifies that the project area is located within the RBZ-fringe, outside the RBZ and designated floodways. This location



information is crucial for Step 4, which emphasizes considering “impacts of development location and how this affects No Net Loss requirements”. The assessment’s focus on mitigating impacts within the specific context of the RBZ fringe demonstrates this alignment.

Mitigation Measures Addressing Specific Impacts: The sample Habitat Assessment outlines specific mitigation measures to address the identified impacts on floodplain functions, including:

- Developed Space – The project adds 1,044 cubic feet of developed space but removes 1,500 cubic feet. As the project does not provide a net increase of developed space and instead provides an extra 456 cubic feet of undeveloped space, no mitigation is required to achieve no net loss as it has already been achieved.
- Impervious Surface – Replacing the asphalt driveway with permeable materials and incorporating a vegetated roof contribute to mitigating impervious surface impacts.
- Tree Removal – Planting four sapling trees as replacements for the two removed trees aligns with the mitigation ratio for vegetation.

The sample Habitat Assessment provides a practical example of how the principles and requirements outlined in Step 4 are translated into a real-world project evaluation. It showcases the process of analyzing impacts, considering location-specific factors, applying mitigation ratios, and developing a comprehensive mitigation plan to achieve no net loss of habitat functions.

## **Step 5 – Mitigation Alternatives Review**

The sample Habitat Assessment aligns with Step 5 by demonstrating the consideration and implementation of various mitigation strategies to achieve no net loss of habitat functions.

Mitigation Sequencing:

The assessment clearly follows the mitigation hierarchy outlined in Step 5, which prioritizes avoidance, followed by minimization, and lastly, mitigation.

- Avoidance: The assessment doesn’t explicitly discuss avoidance options, as the project involves replacing an existing home. However, it’s possible that avoidance was considered during the initial project planning phases.
- Minimization: The assessment showcases minimization efforts through several strategies:
  - Using Permeable Materials - Replacing the asphalt driveway with permeable bricks reduces impervious surface area.

- Incorporating Green Infrastructure - The inclusion of a vegetated roof further minimizes impervious surface impacts.
- Mitigation: The assessment details specific mitigation actions to compensate for unavoidable impacts:
  - Developed Space - It notes that no mitigation is required for developed space because the project removes more developed space (1,500 cubic feet) than it adds (1,044 cubic feet), resulting in a net decrease.
  - Impervious Surface - The permeable driveway and vegetated roof directly mitigate a significant portion of the added impervious surface.
  - Tree Removal - Planting four sapling trees compensates for the removal of two existing trees.

No Net Loss Goal: The entire mitigation plan within the assessment is driven by the goal of achieving no net loss of habitat functions within the SFHA. This aligns directly with the emphasis on No Net Loss in Step 5. The assessment demonstrates this goal through the calculation of specific mitigation requirements based on established ratios and the implementation of measures to meet those requirements.

Specific Examples of Mitigation Alternatives: The assessment showcases a range of mitigation alternatives employed to address various impacts:

- Permeable Driveway and Vegetated Roof: These examples highlight the integration of Low Impact Development (LID) and Green infrastructure principles into the project design to minimize and mitigate impervious surface impacts.
- Tree Planting: The selection of native tree species and the commitment to long-term maintenance and monitoring demonstrate a comprehensive approach to mitigating vegetation removal.

Overall, the sample Habitat Assessment effectively illustrates the key principles of Step 5: Mitigation Alternatives Review. It showcases the sequential consideration of avoidance, minimization, and mitigation strategies, driven by the ultimate goal of achieving no net loss of habitat functions within the SFHA.

## Step 6 – Mitigation Plan

The sample Habitat Assessment effectively demonstrates the key components of Step 6 through its detailed outline of specific actions, monitoring provisions, and the achievement of no net loss for each impacted floodplain function.

Specific Actions: The assessment clearly outlines specific actions for each mitigation measure, ensuring clarity and actionable steps. Examples include:

- **Developed Space** - It notes that no mitigation is required for developed space because the project removes more developed space (1,500 cubic feet) than it adds (1,044 cubic feet), resulting in a net decrease.
- **Impervious Surface** - Replacing the 400 square-foot asphalt driveway with permeable bricks and installing a vegetated roof covering half of the 2,000 square foot roof contribute significantly to impervious surface mitigation.
- **Tree Removal** - Planting four sapling trees, native to the local ecoregion, in the project area mitigates the removal of the two 15-inch diameter Douglas fir trees.

Monitoring and Maintenance: The assessment includes a commitment to monitoring and maintaining the planted trees for five years, ensuring the long-term success of the mitigation efforts. This commitment involves replacing any saplings that die within this period.

No Net Loss Determination: The assessment demonstrates the achievement of no net loss for each impacted floodplain function by:

- **Developed Space** - It notes that no mitigation is required for developed space because the project removes more developed space (1,500 cubic feet) than it adds (1,044 cubic feet), resulting in a net decrease.
- **Impervious Surface:** Meeting the 2,000 square foot pervious surface requirement by replacing the existing driveway with permeable materials, incorporating a vegetated roof, and potentially employing additional Low Impact Development practices as guided by DEQ.
- **Vegetation:** Satisfying the 2:1 replacement ratio for the removed trees by planting four sapling trees and committing to their long-term maintenance.

The sample Habitat Assessment provides a practical illustration of how Step 6: Mitigation Plan is implemented in a real-world scenario. It showcases the importance of:

- Clearly defining specific mitigation actions implementing monitoring and maintenance plans to ensure long-term effectiveness.

**Congress of the United States**  
**Washington, DC 20515**

August 22, 2024

The Honorable Deanne Criswell  
Administrator  
Federal Emergency Management Agency  
500 C St. SW  
Washington, D.C. 20024

Dear Administrator Criswell,

We are writing to reiterate concerns about the Federal Emergency Management Agency's (FEMA) proposed strategy to implement changes to the National Flood Insurance Program (NFIP) in Oregon, specifically regarding a new compliance requirement that communities need to select Pre-Implementation Compliance Measures (PICMs) well before FEMA makes final recommendations. NFIP is a life-saving federal program, and its administration and changes must be undertaken with the utmost care and evenhanded judgment.

All of our offices have heard serious concerns from small business leaders, local elected officials, affordable housing advocates, and economic development groups. We want to emphasize that the implementation of permitting programs is carried out primarily at the local level, and the leaders in the affected communities have valuable insights. FEMA must lead by listening to and working collaboratively with local and state officials to craft policies that can be implemented effectively and sustainably.

Our offices have heard significant concerns from these communities about the decision to abruptly cease processing Letters of Map Revision – Based on Fill (LOMR-F) and Conditional Letters of Map Revision – Based on Fill (CLOMR-F) on August 1<sup>st</sup>, 2024, with little to no notice. The timing of this action leaves communities scrambling to comply with FEMA's plan to reach compliance with the National Marine Fisheries Service's (NMFS) 2016 Biological Opinion ("BiOp") and its Reasonable and Prudent Alternatives (RPAs).

We do not doubt the necessity of enhanced conservation efforts, including protection of Oregon's declining salmon population. The worsening wildfire intensity and smoke pollution is also an urgent reminder of the scale of the climate crisis. Communities across the state share these concerns and the fundamental drive to protect the unique environment in which we live.

We respectfully request that you make several key changes to FEMA's revised timeline. We ask that FEMA provide an additional 90 days for Oregon jurisdictions to consider the three proposed "Pre-Implementation Compliance Measures," changing the December 1<sup>st</sup>, 2024 selection date to

March 1<sup>st</sup>, 2025. Accordingly, the automatic adoption of the permit-by-permit PICM should also be delayed until at least March 1<sup>st</sup>, 2025 and accompanied by collaborative action with the state to demonstrate compatibility with state land use law.

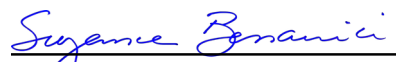
Additionally, FEMA should develop a pathway for continued review of LOMR and CLOMR cases during this period as it finalizes its Environmental Impact Statement. The pause to these processes initiated on August 1<sup>st</sup> was not sufficiently noticed to communities and future timeline changes should be announced with significantly greater notice. If applicants need additional consultation and technical assistance, FEMA should make staff available to assist.

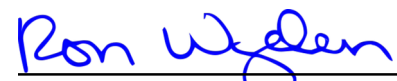
We also request that you fully consider the State of Oregon's request that FEMA add a pathway for the state to develop and adopt a statewide regulatory package that achieves compliance with the "no net loss" standard. Allowing state agencies with the staff and expertise to develop a policy that is consistent statewide would reduce capacity and cost burdens for local governments and simplify integration of any new requirements with existing state land use law.


Finally, we request a written explanation of the decision-making process that led to the PICM taking effect well before the completion of the Environmental Impact Statement. Providing community members with a clear understanding of this process is key to maintaining transparency and demonstrating consistency with the NEPA process.

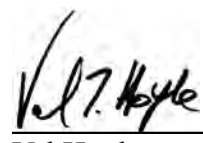
We remain committed to a collaborative path forward that responds to the dual imperatives of economic stability and environmental preservation. We appreciate FEMA's shared commitment to these goals and thank you for your full and fair consideration of our concerns. For any questions, please contact Espen Swanson in Congresswoman Bonamici's office at [Espen.Swanson@mail.house.gov](mailto:Espen.Swanson@mail.house.gov); Ree Armitage in Senator Ron Wyden's office at [Ree\\_Armitage@wyden.senate.gov](mailto:Ree_Armitage@wyden.senate.gov); Gustavo Guerrero in Senator Jeff Merkley's office at [Gustavo\\_Guerrero@merkley.senate.gov](mailto:Gustavo_Guerrero@merkley.senate.gov); Olivia Wilhite in Congresswoman Val Hoyle's office at [Olivia.Wilhite@mail.house.gov](mailto:Olivia.Wilhite@mail.house.gov) or Alexander O'Keefe in Congresswoman Andrea Salinas' office at [Alexander.OKeefe@mail.house.gov](mailto:Alexander.OKeefe@mail.house.gov).

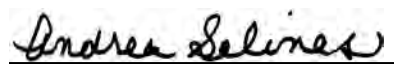
Sincerely,


  
Suzanne Bonamici  
Member of Congress

  
Ron Wyden  
United States Senator

  
Jeffrey A. Merkley  
United States Senator

  
Val Hoyle  
Member of Congress

  
Andrea Salinas  
Member of Congress

  
Earl Blumenauer  
Member of Congress



## **AGENDA STAFF REPORT**

**AGENDA LOCATION:** Item #11C

**MEETING DATE:** November 25, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Joshua Chandler  
Community Development Director

**ISSUE:** Adoption of General Ordinance No. 24-1407, a general ordinance amending The Dalles Municipal Code Chapter 8.02 (*Short-Term Rental License*)

**BACKGROUND:** *This item is a continuation from the October 14, 2024, meeting.*

Following a series of Council discussions from summer 2023 and 2024 regarding the management and regulation of the City's short-term rental (STR) ordinance, Staff is following through on Council's direction to implement various amendments to the City's STR Program.

On October 14, 2024, Staff presented a set of proposed amendments to the ordinance. After a detailed discussion including input from community stakeholders, Council directed staff to make several revisions and bring them back for consideration at a future meeting. Additional background on these related discussions are included in Council's May 8 and October 23, 2023, and July 22 and October 14, 2024, meeting packets and minutes.

This Staff Report addresses modifications to previously proposed amendments from October 2024. The amendments presented in this proposed Ordinance mark the first revisions to the STR Program since its inception in late 2020.

As of the date of this report, there are 47 total STRs in the City, including existing permitted Bed and Breakfast and Vacation Rentals (BBV). Of these 47 units, 33 are non-owner-occupied units, with 40 of the 47 located in residential zoning districts, 26 units of which are non-owner-occupied.

### **Proposed Amendment Topics:**

Following Council discussion at the October 14 meeting, Staff revised previously proposed amendments by compiling 2 separate ordinance proposals for consideration:

1. **Option A:** Modifications to all Council comments at the October 14, 2024, with the inclusion of an amortization (“phase-out”) provision requested for consideration by Council; and
2. **Option B:** Modifications to all Council comments at the October 14, 2024.

Key revisions of both Options include:

- **Vicinity requirements for new STRs.** During Council discussion, Staff proposed limiting new STR licenses to areas at least 300’ from existing STRs in residential zones. After discussion, Council expressed interest in increasing that buffer to 500’ and to include a 100’ buffer for commercial zones, particularly in the Central Business Commercial (**CBC**) district, to maintain neighborhood character. Based on that additional feedback, Staff revised its proposal to include a 500’ buffer for residential districts and a 100’ buffer for non-residential districts, including the CBC, Recreational Commercial (**CR**), and General Commercial (**CG**) zones. Overlapping buffers will not apply when a residential STR is near a non-residential STR.

To evaluate the overall impact of this particular proposed amendment, Staff collaborated with Wasco County GIS to create a map showing how the proposed changes would affect existing STRs and developed 3 scenarios comparing the impacts of 100’, 300’, and 500’ residential buffers (with non-residential STRs consistently subject to a 100’ buffer). The map focuses on the number of STRs impacted, rather than the total number within each buffer zone, since a single STR may fall within the vicinity of several others. *Note:* The map does not account situations involving multiple STRs located within a single building.

- **Scenario 1:** 500’ residential vicinity, 100’ non-residential vicinity
  - Total impacted properties: **22** (*Two STRs located within both non-residential and residential zones fall within a 500’ residential buffer, but these standards do not apply to them since they are in different zone types*)
- **Scenario 2:** 300’ residential vicinity, 100’ non-residential vicinity
  - Total impacted properties: **18**
- **Scenario 3:** 100’ residential vicinity, 100’ non-residential vicinity
  - Total impacted properties: **6**
- **Expanded notification area for licensing.** In addition to the mandatory vicinity requirement for new STRs, Staff proposes extending the licensing notification area to match the vicinity requirements of each zone. STR licensing notifications are required at the time of initial license approval or when an STR changes operators. The notification area is designed to be consistent with the vicinity



requirements outlined above (i.e., 500' for residentially zoned STRs and 100' for non-residentially zoned STRs).

During Council discussion, Staff noted expanding the notification area would result in more property owners receiving notices, which in turn leads to increased administrative costs on the City. Staff requested Council's support for increasing the STR Program's fees to cover those additional mailing expenses—to justify that increase, Staff used data from Wasco County GIS to calculate the additional mailing costs resulting from expanding the notification area from 100' to 300' to 500' (based on 2 different scenarios for the expanded notification area). The current postage cost is \$0.69 per notice.

- Current average (for 100' notification):
  - Current Average Total: **11.87 properties**
  - Current Average Cost: **\$8.19**
- Scenario 1: 500' residential notification, 100' non-residential notification
  - Average Total: **68.43 properties**
  - Average Cost: **\$47.22**
- Scenario 2: 300' residential notification, 100' non-residential notification
  - Average Total: **34.17 properties**
  - Average Cost: **\$23.58**

Based on that analysis, Staff recommends accounting for increased mailing costs if Council adopts a change here. As shown, expanding the notification area (with a current average cost of **\$8.19**) would result in a **\$39.03** increase for a 500' notification area and a **\$15.39** increase for a 300' notification area. If Council adopts either version of the proposed Ordinance this evening, Staff intends to recommend increasing the STR annual license fee from **\$75** to **\$115** (for the 500' area) or from **\$75** to **\$90** (for the 300' area) when Council adopts the annual fee schedule in January 2025 to offset those administrative costs.

- **Complaint reporting.** Currently, the City requires written complaints concerning STR operations to be submitted to the Code Enforcement Division. Concerns raised about noise and parking occurring outside of the City's regular business hours questioned the process's effectiveness. During Council discussion, Staff noted the Police Department has not received any documented STR-related noise complaints in over 2 years and most claimed parking issues at STRs involved otherwise lawful parking practices. Some community members voiced concerns that certain issues surrounding STR operation should not warrant police involvement. In response, Council directed Staff to expand the complaint process—the proposed amendments include the City's ability to accept formal STR complaints via email submissions, written forms, or through the Police Department's webpage portal. To ensure thorough investigations and enforcement practices, the City encourages providing detailed complaints, including photos, videos, and correspondence with the STR operator. For urgent public safety

concerns, complaints should always be directed to 9-1-1 or the Police Department.

- **Maximum Occupancy.** Currently, the City sets a maximum occupancy for STRs at 2 guests per bedroom based on guidelines from the International Code Council (ICC), which develops best practice model codes for building safety and sustainability. That standard is commonly used by other municipalities, though some provide variations related to square footage and allowances for additional guests. After Council discussion, Staff clarified the definition of *bedroom* to ensure better compliance with the occupancy limit. Staff reviewed definitions from other STR codes and ICC standards, incorporating criteria for habitable space, and established clear definitions for *bedrooms* and *studios* to ensure STRs provide appropriate space for guests while maintaining the 2 guest-per-bedroom standard.
- **Mandatory Posting.** The City currently requires STRs to display their maximum occupancy limit near the front door. After Council discussion, Staff proposed creating an online and publicly available inventory of licensed STRs to help neighbors quickly find information about a rental and directly address any concerns with the operator.

However, rather than maintaining that online database, Staff now recommends a more effective approach for concerned neighbors by requiring all STRs to prominently display their City-approved license near the STR’s front door so that is easily visible. For STRs located in rear yards or areas where their entrance is not visible from the street or public right-of-way, the license must be posted in a way that makes it visible from those areas. The license itself includes the license number, year of licensure, operator contact information, maximum occupancy, and contact details for the City’s Code Enforcement Officer. This recommended approach would not impose much of an additional burden on administering the STR Program when compared to City maintenance of an online database forever.

- **Amortization Process.** In 2023 and 2024, Council held several discussions on how to address existing STRs in light of proposed changes to the STR Program. Initially, Staff suggested a plan to phase out non-compliant STRs over time, similar to approaches taken by other cities like Cannon Beach and Hood River. However, Council decided to move forward with a proposal allowing existing STRs to continue operating without needing to follow some of the more onerous new rules, including parking and vicinity requirements (an approach informally referred to as *grandfathering*).

Some community members expressed concern over the grandfather approach due to the “clustering” effect of STRs in residential neighborhoods where STRs could be located in close proximity (e.g., across the street or where a single owner controls adjacent STRs). In response, Council directed Staff to explore a type of amortization process to phase out non-compliant STRs. All current STR operators were notified of this proposal by email dispatched on November 12, 2024.

Tonight, Council is considering 2 main options: allowing existing STRs to continue operating without meeting new proximity and parking standards (i.e.,

grandfathering) or adopting an amortization process. Under the amortization proposal, STRs with a valid license as of December 31, 2024, would be allowed to apply for and receive a license annually as a nonconforming property until December 31, 2029. Effective January 1, 2030, such nonconforming STRs would need to fully comply with all regulations (including proximity and parking standards). In all cases where the property is also a primary residence, the residential off-street parking standards from the City's Land Use and Development Ordinance would still apply.

If a proposed STR is within proximity of an existing STR, and other STR applications are submitted for that area, the proposed approval process includes a lottery system outlined in proposed TDMC 8.02.030(C) and (D). After the lottery, any STRs not meeting the proximity requirements would be required to cease operations. If an STR selected through the lottery system loses its license, the City may hold another lottery to select a new STR in that area based on applications submitted by November 29 (or the next business day if November 29 falls on a City holiday) of the previous license year.

**Notifications:**

On November 12, 2024, Staff provided all current STR and BBV operators notice of tonight's Council meeting, information concerning these proposed changes, and links to Council's previous 2023 and 2024 discussions here. Further, on November 18, 2024, Staff also provided all current STR and BBV operators (and many of the community members who have spoken at Council meetings over the last 2 years concerning STR operations) a link to tonight's Council packet and encouraging their comments and participation here.

**BUDGET IMPLICATIONS:** None.

**COUNCIL ALTERNATIVES:** Staff recommends Council amend the City's STR Program by adopting either:

- **Option A:** General Ordinance No. 24-1407A, which includes modifications to all Council comments at the October 14, 2024 (including the amortization provision); or
- **Option B:** General Ordinance No. 24-1407B, which includes modifications to all Council comments at the October 14, 2024 (excluding the amortization provision).

If Council elects to adopt **General Ordinance No. 24-1407A:**

1. **Staff Recommendation:** *Move to adopt General Ordinance No. 24-1407A, as presented, by title only.*
2. Make minor modifications to then move to adopt General Ordinance No. 24-1407A, as amended, by title only.

3. Make substantive modifications to then move to adopt General Ordinance No. 24-1407A, as amended, by title only, contingent on a second approval at a future meeting.
4. Decline formal action and direct Staff accordingly.

If Council elects to adopt **General Ordinance No. 24-1407B**:

1. ***Staff Recommendation: Move to adopt General Ordinance No. 24-1407B, as presented, by title only.***
2. Make minor modifications to then move to adopt General Ordinance No. 24-1407B, as amended, by title only.
3. Make substantive modifications to then move to adopt General Ordinance No. 24-1407B, as amended, by title only, contingent on a second approval at a future meeting.
4. Decline formal action and direct Staff accordingly.

#### **ATTACHMENTS:**

- **Attachment 1:** Comment received: Yvonne Pepin-Wakefield, dated October 30, 2024
- **Attachment 2:** Vicinity Map: Scenario 1 – 500’ residential vicinity, 100’ non-residential vicinity
- **Attachment 3:** Vicinity Map: Scenario 2 – 300’ residential vicinity, 100’ non-residential vicinity
- **Attachment 4:** Vicinity Map: Scenario 3 – 100’ residential vicinity, 100’ non-residential vicinity
- **Attachment 5:** Comment received: Joyce Overeem, dated November 13, 2024

**From:** [Yvonne Pepin-Wakefield](#)  
**To:** [Joshua Chandler](#); [Matthew Klebes](#); [Richard Mays](#)  
**Subject:** STR's  
**Date:** Wednesday, October 30, 2024 11:38:23 AM

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WARNING: Email from external source. Links and attachments could pose security risks. Investigate sender and think before you click.

October 30, 2024

Rich Mays

Matthew Klebes

Josh Chandler

I am writing in regards to the city's position or lack of position on STR's and Airbnb's or other vocational rentals in the vicinity of Klint Drive.

Currently there are at least two near me. One I received notification of intent for an STR. The other I did not (see email to Josh Chandler, below). Residents of the Scenic Drive area also reported not receiving notification of STR's.

As a business owner and resident in Riverfront Business Park, I am opposed to vacation commercialization of the property next to me. I believe, the requirement for residential occupancy in this area requires the ground floor to be a commercial business. To my knowledge, none of the ground floors are operating business's though the upper three floors are in residential or short-term vacation, use.



**Yvonne Pepin-Wakefield** <[yvonnepepinwakefield@gmail.com](mailto:yvonnepepinwakefield@gmail.com)>

Oct 28, 2024, 3:53 PM (2 days ago)

to Joshua

Hi Josh,

I never received notification for 3793 Klindt Drive on July 12, 2024. I would have remembered because I would have opposed this STR or Airbnb as a second unit proposed by Jeremy Robertson was not voted on in our HOA meeting. We did give conditional approval for one unit to be reevaluated in one year.

"notice, a map of the area, and a list of the addresses included with each notice. The STR at 3781 Klindt Drive was sent on July 6, 2023 and the notice for 3793 Klindt Drive was sent on July 12, 2024. Please note, the notice for 3781 has a typo in the introductory paragraph, but I confirmed notifications for the license reflected the 3781 accurately. In reviewing both of these notices, it does appear you were included on this notification list for your property at 3735 Klindt Drive (pages 3 of 3)."

Sincerely,

Yvonne Pepin-Wakefield  
Yvonne Pepin-Wakefield, Ph.D.

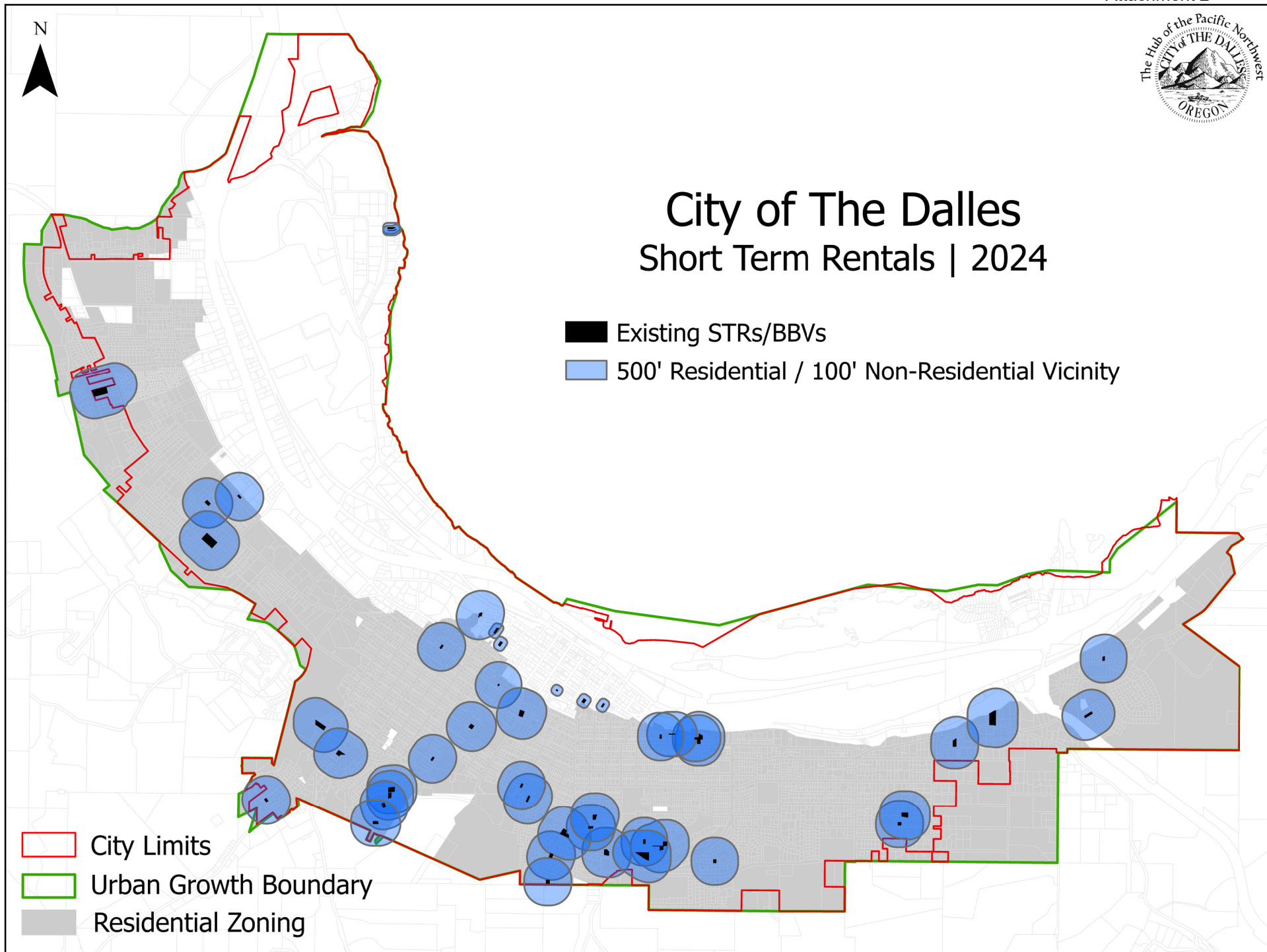


# City of The Dalles

## Short Term Rentals | 2024

- Existing STRs/BBVs
- 500' Residential / 100' Non-Residential Vicinity

- City Limits
- Urban Growth Boundary
- Residential Zoning



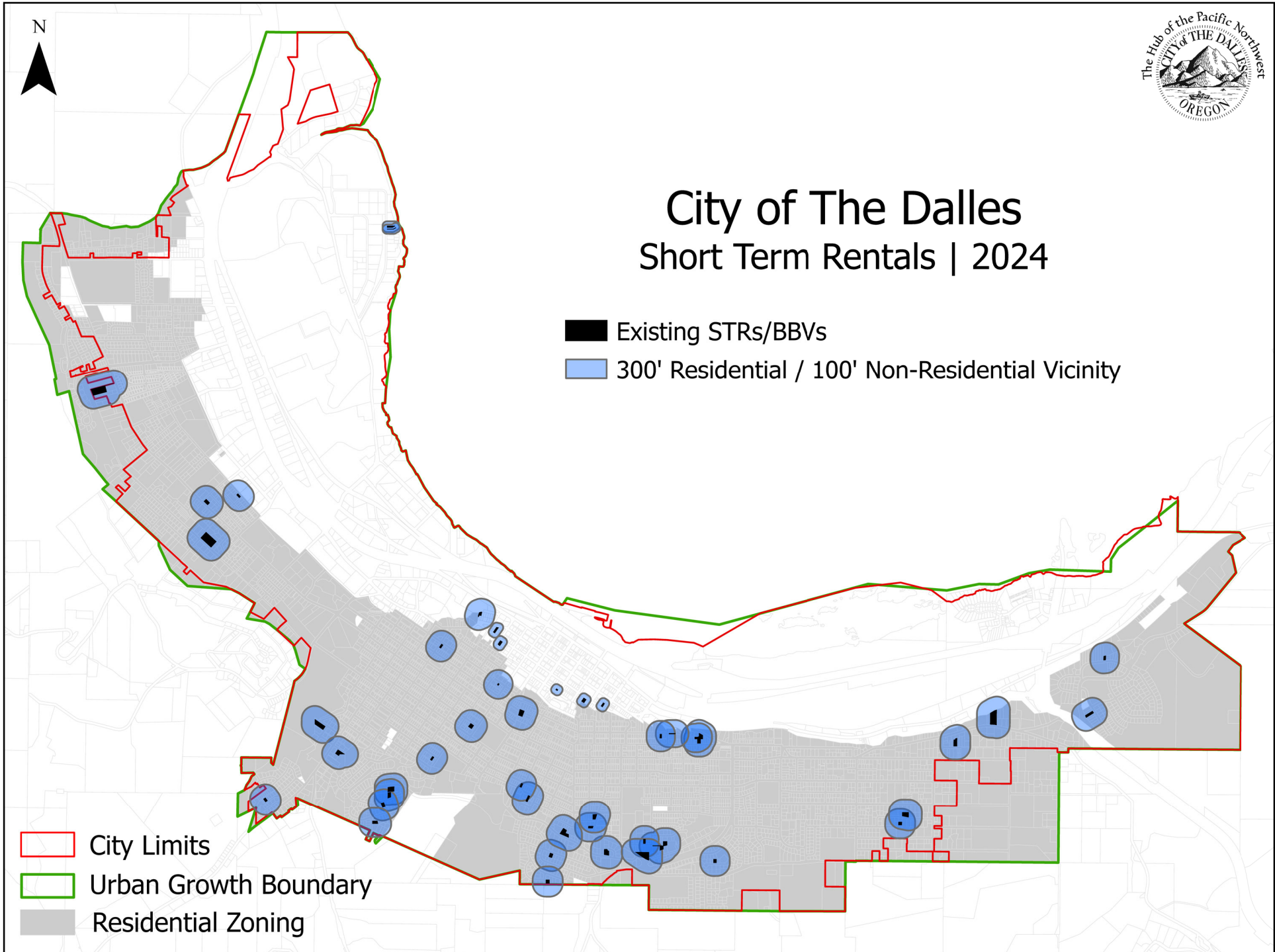


# City of The Dalles

## Short Term Rentals | 2024

- Existing STRs/BBVs
- 300' Residential / 100' Non-Residential Vicinity

- City Limits
- Urban Growth Boundary
- Residential Zoning





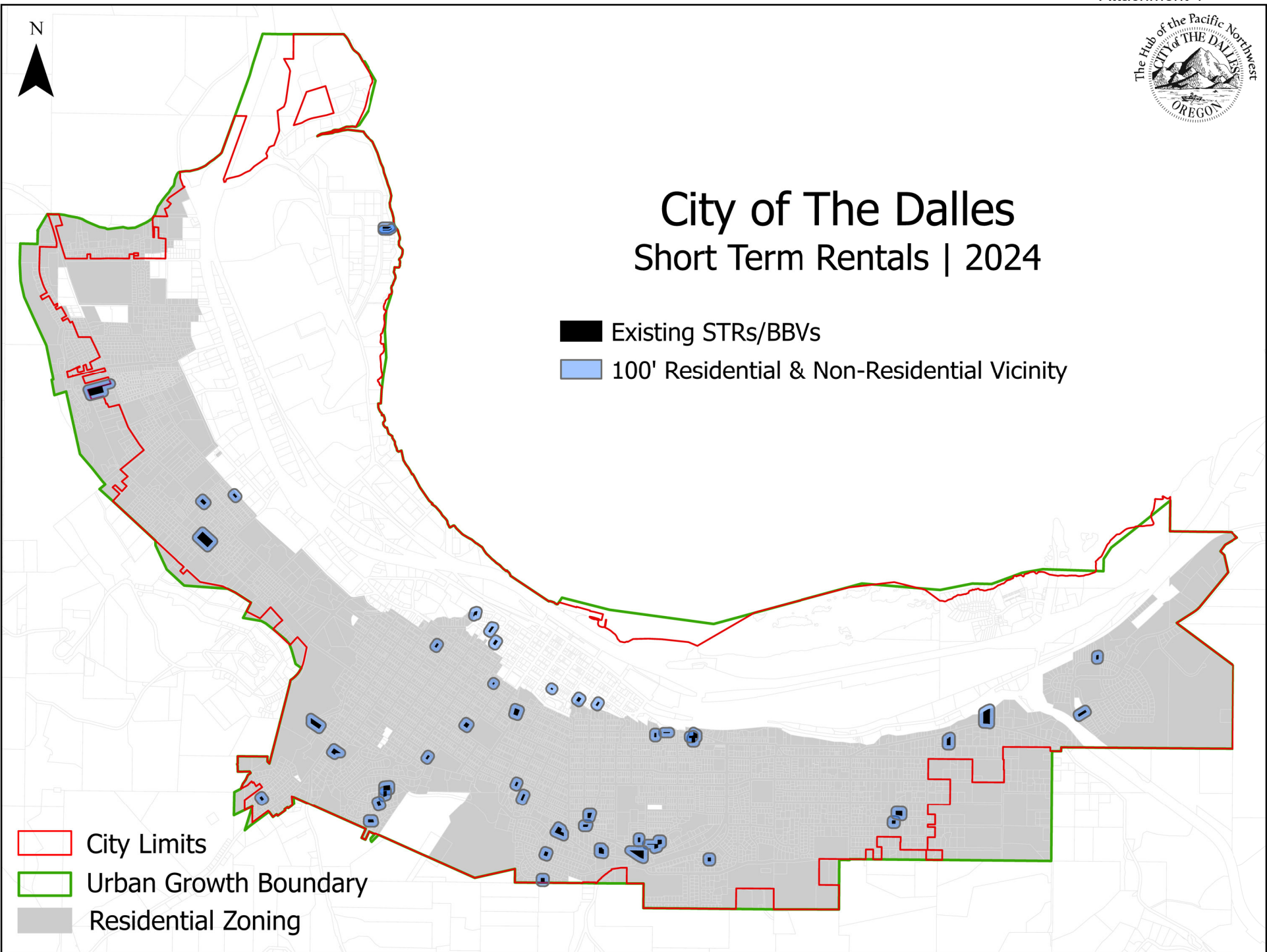


# City of The Dalles

## Short Term Rentals | 2024

- Existing STRs/BBVs
- 100' Residential & Non-Residential Vicinity

- City Limits
- Urban Growth Boundary
- Residential Zoning





**From:** [jovereem@charter.net](mailto:jovereem@charter.net) <[jovereem@charter.net](mailto:jovereem@charter.net)>  
**Sent:** Wednesday, November 13, 2024 4:47 PM  
**To:** Richard Mays  
**Cc:** Timothy McGlothlin  
**Subject:** From Website

Mayor Richard Mays,

I listened to the last city council meeting. I like the proposed rules made by Joshua Chandler.

I heard Jonathan Kara say that here haven't been any complaints about 300 West Scenic Drive (party pool house) for 2 years. I apologize for my lack of record keeping. I have complained at least twice about noise from pool house and backyard. The last time I complained was on a Saturday night this summer. From my house I can see most of 6<sup>th</sup> street and businesses in the area. On the Saturday that I last called the Dalles police department to complain about noise the dispatcher told me the police were extremely busy. I could see the flashing red and blue lights throughout town, so I asked the dispatcher to make a note /report that a noise complaint was made at party pool house on Scenic Drive.

Does anything happen to these dispatcher reports/complaints? Who sees them and who decides to throw them out? Every time I have called about noise, I'm told I must wait until 10:00 pm for the noise ordinance to kick in. Does this mean that bedlam and hullabaloo racket can go on all day and into the evening? I don't mind music and people laughing and having fun. I do mind screaming, yelling and music so loud it rattles the windows. I will do my due diligence from now on and follow up with my noise complaints with dates and who I talked to. I did not attend last meeting because I had surgery. I plan on attending next meeting. I also have family and friends stay with me. I have 2 downstairs bedrooms. My company hears everything that happens in the hot tub, pool house and backyard. Trust me, no one wants to listen to STR guests holler, jabber and carry on all evening.

*I would like to know if there are people on the city council who are invested in the STR business. I also have friends who operate Air B&Bs and I know it can be a lucrative line of income. I am not against people having businesses and making money. I just want to know if friends, relatives, and city council members are invested in these businesses and have a conflict of interest. If there are conflicts of interest, I ask that these people remove themselves from making decisions regarding STRs.*

*Thank you for all the work you have done on this matter.*

*Sincerely*

*Joyce Overeem*

**GENERAL ORDINANCE NO. 24-1407A**

**AN ORDINANCE AMENDING  
THE DALLES MUNICIPAL CODE  
CHAPTER 8.02 (SHORT-TERM RENTAL LICENSE)**

**WHEREAS**, the City regulates the transient rental of dwelling units and rooms within the City’s corporate limits pursuant to the provisions of The Dalles Municipal Code (TDMC) Chapter 8.02 (*Short-Term Rental License*);

**WHEREAS**, recent community feedback, staff administration enhancements, and legal sufficiency review support the City’s amendment to certain provisions of TDMC Chapter 8.02;

**WHEREAS**, at its October 14, 2024, meeting, the City Council considered proposed amendments to the provisions of TDMC Chapter 8.02 as part of an involved and public discussion;

**WHEREAS**, at its November 25, 2024, meeting, the City Council considered proposed amendments a second time and incorporated staff and community feedback from the October 14, 2024, discussion; and

**WHEREAS**, the City Council finds adopting the proposed amendments to TDMC Chapter 8.02 through this Ordinance to support the City’s interests and preserve and protect the public health, safety, and welfare.

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

**Section 1** A redline comparison copy of the amendments implemented by this Ordinance’s **Section 2** are attached to and made part of this Ordinance as its **Exhibit 1**.

**Section 2** The Dalles Municipal Code – **Title 8 (Business), Chapter 8.02 (Short-Term Rental License)**, shall be revised to read:

**Sections:**

- 8.02.010 Purpose.**
- 8.02.020 Definitions.**
- 8.02.030 Licenses.**
- 8.02.040 General Requirements.**
- 8.02.050 License Requirements.**
- 8.02.060 Food Services.**
- 8.02.070 Review Procedures.**
- 8.02.080 Fees.**
- 8.02.090 Public Notice.**
- 8.02.100 Existing Nonconforming Short-Term Rentals.**
- 8.02.110 Complaints Regarding Operation.**

- 8.02.120**      **Violations.**
- 8.02.130**      **Revocation.**

**Chapter 8.02**  
**SHORT-TERM RENTAL LICENSE**

**8.02.010. Purpose.**

This Chapter is intended to authorize, regulate, and govern the transient rental of dwelling units or rooms on property within the City of The Dalles. These standards and requirements shall be in addition to other requirements of The Dalles Municipal Code (including TDMC Chapter 8.04’s regulations concerning the City’s transient lodging tax) and all other applicable Oregon and federal laws and regulations.

**8.02.020. Definitions.**

As used in this Chapter, except where the context indicates otherwise, the following terms shall mean:

- A. “Bedroom” means any habitable space in a dwelling unit, excluding kitchens and living rooms, intended for sleeping, and at least 100 square feet in size with a ceiling height of at least 7 feet. It must be separated from other rooms by a door, accessible to a bathroom without passing through another bedroom, and cannot be the only access to other bedrooms or habitable spaces;
- B. “Council” means the City Council of the City of The Dalles;
- C. “City” means the City of The Dalles, a municipal corporation of the State of Oregon.
- D. “Department” means the City’s Community Development Department;
- E. “Director” means the City’s Community Development Director;
- F. “License” means a license to operate a short-term rental issued by the City;
- G. “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;
- H. “Operator” means the person who is the proprietor of a short-term rental in any capacity;
- I. “Short-term rental” means all accommodations with duration of 30 consecutive days or less;
- J. “Studio” means any self-contained habitable space, at least 220 square feet in size with a minimum ceiling height of 7 feet, that combines living, sleeping, and kitchen areas into a single open space, with a separate bathroom;
- K. “TDMC” means The Dalles Municipal Code; and

- L. “Transient” means the renting of a dwelling unit or rooms for compensation on less than a month-to-month basis.

**8.02.030. Licenses.**

- A. Annual License Required. Prior to using any dwelling unit as a short-term rental, the operator of any short-term rental must possess an approved license for each short-term rental they operate. Licenses are valid for the calendar year beginning January 1 and ending December 31. Partial year licensing or prorated licensing fees will not be granted at the time of licensing or license renewal. Licenses shall be non-transferable. Upon transfer of the real property where the short-term rental is located or transfer of the business owning and operating the short-term rental, any existing license held by a transferring operator becomes void and the new operator(s) must apply for a new license before continuing to operate the short-term rental.
- B. Maximum License Cap. The total number of licenses allowed each year shall not exceed one (1%) percent of the City’s total housing unit inventory (as provided in the City’s current Housing Needs Analysis) when rounded down to the next whole number.
- C. Annual Renewal Process. For license renewals each year, priority will be given to existing licenses seeking renewal so long as the renewal application is delivered to the Department by November 29 (or the next business day if November 29 falls on a day the City is closed). The Department will review each application to ensure each operator and the associated real property is in good-standing with the provisions of this and all other Chapters of The Dalles Municipal Code. All existing violations must be resolved prior to the issuance of a license or renewal of an existing license. If violations are not resolved by January 2, the existing short-term rental’s license will be deemed void (and the short-term rental shall lose its status as an existing operation, including the provisions outlined in TDMC 8.02.100 below) and its operator shall be required to apply for a new license to continue using the real property as a short-term rental consistent with this Chapter.
- D. Lottery System. By November 29 (or the next business day if November 29 falls on a day the City is closed) and if additional licenses are available as established in TDMC 8.02.030(B) (after accounting for all license renewals), the City will select new licenses on a lottery basis consistent with the Department’s administrative policy. Once an applicant is selected from the lottery list, that applicant will have 15 days to submit all applicable fees and information or forfeit their place on the lottery list, in which case a new applicant will be selected.
- E. Vicinity Requirements.
  - 1. *Residential Zones.* Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 500 feet from any other existing and licensed short-term rental within the Low Density Residential (RL), Medium Density Residential (RM), or High Density Residential (RH) zoning districts.
  - 2. *Nonresidential Zones.* Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 100 feet from any other existing and licensed short-term rental within the Central Business Commercial (CBC), General Commercial (CG), or

Recreation Commercial (CR) zoning districts.

3. *Measurements.* For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications.

#### **8.02.040. General Requirements.**

The following general requirements shall apply to all short-term rentals:

- A. License. A license shall be obtained by the operator prior to any transient rental of the property.
- B. Signs.
  1. *Residential Zones.* Signage shall be limited to one (1) four square foot flush sign affixed to the primary building. No off-premises signs are permitted.
  2. *Nonresidential Zones.* All signage normally allowed by the zone district in which the short-term rental is located shall be allowed.
- C. Length of Stay. The length of stay for guests is limited to 30 consecutive days.
- D. Transient Lodging Tax. Each facility shall be subject to payment of the City's transient lodging tax consistent with the provisions of TDMC Chapter 8.04. As part of the license renewal process, the operator must provide the Department proof of currency with that property's transient lodging tax obligations. Failure to submit proof of past payment shall result in the denial of the current license; however, an operator may apply for re-licensing upon proof of such payment without incurring an additional license fee.
- E. Health and Safety.
  1. *Operator's Responsibilities.* It is the operator's responsibility to ensure the facility remains in compliance with this Chapter and all other provisions of The Dalles Municipal Code, with Oregon State Health, Safety, Building, and Fire Codes, and all applicable requirements of the Oregon Revised Statutes.
  2. *Safety.* Prior to the issuance of a license, a completed safety checklist as described by Department administrative policy shall be required.

#### **8.02.050. License Requirements.**

Short-term rental licenses shall be issued when the following provisions have been met:

- A. Dwelling Unit. The facility is a dwelling unit (as defined by TDMC 10.2.030).
- B. No Modifications. The structure containing the facility retains the existing characteristics of the dwelling unit. No modifications to the structure will be permitted for the benefit of the accommodation's use except those modifications deemed necessary to accommodate current Americans with Disabilities Act requirements. The lot must be landscaped and maintained consistent with the standards imposed on the underlying zoning district by TDMC Title 10.

- C. Screening. The operator must take reasonable precautions to mitigate impacts to the surrounding neighborhood. All short-term rentals with shared yards, common areas, or yards abutting unscreened neighboring yards in the rear or side yards of the property must install or maintain privacy screening pursuant to TDMC 10.6.010.050. This requirement may be waived upon written approval of all adjoining property owners.
- D. Parking. For all short-term rentals, the residential off-street parking requirements of TDMC 10.7.060.010 must be met where the facility is also a primary residence. Except as provided in TDMC 8.02.100(B), all short-term rentals must provide at least one off-street parking space for each guest room.
1. *Historic Resource Exemption*. Properties listed as a historic resource (whether locally, statewide, or federally) or properties eligible for historic designation per TDMC Chapter 11.12 may be granted an exemption from guest room parking requirements if the operator submits a historic resource parking exemption request and documentation confirming the historic significance of the property to the Department at the time of licensing. The Department will verify historic significance with the City’s Historic Landmarks Coordinator. All properties not currently designated as an historic resource may be eligible for landmark designation following approval by the Historic Landmarks Commission pursuant to TDMC Chapter 11.12.
- E. Contact Information. All operators must provide the Department with current contact information. The contact person must be available to be contacted by a City representative within 1 hour. Licensees shall notify the Department and submit appropriate documentation 10 calendar days prior to any change in operator, whether it be a permanent or temporary change.
- F. Nuisance Mitigation. All short-term rentals must comply with the provisions of The Dalles Municipal Code regulating and restricting noise, smoke, dust, litter, and odor.
- G. Solid Waste. Weekly solid waste disposal is required and the operator must provide the Department with proof of garbage service.
- H. Special Events. No “special events” shall be conducted at any short-term rental located within the Low Density Residential, Medium Density Residential, or High Density Residential zoning districts during periods of transient rental. “Special events” include, but are not limited to, weddings and wedding receptions, corporate events, commercial functions, and other gatherings that may require separate permits.
- I. Maximum Occupancy. Maximum occupancy is two persons per bedroom or two persons per studio.
- J. Mandatory Posting. All short-term rentals must prominently display the approved City license near the front door and visible from the exterior. In the case of a rear yard ancillary short-term rental not visible from the street, the approved City license must be posted by any means possible for visibility from the street. The approved City license must include: the license number, license year, operator contact information, maximum occupancy limit, and contact details for the City’s Code Enforcement Officer.

### **8.02.060. Food Services.**

All short-term rentals proposing food services must obtain a food service license from the Oregon Department of Human Services and provide a copy of such license to the Department. Operators are encouraged to contact the North Central Public Health District for additional information on requirements for obtaining a food service license.

### **8.02.070. Review Procedures.**

All operators shall provide the Department with the following information at the time of application submission or renewal:

- A. Completed Application. License applications shall be prepared by the Department and be available on the Department's page of the City's website.
- B. Site Plan/Floor Plan. A site plan and floor plan (drawn to scale) indicating the location and number of guest rooms, dimensions of guest rooms (width, length, height), location of guest entrances and exits, and location of all off-street vehicle parking spaces.
- C. Checklist. A completed safety checklist as described by Department administrative policy.
- D. Transient Lodging Taxes. For new licenses only, a completed transient lodging tax registration form as described by TDMC 8.04.070. For license renewals, proof of the property's currency with all outstanding TDMC Chapter 8.04 obligations.
- E. Solid Waste. Proof of weekly garbage service.
- F. Food Service License. Proof of a current approved food service license (if applicable).
- G. Screening. Completed privacy screening exemption form, signed by all adjoining property owners (if applicable).
- H. Historic Parking Exemption. Historic resource parking exemption request (if applicable).
- I. Fees. Submission of all required license fees as described in TDMC 8.02.080.

Upon submission of a completed application and associated materials, the Department shall make a determination concerning issuance of the license within 30 days.

### **8.02.080. Fees.**

All short-term rental licensing fees shall be adopted by resolution of the Council. Annual licensing or renewal fees are based on a per guest room basis; provided, however, fees for studios are based on a one guest room basis. For all short-term rentals offering four or more guest rooms, the operator will be charged a "whole house rental" fee. Whole house rental fees will be calculated at, and not to exceed, the cost of four guest rooms.

### **8.02.090. Public Notice.**

Within 10 days after the receipt of a complete initial application, or any change in operator, the

City shall provide notice to all property owners within 500 feet of all proposed short-rentals located within the RL, RM, and RH zonings districts, and within 100 feet of all short-term rentals located within the CBC, CG, and CR zoning districts. For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications. The list of affected property owners shall be compiled from the most recent property tax assessment roll. Information on the notice shall include the following: operator contact information; license number; number of guest rooms; maximum guest occupancy; and contact information for the City's Code Enforcement Division. The purpose of this notice is to allow adjacent property owners and residents to contact the authorized operator to report and request resolution of problems associated with the operation of the short-term rental. If the authorized operator's contact information changes during the license period, the new information must be mailed or distributed again.

#### **8.02.100. Existing Nonconforming Short-Term Rentals.**

- A. Bed and Breakfast and Vacation Rental Permit. Any short-term rental with a previously approved bed and breakfast and vacation rental permit operating within the five-year timeline established at the time of initial land use approval may continue their use as a short-term rental until the expiration date established with the associated bed and breakfast and vacation rental permit. Upon that expiration, the operator may only operate a short-term rental with a valid approved license issued pursuant to the provisions of this Chapter.
- B. Existing Short-Term Rental Licenses. Any existing short-term rental operating with a current and approved short-term rental license as of December 31, 2024, may annually apply for and shall be entitled to receive a short-term rental license as an existing nonconforming short-term rental until December 31, 2029, at which time use of the property shall come into full compliance with the all provisions of this Chapter; provided, however, existing nonconforming short-term rentals remain subject to each and every of this Chapter's provisions except its vicinity requirement (TDMC 8.02.030(E)) and parking requirements (TDMC 8.02.050(D)). In all cases where the facility is also a primary residence, the residential off-street parking standards of TDMC 10.7.060.010 are required.
- C. Conclusion of Amortization Period. Commencing January 1, 2030, all short-term rentals shall comply with each and every of this Chapter's provisions. If an application reveals that a proposed short-term rental is located within the specified vicinity of a former short-term rental (as described in TDMC 8.02.030(E)) and other short-term rental license applications are also submitted within that vicinity, approval of the application will follow the process outlined in TDMC 8.02.030(C) and (D). After the lottery selection, any short-term rental operations that do not meet the vicinity requirements of TDMC 8.02.030(E) will be required to cease operations. If the short-term rental chosen through the lottery system no longer maintains its license, the City may conduct another lottery to select a new operation in that vicinity based on applications the City received by November 29 (or the next business day if November 29 falls on a day the City is closed) of the previous calendar year.
- D. New Application Required. Any lapse in short-term rental licensure or any operational



ban of more than one calendar year shall result in the loss of all nonconforming status for any license and a new application and license shall be required to continue operation as a short-term rental.

#### **8.02.110. Complaints Regarding Operation.**

A complaint concerning the operational conduct of a short-term rental shall be submitted in writing or by email to the City's Code Enforcement Division or submitted through the appropriate portal on the City's Police Department website. All complaints must clearly state the nature of the objection(s) to the facility. The City encourages a comprehensive account of all objection(s), which may include photos, videos, and correspondence with the Operator to determine the extent of all alleged violations. Upon receipt of a complaint, the complaint shall be investigated by the Codes Enforcement Officer to determine if any violations have occurred. If the complaint is determined to be meritorious, the Codes Enforcement Officer shall refer the matter to the City Attorney, which will result in the filing of a complaint in the municipal court. For all matters of operations posing an immediate threat to public safety, complaints should be directed to 9-1-1 or the City's Police Department.

#### **8.02.120. Violations.**

- A. Violations. Violation of any of the provisions of this Chapter is a violation punishable by a fine not to exceed the sum of \$250.00 for each violation thereof. Each day's violations of a provision of this Chapter shall constitute a separate offense.
- B. Operation Without License. If the Director becomes aware of a short-term rental operating without a current license, the Director or designee shall notify the operator or real property owner of their noncompliance with this Chapter's provisions and provide them 15 days to contact the Department to commence the license application process. The operator's failure to contact the Department within that 15-day timeline shall result in an additional late fee imposed on their application at the time of submittal and may also result in a temporary ban on short-term rental operations at that facility for up to one calendar year.

#### **8.02.130. Revocation.**

- A. Revocation. A license, once issued, may be revoked upon the following grounds:
  - 1. *Violation*. Evidence establishing the property's violation of any provision of The Dalles Municipal Code, including violations of this Chapter;
  - 2. *Health and Safety*. The operation of the short-term rental facility in a manner the Director or the City's Police Chief determines presents a danger to the public health, safety, and general welfare;
  - 3. *Fraud*. Fraud, misrepresentation, or incorrect statements contained in the license application, the conduct of the licensed accommodation, or with respect to any return remitted or failed to be remitted pursuant to TDMC Chapter 8.04;
  - 4. *Unavailability*. Absence or unavailability by operator for 24-hour contact with the City as described in TDMC 8.02.050(B);

- 5. *Transient Lodging Tax Obligation.* Failure to register as an operator pursuant to TDMC 8.04.070 and pay any associated obligations imposed by TDMC Chapter 8.04; or
- 6. *Multiple Violations.* The occurrence of three or more violation convictions within a 12-month period resulting in fines pursuant to TDMC 8.02.120.

- B. Notice of Revocation. If the City orders the revocation of an issued license on grounds pursuant to this subsection, notice of revocation shall be delivered to the licensee or its agent setting forth in writing the grounds thereof by the City Attorney. Notice shall be delivered either personally or by certified mail, return receipt requested, to the current address shown on the City’s records. The notice shall advise the operator of their right to file an appeal.
- C. Appeal to City Council. Any licensee aggrieved by the City’s revocation decision may appeal to the Council by filing a notice of appeal with the City Attorney within 10 calendar days of the delivery of the City’s decision. The City Attorney shall transmit the notice of appeal, together with the file of said appealed matter, to the Council, which shall fix a time and place for hearing such appeal. The Council shall give the appellant not less than 10 calendar days’ written notice of the time and place of hearing of said appealed matter. The appeal shall be treated as a contested case, and the Council shall have the authority to determine the applicable issues to be considered and what testimony and evidence is relevant. The Council’s decision shall be final when reduced to writing.

**Section 3** This Ordinance shall be effective 30 days after adoption.

**PASSED AND ADOPTED THIS 25<sup>TH</sup> DAY OF NOVEMBER, 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 25<sup>TH</sup> DAY OF NOVEMBER, 2024.**

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

*ATTEST:*

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

EXHIBIT 1 to  
GENERAL ORDINANCE NO. 24-1407A

The Dalles Municipal Code Chapter 8.02  
Short-Term Rental License

**8.02.010. Purpose.**

This ~~Article describes standards~~ Chapter is intended to authorize, regulate, and ~~requirements governing~~ govern the ~~use transient rental of all permitted residential~~ dwelling units ~~properties for short-term rental use~~ or rooms on property within the City of The Dalles ~~City Limits~~. These standards and requirements shall be in addition to other ~~City~~ requirements of The Dalles Municipal Code ~~requirements~~ (including TDMC Chapter 8.04's regulations concerning the City's transient lodging tax) and ~~to Federal~~ all other applicable Oregon and State federal laws and regulations.

**8.02.020. Definitions.**

As used in this Chapter, except where the context indicates otherwise, the following terms shall mean:

- A. "Bedroom" means any habitable space in a dwelling unit, excluding kitchens and living rooms, intended for sleeping, and at least 100 square feet in size with a ceiling height of at least 7 feet. It must be separated from other rooms by a door, accessible to a bathroom without passing through another bedroom, and cannot be the only access to other bedrooms or habitable spaces;
- ~~A.~~B. "Council" means the City Council of the City of The Dalles;
- C. "City" means the City of The Dalles, a municipal corporation of the State of Oregon.
- ~~B.~~D. "Department" means the City's Community Development Department ~~of the City of The Dalles;~~
- ~~C.~~E. "Director" means the City's Community Development Director ~~of the City of The Dalles;~~
- ~~D.~~F. "License" means a license to operate a short-term rental license issued by the City;
- G. "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;
- ~~E.~~H. "Operator" means the person who is the proprietor of a short-term rental in any capacity;

~~F.I.~~ "Short-term rental" means all accommodations with duration of 30 consecutive days or less;

J. "Studio" means any self-contained habitable space, at least 220 square feet in size with a minimum ceiling height of 7 feet, that combines living, sleeping, and kitchen areas into a single open space, with a separate bathroom;

~~G.K.~~ "TDMC" means The Dalles Municipal Code; and

~~H.L.~~ "Transient" means the renting of a dwelling unit or rooms for compensation on less than a month-to-month basis.

### 8.02.030. Licenses.

A. ~~All Annual License Required.~~ Prior to using any dwelling unit as a short-term rental, the operator of any short-term rental must possess an approved license from the department prior to operation. for each short-term rental they operate. Licenses are valid for ~~one~~ the calendar year, beginning January 1 and ending December 31 of each year. Partial year licensing or prorated licensing fees will not be granted at the time of licensing or renewing a license renewal. Licenses shall be non-transferable. Upon transfer of the real property where the short-term rental is located or transfer of the business owning and operating the short-term rental, any existing license held by a transferring operator becomes void, and the new operator(s) must apply for a new license before continuing to operate the short-term rental.

B. Maximum License Cap. The total number of licenses allowed each year shall not exceed one (1%) percent of the City's total housing unit inventory (as provided in the City's current Housing Needs Analysis) when rounded down to the next whole number.

C. Annual Renewal Process. For license renewals each year, priority will be given to existing licenses seeking renewal so long as the renewal application is delivered to the Department by November 29 (or the next business day if November 29 falls on a day the City is closed). The Department will review each application to ensure each operator and the associated real property is in good-standing with the provisions of this and all other Chapters of The Dalles Municipal Code. All existing violations must be resolved prior to the issuance of a license or renewal of an existing license. If violations are not resolved by January 2, the existing short-term rental's license will be deemed void (and the short-term rental shall lose its status as an existing operation, including the provisions outlined in TDMC 8.02.100 below) and its operator shall be required to apply for a new license to continue using the real property as a short-term rental consistent with this Chapter.

D. Lottery System. By November 29 (or the next business day if November 29 falls on a day the City is closed) and if additional licenses are available as established in TDMC 8.02.030(B) (after accounting for all license renewals), the City will select new licenses on a lottery basis consistent with the Department's administrative policy. Once an applicant is selected from the lottery list, that applicant will have 15 days to submit all applicable fees and information or forfeit their place on the lottery list, in which case a new applicant will be selected.

#### E. Vicinity Requirements.

1. Residential Zones. Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 500 feet from any other existing and licensed short-term rental within the Low Density Residential (RL), Medium Density Residential (RM), or High Density Residential (RH) zoning districts.
2. Nonresidential Zones. Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 100 feet from any other existing and licensed short-term rental within the Central Business Commercial (CBC), General Commercial (CG), or Recreation Commercial (CR) zoning districts.
3. Measurements. For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications.

#### **8.02.040. General Requirements.**

The following general requirements shall apply to all short-term rentals:

- A. License. ~~A short-term rental~~ A license shall be obtained by the operator prior to any transient rental of the property.
- B. Signs.
  1. Residential Zones. Signage shall be limited to one (1) four square foot flush sign. ~~The sign may be a wall sign on~~ affixed to the primary building, ~~or a freestanding sign limited to four feet in height (top of sign). If freestanding, the sign area only may be lighted, not to exceed 40 watts.~~ No off-premises signs are permitted.
  2. Nonresidential Zones. All signage normally allowed by the zone district in which the short-term rental is located shall be allowed.
- C. Length of Stay. The length of stay for guests is limited to 30 consecutive days.
- D. Room Transient Lodging Tax. Each facility shall be subject to payment of the City's transient room lodging tax ~~per~~ consistent with the provisions of TDMC Chapter 8.04. ~~Prior to~~ As part of the annual license renewal ~~of a license~~ process, the operator must provide the Department proof of ~~the past year's paid~~ currency with that property's transient room lodging tax obligations. Failure to submit proof of past payment ~~will~~ shall result in the denial of the current license; however, an operator ~~can~~ may apply for re-licensing upon proof of such payment ~~of any delinquent transient room taxes~~ without incurring an additional license fee.
- E. Health and Safety.
  1. Operator's Responsibilities. It is the operator's responsibility to ensure ~~that~~ the facility remains in compliance with this Chapter and all other provisions of ~~this and other City Codes~~ The Dalles Municipal Code, with Oregon State Health, Safety, Building, and Fire Codes, and ~~Tourist Facilities~~ all applicable requirements ~~in~~ of the Oregon Revised Statutes.

2. *Safety.* Prior to the issuance of a license, a completed safety checklist as described by Department administrative policy shall be required.

### 8.02.050. License Requirements.

Short-term rental licenses shall be issued when the following provisions have been met:

- A. Dwelling Unit. The facility is a dwelling unit (as defined by TDMC, ~~Chapter 10.2-Definitions-.030~~).
- B. No Modifications. The structure containing the facility retains the existing characteristics of the dwelling unit. No modifications to the structure will be permitted for the benefit of the accommodation's use except those modifications deemed necessary to accommodate current Americans with Disabilities Act requirements. The lot must be landscaped and maintained ~~as a permanent residence with landscaped features similar to the surrounding area~~ consistent with the standards imposed on the underlying zoning district by TDMC Title 10.
- C. Screening. The operator must take reasonable precautions to mitigate impacts to the surrounding neighborhood. All ~~units~~ short-term rentals with shared yards ~~or~~ common areas, or yards abutting unscreened neighboring yards in the rear or side yards of the property must install or maintain privacy screening pursuant to TDMC, ~~Section 10.6.010.050~~. This requirement may be waived upon written approval of all adjoining property owners.
- D. Parking. For all short-term rentals, the residential off-street parking requirements of TDMC ~~Section 10.7.060.010~~ must be met where the facility is also a primary residence. Except as provided in TDMC 8.02.100(B), all short-term rentals ~~offering more than one guest room~~ must provide at least one off-street parking space for each ~~additional~~ guest room.
  1. Historic Resource Exemption. Properties listed as a historic resource, ~~(whether locally, statewide, or federally,~~) or properties eligible for historic designation per TDMC, Chapter 11.12 ~~Historic Resources~~ may be granted an exemption from guest room parking requirements ~~if the operator must submit~~ submits a historic resource parking exemption request, ~~along with~~ and documentation regarding confirming the historic significance of the property, to the Department at the time of licensing. The Department will verify historic significance with the City's Historic Landmarks Coordinator. All properties not currently designated as an historic resource may be eligible for landmark designation following approval by the Historic Landmarks Commission pursuant to TDMC, Chapter 11.12 ~~Historic Resources~~.
- ~~D.E.~~ Contact Information. All operators must provide the Department with current contact information. The contact person must be available to be contacted by a City representative within ~~24 hours~~ 1 hour. Licensees shall notify the Department and submit appropriate documentation 10 calendar days prior to any change in operator, whether it be a permanent or temporary change.
- ~~E.F.~~ Nuisance Mitigation. All short-term rentals must comply with ~~City Codes regarding the provisions of The Dalles Municipal Code regulating and restricting~~ noise, smoke, dust, litter, and odor.
- ~~F.G.~~ Solid Waste. Weekly solid waste disposal is required, and the operator must provide the

Department with proof of garbage service.

~~G.H.~~ Special Events. No ~~"~~"special events"~~"~~ shall be conducted at any short-term rental located within the Low Density Residential, Medium Density Residential, or High Density Residential zoning districts during periods of transient rental. ~~"~~"Special events"~~"~~ include, but are not limited to, weddings and wedding receptions, corporate events, commercial functions, and other gatherings that may require separate permits.

~~H.~~ ~~The maximum number of occupants per facility shall be determined by the International Code Council. The International Code Council is a member-based association, dedicated to developing model codes and standards to be used by U.S. cities and global markets in the design and building process to construct safe, sustainable, affordable, and resilient structures. The maximum number of occupants shall be posted inside near the front door in a conspicuous place. Maximum occupancy is two persons per bedroom.~~

I. Maximum Occupancy. Maximum occupancy is two persons per bedroom or two persons per studio.

J. Mandatory Posting. All short-term rentals must prominently display the approved City license near the front door and visible from the exterior. In the case of a rear yard ancillary short-term rental not visible from the street, the approved City license must be posted by any means possible for visibility from the street. The approved City license must include: the license number, license year, operator contact information, maximum occupancy limit, and contact details for the City's Code Enforcement Officer.

#### 8.02.060. Food Services.

~~This Article pertains to all short-term rentals offering food services.~~ All short-term rentals proposing food services must obtain a food service license ~~with~~from the Oregon Department of Human Services. ~~Operator is~~ and provide a copy of such license to the Department. Operators are encouraged to contact the North Central Public Health District for additional information on ~~the~~ requirements ~~of~~for obtaining a food service license.

#### 8.02.070. Review Procedures.

~~Operator must~~All operators shall provide the Department with the following information at the time of application submission or renewal:

~~A.~~ Completed Application.

~~B.~~ Proof of Residency. ~~For verification of primary residency, at least two of~~ License applications shall be prepared by the ~~following items must be provided:~~

~~1.~~ A copy ofDepartment and be available on the ~~voter registration;~~

~~2.~~ A copy of an Oregon Driver's License or Identification Card; or

~~C.A.~~ A copy of Federal income tax return from the previous tax year ~~(Department's page 1, only financial data should be redacted).~~of the City's website.

~~D.B.~~ Site Plan/Floor Plan. A site plan and floor plan (drawn to scale) indicating the



location and number of guest rooms, [dimensions of guest rooms \(width, length, height\)](#), location of guest entrances and exits, and location of all off-street vehicle parking spaces.

~~E.C.~~ [Checklist. A](#) completed safety checklist [as described by Department administrative policy](#).

~~F.D.~~ [Transient Lodging Taxes](#). For new licenses only, a completed transient ~~room~~lodging tax registration form [as described by TDMC 8.04.070](#). For license renewals, [proof of the property's currency with all outstanding TDMC Chapter 8.04 obligations](#).

~~G.E.~~ [Solid Waste](#). Proof of [weekly](#) garbage service.

~~H.F.~~ [Food Service License](#). Proof of ~~an~~ [current](#) approved food service license (if applicable).

~~I.G.~~ [Screening](#). Completed privacy screening exemption form, signed by all adjoining property owners (if applicable).

~~J.H.~~ [Historic Parking Exemption](#). Historic resource parking exemption request (if applicable).

~~K. Fees.~~

[I. Fees. Submission of all required license fees as described in TDMC 8.02.080.](#)

Upon submission of a completed application and associated materials, the Department shall make a determination concerning issuance of the license within 30 days.

### **8.02.080. Fees.**

All short-term rental licensing fees shall be adopted by resolution of the Council. Annual licensing or renewal fees are based on a per guest room basis; [provided, however, fees for studios are based on a one guest room basis](#). For all short-term rentals offering four or more guest rooms, the operator will be charged a ~~"~~["whole house rental"](#)~~"~~ fee. Whole house rental fees will be calculated at, and not to exceed, the cost of four guest rooms.

### **8.02.090. Public Notice.**

Within 10 days after the receipt of a complete initial application, or any change in operator, the City shall provide notice to all property owners within ~~100 feet of the subject property~~[500 feet of all proposed short-rentals located within the RL, RM, and RH zonings districts, and within 100 feet of all short-term rentals located within the CBC, CG, and CR zoning districts. For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications](#). The list of affected property owners shall be compiled from the most recent property tax assessment roll. Information on the notice shall include the following: operator contact information; license number; number of guest rooms; maximum guest occupancy; and contact information for the City's Code Enforcement Division. The purpose of this notice is to allow adjacent property owners and residents to contact the authorized operator to report and request resolution of problems associated with the operation of the short-term rental. If the authorized operator's contact information changes during the



license period, the new information must be mailed or distributed again.

#### **8.02.100. Existing Nonconforming Short-Term Rentals.**

- A. ~~For the purposes of this section, an existing nonconforming~~ Bed and Breakfast and Vacation Rental Permit. Any short-term rental ~~is a dwelling~~ with a previously approved bed and breakfast and vacation rental permit operating within the five-year timeline established at the time of initial land use approval, ~~pursuant to repealed Article 6.040-~~ ~~Existing nonconforming short-term rentals~~ may continue their use as a short-term rental until the expiration date established with the associated bed and breakfast and vacation rental permit. Upon that expiration, the operator may only operate a short-term rental with a valid approved ~~short-term rental License~~ license issued pursuant to the provisions of this Chapter.
- B. Existing Short-Term Rental Licenses. Any existing short-term rental operating with a current and approved short-term rental license as of December 31, 2024, may annually apply for and shall be entitled to receive a short-term rental license as an existing nonconforming short-term rental until December 31, 2029, at which time use of the property shall come into full compliance with the all provisions of this Chapter; provided, however, existing nonconforming short-term rentals remain subject to each and every of this Chapter's provisions except its vicinity requirement (TDMC 8.02.030(E)) and parking requirements (TDMC 8.02.050(D)). In all cases where the facility is also a primary residence, the residential off-street parking standards of TDMC 10.7.060.010 are required.
- C. Conclusion of Amortization Period. Commencing January 1, 2030, all short-term rentals shall comply with each and every of this Chapter's provisions. If an application reveals that a proposed short-term rental is located within the specified vicinity of a former short-term rental (as described in TDMC 8.02.030(E)) and other short-term rental license applications are also submitted within that vicinity, approval of the application will follow the process outlined in TDMC 8.02.030(C) and (D). After the lottery selection, any short-term rental operations that do not meet the vicinity requirements of TDMC 8.02.030(E) will be required to cease operations. If the short-term rental chosen through the lottery system no longer maintains its license, the City may conduct another lottery to select a new operation in that vicinity based on applications the City received by November 29 (or the next business day if November 29 falls on a day the City is closed) of the previous calendar year.
- D. New Application Required. Any lapse in short-term rental licensure or any operational ban of more than one calendar year shall result in the loss of all nonconforming status for any license and a new application and license shall be required to continue operation as a short-term rental.

#### **8.02.110. Complaints Regarding Operation.**

A complaint concerning the operational conduct of a short-term rental shall be submitted in written form and writing or by email to the City's Code Enforcement Division or submitted through the appropriate portal on the City's Police Department website. All complaints must

clearly state the nature of the objection(s) to the facility. ~~All complaints must be submitted to the City's Code Enforcement Division.~~ The City encourages a comprehensive account of all objection(s), which may include photos, videos, and correspondence with the Operator to determine the extent of all alleged violations. Upon receipt of a ~~written~~ complaint, the complaint shall be investigated by the Codes Enforcement Officer to determine if any violations have occurred. If the complaint is determined to be meritorious, the Codes Enforcement Officer shall refer the matter to the City Attorney, which will result in the filing of a complaint in the municipal court. For all matters of operations posing an immediate threat to public safety, complaints should be directed to 9-1-1 or the City's Police Department.

#### 8.02.120. Violations.

- A. Violations. Violation of any of the provisions of this Chapter is ~~an infraction,~~ a violation punishable by a fine not to exceed the sum of \$250.00 for each violation thereof. Each day's violations of a provision of this Chapter shall constitute a separate offense.
- B. Operation Without License. If the Director becomes aware of a short-term rental operating without a current license, the Director or designee shall notify the operator or real property owner of their noncompliance with this Chapter's provisions and provide them 15 days to contact the Department to commence the license application process. The operator's failure to contact the Department within that 15-day timeline shall result in an additional late fee imposed on their application at the time of submittal and may also result in a temporary ban on short-term rental operations at that facility for up to one calendar year.

#### 8.02.130. Revocation.

- A. Revocation. A license, once issued, may be revoked upon the following grounds:
- ~~1.—~~ Violation. Evidence establishing ~~a~~ the property's violation of any ~~municipal ordinance provision of The Dalles Municipal Code, including City ordinances which define public nuisances or general offenses, or a violation of State criminal law;~~
  1. ~~Violation of any of the requirements~~ violations of this Chapter;
  2. Health and Safety. The operation of the ~~business~~ short-term rental facility in a manner ~~presenting~~ the Director or the City's Police Chief determines presents a danger to the public health, safety, and general welfare;
  - ~~2.—~~ Fraud. Fraud, misrepresentation, or incorrect statements contained in the license application ~~for,~~ the license;
  3. ~~Fraud or misrepresentation in the course of~~ conduct of the licensed accommodation, or with respect to any return remitted or failed to be remitted pursuant to TDMC Chapter 8.04;
  4. Unavailability. Absence or unavailability by operator for 24-hour contact with the City; as described in TDMC 8.02.050(B);
  5. Transient Lodging Tax Obligation. Failure to register as an operator pursuant to TDMC ~~Section~~ 8.04.070 and pay any associated ~~transient room taxes~~ obligations imposed by

[TDMC Chapter 8.04](#); or

6. *Multiple Violations*. The occurrence of three or more violation convictions within a 12-month period resulting in fines pursuant to ~~Section~~ [TDMC 8.02.120](#).
- B. Notice of Revocation. If the City orders the revocation of an issued license on grounds pursuant to this subsection, notice of revocation shall be delivered to the licensee or its agent setting forth in writing the grounds thereof by the City Attorney. Notice shall be delivered either personally or by certified mail, return receipt requested, to the current address shown on the City's records. The notice shall advise the operator of their right to file an appeal.
- C. Appeal to City Council. Any licensee aggrieved by the City's revocation decision may appeal to the Council by filing a notice of appeal with the City Attorney within 10 calendar days of the delivery of the City's decision. The City Attorney shall transmit the notice of appeal, together with the file of said appealed matter, to the Council, which shall fix a time and place for hearing such appeal. The Council shall give the appellant not less than 10 calendar days' written notice of the time and place of hearing of said appealed matter. The appeal shall be treated as a contested case, and the Council shall have the authority to determine the applicable issues to be considered, and what testimony and evidence is relevant. The Council's decision shall be final when reduced to writing.

**GENERAL ORDINANCE NO. 24-1407B**

**AN ORDINANCE AMENDING  
THE DALLES MUNICIPAL CODE  
CHAPTER 8.02 (*SHORT-TERM RENTAL LICENSES*)**

**WHEREAS**, the City regulates the transient rental of dwelling units and rooms within the City’s corporate limits pursuant to the provisions of The Dalles Municipal Code (**TDMC**) Chapter 8.02 (*Short-Term Rental Licenses*);

**WHEREAS**, recent community feedback, staff administration enhancements, and legal sufficiency review support the City’s amendment to certain provisions of TDMC Chapter 8.02;

**WHEREAS**, at its October 14, 2024, meeting, the City Council considered proposed amendments to the provisions of TDMC Chapter 8.02 as part of an involved and public discussion;

**WHEREAS**, at its November 25, 2024, meeting, the City Council considered proposed amendments a second time and incorporated staff and community feedback from the October 14, 2024, discussion; and

**WHEREAS**, the City Council finds adopting the proposed amendments to TDMC Chapter 8.02 through this Ordinance to support the City’s interests and preserve and protect the public health, safety, and welfare.

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

**Section 1** A redline comparison copy of the amendments implemented by this Ordinance’s **Section 2** are attached to and made part of this Ordinance as its **Exhibit 1**.

**Section 2** The Dalles Municipal Code – **Title 8 (*Business*)**, **Chapter 8.02 (*Short-Term Rental License*)**, shall be revised to read:

**Sections:**

- 8.02.010 Purpose.**
- 8.02.020 Definitions.**
- 8.02.030 Licenses.**
- 8.02.040 General Requirements.**
- 8.02.050 License Requirements.**
- 8.02.060 Food Services.**
- 8.02.070 Review Procedures.**
- 8.02.080 Fees.**
- 8.02.090 Public Notice.**
- 8.02.100 Existing Nonconforming Short-Term Rentals.**
- 8.02.110 Complaints Regarding Operation.**

- 8.02.120**      **Violations.**
- 8.02.130**      **Revocation.**

**Chapter 8.02**  
**SHORT-TERM RENTAL LICENSES**

**8.02.010. Purpose.**

This Chapter is intended to authorize, regulate, and govern the transient rental of dwelling units or rooms on property within the City of The Dalles. These standards and requirements shall be in addition to other requirements of The Dalles Municipal Code (including TDMC Chapter 8.04’s regulations concerning the City’s transient lodging tax) and all other applicable Oregon and federal laws and regulations.

**8.02.020. Definitions.**

As used in this Chapter, except where the context indicates otherwise, the following terms shall mean:

- A. “Bedroom” means any habitable space in a dwelling unit, excluding kitchens and living rooms, intended for sleeping, and at least 100 square feet in size, with a ceiling height of at least 7 feet. It must be separated from other rooms by a door, accessible to a bathroom without passing through another bedroom, and cannot be the only access to other bedrooms or habitable spaces;
- B. “Council” means the City Council of the City of The Dalles;
- C. “City” means the City of The Dalles, a municipal corporation of the State of Oregon.
- D. “Department” means the City’s Community Development Department;
- E. “Director” means the City’s Community Development Director;
- F. “License” means a license to operate a short-term rental issued by the City;
- G. “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;
- H. “Operator” means the person who is the proprietor of a short-term rental in any capacity;
- I. “Short-term rental” means all accommodations with duration of 30 consecutive days or less;
- J. “Studio” means any self-contained habitable space, at least 220 square feet in size with a minimum ceiling height of 7 feet, that combines living, sleeping, and kitchen areas into a single open space, with a separate bathroom;
- K. “TDMC” means The Dalles Municipal Code; and

- L. “Transient” means the renting of a dwelling unit or rooms for compensation on less than a month-to-month basis.

**8.02.030. Licenses.**

- A. Annual License Required. Prior to using any dwelling unit as a short-term rental, the operator of any short-term rental must possess an approved license for each short-term rental they operate. Licenses are valid for the calendar year beginning January 1 and ending December 31. Partial year licensing or prorated licensing fees will not be granted at the time of licensing or license renewal. Licenses shall be non-transferable. Upon transfer of the real property where the short-term rental is located or transfer of the business owning and operating the short-term rental, any existing license held by a transferring operator becomes void and the new operator(s) must apply for a new license before continuing to operate the short-term rental.
- B. Maximum License Cap. The total number of licenses allowed each year shall not exceed one (1%) percent of the City’s total housing unit inventory (as provided in the City’s current Housing Needs Analysis) when rounded down to the next whole number.
- C. Annual Renewal Process. For license renewals each year, priority will be given to existing licenses seeking renewal so long as the renewal application is delivered to the Department by November 29 (or the next business day if November 29 falls on a day the City is closed). The Department will review each application to ensure each operator and the associated real property is in good-standing with the provisions of this and all other Chapters of The Dalles Municipal Code. All existing violations must be resolved prior to the issuance of a license or renewal of an existing license. If violations are not resolved by January 2, the existing short-term rental’s license will be deemed void (and the short-term rental shall lose its status as an existing operation, including the provisions outlined in TDMC 8.02.100 below) and its operator shall be required to apply for a new license to continue using the real property as a short-term rental consistent with this Chapter.
- D. Lottery System. By November 29 (or the next business day if November 29 falls on a day the City is closed) and if additional licenses are available as established in TDMC 8.02.030(B) (after accounting for all license renewals), the City will select new licenses on a lottery basis consistent with the Department’s administrative policy. Once an applicant is selected from the lottery list, that applicant will have 15 days to submit all applicable fees and information or forfeit their place on the lottery list, in which case a new applicant will be selected.
- E. Vicinity Requirements.
  - 1. *Residential Zones.* Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 500 feet from any other existing and licensed short-term rental within the Low Density Residential (RL), Medium Density Residential (RM), or High Density Residential (RH) zoning districts.
  - 2. *Nonresidential Zones.* Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 100 feet from any other existing and licensed short-term rental within the Central Business Commercial (CBC), General Commercial (CG), or

Recreation Commercial (CR) zoning districts.

3. *Measurements.* For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications.

#### **8.02.040. General Requirements.**

The following general requirements shall apply to all short-term rentals:

- A. License. A license shall be obtained by the operator prior to any transient rental of the property.
- B. Signs.
  1. *Residential Zones.* Signage shall be limited to one (1) four square foot flush sign affixed to the primary building. No off-premises signs are permitted.
  2. *Nonresidential Zones.* All signage normally allowed by the zone district in which the short-term rental is located shall be allowed.
- C. Length of Stay. The length of stay for guests is limited to 30 consecutive days.
- D. Transient Lodging Tax. Each facility shall be subject to payment of the City's transient lodging tax consistent with the provisions of TDMC Chapter 8.04. As part of the license renewal process, the operator must provide the Department proof of currency with that property's transient lodging tax obligations. Failure to submit proof of past payment shall result in the denial of the current license; however, an operator may apply for re-licensing upon proof of such payment without incurring an additional license fee.
- E. Health and Safety.
  1. *Operator's Responsibilities.* It is the operator's responsibility to ensure the facility remains in compliance with this Chapter and all other provisions of The Dalles Municipal Code, with Oregon State Health, Safety, Building, and Fire Codes, and all applicable requirements of the Oregon Revised Statutes.
  2. *Safety.* Prior to the issuance of a license, a completed safety checklist as described by Department administrative policy shall be required.

#### **8.02.050. License Requirements.**

Short-term rental licenses shall be issued when the following provisions have been met:

- A. Dwelling Unit. The facility is a dwelling unit (as defined by TDMC 10.2.030).
- B. No Modifications. The structure containing the facility retains the existing characteristics of the dwelling unit. No modifications to the structure will be permitted for the benefit of the accommodation's use except those modifications deemed necessary to accommodate current Americans with Disabilities Act requirements. The lot must be landscaped and maintained consistent with the standards imposed on the underlying zoning district by TDMC Title 10.

- C. Screening. The operator must take reasonable precautions to mitigate impacts to the surrounding neighborhood. All short-term rentals with shared yards, common areas, or yards abutting unscreened neighboring yards in the rear or side yards of the property must install or maintain privacy screening pursuant to TDMC 10.6.010.050. This requirement may be waived upon written approval of all adjoining property owners.
- D. Parking. For all short-term rentals, the residential off-street parking requirements of TDMC 10.7.060.010 must be met where the facility is also a primary residence. Except as provided in TDMC 8.02.100(B), all short-term rentals must provide at least one off-street parking space for each guest room.
1. *Historic Resource Exemption*. Properties listed as a historic resource (whether locally, statewide, or federally) or properties eligible for historic designation per TDMC Chapter 11.12 may be granted an exemption from guest room parking requirements if the operator submits a historic resource parking exemption request and documentation confirming the historic significance of the property to the Department at the time of licensing. The Department will verify historic significance with the City’s Historic Landmarks Coordinator. All properties not currently designated as an historic resource may be eligible for landmark designation following approval by the Historic Landmarks Commission pursuant to TDMC Chapter 11.12.
- E. Contact Information. All operators must provide the Department with current contact information. The contact person must be available to be contacted by a City representative within 1 hour. Licensees shall notify the Department and submit appropriate documentation 10 calendar days prior to any change in operator, whether it be a permanent or temporary change.
- F. Nuisance Mitigation. All short-term rentals must comply with the provisions of The Dalles Municipal Code regulating and restricting noise, smoke, dust, litter, and odor.
- G. Solid Waste. Weekly solid waste disposal is required and the operator must provide the Department with proof of garbage service.
- H. Special Events. No “special events” shall be conducted at any short-term rental located within the Low Density Residential, Medium Density Residential, or High Density Residential zoning districts during periods of transient rental. “Special events” include, but are not limited to, weddings and wedding receptions, corporate events, commercial functions, and other gatherings that may require separate permits.
- I. Maximum Occupancy. Maximum occupancy is two persons per bedroom or two persons per studio.
- J. Mandatory Posting. All short-term rentals must prominently display the approved City license near the front door and visible from the exterior. In the case of a rear yard ancillary short-term rental not visible from the street, the approved City license must be posted by any means possible for visibility from the street. The approved City license must include : the license number, license year, operator contact information, maximum occupancy limit, and contact details for the City’s Code Enforcement Officer.



### **8.02.060. Food Services.**

All short-term rentals proposing food services must obtain a food service license from the Oregon Department of Human Services and provide a copy of such license to the Department. Operators are encouraged to contact the North Central Public Health District for additional information on requirements for obtaining a food service license.

### **8.02.070. Review Procedures.**

All operators shall provide the Department with the following information at the time of application submission or renewal:

- A. Completed Application. License applications shall be prepared by the Department and be available on the Department's page of the City's website.
- B. Site Plan/Floor Plan. A site plan and floor plan (drawn to scale) indicating the location and number of guest rooms, dimensions of guest rooms (width, length, height), location of guest entrances and exits, and location of all off-street vehicle parking spaces.
- C. Checklist. A completed safety checklist as described by Department administrative policy.
- D. Transient Lodging Taxes. For new licenses only, a completed transient lodging tax registration form as described by TDMC 8.04.070. For license renewals, proof of the property's currency with all outstanding TDMC Chapter 8.04 obligations.
- E. Solid Waste. Proof of weekly garbage service.
- F. Food Service License. Proof of a current approved food service license (if applicable).
- G. Screening. Completed privacy screening exemption form, signed by all adjoining property owners (if applicable).
- H. Historic Parking Exemption. Historic resource parking exemption request (if applicable).
- I. Fees. Submission of all required license fees as described in TDMC 8.02.080.

Upon submission of a completed application and associated materials, the Department shall make a determination concerning issuance of the license within 30 days.

### **8.02.080. Fees.**

All short-term rental licensing fees shall be adopted by resolution of the Council. Annual licensing or renewal fees are based on a per guest room basis; provided, however, fees for studios are based on a one guest room basis. For all short-term rentals offering four or more guest rooms, the operator will be charged a "whole house rental" fee. Whole house rental fees will be calculated at, and not to exceed, the cost of four guest rooms.

### **8.02.090. Public Notice.**

Within 10 days after the receipt of a complete initial application, or any change in operator, the

City shall provide notice to all property owners within 500 feet of all proposed short-rentals located within the RL, RM, and RH zonings districts, and within 100 feet of all short-term rentals located within the CBC, CG, and CR zoning districts. For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications. The list of affected property owners shall be compiled from the most recent property tax assessment roll. Information on the notice shall include the following: operator contact information; license number; number of guest rooms; maximum guest occupancy; and contact information for the City's Code Enforcement Division. The purpose of this notice is to allow adjacent property owners and residents to contact the authorized operator to report and request resolution of problems associated with the operation of the short-term rental. If the authorized operator's contact information changes during the license period, the new information must be mailed or distributed again.

#### **8.02.100. Existing Nonconforming Short-Term Rentals.**

- A. Bed and Breakfast and Vacation Rental Permit. Any short-term rental with a previously approved bed and breakfast and vacation rental permit operating within the five-year timeline established at the time of initial land use approval may continue their use as a short-term rental until the expiration date established with the associated bed and breakfast and vacation rental permit. Upon that expiration, the operator may only operate a short-term rental with a valid approved license issued pursuant to the provisions of this Chapter.
- B. Existing Short-Term Rental Licenses. Any existing short-term rental operating with a current and approved short-term rental license prior to December 1, 2024, is exempt from the provisions of this Chapter's vicinity requirement (TDMC 8.02.030(E)) and parking requirements (TDMC 8.02.050(D)). However, in all cases where the facility is also a primary residence, the residential off-street parking standards of TDMC 10.7.060.010 are required.
- C. New Application Required. Any lapse in short-term rental licensure or any operational ban of more than one calendar year shall result in the loss of all nonconforming status for any license and a new application and license shall be required to continue operation as a short-term rental.

#### **8.02.110. Complaints Regarding Operation.**

A complaint concerning the operational conduct of a short-term rental shall be submitted in writing or by email to the City's Code Enforcement Division, or submitted through the appropriate portal on the City's Police Department website. All complaints must clearly state the nature of the objection(s) to the facility. The City encourages a comprehensive account of all objection(s), which may include photos, videos, and correspondence with the Operator to determine the extent of all alleged violations. Upon receipt of a complaint, the complaint shall be investigated by the Codes Enforcement Officer to determine if any violations have occurred. If the complaint is determined to be meritorious, the Codes Enforcement Officer shall refer the matter to the City Attorney, which will result in the filing of a complaint in the municipal court. For all matters of operations posing an immediate threat to public safety, complaints should be directed to 9-1-1 or the City's Police Department.

### **8.02.120. Violations.**

- A. Violations. Violation of any of the provisions of this Chapter is a violation punishable by a fine not to exceed the sum of \$250.00 for each violation thereof. Each day's violations of a provision of this Chapter shall constitute a separate offense.
- B. Operation Without License. If the Director becomes aware of a short-term rental operating without a current license, the Director or designee shall notify the operator or real property owner of their noncompliance with this Chapter's provisions and provide them 15 days to contact the Department to commence the license application process. The operator's failure to contact the Department within that 15-day timeline shall result in an additional late fee imposed on their application at the time of submittal and may also result in a temporary ban on short-term rental operations at that facility for up to one calendar year.

### **8.02.130. Revocation.**

- A. Revocation. A license, once issued, may be revoked upon the following grounds:
  - 1. *Violation*. Evidence establishing the property's violation of any provision of The Dalles Municipal Code, including violations of this Chapter;
  - 2. *Health and Safety*. The operation of the short-term rental facility in a manner the Director or the City's Police Chief determines presents a danger to the public health, safety, and general welfare;
  - 3. *Fraud*. Fraud, misrepresentation, or incorrect statements contained in the license application, the conduct of the licensed accommodation, or with respect to any return remitted or failed to be remitted pursuant to TDMC Chapter 8.04;
  - 4. *Unavailability*. Absence or unavailability by operator for 24-hour contact with the City as described in TDMC 8.02.050(B);
  - 5. *Transient Lodging Tax Obligation*. Failure to register as an operator pursuant to TDMC 8.04.070 and pay any associated obligations imposed by TDMC Chapter 8.04; or
  - 6. *Multiple Violations*. The occurrence of three or more violation convictions within a 12-month period resulting in fines pursuant to TDMC 8.02.120.
- B. Notice of Revocation. If the City orders the revocation of an issued license on grounds pursuant to this subsection, notice of revocation shall be delivered to the licensee or its agent setting forth in writing the grounds thereof by the City Attorney. Notice shall be delivered either personally or by certified mail, return receipt requested, to the current address shown on the City's records. The notice shall advise the operator of their right to file an appeal.
- C. Appeal to City Council. Any licensee aggrieved by the City's revocation decision may appeal to the Council by filing a notice of appeal with the City Attorney within 10 calendar days of the delivery of the City's decision. The City Attorney shall transmit the notice of appeal, together with the file of said appealed matter, to the Council, which shall fix a time and place for hearing such appeal. The Council shall give the appellant not less than 10 calendar days'

written notice of the time and place of hearing of said appealed matter. The appeal shall be treated as a contested case, and the Council shall have the authority to determine the applicable issues to be considered and what testimony and evidence is relevant. The Council's decision shall be final when reduced to writing.

**Section 3** This Ordinance shall be effective 30 days after adoption.

**PASSED AND ADOPTED THIS 25<sup>TH</sup> DAY OF NOVEMBER, 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 25<sup>TH</sup> DAY OF NOVEMBER, 2024.**

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

*ATTEST:*

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

EXHIBIT 1 to  
GENERAL ORDINANCE NO. 24-1407B

The Dalles Municipal Code Chapter 8.02  
Short-Term Rental License

**8.02.010. Purpose.**

This ~~Article describes standards~~ Chapter is intended to authorize, regulate, and ~~requirements governing~~ govern the ~~use transient rental of all permitted residential~~ dwelling units ~~properties for short-term rental use~~ or rooms on property within the City of The Dalles ~~City Limits~~. These standards and requirements shall be in addition to other ~~City~~ requirements of The Dalles Municipal Code ~~requirements~~ (including TDMC Chapter 8.04's regulations concerning the City's transient lodging tax) and ~~to Federal~~ all other applicable Oregon and State federal laws and regulations.

**8.02.020. Definitions.**

As used in this Chapter, except where the context indicates otherwise, the following terms shall mean:

- A. "Bedroom" means any habitable space in a dwelling unit, excluding kitchens and living rooms, intended for sleeping, and at least 100 square feet in size, with a ceiling height of at least 7 feet. It must be separated from other rooms by a door, accessible to a bathroom without passing through another bedroom, and cannot be the only access to other bedrooms or habitable spaces;
- ~~A.~~B. "Council" means the City Council of the City of The Dalles;
- C. "City" means the City of The Dalles, a municipal corporation of the State of Oregon.
- ~~B.~~D. "Department" means the City's Community Development Department ~~of the City of The Dalles;~~
- ~~C.~~E. "Director" means the City's Community Development Director ~~of the City of The Dalles;~~
- ~~D.~~F. "License" means a license to operate a short-term rental license issued by the City;
- G. "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;
- ~~E.~~H. "Operator" means the person who is the proprietor of a short-term rental in any capacity;

~~F.I.~~ "Short-term rental" means all accommodations with duration of 30 consecutive days or less;

J. "Studio" means any self-contained habitable space, at least 220 square feet in size with a minimum ceiling height of 7 feet, that combines living, sleeping, and kitchen areas into a single open space, with a separate bathroom;

~~G.K.~~ "TDMC" means The Dalles Municipal Code; and

~~H.L.~~ "Transient" means the renting of a dwelling unit or rooms for compensation on less than a month-to-month basis.

### 8.02.030. Licenses.

A. ~~All Annual License Required.~~ Prior to using any dwelling unit as a short-term rental, the operator of any short-term rental must possess an approved license from the department prior to operation. for each short-term rental they operate. Licenses are valid for ~~one~~ the calendar year, beginning January 1 and ending December 31 of each year. Partial year licensing or prorated licensing fees will not be granted at the time of licensing or renewing a license renewal. Licenses shall be non-transferable. Upon transfer of the real property ~~the~~ where the short-term rental is located or transfer of the business owning and operating the short-term rental, any existing license held by a transferring operator becomes void, and the new operator(s) must apply for a new license before continuing to operate the short-term rental.

B. Maximum License Cap. The total number of licenses allowed each year shall not exceed one (1%) percent of the City's total housing unit inventory (as provided in the City's current Housing Needs Analysis) when rounded down to the next whole number.

C. Annual Renewal Process. For license renewals each year, priority will be given to existing licenses seeking renewal so long as the renewal application is delivered to the Department by November 29 (or the next business day if November 29 falls on a day the City is closed). The Department will review each application to ensure each operator and the associated real property is in good-standing with the provisions of this and all other Chapters of The Dalles Municipal Code. All existing violations must be resolved prior to the issuance of a license or renewal of an existing license. If violations are not resolved by January 2, the existing short-term rental's license will be deemed void (and the short-term rental shall lose its status as an existing operation, including the provisions outlined in TDMC 8.02.100 below) and its operator shall be required to apply for a new license to continue using the real property as a short-term rental consistent with this Chapter.

D. Lottery System. By November 29 (or the next business day if November 29 falls on a day the City is closed) and if additional licenses are available as established in TDMC 8.02.030(B) (after accounting for all license renewals), the City will select new licenses on a lottery basis consistent with the Department's administrative policy. Once an applicant is selected from the lottery list, that applicant will have 15 days to submit all applicable fees and information or forfeit their place on the lottery list, in which case a new applicant will be selected.

#### E. Vicinity Requirements.

1. Residential Zones. Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 500 feet from any other existing and licensed short-term rental within the Low Density Residential (RL), Medium Density Residential (RM), or High Density Residential (RH) zoning districts.
2. Nonresidential Zones. Except as provided in TDMC 8.02.100(B), no short-term rental may be located within 100 feet from any other existing and licensed short-term rental within the Central Business Commercial (CBC), General Commercial (CG), or Recreation Commercial (CR) zoning districts.
3. Measurements. For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications.

#### **8.02.040. General Requirements.**

The following general requirements shall apply to all short-term rentals:

- A. License. ~~A short-term rental~~ A license shall be obtained by the operator prior to any transient rental of the property.
- B. Signs.
  1. Residential Zones. Signage shall be limited to one (1) four square foot flush sign. ~~The sign may be a wall sign on~~ affixed to the primary building, ~~or a freestanding sign limited to four feet in height (top of sign). If freestanding, the sign area only may be lighted, not to exceed 40 watts.~~ No off-premises signs are permitted.
  2. Nonresidential Zones. All signage normally allowed by the zone district in which the short-term rental is located shall be allowed.
- C. Length of Stay. The length of stay for guests is limited to 30 consecutive days.
- D. Room Transient Lodging Tax. Each facility shall be subject to payment of the City's transient room lodging tax ~~per~~ consistent with the provisions of TDMC Chapter 8.04. ~~Prior to~~ As part of the annual license renewal ~~of a license~~ process, the operator must provide the Department proof of ~~the past year's paid~~ currency with that property's transient room lodging tax obligations. Failure to submit proof of past payment ~~will~~ shall result in the denial of the current license; however, an operator ~~can~~ may apply for re-licensing upon proof of such payment ~~of any delinquent transient room taxes~~ without incurring an additional license fee.
- E. Health and Safety.
  1. Operator's Responsibilities. It is the operator's responsibility to ensure ~~that~~ the facility remains in compliance with ~~this Chapter and~~ all other provisions of ~~this and other City Codes~~ The Dalles Municipal Code, with Oregon State Health, Safety, Building, and Fire Codes, and ~~Tourist Facilities~~ all applicable requirements ~~in~~ of the Oregon Revised Statutes.

2. *Safety.* Prior to the issuance of a license, a completed safety checklist as described by Department administrative policy shall be required.

### 8.02.050. License Requirements.

Short-term rental licenses shall be issued when the following provisions have been met:

- A. Dwelling Unit. The facility is a dwelling unit (as defined by TDMC, ~~Chapter 10.2-Definitions-.030~~).
- B. No Modifications. The structure containing the facility retains the existing characteristics of the dwelling unit. No modifications to the structure will be permitted for the benefit of the accommodation's use except those modifications deemed necessary to accommodate current Americans with Disabilities Act requirements. The lot must be landscaped and maintained ~~as a permanent residence with landscaped features similar to the surrounding area~~ consistent with the standards imposed on the underlying zoning district by TDMC Title 10.
- C. Screening. The operator must take reasonable precautions to mitigate impacts to the surrounding neighborhood. All ~~units~~ short-term rentals with shared yards ~~or~~ common areas, or yards abutting unscreened neighboring yards in the rear or side yards of the property must install or maintain privacy screening pursuant to TDMC, ~~Section 10.6.010.050~~. This requirement may be waived upon written approval of all adjoining property owners.
- D. Parking. For all short-term rentals, the residential off-street parking requirements of TDMC ~~Section 10.7.060.010~~ must be met where the facility is also a primary residence. Except as provided in TDMC 8.02.100(B), all short-term rentals ~~offering more than one guest room~~ must provide at least one off-street parking space for each ~~additional~~ guest room.
  1. Historic Resource Exemption. Properties listed as a historic resource, ~~(whether locally, statewide, or federally,~~) or properties eligible for historic designation per TDMC, Chapter 11.12 ~~Historic Resources~~ may be granted an exemption from guest room parking requirements ~~if the operator must submit~~ submits a historic resource parking exemption request, ~~along with~~ and documentation regarding confirming the historic significance of the property, to the Department at the time of licensing. The Department will verify historic significance with the City's Historic Landmarks Coordinator. All properties not currently designated as an historic resource may be eligible for landmark designation following approval by the Historic Landmarks Commission pursuant to TDMC, Chapter 11.12 ~~Historic Resources~~.
- ~~D.E.~~ Contact Information. All operators must provide the Department with current contact information. The contact person must be available to be contacted by a City representative within ~~24 hours~~ 1 hour. Licensees shall notify the Department and submit appropriate documentation 10 calendar days prior to any change in operator, whether it be a permanent or temporary change.
- ~~E.F.~~ Nuisance Mitigation. All short-term rentals must comply with ~~City Codes regarding the provisions of The Dalles Municipal Code regulating and restricting~~ noise, smoke, dust, litter, and odor.
- ~~F.G.~~ Solid Waste. Weekly solid waste disposal is required, and the operator must provide the



Department with proof of garbage service.

~~G.H.~~ Special Events. No ~~"~~"special events"~~"~~ shall be conducted at any short-term rental located within the Low Density Residential, Medium Density Residential, or High Density Residential zoning districts during periods of transient rental. ~~"~~"Special events"~~"~~ include, but are not limited to, weddings and wedding receptions, corporate events, commercial functions, and other gatherings that may require separate permits.

~~H.~~ ~~The maximum number of occupants per facility shall be determined by the International Code Council. The International Code Council is a member-based association, dedicated to developing model codes and standards to be used by U.S. cities and global markets in the design and building process to construct safe, sustainable, affordable, and resilient structures. The maximum number of occupants shall be posted inside near the front door in a conspicuous place. Maximum occupancy is two persons per bedroom.~~

I. Maximum Occupancy. Maximum occupancy is two persons per bedroom or two persons per studio.

J. Mandatory Posting. All short-term rentals must prominently display the approved City license near the front door and visible from the exterior. In the case of a rear yard ancillary short-term rental not visible from the street, the approved City license must be posted by any means possible for visibility from the street. The approved City license must include : the license number, license year, operator contact information, maximum occupancy limit, and contact details for the City's Code Enforcement Officer.

#### **8.02.060. Food Services.**

~~This Article pertains to all short term rentals offering food services.~~ All short-term rentals proposing food services must obtain a food service license ~~with~~from the Oregon Department of Human Services. ~~Operator is~~ and provide a copy of such license to the Department. Operators are encouraged to contact the North Central Public Health District for additional information on ~~the~~ requirements ~~of~~for obtaining a food service license.

#### **8.02.070. Review Procedures.**

~~Operator must~~All operators shall provide the Department with the following information at the time of application submission or renewal:

~~A.~~ Completed Application.

~~B.~~ Proof of Residency. ~~For verification of primary residency, at least two of~~ License applications shall be prepared by the ~~following items must be provided:~~

~~1.~~ A copy ofDepartment and be available on the ~~voter registration;~~

~~2.~~ A copy of an Oregon Driver's License or Identification Card; or

~~C.A.~~ A copy of Federal income tax return from the previous tax year (~~Department's page 1, only financial data should be redacted~~).of the City's website.

~~D.B.~~ Site Plan/Floor Plan. A site plan and floor plan (drawn to scale) indicating the

location and number of guest rooms, [dimensions of guest rooms \(width, length, height\)](#), location of guest entrances and exits, and location of all off-street vehicle parking spaces.

~~E.C.~~ [Checklist. A](#) completed safety checklist [as described by Department administrative policy](#).

~~F.D.~~ [Transient Lodging Taxes](#). For new licenses only, a completed transient ~~room~~lodging tax registration form [as described by TDMC 8.04.070](#). For license renewals, [proof of the property's currency with all outstanding TDMC Chapter 8.04 obligations](#).

~~G.E.~~ [Solid Waste](#). Proof of [weekly](#) garbage service.

~~H.F.~~ [Food Service License](#). Proof of ~~an~~ [current](#) approved food service license (if applicable).

~~I.G.~~ [Screening](#). Completed privacy screening exemption form, signed by all adjoining property owners (if applicable).

~~J.H.~~ [Historic Parking Exemption](#). Historic resource parking exemption request (if applicable).

~~K. Fees.~~

[I. Fees. Submission of all required license fees as described in TDMC 8.02.080.](#)

Upon submission of a completed application and associated materials, the Department shall make a determination concerning issuance of the license within 30 days.

### **8.02.080. Fees.**

All short-term rental licensing fees shall be adopted by resolution of the Council. Annual licensing or renewal fees are based on a per guest room basis; [provided, however, fees for studios are based on a one guest room basis](#). For all short-term rentals offering four or more guest rooms, the operator will be charged a ~~"~~["whole house rental"](#)~~"~~ fee. Whole house rental fees will be calculated at, and not to exceed, the cost of four guest rooms.

### **8.02.090. Public Notice.**

Within 10 days after the receipt of a complete initial application, or any change in operator, the City shall provide notice to all property owners within ~~100 feet of the subject property~~[500 feet of all proposed short-rentals located within the RL, RM, and RH zonings districts, and within 100 feet of all short-term rentals located within the CBC, CG, and CR zoning districts. For purposes of this section, distance is measured consistent with the Department's property notification process for land use and development applications](#). The list of affected property owners shall be compiled from the most recent property tax assessment roll. Information on the notice shall include the following: operator contact information; license number; number of guest rooms; maximum guest occupancy; and contact information for the City's Code Enforcement Division. The purpose of this notice is to allow adjacent property owners and residents to contact the authorized operator to report and request resolution of problems associated with the operation of the short-term rental. If the authorized operator's contact information changes during the

license period, the new information must be mailed or distributed again.

#### **8.02.100. Existing Nonconforming Short-Term Rentals.**

- A. ~~For the purposes of this section, an existing nonconforming~~ Bed and Breakfast and Vacation Rental Permit. Any short-term rental ~~is a dwelling~~ with a previously approved bed and breakfast and vacation rental permit operating within the five-year timeline established at the time of initial land use approval, ~~pursuant to repealed Article 6.040. Existing nonconforming short-term rentals~~ may continue their use as a short-term rental until the expiration date established with the associated bed and breakfast and vacation rental permit. Upon that expiration, the operator may only operate a short-term rental with a valid approved ~~short-term rental License~~ license issued pursuant to the provisions of this Chapter.
- B. Existing Short-Term Rental Licenses. Any existing short-term rental operating with a current and approved short-term rental license prior to December 1, 2024, is exempt from the provisions of this Chapter's vicinity requirement (TDMC 8.02.030(E)) and parking requirements (TDMC 8.02.050(D)). However, in all cases where the facility is also a primary residence, the residential off-street parking standards of TDMC 10.7.060.010 are required.
- C. New Application Required. Any lapse in short-term rental licensure or any operational ban of more than one calendar year shall result in the loss of all nonconforming status for any license and a new application and license shall be required to continue operation as a short-term rental.

#### **8.02.110. Complaints Regarding Operation.**

A complaint concerning the operational conduct of a short-term rental shall be submitted in written form and ~~writing or by email to the City's Code Enforcement Division, or submitted through the appropriate portal on the City's Police Department website. All complaints must~~ clearly state the nature of the objection(s) to the facility. ~~All complaints must be submitted to the City's Code Enforcement Division.~~ The City encourages a comprehensive account of all objection(s), which may include photos, videos, and correspondence with the Operator to determine the extent of all alleged violations. Upon receipt of a ~~written~~ complaint, the complaint shall be investigated by the Codes Enforcement Officer to determine if any violations have occurred. If the complaint is determined to be meritorious, the Codes Enforcement Officer shall refer the matter to the City Attorney, which will result in the filing of a complaint in the municipal court. For all matters of operations posing an immediate threat to public safety, complaints should be directed to 9-1-1 or the City's Police Department.

#### **8.02.120. Violations.**

- A. Violations. Violation of any of the provisions of this Chapter is ~~an infraction,~~ a violation punishable by a fine not to exceed the sum of \$250.00 for each violation thereof. Each day's violations of a provision of this Chapter shall constitute a separate offense.
- B. Operation Without License. If the Director becomes aware of a short-term rental operating without a current license, the Director or designee shall notify the operator or real property

owner of their noncompliance with this Chapter's provisions and provide them 15 days to contact the Department to commence the license application process. The operator's failure to contact the Department within that 15-day timeline shall result in an additional late fee imposed on their application at the time of submittal and may also result in a temporary ban on short-term rental operations at that facility for up to one calendar year.

### **8.02.130. Revocation.**

A. Revocation. A license, once issued, may be revoked upon the following grounds:

~~1.—*Violation.* Evidence establishing at the property's violation of any municipal ordinance provision of The Dalles Municipal Code, including City ordinances which define public nuisances or general offenses, or a violation of State criminal law;~~

1. ~~Violation of any of the requirements~~violations of this Chapter;

2. Health and Safety. The operation of the business short-term rental facility in a manner ~~presenting the Director or the City's Police Chief determines~~ presents a danger to the public health, safety, and general welfare;

~~2.—*Fraud.* Fraud, misrepresentation, or incorrect statements contained in the license application for, the license;~~

3. ~~Fraud or misrepresentation in the course of~~ conduct of the licensed accommodation, or with respect to any return remitted or failed to be remitted pursuant to TDMC Chapter 8.04;

4. Unavailability. Absence or unavailability by operator for 24-hour contact with the City; as described in TDMC 8.02.050(B);

5. Transient Lodging Tax Obligation. Failure to register as an operator pursuant to TDMC ~~Section~~ 8.04.070 and pay any associated ~~transient room taxes~~obligations imposed by TDMC Chapter 8.04; or

6. Multiple Violations. The occurrence of three or more violation convictions within a 12-month period resulting in fines pursuant to ~~Section~~ TDMC 8.02.120.

B. Notice of Revocation. If the City orders the revocation of an issued license on grounds pursuant to this subsection, notice of revocation shall be delivered to the licensee or its agent setting forth in writing the grounds thereof by the City Attorney. Notice shall be delivered either personally or by certified mail, return receipt requested, to the current address shown on the City's records. The notice shall advise the operator of their right to file an appeal.

C. Appeal to City Council. Any licensee aggrieved by the City's revocation decision may appeal to the Council by filing a notice of appeal with the City Attorney within 10 calendar days of the delivery of the City's decision. The City Attorney shall transmit the notice of appeal, together with the file of said appealed matter, to the Council, which shall fix a time and place for hearing such appeal. The Council shall give the appellant not less than 10 calendar days' written notice of the time and place of hearing of said appealed matter. The appeal shall be treated as a contested case, and the Council shall have the authority to

determine the applicable issues to be considered, and what testimony and evidence is relevant. The Council's decision shall be final when reduced to writing.



## AGENDA STAFF REPORT

### AGENDA LOCATION: Action Item #11D

**MEETING DATE:** November 25, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Matthew Klebes, City Manager

**ISSUE:** Authorizing the City Manager to execute the Second Amended and Restated Intergovernmental Agreement for the Qualitylife Intergovernmental Agency

### **BACKGROUND:**

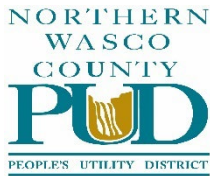
Included in the City Council packet is a memorandum crafted by Roger Kline, General Manager/CEO of the Northern Wasco County People's Utility District (**PUD**), which provides a robustly detailed background on and context for this item. In the interest of efficiency, Staff included that memo to inform Council's decision-making here.

The PUD's Board of Directors approved the IGA at its October 28, 2024, meeting and the Wasco County Board of County Commissioners approved the IGA at its November 6, 2024, meeting.

**BUDGET IMPLICATIONS:** Qlife currently provides some compensation to the City for the City Manager's provision of services in their prior capacity as Qlife's Administrator. As Qlife's internal structure evolves and takes shape in the coming years, there will likely be changes to that compensation.

### **COUNCIL ALTERNATIVES:**

1. **Staff Recommendation:** *Move to authorize the City Manager to execute the Second Amended and Restated Intergovernmental Agreement for the Qualitylife Intergovernmental Agency.*
2. Decline formal action and direct Staff accordingly.



**MEMORANDUM**  
OFFICE OF GENERAL MANAGER/CEO  
NORTHERN WASCO COUNTY PEOPLE'S UTILITY DISTRICT

DATE: October 28, 2024

TO: Board of Directors

FROM: Roger Kline, General Manager/CEO

SUBJECT: Consideration of QualityLife Network Intergovernmental Agreements

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**Background** – The QualityLife Network (“QLife”) is an intergovernmental agency created in 2001 by an agreement between the City of The Dalles (“City”) and Wasco County (“County”) for the purpose of providing broadband services to the community. Since its inception, QLife has managed and operated its telecommunications system by contracting out for needed operational and administrative services, including through intergovernmental agreements with the City and the County. The City and the County have also provided financial and other support to QLife. Recently, the City and the County invited the PUD to consider joining QLife as a member. The PUD Board of Directors supported PUD’s participation. On July 25, 2024, the QLife Board voted to add the PUD as a new member of QLife.

Much like other intergovernmental agencies, QLife is governed by an intergovernmental agreement (“QLife IGA”) between its members. The City, the County, and the PUD (the “Parties”) agreed to work together to amend the QLife IGA to account for the PUD’s entry. In addition, the Parties anticipated that the PUD would provide QLife with a variety of services. The Parties agreed in concept that as a contribution to QLife and in recognition of the past value contributed by the City and the County, the PUD would provide those services without compensation for some period of time. Following the expiration of that period, QLife would compensate the PUD for providing the services. The Parties agreed to work out the specific terms and conditions of the PUD providing services to QLife in the intergovernmental agreement between QLife and the PUD (the “Service Agreement.”). The Parties further agreed that if they were unable to agree on the terms and conditions of the Service Agreement and the amended QLife IGA by December 7, 2024, the PUD would voluntarily withdraw from QLife.

Over the past six months, the Parties and QLife have engaged in good faith negotiations over the terms of the Service Agreement (Exhibit 1) and the amendments to the QLife IGA (Exhibit 2) and have reached final agreement. The governing bodies of the Parties and QLife will now consider the documents before they are formally adopted by the Parties and QLife.

**Issue** – Whether the Board should authorize the General Manager/CEO to execute (1) the Service Agreement (“Intergovernmental Agreement Between QualityLife Intergovernmental Agency and Northern Wasco County People’s Utility District”), and (2) the QLife IGA (“Second Amended and Restated Intergovernmental Agreement for the QualityLife Intergovernmental Agency”) on behalf of the PUD.

**Recommendation** – Staff recommends that the PUD execute the Service Agreement and the QLife

IGA, on the condition that the governing bodies of the City and the County also authorize their staff to execute the QLife IGA and the QLife board also authorizes QLife to execute the Service Agreement.

The Service Agreement adopts the general framework contemplated by the Parties and QLife. QLife, the City, and the County recognize that the PUD has substantial knowledge, skills, and experience that will assist QLife in accomplishing its purpose of enhancing community's access to broadband internet. The PUD is also known as a reliable partner with a community-based mission that provides essential utility services at some of the lowest rates in the industry. These attributes make the PUD a desirable partner.

At the same time, the PUD Board has supported intergovernmental cooperation with other public agencies for the purpose of furthering economic development, providing high-quality essential human services to the District's customer-owners, and promoting affordability of utility services in the community. QLife is an existing agency with assets and a customer base, and over the last 23 years, the City and the County have invested a variety of resources into supporting QLife. By becoming a member of QLife, the PUD stands to realize potential benefits. Therefore, the PUD's contribution of services as provided in the Service Agreement is reasonable and appropriate consideration for the benefits the PUD stands to realize as a member of QLife. After contributing \$3.5 million of services to QLife, the PUD shall be appropriately compensated for any services it provides to QLife and shall be entitled to the same equitable rights as the City and the County in the event QLife folds its operations and dissolves.

The Parties and QLife anticipate that the PUD may provide a variety of services to QLife, but the nature and extent of those services will be determined later based on further review and analysis. To begin with, the PUD will provide the salary, benefits, and office equipment for the Executive Director of QLife in order to enable QLife to become an independent, self-supporting, and fully functioning agency. The Service Agreement contains a variety of risk mitigation measures on account of the PUD providing the services, including, for example, provisions ensuring that the PUD is not required to improve, expand, or otherwise change its existing systems, processes and policies, facilities, or assets for the purpose of providing services to QLife, as well as indemnity provisions and other terms associated with providing particular services.

The QLife IGA reflects the PUD's entry into QLife. It identifies the basic corporate governance structure, including board authorities and duties, sets out the Parties' rights and obligations, and provides procedures for major financial decisions and dissolution. As a member of QLife, the PUD will appoint two representatives to the QLife board of directors, including one elected official and one chief executive. Staff anticipate that QLife will develop a number of additional policies and procedures on the basis of the QLife IGA.

Staff understands that the City and the County staff will recommend to their governing bodies that the City and the County execute the QLife IGA, and that QLife will recommend to its board that QLife execute the Service Agreement. Staff expects the County to consider this matter at the County Commission meeting on November 6, 2024 and the City to consider it at the City Council meeting on November 25, 2024. QLife is also expected to consider this matter at its board meeting on November 7, 2024.



**SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR  
THE QUALITYLIFE INTERGOVERNMENTAL AGENCY**

This SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE QUALITYLIFE INTERGOVERNMENTAL AGENCY (“Second Amended IGA Agreement”) is entered into between the City of the Dalles, Oregon, an Oregon municipal corporation (“City”), Wasco County, a political subdivision of the State of Oregon formed under the Oregon Constitution and ORS Chapter 203 (“County”), and the Northern Wasco County People’s Utility District, an Oregon people’s utility district formed under ORS Chapter 261 (“District”) (each of which is referred to herein as a “Party” and collectively as the “Parties”).

**RECITALS:**

- A. WHEREAS, An Intergovernmental Agreement Creating the QualityLife Intergovernmental Agency (“Agency”) was originally entered into and effective July 16, 2001 by and between the City, County, District, and the Port of the Dalles (“2001 IGA Agreement”);
- B. WHEREAS, the 2001 IGA Agreement was subsequently amended to, among other particulars, allow the withdrawal of the District and the Port of the Dalles as members (“First Amended IGA Agreement”);
- C. WHEREAS, on July 25, 2024, pursuant to Section 2.3.3 of the First Amended IGA Agreement, the Agency Board of Directors unanimously voted to authorize the District to rejoin the Agency;
- D. WHEREAS, the Parties desire to amend the First Amended IGA Agreement to reflect the District’s membership in the Agency and to clarify other terms and conditions;
- E. WHEREAS, the Parties hereto are authorized to enter into this Second Amended IGA Agreement creating an intergovernmental agency pursuant to their respective principal acts and ORS 190.003 to 190.265;
- F. WHEREAS, the County is engaged in the provision of general local governmental services within Wasco County;
- G. WHEREAS, the County operations require telecommunications capabilities for the efficient provision of local governmental services;
- H. WHEREAS, the County further desires to promote economic and community development within Wasco County and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs;
- I. WHEREAS, the City is engaged in the provision of general local governmental services within Wasco County;

- J. WHEREAS, the City operations require telecommunications capabilities for the efficient provision of local governmental services;
- K. WHEREAS, the City further desires to promote economic and community development within Wasco County and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs;
- L. WHEREAS, the District is a consumer-owned utility engaged in the distribution and sale of electric energy;
- M. WHEREAS, the District requires telecommunications capabilities for the efficient provision of local governmental services;
- N. WHEREAS, the District further desires to promote economic and community development within Wasco County and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs;
- O. WHEREAS, the Parties intend to further the economy and efficiency of their respective units of local government through the use of an intergovernmental agency;
- P. WHEREAS, pursuant to ORS 190.010, an intergovernmental agency may perform any or all functions and activities that a Party to this Second Amended IGA Agreement, or its officers or agencies, has the authority to perform;
- Q. WHEREAS, the Parties intend to use any authority delegated to the Agency to further the economy and efficiency of each Party by the design, construction, ownership, operation, and maintenance of a telecommunications network for the benefit of Wasco County and the Mid-Columbia Gorge community;
- R. WHEREAS, each of the Parties has taken all actions required under applicable acts, charters, and laws to authorize the execution and performance of this Second Amended IGA Agreement; and
- S. WHEREAS, the Parties intend by this Second Amended IGA Agreement to set forth the authority, terms, and conditions pursuant to which the Agency will act.

NOW, THEREFORE, THE PARTIES agree as follows:

**ARTICLE I**  
**QUALITYLIFE INTERGOVERNMENTAL AGENCY**

- 1.1. QualityLife Intergovernmental Agency. The Parties to the Agency, originally created by the 2001 IGA Agreement, are now the County, the City, and the District. The Parties hereby ratify, confirm, and adopt this Second Amended IGA Agreement. The Agency's purpose is to promote economic and community development within Wasco County and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs and services.

- 1.2. Effective Date. This Second Amended IGA Agreement is effective as of July 25, 2024 (“Effective Date”).
- 1.3. General Powers. The Agency shall have the following general powers:
  - 1.3.1. To adopt, through action of its Board (as defined herein), such bylaws, rules, regulations, and policies necessary to further the purposes of this Second Amended IGA Agreement.
  - 1.3.2. To perform and exercise, pursuant to the principal acts of the Parties or by ORS 190.003 to 190.265, all powers pursuant to applicable charter, ordinance, or state or federal law which are necessary or desirable to efficiently and effectively design, construct, own, operate, and maintain a telecommunications network for the benefit of Wasco County and the Mid-Columbia Gorge community.
  - 1.3.3. To purchase, own, hold, appropriate, and condemn land, facilities, or right of way either in its own name or in the name of individual Parties hereto in furtherance of the construction, ownership, operation, or maintenance of a telecommunications network for the benefit of Wasco County and the Mid-Columbia Gorge community.
  - 1.3.4. To enter into agreements with other public or private entities for the purpose of design, construction, ownership, operation or maintenance of a telecommunications network in Wasco County and the Mid-Columbia Gorge community.
  - 1.3.5. To issue, sell, or otherwise dispose of bonds, securities, or other forms of indebtedness, including the power to issue revenue bonds under ORS 287A;
  - 1.3.6. To adopt and implement an annual budget. The adoption and any amendment(s) of an annual budget shall require a two-thirds (2/3) vote of the Board.
  - 1.3.7. To appoint and remove a chief executive officer (“Executive Director”), by two-thirds (2/3) vote of the Board, as the Agency’s administrator, responsible to the Board for the management of all Agency affairs placed in the Executive Director’s charge by the Board, this IGA, an employment or contractor agreement, or applicable law.
  - 1.3.8. To exercise all power pursuant to the applicable acts or laws of the individual Parties which are necessary or desirable to operate and further develop the Agency.
- 1.4. Meetings. Meetings of the Agency shall be conducted in accordance with the provisions of the Oregon Public Meetings Law. A majority of the members of the Board constitute a quorum for the transaction of business.
- 1.5. Offices. The principal offices of the Agency shall be located at a location within Wasco County designated by the Board.
- 1.6. Several Liability. Notwithstanding any other provision of law or contract, unless the Parties expressly and in writing agree otherwise, the Parties shall have no joint liability with each other under tort, contract, or any other theory of law and all debts, liabilities

and obligations (“Obligations”) of a Party shall be Obligations of that Party alone. For purposes of this Section 1.6 only, the Agency shall be considered a “Party” and one of the “Parties.”

## **ARTICLE II GOVERNANCE AND MEMBERSHIP**

### **2.1. Board of Directors.**

2.1.1. The Agency shall be governed by a Board of Directors (“Board”). The governing body of each Party shall appoint two representatives of the Board: one shall be an elected member of that Party’s governing body, and one shall be the chief administrative officer of the Party. Representatives shall serve at the pleasure of their respective governing bodies. In the event of a vacancy, the governing body of the Party that appointed the departed representative shall timely appoint a successor. The representatives appointed by the Parties shall appoint an additional member to the Board (the “At Large Member”), who must be a resident of Wasco County. The At-Large Member shall serve at the pleasure of the representatives appointed by the Parties. In the event of a vacancy of the At Large Member position, the representatives appointed by the Parties shall timely appoint a successor. The appointment and removal of the At Large Member shall be by majority vote of the representatives appointed by the Parties.

2.1.2. In addition to any other authority provided in this Second Amended IGA Agreement and applicable law, the Board shall have the following authority:

- 2.1.2.1. To create such committees and subcommittees as it may deem helpful in providing advice and assistance to the Board.
- 2.1.2.2. To approve the Agency’s priorities and goals, and to guide, contribute and approve a long-term strategic plan to carry out the Agency’s purpose, priorities, and goals.
- 2.1.2.3. To establish a process for monitoring and regulating the Agency’s performance.
- 2.1.2.4. To establish, maintain, and conduct an annual formal, goals-based performance evaluation for the Executive Director.
- 2.1.2.5. To define delegations of authority to the Agency’s Executive Director.

2.2. Officers. Annually, at the beginning of each calendar year, the Board shall elect from its membership Officers who shall serve a term of one (1) year. Officers shall serve at the pleasure of the Board or until their successors shall be appointed to take office.

2.2.1. Duties of the President. The President shall preside at all meetings of the Agency and shall submit such recommendations and information as the President may determine appropriate to discuss at the meeting. The President shall perform the duties and responsibilities of the Agency in accordance with the obligations and limitations set forth in this Second Amended IGA Agreement. The President shall

not otherwise hold himself or herself out to have the authority to bind the members of the Agency to any financial or other obligations. In addition, the President shall:

- 2.2.1.1. Encourage participation of all members in consensus-building discussions;
  - 2.2.1.2. Lead the Board's evaluation of the Agency's Executive Director based on goals, outcomes, or metrics approved by the Board.
  - 2.2.1.3. Lead the Board in defining the delegation of authority to the Agency's Executive Director.
  - 2.2.1.4. Help orient new members of the Board.
  - 2.2.1.5. Sign all Agency instruments authorized by the Board to be executed, except those expressly delegated by the Board, or by statute, to the Executive Director or some other agent of the Agency.
  - 2.2.1.6. Perform such other duties as may be prescribed by law or by the action of the Board.
- 2.2.2. Duties of the Vice President. The Vice President shall perform the duties and responsibilities of the President in the absence or incapacity of the President. In the case of resignation or death of the President, the Vice President shall perform the duties of the President until such time as the Board shall elect a new President.
- 2.2.3. Secretary/Treasurer. The Secretary/Treasurer shall keep the minutes and the official records of the Agency and perform such other duties required of a Secretary/Treasurer. The Secretary/Treasurer shall be responsible for the fiscal administration of all funds of the Agency.
- 2.2.4. Delegation of Administrative Functions. The Officers may delegate the administrative functions of their offices to another person or persons who need not be on the Board, subject to Board confirmation; provided, however, if the Board at any time determines that such delegation adversely impacts the Agency's business, the Officers shall redelegate any such responsibilities to a person or persons receiving the Board's confirmation or otherwise directly assume all such responsibilities. The person or persons to whom any administrative functions are delegated shall not receive compensation from the Agency unless compensation is approved by the Board.
- 2.2.5. Additional Duties. The Officers shall perform such other duties and functions as may from time to time be required by the Agency bylaws or other rules, policies, and regulations.
- 2.3. Voting Rights. Except as otherwise expressly provided in this Second Amended IGA Agreement, the Board shall exercise its voting rights in the following manner at any meeting held in accordance with Section 1.4:

- 2.3.1. Manner of Acting. Unless otherwise provided in this Second Amended IGA Agreement, a majority vote of the Board shall be necessary to decide any issue.
- 2.3.2. Financial Matters. Any decision of the Agency involving the approval or amendment of the annual budget shall require a two-thirds (2/3) vote of the Board, provided that:
- 2.3.2.1. The incurrence by any Party of any financial obligation for the benefit of the Agency, including the issuance or sale of bonds, securities or other forms of indebtedness, shall require a two-thirds (2/3) vote of the Board and also the affirmative authorization of each individual Party to be bound, such authorization to be expressed by resolution, ordinance or other binding commitment of the Party's governing body.
- 2.4. New Members. The Board may authorize a new party to join the Agency only if approved by a unanimous vote of the Board, provided that the effective date of the new party joining the Agency shall be the date the existing Parties and new party execute an amendment or addendum to this Second Amended IGA Agreement that reflects the new party as a signatory and party to this Second Amended IGA Agreement or to a newly amended agreement. If the Parties and the new party fail to enter into an amendment as required in this Section, the new party shall not become a member of the Agency.
- 2.5. Insurance. The Board shall purchase and maintain adequate insurance to cover the directors, officers, employees, staff, agents and activities undertaken by the Board.

### **ARTICLE III TERM AND TERMINATION**

- 3.1. Term. The term of this Second Amended IGA Agreement shall be perpetual unless, by a unanimous vote of the Board, the Parties act to dissolve the Agency as provided in Section 3.2.
- 3.2. Dissolution. Upon dissolution, each Party on the date of the dissolution shall remain liable solely for any expenditure that has been specifically incurred by the Party in accordance with the terms of this Second Amended IGA Agreement. Upon dissolution, the assets of the Agency shall be distributed as follows:
- 3.2.1. Any assets owned by a Party shall be returned to that Party, provided that the Party agrees to accept all Obligations related to that asset unless otherwise agreed to in writing by the Board prior to dissolution.
- 3.2.2. Any assets owned by the Agency shall be liquidated and the proceeds shall be used to satisfy the Agency's outstanding Obligations. Thereafter, the remaining proceeds shall be distributed equally to the Parties, provided that if a Party's right to proceeds at dissolution under this Section 3.2.2. is expressly limited by a separate agreement between the Party and the Agency and/or any other Party or Parties, that

Party's rights under Section 3.2.2 shall be adjusted as provided in the separate agreement.

- 3.3. Voluntary Withdrawal by a Party. Any Party may elect to terminate their participation in this Agreement and withdraw from the Agency by giving written notice to the President of the Board and each Party. Withdrawal shall be effective no less than one (1) year from the date of the notice ("Notice Period"), provided that if the withdrawing Party has entered into a written agreement with the Agency or any other Party or Parties that mandates voluntary withdrawal as remedy or term of the agreement, the terms of that agreement shall control and this Notice Period shall not apply if a different notice period is provided for in the agreement. During the Notice Period, the withdrawing Party shall continue to provide any services and other contributions to the Agency that the Party was providing as of the date of the notice. Unless otherwise provided in a written agreement between the withdrawing Party and the Agency or the other Parties, during the Notice Period and after the date of withdrawal, the withdrawing Party shall continue to pay and be responsible for any Obligation specifically incurred by the Party in accordance with the terms of this Second Amended IGA Agreement prior to the Party's written notice of withdrawal, and shall hold harmless the remaining Parties and the Agency for those Obligations attributable solely to the withdrawing Party.

#### **ARTICLE IV DISPUTE RESOLUTION**

- 4.1. Dispute Resolution. If a dispute arises between the Parties or between the Agency and the Parties (each a "Disputing Party") regarding breach of this Second Amended IGA Agreement, the Disputing Parties shall first attempt to resolve the dispute by negotiation, followed by binding arbitration if negotiation fails to resolve the dispute.
- 4.1.1. Negotiation. The Board member or other persons designated by each of the Disputing Parties will negotiate on behalf of the Disputing Parties they represent. The nature of the dispute shall be reduced to writing and shall be presented to each of the Disputing Parties who shall then meet and attempt to resolve the issue. If the dispute is resolved in this step, there shall be a written determination of such resolution, signed by each Disputing Party and ratified by the Board which shall be binding upon the Parties.
- 4.1.2. Binding Arbitration. If the dispute cannot be resolved by negotiation within forty-five (45) days, the Disputing Parties shall submit their dispute to binding arbitration. The Disputing Parties shall attempt to agree on an arbitrator. If they cannot agree upon an arbitrator within ten (10) days, the Disputing Parties shall submit the matter of determining an arbitrator to the Presiding Judge of the Wasco County Circuit Court. The common costs of arbitration shall be borne equally by the Disputing Parties. Each Disputing Party must bear its individual costs and fees.

#### **ARTICLE V AMENDMENT**

5.1. This Second Amended IGA Agreement may be amended by mutual agreement of the Parties, signed by all the Parties.

**ARTICLE VI  
GENERAL PROVISIONS**

6.1. Merger. This Second Amended IGA Agreement embodies the entire agreement and understanding between the Parties relating to the formation of the Agency and supersedes all prior agreements and understandings relating to the subject matter hereof.

6.2. Severability. In the event any one or more of the provisions contained in this Second Amended IGA Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

6.3. Notice. Any notice herein required or permitted to be given in writing, shall be effective when actually received, and may be given by hand delivery or by certified mail, first class postage prepaid, addressed to the Parties as follows:

<u>The County:</u>  Administrative Officer Wasco County 401 East 3 <sup>rd</sup> Street The Dalles, OR 97058	<u>The City:</u>  City Manager City of The Dalles 313 Court Street The Dalles, OR 97058
<u>The District:</u>  General Manager/CEO Northern Wasco County PUD 2345 River Road The Dalles, OR 97058	<u>The Agency and/or Board:</u>  QLife Executive Director Wasco County 401 East 3 <sup>rd</sup> Street The Dalles, OR 97058

6.4. Counterparts. This Second Amended IGA Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, any one of which shall constitute an agreement between and among the Parties.

6.5. Amendment. This second amendment to the 2001 IGA Agreement was approved by action of the Parties authorizing the signatures below.

**IN WITNESS WHEREOF**, the Parties duly execute this **SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE QUALITYLIFE INTERGOVERNMENTAL AGENCY**.



**CITY OF THE DALLES**

**WASCO COUNTY**

**NORTHERN WASCO COUNTY  
PEOPLE'S UTILITY DISTRICT**

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

\_\_\_\_\_  
Tyler Stone  
Administrative Officer

\_\_\_\_\_  
Roger Kline/CEO  
General Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*ATTEST:*

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

**Approved as to form:**

**Approved as to form:**

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

\_\_\_\_\_  
Kristen A. Campbell  
County Counsel